

5254

MAY 27 1940

PROCEEDINGS AND DEBATES

OF THE

CONVENTION

OF THE COMMONWEALTH OF PENNSYLVANIA,

TO PROPOSE

AMENDMENTS TO THE CONSTITUTION,

COMMENCED AND HELD AT HARRISBURG,

ON THE SECOND DAY OF MAY, 1837.

Reported by JOHN AGG ;

STENOGRAPHER TO THE CONVENTION ;

Assisted by Messrs. Kingman, Drake, and M'Kinley.

VOL. II.

PRINTED BY PACKER, BARRETT, AND PARKER;

Harrisburg; 1837.

ALLEGEHENY COUNTY
Law Library
PITTSBURGH, PA.

Call

PROCEEDINGS AND DEBATES

OF THE

CONVENTION HELD AT HARRISBURG.

THURSDAY, JUNE 1, 1837.

Mr. TAGGART, of Lycoming, presented a memorial from citizens of Clearfield county, praying such an amendment of the Constitution as that every county now or hereafter to be erected in this Commonwealth, may have a representative, which was laid on the table, and ordered to be printed.

Mr. MEREDITH presented a memorial praying such an amendment of the Constitution as will prevent the Legislature from authorizing a lottery grant, which was referred to the committee to whom was referred the ninth article of the Constitution.

Mr. COPE submitted the following resolution, which was agreed to :

Resolved, That the President draw his warrant on the State Treasury for the sum of three thousand two hundred and six dollars and forty-four cents, in favor of SAMUEL SROCK and S. A. GILMORE, for the purpose of discharging the following bills, to wit :

A bill of M'CARTY and DAVIS, for PURDON's digest, and sundry stationary, amounting to	\$1,066 44
JOHN THOMPSON's bill, for books of Constitutions,	140 00
JAMES PEACOCK, on account of postage,	2,000 00

\$3,206 44

Mr. DENNY from the committee to whom was referred the first article of the Constitution, moved that the said committee be discharged from the further consideration of the following resolutions, which was laid on the table :

No. 41. *Resolved*, That the fourth section of the first article of the Constitution shall be so amended that no city or county shall ever have more than six representatives nor more than two senators.

No. 46. *Resolved*, That the second section of the first article of the Constitution be so amended, that the annual election of State and county officers be held on the first Tuesday of September, in each year.

No. 59. *Resolved*, That the committee on the first article be instructed to report in favor of reducing the senatorial term to two years, so that the one half of that body may be elected every year.

Resolved, That the said committee be instructed to enquire into the expediency of the Legislature meeting on the first Monday of January of every year, unless sooner convened.

ned by the Governor, and adjourn on the first Monday of April, except in case of insurrection or actual war.

No. 60. *Resolved*, That the committee on the first article of the Constitution be instructed to enquire into the expediency of altering the seventeenth section of said article as follows: "The members of the Legislature shall receive for their services a compensation to be ascertained by law and paid out of the public treasury, but no increase of the compensation shall take effect during the time for which the members of either House shall have been elected, and such compensation shall never exceed three dollars a day".

Resolved, That no member of the Legislature shall receive any civil appointment from the Governor and Senate, or from the Legislature during the term for which he is elected, or for one year thereafter.

No. 61. *Resolved*. That the third section of the first article of the Constitution, be so amended that no person shall be a representative who shall not have attained the age of twenty-four years; and that the eighth section be so amended that no person shall be a senator who shall not have attained the age of twenty-eight years.

Mr. DENNY then moved that the committee to whom was referred the first article, be discharged from the further consideration of the following resolution, and that the same be referred to the committee to whom was referred the seventh article, which was laid on the table:

No. 44. *Resolved*, That the legislative power relative to the incorporation of banking companies, shall be so restricted that no charter shall be granted for a longer time than ten years, nor any note of a less denomination than twenty dollars issued, and that the books, papers and vouchers of every banking institution shall be subject to the inspection and supervision of the Legislature, who, (if they discover that any bank has departed from the business for which it was created,) shall forthwith declare the charter null and void, and the real and personal estates of the stockholders, both in their corporate and individual capacity, shall be liable for the payment of the notes in circulation or in the hands of the people.

Mr. DENNY then made the following motion which was also laid on the table:

That the committee to whom was referred the first article of the Constitution, be discharged from the further consideration of the following resolution, and that the same be referred to the committee to whom was referred the ninth article of the Constitution.

No. 59. *Resolved*, That the said committee be instructed to report against the establishment of any lottery, for the sale of lottery tickets in this Commonwealth.

FIRST ARTICLE.

The Convention resolved itself into committee of the whole, Mr. PORTER of Northampton in the chair, and proceeded to the consideration of the first article of the Constitution.

The question pending being on the motion of Mr. STEVENS to amend the amendment of Mr. DUNLOP—to strike out the word "fourth" and insert the word "third"—by striking therefrom the word "third", and all that follows the same, and inserting in lieu thereof, the following, viz: "Second Monday and Tuesday of November, at which time the electors of President and Vice President shall also be chosen, unless otherwise ordered by the Legislature; and none of the tickets shall be counted, until the polls have been closed on the last day of election, and the polls shall close at six o'clock on each day".

Mr. FORWARD said, he hoped the amendment would not be passed without some remarks. It was an important question whether we should blend the elections of our State officers, with the Presidential elections. He hoped the gentleman who had offered the amendment would favor the

Convention with his views on the subject. It strikes me (said Mr. F.) that by making both the State and the general elections on the same day, the influence and feeling which are called into action in reference to the choice of suitable officers for the State Government, may be made to operate on the Presidential election,—and that, thus the interests of the State will be more effectually merged and lost sight of, than if the elections are at distinct periods. It is known that our relations to the General Government are such as to render it certain that great exertions will be always made to obtain the election of a particular President. Such has been the case, and it will be so again; it is a fact written in our history. Some one candidate will be supported by all the influence which the State officers can bring to bear on the election. The concurrence of these elections, would, in all probability, be fatal to the State influence; all would be made to yield to the cabinet influence; unless it should so happen that, at any time, there should be raised an opposition powerful enough to countervail this cabinet influence. It was well known by all who observed the course of things, that the Federal influence was expanding itself daily—and that it was now twice as great as it was twenty years ago. The number of postmasters and revenue officers had been prodigiously increased; and every one of these was a slave to the Federal Government, brought into office by the patronage of some one of influence with the administration; liable to be turned out, if a different party should prevail; a perfect dependant and slave. Every one of these was expected to do his duty, to attend to the interests of the cabinet. I am not (continued Mr. F.) speaking in reference to any particular party. I am stating facts, as they exist under all administrations, and in all parties. Whoever sways the rod of power, his breath is sufficient, and every one who holds office by this tenure of thread, is liable to be displaced by it. All this cabinet influence will be brought to bear on the State influence. The elections take place on the same day; and the success of the State officers is influenced by it.

The people are jealous of this, and wish to cripple this Federal influence. They expressed their desire to do this at the last November elections. They wish to prevent their own State affairs from being mixed up with, and intermeddled with by, this dangerous influence. It was not the habit of the country to disdain and repel the influence of the General Government, as it did any improper interference in the State elections. He did not know how many officers there are in the State. In every county, there were some. Look at the Philadelphia Post Office and see the number there: and every county too has its Post Office. All the military and navy are dependent on this influence, and these are present every where, and their presence involves the interests of the State. It should be the interest of the State, and the object of the State, to divorce itself from this powerful and prejudicial influence? What is the lesson which history gives to us on that subject? Yielding to the superior power, State interests have, in all cases, been forced to bend and give away to this irresistible influence of the cabinet. Are we strangers to it? The object of this amendment is to bring the State influence into immediate contact with the cabinet influence—to bring all the weight of Federal influence to operate on the elections of State officers. The country will not bear this. It may so happen that there may be a recoil of the interference of State

officers in the October elections, which may be felt afterwards, and enable the State to emancipate itself before November. Therefore, he wished the elections to be kept separate. He hoped the Convention would not adopt the amendment. It was better to keep these elections as far from each other as possible. The State elections might be fixed for the second Tuesday in September; a day, at that season, could be more easily given up by the farmers, as he understood there was then an interval between their busy seasons. The weather too, at that season, was generally good; the days were longer; the people would turn out in greater numbers: the time would be further separated from that of the Presidential election: and there would be time enough to cool off from the excitement of the State elections, to resume their calmness, and to get rid of their feelings of dependence. He thought it would be better to fix the elections in September, but he would not make any motion on the subject. This fastening of our State to the Federal Government; this attaching of our State elections to the car of the cabinet, and bringing the influence of the General Government into our ward and town meetings for the purpose of operating on the elections, ought to be particularly guarded against. He would carefully avoid this cabinet influence from which, once admitted, all our elections would take their hue. The greater influence would soon merge the less, and the interests of the State would be overshadowed and lost sight of. He hoped all our officers would be elected without the interposition of cabinet influence, which, like the plagues of Egypt, could be omnipresent, and seen and felt every where throughout the Commonwealth. He hoped the gentleman who made the proposition would reflect on the matter. Would not the introduction of his proposition be fatal to the little independence we have left? What do we see even now? Whenever any measure is proposed, is it not the inquiry by every one—Is it demanded by the party? If it be, I go for it; if not, I will go with the members from the country? Every one has heard this language. It is the fashion of the day, in the very greenness of the matter, to put every thing on a party footing. If we suffer this cabinet influence to find its way among us, every fourth year, it will merge all the State elections. What can we expect but that the force of party will prove stronger than the feelings of patriotism, truth and virtue. These considerations would induce him to oppose the amendment.

Mr. SAEGER, of Crawford, stated that he had been a practical farmer for many years, and he thought the convenience of the farming interest would be promoted by the change proposed by the committee, from the second, to the fourth Tuesday in October. An experience of thirteen years as a farmer in the extensive west and northwest parts of the State, convinced him that the change would be beneficial. In the northern parts, he admitted, the alteration would not be productive of such important advantages as in the south, where, if the weather was fine, the greater part of the seeding could have been got through by the time fixed by the report of the committee. In the more northern parts of the State, the time between the close of harvest and the day of election would be shorter—too short, perhaps, to enable the farmer to do his seeding before the election. Great part might be undone. But if it should happen to be a wet season, the change from the second to the fourth Tuesday, would give him more time to get through his work. If there was any part of

the State which would, in the slightest degree, be injured by the change, there would be some reason for opposing it. But as the change would be advantageous to the farming interest, and would be productive of no disadvantage to any part of the community, he hoped it would be agreed to, as reported by the committee. He was not willing to go for any alterations, unless he could be satisfied that they would prove advantageous; he would go for no changes, for the mere sake of change. As to the amendment, which was now the question, it had been so well treated by the gentleman who had spoken just before him, that he would not take up the time of the committee in relation to it. On one part alone did he differ from the gentleman. The gentleman from Allegheny wished to make the State elections and the Presidential elections still further apart, in order that there might be an opportunity between them for party violence to cool down. He (Mr. S.) thought there would be time enough to cool at that season, without throwing back the State elections to an earlier period.

Mr. M'CAHEN, of Philadelphia, said he was indifferent as to the issue of this question. But he had listened with regret to what had fallen from the gentleman from Allegheny. He had entertained the hope that the worn out slang of politicians, the thread bare topics of party, and the often refuted assertions of the exertion of administration influence on the State elections, would not have been introduced on this floor. He had believed there was no one gentleman who seriously thought that he could succeed by such means, in driving any party from the position it had assumed; and he was surprised that so respectable a gentleman should have taken this course. The gentleman had remarked on the amount of the patronage of the General Government in the city of Philadelphia, and in the State; but, if the memory of that gentleman had not failed him, he must know that the patronage of the Governor in the city of Philadelphia was greater than that of the Federal Government. He thanked God that every man knew his own rights, and would be allowed to exercise them. All alike, he hoped, would shew themselves unfettered, either by the State or General Government. As to party influence, he hoped it would always exist; he was himself a party man, a radical party man, sent here, and standing here, for the purpose of carrying out the views of a party for the general welfare. The Government was held up by party, and had been sustained by it. He was sorry to hear the gentleman getting into this track. Why had he deemed it necessary to bring in the Federal Government? If that influence existed in the State, and a majority was in favor of its continuance, then it was right, the opinion of the gentleman to the contrary notwithstanding. The party selects their men, and he desired to support the party. Inexperienced as he was, he would be guided by party opinion. He had heard the gentleman from Allegheny speak with great talent, and he would be proud to adopt his views if he could. But there was no good object to be effected by bringing up the General Government. He did not suspect the gentleman of any design of a party character, in his efforts to have the local questions freed from any connexion with Federal influence. He hoped to hear no more of this topic, but that the course of the argument would proceed.

Mr. FORWARD explained. In what he said he expressly disclaimed, and more than once disclaimed all reference to party. He said, that

whatever party obtained the ascendancy, the same would be the result. He would go as far as any gentleman here in reducing the patronage of the Government, and to give his aid to that object he had came here.

Mr. HOPKINSON had so much respect, he said, for the unanswerable argument of the gentleman from Allegheny, against the proposition to hold the State election, and the Electoral election, on the same day, that he would not add one word to it. He would, however, say a word or two against the proposition to keep the polls open for two days. In the first place, there was no necessity for it. In the city of Philadelphia, the polls were closed at ten in the evening. It was of the utmost consequence that the people should have confidence in the purity of their elections; and, that the elections should not only be pure, but free from the suspicion of impurity. At present, the officers of the elections never separated until the votes were all counted, and the boxes sealed up, in the presence of men of both parties. The votes were counted, the boxes sealed, and the returns signed before the officers of the election separated. But, suppose the polls were kept open for two days—closed at six in the evening, and opened again at nine or ten in the morning. In whose custody would the votes be in the mean time? The officers of the election would walk abroad and talk about the state of the polls, while the boxes containing the votes, would be at the mercy of the crafty and corrupt. He was far from insinuating any thing against any class of citizens. He spoke of no particular party, but charges of corruption, at elections, had already been made, even in this State; and he would, therefore, oppose any measure which would have a tendency to bring disrepute or suspicion upon an election. In a neighboring State, where the polls are kept open two days, no election ever passes without the charge, from one party or the other, of fraud and corruption. As the election might be just as well closed in one day, as in a week, he should oppose the proposition to keep open the polls for two days.

Mr. FLEMING, of Lycoming, referred to another part of the section, and said he disapproved of the language of the section. He would, on all occasions, move to strike out the "city of Philadelphia", unless "the county of Lycoming", which was one of the largest counties in the State, was also specially inserted. He made that motion now.

The CHAIR said it was not in order. That part of the section was not before the committee.

Mr. FLEMING continued. The amendment, he said, was objectionable, because it left it to the Legislature to fix the day of the election. The language, "unless otherwise ordered by the Legislature", would leave it to them to say whether the two elections should take place on the same day, or not. But, if we left it to the Legislature to fix the day, the other part of the clause would have no binding effect; and, if it was to have no effect, where was the use of making the provision? As to the two days, he was, at first, favorable to that part of the clause; but, on reflection, he thought it would be better to confine the election to one day; though, in his district, the people had, some of them, to come fifteen miles to the polls, and over very bad roads. He should move to amend the amendment, so as to provide, that the election should take place in the several cities and counties, on the first Tuesday in November. This would fix upon a certain day, and leave it to the Legislature to fix the same day for

the Presidential election, if they think proper. The first Tuesday would be within the thirty-four days, as prescribed by the act of Congress. As to the effect on the elections of choosing State officers, and the Electoral ticket, on the same day, he was not prepared to say, that it would be so great as to subject the whole mass of the people of the State to Government influence. He had too much confidence in the people, to believe that they could be humbugged and gulled, by any party that came into power. He did not believe that the influence of the Post Masters, and other officers of the Government in this State, was so great as the gentleman imagined; or, that the Presidential election created as much feeling as he supposed. He referred, as an illustration of his views, to the fact, that last fall, the number of votes polled at the October election, was much greater than at the election in November. This proved that there was not so much interest felt in the election of President, as in that of State officers. There was never so large a number of votes polled in November as in October. Not feeling so much immediate interest in the Presidential as in the State election, the voters could not be induced to turn out. Now, he wished to fix upon such a time as would bring out all the voters. If they went with him he should be gratified, but, if not, he still wished them to vote. He wanted to secure a full and fair expression of opinion at the ballot boxes, and, moreover, he was perfectly content to abide by it. In his action here, he disclaimed any thing like party motives or feelings. If his course suited his party, it was very well, but he should go for what he thought right, come what may. There were, he thought, insuperable objections to the proposition of the gentleman from Adams. Whatever day was agreed upon, he wished it to be as late as Tuesday, out of regard for the feelings of the religious part of the community, who disliked to leave home on Sunday, as they must do, if the election should take place on Monday, and not continue for two days.

Mr. CHANDLER, of the city, said:—I rise, sir, to say but little to the question, as it had been discussed before the committee—but as delegates have mentioned the probable effect of alterations in the time of holding elections in their respective districts, I deem it proper, mingling, as I do, almost professionally in every canvass, with the people, to remark, that any day mentioned in either of the resolutions, or amendments, upon your table, would be perhaps acceptable to the people of the city of Philadelphia; but, I cannot believe that they would willingly consent to an alteration that would, for two successive days, keep open the polls for one election. In less than half an hour, any voter, in good health and sound limbs, may walk from his residence to the polls—and there has never been, as far as I know, an instance in which the judges and inspectors of the election could not receive and record every vote presented to them. One day, therefore, I believe will be found sufficient for the purposes of any election, nor need the polls be kept open later than nine or ten o'clock in the evening.

Other reasons for limiting the term to a single day, have been powerfully and I doubt not satisfactorily urged by my respected and honorable colleague (Judge HOPKINSON) whose arguments need no enforcement from any person.

But, sir, the resolution before you, contemplates such an alteration in the time of the State elections, as shall unite them with that of the electors for President and Vice President of the United States, without adverting

to the facts, that the Legislature of the State may, at times, find it for the promotion of the general good, to choose their electors themselves. I, however, concur with the arguments of the highly respectable gentleman from Allegheny, that it is of the greatest importance to separate our State elections from the influences of the General Government, always seen and felt at the choice of the Presidential electors.

The gentleman from the county, (Mr. M'CAHEN) whom I do not now see in his place, and I always miss him when he is absent, has declared, that the officers of the General Government exercise no influence on the voters in this State. Sir, I am glad to hear this from so high a source—especially when I know that gentleman, himself, is an efficient Government officer, is known to employ his time and eloquence in the canvass to promote the success of his party. I say, sir, that knowing his zeal and exertions, I am glad, as well as astonished, to hear him say he exercises no influence upon the election.

But, sir, the General Government *does* operate upon the Presidential election in every State in the Union, and it does it intentionally, and in some cases, avowedly. Else, why does the administration distribute its patronage, of various kinds, only to those who have distinguished themselves by party exertions in the canvass, and at the polls?

It is urged, sir, that the State patronage may be, and often is brought to bear upon the election. I pretend not to deny it, though I cannot, from experience, assert it. It was, at least, never exercised through me; but if it is, the State Government is only interfering in its domestic concerns, as seeking to promote its municipal good. The administration of the General Government, whether right or wrong, seeks to perpetuate itself by a similar interference with the Electoral election, so that the deleterious effects of the operation may be limited to the election upon which it is intended to bear, and not, as would be the case if the proposed amendment should be adopted—to effect the choice of every State and corporation officer voted for at the time, an effect, perhaps, not desired by the national administration, but resulting necessarily from the prevailing influence of the Presidential election, over the choice of lower or more ephemeral officers.

The gentleman from Lycoming argues, that the officers of the General Government can not exercise the dangerous influence imputed to them, because, as he says, there were more votes polled at the State election in October, than at the Electoral election in November. The argument, sir, if based upon correct data, might be easily combated, but unfortunately for the gentleman, the facts are against him, the electors having received a greater number of votes than were polled for the State Legislature.

The mingling of the State election with that of the President of the United States, may be productive of another evil, by withdrawing public functionaries from the action of the people's censure, at the ballot box. The voters of the State may have to administer their admonition to offending legislators, who will escape their punishment in the higher interest felt for the more important ticket for national officers, and thus the influence of Government officers, may not only lead to the election of a President opposed to the interests of the people, but shield State functionaries from the operation of justly excited resentment.

Mr. Brown, of Philadelphia, said he had no particular preference for

any one of the days mentioned, above another. His immediate constituents had been so often legislated out of their days of election, that they would accommodate themselves to any day. They did not complain of the present, nor could they, he believed, of any that might be agreed upon as best accommodating the other portions of the State. There was one feature of the amendment, however, which he objected to, and that was in requiring the polls to be closed at 6 o'clock. Many of his constituents were engaged in their daily pursuits until that hour, and if the amendment was agreed to, it would cause them to lose more time than was necessary to go to the election, or be deprived of their vote. As it would be of no benefit to the people of any other portion of the State, and would be injurious to his constituents, he hoped this part of the amendment would not be agreed to. Mr. B. said he had risen, more particularly, for the purpose of noticing the remarks of the gentleman from the city, (Mr. CHANDLER) who seemed to fear the influence of the officers of the General Government. Should the general and State elections be held the same day, he (Mr. B.) neither feared, desired, nor opposed such connexion. He had too high an opinion of the intelligence, discernment, and integrity of the people, to suppose that they would be influenced by the officer of any Government, whether of the United States, of the State, or of the city of Philadelphia. But if any such influence was exercised or felt, he thought that exercised by the corporation of the city of Philadelphia itself, independently of its trusts, so far as the numbers dependent upon it, or the money dispensed were concerned, was more than that of the United States, in all the State of Pennsylvania. If the gentleman from the city was really desirous of keeping out all extraneous influence from the State elections, he ought to look to this immense corporation influence, of which that gentleman (Mr. CHANDLER) was a part, and which he knew to be great and powerful. Much (said Mr. B.) had been said about the Custom House and Post Office, in Philadelphia. He knew something of both these establishments, and he believed there were several persons in the former opposed to the administration; all performed their duty well, so far as he knew; but, if they had any influence in elections at all, he was free to say he had never seen or felt it. But its supposed influence had been used by the opposition as an argument, and perhaps not without effect, against the party who sustained the administration. No one knows better than the gentleman from the city, the impartiality and efficiency of the Post Office—he could not say any of its officers have officially done wrong. So far as his colleague, who held a situation in that office, was concerned, he was surprised to hear the gentleman from the city allude to him, when no one knew better than that gentleman, his industry and fidelity; they had won him the approbation of all parties. His colleague had always been an active partizan politician; he was still so, but not more since he held office than he had always been before. Mr. B. did not suppose, however, that any man forfeited his rights and privileges, as a citizen, when he took office. If he performed its duties faithfully, he ought to be left free to the full enjoyment of his right; it was only when he prostituted his office to party purposes, that he was to be condemned. He (Mr. B.) never had held office any where, and he believed much of the alarm about official influence, had little of truth in it, but was designed for political effect—he was surprised that any gentleman should have deemed it necessary to allude to it here,

Mr. KONIGMACHER said—It was my intention, until recently, not to have troubled the committee with any remarks. I had supposed, that long before we assembled in this Hall, the opinion of every member of this Convention would have been unchangeably fixed, as to the course he would pursue.

I have listened attentively to every speech that was delivered from the time we first met to the present day, and can only say, that I was not mistaken. I have come to this conclusion, after weighing the various arguments, that, judging from the political complexion of this Convention, it is composed of three parties, viz: conservatives, moderate reformers, and radical reformers. I am not right sure if the term of the last class mentioned is as appropriate as that of reformers: be that as it may, there had been enough said as to the power and the qualities of this body. I presume that we are all convinced on that point.

I sincerely hope, that we will now get to work in earnest. We have been in session four weeks, and what have we done? We have adopted our rules; passed three sections in committee of the whole; and are now discussing the fourth.

At this stage of our proceedings, and as I intend, for the first time, to vote for an amendment to this "matchless instrument", under which we have lived so prosperous and happy for nearly half a century, I deem it proper for myself, and for my constituents, to state my reasons briefly for so doing.

Sir, if I know their sentiments, they never did believe that any amendments, we can propose to them, will be worth the expense which will be incurred in holding a Convention; at the same time, they, as well as myself, do believe, that some amendments might be made for the better; but those alterations must be few, and simple. I am backed, in this opinion, by a majority of six thousand votes, given against the call of a Convention, in the county which I have the honor, in part, to represent.

Sir, from what knowledge I have of the views of the people, I am convinced that they will not ratify a Constitution that will materially change the features of the present, which has been well tried. They have not the same faith in experiments they had when the "Old Roman" was in power.

The amendment under consideration, I think, can be improved. I like the amendment offered by the gentleman from Adams, (Mr. STEVENS) for holding the general election, on the same day with the election for Electors for President and Vice President of the United States, as that would obviate the difficulty which at present exists. The farmers would be done seeding, and besides, it would save the State at least \$30,000 every fourth year by holding both elections at the same time. I also like the proposition offered by the gentleman of Allegheny, (Mr. FORWARD) that the general election should be held on the second Tuesday in September: either would answer much better than the present day, as the farmers are generally busy seeding on the second Tuesday of October. I am in favor of changing the day, either earlier or later. I therefore hope, that the amendment offered by the gentleman from Franklin, Mr. DUNLOP, will not prevail.

Mr. CHAMBERS, of Franklin, was disposed, (he said) at first, to regard

this amendment with a favorable eye, as it afforded an opportunity to the State Government to dispose of both elections in one day; but, after some examination, he was led to believe that it was, in some particulars, very objectionable. The remarks of the gentleman from Allegheny, which were so forcibly addressed to the understanding and experience of all, and which, in fact, were unanswerable, had great weight with him. He could not shut his eyes to the influence exerted upon State elections, through the agency of officers, dependants and expectants of the National Government. If there is any question on which public opinion is divided, it is always brought to bear upon the State elections, and to extend and increase the excitement which prevails in the Commonwealth on that occasion. Great as was the patronage of the Governor of this State, influential as it might be, it was still small in comparison with that of the General Government. There were, perhaps, a thousand Postmasters in this State—five times the number of all the officers who hold their offices at the will and pleasure of the Governor of this State. The patronage of the National Executive had become infinitely greater than was ever contemplated by the Constitution. The patronage of the Governor of this State we had it in our power to limit, and it would probably be reduced by the action of this body; but there was no hope of ever reducing or limiting the patronage of the General Government. So great were the difficulties in the way of any amendment to the Constitution of the United States, that we must despair of obtaining one for this purpose. The prospect of lessening the number of federal officers in this State, was, therefore, beyond reach or expectation. It would be proper, then, to separate our annual elections from the electoral election, in which the influence of the National Government would predominate.

One reason against fixing the day of the State election at the same time with that of the Presidential election, was, that the latter occurred only once in four years. The convenience of the State ought, therefore, to be alone consulted in fixing the time. In regard to many of the citizens of the State the time was not material; but to the farming interest it was: and though, in reference to that interest in his neighborhood, he would prefer the second or third Tuesday of October, yet, for the accommodation of the northern and western counties, he was willing to postpone it to the fourth Tuesday of October, as proposed in the report of the committee. But he was not willing to connect the State election with the electoral election, by fixing the former on the day assigned for the latter. He was also opposed to keeping the polls open for two days, believing that it would have an unfavorable effect upon the morals of the country. With many persons an election was a time for frolic, idleness, and vice. A certain portion of the community, in almost every part of the State, made this a season for indulgence in dissipation. He was unwilling, therefore, to set apart two successive days, in which those persons would be tempted to expend their time and money at the expense of their morals.

Another objection that he had to the amendment, was, that it belonged to Congress to fix the time for the electoral election; and it was not expedient to appoint the day by a permanent Constitutional provision. Congress allowed the State Legislatures to fix the time within certain limits; but frequent propositions had been made in Congress, to provide a uniform mode and time of electing President and Vice President in all

the States. Should that power be ultimately exercised by Congress, this clause would be of no avail.

Mr. M'CAHEN : The gentleman from Philadelphia has given me a good character. It was unnecessary, as I have another here from the phrenologist. It is true that I am an officer of the Government, but I am also a citizen of Pennsylvania, and will use my best endeavors to promote her interests. As one of the delegates of the county of Philadelphia, I shall regard the rights and interests of those whom I represent, independently of any connexion with party or office, and I hold myself free to act on this and every other question in reference wholly to the source from which I receive my power. The Post Office had been mentioned, and also the Custom House, as affording the Government an extensive influence in this State. But it must be recollected, as his colleague had remarked, that all the persons employed in these offices do not think alike. Some of them, he knew, were opponents of the administration. He hoped gentlemen will not persuade themselves that persons holding a situation under the General Government, must necessarily act against their consciences. The venerable gentleman from Philadelphia is in the same situation with myself: for he holds an office under the General Government; but, I hope, that he, as well as others so employed, comes up to the polls on the day of election as a freeman.

Mr. STEVENS felt satisfied from the reasons he had heard from various quarters of the House, that it would probably be better that the amendment he had submitted should not prevail. The reasons given by the gentleman from Allegheny (Mr. FORWARD) were very powerful, and he thought very true. He agreed that the General Government could bring to bear upon the State elections a vast influence, and he also concurred in opinion with that gentleman that it had always been exercised to the full extent. He was sorry, however, that the gentleman from Philadelphia county had taken any offence at what had been said, for he did not believe the gentleman from Allegheny had made any allusion to him particularly.

Mr. M'CAHEN said he had taken no offence at it at all.

Mr. STEVENS said the gentleman was too sensitive on this subject. He did not believe that those officers were any more influenced than any one else. He must still believe, however, in the strength of the argument of the gentleman from Allegheny, that those officers would have a special eye to their own interests, and why should they not? Charity begins at home. He believed, therefore, that these two elections should not come on the same day, and that he was wrong in proposing the amendment he had submitted. But there was another reason which would induce him to withdraw the amendment, which he intended shortly to do, and this reason was, that there was a party in this House who were opposed to carrying party into the organization of the Convention; and this disinterested party of "sixty-six" had held a caucus this morning, for the purpose of fixing upon some suitable day for holding the State elections; he, therefore, was disposed to allow them the opportunity of carrying out their disinterested views, and for this reason he withdrew his amendment.

Mr. PURVIANCE then submitted an amendment, "that the general election shall be held on the first Tuesday in November, at which time the

electors for President and Vice President shall also be chosen, unless otherwise ordered by the Legislature”.

Mr. P. said he was a member of the committee which had reported in favor of changing the time of holding the elections from the second Tuesday in October to the fourth Tuesday, and now having made a motion to extend the time to the first Tuesday in November, he deemed it necessary to submit a few remarks, giving his reasons for introducing this proposition. He confessed he had been led to make this change in consequence of the very able arguments used by the gentleman from Allegheny; because Mr. P. was sure there was no one in this Convention more anxious to avert from the country the influence and patronage of the General Government than himself. He believed, with the gentleman, that if there was any thing which would unhinge the public confidence and sever the bonds of union, it would be the result of that extensive patronage which belonged both to the State and the General Government. But he would ask that gentleman whether the influential, the leading and the active partisans at elections, did not prepare for carrying the State elections with the very view of carrying the national elections. He would ask that gentleman if these influential politicians did not prepare for the State campaign for the express purpose of carrying the national campaign. Now he was averse to political wars as well as other wars; but if we are to have wars in this country the fewer the better. One political revolution in one year was enough in all conscience. He did not apprehend the difficulty mentioned by the gentleman from Allegheny, which the gentleman feared would attend holding these two elections together. If the elections were held on the same day, the leading and active politicians who were anxious to carry the national elections, would permit the State elections to be managed by those interested in it. Those partisans who were anxious to carry the State elections would permit the elections of the General Government to be managed by those interested in it, and in this way, no improper influence would be brought to bear upon either. At present, however, there was nothing more common in the country than for political partisans to prepare to carry the State elections for the purpose of carrying the national elections; and he would appeal to gentlemen to say whether the result of our State elections has not had an important bearing on the election following. If the majority at the State election is on one side, it produces on the part of the minority a kind of apathy; and the people cannot be roused from that apathy. But if both elections were held on the same day there would be no danger of a conflict, and there would be no danger of this apathy being produced; and he thought it would put it out of the power of cunning and designing politicians to interfere and corrupt the elective franchise. He knew, also, that this day would suit the people of the north western part of the State as well as any other day which had been named. In the committee which made the report on this subject, Mr. P. was in favor of November, but the majority of the committee being of a different opinion he concurred with them in reporting in favor of the fourth Tuesday of October. In regard to the remark of the gentleman from Chester, that the season in November was so unfavorable as to prevent the aged and infirm from attending the elections, he had only to say that he would make no motion which would prevent those persons from attending upon elections. It always had given him pleasure to see the

aged, the infirm, the halt or the blind at elections, because the measures they supported he always looked upon as moderate, wise and patriotic. But he would appeal to any gentleman to say whether that season of the year was not much more pleasant than October; and that those persons would have a much better opportunity of attending the polls than they would at an earlier period. He hoped the first Tuesday in November would be the day fixed upon.

Mr. BELL suggested that the amendment would be more acceptable if the latter part of it in relation to elections of President and Vice President was omitted.

Mr. PURVIANCE so modified his amendment.

Mr. READ asked for a division of the question.

Mr. DARLINGTON regretted that the amendment proposed a day so late in the season. In addition to what he had said yesterday on this subject he would beg leave to call the attention of the Convention to an additional fact. It would be found on turning to PURDON'S Digest, that the courts in many counties were held in November, and in many of the counties the day fixed for the meeting of the courts is the first Monday of November. Now this might be obviated by the Legislature, but the habits of the people have become fixed and settled, and he was opposed to doing violence to any of their settled notions. He was opposed to making any changes in this particular, or any other which would go to unsettle the habits and notions of the people, unless some stronger reason could be given for it than any he had heard.

Mr. M'CAHEN was in favor of the amendment of the gentleman from Butler (Mr. PURVIANCE) because he knew it would suit the people of his district, and he was persuaded it would also suit the people engaged in agricultural pursuits. With regard to what had been said by the gentleman from Adams, (Mr. STEVENS) who brought up the subject of officers of the General Government in debate, he thought he had cast a reflection upon an individual who was a member of the Convention, and held a high office under the General Government; who was the last person the gentleman should have cast a reflection upon. There was in the Convention a venerable Judge who held a high office under the General Government, and he was as liable to be affected by the remarks of the gentleman from Adams as Mr. M'C. himself. In regard to the remarks he had made some time ago, he had done so because he had a high respect for the gentleman from Allegheny (Mr. FORWARD), and entertained an exalted opinion of his talents, and he regretted that that gentleman had introduced the course of argument he did. He hoped, hereafter, that the gentleman from Adams would reserve to himself the operations of his own mind, and not interfere with the judgment of another who was accountable for his actions to the source from whence he derived his powers.

Mr. BROWN, of Philadelphia, wished merely to state that no such meeting as that alluded to, by the gentleman from Adams, had taken place. He had understood that a few of the gentlemen who belonged to the party in this Convention, numbering "sixty-six", and some of the party numbering "sixty-seven", had met together this morning for the purpose of consulting as to what day would be most convenient for holding the general elections, but this was no meeting of any one political party.

Mr. DENNY was sorry the gentleman had modified his resolution, be-

cause if the day for holding the general election is to be placed beyond the month of October, he was in favor of having it on the same day with the election of electors, otherwise the two elections would come too near to each other. This would also be, perhaps, inconvenient to the people, and they might not take the same interest in the State elections, that they would were the elections to be more distant from each other, or on the same day. There had been occasions where much indifference seemed to prevail at the electoral election which was one of the most important in the country. He was in favor of having the two elections separated as much as possible, because he was well aware of the influence which the General Government could bring to bear through its patronage upon our State elections, and under existing circumstances it would be impossible to avoid it. The long arm of the General Government has been, and will be extended to interfere in our State affairs, and with our State policy, through the agency of its numerous officers and dependents connected with the Custom House, the Post Office, and the "by authority" printing establishments. This influence which has diffused itself through the community, will be exerted at our elections; that it has been, every one knows, we see it every day, and he (Mr. D.) had felt it. In some cases the federal officers obtain possession of the newspaper press, and it becomes their organ, and is devoted almost entirely to the interests and designs of the great central power at Washington City, instead of the promotion of the true interests and independence of the State. This is a very great evil, is every day increasing, and ought to be diminished: it is one alarming in its character, and unless checked, may endanger the true liberties of the people, and bring us wholly under the control of the General Government. To prevent this, if no other remedy could be devised, he would be almost willing to go so far as to say that these federal officers should not exercise the right which we now allow them of voting at our elections for State officers. This, to be sure, might be too severe a remedy; but he would adopt any other that would be efficient to protect us in the free enjoyment of our rights, and in the pursuit of our own State interests and policy, from the control and influence of a powerful General Government, wielding an extensive patronage in the State. The influence of this patronage is more strongly felt in cities and large towns than in the country, and perhaps the best mode of combating it is, to resort to some means by which the great mass of the voters in the country may be induced to attend at the elections. The yeomanry of the country are not reached by this influence. It is not so with those who are immediately exposed to it, many of whom may act under it without being conscious of it. It might, therefore, be salutary to bring both elections on the same day, so that the influence of the officers of the General Government might be counteracted by the yeomanry of the State. If we were to go out of October, then he would be in favor of having both elections on the same day; but he was willing to adopt either the third or the fourth Tuesday in October to be submitted to the people; either of which days he thought would be a more convenient time for the farmers in the western part of the State than the second Tuesday in October.

Mr. MANN did not then rise to make a speech; for he was so worn down with the speech mania, that he could scarcely speak good humoredly on the subject—but he rose merely to make a suggestion to his friend from Allegheny (Mr. DENNY) who complained so loudly of the office-

holders, and says he feels their influence very sensibly and thinks it would be a good thing to disfranchise them, to destroy their influence. Now he presumed the reason the gentleman felt so very sensitive on this subject is, because he happens to be in the minority in the General Government. He would suggest to the gentleman the propriety of disfranchising the whole Democratic party. This would precisely meet the gentleman's views if he understood him right, and fully carry out the principle which he seems to have started on. If however the gentleman did not choose to accept it he would not press it upon him.

Mr. DENNY said that the Democrats of the country were not under the influence he had alluded to ; it was another class of persons who were under it.

Mr. MANN said as to the subject before the Committee he was utterly astonished to hear fifty speeches on a question that involves neither principle nor much interest. He could not conceive that the change of the day four weeks later for holding our General elections, to suit the agricultural part of the community could convulse the whole Commonwealth. His only desire now was that we should be permitted to take the vote. The thinking men have long since been prepared to vote, and they only desire an opportunity, which he hoped the good sense of the committee would permit them to have.

Mr. SERGEANT (President) said he had never felt a very great interest in the question before the committee until to-day ; and if the question were now a new one, that we were going to fix a day for the elections in future, he should hardly have reflected on it for a moment, but since the commencement of the discussion we have had our attention drawn to the great number of State officers and officers of the United States Government who would be brought in conflict on the same day ; and the able argument of the gentleman from Allegheny had shown on this question, as on all others which had come before the Convention, that there was a matter of principle involved. Gentlemen had debated this question in various ways, and he had risen chiefly to notice a remark which fell from each of the two delegates from Philadelphia county, (Mr. M'CAHEN and Mr. BROWN) and not to notice them for the purpose of entering into a conflict either upon principle or otherwise ; but to notice them for the purpose of improving them, and of bringing our own minds and feelings into the right state of reflection as to what we have in hands. One of those gentlemen, as he had understood him, had said that the influence of the officers of the General Government was more than overbalanced by the influence of the officers of the State Government. Now, how does the gentleman mean to apply this fact supposing it to be true. Either the officers of the General Government and the officers of the State Government must be put on one side, or they are in opposition. Well, if they were set in opposition, then there is a contest, in which—supposing them to be exactly equally divided—the one neutralizes the other, and the consequence would be, that neither would have any influence at all. That was well proposed, but was it the fact, or had it been the fact ? The influence depends upon the power which is in operation upon the whole body of men. Is not the Government of the United States the supreme Government ? Does it not stretch its power over the whole United States, and was its influence not felt on all the Governments of the States ? Then he would ask another question

of the gentleman, and if he had pondered upon it he would give us the result of his reflections. According to his argument, there is an influence subject to be exerted, and by whom? By one set of officers of the State Government, and by another set of officers of the United States Government, and if they exactly neutralize one another then they have no effect. But, sir, one of the great objects of the gentleman is, to take away this power from the Government of Pennsylvania, and leave the officers of the General Government to have full scope. If the argument then, was correct, which had been used, you must retain this influence of the State Government to overbalance the influence of the General Government. Well, again, who are the officers of the General Government? Why, they are not officers of the State Government. Suppose then, they do exercise an influence over matters relating to the General Government, they ought not to be suffered to influence matters in relation to the State Government, farther than their own votes go. Now, whether this influence did exist, or did not, he would leave to other gentlemen to determine by the arguments which had already been adduced, but what had chiefly drawn him up, was not so much what he had just adverted to, as a remark made by the gentleman who had last spoken, from the county of Philadelphia, (Mr. M'CAHEN) that every thing which had been said in relation to the officers of the General Government, applied equally to his respected friend from the city (Judge HOPKINSON). Now, he would ask the gentleman from the county of Philadelphia, whether there was not a difference between an officer holding an office during the pleasure of the person appointing him, and an officer holding his office for life? The venerable gentleman from the city was one of the most independent men in the Convention. He has got a high and honorable appointment, perhaps fulfilling the measure of his wishes, and is independent of mortal man. He can go on the bench and do justice, and come down and exercise his rights freely; and no one need tell him (Mr. S.) that there was any analogy between a judge and an officer whose office depends upon the will of a man. He did not wish the gentleman from the county of Philadelphia to suppose that he made any personal allusion to him, as he had only to do with principle, and should not take upon himself to say any thing with regard to the character of any individual member of the Convention, because, he should then be taking upon himself more than belonged to him. He was now speaking in relation to officers holding office at will; and the difference between them and life officers was this: That the office holder at will, can be turned out whenever the power who appointed him sees fit to turn him out; and no power could demand of him why he had done so. In the case of the gentleman, let the mandate come from Washington, or from the Post Master at Philadelphia, and he lost his employment, because it was the pleasure of him who appointed him to turn him out. In the case of the learned Judge, however, he would only be reasoned out of his office, and when he is removed, there must be ample grounds for such removal. That judge, then, can freely vote for whom he pleases, and take what part he pleases in politics; and no one had any right to interfere with him; but this was not the case with officers holding office during pleasure; they were removable whenever they were ordered to leave, although there may be no reason at all for it. This was a view of the matter of vast importance, and God forbid that

the judges should ever be placed on such a footing as this, that their offices depend upon the mere will of any man, or any set of men. He was satisfied, from the argument he had heard from the gentleman from Allegheny, (Mr. FORWARD) that the holding both the elections on one day would have a bad effect. Without pretending to criminate any body, he would only say, that where you have a number of elections together, one will swallow up or supersede the others more or less; and if you have an election for President of the United States, and there is a great excitement in regard to it, that election will swallow up all other elections, and when you come to the election of members of your Legislature what will be the consequence? Why, it will be said, oh! never mind the Legislature, the President is the main object, and the State elections will be entirely lost sight of. Suppose you had a particular day for the election of members of the Legislature—which, however, he did not mean to advocate—the whole mind of the people would be turned to the selection of proper candidates; but, supposing the election of President of the United States was to come on the same day, would this be the case? He contended, that the Constitution was better as it stood, than the proposed amendment would make it, because each election now could receive the attention which it was entitled to, without the one interfering with, or destroying the other.

Mr. BIDDLE regretted that there should be so frequent an allusion to party: we are here to propose amendments to the Constitution, to the fundamental articles of Government, to endure, it is to be hoped, not for a day only, but during a long period of time. Our duties are both responsible and elevated, and in their discharge we should be influenced by no considerations save those of the purest patriotism: none less pure becoming the trust committed to our hands should be permitted to prevail. On questions of amendment our past votes indicate no such division as one into two great political parties, into parties the one composed of sixty-six, and the other of sixty-seven members. Among the sixty-seven there are to be found some who are second to none in the number and extent of the alterations in the Constitution they desire, while among the sixty-six there are many gentlemen in favor of few reforms only, and those moderate, and who are essentially conservative in their views. On both sides there are gentlemen entitled to our high respect and regard, and there is no one whose purity of motive is suspected. Let us not then indulge in criminations; let us not make appeals to the angry elements of party strife; this is neither the occasion, nor is this a fitting time. A dreadful storm has just torn and shattered our country: every where are to be seen the scattered fragments of ruin: the signs of blasted hopes and ruined fortunes. He would not pause to inquire into the causes of disasters so overwhelming; he invoked a nobler spirit, the spirit of devoted patriotism. Let us no longer by our dissensions tear the bosom of our distracted country; but let us unite our energies to bind up her wounds; to resuscitate her resources and revive her energies. Prostrate as she now is, she possesses all the elements of greatness, and cannot be kept long in a state of depression, if we be but true and avail ourselves of the means within our reach to repair the mischief. Extending over a vale, embracing every variety of climate and of natural productions, with mineral riches inexhaustible; with great natural channels of communication, and aided by canals, rail roads, and every facility that modern

improvements furnish, with a hardy, industrious, moral, religious, and free population, it is only necessary that we should act in concert, impelled by one feeling, and direct our united energies to the rescue of our country from impending evil, and in time all must be well. A great country like this is not, cannot be, ruined. Let us give the example the times demand; animated by conciliation and diligently occupied in the performance of our duties let no blame be attached to us; let us cast from us the apple of discord, and consider only what will best promote the permanent prosperity and happiness of the people. As to the question before the Convention he would agree to any day for holding the elections which would suit the people of the country generally.

Mr. M'CAHEN should not again have trespassed upon the committee had not the President of the Convention addressed some questions which he should endeavor to answer, without following the gentleman through his very learned speech. He thanked the gentleman most sincerely for the instruction he had so kindly offered and acknowledging the ability of the preceptor he would strive to improve with the gentleman's advice. He confessed he had been rude when he compared the position of the venerable Judge, who is a member of the Convention, with the humble, yet relative position which he (Mr. M'CAHEN) occupied as an officer of the General Government; but it was an error of education, he was one of those humble Democrats who sometimes took liberties. If the people of this country were slaves, and destitute of the attributes which belong to freemen, he might then admit that the office held at will made the officer less independent than the office held for life; but he thought it an undeserved reproach upon that class of his fellow citizens; if they performed their duties faithfully as public officers, they were not the less likely to discharge their duties as citizens with equal fidelity. The gentleman from Allegheny (Mr. DENNY) had said, that "officers of the General Government ought to be deprived of the right to vote". That gentleman might have gone a little further and his object would have been as well attained—cause them to be put to death. You should not let these despots occupy a place upon earth, and be permitted to run at large in the face of day, corrupting and destroying all whom they touched.

Mr. Chairman, (said Mr. M'CAHEN) is it not remarkable that gentlemen who claim so much wisdom, should entertain so poor an opinion of themselves and the public, as to believe, that the officers of the General Government could divert them from the path of duty? Why do they confess themselves liable to these dangerous influences? Are the persons selected to fill public offices a band of buccaniers? Or rather, are they selected because of their general good character and competency to discharge the important duties assigned them? They are; and most generally supported by the strongest recommendation—the recorded votes of their neighbors and fellow citizens. They are as much freemen as those who assail them. They are good and upright citizens, performing all the duties of *citizens* and *officers*, with the most *scrupulous fidelity*. And I trust, that a proper spirit of indignation will breathe from them when they are thus denounced. You had better banish them forever: for his part, he had rather in his present mind—and he made no professions of patriotism—he had rather surrender life, than that *right*, which he held, and hoped ever would hold, stronger than *life*—the *sacred*

right of suffrage. What! said he, is the spirit of '76 extinct? Are we so far degenerated as to forget the fathers and their noble resistance to slavery, in the times of *peril* in that history of our country during the *glorious revolution*? He hoped not; he believed not: No generous soul! no *liberal minded man*, could think so—none could charge them with using dishonorable or unfair means to sustain their views, or the views of their party.

Has it come to this, that to be honored with public office, you are to surrender your franchise! Cease to be a freeman! To be exiled because your character has been sufficiently good to receive the confidence of your Government? Why, sir, might we not be deprived of any other right or property? Why, should they be less, or more, than other men? For myself, I stand here, independent of the influence of the government— independent of any influence, except that *monitor* within *my own heart*. I acknowledge myself bound by the wishes of my constituents, and will strive to obey their instructions: but I shall not compromise my sense of honor for any power.

In conclusion, Mr. M'C. said that he would advert to a single remark which fell from the President. That gentleman had said, "that he would not have engaged in the debate, but that there was a principle involved". For his (Mr. M'C's) part, he regretted exceedingly, that the gentleman had engaged in it, particularly as he had also surrendered his dignity in feeling himself called upon to reiterate the charges which had been conceived in illiberality, and by inferior minds.

Mr. SILL, of Erie, was desirous that they should fix upon a time, if possible, that would be disagreeable to no portion of the community. He apprehended, that the first part of November would not be deemed a convenient time—because, as had been stated by the gentleman from Chester—the course in the several counties, were held about that time, at least, in eight of them. And, among them was the one he (Mr. SILL) represented. He admitted, that the proposition relative to holding the courts, might be altered by an act of Assembly. But, he felt convinced, that the people were decidedly in favor of holding them in November, rather than at any other time, inasmuch as it suited their own convenience better, and they had been in the habit of doing so. He was well aware, that his constituents would think the change unnecessary, and the time inconvenient to them. Now, he had heard no complaint any where—none by any gentleman from the eastern or southern portion of the State—that the time, as at present fixed, was inconvenient. It had been suggested by delegates from the north and south west, that it was convenient. He feared, then, that this amendment would induce the people to vote against the new Constitution. Some gentlemen had proposed to fix the time after the farmers had finished their fall work; others were for fixing it earlier—in September—in order that the members could make preparations for the session. For his own part, he believed, that the amendment reported by the committee would accommodate the people of his portion of the State, as well as any other, if not better. But, of all the propositions that have been made, he thought that fixing the time on the fourth week in October, would be most convenient to every section of the State; that it would be unwise to select a day later, he believed, in consequence of the bad weather—snow—and bad roads after the month of November.

Mr Cox, of Somerset, "Is the day fixed in the amendment?"

CHAIR—The first Tuesday in November.

Mr. Cox—There will be an opportunity to change the day by an amendment on the second reading.

CHAIR—Such is the understanding of the Chair.

Mr. Cox, of Somerset, said that he would go for the amendment in its present shape. He confessed that he had this proposed amendment to the Constitution as much at heart as any other that had been suggested, for he believed that it was one that would be acceptable to a large majority of the people of the Commonwealth. He believed it to be susceptible of clear demonstration that it would be beneficial and salutary to the people. Some gentlemen had argued that it would bring the influence of the General Government to bear upon the State elections. Now, he entertained a different opinion. He conceived that it would be the means of preventing—of breaking down, this influence, which had been so much deprecated. It would prevent, he repeated, that influence from controlling not only the State but the National elections. The gentleman from Allegheny (Mr. FORWARD) and others, had certainly exhibited, in a strong and forcible light, the evils of interference by the officers of the Federal Government on the State elections. They had said, that if the two elections were held at the same time, that the executive patronage would be brought to bear on them, and that the dominant party would avail themselves of it for the purpose of electing the men of their choice. Now, gentlemen must have known, if they were at all acquainted with politics, that the battle is not the less fought because the day of election had not arrived. Was it not well known that the Presidential battle in November commenced at the outposts in October? The first skirmish was at the election for inspectors—when herds of office-holders were on the ground in order to elect the men of their own party politics. And, the general engagement was fought in October. Well, if these men should succeed in a county or district in electing an inspector of their own party—they immediately despatch an account of their victory to some democratic newspaper office (for they all call themselves Democrats) and have it published in an extra, stating that they have elected their man by a great majority, and that they will have a tremendous majority at the Presidential election. Yes, the battle begins there; and when the November election commenced, the office-holders mustered all their force—brought out every man who had acted with them before. Now, this was the kind of influence that was used not only in this State, but throughout the United States. These office-holders hold a language of this tenor—"We must have a glorious victory on that day, and we will proclaim to our friends in other States that this State is secure for A. B. or W. H. or any body else". And, the object of issuing and circulating these extras all over this State and in the adjoining States was to make the impression that it would be useless to oppose their candidate because the State of Pennsylvania had already decided for him. The yeomanry, and all those who love their country, turn out to attend the October elections, for they took a very deep interest in them. Well, then it was, as he had already remarked, that the Federal officers exerted their influence. They were fighting for their bread and butter, and they would be found neither sleeping nor slumbering at that time. No; that was contrary to all experience.

Having gained the October election, the Presidential question was considered as decided. The defeated party, when the Presidential election came round, would say—"We were defeated in October, and probably we shall be again at this election, and there is no use in turning out". He had heard this language made use of, he was going to say, hundreds of times—but a great number of times. In this way, the vote of the State of Pennsylvania might be given to a man for the highest office in the Union, when the popular voice was against him.

He thought the best way of defeating the influence of the office-holders was to have the General and the State elections on the same day, then the farmers of the country would turn out *en masse*, and the consequence would be a full, fair, and free expression of opinion in regard to the candidates, for popular favor. Now, he thought that every man would arrive at this conclusion, who gave to the subject that reflection and consideration to which it was entitled. This was not a party question, for it made no difference which party was in the ascendancy, the evil of national interference in State politics was the same whether it came from one party or the other. We must go for the rights of the people, and let them elect the man who was most acceptable to them.

He was opposed to fixing the day on the third Tuesday of October, because it would make two elections but a few days apart. Now, he would ask this question—"Was it likely that after the people had assembled at one election, that they would again turn out in fourteen days, to attend another?" It was not to be expected; it was very unlikely. Well, then, this was a sufficient reason why both elections should take place at the same time. If that course should be adopted then there would be a larger number of voters assembled together than there had ever been before—men who were neither office-holders nor office-seekers—men who would vote for what they consider the best interests of their country, and who were incapable of being cajoled or influenced by the office-holders, who would be met on their own ground. And, should they be found interfering improperly, let the honest yeomanry point them out, and mark them for the future. If there was to be a change in the day, it certainly ought to be on the day of the Presidential election; and he believed that much good would result from it. But, if we left the day as it is—when the farmers generally are engaged, and but few turn out, why the consequence would be that the office-holders would again come off victorious.

Mr. FULLER, of Fayette, said, that he approved of the amendment now before the committee, because, he believed that it would meet the views of the farming portion of the community, especially. He thought that they would like it better than the first Tuesday in November. He did not know whether it would not be preferable to have the election on the first Tuesday of November, or the fourth week in October. However, should the amendment not be adopted, he would vote for the third or fourth week in October. Some gentlemen were in favor of having the Presidential election take place on the same day as the State election. He acknowledged, that if the objections of the gentleman from Allegheny were sound—that the difficulties which he had pointed out would arise, they would certainly have their influence with him, (Mr. F.) and induce him to vote against a proposition of that kind. But he could not see the

force of his arguments. The Presidential election took place but once in four years, and he really could not believe, that the people of the Commonwealth could be influenced, to any considerable extent, by the officers of the General Government, in the election of their State officers. His opinion was, that the people regarded the election of President and Vice President, by the electoral colleges, as one too far removed from them, and consequently, they do not feel that lively interest in voting for the electoral ticket, as for their own State officers. And, with respect to intrigue, or unfairness, being practised by any of the State officers, holding office under the General Government, they could resort to it as well when the elections were separate, as if they happened on the same day. Some influence would always be exercised, but the power of that influence was increased, by allowing the Executive the enormous patronage he at present wielded.

There was one consideration in favor of the proposed amendment, which was entitled to some attention, and that was, that it was contemplated to give to the people the election of their county officers. If this should be done, their election could be fixed on the day of the township election, and if this amendment should be negatived, there would be three important elections in the same year. And, if the county officers were to be elected on the day of election for township officers, the argument against this proposition, that there would be too many tickets to be voted for, would have no force. Now, he could not suppose that any voters would lose sight of the election of a Governor, on account of the Presidential question being introduced. He was sure, that if both elections were to be held at the same time, the attendance of voters would be more general. It was a well known fact, that there were not near as many votes given at the Presidential election, as at the October election, which was attributable to two causes—first, to the voters not finding it convenient to attend to deposit their votes, and second, because they do not feel that interest in the election, for the reason, that they feel it is too remotely removed from them. He would conclude, by saying, that it was his opinion, that the proposition of the gentleman from Butler, taking it in all its bearings, would meet the approbation and wishes of the people of the Commonwealth.

Mr. BANKS, of Mifflin, remarked, that he had some difficulty in making up his mind, as to whether he should vote for the proposed amendment of the gentleman from Butler, or adhere to the day fixed by the old Constitution. If he could be satisfied, that the citizens of the Commonwealth, generally, whether they lived in the city of Philadelphia, or the city of Pittsburg, or in any other place, desired the change, he would cheerfully vote for it. The difficulty which presented itself to his view, was that mentioned by the delegate from Erie, (Mr. SILL) that the courts in most of the counties were held about that time. He was aware that this could be remedied by an act of the Legislature, but then it would occasion some inconvenience. There was another objection with regard to the time. He had heard a good deal, from persons who were unable to attend the election the second week in October, on account of the unfavorable state of the weather. And, this objection would apply with greater force to the month of November, when it was even more likely that the weather would be unfavorable, and consequently the aged and infirm would be

prevented from attending the election. Now, his desire was, and no doubt it was that of every gentleman on that floor, that every man should have an opportunity of voting. As to whether it would be better secured by postponing the election from October till November, he confessed that he had some doubts. He would ask the gentleman from Lycoming (Mr. FLEMING) whether it would not keep more of those men whom he mentioned as having to ride twenty miles to the election, from the polls, than were now detained by their fall work? Another objection might be urged. It was, at present, contemplated to give back to the people the election of their county officers, which were now appointed by the Governor of the Commonwealth. Supposing that this should be done, would it not be difficult to prepare so many tickets? And, would there not be too many objects before the people at the same time, for sufficient scrutiny into the talents, character and principles of the several candidates? He would make a remark, or two, in reply to what had fallen from the gentleman from Allegheny (Mr. FORWARD). He (Mr. B.) was surprised to hear that gentleman, knowing how distinguished he was for talents and intelligence, draw such extraordinary conclusions as he had done in regard to the officers of the General Government, of whom he asserted his belief that they would exercise an undue influence on the State elections. Now, if the gentleman's constituents were so easily influenced, all that he (Mr. B.) could say was, that that they were different from his. His (Mr. B's.) constituents would scorn any influence of this kind, let it come from what quarter it might. The officers of the General Government were few. In the country they were chiefly confined to Postmasters, and they were divided in politics, but most of them were opposed to the General Government. He conceived the gentleman to be entirely mistaken in his apprehensions of danger from that quarter. He would vote against the amendment of the gentleman from Butler, and, perhaps, every other amendment which might be proposed, and let the Constitution, in this respect, remain undisturbed.

MR. DENNY, of Allegheny, rose to make a remark or two, in reply to the gentleman from Philadelphia, (Mr. M'CAHEN) who seemed somewhat sensitive under the remarks which he (Mr. D.) had made, relative to the influence exerted at our State elections by the General Government through its numerous office holders, and "by authority" printers. He had not the slightest intention of being personal—nor did he apply his remarks to the gentleman, or mean to say that he had exerted his influence in the city or county of Philadelphia. His observations were made in reference to the evil as it existed, and the danger which attended it. We were all, and he must confess himself to be among those who were jealous of any foreign interference with our elections. He knew office holders who were correct and honorable men, and who would not use the influence of their official station to control our State elections. He would not interfere with the proper exercise of their rights as freemen. But, there were officers who acted differently, and used every effort and every influence at our elections, to bring the State into subserviency to the views and wishes of the General Government. Now, he looked upon them as connected with a Government somewhat foreign to our own, and in many instances they possess no feeling or interest in common with the rest of the community.—Such was his dread of this extensive influence, which had increased, was

daily increasing, and ought to be diminished, that he would be almost willing, even to go so far as to say, if no other remedy could be devised, that they should not exercise the right of voting for our State officers. These officers 40,000 in number, of which there are about 1000 in Pennsylvania, so says the gentleman from Franklin, look to another power for support: they depend for their livelihood upon another Government, which may have arrayed itself against the State administration, State policy, and against the interests and institutions of our State.

Mr. WOODWARD said he did not know if he understood the question correctly. He believed it was to fix the first Tuesday in November. He thought the second Tuesday in October was a day which did not interfere with any one court in Pennsylvania; while the first Tuesday in November would interfere with the courts of the county from which he came, and also with the courts of several other counties in the State. What then would be the condition of the people, if the first Tuesday in November should be fixed upon? In consequence of the sitting of the courts, all these citizens, who are interested as jurors, witnesses, or parties, in suits, would have to leave their homes on business quite as important to them, as the putting in of his seed is to the farmer. If jurors are absent, they are subject to fine, and consequently they would be deprived of the right of exercising their privilege of voting, at the elections. If ever an alteration of the time of holding the court in his county could be obtained, it might interfere with the convenience of other counties; was there so strong a necessity for a change in this respect, that we must encounter these risks? He had heard nothing in the course of the argument to show that any such necessity exists. You cannot fix a day which may not be inconvenient to some part of the State. The year throughout would not furnish a day of which no one would complain. He had a high respect for the farming interest, but he also respected other interests, and he knew of no day with which the people, as the people of all Pennsylvania, would be better satisfied than the second Tuesday in October. He believed that more votes would be given on the second Tuesday in October than on any other day. Where then was the necessity for a change? Was it justified on the principle laid down by a gentleman from the county of Philadelphia, that we must do something? That was the best reason he knew of. No better reason had been shown him for a change, in reference to this question. The convenience of the farmers, it was said, would be benefited by it in one part of the State, but it would not in others: and if the people had called for this change, it had not reached his ear. The people had indicated, most distinctly and clearly, what changes they wanted; and when the gentleman from Philadelphia (Mr. HOPKINSON) asked on the other day, when and where was the evidence that the people desired changes, no answer was given to him. That gentleman should, at a proper time, receive an answer. He (Mr. W.) would shew, not where the people had instructed that gentleman, but where they had instructed him (Mr. W.). From four counties, represented by him in this Convention, he had never heard a whisper of any desire to change the day of elections. He would be afraid to change a day, on which the people had been accustomed from the days of the revolution, to meet and consult, and decide who should rule over them; and which was regarded by them as a day to be devoted to their country. He believed, it would

be hazardous to the Constitution to make a change which would place it in jeopardy, when the people were called upon to adopt or reject the amendments which were to be submitted to them. Where would be the chance of the amendments being accepted by the people? The people may say to us, "we did not desire to have this change", and so far from realizing the presumed 10,000 additional votes for the Reform Constitution, we may be told—"the day you have changed was fixed in revolutionary times, and we have taught our sons to meet on that day for the purpose of exercising their right of election. We never told you to change that day, and therefore, we put our veto on the amendments". He concluded with stating that, therefore, on reform principles, he would not record his vote in favor of this change.

Mr. DUNLOP said the gentleman from Luzerne had stated, that he had heard no good reason assigned for this change. Would it not be beneficial to have the election of President and that of the State officers on the same day, so as to have but one day in the year taken up with the elections? Feelings were generally excited at one election which had not cooled down before the other came on. Was there any man, who did not lament the bitterness of these election contests, and the enmities engendered between friends not to be reconciled, perhaps, during the remainder of their lives? Was there any one who would not consider the diminution of this risk good ground for fixing the elections on the same day? If one day would be found to answer, why should two days be occupied? If one day would answer the purpose, why engross the minds and matters of the people on two days? If one day would answer, and they were about to make a new Constitution, would it not be considered unwise to appoint two days? Look, also, at the expense; a matter which ought not to be lost sight of. The expense of inspectors, judges and clerks, for two days, at a dollar and a half a day, would be nine or ten dollars for each election district, and there are twenty of them, on an average in each of the fifty-four counties; the total expense is between ten and eleven thousand dollars annually. Why should all this money be expended, unless there is a necessity for it? When we reflect that these elections call together, some hundred or hundred and fifty thousand voters, who will all spend something, beyond the loss of their time, it becomes a matter for serious consideration.

The expenses of each election, would be at least one hundred and sixty or seventy thousand dollars. The money thus expended would, to be sure, remain in the State, though it would pass into new hands; but the time uselessly employed in this way would be utterly lost to the State. Why should this sum be wasted on an extra election, when it might as well be saved by having both elections on the same day? What advantage would there be in having the two elections on two separate days? Would there be any less heat and excitement displayed in carrying them on, or any less influence exerted over them, either by the State or Federal authorities? It is said that the election, if held so late, would interfere with the courts. But did not the electoral election now interfere with the courts, and would there be any more interference if both elections should be held on the same day? Being himself a farmer and blacksmith, he did not much regard the courts and their convenience. The farmers, or at least those of them who were thriving and industrious, had nothing

to do with the courts. But the court can, if need be, adjourn so as to permit the lawyers and suitors to attend the election. The time ought to be selected with reference to the convenience of the greatest number of voters who were the farmers. Even if the lawyers and the courts were put to a little inconvenience by fixing the day proposed, that consideration was counterbalanced by the expense of the double elections. Put the hundred and sixty thousand dollars in one scale and the convenience of the lawyers in the other, and see which will kick the beam. In the first place the time named was a leisure time with the farmers, and, second, the weather at that season was pleasant and delightful. It was in the height of the Indian summer of our country which was so much celebrated by IRVING and other writers, and which was regarded by all travellers as one of the finest seasons known in any country or climate. If a man is any thing of a sportsman, he can take his rifle along with him as he goes to the election, and, to say nothing of smaller game, he may chance to kill a deer on his way. The old hunters in this State always used to carry their rifles at this season. It had happened sometimes, of late, that there was no Indian summer—perhaps because the Indians behaved so badly they did not deserve any—but we have it four years out of every five. When the Constitution was framed our planters sowed their wheat earlier than they do now, by two weeks. The depredations of the Hessian Fly had induced many to defer the period of sowing. Last year, most of the wheat was sown after the October election: but a neighbour of his who sowed on the day of election, made a good crop, while others who sowed later, lost their's. Many pride themselves on getting their wheat seeded before the election. If I am done with seeding by the first Tuesday of October, I think I have done well. A great many of the farmers were occupied at the time of the election, as now fixed. It was, with many, their busiest and most important season;—and gentlemen might talk as much as they liked about the buck wheat harvest, the seeding of the wheat was the most important operation of the farmers. But it was said that the General Government would interfere with the election if it should be fixed on the same day with that of the election of electors of President and Vice President. If they choose to interfere, can they not do it at one time just as well as at another? No more influence could be exerted on one day than on two. It would be impossible to prevent men from interfering with an election in the result of which they were interested. The hangers-on upon the General Government would look to their own interests, but he knew of no facts which showed that the General Government interfered directly in the State elections. If the office holders in Philadelphia exerted themselves at the polls, it was probably not because they were specially instructed to do it, but because it would promote their own interests. A certain gentleman in Philadelphia, whose name he would not mention—a certain Postmaster—was always exceedingly busy at the elections, but he presumed not under the instructions of the General Government, though there was good ground for believing that the Government had issued no order forbidding such interference. We had done all that was in our power to avoid it when we provided that no person holding an office under the United States should hold one under this state. The gentleman from Philadelphia county (Mr. McCahen,) need not say that men are not influenced by holding a government office, All men look to their own interest

and provide for it. Any man who holds an office at the will of an individual will, of course, endeavor to promote the interest of that individual, and cultivate his favor. Every one who holds an office at the will of the General Government, will be disposed to exert an influence in behalf of the Government. He did not refer to the gentleman from the county—who had said that he was not influenced by such motives—and he had no reason to discredit him. There was no help for this. It must exist, no matter when the elections were held. Did not every one know that Government influence was exerted at the October elections? and that the result of the October elections was considered as deciding the Presidential election in November? In the struggle between Jackson and Adams, the chief efforts were made, on both sides, at the October election; and, at the electoral election which followed, the polls were deserted. The question was considered as settled by the October election. Last year, there was a great rally at the November election, because it was thought necessary to resist some particular measures of the Government. But the General Government would exert its influence at the State election, whether it was held in October or in November. If therefore, the first of November was a time of leisure among farmers;—if the season of the year was as pleasant as in October;—if no greater influence of the General Government could be brought to bear on the State elections at one time than at the other; and if it would be a saving of expense of at least a hundred and sixty or seventy thousand dollars, it was incumbent on us, he thought, to adopt the amendment.

Mr. EARLE was opposed as much as any one to the influence of the General Government upon State elections. It was his ardent desire to diminish this influence as much as possible, and he would go at all times for any measure which would have a tendency to diminish it: but he believed the influence would not be exerted to so great an extent by having both elections on the same day. As an evidence of this he thought he need only refer to the fact that in the county of Philadelphia the delegates to this Convention who were elected on the same day with the electors of President, had eight hundred less of a majority than the members of the Legislature of the same party who were elected in October. He might also refer to the city of New York where the candidates opposed to the executive were elected on the same day with the Presidential election. Gentlemen seemed to think this amendment would not be agreed to by the people because it was too radical. Now he did not think it so radical, and if he was to judge of the people by the farmers in the Convention he thought it would be agreed to, as they appeared to be favorably disposed towards it. He understood too that in 1790 they fixed the election to come immediately after the season for sowing wheat. The seasons however had changed, and wheat was not now sowed so early as it was at that time, so that this would be a good argument in favor of fixing the day later than it was in the present Constitution. Some of the people in the country have to go ten or twelve miles to the polls and it would be much more convenient for them to have both elections on the same day; and that day he thought would be most convenient if it was in the first week in November. It was well known to every one who had taken notice of the seasons that the weather was more agreeable in that month than it was on the second Tuesday of October. He hoped the committee

would not rise but that the question would be taken before we adjourned.

Mr. BELL hoped the question would be taken without further debate, as it must be evident that every gentleman had made up his mind.

The question was then taken on Mr. PURVIANCE's amendment, and decided in the negative—ayes 54, noes 58.

Mr. COX then moved to strike out the "fourth Monday in October", and insert the first "Thursday in November", which was decided in the negative.

Mr. JENKS then moved to strike out "Tuesday", and insert "Thursday".

Mr. J. said he held, that it was desirable that every citizen of the Commonwealth, who was a qualified voter, should have the opportunity of giving his vote. Now, in many of the eastern counties, Tuesdays and Fridays are what is called market days, and the farmers, who go to market on those days, would be unable to attend at the polls. He presumed the amendment would not injuriously affect any other portion of the State, and if it did not, he hoped it would be adopted.

Mr. DARLINGTON said, the religious meetings of the Friends were held on this day, and it would prevent them from attending.

The amendment was then decided in the negative, without a division.

Mr. COX then moved to strike out the "fourth Tuesday in October", and insert the "second Tuesday in September, and that the electors of President and Vice President of the United States, shall be elected on that day".

Mr. STERIGERE did not know that it was necessary to say one word to prevent the adoption of this amendment: it was merely a renewal of that offered by the gentleman from Adams, (Mr. STEVENS) and withdrawn by him. He would remark, however, that that part in relation to the electors for President would be useless, as the Constitution of the United States devolves the right of prescribing the manner in which the electors shall be appointed on the Legislature of the State, and authorizes Congress to determine the time of choosing them. This cannot be fixed by any provision in a State Constitution. On this subject, the acts of Congress, and of the Legislature, would be the supreme law, and might be altered without any regard to the State Constitution. This part of the amendment would be perfectly nugatory, if adopted, and ought to be rejected.

Mr. COX modified his amendment, by omitting that part of it in relation to the electors of President and Vice President.

The question was then taken, and the amendment negatived, without a division.

The amendment offered by Mr. DUNLOP was then negatived.

Mr. CLARKE, of Indiana, suggested, that the city of Pittsburg be added after the city of Philadelphia. The city of Pittsburg had now, he apprehended, as many inhabitants as the city of Philadelphia had in 1790; and, if he was not greatly mistaken, it would have, in forty seven years after this, as many inhabitants as Philadelphia now has. He thought it ought to have a separate representation, but he should not make the motion at present, but had merely called the attention of the delegates from that city to the subject.

Mr. FORWARD remarked, that such motion could be made on second

reading, if it was deemed necessary. He would not now, however, make it.

Mr. DARLINGTON called for the yeas and nays, which were not ordered.

The vote was then taken on that part of the report of the committee, which proposed to strike out of the Constitution the "second Tuesday", and insert the "fourth Tuesday" of October, when it was negatived—ayes 57, noes 59.

The committee then rose, reported progress, and obtained leave to sit again on to-morrow, when

The Convention adjourned.

FRIDAY, JUNE 2, 1837.

Mr. COPE, of Philadelphia, presented the memorial of a number of citizens of Philadelphia, praying for a restriction on the Legislature, on the subject of authorizing a lottery grant, which was referred to the committee on the ninth article.

Mr. STEVENS submitted the following resolution, which was laid on the table, and ordered to be printed:

Resolved, That this Convention will adjourn *sine die*, on the seventh day of July next.

FIRST ARTICLE.

The Convention resolved itself into committee of the whole, on the first article of the Constitution, Mr. PORTER, of Northampton, in the chair.

The question being on the 3d section, as reported by the committee.

Mr. EARLE asked if it was in order to amend the 2d section.

The CHAIR thought it would not be in order. It would have been in order to make any amendment to the report of the committee, but not afterwards.

Mr. DUNLOP said, he still considered the second section as under consideration. The committee had decided against the report of the committee, and he now wished to amend the original section. He wished the committee to take up the report of the committee again, for the purpose of amending it. He desired to move an amendment, by striking out the word "annually", and inserting "biennially".

The CHAIR expressed its opinion, that as the report of the committee on the whole article was before the committee of the whole, and as only so much had been negatived as referred to the amendment of the second section, the residue of the report was still before the committee, until the whole of it should have been disposed of.

Mr. STEVENS said the Chair was undoubtedly right, and the gentleman from Franklin (Mr. DUNLOP) was wrong. The report was to be considered in the position of a bill. When the committee of the whole was engaged on a bill, the sections were open to amendment, when any amendments might be offered, and after all the sections were gone through, the vote was taken on the bill. If the whole of the sections were gone through, it was not in order to re-open them for amendment.

Mr. DUNLOP disagreed as to the fact. The section was not done with. He asked the gentleman from Adams (Mr. STEVENS) if the committee had refused to rise yesterday; whether amendments might not have been offered to the section. The committee did not report the report of the committee, but merely reported progress.

The CHAIR said, with a view to bring the question before the committee, it would now decide that the motion of the gentleman from Franklin was out of order, so that an appeal might be taken.

Mr. READ then appealed from the decision.

The CHAIR then put the question on the appeal. The CHAIR had decided that the second section had been disposed of, and that it was no longer open to the action of the committee for the purpose of amendment, and from this decision an appeal was taken.

Mr. READ said that it was now evident that he had spoken in the spirit of prophecy, a few days since, when he said that unless the reports of the standing committee were before the committee of the whole in an engrossed form, these difficulties would be found to meet us at every corner. He still thought that it would be better to retrace our steps, and recommit the report to the committee on the first article, with instructions to report it in an engrossed form. Not half a day would pass, without questions of this perplexing character being stated, unless that course should be adopted. He would ask the Chair, whether it would not be in order, at any time, to offer an amendment to the report of the committee? Could it be believed that the Convention would have consented to submit these articles to the standing committees, if the effect was to be to preclude gentlemen from offering the propositions which they were prepared to submit, to carry out the views of their constituents? He had labored under an entire misapprehension, if under such impression, there would have been found ten votes for such reference, if it had been understood that by such a course, all other amendments but those emanating from the committees, would have been precluded. Whatever was before the committee of the whole, was, from the beginning, subject to its action. The committee had yesterday only reported progress, and asked leave to sit again; and the only effect of this was to prevent, at that time, any motion to amend. If the standing committee reported an amendment, the voice of that committee went no farther than that amendment. The effect of the decision of the Chair was to cut off all power on the part of members, to place their propositions on record, or to alter or amend. It would be a great saving of time, if the committee would now rise, report progress, and ask leave to sit again, for the purpose of instructing the committee on the first article to report in an engrossed form. Then there could be no differences of opinion. All would be fair and plain, because the engrossed report would be understood by all.

Mr. DENNY: The gentleman from Susquehanna still persists that the report should be referred back to the committee to be presented in an engrossed form. The section under consideration is engrossed. So far, it is before the committee of the whole in the form which the gentleman requires. We may compare the article of the Constitution to a bill. It is competent to the committee to report amendments to it, or no amendments. If it be recommitted for amendment the committee do not report back the entire section in an engrossed form, but merely the amendment

to a certain part, reporting only the words of the amendment, and referring by name or number to the section to be amended. The second section was yet under consideration. The amendment of the standing committee had been disagreed to, but no vote had, as yet, been taken on the section or article. He thought it still competent to amend the section, without either a recommitment or a reconsideration.

Mr. STEVENS thought the case was put by the Chair in so plain a manner, that it was hardly possible to misunderstand it. The several reports of the standing committee were before the committee of the whole. We take up the first report, and pass upon it. It is still open to suggestions of amendment from gentlemen, until the final vote shall be taken on the report of the committee. When all the propositions of amendment shall have been exhausted, and no gentleman has any thing further to suggest, and we take a vote on the report of the committee, there is an end of it; and, without a vote of reconsideration, it cannot be again touched. We cannot travel over all the same ground back again. We may otherwise amend every section, and afterwards pass on the report; and then gentlemen might get up, and move an amendment to the first section, and go over the whole ground again. Could this be done without a reconsideration? Various propositions had been made to amend, and all of them negatived. No other gentleman had a day to fix; all suggestions were exhausted. The question then came up, in order—Will the committee agree to the report of the standing committee?

Mr. READ withdrew the appeal.

Mr. Cox, of Somerset, moved to reconsider the vote by which the report of the committee was negatived, and the motion was decided in the affirmative—ayes 59, nays 44.

The question then recurring on the amendment, reported by the committee, which is as follows:

SECT. 2. The Representatives shall be chosen annually by the citizens of the city of Philadelphia, and of each county respectively, on the *fourth Tuesday* of October.

Mr. DUNLOP moved to amend the same, by striking out the word “annually”, and inserting in lieu of it, the word “biennially”; and also by striking out the words “fourth Tuesday of October”, and inserting in lieu thereof, the words “second Tuesday of November”; and also by adding at the end, the words “and shall meet every other year on the first Tuesday of December, unless otherwise assembled by the Governor”.

Mr. READ demanded a division of the question, so as to have a vote, in the first instance, on the words “Second Tuesday of November”.

Mr. DARLINGTON demanded a division, so as to make the first question on so much of the section, as ends with the word “biennially”.

Mr. DUNLOP moved to postpone the further consideration of the amendment, for the present, which motion was negatived.

The question pending being on so much of the proposition to amend, as strikes out “annually”, and inserts “biennially”.

Mr. M'SHERRY, of Adams, stated the impression on his mind, that the amendments proposed yesterday, commenced with this proposition; and, if so, that it was not in order.

Mr. DUNLOP suggested that the question was one of more importance than was, at first view, apparent; and he trusted that it would, on consid-

eration, find more favor with the committee. He was not, at this time, prepared to give his views in support of it. He had hoped that the committee would have indulged him with time to arrange his reasons, in his own mind, that he might present them as he desired; but as that indulgence had not been accorded to him, he would, for the present, withdraw the amendment.

The motion to amend was therefore withdrawn.

Mr. FLEMING moved to amend by striking out the words "city of Philadelphia, and of each county", and inserting, in lieu thereof, the words "several cities and counties". He would briefly state the reasons for his proposition. It was of a piece with the amendment he had submitted in the early part of the session, that each city and county should have, at least one representative. There were two other cities in the State, exclusive of Philadelphia, and he was willing that each should have one representative. He believed it to be his duty to make this motion, in order to preserve throughout the entire consistency of the Constitution.

Mr. STEVENS asked the gentleman from Lycoming, if, by this motion, he would not be somewhat prematurely testing the strength of the committee on this principle? It would, he suggested, be better to bring this proposition forward, when they came to that part which provided for the distribution of representatives. The mode agreed on to be provided, was to go through the several articles in committee of the whole, and then lay them over until there could be had the final action of the Convention upon them altogether. He would, therefore, recommend to the gentleman to withdraw his motion for the present. Let the other various propositions of amendment be considered, and then he could so amend this section as to conform to the other provisions. He was not sure that he would vote to give a representative to every city, but he certainly would be disposed to give one to every county. He did not wish to see cities springing up like mushrooms.

Mr. EARLE, of Philadelphia, begged to suggest to the gentleman from Lycoming, (Mr. FLEMING) and the gentleman from Adams (Mr STEVENS) a modification, which he thought embraced their views.

Mr. FLEMING, of Lycoming, said that he had made the motion now in order that he might not be ruled out of it by the rule-makers here who governed this body. It engrossed his whole attention and time in endeavoring to understand the right course of proceeding—for sometimes gentlemen were ruled right and sometimes wrong. However, confiding in the suggestion of the gentleman from Adams, (Mr STEVENS) and believing that he would have another opportunity of making the motion, he would, for the present, withdraw it.

Mr. DUNLOP, of Franklin, moved to amend the article by striking out of the first line the word "annually", and inserting in lieu thereof, the word "biennially", which was negatived.

Mr. HIESTER, of Lancaster, moved to insert the third Tuesday of September instead of October; which was negatived.

Mr. MAGEE, of Perry, moved to amend by inserting the second Tuesday in November.

Mr. PURVIANCE, of Butler, asked for the yeas and nays.

Mr. FULLER, of Fayette, regarded it as all important that the yeas and

nays should be had on this motion, in order that it might be clearly ascertained who voted for, and who against it.

Mr. CURLL, of Armstrong, moved to amend the amendment by striking out the second Tuesday of November, and inserting the first Wednesday.

The question being taken on the amendment to the amendment, it was decided in the negative.—Ayes 38.

The question then recurred on the amendment of Mr. MAGEE; which was rejected.

Mr. CLARKE, of Indiana, said that he felt satisfied from the votes of yesterday, that there was a majority in favor of fixing a later day for the election. Gentlemen from the south, and particularly the south-west, were satisfied with the day as at present fixed, while there were gentlemen from the middle counties, himself among the number, who wished to have a later day fixed. The delegates from the north-west desired to fix the day two weeks later. Now, taking into consideration the great diversity of opinion that existed among gentlemen in regard to fixing a day for the election, he thought it would be better to make a compromise, and fix the third Tuesday of October as the day for holding the election. He was perfectly aware that the question was tried yesterday, and he did not rise for the purpose of making a motion, but merely to throw out the suggestion and to express his hope that some gentleman who voted in the majority against that day, would move a reconsideration of the vote.

Mr. GAMBLE, of Clearfield, then moved to reconsider the vote rejecting the motion to insert the third Tuesday of October.

Mr. CHANDLER, of the city, said that he was satisfied that the majority who voted yesterday for sustaining the Constitution as it is in reference to the time for holding the general elections, felt very little interest on the subject. They voted to retain the clause, because those who desired an alteration were themselves undetermined as to the day. If, therefore, we would carry the clause as it is before the Convention, and it should be found on second reading, that a change was really desired, then they could act on the matter understandingly. But, for the present, he repeated, that it would be better to defer it, because, in the meantime, gentlemen who represented the farming interest, could confer together and fix upon a day for the election, in reference to their convenience.

Mr. WOODWARD, of Luzerne, observed that he fully concurred in what had fallen from the gentleman from the city. He was glad that the gentleman had anticipated him (Mr. W.) in making the suggestion he had done, for it was much better stated than he (Mr. W.) could have done it. If there was a disposition to adjourn over, the Convention would come to a second reading on returning here, prepared to vote more intelligibly than they now did. And, if it was found then to be the desire of gentlemen to change the day for holding the election, the day could be fixed. He hoped, therefore, that the question would be left just where it stood. But, if the Convention were to go on in this way, taking a vote one day, and reconsidering it the next, he did not know when the Convention could accomplish their work. He trusted that the vote would not be reconsidered.

Mr. MANN, of Montgomery, hoped that the motion would prevail. There were but very few gentlemen yesterday who voted against the proposition. In committee of the whole was the proper place to introduce an amend-

ment of this sort, and he felt satisfied that a majority of it were in favor of fixing the day at a later period of the year than that on which the elections had heretofore been held. He hoped that there would be no further debate on the subject. It had been fully discussed, and nothing new could be elicited by making more speeches. Now, he would tell the gentleman that the only way to progress with the business before them, was to make but few speeches, and take up one proposition after another and despatch it. By pursuing this course, a great waste of time would be avoided, and something salutary and proper would be done in a very short time.

Mr. CLARKE, of Indiana, would take the hint, and would, therefore, only say a word or two. He called upon every gentleman to vote for acting on the subject now—to go for a reconsideration of the vote, and to vote for the third Tuesday of October, and then when the subject came up again on second reading, gentlemen could act definitely on it.

Mr. DARLINGTON, of Chester, felt persuaded when the motion was made to reconsider, that the whole subject would be again opened for discussion. It was idle for any one to suppose that gentlemen were to sit silent in their seats and vote. No, reasons must be given and heard, if there were any, and this and another, at least, would be consumed in debate before the question was finally determined. Now, under these circumstances, he would put it to gentlemen to say whether it was proper to reconsider. He moved to postpone the question indefinitely.

THE CHAIR decided that the motion was not in order.

Mr. BELL, of Chester, said that it must be apparent to every gentleman that delegates representing the farming interests desired that the day of election should be at a later period of the year. It was true that yesterday they did not all agree in opinion, therefore, as had been properly observed by the gentleman from the city (Mr. CHANDLER) the better course was to defer the consideration of the question until gentlemen had conferred together and come to some conclusion. Since yesterday, he (Mr. BELL) understood much consultation had taken place, and something like a union of opinion had been arrived at. And, probably, if they came to decide upon the question now, and each delegate saw that he must give and take a little, a day would be fixed upon which would be generally satisfactory. The committee had been told that at the period when the Constitution of 1789—90 was formed, the day of election, fixed by it, was convenient; but that since a change of the seasons had produced a change of opinion. As far as he had ascertained the opinions of gentlemen, they had fixed upon the third Tuesday of November. But, if by the time the amendment came up for a second reading, they should change their opinion, he would change with them, as he desired the adoption of such an amendment as would suit the farmers.

Mr. STERIGERE said the argument was that notwithstanding a majority may be in favor of the third Tuesday, yet the question could be settled at the second reading. He would say that it ought to be determined now, so that the proposed amendment might go forth to the people, and the Convention would then get their opinion on it. They were more interested in it than the Convention were. It was for the convenience of the people, and we were to be governed by their opinions. He had heard no complaint against making the third Tuesday the day of election,

but if gentlemen's constituents are dissatisfied with it, why then they would know exactly what to do when the amendment should come up for a second reading. Like the gentleman from Chester (Mr. BELL) he would vote for any day that would meet the approbation of the farming interest.

Mr. READ, of Susquehanna, remarked that he had yesterday moved a reconsideration, because he thought the day of election as it at present stood, a week too early. As the gentleman from Chester, (Mr. BELL,) had observed—the seasons have changed, and that which was fifty years ago a convenient day for the farmers, was very inconvenient now. And, when the present Constitution was adopted, the northern part of the State was a wilderness. The seasons were, then, about two weeks later than at present, and the progress of vegetation was much slower than in the southern counties. If altering the day was no inconvenience to the southern counties, why should not the northern counties be accommodated by fixing the day of election a few days later in the season? He was in favor of the first Monday in November. That time would suit the agricultural interests of his county and of the whole State. But, as it might be doubtful whether that day would be agreed to, he would agree to the day named yesterday, as it would accommodate Chester and other counties. He would vote against reconsidering, and also against the third Tuesday of October.

Mr. BELL, of Chester, said that he was desirous that such an alteration in the Constitution should be made in regard to fixing the day of election, as would meet the wishes of every section of the State. He was himself perfectly indifferent about the subject, and if the first Tuesday in November was as convenient as any other day for the farmers he was willing to go for it. It had been said after this article was through, the Convention could adjourn, and submit what they had done to the people.

Mr. READ, of Susquehanna, remarked that he was very sorry to hear the report revived that the Convention were going to adjourn before the second reading.

Mr. CUMMIN, of Juniata, said that he regarded the continuance of this debate as useless, uncalled for, and a great waste of time. His opinion was that the further consideration of the question had better be postponed until it was ascertained whether any of the more important changes in the Constitution would be made, or not. Judging from the past proceedings of the Convention, he had brought his mind to the conclusion that nothing more would be done. It was, therefore, not worth while to spend any more time here. The practice had been for first one member, and then another, to rise in his place, and offer amendments, not proper in the opinion of any man of common sense, and after being each debated for two or three days, they were then withdrawn. He submitted whether this course of proceeding was very becoming in a grave and dignified body like this—assembled by the people of a great Commonwealth to revise their Constitution. He was totally opposed to this waste of time, and was for acting in such a manner as would tend to the advantage of the people. He knew that the lawyers were against making the proposed amendment, because it would interfere with their court days here and there. Every change that would be advocated by them would be for their own benefit and accommodation. This was the reason why they

monopolized the debate—why they continued to make speeches against all the motions to change the day of holding the election. Had gentlemen entirely forgotten what was the disposition of the farmers in this community? Was not the agricultural interest to be supported? Were not the farmers the stay and the strength of the land? And, were they not the main support of all classes, both learned and unlearned? Were they, then, to be refused the only amendment that was offered with a view to their convenience? They ought to go on and see whether they could not get an alteration made as to the time of holding the election. But, his opinion was, that the Convention would not succeed in making any alteration or revision of the Constitution. In this body there were fifty-one farmers and forty-one lawyers: but the lawyers had all the debate to themselves—for the farmers from want of education and practice in speaking, seldom addressed the Convention. They were, however, not the less ignorant of their wants and their interests. These, they perfectly well understood, although they did not possess the faculty of expressing themselves so clearly and logically as some other gentlemen.

Mr. SHELLITO, of Crawford, said he rose not to speak, for of that he was incapable—but to address a word or two to his southern brethren. He wished to tell them that he was one of the number who went into the northern part of the State at a very early age, when it was a wilderness, and colder by a degree and a half than the southern counties. The farmers in his section of the State were industrious and intelligent, and in every respect valuable citizens. The day of the election was fixed by the present Constitution before that country was settled. Now, he wished to see whether his southern brethren would not, in amending the Constitution, consult the convenience of his (Mr. S.'s) constituents in this small matter. He thought that this trivial boon ought to be granted to them. To make the day of election a little later would be of no disadvantage to the southern part of the State. It would not injure a single man in the Commonwealth. He would put up with the third Tuesday, though it was not late enough by a week; and when the members of the Convention should assemble again, if it was found that the people did not approve the change, he would be willing to change back again to the second Tuesday.

Mr. SERGEANT (President) said he thought he perceived from the remarks of gentlemen who had just addressed the Chair, that there was a misunderstanding in committee as to whether a motion for reconsideration was made. On consulting with many members of the committee, he found that motion had prevailed. Now, as to how the question was left yesterday—whether it was left for the third or fourth Tuesday, he could not say positively. He would ask the Chair how the question was left yesterday?

THE CHAIR stated that the question was taken yesterday on the report of the committee and negatived. At the meeting of the Convention this morning, the vote was reconsidered by which the report of the committee was negatived yesterday, and the question now was to reconsider the vote on the third Tuesday in October.

Mr. SERGEANT; That corresponds exactly with my recollection. Yesterday all was rejected. That is correct.

Mr. READ would enquire of the Chair what was the question now pending?

The CHAIR: To reconsider the vote on the third Tuesday.

Mr. READ inquired whether, if the motion to reconsider had not been made, and the article had come up, the question pending would have been on the third Tuesday?

The CHAIR replied, that it would have been on the second Tuesday.

Mr. READ, then I was mistaken. I misunderstood the question. This being the case, I shall vote for the reconsideration.

Mr. STEVENS thought that all must see the necessity of reconsidering the vote which some gentlemen wished to sustain. He entertained the opinion that some gentlemen must be convinced that they could not have every thing their own way—that they must concede something, and that they must vote occasionally without any reference to their own feelings. He had no doubt that the third Tuesday in October would suit all parties. He would recommend it to some radical reformers, who had opposed this amendment, to make a change now and then, by way of keeping their hand in, otherwise they might get out of the habit. We should have no changes at all, unless the radicals went with us. He would vote for changing the day of election to the third Tuesday in October.

Mr. CURLL said, that his two respectable brother farmers who had just now so ably addressed the committee were, he thought, and he was sorry to see it, rather unkind in their remarks upon their legal friends, who had, with few exceptions, framed their propositions to suit the views of the farmers. He had not formed any particular opinion with respect to changing the day of election. He had always made it a point to attend the elections regularly, and he had not for the last thirty-six years, omitted to be present. As it was now contemplated to change the day of holding the election in order to suit the farming interest, he confessed that he would rather go for the first of November, than for the third Tuesday in October. He was as much opposed to unnecessary changes as any member of this body, and he only wished to make such as were of substantial advantage to the people of the State. As an act of courtesy to those who proposed this change, he would vote for the present proposition. But, if their constituents disapproved of it, they could, when they met again here, put it back to the second Tuesday in October.

Mr. BONHAM remarked that he should be very brief in what he had to say. He was in favor of reconsidering the vote of yesterday. In the county, which he had the honor to represent, a great many of the farmers were unable to attend at the last fall election, in consequence of being occupied in seeding. He wished the day to be fixed at a late period of the season, so that the farmers might have an opportunity of attending the polls, without being obliged to neglect their more important duties at home. He would go for a later time than the third Tuesday in October. He wished the General and Presidential elections to be held together, because there would be a great saving of time, and the convenience and wishes of the people would be greatly promoted by such an arrangement. As retrenchment was the order of the day, and as no inconvenience could result from it, he thought the experiment should be tried. He had no doubt that the people would approve it. He was in favor of any day in

preference to the present time, and thought the question might as well be determined then, as at any other time.

Mr. EARLE, of Philadelphia, would make a suggestion which might be useful now and hereafter, as applicable to the question of reconsideration. If an amendment to an amendment was offered and rejected, could it afterwards be moved as an amendment to the report?

The CHAIR: That is not the question before the Chair. The question is—shall the vote of yesterday be reconsidered?

Mr. EARLE: Is it not in order to show that we can obtain the object by other means, without a motion to reconsider?

The CHAIR: Yes.

Mr. EARLE: I will read the rule. Mr. E. then read as follows: "If the committees report that no amendment is necessary in an article, the report shall be considered first in committee of the whole, and again on second reading. Amendments may be offered either in committee of the whole, or on second reading, whether the committee shall have reported amendments or not, and if no amendments shall be agreed to in committee of the whole, or on second reading, the existing constitutional provision shall stand".

The CHAIR: The gentleman from Philadelphia is already out of order.

Mr. JENKS, of Bucks I would inquire of the Chair whether, in the event of the committee agreeing to reconsider, we shall be confined to any specific amendment? It was suggested by the gentleman from Indiana (Mr. CLARKE) to insert the third Tuesday in November.

The CHAIR: The simple question is, whether we are to reconsider or not.

Mr. JENKS said, that he hoped the committee would reconsider the vote of yesterday, negating the amendment reported by the standing committee. Facilities ought to be afforded to every qualified citizen to exercise the elective franchise. If the day named in the present Constitution is not so well adapted to the convenience of the agricultural community, as the one contemplated in the amendment which will be proposed, should the motion to reconsider succeed, that amendment ought to prevail, inasmuch as it will not subject any portion of our citizens to inconvenience. The most important interest in a republican community is the agricultural. On agriculture is based the prosperity of the country—and to agriculturists may we confidently look for whatever corrections may be needed in the administration of the Government. It is an avocation which invites to reflection, and sober and considerate action. The day named in the present Constitution was adapted to the convenience of the farmer at that time; but the Constitution was framed prior to the appearance of the Hessian fly. The period of seeding was the latter end of August and beginning of September, and always finished sometime before the election. But to avoid the ravages of the fly, a little experience soon taught the farmer that he must change his time of seeding, to a period so late as that the autumnal frost would cripple the fly, and prevent a deposit of the egg in the young wheat, in the fall of the year. I would prefer a period still later than that contemplated. Our seasons are changed—our climate is ameliorated. This is the general and certain result of the clearing of our forests, and the improved cultivation of the land. The Roman poet tells us, that he had often witnessed the sports of the Roman youth upon the

ice of the Tiber. From the destruction of the German forest, the climate of Italy is so much milder, we are told, that the Tiber is now never frozen. A like result may be expected here from the same causes. I would prefer then, a later day for the election—a period when the farmer is more at leisure—and while the weather is pleasant and mild—inviting the aged and enfeebled to the discharge of this important duty. I would extend it into November, when the American Indian summer, so much admired by foreigners, gives earnest of mild and pleasant weather.

The question being then taken, the motion to reconsider was agreed to.

The motion to strike out the 4th Tuesday, and insert the 3d Tuesday of October, was then agreed to—ayes 67, noes (not counted.)

The question then being on the report of the committee, as amended,

Mr. READ moved to strike out the third Tuesday of October, and insert the first Tuesday of November.

The CHAIR decided that the motion was not in order.

The report of the committee, in relation to the second section of the article, was agreed to, as amended.

The committee then proceeded to consider so much of the report of the committee, as relates to the third section of the first article, which declares that it is inexpedient to make any alteration in the third section, which section is as follows :

“3. No person shall be a representative who shall not have attained the age of twenty-one years, and have been a citizen and inhabitant of the State three years next preceding the election, and the last year thereof an inhabitant of the city or county in which he shall be chosen, unless he shall have been absent on the public business of the United States, or of this State. No person residing within any city, town, or borough, which shall be entitled to a separate representation, shall be elected a member for any county ; nor shall any person, residing without the limits of any such city, town, or borough, be elected a member thereof”.

Mr. CLARKE, of Indiana, did not wish, he said, to see a single word of the section altered, except that which relates to the age of the representative. He wished to leave that blank. Every gentleman would then have an opportunity to move to fill it with whatever age he preferred. For his own part, before he sat down, or at some other time, he intended to name the age of twenty-eight.

He was in favor of extending the right of suffrage as broad as the population of the country, and he wanted to see all property and tax qualifications taken out of the Constitution. He wanted to see the time when every citizen of the Commonwealth should be entitled to a vote ; but, while he thus gave a broader basis for our representation, he wished to render the Government a little more patriarchal. He had no objection to receiving into many branches of the public service, men of twenty-one years of age : they were, undoubtedly, capable of serving in those capacities, which require energy and obedience to the laws ; but the framing and judging of laws should be left to men of more mature years. Men of twenty-one, he considered, as much too young to make laws for such a Commonwealth as this. There was no hardship in the proposition, as other than legislative walks would be left open to them. However well educated and gifted these young men might be, they necessarily lacked that judgment and prudence which was necessary in legislation. He had

often known very smart young men in the Legislature, who had less skill in making laws than in tying a cravat, or curling a pair of whiskers: they had not experience enough to see the bearing of those alterations which they were engaged in making. As he wished an opportunity to put on record his views on this subject, he would move to fill the blank, if "*twenty-one*" should be stricken out, with *twenty-eight*: any other gentleman, in the mean time, could propose any other number between that and *twenty-one*.

Mr. CURLL moved to fill the blank with *twenty-five*. He was the friend, he said, of young men, and he was always disposed to bring them forward in life, and introduce them to the notice of the country. He had seen young men of nineteen, who had more talents than some men of forty.

After some conversation between Mr. CLARKE, and Mr. CUNNINGHAM, as to the mode in which the object of the mover could be reached,

The CHAIR stated that it might be got at by a motion to amend the report of the committee on the 3d section, so as to leave the age of the representative blank.

Mr. BANKS: Am I to understand that the motion is to strike out and insert?

The CHAIR. Yes, that is the question in effect.

Mr. BANKS: Then, sir, I go against striking out. Knowing the liberal views of the gentleman from Indiana in regard to the right of suffrage and eligibility to office; and knowing that, in his opinion, every man in the Commonwealth, is entitled to vote for those who represent him, and to act as the representative of his fellow citizens, if they choose to elect him, I am somewhat surprised that this motion to curtail the privileges of our young men of promise and talent should come from him.

Surely the gentleman had seen many lads of nineteen or twenty who were as intelligent and efficient, and as ripe in judgment, as many men of forty or more. But this was an affair for the constituents of a representative to judge of, and determine. You have, no doubt, Mr. Chairman, heard the anecdote of the justly celebrated JOHN RANDOLPH, who, when he was about to take his seat in Congress, was asked by the Speaker of the House, when he came up to be qualified, whether he was of constitutional age? "*Ask my constituents, sir, who sent me here*", was the indignant reply. If, sir, the people see fit to elect a man of only twenty-one years, it is a sufficient proof of his capacity for the station, and certainly we have no right and no reason to object to it. Young men ought to be encouraged to come forward, and take a part in the public concerns of the country. In my county, and I presume too, in the gentleman's county, the young men from eighteen to twenty-five are among the most active and efficient politicians. The same is probably the case in other counties, and I have no doubt that, in general, men of this age are more relied upon by gentlemen, for support at elections, than any other.

Mr. PURVIANCE rose, he said, to suggest an amendment to the amendment; but before he offered it, he would like to know the age of the gentleman from Indiana (Mr. CLARKE.) He moved to amend the gentleman's amendment by providing that no person should be eligible as a Representative after forty-five—or whatever was the gentleman's age. If he and his friend near him, the gentleman from Philadelphia, (Mr. BUT-

LER) were to be excluded from the service of their country in the Legislature, he wished also to provide for the exclusion of the gentleman from Indiana. He was very glad that the gentleman was not a member of the Convention of 1790, which framed the present Constitution, as his weight and influence might have effected the adoption of such a provision as he had now offered, in which case, he and his friend near him, would not have had the honor of a seat here.

Mr. DICKEY hoped, he said, that the gentleman from Butler, (Mr. PURVIANCE) would withdraw his proposition, and that the gentleman from Indiana also would withdraw his motion. He regreted that the gentleman from Indiana had thought proper to offer it. Age can no more give competence to an officer of the public, than property can qualify a man for voting; and a man of twenty-one may be as highly fitted for any duty as a man of more mature age. A Senator must be twenty-five years old, and the gentleman from Indiana should recollect that the Senate was constituted for the very purpose of checking the popular branch, and of keeping watch over those youthful legislators, if any such there were, whose experience and tact lie principally in curling their mustachoes and tying their cravats. It was a sufficient proof of the competence of the person elected, that his constituents thought him fit.

Mr. REIGART said, he hoped neither motion would be adopted. For forty-seven years this Constitution had been in operation, and no inconvenience was ever yet complained of, or felt in consequence of this part of its provisions. Are not the people as well qualified as this Convention can be to say who shall represent them—whether a young man or an old man—a professional man or a farmer? We have nothing to do with the fitness or unfitness of those whom the people select as representatives. The ground of the objection which the gentleman makes to the election of persons of the age of twenty-one was, that young men of that age have not sufficient experience in public matters, and not sufficient gravity of character for the station; but of their qualifications in these respects, the constituents were to be the judges. The law has always supposed a man to arrive at the discretion and judgment of manhood at the age of twenty-one, at which time it puts him in possession of his property. There had been some striking instances of maturity of talent and judgment at an earlier age than twenty-one. AARON BURR, according to the statement of his biographer, was aid to Gen. MONTGOMERY at the age of nineteen. One man might be a good representative at twenty-one, while another would not be fit for the station at fifty-one. It was said by the gentleman that at twenty-eight the judgment was mature; but he could point to instances wherein men of twenty were riper in judgment than many men of fifty. As no inconvenience had arisen from the existing provision, he hoped that it would not be lightly changed. Unless very good reason was given for the motion—better reason than any he had yet heard—he should vote against either propositions to strike out twenty, for the purpose of filling the blank with twenty-eight or twenty-five.

Mr. PURVIANCE withdrew his motion to amend.

The motion of Mr. CLARKE, of Indiana, to amend, was negatived.

Mr. KREBS moved to amend the section by striking out "three years" and inserting "two years", so as to make two years' residence in this State sufficient to render a person, who was otherwise qualified, eligible to

a seat in the House of Representatives. He had known a case, he said, in which a man was elected as a member of the House of Representatives, and could not take his seat because he had not been a resident of the State for the required time. The people who elected him, and were entitled to his services, were obliged to choose another representative, at a special election. The gentleman had moved into Franklin county from Maryland, and had lived previously in Pennsylvania, where he was well known. The case was one of great hardship. He asked the yeas and nays on the motion.

Mr. EARLE was in favor of the amendment, he said, and was for going still further in opening the elections.

Mr. DICKEY, of Beaver, said he should vote against the proposition of the gentleman from Schuylkill, because he thought we had Pennsylvanians enough to fill our offices, without going to other States for suitable persons. He thought the important office of Representative should not be filled by persons from other States, until, at least, they acquired a residence, and a knowledge of our institutions.

Mr. MARTIN: The vote of the gentleman from Beaver, then, will go to disfranchise the citizens of Pennsylvania, as well as of any other State; for Pennsylvanians frequently change their residence, and when they choose to return home again, they ought not to be excluded from office for three years. It might, he thought, be very safely left to the citizens of the State to judge who were fit and suitable persons to represent them in the Legislature; and there was no danger of choosing persons who were unacquainted with, or hostile to, their interests. He was willing to reduce the residence to two years.

Mr. STEVENS thought, he said, there ought to be some alteration in the clause. If it was modified so as to provide that, if a person who has been a voter and a citizen of the Commonwealth, shall loose his residence, he may recover it again by a residence of one year, he would vote for it.

Mr. KREBS accepted the suggestion, and modified his motion to amend, so as to insert the following after the words "three years": "unless he shall have been previously a qualified voter in this State, when he shall be eligible by one year's residence".

Mr. STEVENS thought this ought to be satisfactory to every one. Those who live on the borders of the State, frequently pass the boundary into one State or the other, and when our citizens return they cannot be elected to the Legislature for three years afterwards. In the case of the member elect from Franklin county whose seat was vacated on the ground that he had not been a resident for three years, the individual had been a citizen almost all his life, of this State, but had removed over into the State of Maryland for a short time, and returned.

Mr. EARLE said the arguments used against the existing provision went to break down all this system of exclusion. He had no doubt himself, that all distinctions made by our laws between the privileges of our own citizens and those of other States, were a direct violation of that clause of the Constitution which declared that "the citizens of each State shall be entitled to all the privileges and immunities of citizens in the several States". He was desirous of breaking down this limitation, having no doubt that it was contrary to the spirit and the letter of the Constitution. Whether all citizens of any of the United States had not a right to come

into this State as citizens, upon an equal footing with other citizens of the State, in every respect, was a question deserving of consideration. Whether we had the right to say to one man, you shall be eligible after one year's residence, and to another you shall not have the same right till after three years, he very much doubted.

Mr. FORWARD: The question is, who is a *citizen*? In the meaning of the clause in the Constitution, a minor is a citizen, and so is a female; and yet neither are eligible to office or entitled to vote. The gentleman's difficulty probably, arose from his not taking the proper distinction between a "*citizen*" and a qualified voter. The amendment, he thought a very satisfactory one, and he hoped it would be agreed to.

Mr. CHAMBERS was acquainted, he said, with the case in Franklin county, which had been mentioned. A native citizen of that county, who had lived there forty years, moved over the line into Washington county, Maryland, where he resided one year, and then moved back again. The community hardly knew that he had been out of the county. He was taken up by his fellow citizens, and elected to the Legislature; but in consequence of finding that he was not eligible—not having resided quite three years in the State since his return from Maryland—he did not take his seat, and the people of the county were obliged to hold another election. He thought that this amendment commended itself to our support, inasmuch, as it would enable persons who had lost their eligibility merely by removing into some other State of the Union, to regain it, within a reasonable time. At the time of the adoption of the Constitution, this provision was introduced to exclude foreigners. At that time, there was not so much interchange of residence between citizens of adjoining States, as there now is. Many persons, now, have to change their residence from one side of the line to the other, as tenants or proprietors. It frequently happened, therefore, that a citizen, after residing in a neighboring state, for a while, returned to this State. The reason of the rule, therefore, did not apply to him. He was not prepared to say that the amendment was drawn with that precision that it ought to be. If it went beyond its professed object, it could be modified. He could not agree with the gentleman from Philadelphia county, that no qualification of residence ought to be imposed upon the citizens of another State coming into this. He would not be willing to confer offices of profit or trust upon strangers to the State and its interests.

Mr. BELL said the question struck him as one of great importance. The gentleman from the county seemed to think, that any one who was a citizen of the United States, upon coming within the borders of Pennsylvania, should be eligible to all the offices and honors which may be enjoyed by any of its inhabitants. He also formed this opinion upon the democratic principle, that the people have a right to choose whom they please; a principle which, though correct in theory, it would not answer to carry out in practice, so far as to permit the people of Pennsylvania to elect any vagabond or stranger to our laws, habits or feelings, without evidence of his fitness, or of his having any interest in common with ours. He saw in the papers lately, an account, which afforded a striking example of the impolicy of abolishing these restrictions. In a western State a stranger took up his residence, and by his intelligence, correct deportment, and suavity of manners, soon won the entire confidence of the commu-

nity in which he resided, and was elected to the Legislature in opposition to a gentleman well known and much respected, and who had faithfully served the people as their representative. Before he took his seat, it was discovered that he was a fugitive from justice. It was some time before the people would believe it; but, at length, it became so well known that the member elect thought proper to abscond. He would ask the gentleman whether he would be willing to place his own constituents in a predicament like that? No matter how slight the qualifications imposed might be, say a residence of one month, or one day, still it would be a departure from the principle, that the people were at liberty to choose whom they pleased as a representative. He was not now willing to record his vote on the adoption or rejection of this proposition, and he moved that the committee rise.

The motion was lost.

Mr. WOODWARD agreed that the principle was a good one, and he did not know but if we were adopting a new Constitution he might vote for it, but he could not see any good reason for its going into the Constitution as an amendment to be submitted to the people. He had on one or two occasions expressed himself unfavorable to the amendments which were not of importance to the people and demanded by them. This amendment was of a character not demanded by the people; and if the amendment providing for future amendments of the Constitution should be adopted, these suggestions could be made to the people and they could consider them and introduce them into the Constitution if they saw fit so to do. It seemed to him that this was the most proper mode of getting rid of these amendments; and that there was no necessity for laying them before the people.

The amendment was then agreed to—ayes 67; noes not counted.

Mr. HOPKINSON said the argument in favor of this amendment was on presumption of persons moving from one State to another. This might not however be the case in every instance. It might be possible that some persons may have gone to Europe, and been away twenty years in a country where they become attached to institutions entirely at variance with those of our own country. He would move no amendment on this subject, but he merely suggested it for the consideration of gentlemen whether there ought not to be a distinction between these two classes of persons.

Mr. FARLE then moved an amendment providing, that no member of the Assembly should be elected for more than three years in any term of four years.

Mr. E. said he should like to have the yeas and nays on this amendment, as he did not know that they should come to a second reading before the Convention adjourned. If gentlemen would grant him this favor he might vote with them for a call of the yeas and nays on some of their propositions. He went upon the principle that the people had the right to select whom they pleased for officers; but he went upon the further principle that the people had the right to prescribe the rules by which they would act, and he believed this proposition would be acceptable to the people. It had been adopted in many of the counties of the State without a constitutional provision, and he thought the people generally would adopt it as a salutary measure. Power generally tends to beget corruption, and

the officer long in the public service generally forgets the people who placed him there. The history of mankind is full of examples of this kind. It would also afford the people an opportunity of ridding themselves of a public servant whose services they might no longer desire, but whose situation had given him an influence which made it difficult to turn him out. Every one knew that a person who had long held an official situation had opportunities of being selected, which individuals who had never held any place of trust had not. We know, too, that when a man has been in office for some time he begins to look upon it as his property, and that he looked upon every person who attempted to oust him from this situation as his enemy. The adoption of this amendment, then, would leave the people more free in making their selections, and would save them trouble in getting out a man who did not faithfully represent their interests, but whose influence, brought to bear in various ways, might elect him. If, however, an officer was faithful and honest after three years service, the people could elect him to the Senate or to some other office. He would beg leave to refer to a clause in the old Constitution, which provided that no person should hold an office in the House of Representatives for more than four years out of seven. Now this clause deprived men of holding office for a term of three years in every seven, whereas the amendment he proposed would only deprive them of holding the same situation one year in four. He was aware this subject might lead to a controversy in which it would be contended on one side that it was right in principle, and on the other that it was wrong in principle; but as the people had decided in many of the counties of the State that it was right in principle, he had no doubt, if we adopted it, they would readily accept of it. You have a restriction of this kind in relation to the office of Governor, and if it was a good restriction in that case he thought it would be a good one in this case. He believed, there was no place where a provision of this kind should sooner be applied than to the House of Representatives, for although a long continued fellowship with brother members, gives a member more experience, still he becomes more careless of the interests of his constituents, and paid more attention to manœuvring for the purpose of keeping himself in power, than he did to the good of the Commonwealth. He meant to say nothing of those patriotic gentlemen in this body who had long served their constituents faithfully as their representatives, because there were always exceptions to every rule, but after gentlemen had served their constituents for three years faithfully, they could after one year's retirement be again elected to the place they had before filled so ably, and go back with renewed vigor after a temporary retirement. It had been frequently said, that a man long in office allowed the cob-webs to accumulate in it, and it was necessary a new man should come in to clear them out. The old proverb that, a new broom sweeps clean, would apply in this case as well as in any other he knew of. It had been said, that the officers of the General Government ought to be more frequently changed, and he agreed with gentlemen that frequent changes were necessary; because he had scarcely ever known it to fail, that where officers had held their situations for many years, they became negligent of duty.

Mr. CLEAVINGER said he entirely favored the proposition of the gentleman from the county of Philadelphia; but he had risen merely to say

to that gentleman, that when he submitted a proposition and immediately called for the yeas and nays, it had the appearance that he was afraid of carrying it. Now, Mr. C. was favorable to this proposition, and was not at all afraid of it, therefore he hoped the call for the yeas and nays would be dispensed with.

Mr. DUNLOP was sorry the gentleman from the county of Philadelphia should have brought forward this proposition; because that gentleman was certainly on the high road to preferment, and propositions of this kind were calculated to throw obstacles in his own way.

The CHAIR, (Mr. PORTER, of Northampton,) said it was his duty to enforce the rules of order, and it was entirely out of order to cast reflections upon any gentleman.

Mr. DUNLOP should not allude to the gentleman personally, but he thought any gentleman in this Convention, who might be looked upon as a leading reformer, or leading agitator, and who had introduced various projects for the good of the people, was doing himself a great wrong by introducing a proposition which would prevent the people from rewarding him suitably for his patriotic exertions. Why, sir, if gentlemen will turn to page one hundred and thirty of the Daily Chronicle, they will see at the conclusion of a speech of a learned gentleman, no less a project for the benefit of the people, than a plan for a National Bank; and any gentleman who had the courage to bring forward such a proposition as this, was certainly on the the high road to preferment.

The CHAIR reminded the gentleman from Franklin, that he was wandering from the subject before the Convention.

Mr. DUNLOP was very sorry for it; but his object was merely to show gentlemen that they were pursuing a very improper policy after bringing forward propositions so very beneficial to the people as a project for a National Bank, that they should prevent the people from rewarding them suitably. Gentlemen were not only not satisfied in restricting the representatives and servants of the people, but they had commenced restricting the people themselves. This appeared to him to be a new kind of Democracy. The gentleman had introduced a proposition which he supported by referring to a similar proposition in the Constitution of '76.—Now if that gentleman would look at section seven in that Constitution, he might find another valuable amendment to propose. There it was provided that the House of Representatives should consist of persons most noted for wisdom and virtue. This might be a very valuable amendment, as it was not so certain that our Legislature always consisted of such persons. The gentleman might perhaps confer a benefit upon the public by introducing a proposition of this kind.

Mr. SHELLITO regreted to see a subject which any gentleman might think proper to bring before the Convention ridiculed; and deprecated the practice of making speeches for the amusement of the House and galleries. We were sent here to discharge a solemn and important trust: and he thought it would be more becoming in gentlemen to confine themselves to a discussion of the matters we were sent here to deliberate upon seriously, than to indulge in a levity which was entirely unsuitable to this body.

Mr. CHANDLER, of Philadelphia, concurred entirely with the gentleman who had just taken his seat, that this Convention was no place for mirth

or levity. The gentleman from Philadelphia had advocated this morning no restriction in age or any thing else as a requisite for a representative, on the principle of unrestricted freedom on the part of the people. He had voted that one might be elected to the Legislature who had attained to the age of twenty-one years; so that no one need tarry in the county of Philadelphia, or Allegheny, or in Jericho, or any where else, until his beard was grown. But the gentleman had now changed his position and had introduced a proposition opposed to that principle of freedom, about which he has so often discoursed. Should this amendment become incorporated in the Constitution it would be the right of the people to choose whom they please to represent them. It might have this effect—if the gentleman or I should happen to be overlooked by the people, and others should meet with the popular favor, they would be obliged to give way at the end of three years, and he or I would have another chance. But this would abridge the right of the people to choose whom they please and he should vote against it. He concurred with the gentleman from Crawford: but while he agreed that subjects should not be treated lightly, members should be careful not to bring forward propositions which would subject them to the ridicule of others.

Mr. EARLE said he knew that men were subject to error, and he would profit by the advice he had just received. In relation to the gentleman from Franklin, (Mr. DUNLOP) he had only to say, that he had once heard of a gentleman from Franklin county, whose upright course in the Legislature had caused him to be proscribed by the people.

The CHAIR said it was entirely out of order to cast reflections upon other gentlemen in debate.

Mr. EARLE had made no allusion to any particular person. He had merely said that he had heard of an individual who was proscribed by his constituents for the upright course he had pursued in the Legislature, but afterwards the people had found out that they were in the wrong and had reinstated him. Now he only wished to provide that those with less patriotism and less zeal in promoting the interests of the people than that individual should be served in the same manner.

The CHAIR again reminded the gentleman that he was not in order.

Mr. EARLE said it had long been the fashion with certain gentlemen to pronounce themselves wise and other people fools. These people have a very easy way of settling matters, for whenever any gentleman's proposition did not suit their views, it was sufficient for them to say it was ridiculous, and if a gentleman did not want to make himself ridiculous he must not introduce any proposition but such as those gentlemen will agree to. He hoped, however, that the gentleman from the city (Mr. CHANDLER) who held the fathers of '76 in such high reverence, would not cast upon them this reflection, because they had introduced a measure of this kind into their Constitution. He trusted gentlemen would not attempt to turn a measure of this kind into ridicule. He knew the gentleman from Franklin (Mr. DUNLOP) had not intended any thing offensive, but that he had got into one of his glees of speaking to the galleries, which he was, at times, very fond of. But the gentleman from Philadelphia (Mr. CHANDLER) seemed to think that he (Mr. E.) was the first to introduce this restrictive principle. The principle was introduced by the gentleman from Beaver (Mr. DICKEY) and he wished to see if that gentleman and other

gentlemen would adhere to it. If the gentleman from the city admitted of any one of the restrictions which had been proposed, that moment he is in favor of the principle of restriction and cannot object to it. Now Mr. E. was in favor, and always had been in favor of the principle of restriction; but it was not a restriction on the people that he was favorable to, but a restriction on the representatives of the people. He was in favor of some general restrictions, and he would put it to the gentleman from the city, who was a methodical man, whether he had not found it necessary to lay down general rules of conduct; some general principle which had governed him through life. These general rules had a good tendency, and as the people were liable to err at times, they would be equally benefited by the general rules with the gentleman from the city. When they were liable to be led into temptation they would be checked by referring to these general rules. If the people of Rome had had some general rules for the government of their conduct they would not have kept CESAR so long in the Chief Magistracy. It will be found that the downfall of republics has almost always arisen from continuing men too long in power; and it would be found upon a reference to all history that whenever long continuance in office and restrictions upon the people were adopted in republics they had declined and fallen, and there never had been an exception from the creation down to the present day.

Mr. DUNLOP said he held that in what he had said he was entirely in order, and that he had hurt no man's feelings, and had intended to hurt no man's feelings; and if we are to be restricted here in what we have to say we may as well adjourn and go home. Sir, no man's arguments can be judged of until they are heard. The gentleman from the city, however, seemed to say that a man cannot be witty and wise. Now, Mr. D. had always entertained a different opinion from this.

Mr. CHANDLER said he had not said so.

Mr. DUNLOP had only to say to the gentleman, who was a teacher, and had been in the habit of teaching, that although it was an honorable occupation, he must not attempt to teach him.

The CHAIR said the gentleman was out of order.

Mr. DUNLOP did not think he was out of order. He had a right to be heard.

The CHAIR said the gentleman was out of order and must take his seat.

Mr. STEVENS said he did not believe the gentleman was out of order; and he appealed from the decision of the Chair.

The CHAIR said it would be for the committee of the whole to decide whether the decision of the Chair was correct or not.

Mr. DENNY suggested to the gentleman from Adams to withdraw the appeal and he would move that the gentleman from Franklin have leave to proceed.

Mr. STERIGERE thought if they would be called upon to decide whether the gentleman was out of order they should have his words written down.

Mr. STEVENS then withdrew the appeal.

Mr. SERGEANT (President) wished as much as possible to avoid debating questions which would lead to the consumption of much time, but he thought questions proposing to introduce into the Constitution an entirely

new principle ought to have some little consideration ; and, certainly the proposition now proposed to be introduced, was, in his mind, utterly at war with every principle of a representative Government ; and he should feel seriously alarmed for the fate of the republic, if we hold forth in the Constitution such an idea as this, that the sovereign people of the State have not knowledge and virtue enough to know who to choose for their representatives, and that we, having all the knowledge of the past and the future, are to restrict them in the selection of their delegates, because there was a restriction in the term of office of a Governor. Now, was there a member of the Convention who was not able to see the distinction between the Executive and those holding office for the term of one year. Was it possible that we debate here for the purpose of confounding things so distinct ? Was it possible that any one should be so entirely devoid of knowledge as to compare the Executive, clothed with all the patronage of the State, and who, if he wished to gratify his own ambition, might aspire to regal or despotic power, with the humble representatives of the people in the House of Representatives ? And will you say to the people of the State we will not trust you to choose your own representatives, but we will instruct you whom you shall appoint, and how long you shall appoint them. The effect of this motion is, that you disqualify a man who has served three years ; and, therefore, you not only deprive him of receiving a due reward for his services, but you deprive his constituents of his services, however valuable they may have been. Can there be a grosser libel on a representative Government than a solemn declaration to the world that the people of Pennsylvania are not competent to choose representatives for themselves, but that we must do it to their hands ; that we are to make laws for them which are to bind them forever. We are told that in various districts the people have adopted this principle. He knew, however, in the part of the State from which he came they never had any such law, nor did he think they ever had such law in the county of Philadelphia, but there was a great difference between a man making a law for himself, and having one imposed upon him by another. If one portion of the people of Pennsylvania make such a law and abide by it, so be it ; but he apprehended it would be a different case if we undertook to impose this law upon other districts. Again there were members on this floor who had been members of Congress and had seen the practical working of this rule which prevailed in some parts of Pennsylvania and New York. The consequence is, that those two States have fewer men of experience and knowledge in that great deliberative body ; and they do not stand so well as those States which continue their members for a number of years. There was no member who had not felt this to be the case, and he would say further, that this very rule, which has been established in some portions of Pennsylvania and New York, is in itself wrong. It is founded on a principle the very opposite to the principle of a republican Government, and he would appeal to those acquainted with the practical operations of this principle, whether, what he had said, was not the fact. The very principle of a republican Government is, that the representative is appointed for the benefit of the public, and the man who is experienced in legislation, certainly is most competent to confer benefit on the public. Mr. S. had never heard any thing equal to this argument, which had been got up in favor of this amendment, except in the case of a representative

in Congress, he believed from the State of Virginia, who introduced a resolution proposing an amendment to the Constitution of the United States, limiting the term of office of the President to four years, and on the morning of the day the resolution came up for consideration, he sent private notes to some dozen or twenty members, saying to each, you ought to support this amendment, because you have a chance of being nominated for President of the United States, and only consider, that if the President is permitted to hold office for eight years, your chance of being elected is very poor. This was what might be called the *argumentum ad hominem*. If you want to be President, vote for this amendment—vote for the four years term. He would ask whether, in the State of Pennsylvania, we have not been deprived of the services of many good members by the operation of this rule? When you get a man into the Legislature, just by the time he becomes acquainted with the business and the rules of the House, he has to make room for a new man, who has to learn the same thing, and thus in the Legislature you have what may be called yearlings, and they never get to be any older. With regard to the Executive, it was all right enough, because power was concentrated in his hands, which was capable of increasing itself to an extent, perhaps, beyond what was contemplated by the Constitution; but, with regard to a representative, what was a representative? Why, gentlemen who have been debating this question, will recollect what they told us, that the representative was the express image of his constituents. Have they not been sent to do the will of those who appointed them? And, do gentlemen then mean to say, that when the constituents get a representative, who conforms, in all respects, to the will of those who sent him, that he is to be cut off from them by the application of this proposition? What was this, but the application of that doctrine which had been ringing throughout the United States, in the newspapers—the doctrine of protecting the people against themselves. Yes, sir, of not trusting the people with what belongs to the people. So much for the principle, now for the practical application of it. What is the object of this law? That every man who is three years in the Legislature becomes corrupted—that men cannot be associated in a body, as in the Legislature, without becoming depraved, and that the possession of power will corrupt men. Mr. S. denied it, and called for the proofs of it. He had no higher opinion of man than he ought to have, and God knows they are all bad enough, but he did not believe men were half so apt to become corrupted, by a three years service in the Legislature, as by three years electioneering to obtain a seat there. Men were not obliged to practice half so many arts in the Legislature, as they were obliged to do in electioneering campaigns. The man who has been in the Legislature has a certificate of good character, which the man who is endeavoring to get in has not. Mr. S. knew many members of the Legislature who had served for a long time, and he knew this was not true of them which had been charged, and he knew men who had grown grey in the Legislature, and who were honest to the last. He had known men who had spent many years in endeavoring to get into office, and whether they were honest, or not, he did not undertake to say; but, if he saw a man put in the Legislature of the right sort, he never knew him injured by the company of his fellow members. In three years struggling to get into the Legislature, however, a man must keep all sorts of company, and

consequently, must get into a good deal of bad company, and what effect this might have he was unable to say. Here we have in this body, perhaps, between fifty and sixty gentlemen, who have been in legislative bodies for upwards of three years, and if this doctrine was a good one, they have become so entirely corrupted that they ought to be thrown aside, like an old spotted greasy coat, as unfit for any service whatever. It was surprising to him that any gentleman could advocate such a project as this. He hoped the amendment would not be agreed to, but that the Convention would show, by their vote, that the people were capable of self government.

Mr. EARLE complained that he should have been so peculiarly unfortunate as to be frequently misunderstood, but he would endeavor to improve his phraseology hereafter. He had been particularly misunderstood in reference to what he had said on the subject of restrictions, and an argument unanswerable in itself had been put into his mouth. He had never supposed, for a moment, that because a limitation was put on the power of the Governor, and he was restricted in his patronage, that restrictions must be imposed in all other cases. The argument he had used was in reference to that which had been propounded by gentlemen on the other side. When gentlemen say there should be no restrictions, he asked—"Will you carry out your doctrines?" They say, No. Then he replied to them that they had abandoned their principles on the Executive. They abandoned their principles in reference to the Governor; and they had abandoned them in relation to this clause. Gentlemen wish to leave the people free to judge in reference to this matter; but would they be willing to leave the people of Beaver at liberty to take a man from Ohio, and put him into the Legislature. The true ground to be taken is the ground of expediency. The President had said that the Governor was properly restricted, because of the great patronage in his hands, by the limitation of which it was rendered more easy to remove him, if the people should desire to do so. This was equally applicable to members of Assembly. Every one knew there was a great deal of private legislation. When a member had succeeded in getting a private bill through for A, B, or C, he naturally considered the person he had served in this matter, as under some obligation to him; and he would be very much hurt if that individual afterwards refused to vote for him, and would be disposed to think it very wrong. Or, if an individual asked for an office, and was desirous of the patronage of the Governor, and applied to him, or through the members of the Legislature, which was the same thing, and through them he succeeded in obtaining the appointment; would he not be regarded as very ungrateful, if he should afterwards oppose those through whom he had gained his office? This is a reason which will operate with great force, although it might not operate to as great an extent, in one case, as in another. It was the general belief, that men who remain long in office, become corrupt. He knew a gentleman who had passed through a long public life without suspicion; and he also knew that THOMAS JEFFERSON proved, through a long period when he was in office, that he was not to be corrupted. On the contrary, he became more democratic the longer he remained in office. But power does corrupt men. SOLOMON himself, as we are told, departed from his original purity; and JESHURUN is said to have waxed fat, and kicked. A gentleman near him, had suggested that

men were apt to become corrupt when they went into office early; and some persons stated that AARON BURR went into office at the age of nineteen. These were instances which shew that office does corrupt men.

Mr. M'CAHEN said he was not in favor of imposing any restrictions on the rights of the people. They were as competent to use a correct judgment in selecting for themselves, as we are to prescribe regulations for their judgment. If a gentleman had served the people faithfully for three years, and they wished to continue him longer in their service, they ought to be left free to do so. He would not consent to cast any reproach on the public, for he held in too high estimation their character and intelligence. He would not vote for any such proposition. The argument by which it was sustained might do very well to be addressed to a nominating committee, engaged in selecting candidates, but when addressed to the people it was anti-democratic. They are as competent to judge what is proper for them to do, as we are. Again, it might so happen that a gentleman who is in the Legislature, may be engaged in a case, which no other is so conversant with, and so well prepared to carry it through, and it would be obviously wrong to cut him off from the opportunity of advocating it with the views which he desires to communicate. If a man had not served faithfully, it was not likely that the people would send him again.

The question was then taken on the motion of Mr. EARLE, and decided in the negative.

The committee rose, reported progress, and obtained leave to sit again—and

The Convention adjourned.

SATURDAY, JUNE 3, 1837.

The PRESIDENT laid before the Convention the following communication and statement from the Secretary of the Commonwealth, published in compliance with a resolution of the Convention, which was laid on the table, and ordered to be printed:

SECRETARY'S OFFICE,

HARRISBURG, June 2, 1837.

SIR :—In compliance with two resolutions of the Convention to prepare and submit to the people amendments to the State Constitution, I have the honor to transmit a tabular statement, showing the whole number of persons executed, and the number of pardons and remissions, during the term of office of each Governor, since the adoption of the present Constitution.

I am, sir, very respectfully,

Your obedient servant,

THOMAS H. BURROWES.

Secretary of the Commonwealth.

Hon. JOHN SERGEANT, President of Convention.

*Statement of Executions, Pardons, and Remissions, since the adoption
of the present Constitution of Pennsylvania*

GOVERNORS.			PARDONS AND REMISSIONS.					
			EXECUTIONS.	Death for		Imprisonment,	Fines and Forfeitures,	Militia Fines,
				Murder,	High Treason,			
THOMAS MIFFLIN,	-	-	12	6	14	511	735	
THOMAS M'KEAN,	-	-	11	1	1	1061	881	
SIMON SNYDER,	-	-	9	1		990	525	124
WILLIAM FINDLEY,	-	-	4			431	118	649
JOSEPH HIESTER,	-	-	4			303	66	439
J. AND. SHULZE,	-	-	6	3		724	100	7
GEORGE WOLF,	-	-	6	1		424	87	
JOSEPH RITNER,	-	-	1			17	14	371
			53	12	15	3361	2596	1590

Mr. SELLERS, of Montgomery, presented a memorial from citizens of Montgomery county praying for a Constitutional provision on the subject of banks and the currency, which was referred to the appropriate committee.

Mr. STERIGERE submitted the following resolution:

WHEREAS, Great disappointment is experienced on account of the delay in the printing of the journal, and in doing the miscellaneous printing of the Convention, in consequence of engaging one person to perform the whole: Therefore,

Resolved, That no more of the miscellaneous printing of the Convention shall be performed by the printer of the journal, and that the Secretaries be directed to have all such printing heretofore ordered, which has not been begun, and all which may be hereafter ordered, done by some other person, that the paper may be laid on the desks of the members, as early as practicable.

The resolution having been read, and the question being on the second reading, it was decided in the negative—ayes 39, noes 48.

Mr. PORTER, of Northampton, from the committee on the ninth article, made the following report, which was laid on the table, and ordered to be printed:

"That, in obedience to the directions of the Convention, they have again taken the subject into consideration, and report the following as an additional section of the Bill of Rights, to precede the last section of the existing bill, and to be numbered accordingly:

"SECT. —. The Legislature shall never sanction or authorize any lottery".

Mr. STERIGERE asked if it would be in order, again to ask for the second reading of the resolution he had just offered.

The PRESIDENT said it would not be in order.

Mr. CUMMIN, of Juniata, moved to reconsider the vote of the 31st of May, relative to afternoon sessions.

Mr. DICKEY asked for the yeas and nays on the motion.

The question was then taken on the motion to reconsider, and was decided in the negative, as follows :

YEAS—Messrs. Baldwin, Barclay, Barnitz, Bigelow, Brown, of Philadelphia, Butler, Carey, Chandler, of Philadelphia, Chauncey, Clarke, of Indiana, Cochran, Cope, Crawford, Cummin, Cunningham, Donnell, Doran, Dunlop, Farrelly, Fleming, Forward, Foulkrod, Gamble, Gearhart, Hastings, Hopkinson, Jenks, Long, Martin, M'Dowell, M'Sherry, Meredith, Merrill, Nevin, Overfield, Porter, of Lancaster, Porter, of Northampton, Purviance, Read, Riter, Shellito, Stevens, White, Young, Sergeant, *President*—45.

NAYS—Messrs. Agnew, Banks, Barndollar, Bayne, Bell, Bonham, Brown, of Northampton, Chambers, Chandler, of Chester, Clapp, Clarke, of Beaver, Clark, of Dauphin, Cleavinger, Cline, Coates, Cox, Craig, Crain, Crum, Darlington, Darrah, Denny, Dickey, Dickerson, Dillinger, Earle, Fuller, Gilmore, Grenell, Hamlin, Harris, Hayhurst, Henderson, of Allegheny, Henderson, of Dauphin, Hiester, High, Houpt, Hyde, Keim, Kennedy, Kerr, Krebs, Lyons, Maclay, Magee, Mann, M'Call, Miller, Montgomery, Myers, Pennypacker, Pollock, Ritter, Royer, Russell, Saeger, Sellers, Seltzer, Serrill, Smith, Smyth, Snively, Sterigere, Stickel, Swetland, Taggart, Todd, Woodward—67.

FIRST ARTICLE.

The Convention then resolved itself into committee of the whole on the first article, Mr. PORTER, in the Chair.

No further amendment being offered to so much of the report of the committee, to whom was referred the first article of the Constitution, as relates to the third section, the committee proceeded to the consideration of so much of said report as relates to the fourth section, in the following words, viz :

SECT. IV. Within three years after the first meeting of the General Assembly, and within every subsequent term of seven years, an enumeration of the taxable inhabitants shall be made, in such manner as shall be directed by law. The number of representatives shall, at the several periods of making such enumeration, be fixed by the Legislature, and apportioned among the city of Philadelphia, and the several counties, according to the number of taxable inhabitants in each ; and shall never be less than sixty, nor greater than one hundred. Each county shall have, at least, one representative ; but no county, hereafter erected, shall be entitled to a separate representation, until a sufficient number of taxable inhabitants shall be contained within it, to entitle them to one representative, agreeably to the ratio which shall then be established.

Mr. HAMLIN, of M'Kean, moved to amend the same, by striking therefrom all after the words "SECT. IV", and inserting in lieu thereof the following :

"In the year one thousand eight hundred and thirty-eight, and in every seventh year thereafter, an enumeration of the taxable inhabitants shall be made, in such manner as shall be directed by law. The number of representatives shall, at the next session of the Legislature, after making such enumeration, be fixed by the Legislature, and apportioned among the city of Philadelphia, and the several counties, as nearly as may be, according to the number of taxable inhabitants in each ; and shall never be less than eighty, nor more than one hundred and four. Each county, now erected, shall have, at least, one representative ; but no county shall hereafter be erected, unless a sufficient number of taxable inhabitants shall be contained within it, to entitle them to one representative, agreeably to the ratio

which shall then be established. No two or more counties shall be connected, to form a district; nor shall any county, entitled to one representative, or more, be allowed an additional representative on any number of its taxable inhabitants, less than one half of the one hundredth part of all the taxable inhabitants of the Commonwealth".

Mr. HAMLIN, of M'Kean, said, this amendment was one of great interest to the northern counties of the State, and he desired to make a few remarks to shew the merit of the proposition. He would be very brief, because he was aware that any protracted observations would weary the committee. It was known to every gentleman, that the counties, in 1835 and 1836, were apportioned according to the ratio of population, and were classed in accordance with the policy presented as most suitable to the general interests. According to this classification, it appeared that several counties had no separate representative, as the following statement exhibits :

COUNTIES NOT SEPARATELY REPRESENTED.

M'Kean, Warren, and Jefferson,	-	-	-	one	representative.
Tioga and Potter,	-	-	-	one	"
Pike and Wayne,	-	-	-	one	"
Lycoming and Clearfield,	-	-	-	two	"
Somerset and Cambria,	-	-	-	two	"
Juniata, Mifflin, and Union,	-	-	-	three	"
Northampton and Monroe,	-	-	-	three	"

TO GIVE EACH COUNTY A REPRESENTATIVE.

Jefferson, wants	-	-	-	-	one	"
M'Kean, "	-	-	-	-	one	"
Potter, "	-	-	-	-	one	"
Pike, "	-	-	-	-	one	"

To give to each county, therefore, a separate representation, would require that the number of the House of Representatives would receive an enhancement of four or five members. The true mode, in reference to the interests of Pennsylvania, would be, in his view, to adopt a ratio compounded of territory and taxation, and to give to each county a distinct representation. It might be, that while some of the populous counties had a large representation, some of the northern counties, also very populous, had a very small, if any representation. Every county was a distinct community. It was also considered by the Legislature, from motives of policy, that each county had distinct and separate purposes. Each county had distinct and separate interests; and it had been said that every township, and every ward, had distinct and separate interests, and ought to have a distinct representation. But there was a marked difference. With regard to matters of general moment, each county had a common interest, distinct from that of its neighbor. The county of Northampton had a large representation. Her interests were widely scattered and diversified, but in reference to matters which concerned the county, the interests of the county was a community of interest. She had great facilities, through her large representation, for expressing her wishes, and promoting her interests. But where there existed no sufficient medium for such expression, there was, in effect, no representation at all. Although distinct interests might arise, every county should stand on the

same footing. A large population must always exercise greater control than a sparse population. Several of the counties, extensive in territory, but thinly settled, had no representation at all. A large county, densely settled, might have a large number of votes in the Legislature; but, at least, one member should be given to each county. This principle was acted on in the eastern States, as could be seen by the following

TABULAR STATEMENT.

WHOLE NO. OF REPRESENTATION.	STATES.	EACH TOWN	EACH COUNTY	EACH TOWN OR COUNTY
		not less than	not less than	may have more in proportion to population.
128	New York,		one	
153	Maine,	one		do.
481	Massachusetts,	one		do.
229	N. Hampshire,	one		do.
230	Vermont,	one		do.
208	Connecticut,	one		do.
21	Delaware,		seven	do.
80	Maryland,		four	do.
134	Virginia,		one	do.
134	N. Carolina,		two	do.
124	S. Carolina,		two	do.
142	Georgia,		one	do.
49	Missouri,		one	do.

The other States are represented in proportion to population.

Every State in the Union gave, at least, one representative to every distinct demarcation, whether denominated township or county. Every county in this State, under the Constitution of 1776, was entitled to one representative. Here, then, we had the example of our forefathers to sustain the principle which he advocated, and this example had not been departed from by the framers of the Constitution of 1790, and many of the counties had a very sparse population. If this had been found to be an unjust principle, in the operation of the Constitution of 1776, the framers of the Constitution of 1790, instead of giving one representative to each county, would have deprived the small counties of their representative.

It may be said, perhaps, on the other side, that every county is represented. He admitted that nominally it was so; but, in fact, it was just the reverse. Every county had a distinct and separate community, looking to very distinct and separate objects. If the interests of the counties which are united for the purpose of representation, are not in unison, but in actual collision, what representation of the feelings and interests can be expected by the least influential county, with the larger one opposed to her? Measures hostile to her interests would be proposed by her own representative. The voice of the stronger county would be heard, and would prevail against her weaker neighbor. The voice of the county ought to be heard through the voice of the representative. And how could this be, when some of the representatives never saw the soil of the county which they represent. The counties of M'Kean, Potter, and Lycoming, were classed together at one time; but there never was a representative from M'Kean or Potter: the county of Lycoming always furnished the member, who had never set foot within the limits of either of the other counties which he represented. However well disposed, therefore, he might be to serve these counties, he could not

do them the justice to which their interests entitled them, because he could have no personal, and consequently, no accurate and intimate knowledge of their wants. This state of things was a reflection on the justice of the existing policy. He never knew the interests of a county furthered by one who had not been acquainted with his constituents. A nominal representative might go as far as he knew, for measures conducive to those interests, but without a personal knowledge, no man could do justice to his county. The most important wants of a county ought to be known to her representatives.

What was the distinguishing feature in the policy of Pennsylvania? It was to press forward with untiring energy and unabated zeal, in an onward march of internal improvements. If any particular branch of the State was possessed of peculiar facilities for canals, or other great works, could the policy of the State be fully and advantageously carried out without that knowledge of localities, which could only be obtained from the representative? The march of the State might still be onward, but she would not be otherwise enabled to bring all her means into view, and to reap all the benefits from her spirit of enterprise to which she might be entitled. All the facilities of the State could never be known unless the representatives of the different counties were men of the soil. Only from such could the knowledge of all the resources of a county for improvement be obtained. If there were counties with a sparse population, ought not their claims to be heard in this Hall, where other counties contributed their influence to sanction and adopt the principle of improvement? Every county in the Commonwealth should be heard. The wants and wishes of each should be communicated by a man who knows these wants and wishes. On important questions, involving the prosperity of all, the wishes of every part of the Commonwealth should be known. He would not ask to take any thing away from the other counties. But it was about as reasonable to call on a physician to prescribe for a disease he never saw, as to require of a representative of a district to provide for the wants of a county of which he had no knowledge. He would not take any representative influence from the older counties: but would enhance the number of representatives to one hundred and five; and these to be so distributed as that every county should receive a just and efficient proportion. His plan, therefore, would require four or five additional members to the House. In some of the large counties, there was one representative, and a considerable fraction over. He would add that fraction to other fractions, by which nothing would be taken from the old counties, which had one member for their maximum, while the smaller counties, would receive the benefit from the combined fractions. He would give the Whig counties their share, and have all fairly and equally represented. But the impolicy of yoking the wolf to the lamb, the populous counties to those of sparse population, must be obvious to all. He would do the populous counties entire justice, and take away from the others, at the same time, all cause of just complaint. During the seven years that Lycoming, McKean, and Potter, were in one district, the whole power of procuring a single measure for their benefit was taken out of the hands of McKean and Potter, because they were unable to prevent Lycoming from furnishing a representative during the whole time. A measure of this kind, therefore, was required to prevent any injustice being

done to the weak counties by the powerful ones. If the large counties received their full amount of representation ought they to complain? He should think not. It was said if five members more be given to the small counties, they should be so distributed as to take them from the other counties, and that one half should be given to the North, and the other to the East and West. But it was not possible that the interest of any county could be endangered by a general increase of five representatives. It was clear beyond controversy that the balance of power would be great enough on the side of the populous counties, which would have one hundred members against five. He contended that every contiguous interest would be subserved; that the ties of a common, general policy, and the bonds of friendly feeling would be strengthened, by the adoption of the principle he desired to introduce; while no danger or inconvenience could result to any part of the Commonwealth. The principle which he advocated, had been carried out, not only in Pennsylvania, but in the General Government. Suppose, in reference to representation in Congress, it was to be required that there should be a basis of 232,000 to give two Senators, and 116,000 to give one Senator, what would be the result? Applying the principle to the rates of population, five States of the Union would have but one Senator each, and four of the States would have no Senator. For the purpose of uniting the different branches, if they were allowed to incorporate, why not give just proportions to each, in every section of the Commonwealth? Inasmuch as his proposition would be doing the populous counties no injury, for the purpose of establishing a system founded on principles of abstract justice, let them come forward, and express their willingness to sanction and adopt it. There was no possibility of danger. There existed a fixed and settled feeling against cutting up old counties for the purpose of making smaller ones, which would prevent any considerable addition from being made to the number of representatives.

The counties which he represented had been unsuccessful in obtaining improvements, and the consequence was, that their population was sparse, but give them the same opportunities of others, and you will see towns grow up as rapidly as in other counties; and how were they to obtain these improvements if their voice cannot be heard in the Halls of the Legislature? He conceived the claims of those counties to a representative each, was founded on justice, and no injustice would be done to any other county by granting them this. From the fact that the counties of Potter and M'Kean have had for some years no Representative in the Legislature, they have but few improvements, not that they are incapable of being improved, but because they were neglected, and turned off, as the unkind mother would turn off her offspring and throw it upon the world to provide for itself. These counties were left to take care of themselves, the fostering hand of the Commonwealth had never supported them, and the sun of Internal Improvements had never shone upon them. They have been neglected by your law makers, and have almost become the Siberia of Pennsylvania, and so must remain until they have an opportunity of having their wants made known to your Legislature. If, then, this Convention can do justice to the people of those counties, he would ask in all seriousness that this justice might be extended to them.

Mr. STERIGER was decidedly in favor of the principle the gentleman

proposed if he understood it; and he thought it was founded in justice and good policy, and he wished, however, to put it upon still broader grounds. This principle had the sanction of almost every State in the Union; and it also had the sanction of the Constitution of 1790, and of 1776; all the counties then organized, were entitled to a separate representation. He thought, the amendment should cover broader grounds than that proposed by the gentleman; and with this view he submitted the following proposition, as a substitute for the one proposed by the gentleman from M'Kean:

"SECTION 4. In the year one thousand eight hundred and thirty-eight, and in every seventh year thereafter, an enumeration of the taxable inhabitants shall be made in such manner as shall be directed by law. The number of the representatives shall at the next session of the Legislature, after making such enumeration, be fixed by the Legislature and apportioned among the city of Philadelphia, and the several counties as nearly as may be, according to the number of taxable inhabitants in each, and shall never be less than eighty, nor more than one hundred. Each county now erected, shall have at least one representative, but no county shall hereafter be erected, unless a sufficient number of taxable inhabitants shall be contained within it to entitle them to one representative, agreeably to the ratio which shall then be established. No two, or more counties shall be connected to form a district, nor shall any county entitled to one representative, or more, be allowed an additional representative on any number of its inhabitants less than one half of the one hundredth part of all the taxable inhabitants of the Commonwealth".

Mr. STERIGERE said—this amendment proposed an enumeration to be taken in 1838, and he had proposed that time, on the presumption that the Constitution would be adopted in the present year, which they would know before they adjourned, and if it would not be adopted this year, they could change the time. His amendment was more specific than that of the gentleman from M'Kean, inasmuch as it provides for an apportionment to be made on the next year after the enumeration should be made, and it proposed that every county now erected should be entitled to at least one representative. It also provides that no new county shall hereafter be erected, unless it embraces a sufficient representation to entitle it to one representative. At the time the old Constitution was adopted, this would not answer, because of the vast space of territory comprised in some of the counties. This, however, was not the case now. It would also have a tendency to guard against abuses arising from fractional parts of representation which may exist in some of the counties. Without further remark, he would submit it to the committee, trusting that it would be adopted.

Mr. HAMLIN thought the proposition he had suggested covered the whole ground. With regard to that part in relation to new counties, he believed a committee had been raised for the express purpose of taking into consideration that subject, and when that committee reported, he thought we could act more understandingly on this subject. With regard to the limitation of representatives to one hundred, he had no idea that it would be adopted by the body, as each one was averse to having the number of representatives in his county reduced. He thanked the gentleman for his suggestion, but he did not think the course proposed would be adopted, because he did not believe that any gentleman would allow

his representation to be cut down. He thought the matter of requiring new counties to have a sufficient representation to entitle them to one representative was correct enough ; but he hoped the Convention would first take the question on his proposition, and if that should be rejected, then he would thank the gentleman to bring forward his. He had no objection to the gentleman having his proposition considered, but he trusted the two would be acted upon distinctly and separately.

Mr. STERIGERE said he believed there was a feeling prevailing throughout the whole Convention against increasing the number of representatives, and he himself should always vote against it. He did not apprehend the difficulty of getting gentlemen to support this, from the large counties, and he did not believe any injustice would be done, because the fractions in many of the counties, he considered, would make up for the counties which would be entitled to representatives under this proposition. With relation to that part of the proposition which the gentleman had said could be acted upon hereafter, he had only to say that this was the section to which it appropriately belonged, and if we did not get it through now, he doubted whether we would get it through at all.

Mr. HAMLIN said if the gentleman would increase the number of representatives to one hundred and five, he would accept of it as a modification of his proposition.

Mr. STERIGERE could not do this, because he did not believe it would be sanctioned by either the Convention or the people.

Mr. STEVENS said, although the principle asserted by the gentleman from M'Kean (Mr. HAMLIN) appeared to be perfectly correct, yet he did not take the proper mode to carry it fully into effect. This principle ought to be carried out to the fullest extent, but he did not think it was possible to increase the number of representatives. He believed with the gentleman from Montgomery, that there was a decided feeling against this increase ; and he believed the House of Representatives was sufficiently numerous, and ought not to be increased. He would, therefore, suggest to the gentlemen, whether it would not be more just to the small counties and the whole people of the State, that the representatives in the new counties should be increased, and that some of the over-grown counties should be diminished. In a representative body like that of the House of Representatives, there were other interests to be represented besides numerical strength. It was true, that every person paying a tax ought to be represented, but it did not follow, nor was it true in principle, that representation ought to be in proportion to taxation. Every person paying a tax should have some person to represent him, but as in the county of Philadelphia, he did not think they should be represented either according to numbers or to property. That wide spread communities should have a representative he admitted to be correct, but in order to effect this object older communities should not have a representation in proportion. He would, therefore, suggest to the gentleman from M'Kean, to modify his amendment so as to leave the number of Representatives as they stand, at present, and providing that each county have at least one, and that no city or county should have more than six. This would more effectually protect the interests of the farming classes from the influence of those large manufacturing towns and commercial cities, which is being exerted so unjustly in this Commonwealth.

If, however, the proposition of the gentleman from M'Kean was adopted, you have an increase of four or five representatives in addition to your present representation, and at the same time you will increase the representation of the city and county of Philadelphia. Their representation will be increased, and to that extent will you take away from some of the agricultural counties the representation they ought to have; you take then from the farming counties five representatives, and you give to the single county of Philadelphia three additional representatives. He was in favor of giving to each of the counties one representative; but by this amendment, you take one representative from the county of Washington, one from the county of Lancaster, one from the county of Chester, one from the county of Dauphin, one from the county of Beaver, and one from the county of Adams. Now, he conceived that there was no justice in this, because the interests of those large cities might be directly contrary to the interests of the people of the State generally, and in some instances might be fatal to them. It cannot be denied by any one, that no matter how the members of the city and county of Philadelphia stand as to democracy or aristocracy, no matter how hostile they may be on any question of party politics, the moment they come into the House of Representatives, and get officers elected, that moment you hear no more of party on any question in which the interests of that city are concerned, but they go fifteen votes in a solid phalanx, for every measure which will benefit Philadelphia in the least. Any gentleman who would take the trouble to turn to the records of the Legislature, would be convinced of the truth of this assertion. With them it is all city of Philadelphia, and no considerations of party can separate them from their common interests; it is not human nature that they should be separated from them, as every man is apt to stand by his own interests. When it became necessary to build up a system of internal improvements for the benefit of that great metropolis, we find the members from the city and county of Philadelphia voting against every proposition to remove obstructions from the Susquehanna; aye, almost voting to make it a penal offence to clear a channel in that noble river, for fear that some persons would prefer carrying their produce down it to Baltimore, in preference to carrying it across the mountain on horseback to Philadelphia. The city and county of Philadelphia have now nearly the one sixth of the whole representation of the State, and adding to this their plausibility of manner and profession, and the other influences they can bring to their aid, they can pass almost any measure they please in the Legislature, no matter how injuriously it may operate upon any other portion of the State. Allow that city and county to retain the one sixth part of the representatives, which they now have, and in a short time they will have a majority, because you will shortly have great cities in the West, Pittsburgh and Erie, which will support the interests of Philadelphia, and these three counties will control the whole State. In a large commercial and manufacturing place like Philadelphia, they can increase their representation to any extent by increasing their commercial interests, but in an agricultural community this could not be done, as it required a large space to carry on its operations, and these operations tended directly to increase the population of your cities. Then these populous districts should not be entitled to an equal representation with thinly settled com-

munities. Philadelphia only had fifteen representatives now, it was true, but had it not been for a kind of Providential rascality the county of Philadelphia alone would have had eleven representatives, instead of eight, her present number. When the enumeration came to be made of her inhabitants, instead of putting it into the hands of the officers designated by law, the County Commissioners appointed some worn out patriots of the party to make the enumeration, and they made an enumeration of upwards of thirty-one thousand taxable inhabitants, when that county never has polled more than eleven thousand votes, but a little over one third of the number of taxable inhabitants. Now, there never has been a period known when the voters of that county had been much less than three fourths of the whole number of taxable inhabitants. Take any other county, and the proportion will be found to be nearly about three fourths of the whole number of taxable inhabitants. The enumeration which was to be taken under the law of 1820-21, was to be an enumeration of all the taxable inhabitants above the age of twenty-one years; and the enumeration which was made of those taxables, exceeded by some thousands the enumeration of all the taxable inhabitants, when it was well known that it should always be some thousands less. The enumeration of all the taxable inhabitants generally exceeded the enumeration of taxable inhabitants above the age of twenty-one about one fourth, but in the enumeration which was made in the county of Philadelphia, it exceeded the other by about six thousand, as any gentleman could see by a reference to the documents. The septennial assessment made by order of these County Commissioners in the city of Philadelphia, rated the taxables at 18,449, while the triennial assessment made the same year only put them at 14,419. In the county of Philadelphia the septennial assessment rated the taxables at 31,394, while the triennial assessment of the same year only made them 25,159. Besides this, he had frequently heard of frauds being practised at the time of election. Large importations of voters were brought in from New York, and New Jersey. He had frequently heard that votes could be obtained at fifty cents a head, and about that time the steamboats and hotels are crowded with them; indeed, he had heard of about three hundred of them sleeping in a barn the night before the election, and probably they stopped in the city long enough to get a pocket handkerchief a piece washed. He hoped a check would be put upon these frauds, and that the representation of the city and county would be reduced; as this was actually necessary for the protection of the great farming interests of the Commonwealth. He would again appeal to the gentleman from M'Kean, to accept of the modification he had suggested. In fact, he thought the restriction ought to be carried further, so that no city or county should have more than one Senator; because if the Senate became a concurrent branch of the Government in all appointments made by the Executive, it was not proper that the city and county of Philadelphia, and one or two over-grown manufacturing counties, should have the appointment of all the Judges and all other officers for the whole State. The small counties have an equal interest in those appointed, and it was but justice that they should be protected. Let it not be said that there was any injustice in this, for it was the very usage practised upon in the Senate of the United States. There each State had two Senators; whereas, if the representation was apportioned as ours is

now in our Senate, many of the States would have but one. In the Southern States, where the free white population must necessarily be thin in consequence of the large number of slaves, they take into consideration the principle he had suggested, and they add to their white population three fourths of the slave population; and the House of Representatives in Congress is based upon this principle, as well as the Senate is based upon the other principle. Gentlemen may say that these large counties will not give up this advantage, which they possess. He did not suppose they would be willing to give it up, as every one who had acquired property, or any thing else, endeavored to hold on to it; but would the people not be benefited generally by such a restriction, and if so, it ought to be adopted. He should look to the benefit of the people of the Commonwealth at large, and not to that of any particular section of it.

Mr. HAMLIN then accepted the amendment submitted by Mr. STERIGERE, and modified it by inserting "one hundred and five", instead of "one hundred", members of the House of Representatives.

Mr. STERIGERE moved to strike out the words "one hundred and five", and insert "one hundred".

Mr. SERGEANT thought the proposition of the gentleman from M'Kean quite reasonable; he was very much impressed with the force of his arguments, and he would take this opportunity of saying that although the complaint had been that those counties had no voice in the Legislature, yet the remarks of the gentleman showed that they were ably represented here. Something had been said in relation to the enumeration of the inhabitants of Philadelphia. He thought it proper to exonerate his part of it from any imputation on that account, and he would ask the gentleman from Adams, (Mr. STEVENS) who was in the Legislature at the time, whether it was not a fact that the county commissioners elected not by the joint vote of the city and county of Philadelphia—but by a majority in the county which overbalanced the city—did not, in that enumeration, proceed without regard to law; and whether they did not take upon themselves, after the Legislature had passed a law designating the appropriate officers to make the enumeration, the responsibility of choosing persons for that purpose in utter disregard of that law, and whether it was not a notorious fact that that enumeration so taken had wronged the city and given an undue influence to the county of Philadelphia, depriving the city of a portion of her representation and increasing the representation of the county; and whether the Legislature being informed of this flagrant violation of the law, and of the wrong done to the city, had not been driven to the necessity of receding from the whole enumeration. If so the city was undoubtedly acquitted for the commission of a fault over which she had no control.

Mr. STEVENS said that the law required that the assessors should make the enumeration, and instead of them, other persons were appointed. It was admitted that the enumeration was not made by the persons who were designated by law. He must say that the returns did full justice to Philadelphia. The enumeration gave her a greater number of taxables than she actually had.

Mr. SERGEANT, would venture to say, that if the enumeration of Philadelphia had been made by her own assessors, it would have been honestly made. That an excess was given to the county in the enumeration,

there was no doubt ; but, if they also gave an excess to the city, it must have been from a pure love of cheating—for they were hostile to the city of Philadelphia.

Mr. BROWN, of the county, said he had risen very often to defend the county of Philadelphia from attacks made here, but he should do so no more. If the Convention were not by this time satisfied in regard to the object and character of those attacks, they would not be. He should not say a word in reply to what had fallen from the gentleman from Adams. What that gentleman had said would have little effect here or elsewhere. But what had been said by the President on the subject might be of some importance, and he, therefore, rose to ask him a question, which he hoped he would answer. Did he, in exonerating Philadelphia from the charges of the gentleman from Adams, intend to charge the county with fraud in this matter ? It was important to know his opinion on this subject. He would go for the proposition of the gentleman from McKean, but not for the reasons which he had urged in its support. He wished to let representation stand upon the basis of taxable population ; but he was willing that each county should have a representative here. Although the new and the small counties complained so much of the predominance of the larger and older counties, yet he would grant them each one representative, because it was fair and proper. Even if the operation of the measure were against us, to a small extent, still, as its object was to do justice to another section of the State he would go for it, though the question had never been agitated by the people whom he represented. He would go for it because it was just and proper to endeavor to promote the interests of all parts of the State. The delegates from the county of Philadelphia had always voted for every proposition which contemplated the improvement or the benefit of any part of the Commonwealth. The delegates from that county were always united in favor of any motion which had the general good or the interest of any particular section in view.

Mr. SERGEANT : I have no difficulty as to my opinion, if it is entitled to any weight. There is no doubt, in my mind, that the County Commissioners went in direct violation of the act of Assembly. The county decided that the enumeration should be made by persons appointed by them, whereas the act said it should be made by the assessors. As far as that went, his opinion was that the law was violated. But when we come to the question whether they cheated in order to get a greater number of representatives than they were entitled to, that was a judicial question as to which it was necessary to hear both sides. He had never heard the question discussed ; and never, without hearing both sides of a question, would he undertake to pass an opinion upon any man or body of men. But he would say that there was a general impression in Philadelphia that the city was wronged in the apportionment. But this was not proof ; and he would never have a case decided by popular impression.

Mr. BROWN said the gentleman had not answered his question. The gentleman from Adams (Mr. STEVENS) had made a charge of fraud against the county of Philadelphia, and he wanted to know whether the gentleman in begging off the city from its share of the opprobrium, intended to countenance and credit the charge against the county.

Mr. EARLE said, in every controversy that had arisen here, it had ap-

peared to be the object to get some other rule than numbers for the voice of representation. This argument of expediency, policy, and necessity, would justify monarchy or any thing else. It had, in some cases, caused the entire overthrow of republican institutions. Gentlemen of a certain party were very anxious to elect to the Presidency an individual who once figured as the champion of wealth against numbers, and who, in the Convention of Massachusetts, carried through the principle that the city of Boston was entitled to more representatives in proportion to its numbers than the county, because its citizens were richer. If this was not the reason for supporting him, it was, at all events, not a reason with that party for opposing him as a candidate for the Presidency. But here the saddle was on the other horse. The people of Philadelphia were democratic, and the effort was to give them a less share in the representative body than they were entitled to by their numbers. This reminded him of a remark which was made to him by an Anti-Masonic Judge in Philadelphia. The Judge said the people of the city were honester than the people of the country, and he knew it. But I, (said Mr. EARLE) do not believe it. Mankind are much the same, taking them in masses, every where; and so it is with all professions—lawyers, mechanics, merchants, &c. The majority of the people of the county of Philadelphia, he said, were a farming people, and were not, therefore, liable to the denunciation which the gentleman from Adams had uttered against the population of democratic cities. It was certain that the act of the County Commissioners was improper and illegal; but in violating the act of Assembly, by appointing persons to make the enumeration, they had no illegal or improper object. Those same people elected a whig candidate for the county treasurer, and supported a whig candidate for Congress. The gentlemen, therefore, accused us for the acts of his own party. The act complained of was done by the pure and patriotic farmers, and not by the great rogues of the city. It was the farmers that put in these County Commissioners. The Legislature refused to give us what was justly our due. They availed themselves of the act of the Commissioners to deprive us of our fair representation. A new assessment was not made, because, if it had been, it would necessarily have given the county a still greater preponderance over the city. In this refusal to make a new assessment there was gross fraud, according to the gentleman's own shewing. It was clear that the county did not get its full share of representatives. Mr. E. asserted that the county was grossly and infamously wronged in the apportionment, and went into some documentary statements to prove it. Grossly exaggerated returns gave six representatives, he said to the city, but it was allowed seven: whereas the county which, by underrated returns, was entitled to ten, got but eight. Thus, one more was given to the city than it was entitled to, and to the county two less than the returns of her taxable inhabitants entitled her to. The Legislature, he said, seized upon the informality of the proceedings of the County Commissioners, and made it the pretext for depriving the county of her just share of representation. Taking any basis for estimating the number of taxable inhabitants—the apportionment gave to the “corrupt city” of Philadelphia one more representative than she was entitled to, and to the county two less. These facts were beyond dispute.

Mr. FORWARD, of Allegheny, said that as his constituents had some in-

terest in the question now before the committee, he felt justified in stating the reasons which would govern his vote. He would promise that he took no interest in the discussion about the enumeration of taxables in the county of Philadelphia. Whether gross frauds had been committed or not, weighed nothing with him on this question. If frauds had been committed, let measures be taken to prevent them in future. The proposition before the committee, was to give to each county in the State a representative. He was opposed to the amendment; not that at the present time it would make any difference in the representation of the county from which he came or seriously diminish the relative weight of that representation. He thought, however, that the number of representatives should not exceed one hundred, and that representation should have no other than a popular basis. But his principal objection was that the State was growing in wealth and population, and in twenty-five or thirty years the number of inhabitants entitled to a representative must be twice as great as at present. The advance of the State in wealth and population would make new counties desirable. Many of the present counties would be sub-divided and then the representation would be unequal and unnatural. In the western part of the State there were counties that might be conveniently divided, and whenever the interests and convenience of the people demanded it, new counties should always be made. They would undoubtedly be erected, and their number could only be limited by the progress of wealth and population; but as the ratio of numbers to representation may be doubled or trebled, new counties hereafter organized may not be entitled to a representative, while some of those now existing will have that privilege, although inferior in numbers. The population of this Commonwealth would soon be two millions; and, in the progress of population, separate interests would spring up requiring a sub-division of counties. The sub-division would go on, until, in time, no county would be entitled to more than one representative, and many counties to none. The amendment did not propose to give representatives to the new counties hereafter to be erected. If there was any thing in the principle it ought to be extended to the whole. Why should we not give to the newly incorporated counties a representation of their distinct and separate interests? Even if we adopted the amendment then, we should have a series of new counties without a representation. Can gentlemen give us a reason why the date of the creation of a county should entitle it to a preference in the apportionment of representation. Sir, you are introducing a mischievous principle, and one that will create a heartburning and jealousy which will never end until the Constitution is again altered.

But it is said that each county has a distinct and separate interest which should be represented. What is that interest? Can any one define it? Can we acknowledge any corporate faculty or interest as a ground or basis of representation? There is in a county no corporate interest apart from the people as individuals, which has a right to a voice in the Legislature. It is not corporations but the people, that are represented. But, says the gentleman from M'Kean, the people of the small counties are not represented. Sir, said Mr. F. they *are* represented, and the gentleman's speech is an evidence, that four of those counties are represented on this floor. With regard to the great interests of the State, every delegate was a representative of the Commonwealth. As between those who lived on

different sides of a county line, what separate interests were to be represented in the legislative Hall? It is not the boundary of two counties that creates different or opposite interests in the people who are thus separated. Nor is it true that benefits derived through the Legislature to the different counties in the Commonwealth, are regulated according to the number of their representatives. If you give to a small county with a few hundred inhabitants, the same representation as one with a number which entitles it to a member, it will not be the people that are represented, but the corporation. By adopting this principle, you will oppress the large counties, and do injustice to the counties which may hereafter be established. You will violate the elementary principle that representation should be based on population, and create jealousy and discontent. There was no justice nor propriety in the claim made upon us in behalf of the project.

Mr. MARTIN, of Philadelphia, said, that he should have suffered the subject under discussion to pass, but for what had been said in relation to the enumeration of taxables in the city and county of Philadelphia. Since that matter had been introduced, he felt it his duty to place it in a fair light before the committee. The gentleman from Adams had alleged that fraud was practised in this affair, by the county of Philadelphia. But the charge was not proved. He maintained that there was no fraud in the transaction, nor even any mistake or error. Though a subsequent enumeration gave a different result, yet there was not a shadow of proof that there was any fraud in the assessment. It was said by the President, that the appointment of officers to make the assessment was illegal; but his observations went, in fact, to do away the charge of fraud. It might have been illegal without being fraudulent. The law made it the duty of the assessor to make the enumeration, and did not provide for the appointment of any other persons to do it. But the assessors could not do it. They could not make the enumeration within the prescribed time, consistently with their other duties. Then the assessment could not be made, nor the terms of the law complied with, unless the omission of the Legislature to provide for this case, could be supplied by the County Commissioners. What then was to be done? The County Commissioners, very properly, if not legally, for he knew nothing about law, supplied the omission by appointing other persons to make the enumeration. The gentleman from Adams says, that the persons appointed were old worn out hangers on upon the party. He will have it, not only that there was fraud, but that it was the fraud of one party. But, the board of Commissioners consisted of men of different principles, and a majority of them, as his colleague had shewn, were not much attached to the democratic party. When the Legislature examined the returns, for the purpose of apportioning the representatives, they held that the returns from the county of Philadelphia were fraudulent, because the number of taxables returned was greater than it had ever been before, and too great, as it was alleged, in proportion to the population. They, therefore, threw out the returns, and apportioned the representatives of the city and county of Philadelphia upon the old list of taxables. But, it was to be considered, that the population of Philadelphia county was somewhat fluctuating. A large number, both of the city and county, were sea-faring men, who were sometimes at home, but generally abroad. Another large portion were engaged, for a part of the year, in fishing. Hence it some-

times happened that there might be thirteen hundred taxables in a ward which did not, ordinarily, poll more than five hundred votes. But, yet it might sometimes happen, that this ward would poll a thousand votes. When commerce was flourishing a large number of the citizens might be away; but, no allowance was made for the pursuits of the people of the city and county, and the Legislature could not comprehend why the number of taxables returned should be so much increased. The gentleman from Adams had not attempted to prove his charges. Though great pains had been taken here to slander the people of the county of Philadelphia, and to produce the impression that they were not entitled to the respect of their fellow citizens, there was not a more steady, moral, and industrious population in the country. They came up, as near as any community can, to the desirable line of mediocrity of fortune; they were not subject to be led away by excitement nor by false appearances; they were a moderate, steady, and reflecting people. What they had, they had acquired by the sweat of their brows, and they put a just estimate on the rights of property. These were not the people to enter into any of the visionary schemes which had been attributed to them. They were not the people to undertake to abolish the rights of property. The charge of fraud against this county, in the enumeration of taxables, was set up as an excuse by the Legislature for defrauding the county of its proper share of representation. This he was prepared to prove.

Mr. STERIGERE said, he thought that the gentleman from Allegheny, (Mr. FORWARD) was mistaken in one point of his argument. It was not proposed to exclude the new counties, hereafter to be erected, from a representation in the Legislature, nor to give each county a representative as a corporate faculty. The object of the proposition was to give each county a representative in point of fact, as well as form; to allow their views and interests, which were now neglected and lost sight of, to be fairly represented. At the same time it would prevent new counties from being erected, without sufficient reason. It would serve to quiet the schemes of getting up new counties, not for the public interest, but for the interests of politicians and speculators. In relation to that part of the proposition which contemplates an increase of the number of representatives, he said that public opinion was decidedly opposed to any increase of the number of representatives over one hundred, and, if not, his own opinion was against it. An increase of the number would tend greatly to embarrass the business of the House of Representatives. The large number of the members of the House of Representatives of the United States, especially since it was increased under the last apportionment, was a heavy clog on the business of that body.

Mr. HAMLIN, of M'Kean, said that he would, in a few words, endeavor to answer the argument of the gentleman from Allegheny (Mr. FORWARD) that there was little or no separate interest in the several counties. The county of M'Kean, in which he (Mr. H.) resided, was an example to the contrary. Within the last six years, there had been no less than three distinct propositions made to detach a part of it. At another time, there was an attempt made in the Legislature to dismember the county, and attach a part of it to Jefferson. At another, to attach a part of it to Warren. Here, then, were instances where the county of M'Kean had no representative in the Legislature to oppose the proposition, while the

representatives from the adjacent counties were supporting it. Now, these were instances, in which there were adverse and separate interests, and the propositions would never have been heard of in the Legislature had it not been for that. Fortunately, however, the attempts were unsuccessful. The basis of the gentleman's argument is, that every county is represented, because every county has representatives directly, or indirectly. Now, he (Mr. HAMLIN) admitted, that nominally, every county has delegates, but virtually, they have frequently none. At the last session of the Legislature, a company was incorporated to construct a Rail-road from Sunbury to Erie. Well, it was always a matter of the highest importance, in making a great internal improvement of this sort, that the most direct route should be selected as well as the best country. It was contended by the people of the county of M'Kean, that the best route lies through M'Kean, whilst four other counties, each as strenuously insisted, that their's was preferable. He thought, that every one must perceive, that this was a subject of the most vital importance—one which came home to the domestic firesides of the people, and it was one of those separate interests that he wished to have represented in the Legislature. He contended that unless each county was represented, as he had proposed, their interests could not be subserved. The gentleman from Allegheny had argued that all measures brought before Legislatures were matters of public importance. Now, while he (Mr. H.) freely acknowledged, that there were great interests which were represented by the members of every county of the State of Pennsylvania, he would assert, that there were also local interests, which could only be represented by one delegate from every separate community. However well the gentleman from Allegheny might represent his (Mr. HAMLIN's) constituents, generally, yet, in matters of a local character, it was impossible that he could enter so deeply into their feelings and views, as one directly from their soil.

With regard to the proposition of the gentleman from Montgomery (Mr. STERIGERE) to strike out five and reduce the number to one hundred, he would only say that it was not his proposition. He believed that the counties now represented, would not yield their present representation, and on that ground he was opposed to the motion.

Mr. KEIM said, I regret, sir, to find an effort now making in this Convention to increase the number of representatives beyond the present Constitutional limit. If it were in my power to express the wishes of those who sent me here, without any direct instruction from them, I would say, they desire rather to have the number diminished than increased. Under that impression, a proper discharge of duty requires me to express that opinion on this floor.

I have ever deemed it incompatible with the despatch of business, that deliberative bodies should be composed of excessive numbers, and there is no better illustration of the propriety of that opinion, than the slow and inefficient progress made by this Convention itself. But, sir, distinct from the objection to increase the number of representatives, I am also opposed to the principle upon which that increase is asked by the gentleman from M'Kean, (Mr. HAMLIN) when he states, "that each county shall have a representative without regard to population".

The system of Republican Government is so closely allied with the basis of popular enumeration, that it seems essential to its very existence,

and, indeed, loses its character and efficacy when that principle of equality is deviated from. The American revolution originated as much from the denial of equal representation as from any other cause, and the first impulse of every one seems to cherish as an established truth, that *representation in proportion to population* is the best ground work of Republican Government. The Convention of 1776 declares "that representation in proportion to the number of inhabitants, is the only principle which can at all times secure liberty, and make the voice of a majority of the people the law of the land". The Council of Censors, too, adopted and approved a similar proposition of republican safety. **THAT MAJORITIES SHALL RULE**, is a democratic maxim, and wherever that doctrine does not prevail, there may be a republic in name, but rest assured a despotism in reality.

A representative is claimed on the ground that "territory and population should form a criterion, and that each county is a distinct community for separate and distinct purposes". Sir, I deny the theory that there are any interests in counties distinct from the interests of the whole State. Counties are established frequently to have courts of justice more available or contiguous to their inhabitants, frequently to make a more agreeable geographical delineation, and too often for the purposes of speculation in town plots or other property: they have never been created for any purposes beyond mere convenience, and cannot, by any inference, be supposed to acquire by that creation any distinct privileges, such as is now claimed for them. Sir, as a State, we are a consolidated Commonwealth, each integral portion, without regard to locality, possessing equal rights and privileges, and no particular section, under the claim of mere county boundaries, can be sustained in any qualification beyond the common interest of every portion of the State. Territorial representation is a property qualification in disguise, and captivating as it may be to awaken sympathy for those in the "wilderness", yet there is delusion in the argument, and an utter violation of the principles of a free Government. What, at a casual glance, does this measure propose? Take for example, the counties of Jefferson, Warren, M'Kean, Potter, Tioga, Wayne, and Pike: their aggregate of voters being little more than 9,000, would be entitled to seven representatives, whilst the county of Berks with 11,743 voters, would be entitled to four representatives. The fractional difference in other counties, for instance in Juniata, Mifflin and Union, in Lycoming and Clearfield, in Somerset and Cambria, would all be extinguished, and the two thousand voters of one county would possess all the power of four thousand voters in its adjoining county. Five hundred voters in the north-west would have a representation equal to a representation of three thousand voters in the east.

Truly it is said, that the interests of two counties often come in collision, but under what circumstances will a contrariety of interests be avoided? Climate, soil, internal improvements, political ambition, and favourite projects, will ever present a theme for county or individual controversy; but the great principle of equal representation in the ratio of population, must not be abrogated, because, forsooth, a local interest would require it. The inconveniencies arise not from the unequal operation of a just principle, but rather from an overweening desire to accumulate advantages at the expense of every principle.

By what right do they ask these peculiar advantages? Are they more valuable citizens? More devoted patriots? Sir, I honor the west and the north; but I cease to honor them, when they ask me to barter away 3,000 qualified freemen for 500 citizens of any of their counties. I have heard of the close borough system, where the anomaly occurred of a representation without a constituency; but, even in a monarchy, reform abolished in some degree that aristocratic feature: shall it now be adopted here?

But, sir, have not most sparsely settled counties participated greatly in the public improvements of the State? Have they not been fostered and nurtured by the common treasury? Has not two thirds of the expenditure been appropriated through the very districts that now complain of neglect?

If, however, the principle be good, that each county has separate and independent sovereignty, pay back from your overloaded treasury the heavy sums that have been accumulated from the county of Berks, without consideration and without benefit. She has never participated in your expenditures, and if you now deprive her of equality of representation, or disfranchise her citizens, there is no reason why her every township should not be a county, and her united community a sovereign and independent State.

Mr. DUNLOP, of Franklin, coincided with the gentleman from Berks (Mr. KEIM) that taxation and representation should go together—that taxation was the basis of the principle of representation. But there were circumstances which would modify that principle. He thought that it must strike every man's mind at once as it did his, that every county in the Commonwealth should be represented. He concurred fully in the very excellent remarks made by the gentleman from M'Kean, (Mr. HAMLIN) but he begged to differ from the gentleman from Allegheny (Mr. FORWARD) who had said that there were no distinct corporate rights to be represented, and that it made no difference whether a representative came from a county less interested in any particular measure than the one adjoining it. Now, he (Mr. D.) thought that every man's experience in the Legislature would teach him differently. For instance, suppose the county of York was to apply to the Legislature to grant her the right of making a railroad, the representatives from the counties of Adams and Franklin would feel themselves bound to vote for that project, because their counties would have a deep interest in it. But they would not consider themselves bound, on account of any thing that was due by them to the county of York. They would feel the obligation of voting merely because they were connected with it. This, then, was the feeling which characterized all legislation. Every gentleman naturally felt and manifested a stronger desire to promote the interests of his own particular constituents. The remarks, he thought, of the gentleman from M'Kean, were so forcible and cogent that every gentleman on that floor must have become convinced, if a doubt rested on his mind, that every county in the Commonwealth ought to be represented. But how, he would ask, was that to be done? To increase the number of representatives in the General Assembly, would certainly be an unpopular measure. And, he really could not believe that it had ever entered the minds of the people generally. With all, except, perhaps, the constituents of the gentleman from M'Kean, the attempt to increase the

number of representatives, would meet with disapprobation. That body was already sufficiently large. Besides, an addition of numbers would increase the expense of legislation five or 7,000 dollars—no great sum, to be sure—but yet, without any gain to the Commonwealth. One of the clerks had given him an estimate of the expense of legislation for one year, by which it appeared it would not vary much from \$105,000. Small, however, as the additional expense would be, it ought not to be incurred unless something was to be gained by it. Now, he proposed to carry the object, which the gentleman from M'Kean had in view, into effect by a different mode of proceeding—still retaining the general principles of his project.

He (Mr. D.) proposed to offer an amendment to the section under consideration, to the effect that no city or county should be entitled to more than six representatives. He thought the gentleman from M'Kean was entirely mistaken in contending that the addition of four representatives, would, in any manner, affect the four western counties. Even should the number of representatives be increased to 104, they must, nevertheless, be divided according to the next septennial ratio. If his proposition, limiting the number of representatives, as he had stated, should be adopted, then it would be unnecessary to increase the whole number, in order to give every county a representation. He believed that such a restriction was necessary to secure the country interests.

Now, according to the representation of the gentleman from Philadelphia (Mr. Brown) and whose word he (Mr. D.) never heard any man doubt, that county was entitled to eleven representatives on this floor, if she had justice done her. Now, he would ask, was there not danger to be apprehended in regard to the interests of the country from the united action of the city and county of Philadelphia? The county having no less than eleven members, and the city nine—they would have not less than one sixth of the whole representation of the State—not taking into view their Senators. He appealed to the country to look to their interests. Let gentlemen talk as they would, so great a number of representatives coming from a large city, did combine against the country. Yes! they voted in solid phalanx against the country. Now, he meant not to cast any reflections on the city of Philadelphia, nor on the county. On the contrary, he declared that the city of Philadelphia was dear to his heart. We all know, however, that every man was influenced by his own interest. The representatives of the city and county, then, having a common interest, had united against the country, in more instances than one, whensoever it was imagined that a project was not for the special benefit of Philadelphia. A gentleman, in seeming triumph, had asked the question, where were the instances in which they had united against the country, or any portion of it. He (Mr. D.) would answer the gentleman: They united, as in a phalanx, against the project of the Baltimore and Susquehanna Railroad, which was intended as an avenue for the citizens of the valley of the Susquehanna to carry their produce to the Baltimore market. Now, making every due allowance—every excuse, on account of their opposition to the rival city of Baltimore, they had no right to carry their opposition so far as to work injury to the southern part of Pennsylvania, and at the same time, to aid another portion of the State at their expense. They must recollect, that in making the opposition they did, they were endeavoring

to exclude all the produce of the Susquehanna from being sent to the Baltimore market by railroad, in order that it might be forwarded by the Pennsylvania canal, or to the Columbia railroad. Now, was that not a course taken by the city and county against the country interest? It could not be denied. And, was that the only project against which they had voted in solid phalanx? No, it was not. He well recollected that at the time the project was talked of, that meetings were called on the subject, and it was entirely disapproved of. He did not complain of their conduct, but he would say they were concentrated in solid phalanx against the country interests. He would call the attention of the gentlemen from the city and county of Philadelphia, and of the gentlemen from York, in regard to what was done against the interests of the county of York. The citizens of York having applied to the Legislature for liberty to make a railroad with their own money to the Maryland line, every man in the city and county of Philadelphia opposed the application. The city and county opposed it from year to year, and at length the charter was granted by a majority of two—the members from the county of Franklin having voted for it, without any regard to the interest of their county. The city and county also united against the Franklin railroad, a public improvement, which is not only for the benefit of the citizens of Franklin county, to enable them to carry their produce to their natural market, but to open an avenue from the west, through the Cumberland valley into the State of Pennsylvania. Now, the opposition that was manifested was to prevent the citizens of Franklin county from going to Baltimore—to throw every obstacle in their way, and to compel them to go to the city of Philadelphia. Baltimore is upon the borders of Pennsylvania, and it possesses a better market than Philadelphia. Here, then, were instances where the city and county of Philadelphia had united against the interests of the country; it was time for the country to secure its rights. Now, he would do nothing that should hurt the interests of the city of Philadelphia; he regarded her too highly to be guilty of inflicting injury on her. He meant, then, to say that the city would lose nothing by the restriction he proposed. It would take away from her but one member; but it would, at the same time, take two from the county. If the county of Philadelphia should be afterwards divided, her local interests would also be divided, and her hostility to the city would also be weakened. So far from injuring the city, it would be an advantage to it; and to the county, it could be no injury whatsoever. Although the city might have lost a member, the gentlemen representing her here now would have no reason to regret it, for she would gain in regard to her interests. The city and county (concluded Mr. D.) have always had separate interests on local matters, and, probably, always will have. The county line has always made them enemies,

“—————Who had else,
Like kindred drops, been mingled into one”.

Mr. MEREDITH said, that although he had felt that many remarks had been made which would require notice by a member from the city or or county of Philadelphia, yet he had resolved to defer any reply until an appropriate occasion should be presented of discussing the threatened proposition of the gentleman from Adams (Mr. STEVENS). The practice of speaking to matter totally foreign to the question before the committee

he, (Mr. M.) believed to be inconvenient, as he knew it to be irregular. He should have adhered to his determination, but for the course of his friend from Franklin (Mr. DUNLOP). When he saw members lending themselves to the support of such schemes, he could not refrain from expressing his astonishment and chagrin. He rose to enter his solemn protest against the plan itself, and the principle on which it was founded. The proposition had been stated. It provides that no city or county shall have more than six representatives. What was its principle? This had not been clearly stated. Did it assume property as a basis of representation? Or territory? Or what basis did it assume? If either of those which I have mentioned (said Mr. M.) any man must be a madman, who should openly propose it in Pennsylvania, and for my part I will never consent covertly to support that which I would not openly and avowedly maintain.

The basis now established in Pennsylvania is that of taxable population. What sort of basis does the gentleman from Adams (Mr. STEVENS) propose to substitute? He seems to think that his plan is a composite invention, and he has wasted much declamation and some sophistry in endeavoring to explain and expound his device. But all attempts to conceal its real nature or skin over its intrinsic unsoundness must be abortive in an assembly of intelligent men. It is obviously and even confessedly aimed at the city and county of Philadelphia, and its effect would be the partial disfranchisement of the inhabitants of that city and county—that is to say, a freeman residing there would by reason of such residence have a less potential voice in the affairs of Government than a freeman residing in any other part of the State. The plain English of which is, that while the other counties shall be entitled to a representation in fair and just proportion to their taxable population, the city and county of Philadelphia alone shall be denied this privilege—shall be in effect put out of the pale of the Constitution, and marked as unworthy to participate in the full enjoyment of its benefits. By what indirection can this be reconciled with any principle of a Republican Government?

I am quite ready to meet this proposition in argument. I have no apprehensions in regard to the result. But the gentleman who has devised it, has thought fit to back his plan with a most extraordinary attack upon my constituents, in common with those of some other gentlemen. He charges the Commissioners of the county of Philadelphia with having practised or attempted a fraud upon the public, in the last enumeration of taxables. Suppose his charge of fraud to be founded (I care not whether it be or not)—That the Commissioners acted *illegally* on the occasion in question I believe is beyond doubt, and that strong suspicion of sinister purposes fell on them in consequence is equally true. How just were those suspicions I have no means of determining. But suppose the gentleman's accusation to be founded and its truth to have been established, what then? If there were misconduct or crime and consequent public injury, a statesman would look to the redress of the wrong, the punishment of the guilty, and the prevention of future similar offences. In this case the wrong, it seems, was redressed by the Legislature's disregarding the unfaithful enumeration. The punishment should be inflicted on the public officers who alone are responsible for their own acts. And if it has been found that county officers cannot be trusted to make an enumeration of the taxables in their respective counties, the direct and obvious remedy would seem to consist

in confiding that duty to some other functionaries. I see no objections to the substitution of State officers for the purpose. The expenses would not be enhanced, and might be borne as heretofore, by the respective counties. But instead of some rational plan for removing the evil complained of, we have heard a tirade, of which the object, so far as I could gather it, seemed to be to blacken a whole community on account of the alleged misconduct of some of its public officers. I mean, Sir, the city and county of Philadelphia—they have been treated as one community in the accusation, and I disdain to separate them in the indignant denial of its truth. What, Sir, are they to be disfranchised because their County Commissioners have acted illegally? Am I expected to sit here and suffer the inhabitants of the city and county of Philadelphia to be directly, or by implication, stigmatised *en masse* as a polluted and degraded population? Sir, I have but one answer to such an attack—I pronounce the charge, come from what quarter it may, to be a base and insolent slander.

I came here neither to indulge in praise of my own constituents nor in dispraise of those of any other gentleman. We have, in this Assembly, high and holy duties to fulfil. We are selected by the people of a whole Republic, not to control the public action of their Government, but to deliberate on the frame and body of the Government itself. We meet, after the lapse of half a century, to re-examine the original and fundamental principles of the Constitution. How elevated—how sacred are our appropriate functions! We are the authorised advisers of the Freemen of Pennsylvania. Far above the exercise of political power, our mere opinions will, if we are true to ourselves and to our duties, receive the unbought and uncompelled submission of our fellow-citizens, and by their free consent be established as fundamental laws. Our country has conferred on us the highest honor in her gift. And how do we requite her? By coming to her councils, reeking with the fumes of party strife! By dragging from their unhonored sepulchres, the corrupted carcases of forgotten dissensions? By indulging in the unmitigated rancour of political animosities? Of what impurities have we purged our hearts—what passions have we mastered—what habits of rashness or violence have we thrown off, that we might be rendered worthy of our sacred office? Will no man lay his partizan feelings and private hostilities as a sacrifice, on the altar of his country? Let us hope, Sir, that we may at some time reach the point of calm, dispassionate, and becoming deliberation.

The gentleman from Franklin has stated, that the county which he represents, has been injured by the course of the representatives from Philadelphia, in the Legislature, and gives that as a reason why he wishes to cut down their influence. Yet, when the gentleman comes to state the particulars of his grievances, they all resolve themselves into this, that the old Baltimore and Susquehanna question was not carried as soon as Franklin county wished. It seems, however, that the question has been carried at last. What shall we say? That the influence of Philadelphia is dangerous, because she succeeded in delaying the measure? Or, that the influence of Franklin county is dangerous, because she finally carried a measure which had been repeatedly defeated by large majorities, as unwise and injurious? We can say neither the one thing nor the other, with any show of reason.

The gentleman says that he can speak from experience, of the evils attending the large representation from the city and county, for that he himself has, on more than one occasion, had great difficulty in overcoming their united opposition. Why, sir, admitting that it was right, that he should singly have the power of overthrowing our fifteen representatives, still, I maintain, that it was also right that he should have some difficulty in doing so. For one man, either intellectually, physically, or politically, to master fifteen, ought not to be an easy task. But, perhaps, part of the difficulty lay in mastering the other 85 members, who did not come from the city and county? If so, the evil cannot be reformed by merely disfranchising *us*. It is said, the members from the city and county have united on measures in which they had a common interest—do not members from other quarters of the State sometimes agree? No measure can be carried but by the union of a sufficient number of members from the different districts of the State, to form a majority of the whole House. The gentleman, on this very question, calls on the Susquehanna interest to unite against the city and county of Philadelphia. And, what is the strength of the Susquehanna interest? Reckon the number of members from the various counties on the West Branch, the North Branch, the Juniata, and throughout the whole valley of the main stream to the Maryland line. Sir, it is the strongest single interest in the State. But, he will call in vain for aid in this cause, on the members from the country of the Susquehanna. They remember, too well, who stood with them, shoulder to shoulder, and against whom, when the Internal Improvements were at stake, to permit themselves to be persuaded to join with Adams and Franklin in a crusade against Philadelphia. The gentleman must look elsewhere for his allies on this occasion, if indeed he can find allies any where. But, our uniting occasionally, would not be so unpardonable it seems, were it not for the circumstance, that the members from the city and county are generally of different political complexions. For which reason, I suppose, they must never vote on the same side of any question! An exquisite conclusion! Gentlemen seem to think that they have a vested interest in the discords of the city and county, and that we are bound, at whatever cost to our constituents—to cut each other's throats for the amusement of the members from other quarters of the Commonwealth. But they must shew me the grounds of this claim, before I will admit its validity as I understand them.

The gentleman from Franklin next appeals to the members from the city themselves, and asks *them* to support this extraordinary proposition, on the ground that, although its effect will be to deprive the city of *one* member, it will deprive the county of a greater number, and there is, therefore, an opportunity of cutting down the strength of the political enemies of the city. Sir, my friend from Franklin had not reflected on the true nature of this proposal, or he never would have made it. I know that he has the best feelings for Philadelphia. The argument is, that we should do a wilful wrong to others, because we may derive an advantage from it. It is consistent, neither with republican principles, public right, nor moral honesty.

Sir, no member from the city, who truly represents his constituents, will ever lend himself to such a project. It is true, that we have had frequent contests with our neighbors of the county—it is true, that we have

been sometimes unsuccessful. But are we, therefore, to attempt to deprive them of their rights as citizens—to shut them out from the privileges of freemen of Pennsylvania? I would rather they should prevail against us in a thousand contests, than that we should disgrace ourselves by victories obtained by such means, or, for the sake of a political triumph, strike a fatal blow at the heart of our Constitution. Its foundations are laid on the principles of fair and equal rights, and perish the hand that shall attempt to remove them.

Mr. M. said, that he had already detained the committee much longer than he had intended. With respect to the amendment before the Chair, he would say, that he had not had a sufficient opportunity of examining into its merits to express a decided opinion. He wished to ascertain the facts in regard to the present population of the smaller counties. The remarks of the gentleman from M'Kean, (Mr. HAMLIN) had struck him forcibly, but would have had a greater effect on his mind, if it had not been for a clause in the Constitution which he had not heard adverted to, Mr. M. then read from article 1, section IV. of the Constitution, the following clause:

“Each county shall have, at least, one representative; but no county, hereafter erected, shall be entitled to a separate representative, until a sufficient number of taxable inhabitants shall be contained within it, to entitle them to one representative, agreeably to the ratio which shall be then established”.

This clause formed an express condition on which the new counties asked, and obtained for themselves, the privileges of a county organization, and he thought it should be a strong case, which should induce us now to relieve them from a compliance with that condition. Still, he wished at present to avoid the positive expression of any opinion on a subject of unquestionable importance, and which he was determined, if possible, not to prejudice.

Mr. HAMLIN, of M'Kean, said that the gentleman from the city (Mr. MEREDITH) had spoken of project and concealment.

Mr. MEREDITH, (interrupted)—My remarks, with the exception of the concluding part of them, had reference to subjects of a different character, entirely, from the gentleman's proposition—

Mr. FULLER, of Fayette, said he was in favor of the amendment. He thought one hundred members would be quite sufficient; for, if the number is increased beyond that amount, the business of that body would not be so likely to be got through. He was opposed to the part which imposed a restriction on the counties. That, he believed, was a proper subject for legislation, but it ought not to be in the Constitution at all. It was, certainly, but an act of justice, that some counties, not heretofore represented, should be represented, and if it could be done without enhancing the number of representatives, he hoped it would.

The committee then rose, reported progress, and obtained leave to sit again, and

The Convention adjourned.

MONDAY, JUNE 5, 1837.

The journal and minutes of the proceedings in committee of the whole, of yesterday, having been read,

A motion was moved by Mr. STERIGERE, of Montgomery, to correct that part of the journal which referred to a proposition of amendment made by him, which was, in part, accepted by the gentleman from M'Kean, (Mr. HAMLIN) and which appeared on the record as the modified motion of that gentleman. Mr. S. wished his proposition to be inserted as he had offered it.

After some few remarks from the PRESIDENT, and Messrs. CLARKE, of Indiana, MEREDITH, M'SHERRY, PORTER, and STERIGERE, the motion to correct was determined in the negative.

The PRESIDENT presented a petition from the city and county of Philadelphia, in favor of a Constitutional provision against lotteries, which was laid on the table.

Mr. SCOTT, of Philadelphia, presented a petition of similar import, which was also laid on the table.

Mr. RITER, of Philadelphia, presented a petition from the county of Philadelphia, in favor of a resolution on the subject of banks, which was also laid on the table.

FIRST ARTICLE.

The Convention resolved itself into committee of the whole, on the first article of the Constitution, Mr. PORTER, of Northampton, in the Chair.

Mr. STERIGERE withdrew the amendment he had offered yesterday, to strike out the words "and four", which he considered as being no longer his motion.

Mr. COX suggested, that if the motion did not belong to the gentleman from Montgomery, it was not in his power to withdraw it.

The CHAIR: The motion to amend the amendment is withdrawn.

Mr. BELL then moved to amend the amendment, by striking from the eighth line the words "and four".

Mr. FULLER said, he believed one hundred to be a sufficient number of representatives. It was true, as had been stated on Saturday, that some of the counties might be insufficiently represented in proportion to their population. His conclusions were all in favor of basing representation on population, and from that principle he would not deviate. But every gentleman might be accommodated without changing this principle. The whole of the Commonwealth might be districted. According to the last returns, the city of Philadelphia had 14,419 taxables—taking the ratio, therefore, of 3052 for a representative, she would have four representatives on the full ratio, and a fraction which might be so large as to give her a fifth representative. She has now seven delegates on this floor. The county had 25,159 taxables, and would, accordingly, be entitled to eight representatives on the same ratio. By this apportionment, the small counties would lose large fractions, while the city and county of Philadelphia would scarcely lose any. The county of Philadelphia having 25,159 taxables, would lose only a fraction of a fourth part of a ratio,

while the balance of the counties would lose fractions of two thirds of a ratio. He went on to enumerate many small counties, whose united taxables would only entitle them to as many representatives as the county of Philadelphia would have, and which, at the same time, would lose a large fraction. Some equitable apportionment was loudly called for. No plan, sufficiently matured, had as yet been presented to the notice of the Convention; and, if no other gentleman should do it, and he could find time, he would, himself, submit something in the shape of a project. He hoped the gentleman from M'Kean would not urge his proposition until the time arrived for fixing the basis of representation on population. It would be better for the committee to rise, report progress, and ask leave to sit again. In the mean time gentlemen might consult, and arrange a basis which would be satisfactory to a majority of the Convention. He concluded with a motion that the committee rise, report progress, and ask leave to sit again.

Mr. EARLE suggested, that if the committee were to pass over this section, and proceed to the consideration of the next, time would be afforded for making the arrangement which the gentleman desired.

Mr. SMYTH, of Centre, desired, in addition to what had been already said, to state the condition of Centre county. The returns shew the number of taxables in that county to be 4705, a ratio of 3052, therefore, would leave a fraction of 1653 unrepresented in that small county. More, therefore, would be unrepresented in Centre county, than in the whole city of Philadelphia, as the fraction in that city would be under 1000. In the Senatorial district, embracing Lycoming, Centre and Northumberland, the number of taxables stood thus—in Lycoming, 4396; in Centre, 4705; in Northumberland, 3933. The ratio of 3052 would, therefore, leave in this district, an unrepresented fraction of nearly 2000. The city of Philadelphia had now more representatives than she was entitled to. According to her number of taxables, 14,419, she would have four representatives, with a fraction unrepresented of 2211. She had now seven representatives, and, consequently, more than she was fairly entitled to. The western and north-western counties ought to be fairly represented. For these reasons, he thought the committee should rise, for it was nothing unfair that the counties should be equitably and fairly represented.

Mr. STEVENS said, there was no doubt that every gentleman could find some difficulty as to the exact method of fixing the apportionment; but, the smaller counties should have a larger, and the larger counties a smaller representation, there ought to be no doubt. But there was no necessity for the committee to rise. It had been well suggested by the gentleman from Fayette, (Mr. FULLER) that every large county must gain largely by the fractions. Centre county loses 1700, or nearly one representative. He had no doubt that a more equitable mode might be adopted, either by adopting a different principle as to the fractions, or by uniting the smaller counties, so as to provide against the possibility of leaving large fractions unrepresented. But, this might be done, if the committee would consent to pass over this section, and to go to the next. There would, however, be no time lost, if the committee were now to listen to the gentlemen representing the smaller counties, to hear their views on the subject, and then come to a decision. He thought the better course would be to hear them before the committee agreed to rise.

Mr. BUTLER said—Mr. Chairman, so much was said on Saturday last upon the subject now before the committee, that there would be but little left for me to add, were it not, that in the course of some remarks made by the gentleman from Adams, (Mr. STEVENS) I denied, from my place, some of his statements. That gentleman is so very virtuous, that it appears impossible for him to speak of our unfortunate county without expressing feelings of the greatest horror and disgust for our corrupt condition. His shocked feelings have found vent on several occasions, and the very name of Philadelphia county seems at once to arouse his indignation and his ire. I am sorry, sir, very sorry for this; for, as I live in that condemned place, I am afraid the people of the State, if they read and believe the gentleman's character of us, will think that nothing good can come from that infected district, and so will put us all down as a set of rogues. So great, sir, seems to be the gentleman's dislike of the county, that I can't help thinking he must have fallen into very bad company when he was there: there are places of which I have heard in the city and county both, into which innocent young men, from the country, like the gentleman from Adams, are inveigled; and there certainly do meet with much harm and corruption: there are gambling tables, sir, to which the unwary are allured, and are very apt to lose their money. Now, sir, I don't know whether the gentleman was so unlucky, in any of his visits to the county, as to fall into any of these snares set to catch the young, the innocent, and the unguarded; but if he did accidentally stray into any of these gaming houses, or other places where iniquity is practised, we cannot be surprised that he should so frequently, and so feelingly, denounce the wickedness of our poor county; for we all know that those who live in the country are a great deal purer than those who dwell within the corrupting influence of a large city. I hope, however, that if the gentleman should not be afraid to inhale our polluted atmosphere once more, that the next time he comes among us, he may get into a little decent company, and perhaps may be induced to form a better opinion of us.

The gentleman's latest denunciation of us was, on account of the septennial enumeration of taxables made in the fall of 1835, which he said was "illegal, incorrect, and false"; made by a set of "corrupt worn out hangers on" of the County Commissioners, by whom they were appointed, and a great many other hard and ugly things he said, which just now I can't remember. He has made charges and assertions which are unsustained by either fact or proof. How does the gentleman know any thing about the persons whom he has so gratuitously traduced? Or how has he proved that the enumeration made by them is incorrect? The only hook there is for him to hang all his argument and accusation upon, is a difference in the number of taxables as returned by the septennial enumeration provided for by the Constitution, and on which our representation is based, and the taxables as returned by the assessors, under the triennial assessment of property and persons in each county. Now, sir, there always is, and always must be, a difference between these two assessments; aye, sir, if the very same men were to make both enumerations, there still would be a difference. At the septennial enumeration, all inhabitants, who are liable to be taxed, are included in the list, in order that each county may have the benefit of a full representation; whereas, at the triennial assessment, made for the purposes of taxation, only those are

returned who in reality pay tax. This is a reason, sir, why there is and should be a difference; for, we all know, that there are many persons liable, and subject to taxation under the Constitution, who are never made to pay tax by the county assessors. Among this number are the free negroes: they are certainly taxable within the meaning of the Constitution, and are returned as such: yet, they are never taxed, for if they were, they would have an unquestionable right to vote; and as it is not deemed expedient to allow them this privilege, they are not required to pay a personal tax.

When I say that negroes are never taxed, it will, of course, be understood that I mean those who hold no property; those who possess any real estate, or other property of value, subject to taxation, pay tax, certainly; but, in such cases, it is the property which is taxed, and not the person. I have the authority, sir, of a member of this Convention—I mean my respectable friend from Chester, for these assertions. He has been assessor himself, in his own county, where he has made the septennial enumeration of taxables, as well as triennial assessment of persons taxed; and, he has informed me, that there is always a difference; that he returns more in the septennial than in the triennial enumeration; and, for the very reason which I have stated, that in the county assessments those only are returned whom they intend to tax. This is but just and proper.

There is a similar discrepancy when real estate is valued: for instance, when the triennial assessments are made in the different counties, any property exempt from taxation is not returned; in some counties, large and valuable properties are so exempt; in Philadelphia county, in particular, a great deal of property is not taxed, and therefore, is not returned. But when an estimate is made of the value of the real estate of the whole Commonwealth, all property is included, taxed or not taxed. Now, it is evident, that if a comparison were made between these two assessments, they would not agree; and, without an explanation, one of the statements would be condemned as erroneous.

The gentleman has made other extraordinary assertions: he has said, the mode of making the enumeration in Philadelphia county, is, to take the whole number and add one half to it; that, at elections, several hundred voters are hired at 50 cents a head, to come from New Jersey; and he spoke of a barn in which three hundred voters had slept, the night before an election, each one having had a pocket handkerchief washed in the county. But as these wholesale accusations are based only on hearsay, or perhaps, are drawn from the gentleman's imagination, I pass them by: I care not for them, they are so delightfully absurd as not even to demand a denial.

But, sir, when the gentleman condescends to libel and traduce the character of particular individuals, with some of whom I am well acquainted, I do feel called upon to say something in reply. In obedience to a resolution of the House of Representatives, the Commissioners of the county of Philadelphia published the names of the persons who made the septennial enumeration, and at the same time gave their reasons for appointing these persons. The resolution and answer of the Commissioners, are in vol. 2, of the Journal of the House of Representatives, session 1835-36, page 786. I am able to speak, from personal knowledge, of many of the persons appointed to make the enumeration, and whose cha-

acters have been so wantonly assailed by the gentleman from Adams.— Instead of being the “polluted partizans”, spoken of by the gentleman, they are men of the highest respectability; and, instead of being the “worn out hangers on of the democratic party”, some of them are whigs, some democrats, some are not politicians at all, and one or two are as staunch Anti-Masons, as the gentleman himself could desire. The very first named on the list, sir, is that of a good Anti-Masonic whig, a man with whom I have been well acquainted for many years, and no man in the country enjoys a higher character for integrity and intelligence. And, sir, in looking through the list, I see the names of several persons whom I know perfectly well, some personally, and some by reputation; and they are all men of the highest character—their names alone forbid any supposition that the returns made by them were false, or even erroneous.

The reasons given by the County Commissioners, for appointing these persons, are to me entirely satisfactory; one of the queries put to them was this—

“*Answer to the third query*—By virtue of what authority other individuals than the assessors were employed to make such enumeration?—

Ans.—By virtue of the act of 6th January, 1821, making it the duty of the County Commissioners to issue their precepts to the respective townships, wards, and district assessors, on or before the first day of November, and the precedent set us by our predecessors of issuing their precepts before the ward elections were held. And if the same had been delayed until after the elections, it would not have afforded time to perform the duty; thereby, rendering the Commissioners liable to the penalties of the law, and depriving the city and county of Philadelphia of a fair representation in the Legislature”.

But this would not do for the Legislature; there were certain partizan leaders there, who could not bear the idea that that wicked place, the county of Philadelphia, should have an increased representation; so they forthwith got up a hue and cry of fraud and corruption, and tried to hunt down the character of the persons who made the enumeration; just, sir, as has been done in this Convention. Well, sir, as it would never do for them to increase our representation, they took upon themselves to say, that this enumeration was exaggerated, although they have never been able to prove or sustain their assertions. They accordingly sent for the returns of persons actually taxed, as appeared by the triennial assessment. No fault could be found with this; they acknowledged this to be correct; and according to this, they proceeded to make the apportionment. Now, sir, we will examine into this apportionment briefly, for I do not mean to detain the Convention much longer, and we will see with what degree of justice the distribution was made.

The septennial enumeration made in the fall of 1835, gave the city of Philadelphia 18,449 taxables. This number would entitle the city to just six representatives, for it will be borne in mind that the ratio of representation was fixed at 3057; one representative for every 3057 taxable inhabitants. By the same enumeration, the county of Philadelphia had 31,398, fully entitling us to send ten representatives. But as certain politicians could not bear the idea of ten democrats coming from the county of Philadelphia, they agreed among themselves, I suppose, to raise the cry of corruption, to give them some shadow of excuse to set aside this

enumeration, and to trample on the rights of the county. The triennial assessment being less than the septennial, suited their purposes better ; and they agreed to call this the correct one.

But this gave the city only 14,419 taxables, which number was not quite sufficient to entitle them to five representatives, while it gave the county 25,159 taxables, entitling us to eight representatives. Now, sir, if there was any fraud and corruption, it was practised by the Legislature : and as the gentleman himself was on the committee to make the apportionment, he ought to know something about it. And I should like to know why the city of Philadelphia, with 14,419 taxables, should send seven representatives, while the county, with 25,159 taxables, being 10,740 more than the city, is allowed only eight representatives. But, we very well know the reason, sir, without any explanation : the injustice is too palpable, the fraud too barefaced, to be controverted, by any sophistry or any counter charges. The only corruption was in the Legislature, and there the infamy must forever rest.

Mr. **HAMLIN** said, he could not perceive how the bare, isolated proposition which he had offered, to give a representative to each of the four new counties, and increase the number of representatives in the State to one hundred and four, could be connected with the general question of a distribution of representation. He trusted that the motion that the committee rise would not be agreed to, and that the committee would go on and decide to day upon the proposition before them. To-morrow a more important question—the Judiciary—would be taken up ; but to day the committee on that subject were not prepared for it. He was desirous to have this question decided, and any suggestion in regard to the proposition offered, he would receive with pleasure. If the views of the committee as to the principle involved in it could now be ascertained, the details could be filled up hereafter.

Mr. **MEREDITH** said, as the gentleman from Fayette wished time to consider the question, and as others were indisposed to go on, he was willing the committee should now rise. He was opposed to passing over the section and taking up another, as that would get the Convention into confusion. He had his views on the question, and should, at a proper time, present them. But, he would remark, that to go into detail on the subject, would, at any time, be out of the question ; for it was not for us to settle the ratio, but the basis of representation. Whatever basis was adopted, he was willing to give the new counties a fair representation.—As there was a strong desire to get to what was, by many, considered the most important question before the Convention, the Judiciary question, he hoped the committee would now rise. As the subject of the Judiciary was made the order of the day for next Monday, it was probable that gentlemen were prepared to proceed to it, and there would, therefore, be no loss of time.

Mr. **BANKS** would, he said, go for the motion that the committee rise, if he could be certain that the object of the motion could be attained—which was, as had been stated, to take up the Judiciary question. But doubting whether that would be the course, he would not consent to leave this subject. Every member of the committee, he hoped, was satisfied that the small counties must, under the present system, lose by having large fractions, as they had but one member ; while the large counties,

with six, seven, or nine members, would lose no more. When were we to get at a more equitable mode of distribution? He thought it better to dispose of the question, in one way or another, at once; and, if any gentleman could hereafter satisfy himself that he could provide a better mode, he could offer the project on the second reading, and the question would then, no doubt be satisfactorily disposed of.

Mr. MERRILL said, if he understood the question before the committee, it was, whether the representation should be left at one hundred, or increased to one hundred and four. He was opposed to the committee rising until the question was decided, or until there was a pretty distinct expression of opinion as to the question, whether the number of representatives should be increased at all. If there was a strong vote against increasing the number, then we could turn our attention to some other mode of distribution. Let us know now whether, under any circumstances, gentlemen will agree to go over the present maximum of one hundred.

Mr. BELL saw no reason, he said, why the committee should now rise. It had been intimated that several gentlemen were prepared to address the committee on this subject, and we might as well hear them now as at any time. The subject had not yet, in his opinion, been sufficiently discussed. He hoped the motion would be negatived, as nothing could be gained by rising at this moment.

Mr. HOPKINSON said there appeared to be a desire, on the part of some gentlemen, to take up a more important business—the Judiciary. But this subject which was now before us was important to some parts of the State, and, as it would at one time claim the attention of the Convention, it had better be disposed of now. If we went on from one subject to another without finishing anything, we should soon have too many ragged ends. If the object of the motion was, as had been stated, to take up the Judiciary, he would mention, that being the chairman of that committee, he was desirous, whenever the subject should be taken up, to bring before the Convention the views which governed the report of the committee; but, as he was extremely hoarse to-day, he would be glad to be indulged with a postponement of that subject till to-morrow.

Mr. SMYTH, of Centre, had not, he said, had his attention turned to this subject till recently; but finding that a large number of taxables in some of the counties were unrepresented, he thought some remedy ought to be provided for it. In justice to the northern and western part of the State, something ought to be done; if we passed over the subject now, it might involve us in difficulty. In regard to the Judiciary he had nothing to say; but this was a subject of as much interest to us of the northern and western counties as any other. We ask for nothing that is not fair and right, and that we claim. He thought the committee ought to rise, and refer the subject of representation to a select committee, or to the committee on the first article, in order to have a more equitable basis of representation formed and reported.

Mr. FULLER did not wish, he said, to prevent any one from speaking. If the object of giving a fair representation to the new counties could be accomplished, without extending the number of representatives, it was conceded that it ought to be done. But, as no plan of that sort was now ready to be submitted, he thought the committee had better rise, and sit

again on the 5th article. He was perfectly willing to remedy any grievance justly complained of by the people of the new counties: but, as yet, no acceptable plan had been submitted to the committee, and no plan was ready to be submitted. If any one had a plan to submit now, he would withdraw the motion for the committee to rise.

Mr. FLEMING said he had a plan ready for submission.

Mr. FULLER then withdrew the motion.

Mr. FLEMING said he would as soon give his views in a subsequent part of the debate, as now. His plan would be found by reference to the resolution which he had the honor to submit on the 11th of May. His attention having been drawn to this subject, he was satisfied previously to the submission of that resolution, that the present system of representation required a change. That resolution contemplates the adoption of a ratio of representation compounded of cities, counties, and population, in the House of Representatives; the election of one representative by the citizens of each city and county, and a division of the residue of the number of representatives according to the population of the several cities and counties. In the proposition of the gentleman from M'Kean (Mr. HAMLIN) was involved the difficult question, whether "one hundred" should be retained as the maximum number of representatives, or whether we should add "*four*" to that number? In regard to his own plan, it would make no difference how that question was decided. He was willing, himself, to add the four, and he could see no great objection to it. The additional expense attending so small an increase would not be sufficient to form an objection, nor could it be apprehended that it would render the House of Representatives too numerous and unwieldy. It was asked of us that each county should be allowed a representative, and the hardship imposed on some counties by the present system had been forcibly urged. He made no complaint of hardship in relation to his own county. That county was large enough always to secure one representative, and it was not in reference to its interests that he favored the object of the gentleman from M'Kean. The manner in which this discussion had been carried on, formed of itself a conclusive argument in favor of the propriety of giving a representative to each county; for, in every respect, this discussion had partaken of the local interests and feeling of the several counties concerned. With the particular objections raised against the city and county of Philadelphia, he had nothing to do, and he cared nothing about the little squabbles in relation to them. He asked for no advantage from Philadelphia, any more than from Berks, and still less did he expect to advance his views by exciting a prejudice against those counties. He knew, from the intelligence and character of this committee, that no proposition would succeed here, unless it was based upon a just and proper foundation. To impose on this committee would be the last idea that would occur to his mind, and he knew well it would not be in his power to do it, even if he were so inclined. What, he asked, are the objections to allowing each county one representative? It was said that it would always be a source of jealousy and heart-burning to the new counties hereafter erected; but this was no substantial objection. Has it, he asked, had that effect in the counties established since 1789? Has that kind of dissatisfaction appeared in the four counties now unrepresented on this floor? In the county where he resided, this inconve-

nience had never been felt, because, having a sparse population around them, the people of that county (Lycoming) could, whenever they pleased, take their own representative, and leave Potter and M'Kean unrepresented; but, no doubt, the two latter counties felt it as a great hardship. The proposition of the gentleman from M'Kean was, however, objectionable, inasmuch as it did not carry out an entire system nor provide a permanent remedy for the defect complained of in the present system. He merely proposed to do justice to the new counties now unrepresented, by the addition of four members to the representative body, without saying where the residue of the representatives should come from, or how the counties hereafter erected shall be represented.

This (Mr. FLEMING's) project, on the other hand, was framed, after much reflection, with a view to dispose of the whole question, by forming a new and entire system, on principles which time and the progress of population could not change. This proposition was, in the first place, to give one representative to each city and county; and then to distribute the residue of the number—whether the maximum be fixed at one hundred or a hundred and four—according to the principle of population, taking the State as a whole. The number of taxables ought not to be a basis. To carry out this principle he wanted no estimates of present or future population or of number of taxables, in the cities and counties. No estimate, in fact, ought to be a guide for this body in relation to this subject. Suppose we gave one representative to each city and county for its territory, where, he asked, the gentleman from Allegheny, would be the injustice and iniquity of the measure? Would we in the north have any advantage over the middle or southern counties? Was there any inequality in this—that we should get one and they one? Because they have a few more houses or cleared fields, should they be entitled to a greater representation for their territory? Then what was objectionable in this scheme? As to the residue of the number, after providing one for each city and county, there would be no more difficulty in disposing of it than there was now in apportioning the whole number, under the present system of representation. Did not this scheme leave the balance of power where it ought to be, with the mass of the people? Was there any hardship in this? Was this borrowing from Peter to pay Paul? And robbing Berks to pay Potter? No; far from it. The northern and north-western counties were not going to Berks and Philadelphia to beg that they, in their beneficence and power, would allow them a representative. It was not in the character of those people to become suppliants for what they were justly entitled to; nor had they ever found it necessary in this way to sue for their natural and Constitutional privileges. Why? Because they had always found the people of Berks and Philadelphia ready to do them justice. This mode of distributing the representation in the State would certainly be far more just and equitable than any that had hitherto been suggested. Large fractions were now thrown away in the northern and western counties, and much complaint was made in relation to their loss. He had felt the effect of those fractions in his own district. Centre and Lycoming had a sufficient number of taxables, within one hundred and fifty-five, for a senatorial district. To make up these one hundred and fifty-five taxables, Northumberland county, with four thousand taxables, was tacked to our district. This

was done by way of giving us good measure. Besides his own proper district, therefore, he represented all these people gratis, as he might say. This difficulty was unavoidable, under the present system, for every county in the north and west, with but one representative, necessarily had a large fraction over the representative ratio; and these fractions were more severely felt by counties with but one member than by those with a greater number. Those counties never would have as full a representation as they were entitled to, under the present system, in consequence of the loss of these fractions. The largest fractions would always fall upon them, and they would always be entitled to a fuller representation on this floor than the present mode of apportionment gives to them. This, then, being the case and the interests of the different counties, which were tacked together to make a representative district, being, as has been manifest in instances familiar to us all, oftentimes adverse to each other, it had become necessary for us to adopt a new system, which would dispense more equal justice to the several counties, whether considered in reference to their population, their territory, or their corporate and local interests. We had seen that the interests of two counties which might be tacked together were not the same in relation to internal improvements and other projects. Suppose the counties of Lancaster, York, Franklin, and Adams, were tacked together in one district, what was the interest which would induce these four counties to act together? The counties on one side would advocate and promote the interests of Baltimore, while Lancaster would exert all her efforts to preserve the advantages of Philadelphia. The interests in relation to internal improvements in the northern part of the State, were just as various as they were here. Some wish to give all the legislation on the subject such a direction as will promote the interests of Pittsburg, while others wish to make a channel of communication with Baltimore, and others again with Philadelphia. So entirely different were the views of the different counties in relation to the place where they should market their produce, in consequence of the difference of their local position. The variety of these local opposite interests formed a strong reason in favor of giving each county at least one representative. If then, it can be done, without trenching on the privileges of the larger and more populous counties, why should it not be done. Is it a wild, visionary, and injudicious scheme? Twelve other states of this Union, then, have been wild and injudicious enough to adopt it. In the State of Massachusetts—where, it was true, the number of representatives was great and uncertain, at least one representative is allowed to every township. The same was the case in New Hampshire, Vermont, and Connecticut. In New York, they are chosen by counties. In New Jersey, one is allowed to each county. In Pennsylvania, by the Constitution of 1790, one representative was given to each county, then in existence: and if gentlemen would refer back, they would find that as strong objections were then urged against the proposition to allow a representative to each of the counties which had been created since the Constitution of 1776, as there were now against this proposition. In Delaware, seven members were given to each county; and in Maryland, four. In Virginia they were elected by counties, according to the basis of representation established by the Constitution, and which could not be departed from, without an alteration of that instrument. In North Carolina, by the

old Constitution, one representative was given to each county, and the rule was preserved in their amended Constitution. Is this proposition, then, a departure from the book? Is it without principle and precedent? In South Carolina, the districts are fixed by the Constitution. In Georgia, each county is entitled to one representative, and is limited to four. Here he would remark that the gentleman from Adams had ~~book~~ for cutting down the representation of the large counties. Was not this basing representation on territory? Has not territory always been taken into consideration in the distribution of representatives, ever since WILLIAM PENN set his foot here—from the earliest organization of the Government of Pennsylvania to this day. Shall we be told then that this proposition is induced by a disposition to encroach upon the old and populous parts of the State? Surely we shall not be told, in the face of all this authority, that we are departing from principle for the sake of giving an advantage to some new counties over the old ones. The example of twelve States was a sufficient answer to this suggestion. In Michigan, he found, that the Constitution gave each county one representative. Were the people of that State, at this late day in Constitution-making, still groping in the dark? Had they adopted a wild and visionary theory, in allowing representation for territory? With all the experience of the other States before them, why should they adopt a principle which had been found to be impracticable or unjust? What were the ideas of the political writers and speakers on this subject? Their opinions in regard to the general subject of representation were various; but there was no hostility against territorial representation in their doctrines; and he had never been able yet to put his finger upon a single good and satisfactory argument against it. The State of Arkansas—the last State that had formed an original Constitution—aided by the experience and wisdom of all the other States in the Union—had embodied in their Constitution the principle of territorial representation. Then, Sir, we find that this principle has been constantly adhered to and sanctioned, by the oldest States, and by the newest States of this Union; and who will tell them that it is a principle unsound, unjust, visionary, and anti-republican? It was said that it was not the corporate interest and faculty that ought to be represented. But, Sir, we do not ask a representation of borough interests. The character of a county is altogether different from that of a borough. When the Commonwealth of Pennsylvania marked out the boundary lines of a new county, she gave to it, as a territory, a character and interests that could not be overlooked. Why was its territory thus marked out? Because its local position and interests rendered it necessary that it should be made a separate county. We do not ask a representative for each county that may be erected, until its population shall amount to such a number as to entitle it to one representative. We ask for the representation of no new county that may hereafter be stricken out, until its population shall entitle it to one representative.

Now, so far from appealing to any local interests or feelings in this proposition he disclaimed every thing of the sort, and if he did not carry out the principle in a suitable manner he did not ask his proposition to be considered by the Convention. He had no particular or local interest to induce him to urge this proposition upon the Convention, because he resided in a part of the State which could take care

of itself. He had no individual feeling, to induce him to introduce a proposition that each county should have one representative; here he disclaimed any thing like local prejudices or interests. He desired to see the Constitution based upon something which will be substantial, and he wished to be governed by something which would be honest, right and proper. We ask nothing for favor; we come here to make a Constitution which will meet the wants of the whole people; and no local prejudices are to be gratified; hence he contended that the public interest is the common interest of all, and that the interests of the whole people were to be taken into consideration in the adoption of a Constitution. He believed at the same time, that there was a particular species of public property in which a particular portion of the Commonwealth had a greater interest than the other portions. A public road, for instance, passing through Potter county was the common property of the whole people of the Commonwealth, yet any interference with, or stoppage of that road would most affect the interests of the people of the county through which it passed. The people of Philadelphia, although it was equally their property, would not be much affected by its being closed. The gentleman from Berks (Mr. KEIM) was opposed to any increase, because he feared injustice would be done to the middle counties. Now, Mr. F. belonged to a middle county himself and he could not perceive where injustice was to be done to those counties, when they make up the number of representatives after giving to each county one. Where was the injury to come from? To repeat the arguments of the gentleman from Allegheny, was it not the common interests of the people of Pennsylvania to be represented? Then where is that vast injury which is so seriously to effect the county of Berks? If their population will entitle them to a member they will get it, and if it did not he would connect it with another county. Do gentlemen suppose they can always do exact justice to every part of the Commonwealth, and have their own particular counties regulated to suit their own particular ideas of what is right? He went for no such a plan. He would go for one which would mete out ample justice to every part of the people of the Commonwealth, and if the number of taxables in the county of Berks or the county of Philadelphia, would not entitle them to a representative—he would put them on with another county which would entitle them to one. We are accustomed to this in the northern and western part of the State, and don't consider it any hardship there. Are we to be represented in this way, and the old, wealthy, and populous counties in their own way? Where is the hardship? If we suffer any in the north from this principle why not act upon it in the east and the south? Will they ask of us to practise a system which they refuse to adopt themselves? The argument of the gentleman from Berks was in effect this, that we ought to be content with a system which they will have nothing to do with. Was it just, was it fair that the populous counties should ask the sparsely settled counties to adopt a system of representation which they despise and will have nothing to do with themselves? He asked for nothing but justice, and he would deal with the sparsely populated counties as he dealt with the more populous part of the Commonwealth. He would ask of the old counties to give the new counties a representative each; then he would leave them the balance of power. He would permit the populous counties to govern us, to make our improvements or let them

alone, as they might see proper. The gentleman from Berks had said that representation should be according to the number of taxable inhabitants. Now, he had already said, all he should say on this subject; that it had never been the basis of representation in Pennsylvania.

Mr. KEIM had said that he was in favor of a representation in the proportion of population.

Mr. FLEMING: Then it is one and the same thing, and there was no difference, nor could a line of distinction be drawn. There was no difference in point of principle. He had shown, at the introduction of this argument, that this principle of combining territory and taxable inhabitants had been adopted by many of the States for the purpose of getting a more just and equitable representation. He denied that counties were divided for a mere matter of form, and when new counties are stricken off, were they to remain without any voice on the floor of the House of Representatives? They were stricken off with a full knowledge, it is true, that they were not entitled to a representative under the Constitution of 1790, until they had the number of taxable inhabitants equal to the ratio of representation. But, when they were separated from the other counties, have they not always had an eye to the justice of Pennsylvania, that when the Constitution should be remodeled this feature would be altered? This same principle was adopted in the Constitution of 1790, then why should we not adopt it? The framers of that Constitution were noted for wisdom, and patriotism, and justice, then if we wish to step in their tracks, and have it said of us that we were equally wise and just, as a matter of course, we will adopt the same principle, and give to each county a representative as they thought proper to do, and as other States have thought proper to do. These new counties were stricken off by the Legislature, and have since all become organized for judicial purposes, and are in the full tide of operation, and the fact that they were so stricken off, should give them a character which ought to bring them to the notice of the Convention. Would it curtail the privileges of the county of Berks, or any other large county? He did not know what system of curtailing they had in Berks or other populous counties, but we ask for nothing of the sort. We disclaim the idea of having any disposition to curtail any county. There was no difficulty in carrying out this principle to the full extent. If a county was not entitled to two representatives, but came near to it, connect it with another, and give them another; there was no difficulty in the matter. If the number of representatives is continued at one hundred, the ratio to a representative, according to the present population, would be somewhere near seven thousand; if it was increased according to the proposition of the gentleman from M'Kean, after giving a member to each of the fifty-four counties, the ratio would be about six thousand five hundred, then there would be no more difficulty in dividing the residue among the population than there is now; and there was no hardship connected with it. Will gentlemen say that it is any hardship in making the ratio so large? Was there any departure from principle? That was all he asked, and that was the question which should come up here. He asserted there was no departure from principle, whether the ratio was six or ten thousand, the only difference would be in the arrangement of the distribution. We in the north get the **big ends** of all fractions. We get all the fractions, and don't get

any representatives at all. Then would it not be more equitable to have each county represented on account of territory, leaving the balance of power in the hands of the populous counties, in order that those counties which have never had a voice on the floor of the House of Representatives, may be heard from. Again, in point of principle independent of territory, and independent of population, was it not the interest of the people of Pennsylvania to have every part of her State, and every part of her diversified interests represented on the floor of the House of Representatives? If you were called upon to remodel the whole legislation of the Commonwealth of Pennsylvania, and to revise the whole civil code of the State, would you not have every particular interest in the Commonwealth represented? Yes, sir, it would be one of the first things which should be done, that every part of the State, and each of the diversified interests should be heard, that their peculiar notions of right and wrong might be made known to the body. He considered it, then, nothing more than right and proper that each county should have a representative independent of population, and independent of territory. Surely the people of the north were not to receive such injustice of the people of the Commonwealth, as to be deprived of a voice in the Halls of the Legislature? All he contended for was, that every section of the State might be fully and fairly represented.

He had thrown out these suggestions, and he hoped the Convention would consider them, and look into them, and if they were right, he hoped he would be sustained, and if he was wrong, and if gentlemen would convince him of his error, he would go with them.

Mr. FULLER said, the gentleman had brought in a great many precedents to sustain his positions, that each county should have a representative, and he had brought into view the State of Virginia, whose representation is a county representation. Now he merely wished to ask the gentleman whether he intended to carry out the whole doctrine of that State, right of suffrage and all.

Mr. FLEMING had spoken of the State of Virginia, as having each county represented. He meant to have nothing to do with the right of suffrage basis of that State.

Mr. BAYNE should like to know if they were to have a system which was not uniform—how they were to manage the exceptions. It seemed to him this matter ought to be explained. He should like to have his mind satisfied how the gentleman's scheme would be carried out, before he could support it. He could not think of accommodating one or two small counties, if injustice was to be done to all the rest by it.

Mr. DUNLOP should be disposed to go with the gentleman from M^r. Kean, (Mr. HAMLIN) in the proposition that each county should be represented, but there appeared to him to be a difficulty in the way as to the manner of getting at it. The gentleman seemed to think it could be done by increasing the number of representatives to one hundred and four.—Now he would ask whether equal injustice would not be done in this way to giving each county a representative out of one hundred representatives. If there were fifty-four counties, and you give each county one, then there will be fifty to be distributed among all the counties. Then take thirty hundred as the number necessary to give a county a representative, that number will have to be doubled when one representative is taken off which

will make sixty hundred; which will be required for each county to give an additional representative. Now this being the case none but the overgrown counties would have two representatives, and they would be the only ones benefited, while the middle counties in population would be severe sufferers. Again, if you take four hundred as the number necessary to entitle a county to a representative, that being about the number in some of the smaller counties, you would have to increase the number of your representatives to nearly eight hundred, to do equal justice to all the counties. It was not possible to increase the representatives to the number of eight hundred, and he did not believe it practicable, as the people were decidedly hostile to any increase, to increase the number to one hundred and four. Then he held that there was no other plan than by taking these four representatives needed, to give to the new counties, from those counties most numerously represented, as he had suggested on Saturday; as any other mode would do injustice to the middle counties. The gentleman from M'Kean could not expect that the delegates from the interior of the State, would vote to take away any of their own representation, nor could he expect that they would vote to increase the number. If he had any expectation of gaining the votes of the middle counties for his project, it must first be determined that the representatives for the small counties must be taken from the cities or large counties, and not from the middle counties of the State.

Mr. HAMLIN thought the gentleman had been raising objections to the proposition suggested by the gentleman from Lycoming, (Mr. FLEMING) and not to the proposition before the committee. He contended that it would be no injustice to any county, to give the additional representatives on the plan proposed by himself. In 1835-6, the number of taxable inhabitants was 317,000, then divide that number by 104 and you have about 3048 as the ratio, to entitle a county to a representative. But the gentleman from Franklin fixes the ratio according to territory, and gives to each county, at least, one representative, and then divides the remainder among the several counties, doubling the number required to give a representative. Now, Mr. H. thought there was a distinction between these two cases. It was only necessary, if this proposition should be adopted, that the Legislature should fix upon some principle by which the fractions should be rejected or received, and the whole difficulty would be obviated, and no injustice would be done by any one. It seemed to him that the objections of the gentleman from Franklin, were without foundation so far as related to the proposition before the committee. It might apply to the proposition suggested by the gentleman from Lycoming, but it could not apply to the question under consideration. As to what had been said by the gentleman from Berks (Mr. KEIM) in relation to the ratio, based upon population, he would ask that gentleman whether that principle ever had been carried out, or whether it ever could be carried out in Pennsylvania. He presumed an answer to this might be found in the journals of the House of Representatives of 1835-6. In that journal it will be found that the county of Berks has a taxable population of 11,743. Now we all know that by the ratio of 3057 taxables to a representative, that county would require some three or four hundred more taxables to give her four representatives. This being the case he was not at all surprised that the gentleman from Berks stuck with such tenacity to the old principle. In some

of the other counties they have large fractions which are lost. Now the Constitution, in point of principle, may be correct enough, but, in point of fact, injustice is done. If, then, a departure is to be sanctioned in one instance, why not sanction it in another, where there are stronger grounds for it. If the Legislature has the power to favor one county and injure another, it was but justice that each county should have a voice in that body. As he had shown there were small counties which had no representative in the Legislature, yet you give them to those counties which are not entitled to them. The principle that representation and population should go together was correct in the abstract, but there are exceptions to it in practice, as there is to every general rule. It was a general rule of law that no one should give evidence in his own case; yet a man was allowed to come into court and swear to his own book accounts. It was declared in scripture "that whoso sheddeth man's blood, by man shall his blood be shed"; yet defensive war was justified.

Mr. BROWN, of Philadelphia, said it was not his intention at this time to say any thing in relation to the proposition suggested by the gentleman from Adams, (Mr. STEVENS) and the gentleman from Franklin, (Mr. DUNLAP) that no county should have more than six representatives. That proposition had its character written upon its face; it was stamped on its forehead with its own iniquity and injustice; and he felt satisfied it would never receive the sanction of the Convention. If the proposition should again be brought before the Convention, and he had any reason to suppose that he had mistaken the judgment and justice of the Convention, and that it was disposed seriously to entertain the scheme, he was ready to argue the question, and show the whole matter in its proper colors.

The amendment of Mr. STERIGERE, to strike out the words "*and four*" was then agreed to.

Mr. STEVENS then moved to amend, by adding to the end of the proposition of the gentleman from M'Kean, the following: "but no city or county shall ever have more than six representatives".

Mr. DORAN should like to hear some good reasons in support of this proposition.

Mr. STEVENS said, that either the gentleman had not been in the House on Saturday, or he had looked upon the arguments he then adduced as no reasons at all. He had then, at some length, given the reasons why a proposition of this kind should be adopted, being anxious, however, to indulge the gentleman, he would briefly repeat some of the reasons he then gave. The principle now before the Chair, contained in the amendment he had offered, seemed to be conceded to be correct, in almost every part of the House, and in almost all the States of the Union, and had been adopted as the basis of representation in many of them. That is, that communities have a distinct and separate interest, and that territory, when cut up into communities, was entitled to have a voice in your House of Representatives, independent of, and different from the amount or population of these communities. Almost all the gentlemen who had spoken on the subject, with the exception of those from the city and county of Philadelphia, had admitted that this was the true republican basis of representation, although there seemed to be a difference of opinion as to the mode of getting at it. There can be no doubt, but this mode has been adopted

by seventeen out of the twenty-six States of the Union, in one or the other branches of their Legislature. Well, why was this so? A State, as a community, has interests distinct from population, and, therefore, every State was represented in the Senate of the United States, on the basis of distinct communities, apart from population. Then, did not every county in the Commonwealth hold precisely the same relation to the government of the State, which the States do the Federal Government? Certainly they do. Your counties, as distinct communities, have distinct and separate interests, and it is idle to say, your representation shall be without any regard to the interests of these distinct communities. There never had been such a principle as this in this Commonwealth. The principle of representing communities had been adopted in the Constitution of 1776, and in the Constitution of 1790. The Constitution of 1776, provided that the Council of Censors should be composed of one member from each county, without regard to the size of the county. The Constitution of 1790, provided that each county, then in existence, should be entitled to one representative in the House of Representatives. This principle, then, has been the uniform principle of government in this State, although, perhaps, it has not always been practised in the same form. But, how was it in the New England States, those States which radical gentlemen had lauded so much for their democracy, and held them up as models to be patterned after? Why, in Vermont, which has come so near gentlemen's ideas of perfection, every town, which has eighty-five inhabitants, is entitled to one representative, and no town was entitled to more than one. In Massachusetts, every town was entitled to one representative, but a certain number of inhabitants would entitle them to more. In New Jersey, they acted upon precisely the same principle. In New York, every county was entitled to a representative, without reference to population; and, the same principle prevailed in every State of the Union, except nine. But, while we were making these extensions in the small counties, was there no peculiar reasons why the number should be limited in the overgrown counties? The same principle, which would entitle any gentleman to claim for the small counties one representative, will sanction us in saying, that the overgrown counties shall not have more than six. Was there not some good reason, which would induce and require gentlemen from the country, in obedience to the interests of their constituents, to support the amendment he had now offered. He had taken occasion, when he was last up, to speak of the overgrown influence of the city and county of Philadelphia, and the power they had of controlling the whole action of the Legislature of the State. The county of Philadelphia, according to the proposition of the gentleman from M'Kean, would be entitled to twelve representatives, and the city to her present number, making one fifth part of the whole representation of the State. Then, combine with them two or three of the large manufacturing counties, or cities, and they will control the whole Commonwealth, and make improvements where they see fit, to enhance their own interests, without any regard to the residue of the State. Now, was it right that large agricultural territories should be controlled by the kind of population contained in these cities? When he spoke of the kind of population, he did not speak reproachfully. He spoke of it as it was, and would any gentleman tell

him that the population there was the same as in the country. Would any gentleman tell him that virtue was to be found there, to the same extent as in your agricultural districts. Why, you might as well tell them that your bogs and pens were as salubrious as the pure atmosphere of your mountain country. He would draw no comparison between that city and county, and any other of equal size; but, he thought he might draw a comparison between it and the country, and let any gentleman deny the fact and show that it was not true, and then there would be some foundation for this virtuous horror which had been exhibited; but, until that was done, and what he had stated was shown to be untrue, gentlemen might as well retain their blustering.

Did not, he asked, THOMAS JEFFERSON say that "great cities were great sores upon the body politic"? He did, and never was there a truer remark made than that. They were sores and ulcers on the body politic, but there was no such thing as getting rid of them. It was necessary, then, that care should be taken to prevent the virus which issues from them from spreading on the healthy parts of the community, and thereby producing that gangrene which was certain to flow from that inevitable source of putridity. He made no charges against individuals, or communities as respected their moral character. He spoke only of their political condition. The city of Philadelphia was as moral as any city in the Union, of equal size, but still there was connected with it that kind of inseparable corruption, which must always stick about large cities. He hoped that before the gentleman (Mr. BUTLER) became again indignant, and made allegations of the kind he had brought forward, he would examine into facts more closely. When the gentleman should have done that, then he might attempt to disprove facts, with a better grace, and would find more room for his wrath than he could do at present. The young gentleman seems quite harmless, notwithstanding his malignity. I shall not answer his studied effort, his Sunday's labor. I never reply to low made personal scurrility. But allow me to say to that youth, that vulgarity is not severity. He need not be alarmed, however, lest I should attempt to inflict any chastisement upon him. There are some vermin so small, that if you would attempt to crush them, they would escape unhurt under the hollow of your foot. Sickly, green, and rough as the plant now seems, it would be cruel to trample on it. When it has seen more sun, attained greater height, and been trimmed and fostered by the careful hand of the gardener, it may assume a more comely shape, and more useful growth, ragged and unseemly as it now is.

But what were the facts, as he had stated them already, and to which he had referred the gentleman from Philadelphia? What evidence had the gentleman (Mr. BUTLER) brought forward in his attempt to overthrow and controvert what he (Mr. S.) had stated yesterday? The gentleman would excuse him for saying that he (Mr. B.) had overlooked one or two of the principal facts in the argument he had made. He had said that the difference between the septennial enumeration of taxables in 1835-6, and the assessment made by the assessors, was, that at the septennial enumeration *all* inhabitants liable to be taxed are included in the list, whereas in the triennial assessment, only those are returned who in reality pay tax.

Now, that was not the legal mode, and if the commissioners adopted it,

it was a false mode. It was not the law. The act of 1820-21 under which the septennial assessment was made, set forth that those taxables only who were, at least, twenty-one years of age should be enumerated. But the law, which allowed an assessment to be made triennially, permitted the assessment on the payment of taxes, whether the party was a minor or of age. He hoped, after this statement, that the gentleman would retract this part of his argument. When the commissioners came to make a septennial assessment they took the number of all above twenty-one years of age. But, when they made a triennial assessment, they wanted to tax them, and all owning property were assessed. Now, he supposed that to be the meaning of the commissioners. If the commissioners adopted the mode stated by the gentleman from Philadelphia, (Mr. BUTLER) they violated the plainest principles of law—the plainest principles of the right of freemen. Why, he asked, were there 6,000 inhabitants liable to taxation within the city and county, whom the commissioners enumerated in order to entitle the county to a larger number of representatives, but refused to tax them so as to enable them to vote?

Was there ever such a fraud heard of, as the gentleman had fixed upon the character of the Commissioners, claiming a representation upon persons to whom they refused a vote? Worse than the negro slavery of the South, which was represented in the persons of their masters. Thus many of the representatives of the county of Philadelphia, were the representatives of men not taxed. This was the essence of corruption. It was worse than any thing that he had said of them. The power of the city and county, as exercised through their corporate agents, in the manner he had adverted to, had been used unjustly, and to the injury of the people of the State. He would cite another instance of injustice, and he would pray the gentleman before he denied it, to look at the book. During the whole time that the State tax was imposed upon the people of the Commonwealth, for the purpose of defraying the expenses of that system of internal improvement, which was connected with the western portion of this State, and was for the benefit of the city of Philadelphia, and which rendered it the great, enterprising, and noble city that it was, the tax was honestly laid in the country, the assessors were sworn, and made returns according to the value of the property. But, how was it laid in the city and county of Philadelphia? Why, the commissioners made what they called an *adjusted* valuation, and then made a deduction of 60 per cent., and laid the State tax on the remaining 40 per cent. Would any gentleman deny that? He trusted not. It was a fact, and could not be denied. The country had too much honesty to commit official perjury. He made no charges against individuals; but he wished to call things by their right names. Was the country to lay itself open to this robbery. He made this charge only against the action of communities, not of individuals, and he called on gentlemen of the country to protect themselves against such fraud. We had been told that the city of Philadelphia had stood by the interests of the country, and therefore ought not to be deserted in the hour of need. When the public improvements were commenced, they were intended to connect Philadelphia with Pittsburgh. The Susquehanna interests were then opposed to it, but were brought in by extending the canals up the Susquehanna and its branches. But, when the people of the

Susquehanna wished to go down stream, and open an avenue to the Chesapeake Bay for their produce, then there was violent opposition from the city and county of Philadelphia. The very moment that they found they could not get their *quid pro quo*, what did they do? Why, they went right against the Susquehanna interests. He made no charges against the gentleman and his constituents. He thought that the gentleman (Mr. MEREDITH) had argued the matter right for himself and his constituents—had argued for their interests. However, there were got up memorials from the city councils, and resolutions from public meetings, protesting against our friends of the north going down the river, and it was only after much perseverance and determination and delay, that they succeeded in their purpose against the city and county of Philadelphia.

We should never have rendered useful the mineral wealth of the valley of Wyoming, had Philadelphia been able to successfully exercise the power she attempted to wield. These were some of the reasons which he would submit to the candor of the gentlemen from the city and county of Philadelphia, why he (Mr. S.) thought that the proposition should be adopted. It would do no injustice to the city and county, if the cities and large counties were limited, as they would still have the eighth part of the whole representation—whilst the rest of the cities and counties would have the balance—seven eighths. It would preserve the purity of representative government; it would secure the country interests from the overgrown influence of the cities. He called upon gentlemen to examine carefully and minutely the proposition. It would be found to violate no principle. It was in strict accordance with the beau ideal of a government which radical gentlemen had pointed out in regard to some of the eastern States.

Mr. DORAN said—Not in the east.

Mr. S. resumed.—[Here Mr. S. read a clause from the Constitution of Vermont.] He found this principle incorporated in the Constitution of democratic Virginia, and also in the Constitutions of the States of New Jersey, Delaware, Maryland, and Michigan. In fact, it was the principle adopted in the Constitutions of seventeen out of twenty-four States of the Union. And, although some of the States do not restrain the large counties, yet others, having large commercial cities, do. They regard communities as well as the number of taxables, and give each community one representative. These were his views, and although they might not be altogether satisfactory to every gentleman, they were, at least to himself. If the amendment should prevail, he would go for the whole project of the gentleman from McKean (Mr. HAMLIN); but, if it did not, he would go against it.

If the principle should not be adopted, the city and county would ultimately get more representatives than they have now. And thus would it take from the counties of Chester, Berks, Adams and Washington, a part of their power

Mr. MEREDITH said that he regreted that this motion had been made by the gentleman from Adams, (Mr. STEVENS) tho' he was glad to believe that there was but one member of this House who would have made it. That gentleman was in the habit of thrusting upon the Con-

vention propositions, so much against the stomach of its sense, and so extraordinary in themselves, that it was the part of kindness to believe that the mover himself could not always desire their adoption. The House must by this time be familiar with the habits of the gentleman from Adams, (Mr. STREVEN) and with his peculiarities. Whenever instigated, either by the restlessness of his nature, the movements of an uncertain temper—or the mere wantonness of his disposition, the gentleman poured out upon any man, friend or foe, a copious flood of what he should call *venom*, except that nature never gives the venom without giving also the fangs which are necessary to make it effectual. It happened on Saturday last that the gentleman had thought fit, in his eccentric career, to run a muck at the city and county of Philadelphia. Sir, (said Mr. M.) I do not know why that portion of the State happened to fall under the gentleman's denunciation, nor why he now seems willing to change the ground of his attack. On Saturday, Philadelphia was to be partially disfranchised as a punishment for the frauds of some of her public officers and the corruption of her population, and indeed if the statements then made by the gentleman were correct, she would seem unworthy of being represented at all. But *now* the gentleman avows that Philadelphia is better and purer than any other city of its size in the Union, and after making this avowal, runs round a vicious circle of crude political speculation on the evils of large cities, and comes at last to, practically, the same conclusion as before, to wit: that her people must be partially disfranchised because they live in a large city, and that they are unworthy to be counted man for man with the inhabitants of the agricultural districts. And then he challenges any one to deny his facts! Where are the gentleman's facts? He has stated none that I know of, except the enumeration of taxables by the county commissioners; and the gentleman seems willing to admit to day that the commissioners themselves, and not the people, are alone responsible for their own proceedings if they were illegal or fraudulent. Where then are the facts of which he challenges a denial? If (said Mr. M.) he means to dignify his loose reflections on the disadvantages attending a crowded population, with the name of *facts*, the gentleman will scarcely expect me to pause upon them. If large, thriving and populous cities be really dangerous to the Commonwealth, and ulcers on the body politic, they certainly ought not to be fostered. If the gentleman thinks thus of them, let him propose to close the avenues of trade, break up the railroads and turnpikes, obliterate the canals, pull down the factories, prohibit the working of the mines, or the raising of more grain than is consumed upon the acres that produce it. Let him destroy the prosperity of agriculture, manufactures, and commerce, and he will thereby diminish the size of the overgrown towns whose increase seemed so frightful to him. I recommend to him the study of King JAMES's proclamation against the erection of new buildings in the city of London, which will enable him to gild his doctrines with more plausible arguments. I must beg to be excused at this day from answering them, and will proceed to consider the other portions of the gentleman's remarks. I understand him to deny that, in Pennsylvania, representation has ever been based upon the number of taxables. To correct the mistake (said Mr. M.) into which the gentleman has fallen, I will read a clause from the Constitution of 1776, for the purpose of showing that such was then the established basis.

Mr. M. then read as follows :

"SEC. 17. The city of Philadelphia and each county in this Commonwealth respectively, shall, on the first Tuesday of November in this present year, and on the second Tuesday of October, annually, for the next two succeeding years, viz : the year one thousand seven hundred and seventy-six, and the year one thousand seven hundred and seventy-eight, choose six persons to represent them in General Assembly. But as representation in proportion to the number of taxable inhabitants is the only principle which can at all times secure liberty, and make the voice of a majority of the people, the law of the land ; therefore, the General Assembly shall cause complete lists of the taxable inhabitants in the city and each county in the Commonwealth, respectively, to be taken and returned to them, on or before the last meeting of the Assembly elected in the year one thousand seven hundred and seventy-eight, who shall appoint a representation to each, in proportion to the number of taxables in such returns ; which representation shall continue for the next seven years afterwards, at the end of which a new return of the taxable inhabitants shall be made, and a representation agreeable thereto appointed by the said Assembly, and so on septennially for ever".

Mr. M. said that the Constitution of 1790 contained in effect the same principle, for although it provided that each of the then existing counties should have at least one representative, yet it would be recollected that there were then but nineteen counties, and the number of representatives being left to be fixed by the Legislature within the limit of 60 as a minimum and 100 as a maximum, the clause amounted in effect to a direction to the Legislature so to fix the number as that the population of the smallest of the nineteen counties should be sufficient for at least one member upon the ratio to be established. He (Mr. M.) had asserted that in Pennsylvania since 1776 representation had been based upon taxable population. He had now given his authority for that assertion. This was a plain question of fact, to be determined by evidence, and he challenged any gentleman to draw from any authentic source the materials for framing a denial of his assertion. Vague declamations were out of place on such a question. Now, (said Mr. M.) I take the basis of representation established in Pennsylvania, to be such as I have stated it. If I am asked to change that basis, I want a reason for the change. Has it proved to be unsound or unsafe in practice ? Is it dangerous to republican principles ? Can a better or safer basis be devised and adopted ? The gentleman does not answer these questions by citing the example of Vermont or other eastern States. If what they have done be better than our system, let it be shown how, and in what it is better, and that it has produced better effects : until this be done, the citations of the gentleman bring the matter to a mere question of authority, and as such, the practice of Pennsylvania carries, to my mind, a much greater weight of authority than the example of all the other States to which allusion has been made. I believe that in Pennsylvania the nature of a republican Government has been and is well understood, and I am quite satisfied to stand by what she has done, until another course shall be demonstrated to be wiser.

But the gentleman from Adams seems to think that he finds something

in the Constitution of the United States to countenance his proposition ; in what part of it, I am at a loss to imagine. In the Senate of the United States each State was represented, and on a footing of perfect equality—but the representation was of sovereignties, and no analogy could be traced that would serve the gentleman's purpose. In the House of Representatives of the United States the basis was population simply ; except the compromise for the benefit of the southern interests. In what strange confusion of ideas originated the supposition that any thing could be found in the Constitution of the United States, that could be forced to support the gentleman's argument on this occasion ? His proposition was founded on neither a territorial, property, taxation, nor population basis, nor on any other basis but that of rank injustice. Stripped of a very thin disguise, the proposition was to establish a ratio of representation for all other parts of the State, and to provide that the city and county of Philadelphia alone should be excluded from the benefit of that ratio, and their inhabitants degraded to a footing of political inferiority to those of the other counties of the Commonwealth. And as the proposition was founded on injustice, it was no wonder that the stress of the argument in support of it lay in prejudice. The gentleman from Adams had spared no pains to excite a prejudice against the city and county in the minds of the members representing the south-western districts and the Susquehanna country. He (Mr. M.) had supposed that by this time the gentleman from Adams would have acquired a better knowledge of Pennsylvania, than to expect any success in such an attempt. It was ten years since he (Mr. M.) had been on this floor, and most of the members from the districts in question were personally strangers to him, but he knew they were Pennsylvanians, and he had stood too often shoulder to shoulder with their predecessors against the *improvement* counties of Adams and Franklin, to fear that they would abandon their old and tried alliances, to herd with a gentleman like him from Adams, whose patriotism professed to begin with *self*, and seemed to end there. Forsooth the members from the city and county have not always voted with Adams county, but have held, expressed, and acted on their own opinions. And for this crime the effort is to be made to disfranchise them ; and the gentleman seems to anticipate some support in his attempt. Sir, (said Mr. M.) he knows little of Pennsylvania, or he would have felt that his harangue, whether in point of policy or principles, found no responsive echo in the breast of any one member of this body. He will probably discover that hereafter. But of all quarters of the House, the gentleman could scarcely have made worse selections for his appeal than the south-west and the Susquehanna. As to the latter, I shall say nothing in addition to the remarks of Saturday last. The idea that cold looks or cold feelings are to be engendered between Philadelphia and the valley of the Susquehanna by reason of a Baltimore project more or less passed or defeated, does not deserve a serious refutation. As to the south-west, two instances have been cited, to wit: the Chesapeake and Ohio Canal, and the Baltimore and Ohio Railroad. I shall shew the gentleman from Adams that he can as little shake us in the affections of the south-west, as in those of our friends of the middle counties. The projects now referred to were not carried by the *improvement* counties of Adams and Franklin.

Mr. M., without concluding, gave way to

Mr. Cox, on whose motion the committee rose, and the Convention adjourned till 4 o'clock.

AFTERNOON SESSION—4 O'CLOCK.

FIRST ARTICLE.

The Convention resolved itself into committee of the whole on the first article, Mr. PORTER, of Northampton, in the Chair.

The question pending being on the motion of Mr. STEVENS, to amend the amendment offered by Mr. HAMLIN.

Mr. MEREDITH resumed his remarks.—He said, that before proceeding to shew the course of the Chesapeake and Ohio Canal, and Baltimore and Ohio Railroad bills, he would say a few words in explanation of the principles on which the city delegation had acted on all these questions, so long as he had a personal knowledge on the subject. They had acted steadily on fixed principles, and not from whim or caprice, and those principles, he believed, to be founded in justice, liberality, and sound policy. They were not selfish. As to the outcry of disappointed jobbers in corporation bills, he had nothing to say to that, but no man, capable of forming an enlightened judgment on sound and enlarged views, could pronounce them to be selfish. These principles (said Mr. M.) were to support a liberal system of Internal Improvements, at the public expense, on an extended scale, commensurate with the interests, and the honour of this great Commonwealth, tending to bind its different sections together, to give vigorous and healthy action to its heart and its extremities, and to enable its metropolis to command the great trade of the west, in preference to all her rivals—by a generous emulation of those rivals, as I shall demonstrate presently, and not by meanly endeavoring to debar them from a fair and free competition. Another of the principles at that time acted on, (I speak of a period now ten years ago) consisted in giving a cheerful support to every project for a bona fide improvement, to be made by our rivals, at their own expense, with a view to fair competition with us for the trade of the west. Sir, I care not what may have been the censure of ignorance and folly, on a policy of which they understood nothing. I care not what may have been the denunciations cheaply lavished on better men than themselves, by those who affected universal liberality, in order to gather a bastard popularity among the interested and the weak. Those censures and those denunciations are long since passed and forgotten, and I defy any man now to deny, that the principle which I have stated was fully acted on. On the other hand, a steady opposition, supported then by a majority of the House, was given to all projects, for enabling other States or cities, or any foreign corporations, to avail themselves of our expenditures and labours, and gather the fruits of both, without having assisted to bear the burthen of either. The metropolis was then looked upon, not with jealousy, rancour, and mistrust, but with pride, as the ornament of the Commonwealth, the focus in which were collected the fruits of her enterprise and industry, as well as those of the far west, which were there concentrated, and again flowed back over the

entitled to our admiration. Never did a more accomplished orderly report a company "formed" on a parade ground. It is very true, I fear, that while he was putting us through the manual exercise in the court yard, the enemy were climbing in at the back windows, for I observe that we have six Secretaries, whereas I do not remember to have voted for more than two. However, this is but the fortune of war, and detracts nothing from his merit. Has he not glory enough? The gentleman has other duties to perform.—To him it belongs to superintend the executive administration of regimental justice. The masons, we know, are ordered for punishment, and when the day arrives on which they are to be had up at the triangle, we shall doubtless see him in the fervent fulfilment of his employment—with his ready instruments well prepared—and we shall hear

"The long resounding line and frequent lash."

Do not all these occupations furnish sufficient scope for the ambition or activity of the gentleman's character? Why will he grasp at more? What has he to do with the basis of representation? Within the limits of his appropriate functions, he commands from us a respect not unmingled with a certain awe. But instead of confining himself within those limits, he seems occasionally to run beyond himself, mistakes his yellow cotton shoulder-knots for golden epaulets and his halberd for a leading-staff, mounts a ragged hobby, and when we are perhaps in the midst of an important affair, in the face and under the fire of the enemy—down gallops our mad sergeant along the line, and insists on our suspending all other operations that we may be instantly put through some unknown *poise*, or some new movement to the *shoulder*—of his own devising and which none of us ever heard of before. And then upon the least demur at a compliance with his odd demands, he rides furiously into our ranks, breaking his halberd over the head of one—lending a horse's kick to another—covering a third from head to foot with mud—throwing our battalion into inextricable confusion and exposing us to inevitable defeat. And all these misfortunes are to be suffered because one gentleman has not learned to discriminate between yellow cotton and gold lace! No sir, they cannot be much longer suffered. We would not touch a hair of our Eccentric's head, nor even of the tail of his hobby. The gentleman is *un vieux moustache*, I believe, as well as myself:—I think he was a Federalist, and I should love him for that if for nothing else. The furthest I would ever consent to go would be the salutary restraint of his irregularities. At present I merely beg to remonstrate kindly and gently with him, as I have been doing, against his persistence in these ludicrous yet injurious assaults upon those who, however feebly and humbly, are endeavoring to discharge their duty.

Mr. KERR had not intended to say a word as to the proposition before the Chair, but should have contented himself with voting against the amendment to the amendment, and against the amendment itself, had not the gentleman from the city (Mr. MEREDITH) alluded to him. He would now merely say that the history the gentleman had given of the proceedings in the Legislature with respect to the Chesapeake and Ohio Canal was correct so far as his recollection served. When the subject first came up before the Legislature, a part of the delegation from the city of

Philadelphia were jealous, lest by making this improvement, Baltimore would be built up and Philadelphia injured. Now, he supposed at the time, that this was nothing more than a natural jealousy which every one would have for his own city or county. He would say, however, that the course pursued by his friends from Philadelphia, in relation to that improvement and to every other internal improvement, left upon his mind and upon the minds of his colleagues, the impression that they had pursued a judicious and a liberal course.

Mr. STEVENS said, that during the discussion, he had been at a loss to judge what had turned the gentleman from his usual temperate course.— Nothing in the gentleman's remarks, or in the temper in which they were uttered, should provoke him; and he appealed to all that, in his course here, he had ever employed any personality, except in self defence. He had said, and he repeated it, that the city and county of Philadelphia, assembling a large population, on a small area, exerted an extensive influence under the present system of representation over the State, and used that influence to their own advantage. But what was there in this that could be taken as a personal reflection upon any gentleman? He had said, that, on the question of the Chesapeake and Ohio canal, and the Baltimore and Ohio railroad, the members of the delegation had taken a course dictated by their own interests. But in that, he intimated nothing of a reproachful character.

The extraordinary course of the gentleman from the city of Philadelphia, therefore, has astonished me. During the greater part of his concerted personal tirade, I was at a loss to know what cause had driven him beside himself. I could not imagine on what boiling cauldron he had been sitting, to make him foam with all the fury of a wizzard, who had been concocting poison from bitter herbs. But when he came to mention manoury, I saw the cause of his grief and his malice. He, unfortunately, is a votary and a tool of the "Handmaid", and feels and resents the injury which she has sustained. I have often before endured such assaults from her subjects. But no personal abuse, however foul or ungentlemanly, shall betray me into passion, or make me forget the command of my temper, or induce me to reply in a similar strain. I will not degrade myself to the level of a blackguard to imitate any man, however respectable. The gentleman, among other flattery, has intimated that I have venom without fangs. Sir, I needed not that gentleman's admonitions to remind me of my weakness. But I hardly need fangs, for I never make offensive personal assaults, however I may sometimes, in my own defence, turn my fangless jaws upon my assailants with such grip as I may. But it is well, that, with such great strength, that gentleman has so little venom. I have little to boast of, either in matter or in manners. But rustic and rude as is my education, destitute as I am of the polished manners and city politeness of those gentlemen, I have a sufficiently strong native sense of decency not to answer the arguments of my opponents, by low, gross, personal abuse. I sustain propositions here which I deem beneficial to the whole State. Nor will I be driven from my course, by the gentleman from the city, or the one from the county of Philadelphia. I shall fearlessly discharge my duty, however low, ungentlemanly, indecent, personal abuse may be heaped upon me, by malignant wise men, or gilded fools.

Mr. MEREDITH said, that the House could not be surprised nor any member of it wounded by what had just fallen from the member from Adams: that member and his course were perfectly well understood every where. He (Mr. S.) had been so long in the habit of indulging in the free use of abusive epithets and low scurrility, that he could scarcely be considered blameable for throwing off the perilous stuff, the discharge of which probably relieved his own bosom, and without the possibility of injuring any one else. The member—

[Here Mr. MEREDITH was called to order by the Chairman].

Mr. STERIGERE said it was not his desire to make the record lie. Still he must consider this proposition as his own, as he had brought it forward, and advocated it on all occasions. He had listened patiently and quietly to the arguments against this proposition, but he had heard nothing which had made him in the least doubt of its justice and propriety, and he would now briefly answer some of the arguments which had been advanced in opposition to it. The gentleman from McKean (Mr. HANLIN) had advanced arguments in favor of this proposition, which had not been met, and, he believed, could not be met. Gentlemen had spoken of the feeling which existed in opposition to this amendment. If the matter was to be decided by any particular feeling it was unnecessary to address arguments to the Convention. As he had said in the first place, although the small counties may nominally have a representation, it was in effect only in name, for they had no representative in substance; because those representatives who come from two or three counties will hold to the interests of the larger counties, or the county to which they belong, and of course the interests of the other county is neglected, or at least not advanced. Every portion of the population of the State is in justice, and upon principles of policy, entitled to have at least one voice in the Legislature who understood the interests and pursuits and knew the opinions and feelings of the people in that particular section. The idea that they will be represented truly by being connected with another county, appeared to him to be perfectly fallacious; because every one knew that the representative will attend most to the interests of the county from which he came. The argument of the gentleman from Philadelphia, although Mr. S. knew he did not intend it to do so, ought to satisfy any one that the small counties should be represented on the floor of the House of Representatives. The argument that gentlemen had brought against this principle vanished, and because he had failed to show that it ought not to be adopted, it was the strongest evidence that it should be adopted. The gentleman had told you that representation should be in proportion to the taxable inhabitants of the Commonwealth. Equal representation was a matter about which we can all talk, but it is a thing which cannot be carried into practical operation unless you make every taxable inhabitant a representative. There was no other mode of having an exactly equal representation. The language of the Constitution declares, of course, that representation shall be in proportion to the taxable inhabitants of the Commonwealth, as far as practicable. The Constitution of 1776 says the same thing; but this was, after all, only the parchment of the case; and we must look to its practical operation to see how it has worked, and by that it would be seen that representation had not been according to the taxable inhabitants of the different counties. Have we not frequently seen instances of members

being given to different counties upon fractions, and he would ask, upon what principle a member can be given to one county on a fraction equal to one half of a ratio, while it is denied to a small county which amounts to two-thirds. In practice then it has never been carried out, and we cannot carry it out. The amendment now under consideration, proposes to carry it out more fully than it had heretofore been done. If gentlemen would turn to the apportionment made at the last session of the Legislature but one, they will find that in many counties they allowed a representative upon a much smaller number of taxables than some of the counties then contained which were allowed none. For instance, in the county of Bedford they have two representatives on a population of 4,712, therefore the county of Bedford has a representative for 2,356 taxable inhabitants, while the county of Tioga with taxable inhabitants to the number of 2,583 has no representative at all. Crawford and Dauphin have a representative allowed in pretty much the same way with Bedford. Can any man reconcile this matter why one county should be allowed a representative on 2,356 taxable inhabitants, and another should be denied a representative when she has 2,583 taxable inhabitants? This same remark would apply to many other counties. Butler with 4,323 taxables has but one representative, and Columbia has but one with taxable inhabitants to the number of 4,812. Then all this notion about equal representation fell to the ground. Many of the large counties having a small fraction come forward and claim a representative on that. The city of Philadelphia was allowed a representative on a fraction of 107 taxables. Now why she should be entitled to a representative on 107 taxables, and a county with 2,583 should be denied one, he could not comprehend. He took the ground that if one county in the State was entitled to a representative upon a fraction, the other counties were entitled to the same kind of rights. It might be proper here to remark, that the Constitution as it now existed, did not point out such distribution of representation as would probably be just in itself, but left the regulation of the subject to the legislature. The object of his amendment was merely to carry out the principles of the Constitution rather more equally.

The gentleman from the city had argued that inasmuch as these counties came into existence under the restriction that they had no right to have a separate representation till their numbers entitled them to it, they, therefore, ought not to have it. Besides, it was to be recollected, that they did not press for it very much. Now, it appeared to him (Mr. S.) that it was not the province of this Convention to go into an inquiry in regard to the particular restriction under which the counties now were. This was rather a delicate doctrine, and we should beware how we allowed it to influence our minds. Gentlemen had talked about shortening the terms of some officers who had received their offices under provisions, which, on this principle, would entitle them to hold them without limitation. He contended that his understanding of a republican Government was its being administered according to the wishes and will of the people. And, if any obstacle was in the way of that being effected, it should be removed, whatever might be the result. It was his opinion, then, that the counties that were already existing, or might hereafter be created, were entitled to have a separate representation. With respect to the project of the gentleman from Lycoming (Mr. FLEMING) he did not think it a good one. It propos-

ed to give each of the new counties one member, and an equal share, according to population, in the distribution of the remaining forty-six members. Now, he thought that this would be bad policy. Indeed, it was more than they asked, and more than could be granted to them, without doing injustice to other counties. He was sure that they would be perfectly satisfied with one member, to represent their county interests. They were entitled to one; but beyond that he would not go. It would be doing injustice to other counties. And, he thought that the gentleman, on looking fully into the subject, would coincide with him in the opinion he had expressed. He (Mr. S.) would be as brief as possible in what he had to say, and would conclude his remarks by adverting to a few important facts which had not been brought to the notice of the committee. He found, on looking at the last apportionment that was made, that there were 14 counties that had not a full ratio. One was deficient by 50 votes, and another by 150. Six counties had about three fourths of a ratio; two, about one half; two about one third, and two having a smaller number. Now, if these counties, with the exception of the two last, were to be dealt by in the same manner as others had been, with respect to the fraction, they would be entitled, so far as population was concerned, to as many members as the others. Under the present system, there was one injustice done, and which, unless corrected now, might be repeated hereafter. It was this: when a county had not a population sufficiently large to enable it to elect two members; or, if it possessed but a ratio and a fraction, then a small county would be tacked to it in order to give it two members—giving the larger county the power, if they chose, to elect both of the members, leaving the small county unrepresented.

He thought that it would be sound policy to give every county in the State a member, through whom they would be enabled to bring their own interests and grievances directly before the assembled wisdom of the Commonwealth, for their benefit and advice.

Mr. DICKEY, of Beaver, said that he was opposed to the principle of representation of territory. He had listened attentively to the arguments of the gentlemen from Montgomery, and Lycoming, but they had not shaken his opinion. If the principle were to be adopted, it must be based on square miles, or on the value of improved, or unimproved property. If it was by the latter, the city and county of Philadelphia would have a still larger representation than they now had. The city would have 7 representatives, and the county 11. The only fair and just principle that could be adopted, was a tax upon the inhabitants, regardless of arbitrary county lines, or divisions. An argument had been made by the gentleman from Adams, (Mr. STEVENS) particularly in favor of a community of interests. The county of M'Kean would, with only 500 taxables, in consequence of arbitrary county lines, have a representation equal to the county of Indiana, with 3,000. If there was any thing, then, in separate and distinct communities, which would authorize the giving of representatives, as was done in New Hampshire, then his friend from Montgomery (Mr. STERIGERE) should have introduced a clause protecting their interests, as separate and distinct communities, which he had not done. He (Mr. D.) was willing to protect them as communities, but not to allow them a representative. Mr. D. then read from Mr. STERIGERE's proposition, as follows: "Each county, now erected, shall have, at least, one

representative, but no county shall hereafter be erected, unless a sufficient number of taxable inhabitants shall be contained within it, to entitle them to one representative, agreeably to the ratio which shall then be established".

It would appear, then, that the gentleman from Montgomery would not erect a new county, unless it had a sufficient number of taxables, agreeably to the established ratio. The proposition was not sound. The only true ground was taxable population, without arbitrary lines. He was opposed to the amendment. Now, with regard to the apportionment of the year before last, it was well known to all, that the apportionment was according to representation, and that there would be fractions, of which the counties should have the benefit. Mr. D. concluded with giving some facts, in reference to the relative taxable population of several counties, and the fractions which would be left under the operation of the ratio as now established.

Mr. Cox, of Somerset, remarked, that if one member be given to each of the counties, as well to the city of Philadelphia, there would be 46 left to be apportioned among the new counties. It would require but a moment's glance at the proposition, to be convinced of the injustice and impropriety of its details. At the last apportionment, it appeared that there were eight of the small counties, whose aggregate number of taxables was 9,857, which would have given them three members; but, under the present proposition they would have eight, while the county of Bucks, with a population of upwards of 10,000, would, under the proposition of the gentleman from Montgomery, have but two members. Now, he could see neither fairness nor justice in this, notwithstanding the gentleman, (Mr. STERIGERE) had talked much about his amendment being based on democratic principles, owing to which, he thought it would be sure to be adopted. The county of Berks, with her 11,743 taxable inhabitants, would have three members only. So that old Berks would be made to feel the effects of the amendment, for she would lose one representative. He would venture to say, that the constituents of the gentleman from Montgomery would not approve of the alteration.

Mr. STERIGERE : (interrupted.) The gentleman misunderstands the amendment.

Mr. Cox said, he did not misunderstand the amendment. He wondered whether the citizens of Montgomery would agree to a proposition which gave them only two, instead of three members, to 9,000 taxables, while the county of M'Kean, with but 500, would be entitled to one representative. The county of Allegheny would lose one member, Berks one, Chester one, and the county which the honorable chairman, (Mr. PORTER, of Northampton) represented, would also lose one. The city of Philadelphia would lose two or three representatives. The counties of Jefferson and Potter, would be entitled to one member each. He was certain that the gentleman's proposition required merely to be examined for a moment, to induce the committee to vote it down by a large majority.

Mr. STERIGERE had but a word or two to say. He would say, that had he not known that the gentleman from Beaver (Mr. DICKEY) had been sitting behind him, wide awake, and not asleep, he certainly would have supposed that he must have been asleep.

The gentleman from Beaver had entirely misapprehended the purport

of his amendment, and he (Mr. S.) was certain that he could convince the committee that he had. The gentleman had calculated that, by subtracting 14 members from 100, the number would be reduced to 86. Now, if the committee should decide that there should be 100 members of Assembly, then, of course, there would be only 86 members to be distributed among the remaining counties, according to their taxable population. He had made a calculation on the last enumeration, and found that the ratio would not be much increased, and no county, which had been allowed a representative at the last apportionment, would lose one under the amendment, except those which were not entitled to one on a fraction under the existing Constitution. When the representatives allowed to the small counties were deducted from the whole number, and then their taxables from the number in the whole State, the remaining representatives would be divided among the other counties, according to their taxables, and which ever had the largest fractions, would get the additional members on fractions, as they at present did.

Mr. Cox replied, going into details to sustain the position he had before taken.

Mr. STERIGERE rejoined.

The question was then taken on the motion to amend, which was determined in the negative.

The committee rose, reported progress, and obtained leave to sit again, and

The Convention adjourned.

TUESDAY, JUNE 6, 1837.

Mr. MERRILL, of Union, submitted the following resolution, which was laid on the table, and ordered to be printed :

Resolved, That the fourth section of the first article ought to be amended, so as to be as follows :

Article 1. Sect. 4. Within one year after adoption of the amendments of the Constitution, by the people, and within every subsequent term of seven years, an enumeration of the taxable inhabitants shall be made, in such manner as shall be directed by law. The number of representatives shall, at the several periods of making such enumeration be fixed by the Legislature, and apportioned among the city of Philadelphia, and the several counties, according to the number of taxable inhabitants in each. *Provided That in making such apportionment, the fractions shall be estimated for each member to which any county may be entitled, in proportion to the portion which shall be necessary in assigning a representative to the least populous county, and shall never be less than eighty, nor greater than one hundred.*

Mr. EARLE, of Philadelphia, submitted the following resolution, which was laid on the table, and ordered to be printed :

Resolved, That the fourth section of the first article of the Constitution be amended, by striking out all after the word "law", in the fourth line, and inserting the following, viz :

"The number of representatives shall, at the several periods of making such enumeration, be apportioned by the Legislature, in the following manner, viz : One hundredth part of the whole taxable population of the State shall be taken as the ratio of representation. Each representative district shall be entitled to as many representatives as it shall contain number of times the representative ratio aforesaid, together with an additional representative for any surplus or fraction exceeding one half of such ratio. Not more than two counties shall be united to form a representative district, nor shall any two counties be united, unless one of them shall contain less than one half of the said ratio, in which case such county shall be united to that adjoining county, which will render the representation most equal. No county shall be divided in forming districts, except that the city of Philadelphia shall constitute a separate district".

Mr. BAYNE, of Allegheny, submitted the following resolution, which was laid on the table, and ordered to be printed :

Resolved, That the rules of this Convention be so altered, that no delegate be permitted to speak more than once to any question, either in committee of the whole or in Convention, except to explain, or on leave by the committee or Convention.

Mr. READ, of Susquehanna, submitted the following resolution, which was laid on the table, and ordered to be printed :

Resolved, That so much of the twenty-third rule, as precludes the previous question, in committee of the whole, be, and the same is hereby rescinded.

FIRST ARTICLE.

The Convention again resolved itself into committee of the whole on the first article, Mr. PORTER, of Northampton, in the chair.

The question pending being on so much of the report of the committee as relates to the fourth section,

Mr. STERIGERE, of Montgomery, moved to amend the said section, so as to read as follows :

"SECT. 4. In the year one thousand eight hundred and thirty-eight, and in every seventh year thereafter, an enumeration of the taxable inhabitants shall be made, in such manner as shall be directed by law. The number of representatives shall be one hundred, and shall, at the next session of the Legislature, after making such enumeration, be apportioned

among the city of Philadelphia, and the several counties ; at every apportionment, each county, now erected, which shall then be organized for judicial purposes, shall have, at least, one representative ; and after assigning one representative to each county, so organized, which shall then not contain the one hundredth part of the taxable inhabitants of the State, the remaining representatives shall be apportioned among the city of Philadelphia, and the other counties, according to the taxable inhabitants contained in each ; but no county shall hereafter be erected, unless a sufficient number of taxable inhabitants shall be contained within it, to entitle them to one representative. No two or more counties, entitled to a representative, shall be connected to form a district, nor shall any county, entitled to one representative, or more, be allowed an additional representative on any number of its taxable inhabitants, less than one half of the one hundredth part of all the taxable inhabitants of the Commonwealth".

Mr. DARLINGTON, of Chester, moved to amend the amendment, by striking out all after the words "hundred and", in the first line, and inserting in lieu thereof, as follows :

"Forty-two, and in every seventh year thereafter, an enumeration of the taxable inhabitants shall be made, in such manner as shall be directed by law. The number of representatives shall, at the several periods of making such enumeration, be fixed by the Legislature, and apportioned among the city of Philadelphia, and the several counties, according to the number of taxable inhabitants in each, and shall never be less than sixty, nor greater than one hundred".

Mr. DARLINGTON stated, that his object was to bring the provision back to that of the Constitution, as it at present stood. It was also in accordance with the views of the committee to whom the article was referred. The present Constitution provided, that there should be an enumeration within three years after the first meeting of the General Assembly, and it had been made septennially since that period. The last enumeration was made in 1835, and the next would take place in 1842, at which period his amendment fixed it.

Mr. M'SHERRY remarked, that it would be seen, by the character of the amendments which were offered, that the nearer we came to the Constitution, as it now existed, the better, and the opinion of the Convention seemed to be settling down to that conclusion. He was opposed to giving an additional representative to counties, because it would not be productive of a just and equal apportionment. He was in favor of this amendment. He would, while on the floor, say a word on another subject. During his remarks yesterday, the gentleman from Philadelphia, (Mr. MEREDITH) seemed to think that an attack had been made on him, personally, by some gentleman. He had complained of the attack as personal, and said it was a new rule to bring forward in this Convention complaints of attacks made in the Legislature. He agreed entirely with that gentleman, and only suggested to him that he ought to have set an example. For his own part, he had no objection to this course of debate, and to defend his own conduct, except that it would occupy too much time. One charge, however, which had been made against him (Mr. M'SHERRY) was, that in the Legislature, he had opposed Internal Improvement. The reason for his vote on the subject referred to, was, that it could not benefit his section of country ; that he feared a heavy debt would be contracted ; that they had improved his country by their own means, and that their turnpike was constructed with

their own money. He wished the Legislature should act in reference to this principle; and that all the improvements should be made at the charge of those who would be benefited by them. Where money was required to be expended, the best plan was to form a company, and if means could not be obtained by that mode, then application could be made to the State for assistance. We (said Mr. M'S.) made our own roads in the first instance, and then the State aided us. We were aided by the Philadelphia gentlemen. We differed among ourselves. A road was made from hence to Carlisle, and to Chambersburg; they had obtained aid in making this road, and we considered our section equally entitled to assistance, and both the great leading roads were made. On the subject of public improvement, he would say, that he thought there should be incorporated companies to make them, and that the State should lend its aid. We (said he) voted against the bill, on the occasion referred to, and entered our protest on the journal the next year. It was the first time he had ever been called on to make an explanation of his course, and he was sorry the gentleman from Philadelphia had called on him, especially as he had taken no part in the present controversy.—Mr. M'S. here referred to the journal of the House of Representatives of 1825 and 1826, and read from it the protest to which he had made reference.—Such were the reasons for his vote. Another word, and he would have done. His colleague and he had differed on the question. This was no more than the gentlemen from Philadelphia had done. I do not complain of them (said Mr. M'S.); they differed, and we differed. We were sent here to act on our own responsibility. We had no instructions by which to govern ourselves; any proposition made by my colleague, I was not bound to support; nor was he bound to support any made by me. I find that the representatives from Philadelphia differed on the same question on which my colleague and I differed. The gentleman was under a great error if he supposed every county had any feeling hostile to Philadelphia. The members from the city, and myself, were always on the same friendly terms, and generally voted together. There was no feeling of animosity, no pique mixed up in the matter, as the gentleman has charged.

Mr. MEREDITH explained, that in his remarks, he had intended no reference to the gentleman from Adams, or to those whom he had alluded to as having acted with him. He had only referred to the votes given, as an illustration which he had considered relevant to his argument.

Mr. M'SHERRY: Then I misunderstood the gentleman. We had always been on the best terms with Washington. We had nothing against each other.

In regard to another point. He thought the gentleman from Philadelphia had referred to a bill which came from the committee of ways and means. The report on that subject was not brought forward at the same time with the others. They had always pressed these improvements as the means of bringing coal into market. We thought that they, who were to be partly benefited, should be called on to share in the expense. An important bill, I believe, was passed with that amendment. We urged the policy of making those pay part of the cost, who were interested in the result, and advocated the necessity of such a course. It was negatived. Another bill was afterwards introduced, and passed.

He did not think the gentleman from Philadelphia should have called

on him. Philadelphia was interested in the matter, and so was Franklin county. The Chesapeake and Ohio question was always a vexed one. There were great differences of opinion, both concerning that and the national road. He had examined the subject, as he did every subject on which he had to act, and had voted as he thought right. The gentleman from Philadelphia (continued Mr. M'S.) took up the journal, and referred to the names of BENNER and BLYTHE, and I explained. When I went home, I declined a re-election. I was one who sat with BENNER, who unfortunately fell sick and died after I had left. The delegates in Adams met, and, without my knowledge, named me to succeed him. I did not know any thing about it, until the delegates returned, and told me. I was gratified at the result; and this was no proof of any disapprobation of my course. He did not blame the majority for voting the other way. He resisted the measure no further than by his votes, and he had a right to do that, in conformity with the wishes of the county of Adams. It was taking their means, as they said of the Cumberland road, when the money was taken out of the Treasury of Pennsylvania. If he had committed an error in his votes, it was that which all are liable to. He voted according to the best evidence to his judgment, and with the approval of his constituents. He was under great obligations to them, for they had confided in him for a long time. He had always acted according to the dictates of his conscience. He thanked the committee for indulging him so as to listen to this explanation.

Mr. MEREDITH regreted that any thing had fallen from him which should have led the gentleman from Adams to suppose that he intended the slightest disrespect towards him. He had read the names merely to shew the members from Adams how these gentlemen had acted. If he knew himself, if he could have imagined any thing which fell from him would have wounded the gentleman, he would have abandoned the argument altogether. With that gentleman he had sat for years, and with the strictest good feeling, and this was the first time any explanation had been necessary between them. He believed the gentleman from Adams had always voted from conscientious motives. He had seen the name of the gentleman's friend, and two other names which he did not recollect, and his object was to have his memory refreshed. For that reason, he had asked the explanation, fearing there might be a mistake in the journal.

Mr. STERIGERE said his amendment provided for an apportionment among the counties yet to be formed. If the proposition offered by the gentleman from Chester was to restore the present Constitution it was objectionable, because it distracted the counties.

Mr. BELL, of Chester, said he did not intend to address the committee at large on this subject, but he looked at the consideration of the amendment of the gentleman from Montgomery as little better than waste of time. It was based on the territorial principle, to which he objected. If he understood it, there is also a provision for an enumeration next year. An enumeration was made in 1835, and it could not be necessary to have another so soon. He would vote against the amendment for that reason. The gentleman from Montgomery represented the amendment of his colleague (Mr. DARLINGTON) as the same as the present Constitution. It was not all the same. It corrected that part of the existing Constitution which provides, that each county shall have not less than one representa-

tive, and that the new counties should be represented as soon as they had the required ratio of taxable inhabitants. Believing, that the amendment of his colleague to the amendment, meets the present condition and circumstances of the country, he should vote for it.

Mr. PURVIANCE, of Butler, expressed a hope that the amendment of the gentleman from Chester would not prevail. The article had been submitted to a committee, of whom he (Mr. P.) was one, and that committee had reported against any change. It had at first recurred to the committee that some alteration of the language might be found necessary, but after an interchange of opinions on the subject, it was determined otherwise. If the present amendment was adopted, it would vary only in form, and not in substance, merely changing the words of the Constitution as it stands.

Mr. DARLINGTON did not anticipate any discussion on this proposition. His friend from Butler would see hereafter the difficulty which would arise from retaining the present language of the article. It provides for certain things to be done in this fourth article, which cannot now be done. The amendment which he had proposed, was intended merely to adapt the section to circumstances as they now are.

Mr. FULLER, of Fayette, hoped the amendment of the gentleman from Chester would be rejected. A majority of the committee were in favor of some alterations. The plan of the gentleman from the county of Philadelphia (Mr. EARLE) appeared to him to be the best; and he hoped when this amendment should be rejected, if it should be rejected, that the gentleman from Philadelphia county would offer his amendment. The great object was, to reach some plan and system which would suit the present circumstances and wishes of the State. That of the gentleman from Philadelphia, was, in his opinion, the best yet suggested, and he hoped this amendment would not pass, and that the gentleman from Philadelphia would put his proposition in the form of an amendment, and submit it to the committee.

Mr. READ, of Susquehanna, had not particularly examined the propositions of the gentlemen from Chester and Montgomery, but he had examined that of the gentleman from Philadelphia county, which he looked upon as the best which had been offered. He had himself had a favorite project, but he had given it up; and if the gentleman from Philadelphia county would offer his proposition as an amendment, he (Mr. R.) thought, that so far as it went, it would cut up the evil by the roots. He would oppose every amendment until there had been a vote upon that. It was based solely upon population; and the only safe rule of representation was on population. He would oppose any project which linked representation to any other basis than population in the mass—the only true basis of representation.

The project of the gentleman from the county of Philadelphia, (Mr. EARLE) was founded altogether upon population, and it was fair and just in all its features, as he had already remarked. It certainly was a great improvement upon the present article, as it stood in the the Constitution. If even it had no other recommendation than that, it would be calculated to destroy the system of gerrymandering which had heretofore prevailed in the small districts—thus depriving the smaller counties of the State of a voice in the Legislature. It would be worthy the grave consideration of the committee. The proposition required only to be examined to induce

gentlemen to go for it. For his part, he should vote for it, and he trusted that it would meet the views of the committee.

Mr. DICKEY, of Beaver, remarked that the proposition of the gentleman from the county was not before the committee. He regarded it as nothing more than a plan fixing the ratio of representation under the present Constitution. If he understood the proposition, it was not very dissimilar to that offered by the gentleman from Chester, which met his (Mr. D's.) approbation. If this Convention should submit to the people, for their ratification, or rejection, an entire, engrossed, amended Constitution, the amendment of the gentleman from Chester, ought to be adopted. But, if it was not to be submitted as a whole, then it should be rejected. He would repeat, that he liked the amendment, because it gave the new counties a fair representation, according to their population.

Mr. BANKS, of Mifflin, said, that if the Constitution was to be submitted to the people, as a whole, to be passed upon by them, he would vote for the amendment of the gentleman from Chester. But he did not apprehend that that was to be the case. But, nevertheless, he was at a loss to perceive what could possibly be gained by this course of proceeding. After taking up a section and agreeing to it, then useless and unnecessary amendments were to be added to it—one piled upon the top of the other. In the remarks which had fallen from the gentleman from Butler (Mr. PURVIANCE) his (Mr. B's.) views were fully and clearly expressed. He really could not see that the amendment proposed by the gentleman from Chester, contained any new principle demanded by the people, and where no good was to be accomplished by a change, he would let well-enough alone.

Mr. READ, of Susquehanna, had supposed, that the gentleman from Mifflin, had perfectly understood the difficulty connected with submitting the Constitution to the people by distinct parts, and presumed that it would, of course, be submitted as a whole. The idea of the gentleman from Beaver, was correct, and the introduction of the amendment of the gentleman from Chester would have the effect that he had supposed. He (Mr. R.) believed, that if the committee consulted a month, they would not be able to obtain a better project than that of the gentleman from the county of Philadelphia. He admitted, that if no other amendment should be offered, the committee ought to vote for that of the gentleman from Chester. Indeed, it would be necessary to do so. But, as he believed, that a much better amendment would yet be offered, he would vote against the amendment of the gentleman from Chester.

Mr. DICKEY, of Beaver, observed, that it struck him, that the Committee had better adopt the amendment of the gentleman from Chester. It would not prevent the gentleman from the county of Philadelphia from offering his amendment as a substitute for it.

The question was taken on the adoption of the amendment of Mr. DARLINGTON, and it was decided in the negative.

Mr. EARLE, of Philadelphia county, moved to amend the fourth section of the first article of the Constitution, by striking out all after the word "law", in the fourth line, and inserting the following, viz :

"The number of representatives shall, at the several periods of making such enumeration, be apportioned by the legislature, in the following manner, viz : One hundredth part of the whole taxable population of the

State shall be taken as the ratio of representation. Each representative district shall be entitled to as many representatives as it shall contain number of times the representative ratio aforesaid, together with an additional representative for any surplus or fraction exceeding one half of such ratio. Not more than two counties shall be united to form a representative district, nor shall any two counties be united, unless one of them shall contain less than one half of the said ratio, in which case such county shall be united to that adjoining county which will render the representation most equal. No county shall be divided in forming districts, except that the city of Philadelphia shall constitute a separate district."

MR. EARLE said, he thought that the committee understood tolerably well the object of his amendment. The main object of it was to carry out the principle of representation by population—to extend an equal representation to the small counties, and to prevent the possibility of any complaint of unfairness being exercised by the legislature. It would thoroughly abolish the practice called *gerrymandering*—the splitting of districts, or the carving out districts with a view to political effect. He entertained no doubt, that every man who loved fairness, would approve of the object of the amendment. The manner in which the term *gerrymandering* originated, was this: Whilst MR. GERRY was Governor of Massachusetts, the party to which he (MR. GERRY) belonged, formed a district, out of two territorial districts—the object of which was to prevent any two counties from being united, unless they had half a ratio. The district happened to be of so singular a shape, that a drawing of it was made and published in one of the newspapers at the time, and the name of "Gerrymander" was given to it. A description of the shape of the district was published in all the newspapers, and it had the effect of turning out of power the party which made it. The only question which the Convention had to decide, was, whether the representation should be fixed by the Constitution or by the Legislature. It appeared to him, that any man who liked the principle of fairness to be observed, would be in favor of a rule, before it should be known to what number of representatives a county might be entitled, so as to have no departure from it.

MR. MERRILL, of Union, remarked, that the theory of our Government, was—although it was not fully carried out—that every member of the House of Representatives, should, as nearly as possible, represent the same number of taxables. And, the gentleman from Susquehanna, and others, had offered propositions, the object of which was to bring about that desirable result. He (MR. M.) had himself, this morning, submitted a plan, for the purpose of being printed, and which he now gave notice he should offer as an amendment, on the second reading of the article under consideration. He would prefer to have the whole State divided into one hundred districts, without regard to county lines, to having the districts unequally represented. By the disposition of the fractions, which he had proposed, the present and increasing inequality of representation would be avoided. He thought that to divide the population into one hundred, and charge the hundred with the fraction, as was proposed by the gentleman from the county of Philadelphia, was an objection. He thought his plan would operate too much in favor of the large counties. He would say nothing more on the subject at present. But, he hoped that the gentleman would suffer his amendment to lie over until it was printed,

as there was always a difficulty in understanding the exact bearing of a proposition of this sort, from merely hearing it read.

Mr. FORWARD, of Allegheny, rose to ask the gentleman from the county of Philadelphia, whether, by his proposition, the number of representatives would not, sometimes, exceed 100? Might it not happen that there would be more or less than 100?

Mr. EARLE replied, that there would be 48 representative districts. Taking half of these as having a number below, and the other half as above the ratio, the number of representatives would be about 100. But, if 25 of the districts were above the ratio, the number would be 101. It would not vary more than one or two. This would do away with the objection to the last apportionment. It was said there would be a difficulty in fixing it at precisely 100, without doing injustice to some of the counties. There was a mistake in supposing that it would operate unequally in the large counties. The intention was to give a member to every hundredth part of the taxables. The rule would operate most justly, as where some counties would lose, others would gain.

Mr. FARRELLY, of Crawford, said, that according to the terms of the amendment, he felt certain that the number of representatives would be fluctuating, and would probably exceed 100. There might be 105, or there might be less than 100. He regarded the principle of the amendment as a bad one. The true theory, in his opinion, was in the former practice, to give a representative to the largest fractions. The only difficulty was in giving a representative to a small county, which had not a full ratio. The only thing to be done, was to consider the population of a small county, if less than a ratio, as a fraction, and allow a representative for it. He apprehended that there could be no difficulty in engrafting this principle upon the Constitution. He would vote against the amendment of the gentleman from the county of Philadelphia, and for that of the gentleman from Montgomery.

Mr. SMYTH, of Centre, observed, that the mode laid down by the gentleman who had just taken his seat, met with his approbation to some extent: but still there were difficulties in it which he could not get over. The county of Centre, which he had the honor to represent, and the other counties that were entitled to one member, might have eight hundred taxables over the ratio for one member, and still not be entitled for their fraction to an additional member; while the county of Philadelphia, for example, which was now entitled to eight members, and a fraction of only two or three hundred taxables over the ratio would be entitled to an additional member. Now, this was an objection to the present system, which he wished to see obviated. He thought the amendment of the gentleman from the county of Philadelphia was better than any which had been offered. He trusted that by the time the article now before the committee came up for a second reading, the committee would be able to agree upon an amendment which would meet the views of every gentleman.

Mr. STERIGERE, of Montgomery, would call the attention of the committee to the fact—which gentlemen would find to be correct, on a due examination of the amendment proposed by the gentleman from the county of Philadelphia—that there was no distinction between it and the terms of the old Constitution, in this respect, that no provision was made to give to a small county a certain representation. If there was any distinction,

then he was at a loss to discover it. The only difference there was between the Constitution and the proposition of the gentleman, was, that the latter would give more than a hundred members.

Mr. MERRILL, of Union, observed, that it must be evident to every gentleman, that the proposition of the gentleman from the county of Philadelphia, was understood differently by different members; and he hoped that the gentleman would permit it to lie over for the present, until it was printed, in order that every gentleman might then act understandingly, in reference to it.

Mr. STERIGERE having asked for the reading of the amendment, it was read accordingly.

Mr. FORWARD, then said, that he should like to see the amendment in print, before he decided upon it. He did not like the idea of a fluctuating number of representatives. He could wish to avoid it in some way or another.

Mr. EARLE had no objection to let it lie over. He would remark, that the gentleman from Crawford (Mr. FARRELLY) had committed an error in principle, which he attributed to him (Mr. EARLE). He (Mr. E.) had supposed, that the gentleman's county had a ratio of representation, and one half in addition, therefore it came nearer to the ratio which would give two members than that which would give one, so that by limiting the number to 100, the principle would be abandoned, and injustice would be done to some of the counties. If the whole population of a county exceeds half the ratio, then it should have a separate representation. That would be the same as making every county entitled to one, because if a county had less than half the ratio, it could unite with another. No county having more than half the ratio, should be united to another county, unless that county had less than half.

Mr. FARRELLY, of Crawford: It does not follow that every county should have a representative for a fraction; but, that the principle that is to govern the Legislature, should be applied to small counties as well as large, and carried out as far as possible. How can the gentleman from the county of Philadelphia say that the plan which I have suggested, is impracticable, before he has seen the details, by which I expect to carry it out?

Mr. READ said, that this day commenced the sixth week of the session, and now, when a subject of some real importance was brought before the Convention, he trusted that it would not be abandoned until the committee had taken more pains to understand it. It was pretty generally admitted, that there was a large majority in favor of making population the basis of representation. Now, that was the only principle which was conceded to be correct. And the only difficulty was, in applying it in a way that would be equal and just. The practicable mode, in his opinion, was not that pointed out by the gentleman from Union, (Mr. MERRILL). There were strong objections which might be urged against it. What then, he would ask, was the most preferable plan of carrying out the principle to which all gave their assent? Why, it was precisely that which was now before the committee. He did not believe, as the gentleman from Montgomery did, that it was the same as was to be found in the Constitution of Pennsylvania. He could not agree in what had fallen from the gentleman from Crawford, (Mr. FARRELLY) that the true theory was in the old rule.

That old rule, in his (Mr. R's) opinion, had worked the most manifest injustice in many instances. The counties A, B, C, might have each a large fraction, and the smaller counties D, E, F, might have each a fraction; but the Legislature could, in this case, as they had done before, connect the three small counties together, for the purpose of throwing three additional members, for political effect, into the three large counties. In his opinion, there was a very material difference between the provision, as contained in the Constitution, and the proposed amendment. The latter was much better calculated than the former, to preserve inviolate the principles of republican institutions. He would ask if there was a gentleman in that committee who had not seen, at least, if he had not felt the great injustice that had been practised on a portion of their fellow citizens, by a system of gerrymandering? That was a matter perfectly well understood. Now, if this injustice, this improper conduct, and palpable violation of the spirit of our institutions, in future, would be prevented by the adoption of the amendment under consideration, was it not of the highest importance that it should receive the favorable consideration of the committee? He would not say that it was the most important amendment that had been suggested, or that the committee would have under their consideration; but, in comparison with those that had been considered, it was, at least, of as great importance. Under the present district system, many instances could be cited where great injustice had been done. At one apportionment, Bedford and Bradford had each large fractions—that of Bedford a little the largest, and there being but one left of the hundred to be distributed, the question was, which should have it? The Legislature gave it to Bedford, because, at the time, they were politically more pleased with that county than the other. We should set aside our political feelings, and adopt a rule by which justice would be done to all men, no matter what might be their political creed. There could be no question that the most manifest injustice had been done under the old rule. Here was another instance of it: The county of Lancaster, with five members, had a fraction of 300 for each member, and the county of Bradford had a fraction of 1700. But, the Legislature, for political motives, gave the floating member to Lancaster, instead of to Bradford, though the members from Lancaster condemned it as an act of injustice. Why, he asked, should we adhere to a rule open to such fraud, partiality, and injustice? He would not trust such a discretionary power with any party. We ought, then, to adopt a rule fixing the districts according to justice and equality, on the basis of population, and not allow the Legislature the power of practising gerrymandering in respect to the smaller counties, and throwing the fraction into the large counties. He would reply to the gentleman from Beaver, (Mr. DICKEY) by telling him that the Legislature had done wrong in giving the fractions in an improper manner. The county of Philadelphia had 8 members, with a fraction of 1700. The mode and manner in which the provision of the Constitution had been carried out by the Legislature, had not decided the number of members to which Philadelphia was entitled. If the Convention should make but one alteration in the Constitution, it was absolutely necessary that they should insert a provision in reference to comparing the fraction for the purpose of seeing who is entitled to have the floating member, or the half fraction, as in the case of the county of Crawford, entitled to one member. Now, this was his (Mr. READ's) project, but

it was not so good a one as that of the gentleman from the county of Philadelphia. Having now, then, an opportunity of correcting the evils under which the State had so long suffered, in regard to the representative system, and would continue to suffer, unless the Constitution should be amended, why should we not adopt an amendment, which would have the effect of ridding us of this grievance?

Mr. INGERSOLL was, he said, strongly disposed to vote for something like such a proposition as this, but he was told by some gentlemen, who had taken the pains to examine it, that it would not work well in its details. He hoped we should not act precipitately in the matter, but give it a full and deliberative consideration. Two gentlemen, on whose accuracy he could depend, had informed him, that this project would give one hundred and five members.

Mr. Cox, in reply to the gentleman from Susquehanna, (Mr. READ) remarked, that at the time to which he (Mr. R.) referred, the returns from the Columbia district, with five or six hundred taxables, had not been received. The aggregate fraction of Lancaster was nearly eighteen hundred, and being larger than that of Bradford, it was perfectly proper and consistent with usage, that it should have the additional representative.

Mr. READ had not, perhaps, he said, been sufficiently explicit in his statement. The fraction of three hundred, which he allowed to Lancaster, was obtained by dividing the fraction of fifteen hundred by the number of representatives of the county, which was five; and that, as he contended, at the time, in the Legislature, was the only correct mode of estimating the fraction. The county of Bradford, on the other hand, had a fraction of seventeen hundred with one member. He had, therefore, estimated the fraction of Lancaster at three hundred, and that of Bradford at seventeen hundred.

Mr. Cox said, the same practice was pursued in this apportionment, as in other cases. If the fraction of Lancaster was larger than that of Bradford, and he contended that it actually was, after obtaining all the returns, the Legislature were obliged to give the representative to Lancaster.

Mr. SULL remarked, that it appeared to him the proposition ought to be more fully examined, in regard to its details. If two or more counties were to be united by this plan, it would be difficult to carry it into effect. Taking Warren, Potter, and M'Kean, together, they had but two thousand six hundred and forty-eight taxable inhabitants, and would be included in one representative district, and no two counties, not contiguous to each other, could be united. He did not know whether a representative was to be allowed for the fractions, of two or more counties joined together, when they exceeded half a ratio. He thought it injudicious for the Convention to go so much into details. It should be left to the Legislature to provide for them. By the calculation of a gentleman near him, the project would give one hundred and five members, which increase of the number would, he believed, not be acceptable to the people. He should hesitate to vote for this proposition without some farther examination, and, perhaps, amendment.

Mr. EARLE remarked, that the plan was intended to apply to districts, as well as counties, and contemplated the union of two or more counties, and they would be entitled to an additional representative, if their joint population exceeded half the ratio.

Mr. CHAMBERS said, the difficulty here had always been, that the Convention, instead of forming outlines, attempted to carry out all the details of legislation for the country. It has been alleged, as a reason for interfering with this subject, that the Legislature had abused the confidence reposed in it. If such abuses, as has been alleged, existed, they would find no apology, justification, or excuse, from him. But whether they existed, or not, he did not know. The committee had been told by the gentleman from Somerset, (Mr. Cox) that the allegations were unfounded, that no injustice was done; and that the returns from one of the districts in the favorite county referred to, had been omitted. He was certainly not in favor of legislating for political effect, whatever party might control the Legislature; but here, in forming a Government for all parties, and for all time to come, we should not take up all the details of legislation, and carry them out in all their applications. We must necessarily repose a confidence in the Legislature, and leave it to them to carry out the principles which we establish. There was a difference of opinion in regard to the number of representatives which the proposition of the gentleman from Philadelphia would give us; but after the decided vote against any increase of the number of representatives, no proposition that would increase the number could prevail. Again, he said, there was a difficulty in regard to the fractions. There were not more than five or six counties with fractions of more than half a ratio. So the proposition provides only for a portion of the fractions. To allow for the largest fractions, ought to be the rule, and he hoped it had been. There might be some inconvenience in the present system; but it was not for the Convention to legislate for inconveniences. He was inclined to leave the Constitutional provision unaltered, on this subject, and leave it for the Legislature to make any necessary change of details.

Mr. DICKEY knew no better rule, he said, for the apportionment of representatives than the existing one. The plan proposed would vary the number of representatives. In the case of the Lancaster and Bradford dispute, referred to by the gentleman from Susquehanna, the additional representative was given to the largest fraction, according to the provision of the Constitution; but, the loss was made up to Bradford in the senatorial representation, a Senator having been allowed to Bradford and Susquehanna, though their taxable population was but a little over eight thousand. As he believed it was now settled, that we should have but one hundred members, he thought we could have no better rule than that of the present Constitution. We must leave the details to the wisdom and honesty of the Legislature, and though they were sometimes a little warped by party feeling, and always would be, it was, perhaps, of little consequence. If they undertook to gerrymander too much, for party effect, the result would be to injure the party that attempted it.

Mr. SERGEANT (President) said, much of the difficulty in this discussion arose from what very often occurred—from pushing a right principle farther than was proper, to a point that was not attainable, or if attainable, not desirable. The proposition before us was just in itself, but not to the extent to which it was applied. It was true, that the basis of representation was the number of people; but it was not true, that we could make this basis as perfect as it was aimed to be; and the question here arose, whether the basis which we now have, and upon which our representation

has always stood, is not better. If we looked to the history of the Commonwealth, we should find that its representation always has been, as it now is, based upon counties. The question is, whether we should alter the Constitution in this particular, because we cannot distribute the representatives among the several counties, so as to avoid fractions? He knew of but one way to avoid fractions, supposing the number of representatives to be one hundred; and that was, to divide the whole taxable population by that number, and, in that way, get a ratio. Then, as to the application of the ratio: we must either divide the whole population into one hundred districts, without regard to county lines, and elect each representative by the people of those districts, or we must take the counties and gerrymander them. These were the only two ways in which we could avoid fractions. The only perfect way of representation was by districts, without regard to county lines; but, in order to adhere to the representation of counties, without fractions, we must look through the State for a piece to fill up the vacancy, as in those ingenious puzzles which are the amusement of grown persons, as well as childhood. The only way to do it was by gerrymandering. The question then was, whether we had better have a representation, strictly, and to the letter a popular representation, or one adapted to the habits and wants of counties and cities, considered as communities? The Constitution had adopted the latter plan, and had provided that the representatives "shall be apportioned among the several counties".

So, whatever was the practical operation of this basis, no county had a right to complain that it was not represented precisely according to its numbers. He did not think there was any great objection to limiting the number of representatives from the counties in case it should be necessary in order to put the whole number within the limit deemed sufficient for a representative body.

The city and county of Philadelphia belonged to each other from the first foundation. It was agreed between them and WILLIAM PENN, first, that they should have a free popular representation, and second that each landholder in the country should have a lot in town, and each citizen of the town a portion of land in the country; thus, in the outset, linking the city and county together, by the strongest ties; and he hoped they would never be alienated. WILLIAM PENN and the framers of the Constitution of '76 and '90, were wise and practical men. JOHN LOCKE made a system of Government which, though perfect in theory, was practically bad. But the founders of our Commonwealth acted not with a view to frame a perfect system for men who were perfected, but their aim was to frame a Government adapted to the condition and the habits of the people, for whose benefit it was intended. In forming a basis of representation, they considered the counties as communities. Are they not so? Take any county, and you will find that it has a certain point to which every thing tends—a place where the people assemble, where the county records are kept, and where the people witness, or participate in, the administration of justice. Thus, the people of different counties, though adjacent, turned their faces different ways, but towards a common object. Their faces were all turned to their county town, like those of the Musselmén to the tomb of the prophet. In their choice of representatives, they always had an eye to their interests as communities, and the present system gave them the advan-

tage of knowing those whom they elected. Thus, Lancaster, a highly agricultural county, would select as a representative, some individual suitable to represent the agricultural interest. The city of Pittsburg, which was one of the busiest spots on the face of the whole country, and was already renowned for the extent of her manufactures, would select, as her representative, a distinguished advocate of manufactures. The city of Philadelphia would have a regard for the commercial interest in making choice of her representatives. Thus we would find every city and county represented with a view to its interests as a community. Now, shall we, for the sake of an ideal perfection, disturb this whole plan? Unless we abandon the representation by communities, we must either have fractions, or *gerrymander*.

The question was, whether we should leave it to the Legislature to apportion the representatives, as population may vary, or tie up their hands by the adoption of some arbitrary rule. The Legislature, hitherto, had done very well, in the discharge of this duty. They had been accused of sometimes giving advantages to their own party, but it was not in their power to do much harm by this course: for, not knowing to-day, what would be the state of parties to-morrow, they cannot tell to which party they are giving the advantage by any particular arrangement.

Mr. READ made some remarks in reply to the gentleman from Franklin, (Mr. CHAMBERS). The gentleman had contended, he said, that the subject ought to be left to the Legislature, but his argument proved too much. The present Constitution imposed restrictions on the Legislature, in relation to this very subject. If it was improper to restrict the Legislature now, according to the proposition of this amendment, was it not wrong for the Convention of 1790 to restrict the Legislature, so as to require that, "when a district is composed of two or more counties, they shall be adjoining", and that no county should be divided in forming a district?—These restrictions were adopted to prevent the abuse of the power by the Legislature, and it was not then foreseen that gerrymandering could be resorted to. If, therefore, the framers of the Constitution of 1790 were right in laying down rules for the restriction of the Legislature, was it not right for this Convention, in like manner, to provide against that change. The patronage of the State, too, being in the hands of the Executive, who is chosen by the whole people, the whole people are represented in the appointment of county officers. The county officers are, therefore, appointed on a fair population basis. But it was the object of many to alter this basis, and to elect them by counties. Now, should we alter the basis on which the county officers are chosen, to a district basis, while we seek a population basis for the choice of representatives? He did not believe the present system could be altered for the better, and it could be safely left to the Legislature to carry out its details.

The remark of the President, he said, that the cities and counties were represented as communities was true, and it went to confirm his views. Except in regard to three or four districts, the amendment was in perfect accordance with the ideas of the President, in regard to the organization of the State into separate communities. The argument of the President on this subject, was an illustration of the propriety of the amendment; for, the effect of the amendment would be to lessen the number of counties that could be joined together, in contravention of their interests and habits,

as separate communities. He admitted that the principle of a representation, upon a population basis, could not be fully carried out, while the representation by counties, was adhered to. There would always be fractions; but, this amendment rendered the present system more perfect, by giving a representation to the fractions, as far as was practicable.

Mr. CLEAVINGER said, a Government must be founded in practice, and not in theory. The community principle was established in Pennsylvania by its original founder, and was recognized in the Constitutions of 1776 1790. It was also recognized in the Constitutions of the several States, and of the United States. Whenever any new project was brought forward, he should vote against it, unless he saw its practical effect—he would take nothing upon theory. By looking at the map, it would be seen that the eleven counties, which now had no representative, could gain nothing by the amendment. They could not be joined without jumping over whole communities; so that, although the amendment seemed to be plausible in theory, it could not be carried out in practice. The question he regarded as one of great moment, and it ought to be very carefully considered, before it is acted upon. As a general rule, representation ought to be regulated by numbers, but when applied to communities, it would fail. From the foundation of the Government, up to this time, community interests were never lost sight of, and without a total disregard of those interests, and uniting together counties, not adjoining each other, the project could not be carried into effect. If we were determined to restrict the number of representatives to one hundred, though one or two more or less, could not, in his opinion, make any important difference, that would increase the difficulty of giving effect to the amendment. If we intended to preserve the present number, we could have no better rule than that which the present Constitution gave us.

Mr. EARLE could not, he said, imagine any greater absurdity than to adhere to the arbitrary number of one hundred, if that number was found to work injustice.

If gentlemen think there is something wrong in going above one hundred, how can they go below one hundred representatives. All the arguments against having a number over one hundred only went to show that you ought to adopt this amendment. In States much smaller than this they have two hundred representatives, and they do more business than we do in the same time. In the Legislature of the State having the greatest number of representatives of any other in the Union, they do more business in a day than we do in the Pennsylvania Legislature in a week. It can create no inconvenience in the Legislature, but it will promote justice. He felt surprised that the gentleman from Greene should have misconceived this amendment. That gentleman had said that you cannot put it in practice, because you could not put the small counties together as proposed. Now if that gentleman had examined it he would have found that putting it in practice would have showed the beauty of the theory. He would have found that he could have connected Pike and Wayne without any difficulty. He would have found that Tioga and Potter would necessarily unite, and it was just that they should be united. He would also have found that Warren and M'Kean would have connected; therefore, it operates in the best possible mode in which any system can operate. Now with regard to the gentleman from Franklin (Mr. DUNLOP) he

had often observed that he had brought up particular objections which never weighed with him when they lie against a proposition which he thinks is right. The gentleman was possessed of a great deal of integrity and Mr. E. did not think he would hesitate a moment in removing temptation out of the way of the members of the Legislature. We have been told that injustice has been done in the Ohio Legislature lately in apportionments, and we have all heard the charges made against our own Legislature. Then let us adopt a measure which will keep temptation out of their way. What were all these constitutional provisions for? To prevent the Legislature from doing injustice. Gentlemen object to this proposition because they say it is legislation, and that we ought not to have legislation in the Constitution. Have we not in the Bill of Rights several sections, almost every one of which is to prohibit the Legislature from doing separate things? Why don't gentlemen say the Legislature may do as it pleases? Why don't they strike out the clause which says there shall be a hundred members in the Legislature and leave it for the Legislature to determine how many there shall be? This was legislation, and he would ask gentlemen to state what idea they attach to the Constitution if it did not consist of legislation. The Constitution is the fundamental law of the land and is legislation, but it is legislation by the people and not legislation by the ordinary Legislature. Then the only question which arises is whether the Legislature had ever acted improperly, and if it has you should insert this proposition in the Constitution, but if it has not acted improperly you need not insert it in the Constitution. He believed the gentleman was in favor of inserting a clause in the Constitution providing that lotteries shall not be established, and here, although Mr. E. went with him, we were interfering with the Legislature. He supposed the gentleman from Franklin was in favor of inserting in the Constitution that no two projects should be inserted in one bill; and if so, he was here interfering with the Legislature. The gentleman from Beaver had admitted that the Legislature had, on some occasions, done wrong, and the President of the Convention had said that the Legislature of Ohio had committed an error in some matter he had heard of, but not only have we these admissions in favor of this proposition, but we have another reason which is amply sufficient to authorize us to insert this clause in the Constitution. He was anxious that the people should be satisfied with the acts of the Legislature, therefore, he would insert such clause in the Constitution as would satisfy them that the Legislature could not commit these wrongs, because if the people believed they were cheated it was almost as bad as if they had been cheated. Revolutions arise in Republics from a dissatisfaction among the people in relation to the acts of those who govern them, therefore, notwithstanding your Legislatures may give them the best laws which they could possibly have, it was necessary they should know that these laws were the best. You can now find a number of gentlemen here who say the last apportionment was an improper one, and if you go among the people you will find that many of them believe the same thing; but if you establish a uniform ratio there will never be complaints of injustice. The more you establish permanent principles, the more you abate the zeal of that party spirit which is so much complained of. When your Legislature is about to legislate upon general principles you hear nothing of party dimensions, but when you see them about to legislate on such matters as

apportionments on the old principle, that moment party spirit is aroused. Under the present Constitution several of the small counties can be connected together; but under the present amendment there can never be more than two, unless there is some necessity for it. It is a well known fact that the Legislature under the present system can unite counties together for party purposes and political effect if it is so disposed; and he considered it of the utmost importance that this thing should be prevented. The people never could be satisfied when they were in fear of being defrauded in this way, and he should consider the duty of every gentleman who desired to see the people satisfied with their Government, to go for a proposition of this kind. As, however, the question appeared to be somewhat embarrassed, he should withdraw his amendment for the present, and allow the vote to be taken on the amendment of the gentleman from Montgomery. He would then take the first opportunity of renewing this proposition. Mr. E. then withdrew his amendment.

The amendment of Mr. STERIGERE was then negatived without a division.

Mr. FARRELLY then moved to amend the fourth section by striking therefrom the words "each county shall have at least one representative", and inserting in lieu thereof the following "each county the number of whose taxable inhabitants shall be equal to or more than one half the ratio of representation, shall whenever practicable have at least one representative. Two or more adjoining counties neither of which has a number of taxables sufficient to enable it to a separate representation, shall be united and form a district and be allowed such representation as the aggregate number of their taxables may entitle them to. A county with a less number of taxables than one half the ratio of representation shall be annexed to such of the adjoining counties as the Legislature shall deem most just".

Mr. F. said according to this proposition there will be but very few counties entitled to a separate representation, and upon every principle of fairness they should be entitled to the benefit of the fractions instead of the large counties which were now entitled to them, because the fractions in the large counties should be divided among all the members elected from these counties. Certainly there could be no justice in giving a representative to a large county on a very small fraction and denying it to a small county when it had nearly a ratio. Unjust, however, as this might appear it was the system now practised upon.

The amendment was then negatived without a division.

Mr. EARLE then moved to amend the third section by striking therefrom all after the word "law", and inserting in lieu thereof the following: "The number of representatives shall at the several periods of making such enumeration, be apportioned by the Legislature in the following manner, viz: one hundredth part of the whole taxable population of the State shall be taken as the ratio of representation: each representative district shall be entitled to as many representatives as it shall contain numbers of times the representative ratio aforesaid, together with an additional representative for any surplus or fraction, exceeding one half of such ratio. Not more than two counties shall be united to form a representative district, nor shall any two counties be united, unless one of them shall contain less than one half of the said ratio, in which case said county shall be united

to that adjoining county, which, by such union, will render the representation most equal. No county shall be divided in forming districts, except that the city of Philadelphia shall form a separate district”.

The amendment was negatived—ayes 45, noes 49.

Mr. READ then moved to amend the fourth section, by striking from the first line the word “three”, and inserting in lieu thereof the word “one”, by striking therefrom, in the third and seventh line, the word “taxable”, and by striking therefrom all after the word “hundred” in the eighth line.

Mr. R. said, the first part of the amendment explained itself. Its object was to get an enumeration, as soon as possible after the adoption of the Constitution, and when it was known and admitted, how much injustice was done in the last distribution, we ought, as early as possible, to get a new enumeration. The motion to strike out taxable, if it prevailed, would leave the section to read—number of inhabitants. He believed it had generally been conceded, that we ought to base representation upon numbers alone, and that we should have a pure and unmixed population. Leaving in the Constitution the word taxable, it makes a compound basis. It carries with it the idea of a united population with property. Now, this was anti-republican, and it probably will be inconsistent with an amendment likely hereafter to be adopted in another article; that is, the taking away the tax qualification to entitle to the right of suffrage. He apprehended that, hereafter, a man would vote because he was a man, and that there would be no restriction. He did not think there would be any difficulty, when we come to the proper place of introducing this just provision in the fundamental laws, and if so, there would be a seeming inconsistency in leaving in this word taxable in the third and seventh line. With regard to the last branch of the amendment, if we adopt the principle acceded to on all hands, it is mere surplusage. It was mere surplusage, if the Constitution was submitted as a whole to the people, which, he apprehended, must be done, and it would be surplusage, even if it was submitted in separate propositions. The cause for which that clause had been inserted had passed away. It was merely temporary in its operation, and had become obsolete. It had its effect, and the lapse of time will prevent it from having any effect hereafter. In case of its being submitted to the people it may receive different constructions, and lead to ambiguity, and perhaps litigation. At any rate, it was of no use, as the amendment of the gentleman from M’Kean had been rejected, and it ought to be struck out.

Mr. BELL was opposed to a new enumeration being taken before the usual term of seven years went round. The gentleman from Susquehanna had made a motion, even to bring about the enumeration sooner than the time named in the Constitution, if the old Constitution was to take date from the time of the adoption of the amendments. He was opposed to having an enumeration made in one year, and he was even opposed to having it made in three years, and for the purpose of trying the sense of the committee on this subject, he would move to strike out of the first line the words “within three years after the first meeting of the General Assembly”, and inserting “in the year eighteen hundred and forty-two”.

Mr. PURVIANCE hoped this amendment would not prevail, as he was anxious to prevent any amendment being presented to the people, which

was not absolutely necessary. He begged leave to differ with the gentleman from Susquehanna, (Mr. READ) as to the mode in which he says the amendments must be submitted to the people. The Constitution, in his opinion, would not be presented to the people, but merely the amendments proposed by this body; and, therefore, if the amendments proposed having relation to this section, or any other, are not approved of by the people, that part of the Constitution of 1790 stands in full force. He would say, for instance, that the word three should be stricken out of this section, and one inserted by the Convention, and this was the only amendment submitted to the people. If they rejected it, would not the old provision of the Constitution of 1790 stand in full force? Certainly it would. Under the provisions of this fourth section, the census is to be taken in 1842. Now, if you insert an amendment, that it shall be taken in two years hence, and that amendment is rejected by the people, then the census would be taken under the provisions of the old Constitution, the same as if no amendment had been proposed. He hoped the amendment of the gentleman from Chester, (Mr. BELL) would not prevail, as it was useless and unnecessary.

Mr. BELL said, if the opinion of the gentleman from Butler was correct, then it was scarcely necessary to adopt the amendment; but his object in offering it was to have a decided expression of the opinion of the Convention on the subject.

Mr. FORWARD, said as some difficulty in construction might arise when the Constitution was submitted to the people, it might be proper to adopt the amendment of the gentleman from Chester, or to insert a clause explanatory of this and other sections. As difficulty might arise as to whether we were to adopt the whole Constitution anew, or merely the amendments, leaving the old Constitution in operation in those parts not amended, it might be necessary to put in an explanatory clause.

Mr. READ thought it important that it should be settled in the outset, whether we would submit the Constitution to the people as a whole or not. He thought he had shewn, on a former occasion, that in every point of view you look at it, you must submit it as a whole. To convince gentlemen who did not then hear him, he would now put a case. Suppose we amend the Constitution in the second article, in such way as to take the appointment of Prothonotaries and Clerks from the Governor, and also provide in another article, that the people shall elect the officers, and submit both these amendments to the people separately, and suppose the people reject the one and adopt the other, what will be the consequence? Why, in one article the Constitution would direct the Governor to appoint, and in another, the people to elect these officers. This result must necessarily follow, and the possibility that such would be the effect must satisfy every man that there is no other way of submitting the Constitution to the people but as a whole; you amend two sections so as to correspond with each other, and the people adopt one and reject the other, and you have an inconsistency or a blank in your Constitution. He thought it must be plain to every man that the Constitution should be submitted to the people, as a whole, to avoid being led into this dilemma.

Mr. DENNY thought the gentleman from Susquehanna was mistaken, in supposing that it was necessary to submit the whole Constitution to the people. If the gentleman will turn to the law providing for the call

of a Convention, he will find that it is only the amendments which are to be submitted to the people, and not the Constitution. He will there find the mode of voting prescribed, that the tickets shall be labeled "*amendments*", and that those favorable to amendments shall express themselves favorable thereto, by voting a ticket with the words "for the amendments", and those opposed with the words "against the amendments". Now, if we submit to the people a whole Constitution and they only vote on the amendments, then we submit a great deal more than they vote upon, and go beyond what the law directs. The section then goes on to say that if the Convention deem it most expedient, it may submit the amendments distinct and separate, but says nothing about submitting the Constitution to the people. No such idea prevailed here, and it never was contemplated either by the people or the Legislature, that the whole Constitution should be submitted to the people. If we make no amendments to the Constitution there will be nothing to submit to the people; but the Constitution of 1790 will remain precisely as it now is. No one could suppose that the Constitution would be submitted to the people if there were no amendments made to it; and if there were amendments made, the law did not provide for submitting the Constitution to the people.

Mr. PURVIANCE could not look upon this matter in any other light, than that those parts of the Constitution which remain unaltered, should stand as the Constitution of 1790. He apprehended that the gentleman from Susquehanna, (Mr. READ) and he said it with great deference to his better judgment—was laboring under a mistaken impression as to the manner in which the results of our labors are to be disposed of. Suppose a single amendment was made to the Constitution. That he took it would be submitted to the people, and if they accepted it, the old Constitution would remain in full force except in that single alteration. As to the manner in which these amendments were to be submitted to the people, he did not know what mode would be deemed best. That was a question for future determination; at least so far as to determine whether we will submit them as a whole, or in separate propositions. But it seemed the Legislature had fixed upon a system of submitting this question to the people, if their act is to be considered as binding on this body. They had said that the vote was to be taken for or against *amendments*. Submitting the Constitution to the people, did not then seem to be contemplated. Now suppose there were several amendments made with reference to a distinct article of the Constitution of 1790, and they were voted upon as a whole, and the people received them. Did that interfere with any other part of the Constitution, than that to which it had reference? Certainly not. Then who would suppose that the remaining portions of that Constitution should be submitted to the people? It appeared to be self evident to him that we were only to submit amendments to the Constitution, and not the Constitution to the people.

Mr. WOODWARD said it was necessary for us to determine on a manner of submitting such amendments as we might make to the people, but it did not seem to him, that the time had arrived for doing this, and he could not perceive the applicability of this question to the fourth section, which was now under consideration. With regard to the powers of the Convention, it seemed to him there would not be, when the question came fairly to be acted upon, any great diversity of opinion. In reference to

the expediency of making many amendments, there might be a variety of opinions. But if he had a right idea of the matter, we stood here for the purpose of proposing amendments to the Constitution, and of submitting those amendments—and not the old Constitution—to the people. Then it was the form of submitting those amendments to the people, which is to be settled hereafter, and he did not see the difficulty in this matter, which seemed to be anticipated by the gentleman from Susquehanna. The argument of the gentleman implies a want of intelligence in the people; because nothing else than a want of intelligence would lead them to adopt one amendment, and reject another, that were not susceptible of being separated. The people of the country are not so wanting in intelligence; they were capable of discerning between the two cases, and when amendments are submitted to them which are inseparable, they will adopt the whole, or reject the whole. The gentleman had entirely mistaken the intelligence of the people of the country. He apprehended they were entirely competent, either to decide on the amendments which might be submitted to them in detail, or in gross; and whether he (Mr. W.) should be disposed to submit them in gross, or in detail, would depend on a variety of circumstances, of which he could not now judge. Very much would depend upon the character of the amendments to be submitted to the people. If any portion should be of a nature which he would consider objectionable to the people, he would be in favor of dividing them, so that they might have the opportunity of adopting those acceptable, and rejecting those objectionable to them. He repeated, that he considered this whole discussion upon the expediency of adopting a mode of submitting the amendments to the people, as entirely out of place; and it was only with a view of keeping gentlemen to the question before the Chair, and to prevent what he feared might lead to a protracted discussion, which would consume much time, which was now becoming very precious, that he had risen. He should now say no more upon this subject, as he considered it entirely irrelevant, but would leave it to be discussed when the proper time should arrive.

Mr. READ said he had as much respect for the intelligence of the people as any gentleman, but if you amend the Constitution in the second article, by taking away from the Executive the appointment of the county officers, and also amend the sixth article, by making them elective, the difficulty might arise which he had before alluded to, because no one could say how a part of the State would vote, the people of Susquehanna county could not tell how the people of Northampton would vote, nor could the people of Beaver, tell how the people of Philadelphia would vote. Different local feelings would affect the vote in the different counties; and without any want of intelligence on the part of the people, they might reject the amendment to the second article, and affirm the amendment to the sixth article; and then you would be placed in the ridiculous predicament of having the officers directed to be appointed by the Governor in one article, and directed to be elected by the people in another. It seemed to him, then, to be evident, that you cannot settle the phraseology of the article now before us, until you have made up your minds whether they will be submitted to the people separate, or as a whole. This seemed to him, to be a preliminary matter to be settled upon, and until it was settled upon, we cannot vote understandingly on this question. If

this amendment to strike out three and insert one, should be rejected by the people, he would ask whether this clause would relate to the third meeting of the General Assembly after the year 1790? No, certainly it would not; because this Constitution was to be engrossed and signed by the members, and presented as a whole, and for that very reason this word three, if it should stand, would not have reference to 1790, but to the third meeting of the Legislature, after this Constitution should be signed, engrossed, and adopted by the people.

Mr. WOODWARD said the gentleman had expressed an opinion, which convinced him his amendment was not proper; that is, that we cannot make up our minds how to vote upon it, until we ascertain how the amendments were to be submitted to the people. This being the case, he should vote against the amendment.

Mr. AGNEW, of Beaver, said the whole difficulty was, whether we should submit the Constitution as amended, in whole, or in parts, to the decision of the people. The argument of the gentleman from Susquehanna was good, if the amended Constitution was to be submitted in parts, because, people living in different parts of the State, might be gratified by propositions which might appear to be contradictory. If the Constitution were submitted *en masse*, they would have either to accept, or reject the whole, and the whole might in that case, be endangered by a single provision; but, if in parts, a part could be rejected without injury to the rest. It was the duty of the Convention no doubt, to propose to the people such amendments as they might deem necessary, if they considered any to be necessary. They were assembled here for what? Not, as he thought, to propose a new Constitution to the people, but to provide such amendments as were suitable to the contingencies which had arisen. The act of the Legislature prescribes that we may submit the amendments, in whole, or in distinct propositions. He was in favor of submitting them *en masse*, and therefore would desire to see the whole of the amendments in accordance with each other. In reference to the present question, he was disposed to keep the Constitution as it now exists.

Mr. SERGEANT, (President:) The gentleman from Susquehanna thinks it necessary, that we should send out the Constitution, when amended, as a whole. I think this not so clear a mode for the people to determine by, as to send the amendments separately. It was a process most easy, to send out the amendments, to know if they would be accepted. All the alterations might be submitted, with a reference to show where they were intended to be inserted. Gentlemen need not doubt, that the intelligence of the people would be sufficient to enable them to understand what the Convention had done, and if any blunder had been made by this body, they would be much more likely to correct it, than to fall into it themselves. The idea of the gentleman from Luzerne, appeared to him to be the right one, as to the mode of proceeding. If that of the gentleman from Susquehanna were adopted, it would be to put an end to the old Constitution and provide a new one, and it would then become necessary to call a new Convention, and then came the question, how should we make that enumeration? You would cut off the yellow button, and put a blue one in its place; but the people might say, don't cut off the yellow button, till we have determined to have it changed. Or, you would cut a piece out of the coat, and put in a new piece; while the people might say,

don't put in the new piece, until we have decided to have it put there. The only question now, it seemed, was whether hereafter the amendments should be submitted to the people in gross? As to a new Constitution, that was not at all necessary. It did not appear to be so convenient. All that part of the Constitution not amended, would remain in full force; it would not be touched, but would continue its quiet operation. Suppose no alterations were made in this clause, there would be an enumeration in 1842. It will go out as an amended Constitution, viz: the Constitution amended to satisfy the words of the act of the Legislature, unless the whole structure should be changed, so as not to have any portion of it the same.

Mr. READ said he wished to see if the results were likely to be such as he anticipated. The people, for example, in two counties, agree by mutual consent to cut off this button, but one would have the button, and one would have the hole. If the people reject the whole, there would be no difficulty. But, if they agree to adopt a part, and reject a part, we might happen to have a button and a button hole on the same spot.

Mr. DENNY said the gentleman from Susquehanna had fallen into an error. He spoke of the incongruity which might appear in the Constitution, if the people were to vote for two inconsistent propositions. The Constitution itself provided a remedy against that.

The committee rose, reported progress, and obtained leave to sit again, and

The Convention adjourned.

WEDNESDAY, JUNE 7, 1837.

Mr. FOULKROD, of Philadelphia, presented a memorial from citizens of that county, on the subject of banks and the currency, in favor of a constitutional restriction upon them, which was laid on the table:

Mr. EARLE, of Philadelphia, submitted the following resolution:

Resolved, That the rules of this Convention be so changed, that the provision reported by the committee to establish a mode, by which future amendments to the Constitution may be made at the desire, and by the act of the people, shall be the first order of business every day after the reading and consideration of the journal, until the same shall be finally disposed of; so that the action of the Convention thereon, may be submitted to the people the ensuing general election.

Mr. EARLE said, he believed that the people fully expected that the amended Constitution would be submitted to them at the October elections, but as he saw there was no chance of its being so submitted in full, he was anxious that the Convention should get through a part, and after adopting the most important amendments desired by the people, submit them for ratification or rejection.

The resolution was then laid on the table, and ordered to be printed.

Mr. READ, of Susquehanna, moved that the following resolution, submitted by him yesterday, be taken up for consideration.

Resolved, That so much of the 23d rule as forbids the previous question in committee of the whole, be, and is hereby rescinded.

The motion having been agreed to, and the question pending being on the second reading of the resolution,

Mr. READ said, that he would not take up the time of the Convention. The experience we have had of the difficulty of making progress in the committee of the whole, and the extensive license of debate which has been given by the Chair, prove the absolute necessity for some change.— Unless there can be a change made, by putting it in the power of twenty members to prevent the majority from thus consuming time, he saw no prospect of a termination of our labors for months to come.

Mr. DARLINGTON, of Chester, moved to amend the resolution by inserting a provision, to operate in committee of the whole, as the 10th rule operated in the House, viz :—“ no delegate shall speak more than twice to the same question”.

Mr. READ accepted the amendment as a modification of his resolution.

Mr. DICKEY, of Beaver : Are members to be allowed to speak at all, or only twice, as is allowed in the House ?

Mr. DARLINGTON : They are to be allowed to speak twice, as in the House.

Mr. READ : Twice, without leave ; twenty times, with leave.

Mr. DICKEY said he was, perhaps, as anxious to make progress with the business of the Convention as any one could be, but he would not consent to any regulation to abridge the right of debate in committee of the whole. It frequently became necessary for gentlemen to say a few words in reply, or in explanation, after they had delivered their opinions once or twice. In a body, assembled for the important purpose of revising the fundamental law of the State, he would strenuously oppose the introduction of the gag law, and would now ask for the yeas and nays, to see who it was that would thus vote to stifle debate.

Mr. BELL, of Chester, said, it might be necessary to place some restriction on debate, however delightful the discussion might be, when it should be found to interfere with the progress of business. The discussion, perhaps, is interesting—the topics are important, but if you allow two speeches to be drawn from each member, it ought to be sufficient. Could it be considered more important that there should be more speaking in committee of the whole, where there was no final action on the subject, than in the House, where the discussion is limited in the manner now proposed to be limited in committee of the whole ? It was limited in the House to two speeches only without leave. He did not see how it could be termed gagging, when any member was allowed to make two speeches.— There was a disposition frequently to get rid of a subject, which was often thwarted by the interference of this *cacoethes loquendi*. This was the sixth week of the sitting of the Convention, and if they were to go on as they had begun, where, he would ask, would they be likely to end ? Are not the people asking themselves—“ what can these servants of ours be about” ? He had been called upon, seriously, by a gentleman this morning, to move that the Convention adjourn *sine die*, after making provision in reference to future amendments. It was a question of mere determination, whether we would do something or nothing. If we were disposed to do something, we should vote for this resolution ; if nothing, we should vote against it. The idea seems to be prevalent, that after preparing the most important amendments, we should submit them to the peo-

ple, adjourn for a season, and give the people time to reflect on what had been done. There were many gentlemen who would not be permitted, by their avocations of taste or business, to remain here after the middle of July. Could any thing satisfactory be effected by siting here until the first or second of August? Did any one expect we should be siting here all the summer? Certainly not. And unless some remedy shall be provided, we should go home just as we came, and present ourselves to the ridicule and derision of our constituents.

Mr. DICKEY considered that the committee of the whole was the place for full discussion. The very purpose of free and full discussion was the object of going into committee of the whole. If we were to preclude gentlemen from speaking more than twice, we must preclude much valuable information. In the House, it is well known that half the time is taken up in the discussion of resolutions like this. Let gentlemen turn to the journal, and look at the numerous propositions submitted, which are, professedly, to accelerate the business of the Convention, but which always retard it by the discussion they provoke. All the work of the Convention is prepared in the committee of the whole. Many propositions are made here, which will not be received on the second reading, because they are sustained only by a few, and the authors of them have become satisfied that they cannot be carried. The business is nearly completed when it had passed through committee of the whole. He hoped gentlemen would be satisfied to let the discussions go on through committee of the whole, and they could not have much trouble on the second reading. This was the only case in which he had known an attempt made to gag members in committee of the whole. He knew of no case where it had been before attempted.

Mr. COX, of Somerset, moved to postpone the further consideration of the resolution for the present.

Mr. MEREDITH expressed his regret, that any thing should have occurred in this body to induce the gentlemen to introduce this proposition. One of the greatest safeguards of the freedom of debate was, the practice that allowed every gentleman to give his views. But he had risen in consequence of another resolution. We had been now siting here a month.—We came here for the purpose of considering what alterations could be beneficially made in the Constitution. On comparing ideas, we found that there were very few who had agreed, beforehand, in any particular alterations in any particular article of the Constitution. Time had not been lost; if questions of vital importance had not been discussed, an opportunity had been afforded to gentlemen of exchanging their views.—Every one had his own peculiar views and opinions. Almost all agreed that there should be some alterations in particular articles, but they could not agree upon any precise proposition. On one point, however, all seemed to have agreed; at least, he had heard no dissent—that whatever other changes were made, a provision should be introduced for future amendments, so as to guard, hereafter, against sudden changes, and to prevent the necessity for meetings of this kind, for the recurrence of these peaceful resolutions. In general, there is a diminution of public confidence in the institutions before the meeting of such a body, and it will continue now until the people shall have acted on the amendments.—Suppose we now go to the article relative to future amendments, and strike

on the most convenient mode in relation to them, and come to a proposition to take the general sense of the people, and to provide the mode in which that should be done. Need we go any further? We had not yet gone further than the first article. It would be impossible to complete the work now; and where could the Convention go to complete its labors? To meet here in the fall would be to interfere with the Legislature, and to sit during the summer, would be disadvantageous to the agricultural interest. Were they to adjourn over until the next spring, what guarantee could they have that they would meet under better auspices? Let us (said Mr. M.) do what we ought to do, which we may do in a day, or certainly, in a week, by adopting a proposition to make future amendments; and, having introduced into the Constitution a provision, that the people may make such alterations as they may see fit—leave it to them to finish the work, if we find we are not likely to agree.

Mr. STERIGERE asked if the motion to postpone indefinitely would not be a privileged motion?

Mr. Cox said he would modify his motion, so as to make it an indefinite postponement.

Mr. STERIGERE said the resolution did not strike at the real evil, which was not talking too much, but talking about things which were not before the Convention. If the resolution looked to that, or the Chair would lay down a more strict rule of proceeding, it would have a great tendency to correct the practice, and expedite the business of the Convention. If gentlemen were restricted from speaking more than twice, the only effect would be to induce them to speak at three times the usual length, each time they spoke. Colloquial debate which this resolution went to exclude, was the most profitable kind of debate. He disapproved of the idea of going away after adopting a provision for future amendments. This course would not satisfy public opinion; when there were so many propositions of amendment, it would take fifty years to act upon them in that mode.—It would not do to introduce such a provision, and then to adjourn and go home, and on this ground he would oppose it. He would rather leave it to the good sense, or bad sense, or nonsense of members, giving them full and free latitude of discussion. The evil could not be prevented by the mode which was now proposed, and therefore, he would vote for its indefinite postponement.

Mr. BROWN, of Philadelphia, said for his part, he did not feel himself coming within the censure contained in the motion of the gentleman from Susquehanna. He had not, he said, brought before the Convention any proposition that had detained it five minutes, nor had he spoken frequently or long; and he was willing to forego any desire he might have to speak on any proposition he might make, or that might be made by others. He was willing to give a silent vote, if the Convention so determined; and, under any circumstances, two speeches would be found enough for any gentleman to deliver his views on any question. He did not regard the decision of this proposition of much importance, only so far as it might expedite their proceedings at the present time, and bring them to the consideration of those amendments which the *people* required. The great waste of time, thus far, had been caused by the introduction of subjects for the first time heard here, and which the people have never thought of. If they could, by any process, get clear of these, or decide upon them with-

out debate, they would soon be able to get to and through the amendments that ought to, and no doubt would be made. Mr. B. said he could not suffer the opinions expressed by the gentleman from the city (Mr. MEREDITH) to go unnoticed. That gentleman said no amendments could be agreed upon: he (Mr. B.) begged leave to differ with him.

He asserted that the people had already decided on certain amendments, and that a majority of the Convention would sanction those amendments whenever we could reach them. But we could not reach them, because we were perpetually troubled with questions about which the people feel no interest—with propositions like those of his colleague, which that gentleman himself never dreamt of before he came here. Would the gentleman from Philadelphia say, that the people had not decided that the patronage should be taken from the Executive? Every one knew that the voice of the people was most emphatic on that point. Every one knew that the people demanded that the appointment of officers should be taken from the Governor, and given to themselves, or placed where a greater responsibility could be exerted. Had not the people decided in favor of a change in the tenure of the judiciary, of taking into their own hands the election of Justices of the Peace, and on that subject the committee on the judiciary had reported in conformity with the wishes of the people, of extending the right of suffrage, of abridging the Senatorial term, and of restricting the Legislature on the subject of acts of incorporation. He was himself willing to give up speaking. The people ask for certain amendments, and they, who were in favor of reform, were all ready to go to the vote upon them. He desired that they might be permitted to go on with these colloquial discussions, and he hoped there would be no more long speeches made, and new questions raised to explain what could never be explained. Into such useless discussions he had no desire to go. He desired only to see the amendments adopted which had been asked for by the people. Radical as he was called, he asked nothing more than this. He was as anxious as any member of the Convention to get home—he was as much opposed as any member to the consumption of time on unimportant questions, and regreted that so much had already been wasted in unprofitable debate; but he would never consent to abandon his post until he had faithfully performed the duties his constituents had required of him—he would die in that Hall before he would go back to them without having performed this duty.

Mr. PORTER, of Northampton, interposed a question whether this was in order?

The PRESIDENT stated that the argument of the gentleman from Philadelphia might be tending to the question. It was in order.

Mr. BROWN resumed, and alleged that it was clear that every attempt would be made by those who are opposed to reform, to harass and perplex the deliberations of the committee. They desired to do nothing, and would be glad to weary out the Convention until it should adjourn. He called on the friends of reform to urge on the business for which they were sent here, not to permit themselves to despair of gaining their object, but by a steady and a faithful perseverance in the line of duty, to merit the approbation of the people. What, he asked, would be the effect of adopting the proposition of his colleague? It would throw the whole community into a state of agitation, from one end of the State to the other. The legis-

lative Hall would be turned into an arena for political gladiatorship. The whole subject of the judiciary, the patronage of the Executive and all the other exciting propositions, which we have had under discussion here, would be thrown into the legislative Hall. Here we are; and, much as his business required his presence elsewhere, here he was willing to stay to the end of time, not to talk, but to do every thing in his power to accomplish the great ends and purposes for which they were all sent here. The only way to do this, was to vote down all wild propositions which no one expected to see adopted, and take up the amendments which the people designed to have made, and engraft them on the Constitution, thus far he was conservative. He was willing to take the resolution of the gentleman from Susquehanna. Every gentleman would then be able to deliver the ideas which he had brought with him, and would have the opportunity to reply once; and if any thing should occur to him afterwards as important to be said, he could communicate his thoughts to any other gentleman.

Mr. CLARKE, of Indiana, hoped the motion for indefinite postponement would prevail. He was sorry to see that the gentleman from Susquehanna had accepted the modification of the gentleman from Chester. In its original shape, he would have voted for the resolution giving the power in the committee of the whole to call the previous question, because it never would have been called until the patience of the committee was entirely exhausted, and they had seen members speaking merely for the sake of speaking. But he could not agree that members should be confined to speaking twice in committee of the whole. Why did the Convention go into committee of the whole? Why are not the amendments read twice in the House? Where was the use of a Chairman? Was it not according to the order which always prevailed in deliberative bodies, to give every one an opportunity of full and free discussion? Many gentlemen delivered all they intended to say in one speech. The few ideas they have are valuable, and are all delivered at once; but then they may be called on to reply to others. He never troubled the committee with three speeches on a question, and seldom with one speech. Gentlemen, however, whose genius was prolific, gathered as they went along. He lamented as much as any gentleman, that there should be so much speaking, and there was some of a character which it gave him pain to hear. What was the use of speaking? It was partly to enlighten the understanding of the public, and partly to shew why and wherefore amendments were adopted or rejected. The true reason why we did not make more progress was, that we were trying to amend the Constitution by attending to the language of it as we go along. If we were to agree on the principles first, we should get along much faster. No deliberative body can ever get along, if its time is devoted to criticising the language, wasting time upon every word.

Mr. READ: I withdraw the resolution.

The resolution was therefore withdrawn.

Mr. DENNY, of Allegheny, said, as many gentlemen wished to know the feeling of the Convention on the subject of adjournment, he would move to take up the resolution, offered some time since by the gentleman from the county of Philadelphia, (Mr. INGERSOLL).

The resolution was then read, as follows:

Resolved, That the Convention will adjourn on Saturday, the 24th of June next, to meet again at this place, on Monday, the 16th of October, ensuing; and that a special

committee be appointed to publish in newspapers in every city and county throughout the State, all such amendments of the Constitution, as shall be agreed upon by this Convention at the time of its said adjournment.

Mr. DENNY stated that his object in calling up the resolution, was to gratify a number of gentlemen as well as himself, by ascertaining whether it was the pleasure of the Convention to fix a day for adjournment. It was important to those who had agricultural interests to attend to, to know on what day they would be able to get home, and whether before the harvest or not. If a day were to be fixed, it ought to be with that view. He was not, himself, prepared to fix a day.

Mr. STEVENS, of Adams, moved to postpone the further consideration of the resolution until Monday next. By that time the Convention would be able better to determine what business was likely to be got through. If they agreed to take up the resolution of the gentleman from Philadelphia, (Mr. EARLE) and to pass it, they would then be in a better situation to fix a day. It was now time to determine whether the Convention would finish its work or not; and by Monday, it might be known.

Mr. INGERSOLL, of Philadelphia, wished merely to make a suggestion to the good sense of the Convention. The proposition of his colleague, (Mr. EARLE) ought to be considered as out of the question. Many of us, (said Mr. I.) could not adjourn under these circumstances. He would submit, whether, in a day or two, a committee might not be raised? Take, for instance, the nine chairmen of the several standing committees, or any other nine members, by ballot or otherwise, and let that committee report to this body what business can be acted upon. All gentlemen who have had experience in legislative bodies knew very well that there is a certain period of mere debate, after which comes the period of more action. We have nearly got through the debating state, and are ready to go to the ayes and noes; what remains of debate will be colloquial, short, and uninfluential. There were few men of sagacity, to say nothing about constituents, who are not now ready to vote, yet not a vote had been taken. There was not a single topic, to be submitted to the people hereafter, on which, so far as he knew, the sense of the majority had yet been ascertained. As to adjournment on any particular day, he was not very anxious about it. He had thrown out his ideas, whether such a committee as he had suggested, might not be appointed. He was willing to take any number—nine, five, three—or in any way—the chairmen of the committees, or a committee appointed by the Chair—to see what business could be acted on. The committee could, in a very short time, make a report, and then the Convention could methodize the business, and place things in a prosperous train.

Mr. FORWARD knew there were many gentlemen who wished to be made acquainted with the time at which it was probable the Convention would adjourn, as there were many whose business required their attention at home. Was there any gentleman who could doubt that the business of the Convention, if they remained to complete it, would consume two months? He thought not. If then there be none who doubt it, were there any gentlemen who were willing to sit here through the months of July and August? If they were not willing to say this, might they not as well now say when they would adjourn, at any other time?

If the time of adjournment and also of reassembling was fixed, we might then act upon some of the business which ought to be acted upon, and leave the less important business untouched.

The subject in relation to the Executive department, he believed was considered to be of more importance by the people generally, than any other, and if taken up, he was confident might be disposed of in one week. He believed a large portion of the body were disposed to act on this article; and to act on it speedily, without much debate or loss of time. Then, if we took up the subject of the Judiciary, a few days would test the sense of the body with respect to the main matters in relation to that department. If then, these two subjects were taken up, he had but little doubt that they might be disposed of in two weeks; at least, the minds of members in relation to them could be ascertained by that time. He thought the subject of Executive patronage and of Justices of the Peace, had agitated the minds of the people more than any other; and if the Convention determined on these questions, and the Judiciary question, before it adjourned, the people would be satisfied with the labor we had performed in the time. He therefore, hoped, a day might be fixed for the adjournment of the Convention.

Mr. STERIGERE suggested that the consideration of the subject be postponed to this day week.

Mr. STEVENS modified his motion according to this suggestion.

Mr. BIDDLE was in favor of the motion for postponement, and he was in favor of it, because, he thought, as well the time of adjournment as all other matters connected with it in a great degree, depended upon the manner in which the resolution of the gentleman from Philadelphia county (Mr. EARLE) in relation to future amendments of the Constitution, was disposed of. Mr. B. liked that resolution much, because it seems to let in upon us a ray of light, which affords a prospect of a speedy and satisfactory termination of our labors. We have been told, that we have not resolved upon one amendment to submit to the people, and that we have been sent here to act. That has been our misfortune, but it has arisen from the fact, that every gentleman seems to think that he reflects the opinion of the people, and that every project of his own, is the express will of the people. Now, he believed there was no individual on this floor, who had offered an amendment which he believed to be unimportant, and he believed there was none who had offered an amendment which, he did not believe to be in accordance with the will of the people, but he was not disposed to permit any gentleman to raise himself above all the rest, and to proclaim that he was the exponent of the people's voice. He was for putting every member on a perfect equality. He was far from supposing that we were all ready to vote on all the important subjects to be submitted to us, many of the most important of which had not yet even been reached, but had only been incidentally glanced at. He held his mind on all these great questions, open to conviction by argument; and the field of debate so far from being trodden, has scarcely been entered upon. But, what effect will the proposition of the gentleman from Philadelphia county have? Will it cut off all amendments? Far from it. It will only determine that the Constitution shall be open to amendment by the people themselves, in such manner as they in their wisdom may direct. It was therefore, now proposed, that the people themselves should have placed

within their reach, not one, two, or three amendments, but just as many as they think proper to make to the fundamental article of Government. Was it to be said, that this would occupy so great a space of time, that it would not be in the power of future Legislatures to perform their ordinary duties, and decide on the amendments which may be desired by the people? Why, we have had this objection answered by what has fallen from the lips of every gentleman who was a reformer. Have they not told us that the amendments desired, were few and simple, and that the people did not desire many alterations in the Constitution? If their views were correct, then there was no difficulty in the way. Give the people the means of proposing amendments to the Constitution, and then they can alter and amend it in such manner as they see proper hereafter. Was there an individual now present, who believed this Convention ever would have been convened if the people had had a power of this kind in their hands? Then he would submit the Constitution to the people, with this provision for their making amendments to it, and say to them—take it into your own hands; do as you will with it; modify it according to your own will and pleasure. Much had been said about an expenditure of time, and an expenditure of money, in wandering over a vast number of schemes which the people never dreamed of having inserted in the Constitution, then why not at once, place the whole matter in their hands, and leave it under their entire control and management? He should vote for this resolution, and if it should be adopted, we could then fix upon a convenient and early day for adjourning.

Mr. PORTER, of Northampton, should vote in favor of a postponement of this resolution, because he thought we should be better able to judge on Monday, as to the day on which it would be most proper to adjourn. He did not believe the people of Pennsylvania would be satisfied if the Convention should adjourn without having done something. We talk, and talk, and talk, and perhaps spend time unnecessarily; and he believed, gentlemen were wasting their strength on immaterial matters, so that when we come to portions of the Constitution of more importance, they would not be able to take the field against those conservative gentlemen, who wish to send the Constitution back to the people as it is. Indeed, he doubted not, but the conservatives were highly gratified at the course which gentlemen were pursuing. For his own part, he was a little like the man in the Almanac—they pointed at him from all parts of the House. The ultra radicals, he could not agree with; and the ultra conservatives and him could not agree. He believed, some amendments ought to be made, and he did not believe the people would be satisfied, unless some were made. The subjects of importance had not yet been reached, and he hoped an effort would be made to reach some of them before we fix a day of adjournment. The subject of the Judiciary was one of those which the people had looked to with great anxiety, and when we reached that, he thought we could act upon it understandingly without wandering off into one of those rambling debates, which we have been witness of here so frequently. The people expect something of us, and we cannot expect they will consider that we have faithfully executed the trust committed to us, if we do not pass upon some of the important features of the Constitution. He hoped an effort would be made to do something, and when the result of that should be known, it would be time enough to fix upon a day for adjournment.

Mr. WOODWARD moved to postpone the consideration of the resolution indefinitely. As at present advised, he was opposed to the resolution fixing a day of adjournment, because he was in favor of proceeding to the execution of the duty for which we have been sent here; and he was surprised to find gentlemen who had expressed themselves so favorable to preserving this "matchless instrument" in its present form, so anxious to give it back to the people with power to make what amendments they please; thereby admitting that amendments are necessary. He could not resist the conviction that there was a disposition in some parts of the House to fight off constitutional reform and prevent the majority of the Convention from carrying out the views of the people in giving them an amended Constitution. It has been said, and very justly said, that the people expect certain amendments to be made to the Constitution; but it is also said by the conservatives that we do not understand what those amendments are. Now he believed the people had decided that it was expedient that this aristocratic principle of life office, should be eradicated from the Constitution. He believed if any one question was settled by the people this was the one. For what have the people called this Convention? Have they gathered us together for the purpose of talking a few weeks, and because we cannot agree on some incidental matters, we are to adjourn and go home, and leave the Constitution in its present shape and call that reform? No, sir—they called us to make those amendments which are clearly indicated; and when he was asked what those amendments were, he would reply, the one he had just mentioned was one of them. He had no doubt when we do come to that amendment the majority of the Convention will be ready to vote for it without a single speech. He was perfectly satisfied that that party in the Convention denominated radical, and a large proportion of that party denominated conservatives, would join in support of the proposition he had just referred to and adopt it without a single speech or a single argument on the subject. Then where was the difficulty of adopting this one amendment? Shall we then adopt the proposition of the gentleman from Philadelphia (Mr. EARLE) in lieu of all other amendments which the people have sent us here to make? The effect of this proposition would be to send the Constitution to the people with power to refer it to the Legislature to make every amendment which we have been sent here to make, and to enter into a discussion of every matter we have been sent here to discuss and decide. Were we going to prove thus recreant to our duty? He for one was not disposed to do so. He would stay here to carry out the views of the people, while he had health and life, in an honest, conscientious discharge of his duty. Gentlemen need not flatter themselves that the people will be satisfied with having the old Constitution sent back to them. The people have decided that this Constitution shall be amended in certain specified particulars, and we will prove recreant to our duty and false to our masters, if we refuse to carry these amendments into effect. What then are we doing? We take up matters in their order, and a discussion arises, and some gentleman introduces some novel topic—such, for example, as that forty thousand voters did not vote for the call of this Convention, and were consequently opposed to Constitutional reform, and that, therefore, we are setting here in violation of the public will—another gentleman contends that the powers of the Convention are derived from certain acts of the Legislature, and that

our sphere of action is limited—other gentlemen contend for other theories, and yesterday we had the subject discussed as to what was the most proper form for submitting to the people the amendments we have made. Well, what amendments have we made? The only one he knew of was to change the day of election, from the second to the third Tuesday in October. Now he would submit it to the understanding of gentlemen, whether we should not meet this question without further delay or equivocation. We were sent here to reform and alter the Constitution—but as he had said on a former occasion those alterations were few in number and simple in character. Would it not then redound more to our own credit to approach this subject than thus to dissipate our time, impair our health, and exhaust our energies on subjects which had no connexion with the matters we were sent here to deliberate upon. As to adjourning now to meet again, with what surprise would the people receive the news that the Convention, after having discussed for six weeks all the wild theories of government, should adjourn over to meet again and do the same thing. He was disposed to make such amendments as he understood the public will demanded; and if there were any gentlemen who had not read the signs of the times as he had, he left them to decide for themselves; but he had only to say that he was not at a loss as to what was his duty. He believed all that was wanting was simply the making of such fundamental changes as were found necessary by the experience of the people. After we do that we can give the people the means of amending the Constitution hereafter; and then we can go home and face our constituents and lay down the commissions with which they have entrusted us, with the full conviction that we have honestly and faithfully discharged the duties entrusted to us by the people of this great Commonwealth.

Mr. FORWARD said there were two ways of treating a proposition; one was by making it what it was not, and what no one ever believed it to be, and another way was by treating it as it was. There was no proposition before the Convention to adjourn immediately. That was not the question. But some of those who desire this resolution to be considered now were anxious to know whether it was the pleasure of the Convention to sit here till we finish our labors; or whether we will take a recess. The proposition was not to adjourn immediately; it was not to go home and do nothing and return to the people the Constitution as it stands; but it was convenient for some of us to know soon whether the Convention intended to complete the work we have been sent to perform, or adjourn over to meet again. He was not in favor of separating without doing any thing; and he would never agree to go home without adopting other amendments than the one submitted by the gentleman from Philadelphia, providing a mode of making future amendments to the Constitution. He would never shrink from any proposition which would come up before us; but he wanted to know whether the Convention would adjourn or not. Was it to be doubted that the months of July and August might prove fatal to the healths of many gentlemen? Was it not talked of every day? Are the minds of gentlemen made up on this subject? If so, can they not as well determine the question to-day as at any other time. All he wanted to know was, whether we were to sit here two or three months longer, or take a recess. If it is decided that we are not to sit here longer than the first or the middle of July, we will go to work in earnest, and take up the

prominent subjects and act upon them before that time. He repeated that he was not in favor of going home to the people without having acted on the prominent parts of the Constitution, but he wanted to know whether we were to adjourn or set here through the season, when we may expect it will not be healthy. Every one who has any knowledge of this place must know that the months of July and August will impair the healths of those gentlemen who are not accustomed to it.

Mr. CHAMBERS was not prepared to vote now on fixing a day for the adjournment of the body, nor did he think from the progress which had been made in business that the Convention was prepared to fix that day. It was true, much of our time has been occupied with mere preliminary matters; that, however, is generally the case in all deliberative bodies. The time for action comes after subjects have been generally discussed. The fixing the day of adjournment will have the effect to confine the attention of the Convention to subjects conceived to be of interest; and for this reason he would be in favor of fixing a day of adjournment some time before that adjournment was to be had, but he did not consider that we were now prepared to determine on that day. It has been objected by the gentleman from Luzerne (Mr. WOODWARD) that there has been a consumption of time on one side of the House in raising questions which were entirely foreign to the pending question. That there has been a waste of time in discussion which had no relevancy to the question cannot be denied, but it is not for that gentleman or any other to fix it upon any one side of the House. There was time consumed in the discussions in relation to the powers of the Convention; and in the evidences of the will of the people in relation to amendments to the Constitution furnished by the vote given on the call of the Convention; but these were subjects which were of interest, and they, at one time or other, would have received the attention of the Convention: and upon these subjects gentlemen on the other side of the House indulged as freely and consumed as much time, if not more than the gentlemen belonging to the conservative party, or party with whom he acted. This charge, was, therefore, not to be brought against any one side of the House.

Mr. WOODWARD had not intended to charge on any side of the House unnecessary speaking.

Mr. CHAMBERS was pleased to hear that he had misunderstood the gentleman, for he had a high respect for him on account of the course he had always pursued here. He agreed with the gentleman that the Convention should not adjourn without acting on some of the great and leading subjects to which our attention has been invited not only by the public sentiment of the Commonwealth, but by the reports of committees of this body—not, however, that he agreed that we have any such decisive public sentiment as to urge us on to action without deliberation, or that we are prepared to act on those great questions without discussion. Shall it be said when we approach those grave subjects, the subject of the judiciary and the subject of executive patronage that they are to be disposed of by silent votes? To this he could never agree. They were subjects to be approached with circumspection; they were subjects to be considered with deliberation, and they were subjects calling for discussion. Whatever may be the indication of public sentiment in one section of the country with respect to the official tenure, it was not an indication of the people of Penn-

sylvania which was any rule or guide for us. Whatever indications the gentleman from Luzerne may have, those indications were unknown in the district from which he (Mr. C.) came; nor had he any evidence from the people that they required the tenure of office to be changed. That, however, was not now a question for discussion and he refrained from going further into it. He, however, agreed with the gentleman, that it would not do for us to adjourn by submitting to the people a mere proposition for future amendments of the Constitution. We have before us a proposition from one of our committees, as to what shall be the mode of hereafter amending the Constitution of our State. This was a provision to be adopted before we finish our labors, but he took it that it was to be the last of our labors; it was to be the finishing work; and it was not for us now, when we had only entered upon the threshold, to say to them we have assembled here to revise the Constitution, and without doing more than adopting some one or two amendments which they have never thought of, adjourn and submit to the people a mode of amending the Constitution and leaving them to provide for amending the instrument themselves. To act upon this at least until the Convention has considered and passed upon the prominent topics and subjects for our consideration would be premature.

If this motion to postpone prevails, believing that it would facilitate our business to have our attention confined to prominent topics he would introduce a resolution that a committee be raised immediately to report to the Convention the order in which business should be considered; and, also, to consider the expediency of fixing a day for the adjournment of the Convention.

Mr. EARLE had expressed his sentiments on this subject, in a resolution in the early part of the session of the Convention, the object of which was to hold morning and afternoon sessions until the amendments to the Constitution be finished, and that they should be referred to the people for ratification on the first Tuesday of September next. He had come here with a determination to oppose any adjournment until we should have finished the work we were sent here to perform; and he should submit a resolution for the purpose of providing some mode whereby business might be expedited, were it not that he knew there was a feeling in the body opposed to the introduction of other resolutions. He agreed with the gentleman from Franklin, that a mode might be adopted which would enable us to conclude our labors, and adjourn early in July; and he would beg leave to suggest a mode which would obviate all difficulty. There were certain great principles before the Convention to be acted upon, some of which apply to a number of articles and sections in the Constitution. Then, instead of spending our time on details, let us take up these principles, and discuss and determine upon them, and then send them to a committee to carry them out and embody them in the Constitution. The first principle was the tenure of office. Now, how easy would it be to determine upon the principle we would adopt in relation to the tenure of office in one resolution, in two or three days, and then despatch it to a committee to carry that principle out in the various parts of the Constitution.—Then the next question was the mode of appointment, and in that as in the other there is a great principle involved, and the whole question in relation to this matter could be disposed of in a single resolution, and sent to

a committee to carry out, as in the case before mentioned. Then after these two things should be completed, almost all we came here to do would be finished. He would act first on the subject of future amendments to the Constitution, because he was convinced that that subject was of more importance than all the others, and ought to be first taken up to ensure its adoption. The object of his resolution this morning was to take that up first, but he could not see how gentlemen had come to the conclusion that if we took it up we would do nothing else. He believed it was very desirable that this subject should be acted upon, but after we get through with it then he would remain until we had finished all the other amendments which any gentleman might desire to bring forward. It certainly had not entered his mind that we should adopt that alone and then adjourn; but let us adopt that first, and then take up and adopt the others. His colleague (Mr. BROWN) had said that he (Mr. E.) had consumed much time in making motions which were not called for by the people. Now he did not think his colleague was so well able to judge of what was desired by his constituents as (Mr. E.) was himself, because during the past summer when the subject was principally agitated, that gentleman was away from home. Another gentleman had said that he consumed time in making speeches, but upon reference to the Daily Chronicle, it was found the gentleman had made nearly two speeches to his one. It was true his colleague had not introduced many motions, but all the newspapers refer to him, as one of the most radical members of the Convention, and therefore it did not become the gentleman to take him to task for introducing radical propositions. He had offered but two propositions to amend the Constitution on which any vote had been taken, and those were both such as were called for by the people, as he had since been informed by communications from some of his constituents. He was in favor of the motion to postpone, because he thought we should get through our business before we adjourned.

Mr. BROWN, of Philadelphia, said his colleague's allusion to him, was not warranted by any thing he had said. He never charged him with making improper motions. He had only said, that it came with bad grace for that gentleman to say that he despaired of getting amendments adopted, when he had introduced his proposition providing a mode of making future amendments to the Constitution by the people. As to what the gentleman had said about his (Mr. B.) not knowing what the people desired, he had only to say to him, that he was here by the voice of his constituents; and as to whether he was radical, or not, he would say that he was for radical reform; but he would appeal to the gentleman to say whether he had offered any wild schemes for the consideration of the Convention. He considered it a good plan, when any gentleman introduced any of these projects, to let him give his views, and then vote it down. He knew this would have a salutary effect. Then, when we came to substantial and useful amendments, let them be discussed, and decided upon, understandingly. This was the course he should be in favor of pursuing; but he would never agree that we shall adjourn, and refer to the Legislature, or any other tribunal, the consideration of the subjects which have been imposed upon us as a special duty; and he hoped no friend of reform here would shrink from the performance of that duty. He would remain here, through whatever season we might have, to act upon the

business entrusted to us; nay, he would die in this Hall, before he would agree to go back to the people, without having performed his duty. He would remain here and act upon those amendments which the people required, and he would not consent that his duty should be imposed upon any other body. As to the time which had been consumed, he knew much of it had been consumed unnecessarily; but other Conventions have occupied a longer time than in all probability we will occupy. In Virginia, where they met for the purpose of considering and determining upon a single subject—the ratio of representation—they continued their session for four months; and the people of Virginia never complained that they had wasted time unnecessarily. We have questions of infinitely greater importance to determine on, and the people of Pennsylvania will never complain of our occupying two, three, or four months' time, in the performance of this duty. He hoped, however restless gentlemen might be, that they would overlook self, and cast their eyes abroad upon the people who had called them to the performance of this duty, and to whom they stood pledged to perform it. If we cannot get rid of talking, let us wait until the talking is all finished, and then act. For one, he would talk if it was required, or he would let it alone if it was required; if necessary, he would let his "communication be yea, yea! and nay, nay"! but on all questions which the people required to be acted upon, he wished to give that "yea, yea", or "nay, nay".

Mr. DENNY said, that when he made the motion to call up the resolution to-day, he entertained no other idea than that the sense of the Convention would have been expressed without much discussion, as to whether they should take a recess or not. The main object he had in view, was to gratify himself and friends, who were interested in ascertaining that fact; because, if they were not going to take a recess, then they could make their arrangements accordingly. He was, to some extent, a reformer, but he was not one of those who thought every alteration was reform. Some gentlemen imagined that they had come here to tear the Constitution into a thousand fragments, and call their alterations reform! He (Mr. D.) did not feel himself bound, as the gentleman from Philadelphia felt that he was, to make certain alterations, at all events, whether he thought them necessary, or not. Alterations might be no amendments, and alterations no reform. There were gentlemen on that floor who were opposed to reform—whose object was to waste time in order to prevent it, and who were constantly appealing to gentlemen in favor of reform to resist it. They said that some of the alterations would be dangerous, and would not be beneficial reform. Instead of remedying that which might be defective, it might be rendered still more defective. Now, he thought that would be the case. That democratic instrument—the Constitution, under which the people of this State had lived and prospered for nearly half a century—was now called *aristocratic*. It had been called an act of usurpation, and consequently, we had been living all this time under a system of usurpation, and our Governors, the SNYDER's and FINDLEY's, and M'KEAN's, were all usurpers. Now, he thought it only proper that the people should be given to understand, that that which they have been accustomed to regard with a degree of pride and satisfaction—that Constitution which they have considered democratic, is now aristocratic! The people were too sensible of the benefits and blessings which the Constitution had con-

ferred upon them, to be able to comprehend language of this sort. Every week we heard some declamation of this kind against the Constitution of Pennsylvania. He had been surprised at it, and particularly at the confidence manifested by many gentlemen, that the people require such and such amendments. Among them, was his friend from Luzerne, (Mr. WOODWARD) whom he (Mr. D.) was surprised to hear speak with such confidence, of the decisions of the people in reference to reform. Now, he must beg leave to differ from that gentleman and others, as to the people having given us any definite instructions as to what we should do. He was willing to sit here through the dog days, if necessary, and hear partially and discuss fully, and dispose of, finally, every proposition that should be brought before us, without adjournment, or recess. We could not deliberate hastily, and with advantage. The making of amendments to the Constitution was a work of no trifling importance, for it was to be recollected, that that instrument was to affect a million and a half of people, and perhaps millions yet unborn. He would put it to gentlemen, then, to say whether a work of such a grave and important character should be hastily and imperfectly done? The people did not require that we should act, without full reflection and deliberation. And, when we should have acted, it would become our duty to submit the result of our labors to the people for their sanction or rejection. He would repeat, that he was willing to remain here, and listen patiently to gentlemen who might be desirous of expressing their sentiments on the subjects before the Convention. If it was the pleasure of the body to adjourn to meet again, he would acquiesce in it, though he was disposed to sit here until all the amendments should have been gone through with, when they could adjourn *sine die*. However, if a temporary adjournment was to take place, it should be made with a view to the convenience of a large number of the delegates.

Mr. PORTER, of Northampton: Believing, sir, that this question has been discussed long enough, if I can get a sufficient number of gentlemen to join me, I will call for the previous question.

The following gentlemen sustained the call for the previous question: MESSRS. PORTER, of Northampton, OVERFIELD, DILLINGER, HAYHURST, CRAIN, CHAMBERS, CUMMIN, SHELLITO, SMYTH, KREBS, RITER, NEVIN, SWETLAND, FLEMING, SERRILL, HENDERSON, of Dauphin, CRAIG, DARRAH, LYONS, INGERSOLL, BUTLER, and DUNLOP.

The question being, shall the "main question" be now put?

Mr. CUMMIN asked for the yeas and nays thereon, and the question having been taken, it was determined in the affirmative:

YEAS—MESSRS. Agnew, Ayres, Baldwin, Banks, Barclay, Barmdollar, Barnitz, Bayne Bell, Bigelow, Bonham, Butler, Carey, Chambers, Chandler, of Chester, Chauncey, Clapp, Clarke, of Beaver, Clark, of Dauphin, Clarke, of Indiana, Cleavinger, Cline, Coates, Cochran, Cope, Cox, Craig, Crain, Crawford, Crum, Cummin, Darlington, Darrah, Dickey, Dickerson, Dillinger, Donagan, Donnell, Dunlop, Earle, Farrelly, Fleming, Fry, Fuller, Gamble, Gearhart, Gilmore, Grenell, Hamlin, Harris, Hastings, Hayhurst, Henderson, of Allegheny, Henderson, of Dauphin, Hiester, High, Hopkinson, Houbt, Hyde, Jenks, Keim, Kennedy, Kerr, Krebs, Long, Lyons, Macley, Magee, Mann, McCall, McDowell, M'Sherry, Miller, Montgomery, Myers, Nevin, Overfield, Penny-packer, Pollock, Porter, of Lancaster, Porter, of Northampton, Purviance, Read, Riter, Ritter, Rogers, Royer, Russell, Saeger, Sellers, Seltzer, Serrill, Shellito, Sill, Smith, Smyth, Snively, Sterigere, Stickel, Swetland, Taggart, Todd, Weaver, White, Woodward, Young—106.

YAYS—Messrs. Biddle, Brown, of Philadelphia, Cunningham, Denny, Doran, Forward, Foulkrod, Ingersoll, Meredith, Merrill, Scott, Stevens, Weidman, *Sergeant, President*.—14.

Mr. WOODWARD, of Luzerne, moved the indefinite postponement of the resolution, and asked for the yeas and nays. And the question having been taken, it was decided in the affirmative :

YEAS—Messrs. Agnew, Ayres, Banks, Barndollar, Barnitz, Bayne, Bonham, Brown, of Philadelphia, Butler, Chambers, Clarke, of Beaver, Clark, of Dauphin, Clarke, of Indiana, Cochran, Cox, Crain, Cummin, Darrah, Denny, Dickey, Dickerson, Dillinger, Donagan, Donnell, Earle, Farrelly, Fleming, Fuller, Gamble, Gearhart, Gilmore, Grenell, Hastings, Hayhurst, Henderson, of Allegheny, Henderson, of Dauphin, Hioster, High, Hyde, Keim, Kennedy, Kerr, MacLay, Magee, McDowell, Montgomery, Myers, Nevin, Overfield, Porter, of Northampton, Read, Riter, Ritter, Rogers, Sager, Shellito Sill, Smith, Smyth, Sterigere, Stevens, Stickel, Sweetland, Taggart, Todd, White, Woodward, Young.—68.

NAYS—Messrs. Baldwin, Barclay, Bell, Biddle, Bigelow, Carey, Chandler, of Chester, Chauncey, Clapp, Cleavinger, Cline, Coates, Cope, Craig, Crawford, Crum, Cunningham, Darlington, Doran, Dunlop, Forward, Foulkrod, Fry, Hamlin, Harris, Hopkinson, Hought, Ingersoll, Jenks, Krebs, Long, Lyons, Mann, M'Call, M'Sherry, Meredith, Merrill, Miller, Pennypacker, Pollock, Porter, of Lancaster, Purviance, Royer, Russell, Scott, Sellers, Seltzer, Serrill, Snively, Weaver, Weidman, *Sergeant, President*.—52.

Mr. CHAMBERS introduced the following resolution, and asked its consideration :

Resolved, That it be referred to a committee of nine, to consider and report the order in which the business of the Convention shall be considered, and the appointment of days for that purpose, as well as to consider the expediency of fixing a day for the adjournment of the Convention.

Mr. STERIGERE asked for a division of the question on considering the resolution. Ayes, 55—noes, not counted.

So the resolution was taken up for consideration.

Mr. CUMMIN, of Juniata, thought the introduction of the resolution entirely out of order. He regarded it as useless and unnecessary to act upon the resolution, as it was calculated to produce discussion, delay, and derangement of the business of the Convention. The standing committees had all reported on the several subjects before them, and those reports were now before this committee, and would keep it employed for a long time to come. He would repeat, that the resolution ought not to be adopted. Not one report had, as yet, been acted upon, to the satisfaction of the members of the committee generally. Let us, then, give the resolution the go-by, and proceed to dispose of the business which we were sent here to do. He hoped that there would be no absentees, but that every delegate would be at his post.

Mr. SHELLITO, of Crawford, said that his opinion was, that the appointment of a committee would have a tendency to despatch the business earlier than it would otherwise be done. Indeed, he thought a committee necessary, for the purpose of bringing the subjects before the Convention in their proper order. He hoped, therefore, that a committee would be appointed.

Mr. McDOWELL said, that as their aged friends (Mr. CUMMIN and Mr. SHELLITO) had divided in opinion as to the appointment of a committee, the Convention would seem to be in rather a hopeless condition, not knowing what course to pursue. He had really not expected to hear of any difference from that quarter. He was happy to agree with one of

the gentlemen, whom he felt happy to hear express himself as he did, and to whom he listened attentively, as he always did to aged men, whose experience he much regarded. He was unable to perceive the object of raising a committee. The Convention had already wasted nearly two weeks in discussing the question whether the business should be brought before it by the reports of the standing committees, or whether they should go into committee of the whole, pell-mell—as his friend behind him had said—and discuss the various amendments of different individuals. Well, after debating the question that length of time, it was finally decided, that to go into committee of the whole, was the only legitimate course that could be adopted. It was a fact, that more time had been spent in discussing how business should be conducted, than in deciding a question. And now, after all that had been said, here was a resolution introduced by the gentleman from Franklin, (Mr. CHAMBERS) the object of which was, if he understood it correctly, to annul and undo that which had been decided, in order that the Convention should begin *de novo*—commence its labors again. It was discovered this morning, for the first time, that the standing committees had not reported in such a way as to be intelligible to us; in short, that every thing was wrong, and therefore, it was necessary that we should recommence our work. And, now, it was proposed to appoint another committee for the purpose of informing us what subjects we should discuss. He believed that the proper and legitimate business, and as in its present shape, was that now before the Convention. Sooner, or later, the Convention must discuss every article and every section in the Constitution, though at a snail's pace, to be sure. Now, he wanted to know, supposing a committee to be appointed, whether the report they would make, would be that no argument should be offered on any other subject than the one which might happen to be under consideration? He really could not understand the object of appointing such a committee; and he was of the opinion that the Convention had better proceed in its labors as it was now doing. He thought that the consequence of deviating from its course would be to produce confusion. We were now in the middle of an article, and it was therefore better to proceed with the discussion and come to a decision upon it. He saw no good and sufficient reason why the Convention should not proceed in the plain, straight-forward manner it had been doing, and take up article by article, section by section, and not persist in this child's play. He believed, with his venerable friend, that we were now entirely out of order. The appointment of a committee would assuredly produce delay and confusion; he would, therefore, vote against the resolution.

Mr. CHAMBERS, of Franklin, said, that according to the remarks of the gentleman from Bucks, (Mr. McDOWELL) what this body was about to do, was child's play. Now, that was a matter of which the Convention itself could judge. Whether the arguments of the gentleman were those of a child, it was not for him (Mr. C.) to say. He was mistaken in what he supposed to be the object of the resolution. The object of it was not to reverse what had been done by the Convention. It was not proposed to repeal, or rescind anything that had been done. The only purpose he had in view in calling for the appointment of a committee, was to bring before the Convention, for its consideration, the order of business, as

reported by the standing committees. Now, it appeared to be the prevailing opinion of the Convention, as indicated to-day, that as there were certain highly important subjects to which its attention was especially invited, and which had not yet received the deliberate consideration of it, and inasmuch as the body would adjourn in two or three weeks, it was desirable that they should be brought up for discussion before that period. His object, then, in offering the resolution, was to get a committee appointed in order to facilitate business, and bring forward, as early as possible, the more prominent subjects for the action of the Convention. What, under the rules, he would ask, had been the order of business? Why reports, according to the order in which they were reported—not the articles of the Constitution, in their numerical order, unless the regular course of business was departed from by suspending the rule for the purpose. The Convention was at present occupied with the report of the committee on the first article, and the next was report No. 6, and which was in relation to the Public Debt. Now would it not be extraordinary that we should go into a discussion of this subject, when we were about to adjourn, and yet leave the questions of the Judiciary and Executive Patronage, untouched? The reasons that had induced him to offer the resolution, were, that a committee might take his proposition into consideration, report upon it, and leave their suggestions for the Convention to decide upon. His own opinion was, that if the body chose to proceed in the manner which he had pointed out, the more important subjects would be considered immediately, and disposed of before the adjournment.

Mr. BELL, of Chester, entertained the opinion that the consequence of appointing a committee would be to retard rather than to further the progress of business. In reference to the mode and manner in which the business should be taken up and discussed, the Convention had been favored with a variety of opinions. The committee had been told with much truth, by the gentleman from Bucks, (Mr. McDOWELL) that more time had been spent by the Convention in discussing and deciding upon the mode in which they should take up the business, than had been expended in deciding a question. And, was not that the fact? It certainly was. Having, however, at last, adopted a proper and regular mode of proceeding, and made some progress in our business, it was now proposed to alter the order of proceeding. He (Mr. B.) should have thought that the most regular and natural course of proceeding was to take up the second article after the first, and so on. The object, he understood, which the gentleman from Franklin (Mr. CHAMBERS) had in view, was to have the more important subjects disposed of forthwith, instead of taking them up in their order. Now, he (Mr. BELL) would ask, was there any thing of more importance—any thing in which we all took a greater interest, or expressed a stronger desire to have a discussion and decision upon than that of the Executive power, united as it was with an enormous patronage? Well, in the second article of the Constitution, the Executive Power is to be found. He thought that the committee, after they should have discussed all the amendments proposed to that article, could adjourn for the season. He regarded the appointment of a committee as altogether unnecessary, and calculated only to introduce confusion and difficulty into the Convention. He would conclude his remarks by expressing his hope that the resolution would be voted down.

Mr. FULLER said, he voted for the consideration of the resolution, but his opinion was that, if the committee was appointed, the same debate would be elicited and the same time taken in deciding what business we shall proceed to consider. In order to try the sense of the Convention, a motion should be made to take up some important subject. He moved an amendment to the resolution, providing that this Convention shall proceed to consider the second article of the Constitution.

Mr. DICKEY moved to postpone the further consideration of the resolution and amendment, for the purpose of resuming the consideration of the first article.

Mr. INGERSOLL submitted to the gentleman from Fayette, whether it would not be better to substitute the fifth article, that being the most debateable and difficult question. In regard to the second article there was little dispute.

Mr. FULLER wished, he said, to take an article up of more importance, and he accepted the modification suggested by the gentleman from Philadelphia.

Mr. DICKEY said, if gentlemen would forbear proposing such resolutions as these, there would be some prospect of making progress in our business. If it was so difficult to get at a simple proposition on the first article, how much more difficulty should we have when we encountered the fifth or second article. He did not think the proposition was likely to facilitate the business of the Convention.

Mr. CHAMBERS had offered the resolution, he said, with a view to facilitate the business of the Convention, and it was the only resolution he had offered for the last four weeks. If it was adopted, we could go on with the first article, until the committee reported.

The motion to postpone the further consideration of the resolution for the present, was agreed to.

FIRST ARTICLE.

The Convention again resolved itself into a committee of the whole, Mr. PORTER, of Northampton, in the Chair, and resumed the consideration of the report of the committee on the first article of the Constitution.

The motion being on the motion of Mr. READ, to amend the fourth section by striking out the word "*three*", and inserting "*one*", so that an enumeration shall take place within one year; and by striking out the word "*taxable*", wherever it occurs, so that the apportionment of representatives shall be on the number of *inhabitants*, and not on the number of "*taxable inhabitants*", and to strike out at the end of the section, the following: "each county shall have at least one representative, but no county hereafter erected, shall be entitled to a separate representative, until a sufficient number of taxable inhabitants, shall be contained within it to entitle them to one representative, agreeable to the ratio which shall then be established".

A division of the question was called for by Mr. STERIGERE.

The question being first taken on the motion to strike out *three* and insert *one*, it was decided in the negative.

The question being next on striking out the word "*taxable*" wherever it occurs,

Mr. PURVIANCE moved to postpone the further consideration of this article for the present, for the purpose of taking up the fifth article. He

considered this a most important question, and he wished time to give it some reflection. He called on his western friends especially to go with him in postponing this question.

The Chair said the motion was not in order, but the gentleman could move that the committee rise.

Mr. PURVIANCE accordingly moved that the committee rise, and the motion was negatived.

Mr. MERRILL said there was a difficulty as to the phraseology of the amendment. If the gentleman would bring forward a distinct proposition for the purpose of deciding a principle, and leave the form to be settled afterwards, we could understand it and know how to vote. But if we went on amending word by word, we must be constantly at a loss to see the bearing of the amendments on the other parts of the Constitution. Eventually a committee must be appointed to adopt a proper phraseology for the amended Constitution, and the best way for us to proceed was, therefore, by deciding principles. To try the sense of the committee on this question, he wished the gentleman would modify his motion so as to move that population shall be the basis of representation.

The second amendment, striking out the word "taxable", was negatived.

The question being on the third amendment, to strike out the last sentence of the fourth section,

Mr. BELL said, if the amended Constitution was to be submitted to the people, as a whole, some alteration should be made in the phraseology of this section. If it was adopted as a whole, a difficulty would arise in regard to the construction of the last clause of the fourth section, which provided that "*each county* shall have, at least, one representative". According to this, every county in the State, great or small, would be entitled to a representation. We were told that, according to the act of Assembly, we were only to submit amendments, and submit them separately; but, the sixth section of the act requires that the "Constitution as amended, shall be engrossed and signed by the officers and members of the Convention, and delivered to the Secretary of the Commonwealth, by whom, and under whose direction, it shall be entered on record in his office, and be printed as soon as practicable", in the newspapers. Thus, we were to make amendments to the Constitution, and, instead of offering them separately, and distinctly, we were required to engross the Constitution as amended, to sign it, and deliver it for record and publication, and for submission to the people. It was to be adopted and dated here—"done at Harrisburg, this day of August", &c. It was to be submitted, according to this provision of the act, in an engrossed form, as an entire Constitution, for the adoption or rejection of the people. Now, do you intend to provide that "*each county* shall have, at least, one representative". You say no, we have referred to it; but, if you engross the Constitution, with this provision in it, you will say yea. There was then at least a doubt in regard to the construction of this provision, and he asked whether it was proper to suffer it to remain in doubt. What objection was there to striking out what we have said shall not be a part and parcel of this Constitution? At a proper time, he should renew the proposition he had made yesterday to provide for an enumeration in 1840, in order that we might then have a fair representation. He thought it necessary

to amend this section, so as to remove all doubt and difficulty as to its construction.

Mr. WOODWARD said the argument of the gentleman in support of his views, as to the submission of the Constitution as a whole, was not well founded. The first act of Assembly of 1835, provides for calling a Convention of delegates, to be elected by the people, with authority to submit amendments of the State Constitution to a vote of the people, for their ratification or rejection, and with no other or greater power whatsoever. This act conferred no power on the Convention. The power was to come directly from the people, and the only limitation of their power which was imposed by the people, in conformity with the provisions of the act, was in requiring the amendments which the Convention should adopt, to be submitted to them for ratification or rejection. This limitation was imposed, not by the act of the Legislature, but by the people. The act of 1837 in no way impaired the powers of the Convention. It provides the means for carrying the public will into effect, by directing the time, and mode of electing the members of the Convention, the place of its meeting, and the manner of its organization. It provides that the President shall, in case of the death or resignation of any of the members, issue writs for an election to supply the vacancy; that, after organizing, they may adjourn to any other place and proceed to the execution of the duties assigned them; and, that, "when the amendments shall have been agreed upon by the Convention, the Constitution as amended, shall be engrossed and signed by the officers and members thereof, and delivered to the Secretary of the Commonwealth, by whom, and under whose direction, it shall be entered on record in his office, and be printed as soon as practicable" in the newspapers, until the day which shall be fixed upon for the adoption or rejection of the amendments submitted. In all this, there is not (said Mr. WOODWARD) one syllable prescribing the manner in which the amendments shall be submitted. The Legislature too well understood their duty, to say how the amendments should be submitted. It was left for the Convention to submit the amendments in any form they might think the most convenient and proper. He found nothing in either of the acts which went to limit or restrict the power of the Convention; and if it had contained any such restrictions, he had no hesitation in saying that they would have been void and of no effect. We were a body of extraordinary powers, emanating directly from the people, and deriving our power from the will of the people, our powers could not be limited by the Legislature, and he did not believe that the Legislature of Pennsylvania had not thus misconceived and misapplied their powers. If no mode, then, was provided for the submission of our amendments, we could submit them as we pleased, in detail or in mass; and, as to the people not being able to understand the effect of the amendments, if submitted separately, he apprehended no difficulty from that. If we left this section as it was, would the consequences be such as were contemplated by the gentleman from Chester? Not at all. It would remain a section of the original Constitution on which the people could not pass, because no amendment had been made to it, and none submitted for the ratification or rejection of the people. The original Constitution would then remain unaltered in regard to this provision, and no new construction would be placed upon it. The provisions of the sixth section of the act

of 1835, related entirely to our mode of organization and the manner in which the amendments adopted by us should be authenticated and promulgated to the people. There was nothing in it which provided the form in which they should be submitted. We were under no obligation then, to submit the Constitution as an entire instrument. After we had gone through the amendments, he supposed the course would be to consider and decide whether they should be submitted singly and separately, or in a body, as an entire Constitution. When that question did arise, his vote upon it would be regulated entirely by the character of the amendments adopted. Possibly they might be of such a character as to render it necessary to submit them to the people separately, in order to prevent the rejection of the whole; but, in no case, could the difficulty which the gentleman from Chester had anticipated arise.

Mr. READ did not rise, he said, to make a speech on this question, but merely to state the question in such a form, that it would be understood. Without detracting at all from the intelligence of the people, it was reasonable to suppose, that they would be puzzled by a flat contradiction.— They will have good reason to doubt our intelligence, if we leave this clause in its present form. He cared nothing for the amendment, further than to avoid the absurdity of sending out to the people a flat contradiction on the face of the Constitution, saying, in one clause, that representation shall be in proportion to the number of taxables, and in the next, saying that each county shall have, at least, one representative. He agreed with the gentleman from Chester, (Mr. BELL) that the Constitution must be submitted as an entire instrument, taking its date from the time when it receives the signatures of the officers and members of the Convention.— If this clause were retained, therefore, the provision allowing one representative to each county, would be a part of the amended Constitution, although we voted down this very proposition, a few days ago, when it was offered by the gentleman from M'Kean (Mr. HAMLIN).

Mr. DARLINGTON said, that it would be necessary, in his opinion, to submit the amendments to the people in an engrossed form. But there would be a difficulty as to the construction and application of this section, if it remained unaltered. To obviate this difficulty, he had yesterday offered an amendment somewhat similar to that under consideration, providing for an enumeration of the taxable inhabitants of the State, in 1842, and every seventh year thereafter, and for the apportionment of the representatives among the several counties, and the city of Philadelphia, according to these returns. But the committee thought differently, and rejected the amendment. It seemed to him, that there was a clear indication of an opinion on the part of the committee, that no alteration should be made in the section. If so, he held himself bound to vote against the present motion. He preferred to leave the section as it was, until the second reading, when he would renew his amendment, and both propositions could stand or fall together.

Mr. STEVENS: Can it be possible, that the idea of the gentleman from Susquehanna, that we are to submit the Constitution, as a new Constitution, and that the people are to vote upon it as a whole, is correct? What were the provisions of the first and second act of Assembly? They did not require us to make a new Constitution. They provided for the call of a Convention of limited powers, and it was called for certain objects,

which were expressed upon the face of the acts under which they were called together. Gentlemen could not get clear of that. What were we to do? To prepare amendments and submit them to the people. The people were not then to say, "Constitution", or "no Constitution", but to decide on the amendments submitted to them. The idea that we were to submit a whole Constitution was absurd. It was contrary to the acts which gave us the power only to submit amendments to the existing Constitution.

Mr. READ here said, that he denied that we derived any power from the act of Assembly.

Mr. STEVENS: Then it is from our own omnipotence, if the gentleman pleases. Can we not classify our amendments, and submit some of them separately, and others in gross? Are we so bound up that we cannot separate the amendments into two classes, omnipotent as we are, according to some gentlemen. He asked if the suggestion was not intended to prevent us from submitting them separately. But, when the Constitution was adopted, was it to be considered as a new Constitution, bearing date from the time of our signatures? The suggestion alarmed him. Had we come here to say that every thing done, heretofore, is annihilated by our omnipotence? Were we to say, that not a law, nor an act, nor a penalty, under the former Constitution, was now existing? That they were all abrogated? That not an office could be held, nor any power or privilege exercised in virtue of the old Constitution. He had no idea of this covert design to break up the Constitution. Yet, this appeared to be the object of the doctrine of an engrossed Constitution, which the gentleman from Susquehanna had brought forward here. The very provision for an engrossment of the Constitution, as required by the acts of Assembly, negated the idea of the gentleman from Susquehanna, that it should be submitted as a whole. The engrossment was for the purpose of putting the present Constitution in another shape, in case the people should adopt the amendments. The section of the act of 1835, cited by the gentleman from Chester, looked to the publication of the engrossed Constitution in all the newspapers of the Commonwealth, but it looked no further. When the question was submitted to the people, it must be upon the amendments, and not upon the engrossed Constitution. No part of the old Constitution was to be submitted to the people, and, therefore, there was no necessity for this amendment.

The committee then rose, and the Convention took a recess.

WEDNESDAY AFTERNOON—4 o'clock.

The Convention resolved itself into committee of the whole, on the first article, Mr. PORTER, of Northampton, in the Chair.

The question pending being on the last division of the amendment offered by Mr. READ, of Susquehanna, to strike from the fourth section, all after the word "hundred" in the eighth line, to the end of the section; the motion was decided in the negative—ayes 26.

The report of the committee on the fourth section was then agreed to.

The report of the committee on the fifth section was then taken up for consideration, viz :—"That the fifth section of said article be amended so as to read as follows, viz :—Section V. The Senators shall be chosen for

three years, by the citizens of Philadelphia, and of the several counties, at the same time, in the same manner, and at the same places, where they shall vote for representatives”.

The question being on the report of the committee, the following report of the minority was also read:—“That it is inexpedient to make any alteration in the fifth section of the first article of the Constitution”.

Mr. DORAN, of Philadelphia, moved to amend the report by striking out the word “three”, and inserting the word “two”.

Mr. STEVENS, of Adams, moved to amend the amendment, by striking therefrom all after the word “report”, and inserting in lieu thereof the following words:—“That it is inexpedient to make any alteration in the fifth section.

Mr. DORAN said he was, at all times, unwilling to obtrude himself on the attention of the committee. Nor should he have risen now to make any remarks, if he did not think he would be acting in conformity with the views of his constituents of the county of Philadelphia, by moving the amendment which he had offered, that the Senators should be elected every two years. He thought, that in the organization of a Government, especially in that part which relates to the Legislature, great importance was to be attached to the term of years for which their service should be fixed. He believed that the purpose of the people, in framing the Government, was not merely that the Government should control the governed, but that the Government itself should be restricted by such checks and limitations as the people might think fit to impose. He believed it was the intention of the framers of this Constitution, when they adopted that part of it relating to the Executive, while deciding on the powers and duties of all the co-ordinate branches, so to regulate these powers, that they might have in view, what are the objects of all good Governments, the happiness and prosperity of the governed, and ascertain and adopt the best means by which these beneficial and legitimate ends should be secured. Therefore, a system of checks and balances was introduced. Under that view, the powers of Government were limited, and where no checks and balances exist, for the purpose of regulating the Government, the people have reserved to themselves, under all circumstances, and at all times, the right of controlling that Government. It would be extraneous here to descant on the Judiciary or the Executive, as totally unconnected with my purpose, which is to shew that, in the existing organization of the powers of the Legislature, there is a manifest defect in the mode of electing Senators. Why were the two branches separated? Why was there constituted a House of Representatives and a Senate? Do gentlemen believe that the two branches were intended to control the action of the people? No gentleman would say that such was the view of those who framed the Constitution. Who was it that framed the Constitution?—What was their object in creating two branches? They were intended to be checks to each other, to constitute a part of the system of checks and balances, that one might perfect and control the action of the other, and the result of these checks was to promote the objects of the framers of the Constitution. In regard to the House of Representatives, it is a body more disposed to acts of usurpation than the Senate—it is more numerous, and more liable to be operated on by inflammatory appeals, and is deficient in that calm and sound judgment which is to be found in a less body. In

order to curb the action of the House, the Senate was constituted—an order of sounder judgment, of maturer age, and greater experience than is generally to be found in larger bodies. But while, to a certain extent, this was the object of the framers in separating the two branches, there was still another. And what was that? It was to bring the Legislature more completely within the control of the people—that they should, by frequent elections, be compelled to come before the people at stated periods, in order that the people might have the opportunity of revising their conduct. They were thus to come to judgment, that it might be seen if the legislative measures had been calculated to promote the prosperity of the people. How has this been attained? He would not now speak of the House of Representatives, as that branch was not the subject of his inquiry. He would only allude to the Senate. How has this been attained? Is it a fact, that the Senate, as at present organized, has operated as a check on the House of Representatives? Has this body regarded the will of the people, and looked to their interests? Such was not the fact. On the contrary, the sentiments and prosperity of the people, since the present Constitution came into existence, have been entirely lost sight of, and the Senate, instead of looking to that as the primary object of legislation, have passed acts having in view the preservation of individual interests, without regard to the good of the people. This is human nature. When men obtain power, they are apt to forget the source from which they have obtained it. The prospect of being brought before the people for judgment, was too remote to operate as a check upon their course, and led them to those acts which were calculated to benefit their own personal interests. Such was his general view of the subject, a view in which he was borne out by facts. In the history of the country, how had the Senate operated as a check on the House of Representatives?—Lamentable experience had shewn, that if this body of thirty-three individuals had been selected by the people, for their wisdom and experience, to be brought into operation to check and control the immediate action of the House of Representatives, it had entirely failed in its object. Instead of controlling the action of the House, the Senate had always yielded to it; instead of acting as a check on improper legislation, it took the lead in acts of legislative tyranny, fell into the wake of the House, and passed laws which were inimical to the interests and feelings of the great body of the people. Had there not been instances of individuals sent to the Senate, pledged to carry out certain principles, who, on obtaining their seats, abandoned all those principles, turned their backs on the rights and interests of the people, and set at defiance the very people they ought to have represented there? He did not intend to allude to any particular instance. One individual, as was notorious in the county of Philadelphia, had gone directly in opposition to the great democratic principle, that the representative is bound to obey the will of his constituents. It was notorious, that there had been an individual in the Senate, who was pledged to his constituents to carry out certain measures, who had abandoned those very measures, and the interests of the people of the county. The people had felt the evil effects of his infidelity, and had seen the necessity of imposing a check, since experience had taught them, that an individual elected for four years was beyond the control of his constituents. They had, therefore, thought it fit that their delegates to the Convention should respectfully

ask a modification of the term, so as to reduce it to two years. He had intended to make a longer argument; but, as he believed, gentlemen of more talent would be prepared to set forth the evil in a still stronger light, he would content himself with merely moving the amendment.

MR. MERRILL, of Union: The gentleman from the county of Philadelphia had truly said, that the object for which the Senate was created, was to operate as a check on the House of Representatives, to prevent hasty and improper legislation. He had also said that the Senate, as now constituted, had not been able to carry into effect the object for which it was created, as a check on the other house; that the House had been constantly usurping powers which did not belong to it, while the Senate had been giving way whenever the House insisted. And what was the remedy suggested by the gentleman from the county? To reduce the term for which the Senators are elected, and thus to bring that branch of the Government more directly within the power of the House of Representatives. If the argument of the gentleman was true; if the Senate had not been able now to resist the power of the House, but had been drawn from its duty, it was because it was deficient in independence, and to make it independent enough to resist the power of the House, its tenure ought to be increased to eight years, instead of being shortened to two years, which is calculated to take away the little independence which may be left. He concurred entirely in the propriety of doing every thing which could have a tendency to check improvident legislation, and therefore, he could not consent to take away power from the Senate. Had we been sent here to remove the barriers against improvident legislation? The other day we were told that the House was corrupt, and important charges were made against the legislation of that branch; and now we are told, that the Senate is corrupt, and that, in fact, we can get no Government which is at all worthy to be trusted. What is this, but the doctrine that there is no longer any protection for individual rights, but that which man derives from his own strength? And this doctrine was propounded in a civilised community. Was it not wrong to urge arguments of this character, the clear tendency of which was to bring republican institutions into contempt? If we desire to see republican Governments extending themselves throughout the whole world, let us shew that they are able to protect, and that they do protect those who live under them, and that they are able to give security to life, liberty, and property. The gentleman from Philadelphia had stated, that the Senate had abandoned its duty. But he (Mr. M.) knew of no fact which he had produced to bear him out in this charge. He believed that no evidence could be produced to sustain it. The gentleman said the Senate was beyond the control of public opinion; and, the next moment, he told us it was so completely under the influence of the current of opinion, that it could not stand against it. It appeared, that either the terms were too long and it had too much independence, or they were too short, and it had too little. How was the fact? Under the Constitution of 1776, we had no Senate—no counteracting body to the Council. Did the people think that a good system? No. The course for attaining the system, and creating the Senate, was to have a counteracting body. The Senate was therefore created. The people thought that thus the Government might be made ultimately to work right, because, although one might be wrong now, the other might be right, and so when the other should be

wrong, this would be right, and thus the evil consequence of error would be prevented. The great object of the creation of the Senate was to have one branch which should have a character for stability. Laws passed by the popular branch were frequently carried through by a feeling which was not under the control of reason, and were found to be an evil; and the repeal of good laws, under similar impulses, was equally injurious to the public interests. An act of Assembly might be unpopular at first, but after one or two years' experience, might become popular. The Senate was intended to keep a check on that hasty legislation which was so uncertain and injurious. Some gentlemen there were who thought there should be no counteracting force. Would any man be willing to go back to the experiment of a single legislature? No man, he was certain, could have any such wish; and, if not, he must wish to have a substantial power to exercise control over legislation. If the House is not to be fully trusted, there must be some one power to do what is right, when the House desires to do what is wrong. The gentleman from Philadelphia county had referred to cases, and persons, and had described some individual who could not pronounce the "Shibboleth", and had become a subject of denunciation, because he had not followed out some particular party measure. If any man in this body, or in the House, as a representative of the people, had taken an oath to perform his duty according to the convictions of his conscience, was he to be instructed out of these convictions by any body? If he acted in opposition to the desires of some of his party, might he not have yielded to reasons which were sufficient to justify his course to all reflecting men? Must it be taken for granted, that he had abandoned the principles of a popular Government? Had we any right to denounce him as acting from corrupt motives?—When men are thought worthy to be selected by the people for their representatives—whether they act under oath or otherwise—it is but reasonable to suppose, that they act from their honest and deep convictions of their duty.

But has any reason been shown, why the senatorial term should be limited below that named in the Constitution? Has there been any harm done to the people on account of this provision? Have any body's rights been invaded? Have the liberties of the people been destroyed, or has any man's property been rendered insecure? Well, all these questions must be answered in the negative. Then, unless some one could show that our condition would be bettered by the adoption of this amendment, he hoped it would not prevail. The gentleman's own argument had shown, that instead of making the Senate a check upon the lower House, by the adoption of this amendment, it would be making it a partner in those abuses of which he complains. He admitted that Senators, elected for a term of four years, were no check upon the House, then, how could Senators, elected for a term of three or two years, be a check upon it. He hoped the amendment might not prevail.

MR. EARLE called for the yeas and nays on the amendment of Mr. STEVENS, which were ordered, and stood yeas 50, nays 66, as follows:

YEAS—Messrs. Agnew, Ayres, Baldwin, Barndollar, Barnitz, Bayne, Biddle, Chambers, Chandler, of Chester, Chauncey, Clarke, of Beaver, Clark, of Dauphin, Cline, Coates, Cochran, Cope, Cox, Craig, Crum, Darlington, Denny, Dickey, Dunlop, Forward, Harris, Hiester, Henderson, of Allegheny, Henderson, of Dauphin, Hopkinson,

Jenks, Maclay, M'Call, M'Dowell, M'Sherry, Meredith, Merrill, Pennypacker, Pollock, Porter, of Lancaster, Royer, Russell, Saeger, Scott, Sill, Snively, Stevens, Todd, Weidman, Young, Sergeant, *President*—50.

YAYS—Messrs. Banks, Barclay, Bell, Bigelow, Bonham, Brown, of Philadelphia, Carey, Clapp, Clarke, of Indiana, Cleavinger, Crain, Crawford, Cummin, Dickerson, Dillinger, Donagan, Donnell, Doran, Earle, Farrelly, Fleming, Foulkrod, Fry, Fuller, Gamble, Gearhart, Gilmore, Grenell, Hamlin, Hastings, Hayhurst, High, Houpt, Hyde, Ingersoll, Keim, Kennedy, Kerr, Krebs, Lyons, Magee, Mann, Miller, Montgomery, Myers, Nevin, Overfield, Porter, of Northampton, Purviance, Read, Riter, Ritter, Rogers, Sellers, Seltzer, Serrill, Shellito, Smith, Smyth, Sterigere, Stickel, Swetland, Taggart, Weaver, White, Woodward—66.

So the amendment to the amendment was disagreed to.

The question then recurred on striking from the report of the committee "three", and inserting "two".

On this question Mr. DORAN called for the yeas and nays, which were ordered, and were yeas 46, nays 70, as follows :

YEAS—Messrs. Banks, Brown, of Philadelphia, Clapp, Cleavinger, Crain, Cummin, Dillinger, Donagan, Doran, Earle, Farrelly, Foulkrod, Fuller, Gearhart, Gilmore, Grenell, Hamlin, Hastings, Hayhurst, High, Hyde, Keim, Kennedy, Krebs, Magee, Mann, Miller, Myers, Nevin, Overfield, Purviance, Read, Riter, Ritter, Rogers, Sellers, Shellito, Smith, Smyth, Stevens, Stickel, Swetland, Taggart, Weaver, White, Woodward—46.

NAYS—Messrs. Agnew, Ayres, Baldwin, Barclay, Barndollar, Barnitz, Bayne, Bell, Biddle, Bigelow, Bonham, Carey, Chambers, Chandler, of Chester, Chauncey, Clarke, of Beaver, Clark, of Dauphin, Clarke, of Indiana, Cline, Coates, Cochran, Cope, Cox, Craig, Crawford, Crum, Darlington, Denny, Dickey, Dickerson, Donnell, Dunlop, Fleming, Forward, Fry, Gamble, Harris, Hiester, Henderson, of Allegheny, Henderson, of Dauphin, Hopkinson, Houpt, Ingersoll, Jenks, Kerr, Lyons, Maclay, M'Call, M'Dowell, M'Sherry, Meredith, Merrill, Montgomery, Pennypacker, Pollock, Porter, of Lancaster, Porter, of Northampton, Royer, Russell, Saeger, Scott, Seltzer, Serrill, Sill, Snively, Sterigere, Todd, Weidman, Young, Sergeant, *President*—70.

So the amendment was disagreed to.

The report of the committee was then adopted without a division.

The report of the committee that it is inexpedient to make any alteration in the 6th section was then taken up and agreed to.

The report of the committee against making any alteration in the seventh section, was then taken up, and the section read, as follows :

"The Senators shall be chosen in districts, to be formed by the Legislature; each district, containing such a number of taxable inhabitants as shall be entitled to elect not more than four Senators. When a district shall be composed of two or more counties, they shall be adjoining.—Neither the city of Philadelphia, nor any county, shall be divided in forming a district".

Mr. READ, of Susquehanna, moved to amend the section, by striking out of the third line the word "four", and inserting "two".

Mr. STERIGERE moved to strike out the amendment, and insert the following :

"The Senators shall be chosen in districts, to be formed by the Legislature, at the same time the representatives are apportioned among the several counties, each district containing such a number of taxable inhabitants, as shall be entitled to elect not more than one Senator, except when the city of Philadelphia, or any one county, shall contain such proportion of the taxable inhabitants of the State, as may entitle it to elect two or more Senators, in which case such city or county shall not be divided to

form a district. Nor shall the city of Philadelphia, or any county, be divided in forming a district. When a district shall be composed of two or more counties, they shall be adjoining. No district, entitled to one Senator or more, shall be allowed an additional Senator, on any number of its taxable inhabitants, less than one half of one thirty-third part of all the taxable inhabitants of the Commonwealth".

Mr. STERIGERE, of Montgomery, would say a very few words in reference to his amendment. Districts were often too large, and he desired to see them reduced, and the purpose of his amendment was to effect that object. Almost every one knew the great evils arising from large districts, created for congressional political purposes, where persons have lived 100 miles off, and arrangements have been made to defeat the popular voice. He was in favor of making single congressional districts throughout.

The question was then taken on the amendment, and it was negatived.

The question then recurring on the amendment of Mr. READ,

Mr. BELL, of Chester, said he would like to hear the gentleman give some reasons in support of it.

Mr. READ remarked, that the principal object which he had in view, was to render the districts as small as possible, to prevent gerrymandering. In forming a new Constitution, it was wise to provide for the future against the abuses which had occurred under the present Constitution. We had had every day, under our own eyes, the most glaring abuses, owing to the want of such a limitation as he now proposed. He would call the attention of the gentleman from Chester to this fact. The counties of Chester and Delaware, containing a sufficient number of taxables, have two Senators, and the county of Montgomery had just enough for one. Those three counties should (if the rule of honesty had been observed) have formed two separate districts, but they were put together. Now, this was a state of things which was radically wrong. The making of large senatorial districts, for party purposes, ought to be prevented. These reasons were satisfactory to him.

Mr. DICKEY, of Somerset, hoped the reasons would not be satisfactory to the gentleman from Chester, as he had a seat here in virtue of the clause as it stood.

Mr. BELL said, he trusted that his district would not be deprived of the privilege of sending a good democrat, as it now did. He acknowledged that he stood in this Convention as the representative of a district which, according to the views of the gentleman from Susquehanna, was dishonestly formed. If there had been any principle or propriety involved in the amendment, he would vote for it. The reasons which the gentleman had given for proposing the amendment had no weight with him, and he should vote against it.

Mr. SMYTH, of Centre, said he would vote for the amendment, and he trusted that it would be adopted.

Mr. READ observed, that in legislating for the future, local and temporary matters ought not to be taken into consideration. He was sorry to interfere with the peculiar views of the gentleman (Mr. BELL) in the performance of his duty. Mr. R. asked for the yeas and nays.

Mr. FORWARD, of Allegheny, rose to say, that if there was any principle in the amendment of the gentleman from Susquehanna, it was more

fully carried out by the amendment of his worthy friend near him, (Mr. **STERIGERE**) which had been rejected. Now, he felt strongly inclined to favor the principle of that amendment, which had been thus disposed of without much discussion, and probably without being well understood.—He would vote against the amendment, reserving himself for a time when the subject would come up again, and when more light would be thrown on it than he now possessed, so as to enable him to vote understandingly.

The question was then taken on the adoption of the amendment, which was agreed to, as follows :

YEAS—Messrs. Ayres, Banks, Barclay, Bigelow, Bonham, Brown, of Philadelphia, Butler, Chandler, of Chester, Clapp, Clarke, of Beaver, Clark, of Dauphin, Clarke, of Indiana, Cleavinger, Cline, Cochran, Crain, Crawford, Cummis, Darlington, Darrah, Dickerson, Dillinger, Donagan, Donnell, Doran, Dunlop, Earle, Farrelly, Fleming, Foulkrod, Fry, Fuller, Gamble, Gearhart, Gilmore, Grenell, Hamlin, Harris, Hastings, Hayhurst, Henderson, of Allegheny, Henderson, of Dauphin, Hiester, High, Houpt, Hyde, Ingersoll, Jenks, Keim, Kennedy, Krebs, Lyons, Magee, Mann, M'Call, M'Dowell, Miller, Montgomery, Myers, Nevin, Overfield, Pennypacker, Pollock, Porter, of Lancaster, Purviance, Read, Ritter, Ritter, Rogers, Russell, Sellers, Seltzer, Serrill, Shellito, Smith, Smyth, Stickel, Swetland, Taggart, Weaver, White, Woodward, Young—83.

NAYS—Messrs. Agnew, Baldwin, Barn-dollar, Barnitz, Bell, Carey, Chambers, Chauncey, Coates, Cope, Cox, Craig, Crum, Denny, Dickey, Forward, Hopkinson, Kerr, Maclay, M'Sherry, Meredith, Merrill, Porter, of Northampton, Royer, Saeger, Scott, Sill, Snively, Sterigere, Stevens, Todd, Weidman, Sergeant, *President*—33.

Mr. **STERIGERE**, of Montgomery, rose to renew the amendment which had been just rejected.

The Chair decided that the motion was out of order.

The report of the committee, as amended, so far as relates to the 7th section, was then agreed to.

The report of the committee, so far as the same relates to the eighth section, being taken up for consideration, it was read as follows :

“No person shall be a Senator who shall not have attained the age of 25 years, and have been a citizen and inhabitant of the State four years next before his election, and the last year thereof an inhabitant of the district for which he shall have been chosen, unless he shall have been absent on the public business of the United States or of this State”.

Mr. **CLARKE**, of Indiana, moved to strike out the word “twenty-five”, and insert “thirty”.

Mr. **DICKEY** moved to amend the amendment by striking out “thirty” and inserting “*twenty-one*”.

Mr. **CLARKE**, rose and said, as he had remarked on a former occasion, when he made a similar motion in reference to the age of the members of the House of Representatives, that he wished to see the Government a little more patriarchal. In former years it was customary to select much older men for the Senate than are now chosen for that body, and they had very little intercourse with the House of Representatives. He had heard, indeed, that, in former times, the Senators rarely went near the House, and that they shunned any intercommunication lest one body might exert an influence over the other. The modern might be as wise and as virtuous as the Senators of the early years of the Commonwealth—he was sure that they could not be more so—but there was too close a connexion between them and the members of the other House, and they were often too young to possess that degree of gravity, stability and experience which

was desirable in the Senatorial body, and which belonged to it in theory. He would wish to see them at least thirty years of age. He threw out the proposition and intended not to have made it the subject of a speech.

Mr. DICKEY had not offered his amendment, he said, in burlesque. He was quite serious in the proposition, as it seemed to belong to the course of measures which the Convention thought it proper to adopt to break down what they viewed as the aristocracy of the Senate. The Senate was placed, by the Constitution, as a check upon the hasty, or imprudent legislation of the more popular branch. It was supposed that the House of Representatives, coming as it did yearly from the people, would partake somewhat of their impulses, and would sometimes act rashly, under the influence of the prevalent popular feeling; and the Senate was instituted as a check upon their imprudence. But, as we were now making innovations on the theory of the Constitution, by cutting down the independence of the Senate, shortening its term, destroying its influence, and, in fact, making it a popular branch, assimilated to the other House, he had proposed, by way of carrying out this theory, to reduce the qualification of age from twenty-five to twenty-one. It was formerly considered a proper object to keep in the Senate a number of experienced men, who had been trained in the business of State Legislation; but, as we had determined to abandon this system and to deprive ourselves of the advantages of legislative experience by reducing the Senatorial term of service, he did not see the use of preserving any other part of the present constitution of the Senate.

Mr. PURVIANCE said he was extremely sorry that the gentleman from Indiana had seen fit to renew his attack on himself and the other members of this body who were under thirty, and particularly as some of them were absent.

Mr. CLARKE asked leave to explain. He certainly had made no attack upon the gentleman from Butler, nor upon the young gentlemen, his friends. Indeed, when he made the motion, he did not think of them.

Mr. PURVIANCE continued. The gentleman must get an amendment to the Constitution of the United States, in order to carry out his project; a person may be a member of Congress at twenty-five. For himself, he felt no concern at the gentleman's doctrine; but he asked the gentleman from Allegheny (Mr. ROGERS) who might, perhaps, be a candidate for a seat in Congress, whether he felt no concern at this new doctrine?

Mr. STEVENS believed, he said, that he should vote for twenty-one; he could see no reason for making a difference of age between the two branches. Age was not an infallible criterion of wisdom, experience, or honesty; and he was for leaving it to the constituent body to decide upon the merits and qualifications of those whom they chose as their representatives. Any qualification but that of legal majority was unreasonable and unnecessary. There were several kinds of aristocracy: one of birth, which was of little account here; another of wealth, which had more practical sway than it ought to have; and another of age, which was as odious as any other. He agreed that old age should be indulged and protected; but he had learned to consider it a very uncertain mark of wisdom or judgment. Some men never arrived at years of discretion, if they live to be seventy, and others may possess cool heads and sound judgments at

twenty-one. Twenty-one was the democratic age, and the proposition of the gentleman was aristocratic.

The motion of Mr. DICKEY was disagreed to, and the amendment offered by Mr. CLARKE was disagreed to, without a division.

Mr. COX moved to amend the report, by adding to the end of the section the words following, viz: "or unless he shall have been previously a qualified elector in this State, in which case he shall be eligible upon upon one year's residence." Mr. C. said, the same rule had been adopted in reference to the members of the House of Representatives.

The amendment was agreed to.

Mr. EARLE moved further to amend the same by adding to the end of the section, the words following, viz: "and no person shall be eligible to the office of Senator for more than two terms in succession."

Mr. EARLE said, we had limited the eligibility of the Governor, and other officers; and, if the principle was correct, it ought to be carried out, and applied to the Senate. On turning to the old Constitution, he found many such limitations there, and he believed it to be a sound and republican principle. He had consulted some of his constituents on the subject, and had brought the question before the society for Constitutional Reform, and had ascertained that there was a general sentiment in favor of such a limitation.

The motion was negatived; and the report of the committee so far as relates to the eighth section as amended, was agreed to as follows:

SECT. 8. No person shall be a Senator who shall not have attained the age of twenty-five years, and have been been a citizen and inhabitant of the State for four years next before his election, and the last year thereof an inhabitant of the district for which he shall be chosen, unless he shall have been absent on the public business of the United States, or of this State, or unless he shall have been previously a qualified elector in this State, in which case he shall be eligible upon one year's residence.

The report of the committee on the ninth section was then taken up for consideration, as follows:

SECT. 9. At the expiration of the term of any class of the present Senators, successors shall be elected for the term of three years. The Senators who may be elected in the year one thousand eight hundred and forty-one, shall be divided by lot into three classes. The seats of the Senators of the first class shall be vacated at the expiration of the first year; of the second class, at the expiration of the second year; and of the third class, at the expiration of the third year; so that thereafter, one third may be chosen every year.

Mr. STERIGERE suggested that as the Senatorial term had been altered in a preceding section, it might be necessary to carry out the alteration by a corresponding change in this.

The report of the committee on this section, was agreed to.

The tenth section, as reported by the committee, was then taken up for consideration, as follows:

"SECT. 10. The General Assembly shall meet on the first Tuesday of January, in every year, unless sooner convened by the Governor".

Mr. STERIGERE moved to amend the same, by striking out the word "January", and inserting the word "November". So far as he had heard any opinion, he said, it was not favorable to this change made by

the committee. His own experience had led him to a different conclusion. All the reasons which had been assigned in favor of meeting in January, was to avoid the holidays. It had been the custom for holidays to take place in legislation, and he would ask, if we who are sitting here, had not had our holidays. It usually consumed a week or two, before a Legislative body could get fairly into business. He knew of no particular objection to it, and saw no necessity for putting off the meeting of the Legislature to so late a period of the winter. He was himself in favor of an earlier meeting.

The question was then taken, and the motion to amend was negatived.

Mr. MERRILL moved to amend the section by striking out the word "sooner", and inserting the words "at another time"; which was also negatived.

Mr. DICKEY, of Beaver, moved to amend the section, by adding to the end thereof, the following words, "and shall adjourn on the first Thursday in April, unless continued longer in session by law for that purpose". His legislative experience, he said, had taught him, that the Legislature never went to work until a day of adjournment had been fixed. Unless the day be fixed, and a protraction of the session be thus prevented, the Legislature might take up four or five months in getting through its business.

The question being taken, the amendment was adopted: Ayes, 54—noes, 36.

The report of the committee on the tenth section, as amended was then agreed to.

The committee then took up the eleventh section, as follows, on which the committee had reported no amendment:

SECT. 11. "Each House shall choose its Speaker and other officers; and the Senate shall also choose a Speaker, *pro tempore*, when the Speaker shall exercise the office of Governor".

Mr. STERIGERE thought it might be wise to postpone this section, and proceed to some of the others, as there seemed to be a desire on the part of some gentlemen to make a provision for Lieutenant Governor. He would, therefore, move to pass over this section. He was of opinion that the course taken by the Virginia Convention was the correct one: first to decide on the principle of a measure. He saw no necessity for occupying time in discussion.

Mr. BELL, of Chester, said, he hoped the motion would prevail.

Mr. FULLER thought that this was the proper time to test the question relative to a Lieutenant Governor. He thought that every gentleman had made up his mind on this subject, and that now was the proper time to give an expression of opinion, whether or not we would create such an office.

Mr. BELL hoped the gentleman from Montgomery would withdraw the amendment at present, and move it on second reading, if he desired to take the sense of the Convention upon it.

Mr. STERIGERE then withdrew his amendment.

The report of the committee that it is inexpedient to make any alteration in the twelfth section, was then agreed to.

Mr. COATES then moved that the committee rise: Lost.

The Convention then took up the report of the committee, deeming it inexpedient to make any alteration in the following section :

"SECT. 13. Each House may determine the rules of its proceedings, punish its members for disorderly behaviour ; and with the concurrence of two thirds expel a member, but not a second time for the same cause, and shall have all other powers necessary for a branch of the Legislature of a free State ".

Mr. HESTER moved to amend the section by adding to the end thereof, the following :

" And may punish by imprisonment, not to continue longer than until the termination of their session, or by fine not exceeding one thousand dollars, any person not a member, who shall be guilty of disrespect to either of said Houses, by any contemptuous or disorderly behaviour in their presence ".

Mr. HESTER would briefly remark, that every gentleman must be aware that instances have occurred where persons not members of either branch of the Legislature, have been arraigned for contemptuous conduct at the bar of the House, and whenever such cases occurred, a difficulty had arisen for want of an express power to punish being delegated to the Legislature. In order to obviate this difficulty, which was a serious one, he had submitted this amendment, which it would be for the Convention to adopt or reject, as they might deem most proper.

The amendment was then disagreed to.

Mr. INGERSOLL moved to strike from the section the words " other powers necessary for a branch of the Legislature of a free State ", and inserting in lieu thereof, the following : " the power of making laws not inconsistent with this Constitution, the sovereignty of the people and the inherent limitations of annual trust delegated by that sovereignty ", which was disagreed to.

Mr. EARLE moved to amend the section by adding to the end thereof the following : provided, that the Legislature shall grant no special charter for any banking or other business corporations, except for internal improvements ".

Mr. BELL hoped this motion would not now prevail. We have a committee on the subject of corporations, and whenever they bring up the subject, this amendment would be considered in its proper place. Then would be the proper time to introduce it, and not now.

The amendment was then disagreed to, and the report of the committee was adopted.

Mr. WOODWARD then moved that the committee rise. Lost.

The Convention then took up so much of the report of the committee, as declares it inexpedient to make any alteration in the following section.

"SECT. 14. Each House shall keep a journal of its proceedings, and publish them weekly, except such parts as may require secrecy. And the yeas and nays of the members on any question, shall, at the desire of any two of them, be entered on the journal" .

Mr. HESTER moved to add after the word " keep ", the words " and preserve inviolate ".

Mr. HESTER said, in his own opinion, the words of the section as it now stood, implied the same thing, but there appeared to be a difference of opinion in relation to it; and we know that the same words in the

Federal Constitution have been construed very differently. He thought, if we intended to preserve the journals of our State free from alterations, we should add these words. If not, we may have some expunging done here.

Mr. FORWARD said the amendment was entirely unnecessary, and he hoped it would not prevail.

The amendment was then disagreed to, and the report of the committee was adopted.

The report of the committee, that it is inexpedient to make any alteration in the fifteenth section, was then adopted.

Mr. STEVENS said it had already been adjudged by the Legislature of this State, that nothing could be expunged from their journals; but when these minutes come up hereafter, and it is seen that this Convention has taken a vote on this subject, a different construction will be put upon it. He would, therefore, make the motion that the amendment of the gentleman from Lancaster, do not appear on the minutes of the Convention.

Mr. DORAN should like to know if the gentleman from Adams meant to have this amendment *expunged* from the minutes.

Mr. HIESTER said he would withdraw, if he had power, but as the vote had been taken, he had no control over it.

Mr. MEREDITH suggested, that a motion to reconsider the vote, would obviate the difficulty.

Mr. STEVENS moved to reconsider the vote, by which the report on the fourteenth section was agreed to, and the motion was carried in the affirmative.

The vote rejecting the motion of the gentleman from Lancaster, (Mr. HIESTER) to amend the fourteenth section, was then reconsidered, and

Mr. HIESTER withdrew the amendment.

The report of the committee in relation to the fourteenth section, was then agreed to.

So much of the report as related to the fifteenth, sixteenth, seventeenth, eighteenth and nineteenth sections, and recommended that no alteration be made therein, was considered and agreed to.

Mr. MERRIL moved that the committee rise, which was negatived.

The Convention took up so much of the report as declares it to be inexpedient to make any alteration in the twentieth section, and it was read, as follows:

"All bills for raising revenue shall originate in the House of Representatives; but the Senate may propose amendments, as in other bills".

Mr. CLARKE, of Indiana, moved to strike out the words "for raising revenue", and,

On motion of Mr. STERIGERE, the committee rose, and

The Convention adjourned.

THURSDAY, JUNE 8, 1837.

As soon as the journal had been read, a discussion arose on a suggestion that, so far as the minutes of the committee of the whole were concerned, a correction was necessary.

Mr. MEREDITH moved, "That the minutes of the committee of the whole, of yesterday, be referred to that committee for correction, and that the order of the Convention, requiring the daily reading of the minutes of the committee of the whole, be rescinded".

Mr. CUNNINGHAM, of Mercer, suggested, as a difficulty, the possibility that the committee of the whole might not sit again; and in that case, if the motion prevailed, the journal of the committee of the whole, if incorrect, could not be corrected. Again, if there was error, and the committee of the whole should not sit again for six weeks, the fact might be forgotten, and the minutes would thus be rendered imperfect. He thought the best course would be to continue to have the minutes read every morning, when the errors might be pointed out, and corrected, while the facts are fresh in the memory.

Mr. MEREDITH replied, that if his motion prevailed, the minutes could be read every morning in committee of the whole, and the errors could be corrected, the same as in the House. The presiding officer of the committee could then correct them; whereas, he is now obliged to enter into the debate, and his explanations create an opposition to his views. If he were in the Chair, instead of arguing, he could decide. The best course would be to read the minutes every morning in committee. He only proposed to rescind the order which compels the minutes to be read in Convention; and, if the committee should not sit again, it would be easy to order the last minutes of the committee to be read. At present there was a difficulty, because the President was not supposed to know what was passing in committee of the whole. He hoped his views would be acceptable to the Convention.

Mr. PORTER, of Northampton, said, the minutes were now read by order of the Convention, under a resolution offered by the gentleman from Lancaster (Mr. HESTER). Complaint had been made of the journal being lengthened by putting into it, at full length, every section of an article, and thus increasing labor, and the expense of printing. This was intended to be superseded by the reading of the minutes. He thought the motion of the gentleman from Philadelphia (Mr. MEREDITH) would be the best course to pursue.

Mr. STERIGERE thought the journals should stand as they are. He believed there was considerable advantage in having the minutes read over every morning in committee of the whole, and he wished to offer a rule to that effect.

Mr. M'SHERRY, of Adams, said, there might be a difficulty if the committee of the whole were discharged; for, in that case, they would be unable to take up the journal again. If they were to sit again, after an interval of two weeks, few would be able to recollect the errors, and able to correct them. He thought it would be better to go along as we had

done. There could be no difficulty so long as the committee continued to sit every day, but this would be uncertain. As to the Chairman, his views could be obtained, either in the Chair or out of it.

Mr. DARLINGTON demanded a division of the question.

The question was then taken on the first division of the motion, being so much as refers the minutes to the committee for correction, which was agreed to.

The question was then taken on the second division of the motion, being so much as rescinds the rule requiring the minutes to be read every morning, which was decided in the negative.

Mr. DARLINGTON, of Chester, submitted the following resolution :

Resolved, That the Convention will this day take a recess from one to three o'clock P. M.

The question being on the second reading, it was decided in the negative—ayes 43, noes 43.

Mr. COATES, of Lancaster, submitted the following resolution, which was laid on the table, and ordered to be printed :

Resolved, That this Convention will adjourn on the 26th instant, to meet again on the 17th of October next.

FIRST ARTICLE.

The committee then resolved itself into committee of the whole, on the first article of the Constitution, Mr. PORTER, of Northampton, in the Chair.

[The first business before the committee of the whole was the examination and correction of the minutes, which had been referred to it for that purpose, by the Convention. After a brief consultation, it was generally conceded that the proper course was to leave it to the Chair, to make such correction as he might deem necessary].

So much of the report of the committee, as declares it inexpedient to make any amendment in the following section, being under consideration :

“SECT. 20. All bills for raising revenue shall originate in the House of Representatives; but, the Senate may propose amendments, as in other bills”; and

The question being on the motion of Mr. CLARKE, of Indiana, to strike out the words “*for raising revenue*”,

Mr. CLARKE, of Indiana, addressed the committee in support of the motion. When the gentleman from Montgomery, last evening made the motion that the committee rise, he was kind enough (said Mr. C.) to intimate that I wished to make a speech. Though he thanked that gentleman for his good intentions, yet he had put him in a position which he did not wish to occupy. From his observation of the disposition and temper of the committee, he was led to believe that their patience was worn out; and, though he had offered an amendment for consideration, he neither wished, nor was he prepared to make a speech upon it, as the gentleman had supposed. He was not anxious to figure in the *Daily Chronicle*, nor to get his name into the journals, nor into this book of resolutions. In this book (holding up the file of resolutions) his name did not appear. He had not been ambitious to bring his projects before the Convention; not but that he had his projects, and that his constituents expected him to suggest his views, but, because he had preferred to wait and see

what other gentlemen proposed, in order that if their propositions suited him, he might adopt them instead of offering his own. It was only after other gentlemen had ceased to offer their amendments, that he had determined to offer his, and this course he should continue to pursue. He should offer no project himself, unless when he found that no one else would offer it. He was aware that this course was attended with one disadvantage—that, before he found it necessary to present a proposition, the patience of the Convention was exhausted, and “*question*”, *question*”, was reiterated in loud cries from all sides of the House, upon the suggestion of any new amendments. So strong were the manifestations of this feeling at times, that a member must be possessed of a high degree of moral courage to offer an amendment, and much more to undertake to explain the reasons for it. A member must possess an undue idea of his own powers of eloquence, to persuade him to address this body under such circumstances. But, as he now offered a proposition that was new in principle, the committee would, he hoped, indulge him with some remarks upon it, which he would say would be brief; and he hoped that some other gentleman, who might think favorably of the amendment, might be induced to take it up, illustrate, and enforce it. The great object which he had in view, was to give dignity and weight to the Senate, and if he might be allowed the expression, to clarify our laws by purifying the Government. Since he had become a practical legislator, he had always been a great admirer of the Senate, though he knew that, as a body, it was liable, like other bodies, to error. He recollected one case, three years ago, in which he had no doubt that the Senate had committed a radical error, but his confidence in the body was still unabated. Though he had voted for the proposition to reduce the term of service of the Senators to three years, yet it was not from want of confidence in the Senate. It was from no hostility to the Senate, that he had offered this amendment; but, on the contrary, from a desire to raise its dignity and character, and make it what it was originally intended to be, a check upon the other branch of the Legislature. It was with this view of purifying the Legislature, that he supported the proposition of the gentleman from the county, (Mr. INGERSOLL) to distribute the powers of the several branches of the Government with more precision. With the same view, he moved to increase the age of the members of the House of Representatives from twenty-one to twenty-eight, not from any intention to cast any reflection on the young members of this body, or in the Legislature, or in the Commonwealth, generally.—On the contrary, he highly esteemed young men as politicians. They are more pure and disinterested than we are. They are less hackneyed in the paths of politicians, and have more patriotism than we. Indeed, it had been said, and perhaps with some truth, that the only virtue left to a man of sixty was economy. We know that the young are patriotic, ardent, and liberal. The young men are, therefore, the best supporters of a democracy, because the old and wealthy are apt to become exclusive, selfish, and aristocratic. But he wished to give the legislative body more age, experience, and steadiness. Carrying out this view, he had moved to increase the requisite age of a Senator to thirty, and he had no hopes of obtaining an age beyond thirty, or he would have attempted it, for it was his opinion, that the age of a Senator ought to be, at least, thirty-five.—

Something had been said about the frequent instances of young men possessing cool heads and ripe judgments. He admitted that instances of mental precocity were not uncommon; but, they were exceptions to the general rule. In general, a man reaches his full bodily ability at thirty, but the judgment, as some suppose, is not fully ripe till fifty. But, a man gained very little after forty; and he wished, in fixing the age of the Senators, to approximate to that period of life when the judgment is mature, and the physical ability not abated. In pursuance of the same idea, he wished all bills to originate in the House of Representatives. He did not find any precedent for this policy; but, from the observation of years, he was satisfied that it would be a great improvement in government, and its first introduction must be somewhere. What was the theory of government?—that a father is at the head of his family, and when he is called off, that his eldest son takes his place. This was the patriarchal form of Government; the father governed his children and family, and in his absence, his eldest son took care of the family. Monarchy grew out of this, without doubt. The original principles of government had been perverted and abused. And tyrannies, in various forms—all of them hostile to the interests and happiness of the people, had sprung up in their stead. We had established a republic—but where was the necessity of any government at all? It was from the nature of man and his imperfections. We need go no further than the New England Primer, to find that,

In Adam's fall,
We sinned all.

What was the reason that government and laws were necessary to restrain mankind, but to prevent them from injuring each other, and to afford to all an equal chance for the pursuit of happiness? But it was found that Government might abuse its power, and pervert it to the injury and oppression of the governed, under the form of law. Checks and balances were therefore introduced. Our Senate was introduced for that purpose. To render that body what it was originally intended to be, was the purpose of his amendment. His opinion was—and he believed it to be the theory of our Government—that every thing should originate with and spring from the people. They make known their wishes and views to their representatives, by memorials and petitions. These were presented, considered, acted on, and granted, or not, as might seem proper to the representatives. But he did not deny the power and the duty of the representatives to originate measures, without direct and express instructions and petitions, because they were always presumed to know the opinions and wants of their constituents. But all measures should originate with the immediate representatives of the people, who are intimately connected with, and responsible to them, and are acquainted with their wants and sentiments. These measures are considered in committee, and afterwards, in order to guard against haste, and secure them a full and fair consideration, they are read three times, before they are passed. After going through this ordeal, they go to the Senate for concurrence. This body is kept apart from all the turmoil and commotion of the popular branch, and they are supposed to consist of sober, sedate, and thinking men. Why are they so few in number? Because it is not

so necessary that the people be acquainted with them. They are instituted as a check upon legislative action. Was it not for the same reason that they were required to be of greater age than the members of the more popular branch of the Legislature, and held their station for a longer term. Was it not the theory of this branch of the Government that it should form a body so qualified and so placed, as to be enabled to reflect maturely, to consider deliberately, and to decide cautiously, upon all the measures brought before them. This was the theory. What was the practice under this system? Few measures of any description originated in the Senate, at the commencement of our Government. But the practice to bring forward original measures there has been growing, and of late years, had become a very usual mode of introducing a bill. So usual was the practice now of originating almost any description of measure, except a revenue bill in the Senate, that its lobbies were crowded with suitors for charters, and for personal or local grants of one kind and another. These lobby members, or middle house members, as they had been called, now thronged the Capitol at every session of the Legislature, pursuing their private objects with all the perseverance and all the ingenuity they could command, when they wanted to get a bill passed, sitting down and calculating the chances of getting it through this or that branch. If they found they had a better chance in the Senate, they would begin there. They get some member to introduce their measure there first, and to interest himself in it; a friend of his, with whom he did not agree in politics, but always in matters of friendship, last evening told him that legislation had become a perfect gambling system. The evil was here. If a bill originated in the Senate, the Senator who introduced or reported it, and was thus the father of it, felt himself interested in its success, and made it his duty to see it go through. This Senator follows the bill into the House of representatives, and urges it through there, exerting his influence over his friends in the House in its behalf. Worse than this, he knew that, in some cases, threats were held over the members to this effect—if you do not pass this bill, I will kill such a bill of yours, in our House. The Representative who became the father of the bill in the House, also used his influence to get it through there. This was a state of things that should not be. The member who takes charge of a bill, follows it with all the feelings of a lawyer for a client. The Senators should sit as Judges, and should be as clear of all bias as Judges on the bench. It was to elevate the Senate, and give it a higher character, that he offered this proposition. The evil was, that the feelings of the Senate became enlisted in favor of the bills originated by them, and they were thus incapacitated from acting with that deliberation and gravity which accorded with the object of their institution, as a check upon the legislation of the House. It might be said, that, if his proposition were adopted, and the Senate were deprived of the power of originating any bill, they would have less business to do; that they would not do work enough. He admitted that less would be done, and this would be one of the greatest advantages of the measure. One of the evils of our republican Government, was too much legislation. But, under the Constitution as it would be amended, the Senate would be occupied much of the time in considering the nominations of the Governor. There were other mal-practices which grew out of the present system, and which would be prevented by

the amendment proposed. It was customary for one House to attach to bills that had passed to the other House, some measure very foreign from its object, and the chances for the success of which are considered very doubtful. These riders were often resorted to of late, and the gentleman from Beaver, (Mr. DICKEY) had used his efforts to counteract the above, without success. If it was a gross abuse, and one to which our legislators were extremely liable. He would ask any member of the Legislature, whether a bill ought not to be read three times, and whether the bills passed as riders were always read more than once; and whether, in fact, they received that consideration which it was the purpose of legislative rules to secure to every measure. He was satisfied that the character of our legislation would be greatly improved, by depriving the Senate of the power of originating bills of any kind, or in any form. It was not quantity that we wanted, but quality, in reference to legislation. He was happy to find, from a book just put into his hands, that he was not without a precedent for this proposition, and one of a very high character, though he had not before been acquainted with it. Under the Constitution of Virginia, which was framed with all the lights of modern experience in Government, he found that the very same principle which he proposed had been adopted; and that all bills originate in the House of Delegates.

[Here Mr. C. read the section of the new Constitution of Virginia, to which he had reference.]

This was the principle which he wished to see introduced into our Constitution. It was very gratifying to him to find that old Virginia, a State fertile in great men, and the members of whose Convention by which this principle was sanctioned, were among the most enlightened and experienced men of this country, had constituted her legislation upon this principle. Those who were afraid of experiments, would now find that the proposed measure was sustained by the opinion of wise men, and the practice of a great State. He had observed here an indisposition to control the legislative power, and it was maintained by many, that it ought to be kept free. He wished to keep it free; but he also wished to keep its action within some reasonable limits. We wanted to curtail the power of the Executive, and to put a restraint upon the Judiciary, by changing its tenure. We went for those measures, because they were proper and right in themselves, and were desired by our constituents; but, while we did this, should we not preserve the balance of the Government? Should we be afraid to check the action of the Legislature, because it is a stronger body than the Executive or the Judiciary? While we control the Judiciary, we should also endeavor to secure good and deliberate legislation. One word more: Owing to the partiality of his fellow citizens, he had served in all the departments of the State Government. He could not, therefore, be accused of being influenced in this proposition by any *esprit du corps*. He had filled a subordinate judicial station, and had also moved in ministerial offices, and the Legislature. He was not aware, therefore, that his personal feelings had any thing to do with this matter. He had not expected to say much on this subject at present, not being fully prepared to treat it at large in all its bearings. If other gentlemen were in favor of the proposition, he trusted he should have their assistance, and he hoped the amendment would be sustained.

Mr. SCOTT, of Philadelphia, said that the high character and great experience of the gentleman from Indiana, (Mr. CLARKE,) entitled any suggestions made by him to grave consideration. That gentleman had said that his name appeared but seldom on the journals of this Convention. If it appeared there often, Mr. SCOTT knew of none that could adorn them more. The amendment to the Constitution which that gentleman had now presented to the attention of the committee, was one of great importance, and which, he feared, if adopted, would do much to unsettle a very beautiful part of the frame of our Government. The proposed amendment was, in Pennsylvania at least, a new experiment, almost without precedent. The Constitution of Virginia which had been referred to as containing a similar provision, was a precedent entitled to little weight. It had been adopted only in 1830, and the effect of that provision, under the revised Constitution, remained yet to be seen. The whole frame of Government of that State was essentially different from that of Pennsylvania. It was less republican in its basis, and in its development. The elective franchise was there much more restricted than here. It had long required possession of property as a qualification in the voter, and even as now modified, fell, in that particular, far below the extent and freedom of the elective franchise in this State. There, too, it was required that a delegate to the House of Representatives should have obtained the age of twenty-five; to the Senate, thirty. With us, the ages demanded were twenty-one, and twenty-five. There could be no fair reasoning by analogy from the state of Virginia—a slave State—a State of freehold electors—to the pure and untrammelled institutions of Pennsylvania.

Why, then, should the Senate of Pennsylvania be prevented from originating bills? Why should her Senators be denied the privilege of presenting for investigation *their* plans for the promotion of common good? Are they less experienced in public affairs? Are they less worthy of trust or confidence? Are they more exposed to the influences of passion, than the members of the House of Representatives? In theory, certainly, they are not; and they have not hitherto been so in fact. By the length of the term for which they are elected, and by the smallness of their number, they are guarded against, or strengthened to resist the impulses of passion and the force of extraneous influence. By the additional years necessary as a qualification, they have at least a chance for better preparation for the business of legislation. Where, indeed, in Pennsylvania, can a statesman be trained, if not in the chamber of the Senate? Where else become familiarly acquainted with the policy of the State, and with the course of legislation necessary to carry out and perfect that policy, than in that House in which the term of service is of some duration? A system cannot be the result of the legislation of a single session. It must be brought to perfection by the gradual progress of years. What are the land laws of Pennsylvania, under which your titles are held! Are *they* the fruit of hurried legislation by inexperienced minds? What is your splendid system of internal improvements, which has placed Pennsylvania in the very first rank among her sister States. Your bridges—your roads—your canals—how did they come into existence, if not by the unwearied and continued efforts of trained and disciplined men? We have heard much of the talents and the capacity for legislation of the young—of their

vigor of intellect and enthusiasm of feeling. It is true, there have been splendid instances of precocious intellect, and early acquirements. WILLIAM PITT has been referred to ; a prime minister at four-and-twenty—but he had been trained and instructed by the lessons and experience of the EARL of Chatham—the fast friend of our country in its revolutionary days; it was the wisdom of CHATHAM which flowed from his lips. Nor can I agree that *economy* is the only virtue and the only capability of maturer years. The law-makers of Athens and of Sparta were not boys : and although NAPOLEON himself conquered the world in arms while he was scarcely beyond the age of manhood, yet he found his victors among those who had passed the meridian of life.

The amendment of the gentleman from Indiana, instead of contributing to the dignity of the Senate, would place it in a position which would soon render it odious. Its duty would then be limited to concurrence with the lower House, or to the exercise of a *veto* upon its enactments ; and this latter office frequently performed, would expose it to the indignation and resentment of that which is called the popular branch, and would eventually expose it to the risk of entire overthrow, if it did not submit to the alternative of constant submission. It is true, it never may exercise a virtual veto upon the representative branch ; but that branch in its turn may, and does place its negative upon the action of the Senate, and thus the balance of feeling as well as of power is kept in a just equipoise. In truth, sir, the Senate is not less—perhaps it is more, an emanation from, and representative of the popular voice, than is the lower House. That is composed of persons chosen from single counties or small districts ; and it has happened both in this State and elsewhere, that a majority in that branch has been thus created, which did not, perhaps, represent the political feeling of a majority of the people. The Senators are chosen from larger districts, and come into office by majority of larger masses, approximating somewhat the case of the Executive, who comes in by a majority of the whole. To lessen the potency of the voice of the Senate, then, would be an interference with the most republican branch of the Legislature. It has been said that the Senate has pursued measures obnoxious to the people. This is assuming a doubtful and disputed point, and if it were true, it would furnish an argument against their full participation in the legislative power. Has not the House of Representatives sometimes incurred the censure of party ? And if it or the Senate, has done, or shall do that which a majority of the people do not approve of, are we, therefore, to take away their powers, and leave them impotent for good as well as for evil ? The appropriate and effectual remedy is to be found in the ballot box ; and if that remedy is not applied, it is because the people believe no malady exists which requires the application.

The system of legislation, as it has existed in Pennsylvania for forty years, Mr. SCOTT believed to be beautiful in theory, and to have been salutary in practice. He apprehended that the amendment proposed would derange this well-tried machinery, and hoped, therefore, that it would not prevail.

Mr. CLARKE, of Indiana, said this principle did not appear to be an experiment with the State of Virginia. She inserted it in her Constitution adopted on the 5th of July, 1776, only one day after the adoption of the Declaration of Independence. The provision in that Constitution

reads "all laws shall originate in the House of Delegates, to be approved of or rejected by the Senate, or to be amended with the consent of the House of Delegates; except money bills, which shall in no instance be altered by the Senate, but wholly approved or rejected". This same provision was inserted in the Virginia Constitution adopted in 1830, except that part of it relating to money bills. Thus their experience of fifty-four years led them to adopt this provision. Now, he apprehended, that fifty-four years' experience, was sufficient to convince the people of that State if they suffered any inconvenience or injury from this principle. The gentleman from the city had asked, where were we to form our Statesmen? Where were we to form our practical Statesmen, if not in the Senate? Mr. C. took it for granted they were to be formed in the House of Representatives. Our young men come into the House of Representatives, and there acquire that tact, and knowledge, and power in legislation which makes the statesman, and with this experience they go into the Senate and exercise that power in keeping the Government steady. But gentlemen have said, the adoption of this amendment would be leaving the Senate with a mere veto power. This was not the case; because it would allow the Senate full power to alter or amend, and modify all bills in such manner as they might see proper. The principle was to originate in the House, and then the Senate could put it in a better shape if it was necessary. The gentleman had said that it had been, and might again be, that the House of Representatives would not reflect the will of the majority of the people. Mr. C. had known of but one instance of this kind, and there the Senate formed a rallying point, till the people, who had been led to believe, that after the election of Gov. HESTER they would get a dollar a bushel for their wheat, were undeceived and had time to come back to the right course. The people in a free Government cannot long be deceived, because they have no interest in continuing an unjust law; whereas the Governors, rulers, or servants if you please, of the people, may have an interest in perpetuating a wrong. The framers of the Constitution contemplated, that the Senate in many cases, should act in the character of Judge. In cases of impeachment, the impeachment begins with the people, and the Senate sits as Judge in the case. Now, he wished them to sit as Judge in all cases. They did this in all revenue bills; and he wished them to do so in all other bills.

Mr. INGERSOLL called for the yeas and nays, which were ordered, and were, yeas 33, nays 84, as follows:

YEAS—Messrs. Barclay, Bayne, Bigelow, Bonham, Clarke, of Indiana, Clark, of Dauphin, Crain, Crawford, Darrah, Donagan, Dunlop, Earle, Farrelly, Fry, Gamble, Hastings, Helfenstein, High, Hyde, Ingersoll, Keim, Krebs, Magee, M'Dowell, Miller, Myers, Nevin, Riter, Rogers, Shellito, Sterigere, Stickel, Weaver—33.

NAYS—Messrs. Agnew, Ayres, Baldwin, Banks, Barndollar, Barnitz, Bell, Biddle, Brown, of Lancaster, Butler, Carey, Chandler, of Chester, Chauncey, Clarke, of Beaver, Cleavinger, Cline, Coates, Cochran, Cope, Cox, Craig, Crum, Cummin, Cunningham, Darlington, Denny, Dickey, Dickerson, Donnell, Fleming, Forward, Fuller, Gearhart, Gilmore, Grenell, Hamlin, Harris, Hayhurst, Henderson, of Allegheny, Henderson, of Dauphin, Hiester, Hopkinson, Houpt, Jenks, Kennedy, Kerr, Lyons, Macley, Mann, M'Call, M'Sherry, Meredith, Merrill, Montgomery, Overfield, Pennypacker, Pollock, Porter, of Lancaster, Porter, of Northampton, Purviance, Reigart, Read, Ritter, Royer, Russel, Saeger, Scott, Sellers, Seltzer, Smith, Smyth, Snively, Stevens, Swetland, Taggart, Todd, Weidman, White, Woodward, Young, Sergeant, *President*.—84

So the motion to amend was disagreed to.

The report of the committee that it is inexpedient to amend the twentieth section, was then adopted.

Mr. FRY then moved to add a new section to be called section 21, as follows: "No pension shall be granted by the Legislature but in consequence of actual military services, and then only for one year at a time".

Mr. FRY believed it to be necessary, that some restriction of this kind should be placed on the Legislature, as in his opinion there were many abuses practiced in relation to pensions. He had here introduced it, but if the committee did not agree with him he would submit it to their better judgment.

Mr. DICKEY called for the yeas and nays. He should like to know who would vote to deprive the Legislature from pensioning the widows of soldiers, either of the revolution or the late war.

Mr. FRY then withdrew his amendment for the present.

The report of the committee that it is inexpedient to make any amendment in the following section, was then taken up:

"SECT. 21. No money shall be drawn from the Treasury but in consequence of appropriation made by law".

Mr. CLARKE, of Indiana, should like to see some amendment to this section, but he was not now prepared to say exactly what amendment should be made to meet the case. There was a practice in existence of drawing money from the Treasury, on simple resolutions which slipped through the Legislature without that deliberation which ought to be required in so important a matter. He considered that no money should be appropriated, unless by an act of the Legislature, which had gone through all the usual forms. He made this suggestion now, so that gentlemen might have an opportunity of preparing an amendment to meet the case by the time we came to second reading.

The report of the committee was then adopted.

The report of the committee that it is inexpedient to make any amendments in the following section, was then taken up:

"SECT. 22. Every bill which shall have passed both Houses, shall be presented to the Governor. If he approve, he shall sign it; but if he shall not approve, he shall return it, with his objections, to the House in which it shall have originated, who shall enter the objections at large, upon their journals, and proceed to reconsider it. If, after such reconsideration, two thirds of that House shall agree to pass the bill, it shall be sent, with the objections, to the other House, by which, likewise it shall be reconsidered; and if approved by two thirds of that House it shall become a law. But in such cases, the votes of both Houses shall be determined by yeas and nays; and the names of the persons voting for or against the bill, shall be entered on the journals of each House respectively. If any bill shall not be returned by the Governor within ten days (Sundays excepted) after it shall be presented to him, it shall be a law, in like manner as if he had signed it, unless the General Assembly by their adjournment, prevent its return; in which case it shall be a law, unless sent back within three days after their next meeting".

The report of the minority of the committee on the same subject, was read, as follows:

The minority of the committee to whom was referred the first article of

the Constitution, report that it is expedient to alter the 22d and 23d sections of the said article so as to read as follows :

SECT. 22. " Every bill which shall have passed both Houses, shall be presented to the Governor ; if he approve, he shall sign it ; but if he shall not approve, he shall return it, with his objections, within ten days after it shall have been presented to him, and his objections shall be entered at large upon the journals of the House in which the bill originated ; upon which being done, the Senate and House of Representatives shall, in joint meeting, proceed to reconsider the said bill ; and if, after such reconsideration, two thirds of said joint meeting upon ballot, shall agree to pass the bill, it shall be a law. If any bill shall not be returned by the Governor within ten days (Sundays excepted) after it shall have been presented to him, it shall be a law, in like manner as if he had signed it, unless the General Assembly by their adjournment, prevent its return.

SECT. 23. " Every order, resolution, or vote, to which the concurrence of both Houses may be necessary (except on a question of adjournment) shall be presented to the Governor, and before it shall take effect, be approved by him, or being disapproved shall be repassed by two thirds of both Houses in joint ballot, in joint meeting for that purpose assembled ".

MR. MERRILL moved to amend the said twenty-second section, by inserting after the word " respectively ", the following words : " but if two thirds of each House shall not vote for the bill, it shall be laid over to the next regular session of the Legislature, then if the same shall be passed by a majority of each House, it shall become a law without the signature of the Governor ".

MR. PURVANCE felt gratified that the Convention had engaged in earnest in the discharge of the legitimate duties for which it was assembled. He was pleased to see the spirit of voting instead of that of speaking pervade the body, and he would not at this time have troubled the Convention with any remarks of his, but for the circumstance of having been a member of the committee, from which the report now under consideration emanated. Having been a member of that committee, he would beg the attention of the Convention for a few moments, while he assigned the reasons which operated with him in suggesting a change of, or restriction upon the veto power. He had ever entertained but one opinion in relation to this singular power, and believed it to be contrary to the spirit and genius of our free republican institutions. It is a derivative of monarchy, and is illy adapted to the free spirit of inquiry and decision of an enlightened people. The beauty of our Government consists in the several departments being kept separate and distinct ; so that neither shall be permitted to encroach or trench upon the province of the other. The Executive Department should be confined within its legitimate sphere, and should not be permitted to interfere in the business of legislation ; and were we now forming a new Constitution instead of amending an old one, he would have no hesitation in giving his vote against the introduction of any such power into that instrument. Upon an examination of the several Constitutions of the different States, which he had looked into with some degree of care, he found that this power, in nine of the States of this Union, has been withheld from their Executives. In the States of Maryland, Rhode Island, North Carolina, South Carolina, Ohio, Tennessee, and Michigan, no such power in any shape or form is vested in their Chief Magistrates. In New

Jersey, the Governor has but a casting vote with the Council and Legislature. He is but one, and counts but one, having no power to check the expressed will of the people only so far as his individual voice and vote will extend. In five of the States enumerated, the Governor is elected by the people, and yet they have not been willing to clothe him with powers so plenary as those given by the veto. The people have reserved this power to themselves, and in his humble opinion they were the best check that can be imposed upon improper and injudicious legislation. Besides, the framers of our present Constitution intended no other check upon the temporary excitement, and injudicious legislation of the lower House, than that of the Senate, whose term of office was so constructed as to have especial reference to that supposed difficulty, and to provide especially for the contingencies. Under the existing provision of the Constitution, the Governor has an almost unlimited power over the action of both branches of the Legislature, and indeed a case may be supposed, where the unanimous decision of the popular branch—the House of Representatives—may be reversed, or rendered inoperative by the exercise of the veto power, because the present Constitution requires two thirds of each House to carry a law against the will of the Executive. If, therefore, one hundred members in the lower House, which is the entire body, were specially instructed by their constituents on a particular subject; and if, in addition to this, twenty-one members of the Senate concurred with the lower House, the veto of the Executive would still be sufficient to defeat the popular expression thus solemnly made by one hundred and twenty-one of the people's representatives.

He confessed he was startled at such a power being lodged in the hands of a single individual. It may be a tremendous engine of power if so applied, and a Governor whose patronage is so extensive, as that of a Pennsylvania Executive, might, on extraordinary occasions, so wield it, as to entirely destroy popular representation. By popular representation he meant the will of a majority of the people, as expressed through the votes of a majority of their representatives. He had thought, that whilst, perhaps, it would be injudicious to strike from the Constitution the power as it there exists, he was, nevertheless, clearly of opinion that some additional restraint should be imposed upon its practical operation. Instead of requiring two thirds of each House separately, the report of the minority proposed to restrict it to two thirds of both Houses in joint ballot, which will at all times limit the action of the Executive veto to a less proportion of popular representation; so that at no time and under no circumstances, could the power extend beyond the will of eighty-eight members; when as it at present exists, it may be made to extend beyond the votes of one hundred and twenty-one of the people's representatives. Sir, (said Mr. P.) however much I am opposed to this extensive power, I confess there are other reforms of the Constitution for which I am free to say I feel a greater degree of interest, and in which I have no doubt my constituents are more immediately concerned. My principal desire at this time is to record my reasons with my vote. I desire they shall stand upon the records of this Convention in bold relief against any and every monarchical feature of the Government. I am desirous that after-ages shall know that my confidence in the people for self-government is the same with which the patriots of the revolution were inspired, and that that confidence cannot be diminished

or impaired as long as virtue remains to influence and govern popular sentiment.

Mr. MERRILL said it might be right to ask if the Governor in using this power, was using it as a legislator, or whether he used it for the purpose of protecting the Executive power from encroachment. In the first section of this article, the Legislature is said to consist of two branches; and the Governor is declared by the Constitution to be the Executive, and is directed to give information to the Legislature of the state of the Commonwealth, and take care that the laws are faithfully executed. He is also sworn to support the Constitution, and this Constitution is the supreme law of Pennsylvania. Believing then that he acts as the Executive and not as a branch of the Legislature, he ought undoubtedly to have sufficient power to protect him from the overwhelming force of the other branches of the Government. Being sworn to support the Constitution, he ought to be left at liberty to obey that oath. The Constitution being the supreme law, the question arises whether it is better for the State that the Governor should exercise a discretion after the law is passed; whether he should have the power of dispensing with the law, or of going before the people and saying to them that this law was not consistent with his views, and he would not carry it into execution unless compelled by the constitutional majority? Was it not better for the Legislature that he should say this? It seemed to him then that the veto power could not be dispensed with without putting the Governor at the mercy of the other branches of the Government. Then the question arose whether the Governor should have the power to veto a law required by a majority of the people and a majority of the Legislature? He agreed that this was putting too much in the hands of the Executive. He (Mr. M.) proposed giving the Governor power merely to suspend the action of the law for one year. Not that he have power to veto a law for ever, but that he have power to put it back one year and see whether the people will send back representatives who will pass this law he has vetoed. This was not putting it in his power to do any great injury to the country. He would permit the Governor to veto a bill, and then if two thirds of the Legislature fail to pass it, let his veto go before the people for their consideration for one year, and if his reasons are not sufficient to convince them that he is right, then their judgment ought to prevail. He agreed that the right of the majority ought to prevail, but it was necessary to have checks and balances to protect the weak against the strong. This measure then would act as a check to any momentary error in Legislation, but was not such a one as would prevent the deliberate and express will of the people from prevailing. There was another reason why this proposition should prevail. The Governor is expected to be as much independent as the Legislature or any other branch of the Government; then he ought to have some power to resist all encroachments which may be made upon him. It is proposed to take from him a great deal of the patronage he now wields, and make him a far less man than he now is; then was it not right that we should relieve him at the same time of some of the responsibility which rests upon him? A Governor might say he would exercise his veto power for the purpose of suspending a law, when he would not venture to use his veto if it was to veto it for ever. The veto bears a strong resemblance to regal power and was not always thought

well of by the people. This being the case, the Governor might be indisposed to use it at times when it would be proper for fear of incurring the displeasure of the people, when, if it was merely a suspension of the law, he would use it without hesitation. Then shall we not relieve the Governor from this responsibility. His duty, if he believes a law to be improper, is to say he cannot sanction it; but this might bring upon him the censure of the people. If, however, the veto was only putting over the law for one year, then he could do it without raising any popular tumult. Then was it not consistent with our duties to the officer—was it not consistent with the safety of the minority—and consistent with the best mode of doing business, to adopt the measure he had proposed. If you have an unlimited veto it will be so large that some of your Governors may not be willing to use it when they should do so, and others may use it to the great injustice and injury of the people.

Mr. CRAWFORD then moved to amend the section, by striking out the words "two thirds", wherever they occur, and inserting the words "three fifths".

Mr. AGNEW said, he was opposed to the proposition to amend under consideration, as well as to that which had been offered by the gentleman from Union. In the first place, because no such alteration had been called for by the people: And, in the second place, because it would overthrow a fundamental principle upon which our Government had been framed. He believed the only true and proper guide we could take in the proposal of amendments, was the general sense of the community, so far as it could be gathered. In the alteration of a Constitution, as in ordinary legislation, the first inquiry was, the evil sought to be remedied. It would be strange indeed, if, after a lapse of forty-seven years, those parts of the Constitution which have hitherto rested lightly upon the people, and against which they had raised no general complaint, should be defective and require amendment at our hands. But when, during that period, frequent and loud complaints had arisen, it was reasonable to suppose, that those features complained of, were defective or injurious, required the serious attention of this assembly, and required alteration if amendment could be beneficially made. This was the guide which had hitherto directed his course, and should direct it hereafter. Those amendments which the community, had, with a general voice, demanded, he had too much at heart to endanger, by connecting them with propositions doubtful in their character, and which would only render the whole unpalatable to the people. He had no desire to enter upon new and untried experiments, because they seemed plausible or captivating, or to adopt propositions which were the suggestions of our own thoughts only, and not pointed out by common observation. When, he asked, had the people desired to dispense with the veto power? It was true, that a certain party had at one time much censured the exercise of that power, by the President of the United States; while now, perhaps, an opposite party disapproved of it in a late act of the Chief Magistrate of this State. But these, said he, are censures upon the *exercise* of it, as improper in those instances, not a repudiation of the power as unwholesome and prejudicial to the interests of the people.

It was chiefly because the alterations proposed to affect, and, in some measure, if not altogether, to dispense with, a fundamental principle, as he

believed, in the Constitution of our free Government, he felt bound to oppose them. The great end of every Government is the protection of individuals in the enjoyment of those rights, which are essential to their welfare and to the pursuit of their happiness, and that was the best Government which most conduced to that end. The experience of mankind in all ages had shown, that that Government, in which its several functions were performed by the same organ or body, is most likely to run into usurpation, and to end in tyranny. When the same body which makes laws executes them, there is no shield against tyranny and oppression. It may make laws unjust, cruel, and encroachments upon the rights of individuals, and carry them into effect, without regard to right or justice. The only protection against usurpation, and the only means which had yet been discovered to restrain Government within its legitimate limits, existed in the distribution of the several powers of Government among several distinct branches. With Americans, at least, the distribution of the several powers of government had become a settled axiom in the science of government. But of what importance was it that a Constitution should set upon its face this great principle, and should even provide that the Legislature, or the Executive, or the Judiciary, should never exercise any of the powers of either of the other branches, unless it contained some inherent principle of protection, to preserve the balance of those powers, and to prevent the encroachments of any one upon the other? What is a Constitution without this principle of self preservation, more than so much paper? No matter how visible and broad the line of demarcation, the great, the difficult task is the *practical means of securing* every branch against the encroachments of the States. The veto, a qualified negative of the Governor upon the acts of the Legislature, is one of the conservative principles of our Constitution, intended to prevent the unwholesome operation of fluctuating majorities, to protect the other branches of Government against the encroachments and usurpations of the Legislature, and to carry out *practically*, and preserve the distribution of powers. The executive and judicial branches of Government can be easily restrained to certain and known spheres of action—that action being for the most part under and subordinate to law. The paths of their duties lie straight before them, and their deviations are narrowly watched. But the Legislature, subject to no limitation, and restrained by *prohibitions* only of the Constitution, ranges over a wide field of undefined power, in the pride of conscious strength. In its hands, all your laws, your institutions, and your public policy are placed. It controls your vast interests, your property, and every thing within the illimitable field of legislation. All your resources of wealth and your property are regulated and controlled by it. That which it does to-day, it can undo to-morrow. It is, in the first instance, the judge of its own powers, and decides for itself how far its own acts are within its legitimate sphere.

What is there in this branch of Government, apart from extrinsic checks, to preserve it in the faithful exercise of its functions, except the correctness of the opinions it forms of its own powers and its sense of right? If this be the case without the veto power, what security have you that the Legislature never will transcend those powers? An apparent necessity, a great emergency, are the plausible prettexts to justify acts which, viewed under calm and peaceful circumstances, find no defence on the ground of

Constitutional propriety. Men are actuated by different feelings and different views: they may, and always will, in some measure, differ in their construction of the extent of the restrictions laid upon the powers exercised by them. What was declared Constitutionally right yesterday, is wrong to-day, and may be right again to-morrow. Political excitement, great popularity and faction often warp the strongest judgments, cloud the clearest minds, and run into usurpations which find favor, and even sanction, temporarily, with the people. All past observation teaches us, that communities have their passions and infirmities as well as individuals, and like them often transgress those rules which they have established for their own government, and which, when the tempest is past, or the weakness removed, they acknowledge right and proper. Thus in times of high excitement, when the angry feelings of the multitude are inflamed, or their prejudices aroused, the majority may and have often transcended the limits of Constitutional power. Gentlemen fall into great error when they talk of the *rights* of majorities. He said he did not dispute the *true* democratic doctrine of majorities: on the contrary, it was the only practicable means of effecting the legitimate object of Government. But he did mean to dispute that doctrine which, by the *power* of the majority, swallowed up the *rights* of the minority. The people were the whole people, and not a majority merely; and the majority only exercises *powers*, not rights given to it by the whole people, by common consent, in the institution of government. It was no justification of a departure of the Legislature from its Constitutional powers, that that departure had been sanctioned by a majority of the people. He did not deny that the people had at all times the right to alter, abolish, or reform their Government, and to do that by means of a majority; because it was a right inherent in the people, and by common consent permitted to be done by a majority. This must be done in the proper manner, by direct action of the people themselves, or under their express authority upon the subject, with an intention to alter, reform, or abolish. The majority, then, could not sanction an unconstitutional act of legislation. What a majority one day may have considered right and Constitutional, a majority may at another time decree wrong and unconstitutional. There is no safety in the doctrine of majorities, except when they run in channels cut out for them by the Constitution which the *people* have established for their government. When they leave these channels, nothing but overflow, deluge, and destruction can ensue. It is, then, to protect against the sudden fluctuations of mere majorities; to check the extravagant career of political fanaticism; to preserve the inviolability of the Constitution, and to defend the co-ordinate branches of the Government against the encroachments of the strongest branch, by preventing consolidation, that this qualified negative upon laws has been placed in the hands of the Governor. For these reasons, he said, he was opposed to any change in the Constitution in this particular, and hoped the committee, who had indulged him with their close attention, would not pass the proposed alterations.

Mr. SERGEANT rose and said—the question now under the consideration of the committee, is substantially what is called the veto power of the Executive. With regard to which, I would say, that I think it does not require any alteration. It stands very well as it now is in the Constitu-

tion. He would remark, in the first place, upon the error of continually quoting to us from the Constitutions of other States, upon the simple ground that they had adopted some other plan. The mere fact of a difference, was neither argument nor authority in favor of a change. If, instead of purchasing the book of Constitutions, (which he almost regreted, from the unsatisfactory use made of it) a committee had been appointed to enquire, and report whether any State in this Union was more republican, more prosperous, and more happy than Pennsylvania, then it might be well to refer to its Constitution, and see how far its superiority has been owing to the quoted provisions. But, merely to look into the book of Constitutions, and say that the Constitution of Virginia, or of Vermont, or of any other State, is different from the Constitution of Pennsylvania, is saying nothing at all to the purpose. We have had the Constitution of Virginia referred to upon another question of Constitutional legislation. Now, I would ask the gentleman from Indiana, (Mr. CLARKE) whose opinions I am always disposed to respect, whether the Constitution of Pennsylvania, as a whole, is like the Constitution of Virginia? Are there not great and systematic differences? The Constitution of Virginia is not based on the broad principle of popular representation, and though it has been somewhat modified by a late Convention, it nevertheless is, in this respect, quite unlike the Constitution of Pennsylvania. There is another feature in that Constitution also different from ours. It requires a freehold qualification to entitle a man to sit in her Senate, but the Senatorial term is the same as in Pennsylvania. Now, with respect to the Constitution of Virginia, as it was before the year 1830, when it underwent a revision, or as it has been since.

Has Virginia, I repeat the question, been more prosperous, more republican, or more happy than this Commonwealth? If not, then there was no particular argument to be drawn from any part of their Constitution.—We might as well propose to adopt the freehold qualification, alleging it to be the cause of her superiority.

I might make the same remarks in relation to the Constitution of Vermont, or any other Constitution in the Union. As to all of them, they are Constitutions adapted to those States. We are bound to believe so, because they are the choice of the people, and it is for them to choose. When, therefore, we are referred to the Constitutions of other States, as models, it should be shown that they are suited to the habits and manners of our citizens, or would improve them. And, we should endeavor, in amending our Constitution, (if it require amendment) to avoid the errors into which they may have fallen. By the test, however, of actual results, there is nothing to call for a change. Pennsylvania, I venture to affirm, has been, and continues to be, under her present Constitution, as republican, as prosperous and happy as any State in the Union.

With respect, then, to the veto power, which is now the immediate subject of consideration, it has its use and its objects in Pennsylvania, as to which it has not been found wanting, according to my notions of the matter. Of course, every gentleman will think for himself, and prefer what he thinks right. I will very briefly refer to some particulars. What are those uses? One of them is to maintain, in its full vigour, as nearly as possible, the principle of a majority. That is the prevailing principle

of our Government, but in its application, there is occasion for correction. The veto operates as a corrective. It may happen, for example, that the House of Representatives may be so constituted, that the majority of the House may not represent the majority of the people of Pennsylvania—that is, the majority of the House may be elected by less than a majority of the people. It inevitably follows, as will be seen by the slightest view of the matter, that your method of voting by counties and districts, and of apportioning representatives will have this effect. An election in one county may be unanimous, while, in another, the vote may be nearly divided, so near that there is a bare majority. So that, when you come to take a view of the House of Representatives, you may find, sometimes, that it does not represent the majority of the people of Pennsylvania. All this is equally true of the Senate. The majority principle, nevertheless, is sufficiently carried out for all ordinary purposes. But, an extraordinary case arises, one of great magnitude and importance. Well, sir, here is the Governor, as I said, when speaking of the Legislature a few days ago, elected by a majority of the whole people of the Commonwealth, and to whom is submitted an enactment of both Houses. He, representing the whole majority, may give it a negative. Suppose he does so, then he brings the Legislature to a pause upon a subject, for which he is accountable to the whole people of the State. But he does not make a law—neither does he finally defeat one. It goes back to the Legislature, when two thirds can finally pass it. Two thirds, it may be remarked, will generally represent a full majority. But, if two thirds should not concur, it goes to the people. If they disapprove the veto, they will, through the ballot boxes, make such a change in the Legislature, as to secure the concurrence of two thirds to the enactment. Thus, then, you have a Governor who represents the whole people of the Commonwealth, merely staying a measure which does not meet his approbation, till it shall be clearly ascertained that there is more than a majority of both Houses in its favor, and as a consequence, that there is a full majority of the whole people. To allow it to pass, finally, in all cases, by a mere majority of the Legislature, would be to sacrifice the principle of the majority, as has already been shown. But, this is not its only use, nor even its principal. Another object of the veto power is to secure more and better deliberation, to prevent hasty and objectionable legislation. Has it not attained that object? I ask, in general, whether every member of this Convention, who has attended to the course of legislation in this Commonwealth, does not know, that in every instance where the Governor has sent back a bill, the vote upon it has been less than it was before the veto. What is the cause of this? It is very manifest. The reasons which he has given have proved sufficient to change the minds of the members. But, on the other hand, where the application of the veto has operated against the deliberate will of the people, it has been without effect. A memorable instance of this occurred in 1813. You will recollect it, Mr. Chairman. It was a bill which passed both Houses, to authorize the establishment of about thirty banks in this Commonwealth. Governor SNYDER vetoed the bill, and two thirds of both Houses could not be obtained to pass it—consequently, it failed.

At the next session of the legislature, however, another bill was

brought in to establish forty banks, and it was carried through both Houses. The Governor vetoed it. The Legislature, notwithstanding, passed it by a majority of two thirds of both branches. We know something of the history of the forty banks, and of the consequences that followed. But *that* is not to the present purpose. I cite it now only to show, that where the will of the people is deliberately settled, it will overcome the veto power. The elections of 1813, 1814, put a two thirds majority in the Legislature, and the law was carried.

I am persuaded, that in this point of view—of preventing hasty legislation—the veto power of the Governor is not regarded as it should be. In my opinion, it is of such vast value, that if there were no other reason for retaining it, than that it has this preventive efficacy, *that*, of itself, would be sufficient.

But, further, considering the veto power as a portion of legislative authority, exercised only in a limited way, that is, as a negative, it is entitled to great consideration. In this point of view, it is a check by the majority of the whole people of Pennsylvania, upon the acts of majorities of portions of the people, which may be brought about by the concurrence or combination of local views and interests—by what is commonly called “log rolling”. We have heard of “log rolling” as a vicious kind of legislation, to which legislative bodies made up of local representatives are exposed. We have seen something of its nature here, and how it may insinuate itself. Not many days ago, a member of this Convention, (Mr. EARLE) without any dishonest motive, rose in his place to ask for the ayes and noes, fearing he should not be sustained, called out to gentlemen around him—give me the ayes and noes this time, I will return the compliment. I believe that this was done in sincerity, with no belief that there was any thing wrong in it, yet this was log rolling. “You help me, and I will help you”. So it is with log rolling in the Legislature. Let me take for example, the case of the forty banks. I want a bank in my county, says one member; my constituents are anxious for it; I believe it will be of great service to them, and not injurious to the Commonwealth, and it will be a pleasure to me to be instrumental in obtaining the object of their wishes. You may suppose if you please, this to be the course of a young legislator, one obnoxious to the objection of the gentleman from Indiana, (Mr. CLARKE) a young man, as well as a young legislator. I do not agree with that gentleman in the line he would establish excluding young men. Some errors, I will nevertheless acknowledge, do undoubtedly arise from that which is peculiar in young legislators—those who are just beginning their career feel it to be indispensable to do something—to have something to show upon the journals and in the statute book. One member having thus proposed a bank for his county or district, another under the same influence, says, “very well, I want a bank, too; if you will vote for my bank, I will vote for yours”. And, how does this happen? Why, sir, each being impressed with the vast public importance of having what may be called his bank, easily persuades himself that the great public importance of carrying it, will more than outweigh any possible injury from the other, and, upon the whole, that the Commonwealth will be benefited. He votes under this conviction. So it is with all other measures which admit of log rolling. Take, for instance, the

case of public improvements. An improvement bill is introduced appropriating three or four millions of dollars, and prospectively committing the State for twenty millions. The member who brings in the bill, feels himself strongly persuaded that it is of great consequence to have a canal in any given direction, say along the north bank of the Susquehanna. Another member says, I care nothing about that improvement, but what do you think of improving such a stream in another part of the State? It would be a great benefit to the neighborhood, and to the Commonwealth in general. The other member consents to put in his bill an appropriation for the designated purpose. And in this way, are appropriations upon appropriations inserted in the bill for improvements throughout the State, to an enormous amount. Each member, it is evident, is more or less operated upon by local interests. He means to legislate for the benefit of the whole people, and thinks he does so, but his spring of action is an active local feeling. His judgment is disturbed by it, and he really supports the whole for the sake of a part. This is the log rolling system—a system which creates great bills, with great expenditures, not duly considered in their general bearing, and which you should, by your legislation, endeavor to prevent. How are you to do it? The veto power, properly exercised, is an effectual check, and I know of none other that can be devised. The Governor represents the whole people of the Commonwealth of Pennsylvania. From that elevated position his eye embraces the whole Commonwealth, and all its concerns and interests. He is not, and he cannot be operated upon by local interests and feelings. He looks to the good of the whole, and he is not likely to be influenced by partial views. The great interest of the State is operating upon his mind to control this combination of local interest, and put down the system of log rolling. Now, any one can easily perceive the salutary influence of the veto power in arresting this species of legislation. If the Governor be right, it cannot be denied that great mischief is prevented. If he be wrong, no harm is done. There is only a little delay. The next election will overrule him by means of a Legislature chosen for the purpose, who will pass the law, his veto notwithstanding, as was done in 1813-14 in the case of the forty banks.

Let me now ask, what has been the plan of legislation in Pennsylvania? For it is a plan of legislation that has been adopted, consisting of parts (the veto being one) concurring to some given end. Why, it has always been understood, that the exercise of the veto power, was to be applied cautiously, and only in strong cases—cases in which the Executive could put himself before the people, and exhibit reasons for what he did, which would be satisfactory to them. The first class of cases in which the Governor exercises his veto power, is, where he thinks the legislation incompatible with the Constitution of the State, or transcends the limits of legislative power. And surely, no man will deny, that it is better to arrest the enactment of unconstitutional laws in their passage, than to be obliged to invoke the aid of the Judiciary to declare them unconstitutional, after they have been passed. This is a conflict to be avoided as far as possible. It lessens the respect due to the Legislature, and it adds little to the strength or stability of the courts.

It may happen, indeed it actually has happened, through haste or

inadvertence, that the Legislature acts upon subjects entirely beyond its reach. A case was mentioned a few days ago, which occurred in the time of Governor M'KEAN. Both Houses passed an act to enable Executors or Administrators to sell lands in Kentucky. The Governor sent it back, assigning as his reason, that the Legislature of Pennsylvania could not legislate about lands in Kentucky. The reason was amply sufficient, and the act was dropped.

The efficacy of the plan, for its purpose, is abundantly proved. You have not had a law of Pennsylvania passed since the adoption of the Constitution declared unconstitutional, on account of its being incompatible with the Constitution of the State. Of those laws which have been declared by the Supreme federal tribunal to be unconstitutional, on the ground of repugnance to the Constitution of the United States, this State perhaps has had her share. Let me add, that the fact that no law has been declared repugnant to the Constitution of the State, is no slight argument in reference to the system of legislation in Pennsylvania. But, to understand the whole plan of legislation, we must look at all the parts. We shall see how they bear upon one another. The members of one branch are elected annually, and it is not required that they shall be more than 21 years of age to render them eligible. The other branch—the Senate, is composed of men more advanced in life—more experienced, who have been longer engaged in public affairs, and spent most of their time in public life in Pennsylvania, and who well know its history and policy. The Senate is composed chiefly of men who were formerly members of the House of Representatives. Is it not so? Is not this the practical working? In that body (House of Representatives) they begin their first trial to earn a reputation for talent, wisdom, integrity, and virtue. And when a man—a young man, if you please—has there shown himself to be possessed of those qualities which would fit him for a seat in the higher branch of the Legislature, if I may so call it, and I speak constitutionally, the people will send him to that body. What is the consequence of it? You have, as I have already remarked, men more advanced in life in that body, and of greater experience. It is, too, a smaller body. You hold the Senate up, by your Constitution, as a higher place than the other branch, in which there is a longer term of appointment, in which it is deemed a greater honor to have a seat, and to which it is no unworthy ambition to aspire. Members of the House naturally look to a seat in the Senate, as a reward for their services in the House. A body, thus constituted, is not likely to be carried away by theories that are impracticable, or to be subject to frequent and sudden impulses. Such is its character and constitutional standing, that he would rather be elected to the Senate than to the House. It offers thus, a motive for good conduct, and a reward for it. When he, who has been tried by being elected to the House of Representatives, becomes understood and is approved, it generally follows that he is called upon to sit in the Senate. Why? For what? To act there as one of the guardians of the Constitution of Pennsylvania, so that when storms arise, as they do sometimes, he will know full well how to meet their violence, and protect the sacred instrument which they threaten to tear to pieces. A man who is elected for a very short period to the House of Representatives, may have to bow before the gale; but, he who is placed in the Senate can

stand up and oppose it, until he knows whether it is a mere squall, a blast of prejudice or passion to be presently over, or whether it is steady wind that has set in to blow—for, if it be the latter, it will finally prevail. Yes, the tenure of his office allows him to wait, and to see whether the calm sunshine of peace will not return, and whether his constituents may not have been excited, as all people are subject to be, by some temporary feeling. When the excitement has passed away, they will then acknowledge his firmness and fidelity. The final check and guard is that which we have been speaking of—the negative power of the Governor, the Veto power. It completes the constitutional circle of legislative power, which would be imperfect without it. The Governor, as the representative of the whole people, ought to have a check in their behalf, upon hasty, inadvertent, and log rolling legislation. It has worked well in practice. Why is it assailed? It is not sir, perhaps, in order for me to advert to what has been decided in this committee, on other parts of the Constitution.—I am extremely sorry for the alterations that have already been agreed to in our Constitution. Each, and all of them, I believe to be for the worse, and I hope no more will be made.

Mr. HOPKINSON, of the city, said, it was not his intention to add any thing further to what had been said on the subject, but merely to remark upon what had frequently occurred in the Convention, he meant the practice of referring to the Constitution of other States for an organic sample. He had no objection to look to the wisdom and experience of the other States of the Union. When, however, we did look to the Constitutions of other States to derive an argument for our use, he would enquire whether, with regard to the subject matter in dispute, there was any sort of analogy between that Constitution and our own. Now, he would ask, what was the fundamental basis of our Constitution in reference to the Executive power? The Executive power of the Commonwealth of Pennsylvania was vested in the Governor, who is a part of the legislative power, and he is elected by the people. The gentleman from Butler (Mr. PURVIANCE) had drawn an analogy between the powers vested in our Executive, and those who preside over the States of New Jersey and Virginia. But, unless the duties to be performed by the Governors of those States, are similar to those of our own; unless they are elected by the people, his argument failed. The Governor of New Jersey possesses no Executive power. That power is vested in an Executive Council. He is elected by the Legislature, but he is an *ex officio* Chancellor of State. He is not elected by the people, as the Governor of Pennsylvania is—nor is he compelled to sign his signature to a law. In Virginia, too, the Governor does not put his name to a law.—He would violate his oath of office if he were to do so. He is elected by the House of Delegates, and for three years. In North Carolina, the Governor is elected annually. He (Mr. H.) mentioned these facts merely to show how necessary it was that an examination should be made, before we attempted to cite the Constitutions of the States on any particular power of the Executive, as bearing any analogy to that of our own Government. In conclusion, he would say, that the gentleman from Butler had totally failed in every instance cited by him, in showing that the duties of those Governors, were like those of the Executive of the Commonwealth of Pennsylvania.

Mr. CRAWFORD withdrew his amendment to the amendment.

Mr. PURVIANCE, of Butler, moved an amendment, so as to make the 22d section read as follows :

“ Every bill which shall have passed both Houses, shall be presented to the Governor. If he approve, he shall sign it ; but, if he shall not approve, he shall return it with his objections, within ten days after it shall have been presented to him ; and his objections shall be entered at large upon the journals of the House, in which the bill originated ; upon which being done, the Senate and House of Representatives shall, in joint meeting, proceed to reconsider the said bill ; and if, after such reconsideration, two thirds of said joint meeting, upon joint ballot, shall agree to pass the bill, it shall be a law. If any bill shall not be returned by the Governor, within ten days (Sundays excepted) after it shall have been presented to him, it shall be a law in like manner as if he had signed it, unless the General Assembly, by their adjournment, prevent its return”.

Mr. STERIGERE said—Mr. Chairman : In the early part of our session, I submitted an amendment to this section now on our files, which provides, that when a bill shall be returned by the Governor with his objections, it may be passed into a law by a *majority* of all the members of each House ; and that, if the Legislature, by their adjournment, shall prevent the Governor from returning a bill to which he objects, within ten days, he shall within ten days after the adjournment, file the bill, together with his objections, in the office of the Secretary of the Commonwealth, and publish the same. I refrained from offering my amendment, intending to wait till other gentlemen first offered their's. The amendment of the gentleman from Butler (Mr. PURVIANCE) provides that a bill returned by the Governor shall be passed by *two thirds* of the members of both Houses in joint meeting. The amendment proposed by the gentleman from Westmoreland, (Mr. CRAWFORD) which has just been withdrawn to enable the gentleman from Butler to first submit his proposition, provides that such bill may be passed by *three fifths* of each House. I am decidedly in favor of requiring only a *majority* ; but if I cannot succeed in that, I will vote for three fifths.

I have given this subject some examination and reflection. As I am opposed to this section as it now stands, I may as well submit the result of my deliberations now, as at any other time.

The object of the people of this State in establishing a Government, was not to build up a *throne* ; nor did they desire to invest their Governor with kingly powers. The framers of the Constitution of 1790, seem to have been deeply tinctured with notions in favor of a high toned Government ; for they have invested the Governor of the Commonwealth with uncontrolled powers, greater than has been given to the Governor of any other State, or to the President of the United States : and, in some matters, greater even than the king of England has. And one of the most objectionable powers with which he is now invested, is that of *vetoing* bills passed by the Legislature, and thus setting at defiance the will of the representatives of the people. The people never designed to create a Governor, to exercise power for his individual benefit, regardless of their rights, and to be placed above their control. He was created by them to perform certain functions in the administration of their Government, for their benefit and advantage.

In this particular, the Executive should not be above the Legislature ;

my hope is in the Legislature, and I would place all other departments under their control. The members are under the control of the people, and are coming continually fresh from their ranks, imbued with their principles. The people can never rely so securely on any other department of the Government. Our legislative Halls will be filled with virtuous men, so long as the people remain virtuous; and when they become corrupt, it will be of little consequence what the *form* of their Government is.

The gentleman from Union (Mr. MERRILL) says, the Governor should have this *power* to enable him to prevent the passage of unconstitutional laws, or else he may refuse to execute a law he believes to be unconstitutional. He is sworn to take care that the laws be faithfully executed. That is his duty, and he would be liable to impeachment for refusing to carry a law into effect—which had been constitutionally passed—as he ought to be. It is not *his* business to decide on the constitutionality of a law after it is passed. The gentleman says if two thirds of both branches should pass the bill, it would be strong evidence the Governor was wrong: but he proposes that if the bill should not be passed at the first session, it may be passed by a majority at the next session. Neither of these can remove the scruples of the Governor, and he will have just as much reason and justification for refusing to execute a law, if he thought it unconstitutional, when passed by two thirds, or at the next session, as if it passed by a majority at the first session.

I am opposed to the amendment of the gentleman from Butler. According to established opinions in this country, the legislative department of every Government should be divided into two branches, each entirely beyond the control of the other. This is the case in the Government of the United States, and in every State in the Union. In joint meeting, the voice of the Senate might be controlled and drowned, although every member of that body might concur with the Governor after hearing his objections. There is no State which has a similar provision in its Constitution.

I confess I could not see the force of the remarks of the President in favor of two thirds. He says it is better to have laws arrested by the Governor, than to have them brought before the judicial tribunals to decide on their Constitutionality. If the Governor must necessarily have been on the bench of the Supreme Court, or be learned in the law, it might do to lodge such authority with him. We have had, it will be conceded, but one Governor entirely competent to decide such questions, and perhaps will not soon have another. He has also said, that our legislation has been remarkably free from unconstitutional acts; and that no law of this State has been set aside by the court of last resort. But this was not owing to the veto power, and it is a strong argument in favor of leaving the exercise of the legislative power to the two Houses uncontrolled by the Governor. These laws were all passed by the Legislature, and perhaps some without the executive sanction. He likewise says, the practice has been to select for Senators, men of talents and experience—persons who had been members of the House of Representatives, and skilled in the business of legislation. This is true, and surely a majority of a Senate composed of such men may be depended on. They would be quite as competent to decide upon a law as any Governor.

The gentleman from the city (Mr. HOPKINSON) says, when we refer to other States, we must enquire into the analogy of the subjects : and he tells us that the reason the Governor of New Jersey is not required to approve bills is, that he does not exercise the Executive authority—that that is exercised by the Council ; and that the Governor is not chosen by the people, as in Pennsylvania. But let us remember, that that Council is composed of a number of persons—that it is, in fact, the Senate of New Jersey, and bears about the same proportion to the Assembly as our Senate does to our House of Representatives : and that the members are elected by the people as our Senators are, and have a like voice in passing laws. The objection is to the investing *one* man with an authority which enables him to set at defiance the voice of both branches of the Legislature, and thus defeat the public will, no matter whether the individual is or is not the Executive of the State.

It is a well settled principle, that the legislative, executive, and judiciary departments should be kept as distinct as possible. The Governor should never be any part of the legislative department ; he is never chosen with reference to legislation. In nine States, viz : Virginia, Delaware, New Jersey, North Carolina, South Carolina, Rhode Island, Ohio, Tennessee and Maryland, the Governor has no control whatever over the passage of laws. In the first seven, he does not even put his signature to the bills : in the last, he is required to sign the law ; but has no control or negative. In seven other States, viz : Connecticut, Kentucky, Indiana, Illinois, Alabama, Missouri and Arkansas, the Governor must sign the bill when it passes both houses, if he approves ; if not, he is to return it with his objections, as in this State ; and if the bill afterwards be approved by a *majority* of all the members of each house, it shall be a law. So that in two thirds of the States of this Union, the Governor is not allowed to control the majority of each House in any matter of legislation. The opinions of the people of these sixteen States is entitled to very great regard. They have been founded on mature consideration and reflection. They may be taken as the deliberate judgment of two thirds of all the people of this country, that the Executive of a State should not be vested with a legislative power and veto power, like that given by the present Constitution to the Governor. I most approve of the provisions of the Constitutions of the last mentioned States, and, perhaps, from the circumstance of being last framed, they are entitled to the greatest regard. I think when a bill has been matured in both Houses, it should be submitted to the Governor for his opinion. He is charged to see the laws are faithfully executed, and from his situation may be in the possession of some information which might have a material influence in passing the law, which, if he thinks the law is in any way objectionable, he should communicate to the Legislature with his opinion. But, if, after considering the information given by the Governor, and his opinion and arguments, a *majority* of each House should not deem them sufficient to reject the bill, *his* voice should not arrest the course of legislation.

This feature in our Constitution is anti-republican. No one man should be vested with such an authority—it is not necessary for the public benefit. It is idle to talk about this being necessary for the benefit of the people. That was the argument for establishing a Dictatorship in Rome, in which we do not yet stand in need of here.

Although this is a qualified negative, its exercise has always been so fatal, as to give it the name of the "*veto*". If it could have been resorted to without controlling a majority, I have no doubt it would have often been used with great benefit. The veto power has been so obnoxious to the people, that few Governors have ventured to exercise it. It can only be given to our Executive, as in the present Constitution, on the supposition that *he* is wiser and fitter to exercise the legislative functions, than *one hundred and thirty-three persons*, chosen by the people for that particular purpose. That is the ground upon which our experience and observation will not allow us to place it. On an average, our Governors have not been more competent to decide on our laws than the members of the Senate and House of Representatives. Excepting one man, I think, on a comparison, they would be found inferior. This power is among the prerogatives of the Governor, which the people wish abridged. I am, therefore, opposed to the section as it now stands; and, I cannot consent to the proposition of the gentleman from Butler, to consider bills returned by the Governor in joint meeting. I shall vote for reducing two thirds to a majority of each House, and if that fails, I will vote for the amendment proposed by the gentleman from Westmoreland.

The committee then rose, and the Convention adjourned.

FRIDAY, JUNE 9, 1837.

Mr. REIGART, of Lancaster, submitted the following resolution, which was laid on the table, and ordered to be printed :

Resolved, That this Convention do adjourn on Saturday, 1st of July next, to meet again in the city of Lancaster, on Tuesday, 17th of October next.

Mr. DUNLOP moved that the Convention proceed to consider the following resolution, submitted on the 16th of May last.

Resolved, That a committee be appointed to enquire into the expediency of so amending the Constitution of Pennsylvania, as to prohibit the future emigration into this State, of free persons of color and fugitive slaves, from other States or territories.

The motion being agreed to, and the resolution being under consideration,

Mr. DUNLOP modified the resolution by changing the word "emigration" to "immigration".

Mr. STEVENS moved that the resolution be indefinitely postponed.

Mr. MAGEE, of Perry, said, that this was a subject which had attracted the attention of a great number of his constituents, who had urged him to bring that proposition before the Convention. He had also some conversation with members of the Convention, in relation to the subject, since he had been here, and most of them acquiesced in the propriety of bringing forward the resolution. He was not, however, very tenacious about its fate. His great object was to discharge the duty he owed to those whom he had the honor to represent on this floor, and to ascertain what was the sense and judgment of this body on the subject. It was on this account, that he respectfully desired the appointment of a committee. He did not

consider that the request could be regarded as unreasonable, as it would be but an act of courtesy and justice towards those members of the Convention, and that portion of their constituents who had considered this topic as one which ought to receive the deliberation of the Convention.

MR. MANN, of Montgomery, asked for the yeas and nays on the motion of Mr. STEVENS, and they were accordingly ordered.

MR. STEVENS said he did not move the indefinite postponement of the resolution because he considered it would be disgraceful to consider the subject at all, but because if the Convention should determine to consider it, this was not the place for it. He did not mean now to go into the enquiry, if every human being, so long as he behaved well, who trod the soil of Pennsylvania, was not to be considered as a freeman. It was too late in the day to enter on such an enquiry. It could reflect no credit on the head or the heart of this body, to give any countenance to a proposition so totally at war with the principles of the Declaration of Independence, the Bill of Rights, and the spirit of our free institutions. He hoped that so much countenance would not be given to the resolution, as even to consider it.

MR. RUSSELL, of Bedford, hoped that the Convention would not agree to the indefinite postponement of the resolution. The constant importation of negroes was a great inconvenience to the southern part of this State, and ordinary courtesy ought to induce the Convention to take the subject into consideration, and determine whether some remedy could not be devised. In consequence of the constant emigration of persons of this class, from the States of Virginia and Maryland, very great inconvenience was experienced in the southern counties, and he hoped the subject would be enquiryed into.

The question was then taken on the motion for indefinite postponement, and decided in the negative, as follows :

YEAS—Messrs. Agnew, Ayres, Baldwin, Barnitz, Bell, Biddle, Brown, of Lancaster, Carey, Chambers, Chandler, of Chester, Chauncey, Clarke, of Beaver, Clark, of Dauphin, Cleavinger, Cline, Coates, Cochran, Cope, Craig, Cunningham, Darlington, Denny, Dickey, Earle, Gamble, Hamlin, Harris, Hayhurst, Helffenstein, Henderson, of Dauphin, Hiester, Hopkinson, Hout, Ingersoll, Konigsmacher, Maclay, McCall, M'Sherry, Meredith, Montgomery, Pennypacker, Pollock, Porter, of Lancaster, Reigart, Riter, Saeger, Scott, Serrill, Sill, Stevens, Todd, Young, Sergeant, *President*—53.

NAYS—Messrs. Banks, Barclay, Bayne, Bigelow, Bonham, Clarke, of Indiana, Crain, Crawford, Crum, Cummin, Darrah, Dickerson, Dillinger, Donagan, Donnell, Dunlop, Farrelly, Fleming, Forward, Fry, Fuller, Gearhart, Gilmore, Grenell, Hastings, Henderson, of Allegheny, High, Hyde, Keim, Kennedy, Kerr, Krebs, Lyons, Magee, Mann, Miller, Myers, Nevin, Overfield, Porter, of Northampton, Purviance, Read, Ritter, Rogers, Royer, Russell, Sellers, Seltzer, Scheetz, Shellito, Smith, Smyth, Snively, Sterigere, Stickel, Sweetland, Taggart, White, Woodward—59.

MR. DARLINGTON, of Chester, moved to amend the resolution, by inserting after the word "immigration", the words "of all foreigners," and striking out all after the word State, being all that part which refers to free persons of color and fugitive slaves.

MR. MAGEE called for the yeas and nays on this motion.

MR. DICKEY moved to postpone, for the present, the resolution and amendment.

MR. CUMMIN, of Juniata, rose to make a few remarks on the proposition which had been offered by the gentleman from Chester, (Mr. DARLINGTON). He was opposed to the motion for postponement. He was also opposed, he said, to a resolution placing "foreigners" among slaves

and negroes. Why the gentleman had made such an association of colors, and kinds, he was at a loss to comprehend, and why he had taken such means for casting a reproach on "foreigners". It was a subject not clearly before the Convention. In the revolutionary war foreigners were not treated in this manner. It would not have gone down well during the American war. They then stood on high ground, and shared as largely in public confidence as any of those who took a part in the struggle for independence. They stood in as elevated a position then as the ancestors of that gentleman. Take any of the foreign officers in our service, during that war, and ask whether they were entitled to the confidence of the American people, or not. Were not the most distinguished men of the revolution foreigners? Who was LAFAYETTE, but a foreigner? Look at the long list of English, Irish, Polish, and French soldiers, who came to our aid, and then say whether taunts are to be thrown out at foreigners, from those who, perhaps, would themselves, in the hour of trial, have skulked behind the curtain. It had been very common of late, in some quarters, to raise an outcry against foreigners. His own relations fought in the war of independence, and shed their blood at Long Island—and they were foreigners, and, like himself, natives of the green sod of Ireland.—He would defy the gentleman to point to a single instance in the history of that war, where an Irishman proved to be a recreant or a traitor. If any people, under the wide canopy of Heaven, were entitled to an asylum in this land of liberty, it was the Irish people. They were democrats; they knew their rights, and had fled from an oppressive Government.—They knew the blessings of liberty were to be found in a land, which spreads from the east to the west, from Maine to the Pacific, where the people enjoyed the greatest privileges on the face of the earth. — They did not come here as beggars, as many had done lately according to the papers which he had read this morning. They came as freemen, to make use of their industry as their means of support, and were always the foremost to defend the rights of the country against any aggression. To associate such a people with the blacks, was an insult not to be endured. It did not become the gentleman to cast such an insult on the Irish, without any reason. He was sorry that he had not sufficient education, and practice in speaking, to resist this proposition effectually. If he had that advantage, he would advance such arguments as would put to shame and confusion this proposition and its authors.

Mr. DARLINGTON said, the view which the gentleman from Juniata had taken, and the extent to which he had gone in the argument, rendered it necessary for him to say very few words in reply. The proposition which he had made was not intended to cast any reproach upon any class of our adopted citizens. He had no such design: such was not the object or import of his amendment, and he was sorry the gentleman had seen it in that light. Far be from him the desire to throw a taunt upon a portion of our citizens, equally to be valued for their patriotism in time of war, and their industry in time of peace. He knew that there had been many valuable patriots here in the time of the Revolutionary struggle, who assisted to make head against the colonial sway. He was aware that not only in the Revolutionary War, but in the last war also, we were much aided by foreigners who bravely stood by our side, and assisted to fight our battles. His own ancestors were not from

Ireland, but they were from England, and he had no feelings, for the people of these countries who became our citizens, but such as were most kind and respectful. But he wished that some enquiry should be made in reference to the number of paupers, who, as every paper stated, were daily cast upon our shores, from the various countries of Europe. Within a few days, we had been told of cargoes of these wretched and helpless outcasts being landed in New Jersey and New York. The numbers had greatly increased of late, and are daily increasing. It was a crying sin to cast on our shores these forlorn and miserable beings. He thought there was great danger to be apprehended from this constant influx of paupers, and he was desirous that some inquiry should be instituted into the subject, in order that if practicable, this nuisance should be prevented.

Mr. MEREDITH asked if there was not some standing resolution, by which all resolutions were referred, as a matter of course, to the standing committees which had charge of the subjects to which they referred.

The President stated that this resolution had been laid on the table.

Mr. INGERSOLL asked the gentleman from Chester, if, looking to the provision in the Constitution of the United States, he thought it could avail any thing to call on this body to prohibit the importation of any class of white citizens; whether he supposed we had the power to interfere on the subject.

Mr. DARLINGTON would only answer, that the original resolution which looked to a prohibition of free persons of color, was not his; and that he presumed the same difficulty would stand in the way of prohibiting them, as in prohibiting the emigration of free white citizens. It was well known that in some of the States, free persons of color were put on the same footing of all other free citizens, and entitled to vote as such. It was as competent for the committee to take cognizance of one subject, as of the other.

Mr. STEVENS suggested the propriety of the gentleman from Chester withdrawing his amendment, if it would be in order, while the motion to postpone was pending.

Mr. DICKEY withdrew the motion to postpone.

Mr. DARLINGTON then withdrew his amendment.

Mr. STEVENS moved to postpone for the present the further consideration of the resolution, and the resolution was agreed to.

So the further consideration of the resolution was postponed.

FIRST ARTICLE.

The Convention again resolved itself into a committee of the whole, on the first article of the Constitution, Mr. PORTER, of Northampton, in the Chair.

The report of the committee on the twenty-second section, declaring it inexpedient to make any alteration in the section being under consideration;

The amended minutes of the committee of the whole, of the 7th inst., were read.

Mr. KEIM, considering the minutes as not sufficiently full, submitted the following resolution:

Resolved, That the proceedings of the committee of the whole on the seventh instant, relating to the amendment to the fourteenth section, offered by Mr. HYESTER, of Lancaster, be entered upon the minutes of the proceedings of the said committee.

After a short conversation the question was taken on the resolution, and was negatived. Ayes, 23.

The question pending was on the motion of Mr. PURVIANCE, to substitute for the report of the committee on the 22d section, the following, being the minority report on that section :

SECT. 22. Every bill which shall have passed both Houses, shall be presented to the Governor. If he approve, he shall sign it; but if he shall not approve, he shall return it with his objections, within ten days after it shall have been presented to him; and his objections shall be entered at large upon the journals of the House in which the bill originated; upon which being done, the Senate and House of Representatives shall, in joint meeting, proceed to reconsider the said bill; and if, after such reconsideration, two-thirds of said joint meeting, upon joint ballot, shall agree to pass the bill, it shall be a law. If any bill shall not be returned by the Governor within ten days (Sundays excepted) after it shall have been presented to him, it shall be a law in like manner as if he had signed it, unless the General Assembly, by their adjournment, prevents its return.

Mr. BELL said, although in favor of a restriction of the veto power, he could not vote for the amendment of the gentleman from Butler, inasmuch as it proposed to merge the distinct existence of the Senate, as contemplated by the Constitution, in the larger body of the Representatives, in all cases of the return of a bill by the Governor; and this involves us in all the evils attendant on a single branch. Approving of the plan intended to be submitted by the gentleman from Montgomery, (Mr. STERIGERE) if the amendment now offered were negatived, and the whole question being open for discussion, he would take the opportunity to lay his views before the committee.

As the question under consideration was one of great magnitude, he trusted that it would be calmly and dispassionately discussed, and decided without passion or prejudice, and entirely free from party spirit. He had said it was an important question. It was so, because it was one, not of expediency, but of *power*, and so involving principle. It, in truth, embraces and brings to the view of the committee and the country, the inquiry whether it is proper we should perpetuate a provision which violates a fundamental characteristic of our system—the strict distribution of power among the several branches of the Government, awarding to the Legislature the power of making the laws, to the Judiciary the right of expounding them, and to the Executive the duty of seeing that they are properly executed. It would, perhaps, be recollected by the committee, that some days since, when the gentleman from Philadelphia county brought forward his proposition to incorporate with the provisions of the Constitution, an express declaration to the effect, that the power proper to each branch should be exclusively exercised by that branch, the principle involved in the proposition met with universal approbation, and the proposition itself was rejected only, because it was argued and so thought, that the principle was already recognised by all our existing institutions.

In discussing a question, it is often profitable to trace the history of the subject which gives rise to the question. If this course be pursued in the instance now before us, we shall be surprised to find that the reason given as the *principal* one for investing a republican Executive Magistrate

with the extraordinary power of *veto*, utterly fails. It is believed that the notion of the veto was derived from a peculiar power exercised by the tribunals of the people of ancient Rome. It was a power conferred on them that they might, at all times, be able to interpose a shield between the commonalty—the mass—against the encroachments of a patrician Senate. Strangely enough, the *veto*, originally intended for the protection of the many against the usurpations of a privileged few, has been engrafted on the British Constitution, to enable a kingly magistrate to defend his kingly prerogative against the apprehended strides of the people towards a more perfect liberty. Under that Constitution, the King is a constituent part of the legislative body. He sits there in his royal political capacity, and is said to be "*caput principium et finis*" of the English Parliament.—Thus, says a distinguished writer upon English Constitutional Law: "Every branch of our civil polity supports and is supported, regulates and is regulated by the rest, for the two Houses naturally drawing in two opposite directions of opposite interest, and the prerogative in another still different from them both, they mutually keep each other from exceeding their proper limits": and he adds, as a result of this arrangement, "the Legislative power cannot abridge the Executive of any of its rights without its consent". The reason then, of the introduction of this feature in the British Constitution, is to be found in a strong desire to protect the kingly prerogative. Strangely as it may sound, the same reason is given as the primary and leading one for its introduction among the provisions of the Constitution of the United States. The *veto* was borrowed by the framers of that Constitution from England, and engrafted in our system, that the Executive might be able to defend itself against the encroachment of the Legislative branch. This is the leading argument used in its favor, by ALEXANDER HAMILTON, who, it is well known, was the advocate of a strong Executive, approaching to monarchy. To be sure, obvious propriety suggested a modification of the form as it now exists in England; but experience has shown, that the "qualification" of the Executive negative, is almost merely theoretical. [Here Mr. B. read Mr. HAMILTON's paper from the *Federalist*, in which he defends the power of the veto, on the ground that it enables the President to defend himself against the improper action of the Legislature.] Mr. B. continued: He states this as the "*primary*" reason for the provision, and introduces as a "*secondary*", that which is now argued here and elsewhere, as the only reason—the prevention of hasty and unadvised legislation. The reason given as the "*primary*", has in practice so utterly failed, and what HAMILTON branded as inefficient paper Constitutions, has proved so efficacious in preventing usurpations, that it has been altogether lost sight of, and is no longer relied on as a ground of defence of this extraordinary prerogative.

Now as to the "*secondary*" reason. It is to prevent—1. Hasty Legislation. 2. Unconstitutional action. Such strong objections have been felt or affected by a large party in this Union, against the exercise of this power, that it has been seriously contended, iterated and re-iterated, it should never be exerted, except in the single instance of the passage of an unconstitutional law. The committee cannot fail to recollect the outcry which was raised against the late President of the Union, for his use of this Constitutional right, and that, too, by the party to which gentlemen

who now oppose any restriction of the veto, are attached. Many reasons might be given why a Chief Magistrate of the Union should be invested with this power, which are not applicable in the case of the Executive of a single State. The President is the Executive head of a confederacy of sovereignties of somewhat clashing interests, containing a population differing in manners, customs, and sentiment; legislated for by a body of men drawn from the several States, and representing their several peculiarities, and so liable to come into rude contest, each naturally struggling for the ascendancy and the advancement of its own interests. Placed as the President is, to "keep watch and ward" over these various and conflicting interests, it is perhaps proper he should be invested with the power of the magnitude of that under consideration. Certain it is that a large majority of the people of this Union have thought that the late Executive has wielded this power with discretion and wisdom. But to return to our own Constitution. How did it happen that this anomalous power was grafted in the body of our fundamental law? Finding it in the Constitution of the United States, it was transplanted without due reflection, as I think; and, without drawing a parallel between the functions of a President of the United States, and a Governor of Pennsylvania, bestowed upon the latter officer, because it was possessed by the former. It is not to be found amongst the powers created by the Constitution of 1776, although there was, then, but a single branch; nor, (said Mr. BELL,) so far as his information extended, was its non-existence complained of as a defect.

What is the leading characteristic of the present Constitution? Distribution of power among three branches. Unlike the British Constitution, the Governor of this Commonwealth is not, in theory, a constituent portion of the law-making branch; nor, strictly speaking, ought he, in any degree, to be so in practice. He is to be contemplated as a mere executor of the law, and ought to be confined to the discharge of his legitimate and proper duties. In Pennsylvania, no good reason could be given why an officer, appointed to carry the law into effect, should be clothed with power to annul the law. But, as already remarked, it is objected that without this power in the Executive, we would be exposed to all the dangers attendant on hasty or unconstitutional legislation. Why, sir, (continued Mr. B.) how is our legislative body constituted? And why is it so constituted? It is purposely separated into two distinct and independent branches—one, the most popular, selected annually—the other, composed of a fewer number of men, selected for their fitness, from education and age, for the due discharge of their duties. This organization was bestowed on it, that there might be a check on hasty legislation, and, as was remarked by the President of this Convention, when the deep and dark cloud curtains the zenith and reaches to the verge of the horizon, when the annual representation bends and breaks beneath the storm of popular passion, the Senate, armed with age and experience, calmly opposes itself to the blast, and steadily upholds the Constitution and the law. This picture is but a representation of the truth; and, in the few instances in which it has been falsified, the Executive veto has but been interposed to ward off the mischief. The objection to a further restriction of the veto power, is founded in fear—a craven fear that the people have not sufficient intelligence for the proper selection of their agents; for the

moment it is admitted that the people are capable of self-government—the very foundation of our institutions—the objection loses the greater part of its force.

But it is again objected by the learned President, that the members of the Legislature may, under circumstances, be so selected as not to represent the sentiments of a majority of the people. And may not this be the fact, in regard to a Governor? Has the Chief Magistrate of this Commonwealth never been elected by the vote of the minority of the people? It is not necessary to carry the memory far back into the history of Pennsylvania, to find an answer to the question. If the objection possesses any weight, it is as heavily felt in the one case as in the other. Was he (Mr. B.) asked whether he would dispense altogether with the *veto* power, he answered no? Whatever might be his course, if we were about to frame an entirely new system, it was unnecessary to say; but finding it a part of the Constitution, he was willing to leave it there, though greatly modified. He would leave with the Executive the right of *objecting* to a proposed law, requiring him, as is now required, to give the reasons for his objection in *extenso*, to be placed upon the journals for the contemplation and reflection of the members. If, after this, a majority chose to assume the responsibility of passing it into a law, why should they be prevented? Why should a single man, possessing no more native wisdom, nor greater amount of education and experience, than many of the members of the legislative body, be invested with the right of negating the acts of a majority of one hundred and thirty-three, selected with a view to their capacity? That the simple objection, accompanied by reasons, would be sufficient to prevent unadvised legislation, is apparent from the fact, mentioned by several gentlemen of much experience, that, except in such cases where the Legislature was clearly in the right, and the Governor clearly wrong, it seldom or never happened that a returned bill received the same number of votes on consideration, as upon its passage, before being sent to the Executive.

It was no argument to say, that this power had never been used for mischievous purposes. It was sufficient to answer that it might be so used. It would be easy to imagine cases where it might be wielded by an ambitious and unprincipled Executive, recklessly and without regard to the welfare of the people. But the existence of such a power as the veto in the hands of the Executive, is unnecessary for every useful purpose, as he had endeavored to show, and, being unnecessary to confer it, is in direct and violent opposition to the republican maxim, which teaches that the officer should be clothed with no greater amount of authority than is absolutely necessary to carry into wholesome action his appropriate duties. On this ground, he (Mr. B.) placed his opposition to this feature in our Constitution, and felt that he was founding it on a sound principle.

Mr. FORWARD, of Allegheny, said that when he came to this Convention he had not expected to be called upon to listen to any attack upon the qualified negative of the Governor, or to witness any attempt to expunge it from the Constitution. He had heard no complaint from any quarter of the State against the exercise of that power by the Governor; nor was he aware of any question having been presented to the people for their consideration, which had elicited from them any expression of feeling

condemnatory of the exercise of that power. He really thought, that at least nine-tenths of the Convention had been taken by surprise, when the attack was made on this salutary provision of the Constitution. For himself, he could say, that he had not the slightest anticipation of such a movement being made here. They had heard much denunciation against the power, but no reasons why, it should be taken away. He had always thought that cause a bad one, when men were unable to give a reason for the faith that is in them. He would say, then, at once, that it was not enough for him—that it was alleged, or supposed, or believed, that this power had been copied from the British Government. He repeated, that it was immaterial to him, that gentlemen took the trouble to look to France or England, in order to find out whether a power in our Constitution was copied from them. He was not so prejudiced as to reject any thing that was good, because it might have happened, that something like it—not the identical thing itself—existed in Great Britain. If gentlemen would go thus far, they ought to go further. And, if their argument was good for this point, it was good for every other. They might, with a good reason, make the same charge in reference to the Senate, as being a copy of the House of Lords in England. Indeed, to pursue the matter further, they might just as well assail the House of Representatives, on the same score, and as being a very servile copy of the House of Commons. And thus, in fact, they might dispose of the whole Government of the Commonwealth. It might be, that this branch of the Executive power was taken from England. But, what of that? What was there, he would enquire, in the veto power that was so repulsive to the feelings of some gentlemen? In Great Britain, the power was exercised in virtue of a high hereditary right. The KING was a King by birth, and not by election. He held his office in despite of the people, and for life. But, the people of the Commonwealth of Pennsylvania elected their Chief Magistrate every three years. The people confer the power on him, and he was responsible directly to them for the proper exercise of it. In the one case, the power was exercised by a Chief Magistrate, who inherited it, and who was irresponsible to the people for the manner in which he might use it. But, in the other case, the Chief Magistrate was elected, and held his office under a severe responsibility. What distinguishes the Senate of Pennsylvania from the House of Lords, is, that while the latter is an hereditary body, and not accountable for its doings, the former is an elective Assembly, and act under a very severe responsibility to the people, whose representatives they are.

In the first instance, the power is hereditary, and is held without responsibility, but here the Executive power is elective, and is held under more responsibility. Does the gentleman find any thing like the veto power as here exercised? Here it is qualified. It can be set aside by the vote of two thirds. There it is unqualified, and the King may resist the whole of the legislature.

Let us look a little into the argument in favor of expunging this practice from our Constitution. Will any man undertake to dictate a Government *a priori* for any people? Is not Government founded on experience? The world is wiser now than it was eighty years ago, and shall we go back in the career of improvement, and overthrow a system which has been practically beneficial, for the sake of a theoretical good? This

provision of the Constitution has been tried for forty-seven years, and has never been complained of. Is any great evil to be apprehended from it? None is pretended to be anticipated. The argument against it was altogether speculative, and rested on some imaginary good. No one pretended that the exercise of the power was perilous, and he thought, that it was something to say in favor of a principle that it had stood the test of forty seven years, and that the objections to it were unsustained by a single fact. But, it was gravely asked, why shall the majority of the people be deprived of the power of deciding every thing? Shall not the majority rule? But there was nothing in the veto which prevented the majority from ruling. This was not a question whether the majority of the people should rule, but whether a majority of one hundred and thirty three men should rule a million and a half, and in opposition to the deliberate opinion of the only man in the Government who is the representative of the whole people. The people certainly have a right to establish checks over their own representatives. Are the Senate and House of Representatives the people? They are the agents of the people, and are bound by their letter of attorney. Shall not the people lay restrictions upon their own agents? Was there ever a Government in which there was a shadow of liberty, where there were no restrictions on the representatives of the people?

If the whole sovereignty of the country was left to the Legislature, without any check, they might create tyrannical and unwholesome laws, plunge the State into an enormous debt, and impose insupportable burdens upon the people. They might constitute a despotism. It was not necessary to a despotism that there should be but one despot. The power of the Legislature of Pennsylvania, was ample for every purpose of unlimited mischief. Would it be said that their power was not liable to abuse, when, in this body, ever since we came here, we have heard so much every day of legislative usurpations, and of the accessibility of the Legislature to corruption, and of their yielding to the temptations thrown in their way? But, now it was asked, will you distrust the Legislature? I am willing to distrust any one who exercises power over me, (said Mr. F.). It is the duty of every one to keep watch. What is this power? How is it delegated? How constituted? There is but one man in the Government who represents the whole power of the State. In the House of Representatives, there are a hundred men, who represent the local interests of the State. By what tie is the Executive bound to the interest of the State? Is he not pledged to advance the common interest? And are not the representatives often forced to yield their convictions of right to their local interests and to their instructions? Is not the local interest placed by them in advance of the public interest? Did it require any argument to show, that their legislation must be the result of a combination of local interests against the public weal? Local interests and feelings will enter into every law which they make. He would ask gentlemen to turn back to the history of legislative proceedings, and see if this has not been the fact? What do we see every year? Combinations of local interests overruling the general interests of the State. Where is the eye which dares to look over the whole Commonwealth—to look at the interests of the whole people? We find it in the Governor of the State. He is the only man who is pledged to the promotion of the interests of the whole Commonwealth. Is it not expedient then, that the Governor

should have the power—not to prevent—but to postpone the passage of a law which he considers as injurious to the public interest? He can make no law. He cannot enact, but approve. Should there not be one power to watch over all the interests of the State? Gentlemen do not advance one step in their argument against this power, until they can show that there is no danger of a combination of local interests in the Legislature, against the public interests. Has any wrong ever been done by the Governor to the people of the State? Is there any danger that his power will be exerted to the injury of the public interest? In 1813 the Governor put his veto on the bill chartering the thirty banks. The next year the Legislature passed a bill incorporating forty banks. This bill the Governor vetoed, and the Legislature passed by a vote of two thirds. But that majority of two thirds did not represent the people of Pennsylvania. He was confident that the voice of the majority of the people, if taken at the polls, would have been against the law, and as a proof of it, SIMON SNYDER was re-elected the fall after by the people of Pennsylvania without opposition. He might cite many other instances wherein the Executive, by the interposition of this power, saved the Commonwealth from the great and countless evils threatened by hasty and incorrect legislation. What objection can there be to the power, unless you say that the Governor can do no wrong. If there was no danger of imprudent legislation, what need was there of a Senate? Why not carry out the theory, and remove all checks upon the representatives of the people? Why not give the whole power to the popular branch of the Legislature? What was the argument of gentlemen? They say the people are the source of all power, and that their will must not be controled. But, I say, that there never was a Government, without checks or balances, that did not end in absolute despotism, not one. I need not say, that the Governor is not a dictator. What I contend for is, that the sovereign power must be controled, and the people have the right to require the concurrence of two thirds of their representatives in any measure. The people have a right to say what restrictions shall be imposed upon their representatives, and their representatives have no right to claim their majority should rule. They have no right to say, that in setting up a counterpoise to their power there was any thing dangerous to liberty.

Mr. EARLE said this was a question of great importance, involving in its bearings the primary principles upon which Governments of different kinds were founded. That having first determined these principles in our minds, we should carry them out consistently in all the departments. He, therefore, craved the patience of the Convention during the examination which he should give to the subject.

The doctrine upon which the veto power was based, was that of checks and balances, as they had been termed: a good doctrine, rightly understood and applied, but dangerous when misunderstood and misapplied. This doctrine, as held by different people, was founded on two principles.

1. That of checking the people themselves.
2. That of checking their representatives.

The doctrine of checking the will of the people was divided into two branches: The first branch proposed *temporary* checks upon the will of the people, on the ground that, as every man was liable to err, so the majority of a State might temporarily err under some strong excitement of misin-

formation. This was sound assumption ; hence it was proper that the people should adopt some check upon hasty action : the check that had been devised for this purpose was the Senate, to be elected according to the decision of the Convention, for the term of three years, so that not more than one-third would be chosen under the influence of a sudden excitement. This was a powerful check, and in a great State, like this Commonwealth, this check was the more operative from the difficulty of extending an unreasonable excitement over the whole country. The people of different counties, in fact, checked the excitements and errors of each other. This check, with that of the Senate, might be aided, perhaps with propriety, by a temporary vetoing power in the Governor ; and hence, he was willing to support the veto of the Governor, operating for one year, unless overruled by two thirds of the Legislature.

The second branch of the doctrine of checking the people, extends to a somewhat permanent and insurmountable check upon their will. This is the doctrine of aristocracy and monarchy ; it is founded on the supposition of incapacity in the people ; that they know not and will not pursue their own good, at least not so well as some select body : in fact, that the minority is more likely to be right than the majority. He did not believe in this doctrine, and he would therefore make the veto but a temporary check. Were we even to admit that select bodies and minorities had more talent and learning than the mass, it did not follow that they would faithfully pursue the good of the whole ; it did not follow that they were free from all bias of selfishness : that they could judge impartially and correctly for the interests of those whose situation in life, and whose interests were different from their own. Were either the nobility of one country or the slave-holders of another the best judges and the safest protectors of the interests of the commonalty and of the slaves ? The tax payers and tax receivers were different in interest, and viewed things differently.

The second use of checks, and by far the most important, was to control—not the people, but the people's representatives, or agents—in order to prevent them from betraying their trust, and injuring the republic. In this view, the two Houses of the Legislature were useful as checks on each other, and the veto of the Governor was here most important as a check upon the other two branches. But while we interposed a check, we should not create a tyrant—we should not enable a Governor, misrepresenting those who elected him—or a Governor chosen by one third of the people, as might happen under our Constitution, to overrule, for three years, the deliberate wish of a large majority of the people. It had been said, in the debate, that the Governor represented the whole people : we know it is not necessarily so. If fifty-one members of Assembly out of one hundred, may misrepresent them, is it not still more likely, that a single individual may do it ? And one third of the Senate chosen for the term of three years, by a vote of one sixth of the people, or thereabout, might overrule the majority of the Senate, the representatives, and the community for a long time, unless we put limits to the operation of the veto. He would, therefore, permit a majority of the Senate and two thirds of the House of Representatives to overrule it in the first instance, and a majority of both Houses to do it at the end of a year, and after a new election by the people, with the subject fully before them.

Certainly the evidence of experience tended to show that this was a sufficient check. Some States had done well without any veto at all. The gentleman from the city (Judge HOPKINSON) had said, that the veto power was not given to the Governors of New Jersey, Virginia, and North Carolina, because they were elected by the Legislature. This was merely giving a reason for the policy of their Constitution; but it was no answer to the argument, that States might do very well even without a veto power. It did not prove that they suffered great evils from its absence.

As a question of principle, a permanent veto was wrong, and as a question of expediency, it would be found, by experience, that the suspensive veto operating till a new Legislature should meet, was all sufficient, and better than the present provision. He would examine some of the noted instances of exercise of the power, and see if it were not so.

One was that of the veto of the bank of the United States by the late President. The friends of the bank alleged, and still allege, that this veto was a pernicious measure, and they believe that, after years of intestine strife, we shall have another such institution established. Of course, on their own grounds, they must admit that in this case there could be no advantage in extending the operation of the veto to control a Legislature subsequently elected. The other party—those who agreed with him (Mr. E.) that the veto of the bank was a wise measure, and who believed that the people were of that opinion—attained all that they could wish, by its operation on the Congress which first passed the law; for the subject was presented to the people, and they elected then, as they had done since, a Congress opposed to the bank.

Governor M'KEAN, of Pennsylvania, had vetoed several bills, some of them on the ground of unconstitutionality, and yet the same measures, substantially, had been since passed, and were now the law of the land, to the great satisfaction of the people. He had vetoed the law extending the jurisdiction of Justices of the Peace. It was passed after he went out of office, and has now been the law of the land for twenty-seven years. So with the arbitration system, which the same Governor had vetoed. Thus we find that this great man, when opposed to the people, was in error, and the people were right. If the veto had been merely suspensive for one year, the people would sooner have attained their wishes, and needless discontent would have been avoided.

Gentlemen had several times referred to the case of the 28 and the 42 banks, vetoed by Governor SNYDER, as affording an argument in favor of the permanency of the operation of the veto. Had they well weighed the matter, he (Mr. E.) imagined they would have found that that instance furnished a strong argument against their theory. The bill, as first passed, provided for 28 banks. Had the veto operated only to suspend for one year, then the 28 banks only would probably have been chartered at the next session. But, as it was, it was necessary to obtain two thirds to overrule the Governor. Consequently 14 new banks were added, in parts where there was not business calling for them, and this for the purpose of getting votes enough to make up two thirds of the Legislature. He would venture the opinion, that it would be found, on examination, that the banks which afterwards failed, were principally, if not altogether, among the fourteen which were added to get rid of the operation of the veto. Thus, if the 42 banks were necessary, the veto produced no good; if they were

an evil, it produced much harm ; for it aggravated the evil from 28 to 42. It would be found that those States where no veto power existed, did not go into the banking system at that time, with so much extravagance as some of those where it did exist.

Governor RITNER had vetoed the Girard bank bill. This had been of no use ; for the bill passed. He had lately vetoed an Internal Improvement bill : In this case, the suspensive veto for one year would have answered every purpose ; and if our Constitution had provided like that of Vermont, that the Governor might suggest amendments which would make the bill acceptable to him, the result would have been its passage in a modified form, so that it would have now been promoting the welfare of the people of Pennsylvania.

If a bill is vetoed upon proper reasons, the general consequence will be, that a majority of the Legislature will not afterwards pass it. Many instances in support of this position may be cited. If, however, the Legislature do pass it, and one subsequently chosen re-pass it also, the presumption is that the Governor is in error, and opposed to the popular will, and it is better that that will should prevail, at the risk of some error that may be retraced when discovered, rather than to produce that discontent, repining, strife, and exasperation, and that danger of civil commotion and revolution, which will arise from a consciousness, or a belief, among the people, that their sovereignty is set at naught.

If we were to dam up the Susquehanna, with a view to stop its current forever, we should soon find it to demolish all barriers, carrying havoc and destruction in its course. So it might be with too much restraint on the people. It would only induce them to go further than they would have gone, if left to themselves. If left untrammelled, they acted as was observed by that great political writer, Mr. LOCKE, and repeated in the Declaration of American Independence ; they would suffer evils while they could be endured, rather than rashly to change their institutions. This was always the popular disposition, and hence we found that the most stable governments, laws and habits on earth, were those where, as in Achai, a some cantons in Switzerland, and some States of this Union, the power of Government and of change resides with the people. The Swiss cantons, such as Appenzal, where all officers, including judges, are elected annually by the people, have been stable in their laws and their liberty, perhaps for more than a thousand years. Rhode Island, that elects its representatives every six months, and all other officers annually, is stable in its laws and habits, and with the constant power of change, the people have continued to this day those institutions which existed nearly one hundred and fifty years since. But all attempts to preserve peace and order, by the system of permanent checks upon the people, have produced nothing but tyranny, strife, and civil commotion, such as is found in the whole history of the Roman republic, and of all mixed Governments.

The gentleman from Allegheny (Mr. FORWARD) has said, that we do not advance one step in the argument, until we prove that fifty-one representatives out of one hundred, are always right. By this rule he cannot advance a step in his argument, till he proves that one man, a Governor, is always right. We admit that both may err, and hence we would have the people decide between them, at a subsequent election. But he would have a Governor and twelve Senators overrule twenty-one Senators, one

hundred representatives, and the people themselves, for three years in succession.

The President of the Convention has asked us to enquire, whether States which differ from us in their institutions are happier and more prosperous than ourselves? Were they not so, it would not follow that they might not be better, so far as some one feature of their Constitution might operate. I suppose he does not hold that the Constitution of any of our sister States is perfect in all its parts. Is it likely, then, that that of Pennsylvania alone is perfect? If not, let us improve it where it is defective. Making the comparison to which we have been invited, we find that New York, which had less population than Pennsylvania, at the formation of our National Government, has now forty-two members of Congress to our twenty-eight; and that her most rapid progress has been since the adoption of a more democratic Constitution in 1822; and that Ohio, which was a wilderness when Pennsylvania was a great State, now treads close on our heels, and that she carried through her internal improvements with superior skill and energy. We find that emigrants prefer the institutions of those States; that the counties on their sides of the State lines were settled more rapidly than ours; and that the people of Pennsylvania, in all the counties and townships bordering on those States, gave enormous majorities for the change of our Constitution, while those of the interior, who could not so well compare institutions, voted against it.

These examples should prompt us to go onward in the work of reform; and, while we check hasty action in the Legislature, by a temporary veto, place the effective sovereignty in the hands of the people, without unreasonable delay.

The question was then taken on the motion to substitute the report of the minority, which was decided in the negative.

Mr. STERIGERE moved to amend the amendment to the 22d section, by striking out, and inserting the following:

“22. Every bill which shall have passed both Houses, shall be presented to the Governor. If he approve, he shall sign it, but if he shall not approve, he shall return it with his objections to the the House in which it shall have originated, who shall enter the objections at large upon their journals, and proceed to re-consider it. If, after such a re-consideration, *a majority of all the members* of that House shall agree to pass the bill, it shall be sent with the objections to the other House, by which, likewise, it shall be re-considered, and if approved by *a majority of all the members* of that House, it shall be a law. But in such case, the votes of both Houses shall be determined by yeas and nays, and the names of the persons voting for or against the bill, shall be entered on the journals of each House respectively. If any bill shall not be returned by the Governor within ten days (Sundays excepted) after it shall have been presented to to him, it shall be a law in like manner as if he had signed it, unless the General Assembly by their adjournment, prevent its return, in which case also, it shall be a law, unless *the Governor shall file the bill together with his objections in the office of the Secretary of the Commonwealth*, within ten days after the adjournment of the Legislature, and cause the same to be published in at least one newspaper at the seat of Government”.

Mr. S. explained the object of the latter part of the amendment; the former part, he said, he had explained on a former occasion. This latter

clause was to require the Governor, in case the adjournment of the Legislature prevented the return of any bill, to file said bill in the office of the Secretary of the Commonwealth. By the provisions of the old Constitution the Governor may keep the bill in his pocket until the meeting of the next Legislature, and no one would know whether it had become a law or not. There was no reason why the people should not know speedily whether a law was to be passed or rejected. It was often very material that the people should know this. In case the Governor used the veto power contrary to the will of the people it was proper that they should know before the next election so that they could take the subject into consideration, and return members to the Legislature who would vote according to their wishes with respect to that particular measure. He thought the amendment one which was entirely proper, and he hoped it would prevail.

Mr. BELL called for a division of the question, so as to take the question on the first branch of the proposition, ending with the word "respectively".

Mr. STERIGERE called for the yeas and nays, which were ordered, and were yeas 14, nays 102 :

YEAS—Messrs. Bell, Clarke, of Indiana, Crain, Grenell, Magee, Nevin, Purviance, Read, Ritter, Sellers, Smith, Smyth, Sterigere, Taggart—14.

NAYS—Messrs. Agnew, Ayres, Baldwin, Banks, Barclay, Barndollar, Barnitz, Bayne, Biddle, Bigelow, Bonham, Brown, of Lancaster, Butler, Carey, Chambers, Chandler, of Chester, Chauncey, Clarke, of Beaver, Clark, of Dauphin, Cleavinger, Cline, Coates, Cochran, Cope, Cox, Craig, Crawford, Crum, Cummin, Cunningham, Darlington, Darrah, Denny, Dickey, Dickerson, Dillinger, Donagan, Donnell, Dunlop, Earle, Farrelly, Fleming, Forward, Fry, Fuller, Gamble, Gearhart, Gilmore, Hamlin, Harris, Hastings, Hayhurst, Helfenstein, Henderson, of Allegheny, Henderson, of Dauphin, Hiester, High, Hopkinson, Hought, Hyde, Ingersoll, Keim, Kennedy, Kerr, Konigmacher, Krebs, Lyons, Maclay, Mann, M'Call, M'Sherry, Meredith, Merkel, Miller, Montgomery, Myers, Overfield, Pennypacker, Pollock, Porter, of Lancaster, Porter, of Northampton, Reigart, Riter, Rogers, Royer, Russell, Sager, Scott, Seltzer, Serrill, Scheetz, Shellito, Sill, Snively, Stevens, Stickel, Swetland, Todd, Weaver, White, Woodward, Young, Sergeant, *President*—103.

So the first branch of the proposition was disagreed to.

Mr. CLARKE, of Indiana, hoped the Convention would look more favorably upon the latter part of this proposition, than they did upon the first. He did not desire to trench upon the Governor's prerogative, in relation to the veto power ; but, he thought it would be a great benefit to the people to know whether a law has passed, after the Legislature shall have adjourned. The Governor had ten days to consider, whether he will sign and return a bill during the session of the Legislature, but it is well known, and every person who will turn to the acts of the Legislature, will see that the largest portion of the laws are passed within a few days of the end of the session ; and, he admitted, that the Governor frequently had not time to read and consider them as he should, much less to prepare his reasons for not signing a bill. Well, by this provision he may assign his reasons afterwards, and file them in the office of the Secretary of the Commonwealth ; whereas, under the old Constitution, there is no means by which the people can know the reasons of the Executive in such cases. It might be, that a law was designed to take effect before the meeting of the Legislature, and the reasons why it was withheld, ought to be known to the

people. This proposition could do no harm, but he thought it might do a great deal of good. The Governor will have three days before the Legislature adjourns, and ten days after to prepare his objections; and then, if they are filed and published, the people will have the opportunity of considering them before the next election for members of the Legislature. He thought there would be a great benefit in doing this. Under the present system, it is unknown whether a bill is to become a law, or not; because, the Governor may keep it in his pocket until after the election, and that very election may operate to make him sign it. Mr. C. had been written to since he came here, to ascertain whether the Governor had signed a bill, which passed the last Legislature, and he had ascertained that it was signed, but held over. He thought then it would be well to let the people know, on all occasions, whether laws were signed or not. They ought to be signed, if they are going to be signed, for another reason. The laws were printed within thirty days after the adjournment of the Legislature, and all laws, if they are going to be signed, ought to be signed by that time, so that they might all be in one volume, and all go out to the people together; or, if he has objection to signing any bill, his objections ought to be sent out to the people. This amendment might have the effect to relieve the Governor in some cases, from an awkward predicament. He may have a very important law to the people in his possession, which he feels it not to be his duty to sign, on the eve of his election; and, this amendment provides a means of getting his views before the public, and relieving himself from any censure in holding back the law, if his reasons are good and sufficient. This proposition violated no principle that he knew of, and would be beneficial to the people, therefore, he hoped it would be adopted.

The second branch of the proposition was then agreed to—ayes 64, noes not counted.

Mr. DICKEY hoped, since the Convention had thought proper to adopt this portion of the amendment, that it would not agree to the report of the committee; because, under the present Constitution, there had been no evil results experienced from the practice of the Governor withholding bills. He had never heard of a single case where inconvenience had been experienced, either to individuals, or the public at large. It was right the Governor should have time to consider any bill, which he had doubts in relation to, and he had ample time for reflection before the publication of the laws. The laws were published in June, and all laws which were approved by the Governor, were there published, and all which did not appear there, were returned at the next meeting of the Legislature. Now, what practical evil had resulted to the people from this practice, which made it necessary to submit to them an amendment on this subject. Had this amendment been called for by the people from any quarter? The gentleman who had just taken his seat, has told you that he was written to on the subject of the signing of a law, and upon inquiry, he found that the law had been signed and approved by the Governor. So could it always be ascertained, upon inquiry, at the office of the Secretary of State, whether a bill had been signed or not. He hoped the report of the committee would not be adopted, as this amendment had been agreed to, and called for the yeas and nays.

Mr. CRAWFORD then moved to strike out the words "two thirds" wherever they occurred, and insert the words "three fifths".

The CHAIR was about to put the question on this amendment, when

Mr. HASTINGS suggested, that the question on which the vote had just been taken, was misunderstood, as many gentlemen around him supposed they had voted on another amendment.

Mr. MEREDITH doubted whether the attention of the committee had been drawn to the force of the amendment to the amendment. He hoped the whole amendment would now be negatived.

Mr. STEVENS believed the vote was entirely misunderstood, and he hoped some gentleman would move a reconsideration, to get rid of it.

Mr. GAMBLE moved to reconsider the vote, which was agreed to.

Mr. STERIGERE then withdrew his proposition.

The question then recurred on the amendment submitted by Mr. MER-
RILL,

Mr. HIESTER moved to amend the amendment, by making it read "if the same shall be passed by a majority of all the members of each House", which was disagreed to—ayes 17, noes not counted.

Mr. FORWARD wished to know how this subject was to be brought before the Legislature, at the commencement of their session; whether the Governor was to communicate it, or how it was to be brought to their notice. It appeared to him to be inconsistent with the whole theory of legislation.

Mr. BELL called for the yeas and nays, which were ordered, and were yeas 24, nays 93.

YEAS—Messrs. Bell, Clarke, of Indiana, Darrah, Earle, Gamble, Grenell, Hastings, Hiester, High, Krebs, Miller, Montgomery, Myers, Nevin, Purviance, Read, Ritter, Shel-
lito, Smith, Smyth, Snively, Taggart, White, Woodward—24.

NAYS—Messrs. Agnew, Ayres, Baldwin, Banks, Barclay, Barndollar, Barnitz, Bayne, Biddle, Bigelow, Bonham, Brown, of Lancaster, Butler, Carey, Chambers, Chandler, of Chester, Chauncey, Clarke, of Beaver, Clark, of Dauphin, Cleavinger, Cline, Coates, Cochran, Cope, Cox, Craig, Crain, Crawford, Crum, Cummin, Cunningham, Darlington, Denny, Dickey, Dickerson, Dillinger, Donagan, Donnell, Dunslop, Farrelly, Fleming, Forward, Fry, Fuller, Gearhart, Gilmore, Hamlin, Harris, Hayhurst, Helffenstein, Henderson, of Allegheny, Henderson, of Dauphin, Hopkinson, Houpt, Hyde, Ingersoll, Keim, Kennedy, Kerr, Konigsmacher, Lyons, Maclay, Magee, Mann, M'Call, M'Sherry, Meredith, Merkel, Overfield, Pennypacker, Pollock, Porter, of Lancaster, Porter, of Northampton, Reigart, Riter, Rogers, Royer, Russell, Saeger, Scott, Sellers, Seltzer, Serrill, Sheetz, Sill, Sterigere, Stevens, Stickel, Swetland, Todd, Weaver, Young, Sergeant, *President*—93.

So the amendment was disagreed to.

The committee then rose, reported progress, and obtained leave to sit again this afternoon, when

The Convention took a recess.

FRIDAY AFTERNOON—4 o'clock.

Mr. PORTER, of Northampton, with leave of the Convention, offered a resolution, granting the use of the Hall, this evening, to the Rev. Mr. ABBOTT, to deliver a lecture, which was agreed to.

FIRST ARTICLE.

The Convention again resolved itself into committee of the whole, on

the first article of the Constitution, Mr. PORTER, of Northampton, in the Chair.

So much of the report of the committee as declares it inexpedient to make any alteration in the twenty-second section, being again under consideration,

Mr. CRAWFORD, of Westmoreland, moved to amend the part which requires a vote of "two thirds" to pass a bill returned by the Governor, by striking out the words "two thirds", and inserting in lieu thereof, the words "three fifths".

The motion was negatived.

Mr. STERIGERE moved to amend the section by inserting, after the word "respectively", in the eleventh line, the following words:

"If any bill shall be returned by the Governor, within ten days (Sundays excepted) after it shall have been presented to him, it shall be a law in like manner as if he had signed it, unless the General Assembly, by their adjournment, prevent its return, in which case it shall be a law, unless the Governor file the bill, together with his objections, in the office of the Secretary of the Commonwealth, within ten days after the adjournment of the Legislature, and cause the same to be published in at least one newspaper at the seat of Government".

Mr. STERIGERE said, he understood from the gentleman from the county of Philadelphia, (Mr. INGERSOLL) that he wished some explanation of the amendment.

Mr. INGERSOLL: Yes. If it is to prevent the Governor from smothering a bill in his pocket, I am in favor of it.

Mr. STERIGERE: That was the object. As it now stood, the Governor might keep a bill in his pocket, until three days after the next meeting of the Legislature. The object of the amendment, was to render it necessary that he should file his reasons within ten days after the adjournment of the Legislature. He supposed it would not be very proper to call in question the wisdom of the framers of the Constitution; but, he might be permitted to remark, that there seemed to be very little wisdom in the provision, as it stood in the present Constitution. A bill must, under that provision, be sent back, and get a vote of two thirds, before it can become a law. The Legislature would then be in session, and might prefer passing another law. The gentleman from Beaver thought there was no propriety in the amendment, and that no practical good could result from it. To this it was sufficiently answered by the gentleman on his left, (Mr. CLARKE, of Indiana) that it would enable the law to go into operation at the proper time. The gentleman from Beaver said, any one might obtain information of the fate of a bill, by calling at the office of the Secretary of State. This amendment would prevent the trouble of calling at the office. At present, the Governor had the power, within three days after the meeting of the Legislature, to put his name to a bill. If he were to do that after the adjournment, without filing his reasons, the people would be subject to the operation of a law they did not understand.

Mr. STEVENS was of opinion that the amendment, instead of being an improvement, would be an injury to the Constitution. The committee would see at once that there could be but little difficulty or injury from the present provision. If the Governor had not time to examine the bill before the adjournment of the Legislature, it gives him three days after

the meeting of the next Legislature. He did not understand that the Governor had any right to sign a bill after the adjournment, and to publish the law. It was his duty to do it, during the session. There were two or three cases, he believed, in which bills had been signed after the adjournment, but it was a practice irregular, and according to his opinion, wrong. Bills should be signed during the session, or not at all. There was some difficulty attending the giving of the veto during the recess. If the Governor chose to sign a bill within the ten days prescribed, there was no difficulty about it. But if he did not, in most of the cases in which he kept a bill over, it might be expected that he would veto it. If it was a public bill, it gave a great opportunity to the persons interested to bring forward influence; and he admitted it was a great evil, and an improper interference with the province of the Legislature, to pursue that system of persuasion which was called *boring*. If a bill which concerned a particular section of the State, or an individual were thus carried, against the opinion of the Governor, would the Legislature be likely to come to the consideration of it with as calm and open a mind, and as cool a deliberation, as if had not before been submitted. Would not the bill be canvassed before it came here; and would not the members be assailed by its friends in every shape and form, and in every manner, and by every argument by which it would be possible to bring motives to act on men? Was that the fair way? If the proposition were confined to a public bill, there would, perhaps, be less objection to it. But in case of a public bill, when the representatives had been elected without reference to this veto, but on the old party principles, having their minds open, would there not be danger lest their judgments should be warped before they came here? And even while their elections were depending, arguments unknown to the public, and to the Legislature, in its legislative capacity, might be brought to produce an improper bias on their minds, such as there could be no withstanding. Operating in this way on the members, through means which could not be counteracted by argument or persuasion, any bill, unless it should be a monstrous bad bill, would be sure to pass, and all by the interposition of this undue influence.

The question was then taken, and the amendment was rejected.

Mr. EARLE rose, and, in order to know if there was to be any permanent check on the will of the people, moved to amend the section by inserting after the word "respectively", in the eleventh line, the following words—"And any bill which may have been passed by a majority of both Houses, in three successive Legislatures, shall become a law, without the signature of the Governor".

Mr. EARLE said, that the Governor was sometimes chosen by one third of the people, for three years; and if one third of the Senate, at the same time, or as many Senators as represented one fifth of the population, sustained them, the passage of a law might be prevented for three years.

The question was then taken, and the amendment was negatived.

The report of the committee on the 22d section, was then agreed to.

So much of the report of the committee as declares it inexpedient to make any alteration in the twenty-third section, was then taken up for consideration, and it was agreed to.

Mr. STEVENS moved to amend the article, by inserting an additional

section, as follows :—"Section 24—No member of this Convention shall hold any office under the amended provisions of this Constitution".

Mr. EARLE said he was sure this amendment would operate beneficially in some places, but not in others. He moved to amend the amendment, by adding the words, "except those from the county of Adams".

Mr. DARLINGTON moved to postpone the amendments indefinitely.

Mr. STEVENS : That will postpone the whole article.

The CHAIR decided the motion to be out of order.

The question was then put on the motion of Mr. EARLE, to amend the amendment, and it was decided in the affirmative—ayes, 35 : noes, 34.

Mr. STEVENS said, that although the committee had thought proper to except the member from Adams from the exclusive operation of his own amendment, he must suppose them to be sincere, for he could not believe that the mover of that amendment intended to vote against the proposition. That gentleman being a sturdy and honest reformer, could not desire to derive any advantage from any provision which he might introduce into the Constitution. When that gentleman set this ball of reform in motion, it was not with any view to create vacancies in office, for the purpose of filling them himself, and if he had no such motive why should he object to this proposition? Would not the amendments be brought forward before the people with a purer grace than if they were to cut up the Constitution in a manner which the people did not understand, and which they might be apt to attribute to wrong motives? It would be the noblest thing, when we send this Constitution out to the people, to shew that we design to draw no advantage from the amendments we had proposed, and see whether the people will deem us worthy to fill any of the offices we may have created. If they think us worthy, and are disposed to shew by their acts that we still retain their confidence, they will reject the amendment; but if not, they will cast on our hands all that we have done here. Were not these good and solid reasons why the amendment should be adopted?

We had been told by many of those gentlemen who claimed to be reformers, that such was the corruption in legislative bodies now-a-days, that men could not be long members of them without becoming so corrupt as to be almost incapable of viewing any measure which came before them with a pure eye. He would enquire why the same remark would not be equally applicable to this Convention? Were there any inducements to operate on those bodies, which would not operate here to a greater extent, when we had it in our power to work greater and much more important changes, which might, perhaps, be turned to our own individual benefit? Was it not right, he asked, that when we were about to create constant vacancies in the public offices of the Commonwealth—to make amendments to the Constitution, the effect of which would be to deprive the Executive of his patronage, and to multiply officers that are to be elected—and when, in fact, we were about to create vacancies in the Judiciary every two, three, four, and seven years—that we should, *ourselves*, be perfectly sure that we have no selfish motive operating as a tempter upon our hearts and judgments? Was it not perfectly proper that the people should be fully satisfied, when the amendments should have been submitted to their inspection, that we, in proposing them, did so from the purest motives, and not with an eye to the vacancies which were to take place?

To-morrow, the Convention would take up for consideration and discussion, the subject of Executive patronage, and not many days hence—that of the Judiciary. Now, as a vast number of vacancies would be created by the proposed alteration in the Constitution, and as it was only proper that the Convention should convince the people that the change was not made with a selfish view, he had thought it right that the amendment which he proposed, should be inserted. As we were about to pull down an edifice erected by the fathers of the Commonwealth—built by giants in intellect, and saints in virtue—it was but right that we should come to the work with clean hands and pure hearts. He would ask, was there no denying to ourselves this privilege of filling an office of our own creation? Was there any such great sacrifice, that the pure, patriotic reformers who came here with a desire to change the structure of the Government, could not act on the principal of self-denial, and forego the poor privilege of taking office by which they would evince their independence? Now, was this asking too much? Was it any great stretch of patriotism, after all, for men calling themselves reformers, and who had avowed that they would no longer live under usurpers, and who are now making a Constitution for their children, and children's children, probably? He would say that it would be a noble instance of self-disinterestedness on the part of the Delegates of this Convention, to have it go down to posterity that they had refused to participate in the enjoyment of the offices of their own creation. And yet, strange to say, the Father of Reform (Mr. EARLE) had undertaken to turn his (Mr. S's.) proposition into ridicule. He (Mr. S.) had heard of men (and he did wish to imitate them) who offered up their lives.

This sacrifice, however, which he proposed to make, was not demanded of them by the people. On the contrary, we ought to make it, as an assurance that what we do arises from pure motives. He conceived that there was nothing improper in inserting this section in the Constitution. He would not ask for the yeas and nays on it, because he had no doubt as to what would be its fate; and he indulged the hope that patriots of a different kind from those who had ridiculed this proposition, introduced as it was, with the most perfect good faith, would be found voting for it.

Mr. WOODWARD, of Luzerne, would ask whether the proposition was not out of place? for the Convention had now the first article of the Constitution before it, and he apprehended that it should not have been offered to that.

The CHAIR: It is not for the Chair to decide whether it is in its right place, but whether it is in order, or not.

Mr. WOODWARD observed, that he would thank the Chair to inform him how the amendment could be got rid of.

The CHAIR: Only by a vote on the amendment itself.

Mr. WOODWARD remarked, that all he had to say was, that the amendment was entirely out of place.

Mr. EARLE did not believe that the people expected, or would desire, that the Convention should make the sacrifice which the gentleman from Adams proposed. Nor did he (Mr. E.) think it was the duty of pure patriots to shun public employments. It was the duty of every citizen to serve the public when called upon. The gentleman had this morning voted to retain the permanent veto of the Governor, and he did not know

but the gentleman might use it one day himself. The gentleman was for voting to disfranchise every member of the Convention. He (Mr. EARLE) could not give his consent to such a proposition. Besides, he should be sorry to deprive the State of the gentleman's valuable services.

Mr. CRAIG, of Washington, asked for the yeas and nays.

Mr. MEREDITH, of Philadelphia, suggested that it would be as well not to have them taken just now, as the amendment was not exactly in its proper place.

Mr. WOODWARD thought the gentleman from Adams might find a more appropriate place for it. He would vote for it if put in the proper place.

Mr. BELL, of Chester, hoped that the call for the yeas and nays would not be withdrawn. There was a great deal of patriotism in the world, and much of it had been seen here since the Convention assembled. The proposition which had been offered was certainly most characteristic of its author. It was considered so by the party to which the gentleman belonged. He had really shewn an extraordinary degree of disinterestedness, and he was entitled to the thanks of every gentleman! He thought that the gentleman from the county of Philadelphia ought not to smother up the gentleman's proposition, but should let every one present have a fair opportunity of looking at it. Now, as to whether it would be proper to exclude all the gentlemen in the Convention from holding office, he was not prepared to say. However, he did not think that he (Mr. B.) ought himself to take office under the amended Constitution, because he did not think that he possessed sufficient natural abilities or acquired talent. The sacrifice, therefore, as respected himself, was nothing. But, he entertained the opinion, that the gentleman from Adams was doing himself gross injustice, and his county would be a sufferer; and he thought that every gentleman would agree with him. If the gentleman from Philadelphia, (Mr. MEREDITH) and others of his party thought as the gentleman from Adams did, they also were doing themselves great injustice, and depriving the public of their valuable services. He (Mr. BELL) maintained that it is the duty of every man who thinks himself *great*, to devote his time and his abilities to the public service. He has no right to refuse. And to quote a phrase frequently used by the gentleman—"the greatest and best"—is bound to serve the public. He hoped, then, that the gentleman from Adams would not withdraw his proposition, as he wished the Convention to consider it well and have an opportunity of recording their votes, for it involved, as the gentleman had said, a very important principle. It involved a question of patriotism, of public and private virtue—a question whether we would divest ourselves of that feeling which clung to the human heart—selfishness—and unanimously declare that we would never in future hold an office.

Mr. MEREDITH, of the city, said that he would vote for the amendment of the gentleman from Adams, at the proper time, when presented in a different shape. As it was amended he wished to put it to the good sense of the committee if they desired to see a solemn vote upon it by yeas and nays.

Mr. DUNLOP, of Franklin, asked for the reading of the amendment, and it was read accordingly—when Mr. D. remarked, that he hoped the gentleman from Adams would not adhere to it. This was not the proper time and the occasion to press it. At this time he (Mr. DUNLOP) felt certain the lawyers could not vote for his proposition, coupled, as it was, with

the amendment to except the county of Adams, and offered more in jest than in earnest. He hoped the mover would withdraw it.

The CHAIR said, that the amendment which had been made to the original proposition, could not now be withdrawn, unless by the mover and seconder.

Mr. DUNLOP said, he would be glad, then, if the mover of it would agree to postpone it for the present.

Mr. REIGART, of Lancaster, observed that the object of gentlemen would be effected, if the mover of the amendment would move a reconsideration of it.

Mr. BAYNE, of Allegheny, moved to reconsider the vote by which the amendment was adopted.

A division being called, there appeared, ayes, 53; noes, 28.

So the motion to reconsider prevailed.

The question then recurred on the amendment of Mr. EARLE.

Mr. STEVENS was aware that there were many gentlemen present, to whose taste the amendment which he had offered was very palatable, while to others it was just as nauseous. He knew that there were some gentlemen, whose sense of patriotism was so great, that they could not, for the life of them, understand how a man could be in earnest when he expressed himself willing to offer up his private interest upon the altar of his work, and whose only motive in doing it was his country's good. He knew very well that this sounded very strange in the ears of such members, particularly as were always talking of the people—whose interest they professed always to have at heart, and who loved the great, dear people! Yes, this was the cry of those who called themselves the pure democrats and reformers. It seemed to them so strange, that it assumed the attitude of the ridiculous, that a member should rise in his place and propose, that before we enter upon what, he (Mr. STEVENS) deemed the most important work ever undertaken in the State of Pennsylvania, they should divest themselves of all suspicion of, or motives for, misconduct. He did not feel disposed to charge any gentleman here with less patriotism, than the poorest man on earth. But, he must be allowed to tell the gentleman from the county of Philadelphia (Mr. EARLE) and others, that they do possess hearts capable of being seduced from the paths of rectitude. It might not be so improbable as the gentleman supposed, that when the Convention should have submitted the result of their labors to the people, his constituents would think with him (Mr. STEVENS) that he (Mr. EARLE) should never hold an office. All that he (Mr. S.) desired was, that the question should be submitted to the people, whether those who sat here as delegates, and inserted in the Constitution a provision altering the tenure of office and creating office, should be allowed hereafter to take advantage of their own work? Let the Convention adopt the amendment, and when the people should come to examine it and see that we were actuated by the purest motives in proposing it, they would then act as they thought proper. If, after all the argument and all the light that could be thrown on the subject are exhausted, the people choose to retain the services of this body of men, and give them the offices which they had created, instead of having them filled up from among themselves, they would of course say so. He would repeat, that all he asked was, to submit the question to the people, in order that they might say whether we should fill them, or they

should be filled by others. Where, he would enquire, was the democracy of this body? And where was the reliance on the discretion, and will and honesty of the people? Every man, fearless of scrutiny, and actuated by conscientious integrity, would cast into the shade these low sneers, and the trifling twattles which had been uttered here. It was beneath contempt. It was not the way in which statesmen propound their great principles of action. Let gentlemen record their votes, and let it be seen who are in favor of driving from the bench those venerable men, those well tried servants of the people, who had grown gray in expounding the laws, in order to make way for those who would decide hastily, but with less judgment. When gentlemen were voting to tumble learned and distinguished Judges from the bench, for the purpose of having the people better guarded in their rights, he desired that the lawyers here would show, by their votes on his (Mr. S's) amendment, that they were not doing it to get in their places. When he should come to see the list of yeas and nays, he would be the better prepared to say, whether your yearling Judges, your triennial Judges —

The CHAIR called the gentleman to order, on the ground that he was not speaking to the question immediately before the Chair.

Mr. STEVENS resumed: Well, he would reserve his remarks until after the question should have been decided. He never could have thought that any gentleman of the reform party would seriously have opposed an amendment for the good of the people, and attempted to get rid of the proposition by the lowest shifts—(he would not say tricks, because that might almost impute motives)—which could be resorted to by the veriest demagogue that lived. This was not the way to treat a subject, which gentlemen might depend upon it, was to have some effect on the public mind. And, he believed, that the consequence of treating the proposition as it had been, would be properly understood out of doors. The people would form a different opinion with regard to it, than seemed to be entertained by many gentlemen here. The gentleman from the city (Mr. MEREDITH) thought that the amendment was not in the proper place, and expressed his willingness to vote for it; so, also, did the gentleman from Luzerne, (Mr. WOODWARD) if put in the proper place. But, when, he would ask, was the amendment to be offered? After all the other amendments had been made? Then the very object he had in view would be defeated. His object was, to take away all temptation by passing in the first place, a section that would make every delegate disinterested. He would not be willing to see all the kingdoms of the earth, offered to the gentleman for doing a little wrong.

Mr. STEVENS then withdrew his motion.

Mr. STERIGERE moved to amend the report by adding the following section:

SECT. —. "No lottery shall be authorized by the Legislature, and the sale of lottery tickets shall be prohibited under such penalties as shall be imposed by law".

Mr. STERIGERE said, that he had given this subject some little consideration, and he thought it his duty to bring it before the committee at this time. He did not think it mattered whether this was the proper place for the provision or not, because a committee of revision would arrange all the provisions adopted, under their appropriate heads. But he thought

himself that this was the proper head. The Bill of Rights was for the security of personal rights, and was not so suitable a place for this prohibition as was this article.

Mr. DICKEY hoped, he said, that the amendment would not be adopted at this time, and in this place. The subject would come up in its proper place, which was the ninth article, the committee on which had made a report concerning it.

Mr. FORWARD was in favor of the proposition, but thought that it belonged to the Bill of Rights.

Mr. CRAIG said, that there had been a report on this subject from the committee on the ninth article, which, at a proper time, would come up for consideration. If we took up the subject now upon the motion of the gentleman, it would be giving to an individual member precedence over a standing committee.

Mr. MEREDITH said that, as he had the honor of being charged with some petitions on this subject, he thought it proper to state, that the reasons why he should vote against this amendment was, that it was in the wrong place.

The question was then taken, and the motion to amend was negatived.

Mr. STERIGERE then offered the following amendment to the report, to come in as a new section.

SECT. —. “No bank, railroad company, navigation or canal company, shall be chartered, unless three fifths of each branch of the Legislature concur therein. No bank shall be chartered with a capital of more than two millions and a half of dollars, unless two thirds of each branch of the Legislature concur therein; nor with a capital of more than five millions, unless three fourths of each branch concur therein. Nor shall any bank be chartered with a capital greater than ten millions of dollars, nor for a longer period than ten years, unless the law chartering the same be passed by three fourths of all the members of each House, at two successive sessions of the Legislature, and be approved by the Governor, in which case the bill which may be passed the first session, shall be published with the laws enacted at such session. No bonus shall be required or allowed to be paid by any bank to the State, for the corporate privileges granted to it; and any law, chartering or rechartering a bank, which provides for the payment of a bonus for such chartered privileges, shall be wholly void; but all sums of money required to be paid by any bank for such privileges, shall be a yearly or half yearly tax on the profits or stock of the company”.

Mr. STERIGERE would not, he said, at this late hour, detain the committee with many remarks on this subject. He would merely remark, as his principal reason for offering this proposition, that all corporations interfered with the rights of the people. No banking or canal company could be chartered, without an interference with individual rights, to a greater or less extent, and, therefore, he proposed to require that there should be a vote of three fifths of the Legislature in favor of the law.— It seemed to be preferred, that there should be an expression of opinion even stronger than a vote of three fifths in favor of a bank of large capital. Till lately, there had never been a bank in this State of larger capital than two and a half millions. He had, therefore, proposed that the vote of the Legislature should be the stronger, and more decided, in propor-

tion to the amount of the capital allowed to the bank. He proposed also that there should be no bonus exacted from the company. A bonus was nothing but a bribe—a legislative bribe for banking or other privileges.—A State ought not to derive a revenue from such a source. The revenue ought to be uniform and equal. He would remove any reason or influence which might lead the Legislature to grant a charter improperly. At another time, he hoped to have an opportunity to go fully into this subject.

Mr. KERR said, this subject had been referred to a standing committee, and three or four reports had been made on the subject from the majority and the minority of the committee. At the proper time the subject would come up in a regular way. He hoped the committee would not consider the subject at this time.

Mr. BELL said, it appeared to him that the subject was introduced prematurely. He wished to know if negating this motion would prejudice the subject when again brought up.

The question was then taken, and the motion was negatived.

The committee then rose and reported the second article of the Constitution as amended, as follows, viz :

So much of the report of the committee as relates to the second section, was amended so as to read as follows, viz :

SECT. II. The representatives shall be chosen annually by the citizens of the city of Philadelphia, and of each county, respectively, on the *third* Tuesday of October.

So much of the report of the committee as relates to the third section, was amended so as to read as follows, viz :

SECT. III. No person shall be a representative, who shall not have attained the age of twenty-one years, and have been a citizen and inhabitant of the State three years next preceding his election, and the last year thereof an inhabitant of the city or county in which he shall be chosen, unless he shall have been absent on the public business of the United States, or of this State, or unless he shall have been previously a qualified elector in this State; in which case he shall be eligible, upon one year's residence. No person residing within any city, town or borough which shall be entitled to a separate representation, shall be elected a member for any county; nor shall any person residing without the limits of any such city, town or borough, be elected a member thereof.

So much of the report of the committee as relates to the fifth section, was adopted, as follows :

SECT. V. The Senators shall be chosen for *three* years, by the citizens of Philadelphia and of the several counties, at the same time, in the same manner, and at the same places where they shall vote for representatives.

So much of the report of the committee as declares it expedient to make any alteration in the seventh section, was amended so as to read as follows, viz :

SECT. VII. The Senators shall be chosen in districts to be formed by the Legislature, each district containing such a number of taxable inhabitants as shall be entitled to elect not more than *two* Senators, *unless a single city or county shall at any time be entitled to more than two Senators*; when a district shall be composed of two or more counties, they shall be adjoining; neither the city of Philadelphia, nor any county, shall be divided in forming a district.

So much of the report of the committee as declares it inexpedient to make any alteration in the eighth section, was amended so as to read as follows, viz :

SECT. VIII. No person shall be a Senator who shall not have attained the age of twenty-five years, and have been a citizen and inhabitant of the State four years next before his election, and the last year thereof an inhabitant of the district for which he shall be chosen, unless he shall have been absent on the public business of the United States, or of this State, *or unless he shall have been previously a qualified elector in this State, in which case he shall be eligible upon one year's residence.*

So much of the report of the committee as relates to the ninth section, was adopted as follows, viz :

SECT. IX. At the expiration of the term of any class of the present Senators, successors shall be elected for the term of three years. The Senators who may be elected in the year one thousand eight hundred and forty-one, shall be divided by lot into three classes. The seats of the Senators of the first class shall be vacated at the expiration of the first year ; of the second class at the expiration of the second year ; and of the third class at the expiration of the third year ; so that thereafter, one third may be chosen every year.

So much of the report of the committee as relates to the tenth section, was amended so as to read as follows, viz :

SECT. X. The General Assembly shall meet on the first Tuesday of January in every year, unless sooner convened by the Governor, and shall adjourn on the first Thursday in April, unless continued longer in session, by law, for that purpose.

The Convention then adjourned.

SATURDAY, JUNE 10, 1837.

The President laid before the Convention the following communication and statement, from the Auditor General, furnished in compliance with a resolution of the Convention, adopted on the 26th ult., which was laid on the table, and ordered to be printed :

AUDITOR GENERAL'S OFFICE,

Harrisburg, June 9, 1837.

Sir: I have the honor to transmit, herewith, in compliance with a resolution of the Convention, adopted on the 26th ult., a statement of militia expenses and fines, from the year 1790 to the year 1836, inclusive; and am,

With great respect,

Your obedient servant,

NATHANIEL P. HOBART.

HON. JOHN SERGEANT,

President of the Convention.

STATEMENT

Showing the amount drawn from the State Treasury, for the support of the Militia, other than that received for their support in time of war; the amount of fines imposed for neglecting or refusing to train, as militia; the amount of such fines exonerated; the amount of exempt fines imposed and exonerated, and the amount of militia and exempt fines paid into the State Treasury, from 1790 to November, 1826.

DATE.	Amount drawn from the State Treasury.	Amount of fines imposed.	Amount of fines exonerated.	Amount of exempt fines charged.	Amount of exempt fines exonerated.	Militia and exempt fines paid into State Treasury.
1791	\$7,896 55	\$3,460 47				
1792	4,163 33	875 55				
1793	14,879 41	2,586 48				
1794	3,373 33	1,148 08				
1795	3,271 66					
1796	5,754 65	13,812 73				
1797	4,375 71	1,599 53				
1798	9,275 67	659 55				
1799	10,120 25	1,501 89				
1800	12,138 17	15,307 56				
1801	18,422 26	2,836 12		\$3,357 84		
1802	16,381 82	3,094 82		653 53		
1803	12,963 33	12,006 91		2,487 13		
1804	8,625 14	309 25		9,838 00	\$208 30	
1805	9,445 77	977 00		11,896 88	82 26	
1806	7,676 79	924 40		3,354 22	272 80	
1807	6,839 78	4,635 37		47,350 97	10,145 80	
1808	11,720 87	1,714 15		29,689 23	15,836 50	
1809	12,846 70	329 14		39,289 84	18,281 12	
1810	8,916 62			16,135 23	8,775 76	

\$7,119 70

2,726 70

3,688 76

6,732 15

2,866 55

10,322 09

8,188 32

5,280 84

6,881 96

19,522 30

14,729 66

9,346 17

10,814 83

1811	\$7,300 21	\$430 90		\$34,387 55	\$5,781 24	\$9,309 87
1812	10,323 24	1,857 79		8,013 00	6,855 00	9,413 20
1813	18,986 12			10,960 60	10,858 61	11,148 26
1814	12,813 59	73 65		5,745 44	667 83	4,682 66
1815	14,100 23	64,404 00	\$3,422 40	2,144 40	2,017 05	2,208 47
1816	17,027 54	78,404 50	15,499 77	3,394 05	17,951 06	454 89
1817	18,742 11	98,725 04	24,860 88	7,271 61	67 60	406 86
1818	15,317 03	27,536 00	25,050 32	680 43	116 29	882 10
1819	26,334 37	9,267 11	32,624 78	537 67	32 06	7,625 64
1820	15,017 41	5,606 20	18,789 71	14,892 00	1,293 15	3,487 88
1821	17,747 52	8,458 70	11,455 70	9,286 21	4,921 41	4,446 68
1822	25,837 68			13,873 57	2,822 35	5,297 65
1823	34,277 19	10,876 17	1,826 37	377 70	2,389 04	4,126 51
1824	30,289 26	8,140 52	1,163 95	14,939 06	659 55	2,280 09
1825	23,449 04	22,125 80	951 85	185 60	1,832 14	4,153 79
1826	23,238 05	32,492 46	12,992 94	209 40	284 15	4,634 88
1827	26,666 75	13,610 50	9,246 91	300 00	42 16	1,516 20
1828	24,542 80	10,718 60	258 29	152 00		890 70
1829	17,738 22	12,161 59	480 50	142 50		3,000 71
1830	20,513 56	23,557 75	1,369 00	114 40	238 60	2,328 16
1831	20,515 72	14,790 25	876 00	197 60	43 95	1,381 41
1832	20,074 66	17,187 17	212 51	141 50	240 00	1,463 27
1833	20,776 99	19,074 80	328 00	87 40		1,693 00
1834	21,075 87	15,012 70	456 19	3 80		1,160 70
1835	21,862 44	16,575 13	708 02	55 10		787 63
1836	29,601 65	10,493 00	1,177 89	77 90		3,161 16
	\$722,157 16	\$589,359 33	\$163,712 98	\$292,223 36	\$112,715 78	\$200,162 40

SUMMARY STATEMENT.

Amount drawn from the State Treasury for support of the Militia of this Commonwealth, other than that received for their support in time of war, from 1790 to November, 1836,	-	-	-	-	-	\$722,157 16
Amount of Militia fines imposed during same period,	-	-	-	-	\$587,359 33	
Deduct exonerations,					163,712 98	
					<hr/>	425,646 35
Amount of exempt fines, charged during same period,	-	-	-	-	\$292,223 36	
Deduct exonerations,	-	-	-	-	112,715 78	
					<hr/>	179,507 58
						<hr/>
						\$1,327,311 09
Deduct amount of Militia and exempt fines, paid into the State Treasury during the above period,						200,162 40
						<hr/>
Actual cost of the Militia from 1790 to Nov. 1836,						<u>\$1,127,148 69</u>

Respectfully submitted,

NATH P. HOBART,
Auditor General.

Auditor General's Office, }
June 9th, 1837. }

Mr. KONIGMACHER, of Lancaster, presented a memorial from the Seventh-day Baptist society, of Snowhill, Franklin county, praying the adoption of a Constitutional provision for the enforcement of the Sabbath, and the protection of the right of religious worship, and also on the subject of doing military service, which was laid on the table, and ordered to be printed.

Mr. FLEMING, of Lycoming, presented a memorial from inhabitants of Northumberland county, praying for a Constitutional provision, requiring the election or appointment of county officers, who can speak the German as well as the English language, which was laid on the table.

Mr. RITER, of Philadelphia, submitted the following resolution, which was ordered to be laid on the table, and printed :

Resolved, That the Constitution be so amended, that all laws shall, by their titles, signify their contents; and no law, containing distinct or dissimilar subjects, in the opinion of the Governor, shall be signed by him, but returned with his objections on that account, to the House in which it originated.

Mr. FRV, of Lehigh, submitted the following resolution, which was laid on the table, and ordered to be printed :

Resolved, That the committee on the ninth article of the Constitution, enquire into the expediency of limiting the pension system.

Mr. HAYHURST, of Columbia, from the committee on accounts, submitted two resolutions for the pay of officers, which were agreed to.

Mr. STEVENS moved that the second article of the Constitution be taken up for consideration.

The PRESIDENT stated, that the question which had precedence, was

on the second reading of the report of the committee of the whole on the first article.

On motion of Mr. MANN, of Montgomery, the report of the committee of the whole, on the first article, was postponed.

Mr. READ, of Susquehanna, suggested, that the fifth article was made the special order of the day for last Monday week.

The motion of Mr. STEVENS was agreed to.

SECOND ARTICLE.

The Convention resolved itself into committee of the whole on the second article of the Constitution, Mr. CLARKE, of Indiana, in the Chair.

So much of the report of the committee as declares it inexpedient to amend the first section of the second article being under consideration,

Mr. STEVENS asked for the reading of the various reports. The reports were accordingly read, as follows :

The committee to whom was referred the second article of the Constitution, report the following amendment to it :

SECT. 3. To read as follows—"The Governor shall hold his office during three years from the third Tuesday of December next ensuing his election; and shall not be capable of holding it longer than six years in any term of nine years".

SECT. 8. Sixth line to read—"He shall nominate, and, by and with the advice of the Senate, shall appoint all officers, &c".

Make the ninth section read as follows :

"SECT. 9. He may at all times require from all, except the judicial officers, written information concerning their offices".

Add a new section, to be called, section 16, as follows :

"SECT. 16. The Prothonotaries, Registers, Recorders of deeds, and Clerks of the several courts, (except Clerks of the Supreme Court, who shall be appointed by the court during pleasure) shall be elected by the citizens of the respective counties; and the Legislature shall prescribe the mode of their election, and, from time to time, the number of persons to hold said offices in each county, who shall continue in office for three years, if they so long behave themselves well, and until their successors are duly qualified. Vacancies to be supplied by the Governor, until the next annual election".

The 14th section shall be so amended as to read as follows :

"In case of the death or resignation of the Governor, or of his removal from office, the Speaker of the Senate shall exercise the office of Governor; and in case of the death, resignation, or removal from office of the Speaker of the Senate, the Speaker of the House of Representatives shall exercise the office of Governor, until another Governor shall be duly qualified; and if the trial of a contested election shall continue longer than until the third Tuesday of December next ensuing the election of Governor, the Governor of the last year, or the Speaker of the Senate, or of the House of Representatives, who may be in the exercise of the Executive authority, shall continue therein until the determination of such contested election, and until a Governor shall be duly qualified as aforesaid".

Mr. STEVENS, from the minority of the committee on the 2d article of the Constitution, made the following report :

The undersigned member of the committee on the second article of the

Constitution, dissents from the report of the committee, and makes the following report :

Add the following new sections :

SECT. —. The Prothonotaries, Recorders of deeds, Registers of wills, and Clerks of the several courts, (except Clerks of the Supreme Court, who shall be appointed by the court during pleasure) shall be elected by the citizens of the respective counties qualified to vote at the general election, and shall hold their offices for three years, if they so long behave themselves well ; and the Legislature shall provide for the mode of their election, and the number of persons in each county who shall hold said offices ; the Governor shall supply any vacancy that shall occur by death, resignation, removal, or otherwise, until such vacancy be supplied by the people, as herein before provided for.

SECT. —. The office of Surveyor General shall be abolished, and the duties thereof transfered to the Secrerary of the Land office.

SECT. —. The public improvements of this Commonwealth shall be under the management of a Comptroller of Public Works, who shall be annually appointed by the Governor, and shall receive a compensation of not less than dollars *per annum*.

THADDEUS STEVENS.

MR. BELL, from the minority of the committee on the second article of the Constitution, made the following report :

The undersigned, a member of the committee to which was refered the second article of the Constitution, begs leave respectfully to recommend, as amendments, the following enumerated alterations and additions, to wit :

The second section of the said article ought to be altered so as to read—

SECT. 2. The Governor, and a Lieutenant Governor, shall be chosen on the second Tuesday in October, by the citizens of the Commonwealth, at the places where they shall respectively vote for representatives. The returns of every election for Governor and Lieutenant Governor, shall be sealed up and transmitted to the seat of Government, directed to the Speaker of the Senate, who shall open and publish them in the presence of both Houses of the Legislature. The persons respectively having the highest number of votes for Governor and Lieutenant Governor, shall be elected ; but if two or more shall have an equal, and the highest number of votes for Governor or Lieutenant Governor, the two Houses of the Legislature shall, by joint ballot, choose one of the said persons, so having an equal and the highest number of votes, for Governor or Lieutenant Governor. Contested elections shall be determined by a committee, to be selected from both Houses of the Legislature, and formed and regulated in such manner as shall be directed by law.

The third section of the said article ought to be amended by inserting the words “ and Lieutenant Governor ” after the word “ Governor ” and providing for the continuance in office of the Lieutenant Governor, for the same term as is prescribed in the case of the Governor.

The phraseology of the fourth section ought to be so altered, as to make its provisions embrace as well the office of Lieutenant Governor as that of Governor.

The eighth section ought to be amended by striking out the words “ or shall be established by law ”.

The fourteenth section ought to be altered so as to read—

SECT. 14. In case of the death or resignation of the Governor, or his removal from office, the powers and duties of the office shall devolve on the Lieutenant Governor for the residue of the term. And if the trial of a contested election shall continue longer than the third Tuesday in December next ensuing the election of Governor, the Lieutenant Governor shall exercise the powers and discharge the duties of the office of Governor, until the determination of said contested election, and until a Governor shall be duly qualified: but if the election of the Lieutenant Governor shall also be contested, and the trial of such contested election shall continue longer than until the said third Tuesday in December, the Governor of the last year, or the Speaker of the Senate, who may be in the exercise of the Executive authority, shall continue therein until the determination of such contested election, and until a Governor shall be qualified as aforesaid, or until the contested election of the Lieutenant Governor shall be determined, and such Lieutenant Governor be duly qualified. While acting as Governor, the Lieutenant Governor shall receive the same compensation as is, or may be, allowed to the Governor.

A new section to be numbered “fifteen,” ought to be introduced, and to read—

SECT. 15. The Lieutenant Governor shall be President of the Senate, but shall have only a casting vote therein. While acting as President of the Senate, he shall receive double the compensation paid to a Senator. If, during a vacancy of the office of Governor, the Lieutenant Governor shall die, resign, or be removed from office, the Speaker of the Senate shall act as Governor, until the vacancy shall be filled. While acting as Governor, the Speaker of the Senate shall receive the same compensation as is, or may be, allowed to the Governor.

THOMAS S. BELL.

The first section was then read, as follows:

“**SECT. 1.** The supreme Executive power of this Commonwealth shall be vested in a Governor”.

Mr. STEVENS moved to amend the report, by inserting, as the first section, the following, and to number the other sections accordingly:

“**SECT. 1.** No member of this Convention shall hold any office under the amended provisions of this Constitution, except as members of the General Assembly, being eligible, as heretofore, under any of the unamended provisions thereof”.

Mr. Stevens said that in offering this amendment, he did not intend to make any remarks, unless he should be called upon to do so, after other gentlemen had spoken. He presumed the yeas and nays would be called; but hoped the scene of excitement witnessed here yesterday would not be repeated.

Mr. REIGART, of Lancaster, said that when the delegate from Adams had offered this as a new section yesterday, he had some doubts as to the propriety of it; but on reflection, he was induced to change that opinion. He now thought its adoption would reflect great honor on the Convention. It will be recollected, (said Mr. R.) that many members of this Convention propose to limit the appointment of the judicial officers to a term of years. This will necessarily create many and frequent vacancies. It might be restricted to judicial officers, but, rather than not take it, he would take

the proposition in its widest extent. Members of the legal profession were particularly liable to the suspicion of desiring to obtain the tenure of a judicial office for selfish purposes. He was, therefore, willing to go for it to that extent, or further.

It is proposed, also, to take from the Governor the power of appointing the Prothonotaries, Registers, Recorders, Clerks of courts, &c., and to give it to the people, and let them elect those officers. It has also been proposed to elect the Justices of the Peace, and, perhaps some other officers. Under the amendments which we shall, in all probability, propose to the people, there will be many elective officers created, and many others will be frequently vacated, officers will become multiplied, and there will be a contest to fill them. Now, as the best evidence of our sincerity here, and to convince the people that we at least conceive ourselves to be wholly disinterested in what we propose to them for adoption, let us divest ourselves from all interest in this matter; let us show to our constituents, if we believe that the Constitution requires amendment, we are prepared to forego the temptation of office, honor, and emolument—to sacrifice every selfish sentiment, before we enter on the great work entrusted to us. We can then, at least, come before the people with clean hands and pure hearts. In a word, let us endeavor to be not only pure, but entirely unsuspected. By this course, we infallibly recommend whatever we may do, to the attention and respectful consideration of our constituents; they who have sent us will do us the justice to say that we have given the best pledge of our sincerity. 'Tis true, they have not required it; but that is no reason why we should not give it, if we believe it to be right. For myself, if all were stricken out of the proposed amendment except judicial offices, and if the section referred to those offices alone, as a member of the profession of the law, I would most cheerfully vote for the section. Many of that profession are members here: they could not possibly give higher or more conclusive evidence of their sincerity than inserting this self-denying section. The members of this Convention have taken no oath to perform their duties with fidelity. It is true, they could have taken, such as neither of the Constitutions prescribe any for an assembly like this. Let us then give to the people something more than mere words: let us give them a positive, unequivocal act; such an one as cannot be mistaken by the people. I am aware, sir, that the framers of the old Constitution made no such sacrifice; but, sir, we are still not without precedent; the 18th section of the first article of the present Constitution, imposes a disqualification on the members of both branches of the Legislature to offices created or emoluments increased during their membership. It seems to me, sir, that such of the members as belong to the legal profession have now an opportunity to show their disinterestedness, and which I really hope they will not fail to put into practical operation. Until I hear some strong reasons urged against the proposed section, I, for one, shall record my vote in favor of this self-denying section.

Mr. PURVIANCE, of Butler, said the object of the amendment was equally unprecedented and unnecessary. The framers of the Constitutions of 1776 and 1790, had introduced nothing of this kind into their work. It was unnecessary for the reasons assigned by the gentleman from Lancaster. He was not himself disposed to present any thing to the people for the purpose of relieving the members of the Convention from the

imputation of impure motives. He was afraid to leave it to the people to decide on that. To pass this amendment, would have the effect of placing this body in a ridiculous attitude before the people. Suppose we were to pass this proposition now, and should have no amendments afterwards to present to the people, how should we appear? If the gentleman from Adams seriously intended to urge this subject, it would be better for him to withhold it until it can be ascertained if any amendments will be proposed to the people. He admired the principle of self-denial as much as any one, but he was unwilling to point out any class as fit subjects for denunciation, for the purpose of attaining popularity. Lord MANSFIELD's notion of popularity was the kind which he approved: "I like the popularity which follows a man, rather than that which is sought after". He did not approve of such attacks on lawyers, as had been made by the gentlemen from Adams and Franklin.

Mr DUNLOP explained: He had not denounced the bar. On the contrary, he beheld it with pride, as comprising some most able men.

Mr. STEVENS: I said not a word against the bar.

Mr. PURVIANCE: I understood both gentlemen as speaking against the bar.

Mr. STEVENS and Mr. DUNLOP again disowned any such language.

Mr. PURVIANCE: At least, the argument led to that conclusion.

Mr. STEVENS: Is not the gentleman bound to take the explanation?

Mr. DUNLOP: As far as concerns me, the gentleman may make what inference he pleases—just as remote as suits him.

Mr. PURVIANCE resumed: 'The gentlemen had been so studious to avoid the imputation of belonging to that class, that they had come here under the name of merchants and iron masters. If the gentleman from Adams was serious in his proposition at the proper time, he would vote against it regardless of popularity, as he hoped every gentleman would, except the gentleman from Adams.

Mr. FLEMING should vote for this proposition, but for reasons very different from those he had heard suggested. He believed, viewing it as he did, that it would be a valuable provision to introduce in the Constitution, so far as it regarded professional men. He had looked into the world a good deal, and he generally found that politicians died poor men. Neither have they much satisfaction in this world. 'The whole course of their lives is that of toil and trouble, and vexation of spirit, and after spending a long life in the service of the State, or in efforts to get into the service of the State, they die in more straitened circumstances than when they commenced their political career. The man who sits himself down and permits all those political aspirations to pass off as the idle wind, enjoys the most happiness. This, then, is the very ingredient in life which we are all seeking. We want a situation in life where we can enjoy the quiet of our homes, the comfort of our fire sides, and the society of our families and friends. Then, when an opportunity is afforded of making this enjoyment permanent, why not embrace it? Adopt the resolution at once, and say to the people, we deny ourselves the honor of office for the peace of our homes. He did not think we should be looking so strenuously towards the dear people, as they have been called, for offices created under the Constitution. Are gentlemen disposed to legislate now, and make a Constitution which will give each one an office? He felt that he had not sufficient

confidence in himself to discharge the duties of the offices which will be created under this Constitution. He did not consider himself capable to discharge many of the duties which would be imposed upon those officers ; and he did not hesitate a moment to say, that he would go cheerfully for this amendment. He would ask the democrats or radicals in this Convention, if they were going to be frightened from their proposed amendments by a proposition of this kind ? Was there a professional gentleman here who could not see the object of this amendment ? He would ask gentlemen of the bar in this Convention, if it was their desire, under the provisions of the new Constitution, to receive a judgeship ? If there is a democrat or a radical in this Convention who was disposed to make a Constitution for the purpose of procuring a judgeship, or any other office, he is not fit to be here ; he is not the man calculated to make a Constitution for a free people. Who cannot deny himself such a paltry consideration ? Was it to be said of us hereafter, that we came here to alter a Constitution, and multiply and create offices for our own benefit ? Let gentlemen go for the proposition, and free themselves from any such imputation. He would vote for the resolution at once, and show the country that we do not stand here to ask for judgeships, or any other offices under the Constitution. There were other means by which a man could earn his bread, and he did hope the Convention would concur in opinion that this proposition should be adopted. Let us deny ourselves these privileges of holding offices which are of our own creation. When we get to that important article of the Constitution on which this appears mainly to apply, are we to be deterred from amending it by a measure of this kind. He hoped we would carry out our principles notwithstanding the resolution of the gentleman from Adams. Let us discharge our duty faithfully to the people ; and then adopt this provision, and tell them we submit to you an amended Constitution, and have denied ourselves all benefit to be derived from it in the shape of office. Gentlemen need have no fear that the people will not be ably represented in consequence of this resolution. He did not believe, that all the intelligence of the Commonwealth was congregated together in this Hall. There were, to be sure, many eminent men here, but there are many eminent who are not here. There were a sufficient number of men who were able, and he had no doubt, perfectly willing, to discharge the duties of the several offices which will be created under this Constitution.

Mr. DARLINGTON could not but regret that this question was again brought to the attention of the committee. He could not agree to vote for it, because he did not think it was founded upon any sound principles of policy, or that it would be productive of any good effects in practice. He had always thought these professions of disinterestedness out of taste, and he did not mean to make any for himself. He claimed no more exemption from the frailties of human nature than any other individual ; but he would take upon himself to say that there was no man who less regarded elevations in political life, than he did. He knew of no office in the gift of the people or the Governor, which would induce him to leave his home hereafter, to enter into public life. At the same time, there are members of the Convention whose services the public have a right to claim ; and he held that no individual, when his constituents required his services, had a right to refuse to serve that public. He did

not mean this to apply to himself, because he knew there were many individuals in the county he came from, much more capable, and who were ready to serve the people. He could not agree with gentlemen that this proposition would reflect honor on this Convention; but on the contrary, he thought it would be an eternal disgrace to say that there were one hundred and thirty-three men here, unfit to be trusted with office in all time to come. Was it any thing less than this? It had been said that it would be proper to pass this measure, because we were going to remodel the Judiciary, and increase officers in that department. What evidence have we that such changes will be made at all? And if made, the passage of this resolution is entirely uncalled for. Were the people of Pennsylvania to be called upon to say that those assembled here, many of them the first men in the State, shall forever be precluded from holding any office under this Constitution, because they had voted on particular measures in which they might have been suspected of voting partially. Shall we be called upon to say that the people shall not elect what agents they please to do their work. Was it to be said that a set of men, many of whom were just entering into public life, were so corrupted by their connexions here as to render them incapable of holding office forever hereafter. He did not hold that the legal profession had any greater claim to public office than others; nor did he believe they were specially called upon to expatriate themselves from all offices. He did not believe they were called upon to decide themselves unfit for office, because they, of all other professions, were most trusted by the community. There were no persons who, in the exercise of their professions, made themselves more capable of filling offices, and were they to declare themselves unworthy of being trusted by the people? Was there any thing in the character of the profession which should prevent them from enjoying those privileges which were granted to all the rest of the community? He thought not. He did not believe with the gentleman from Lycoming, (Mr. FLEMING) that we were called upon to vote for this measure, in order to show the people that we were ready to make this sacrifice on the altar of our country. He had seen too much of these professions of attachment to the people, to believe there was any sincerity in them. He meant to cast no imputation on the mover of this resolution, or any other gentleman, but when they came forward with a proposition to limit the power of the people in the election of their own agents, he must beg leave to differ with them. He had more confidence in the people themselves, as well as the agents whom the people have chosen or hereafter may choose, to exercise important trusts, than some gentlemen seemed to have. He should vote for this resolution for no such purposes, although he would say that he might go for it, with as perfect disinterestedness, as any other gentleman on this floor. He did not mean to say that he would refuse to discharge public trusts, if the people desired that he should discharge them, and he hoped no other gentleman here would refuse; but he meant to say that he felt as little personal interest in the matter as any other gentleman here. He could not vote for the resolution, because he believed it would not only reflect disgrace upon the Convention, but also on the people.

Mr. SHELLITO wished to say a word or two in behalf of his young friends in the Convention, who might feel a delicacy in saying any thing

in their own behalf, and what he was going to say he could say with perfect disinterestedness, as he was standing with one foot in the grave, and the other on the verge crumbling into it; and he never expected to hold another office in the Commonwealth. Was it right, however, for this Convention to plant shackles on the people, and tell them, you shall not elect a worthy man who may be your choice, because, forsooth, he was a member of this Convention? If any of our young friends here have served the people faithfully, and earned for themselves a reputation for wisdom and integrity, and devotion to the people, are the people to be told that in all time to come, you are debarred from having the services of these gentlemen? Was there such a provision to be found in any Constitution in the whole United States? Or, had any man ever heard of such a proposition being introduced in any of the Conventions which have met to frame or revise Constitutions? There was no such proposition made in the Convention of 1790; although, in that case, the Convention actually made and proclaimed the Constitution to the people, the people never being called upon to ratify it. There was no such thing ever had been heard of before; and he believed it to be now urged for no other reason than to enlist the members of the bar in favor of the old Constitution, and to fight off amendments. Let the Convention then vote it down instantly, and proceed to matters of higher moment, to which the people were looking with great anxiety.

MR. EARLE said his radical friend from Lycoming (Mr. FLEMING) had so little confidence in his self denial, that he wished to bind himself by the provision not to take office. He was like the man who cried out "hold me, or I shall strike him". He (Mr. E.) was not so distrustful of himself, his colleagues, or his radical friends here, as to think it necessary in advance of any action of this body, to say to the people that we are so corrupt, hypocritical, and interested, that we must bind ourselves not to take any office from you, which we may propose. The proposition was too absurd for serious consideration, and its object was too plain to need any comment. He had heard much of groveling demagogueism; but he had never before seen so striking an instance of it. We have heard a great deal about placing restrictions upon the people from gentlemen who now advocated this proposition, to place restrictions upon the people. They appeared to argue one way, and look another. At one time the Legislature is infallible, and at another time the Governor is infallible; and at one time they are in favor of placing no restrictions at all upon the people, and at other times they are for restraining the people, and you never know where to find them. Gentlemen have told you the other day, that you must not prevent the people from rewarding officers who have served them faithfully, and that it would be doing injustice to the people to deprive them of the services of men who had had some experience in legislation, but now they come forward to place this restraint upon the people. Now, Mr. E. had never found it necessary to come forward and say that he did not want office. He had never been in the habit of going round as he had known others to do, and tell the people that he wanted no office, and he knew that all these professions were hollow hearted and hypocritical. You will find in all history that those who made loud professions of disinterested virtue, were hollow hearted intriguers, who only used those professions as a cloak to their real designs.

The gentleman from Adams had so poor an opinion of his own political friends that he fears they will not vote right unless he holds out a bribe to them. He holds out a bribe to the gentleman from Northampton, for the purpose of getting him to maintain the independence of the Judiciary.

Mr. STEVENS said he made no such proposition, either directly or indirectly.

Mr. EARLE said this was the effect of the amendment. The gentleman also holds out a bribe to the gentleman from Franklin, (Mr. DUNLOP) to get him to preserve the Constitution in its present form, so that he may perhaps obtain an appointment from the Governor, which he might not be able to obtain from the people. So it will be with all the members. All are supposed by this resolution to vote under the imputation of this corrupt motive. Thus, it is expected to fight off the main question, and defeat a reform of abuses in the Constitution which the people have so much at heart. The gentleman from Adams called upon the delegate from Philadelphia, and all other delegates, to say to their constituents, you are not discerning enough to know who you should select for your representatives, you have elected to this Convention a set of corrupt men who are not worthy of being trusted with office. Gentlemen are called upon to pronounce their constituents incapable in discernment, and low in principle. The gentleman from Lancaster, who supported this amendment, must recollect, that when he votes to make himself ineligible to offices within the gift of the people, he votes to make himself eligible to offices within the gift of the Governor, so that there is not so much patriotism in the vote as the gentleman seems to think. It seemed to him, however, that gentlemen did not intend to have this resolution adopted, when they brought it forward and advocated it, but only intended it as a means of preventing reforms from being made. If they would wait until the alterations were made in the Constitution, then it might be brought forward with some appearance of patriotism; but at present, it could only be looked upon as a means of seducing members from the great object of reform which a large majority of the Convention seemed to have so much at heart. Mr. E. was not going to vote for any resolution which would stamp the word hypocrite on his forehead, or brand him with the mark of CAIN, so that he might hereafter be pointed out as a man unworthy to be trusted by his fellow citizens. He would refer gentlemen to the manly conduct of the present President of the United States, in reference to a matter of this kind. When Mr. VAN BUREN was assailed some years ago most violently, among other charges it was intimated that he was aspiring to the Vice Presidency. In a letter of his, which was published about that time, he said that he would not say that he was not going to be a candidate for that office, because no man could say so without showing a want of self-respect. Now, he concurred entirely in this sentiment, and he trusted a large majority of this Convention would be found to vote down this proposition at once. As he did not wish to deprive the Commonwealth of the eminent services of one of her most disinterested patriots, he would move to amend the amendment by excepting the gentleman from Adams from the operation of the provision.

Mr. DARLINGTON hoped the gentleman from the county of Philadelphia would not press this amendment, and have such a scene enacted to-day as there was yesterday.

Mr. EARLE then withdrew his amendment.

Mr. SMYTH, of Centre, was sorry to see the professional gentlemen of the Convention take such an active part in the discussion of this proposition, because he deemed it to be one of a character too insignificant to call forth their energies; and they might have left the discussion of it to gentlemen who did not aspire so high in the debates in this Convention. It appeared that this amendment was to be placed at the head of the second article, as though it was especially to debar any member of this Convention from becoming, in after years, Governor of this great Commonwealth; and he thought the gentleman from Adams was throwing obstacles in his own way, for it might yet happen that the people would desire to honor that gentleman thus highly for the many disinterested services he had performed for them. He did not believe with the gentleman from Lycoming, that we should vote for this to show our disinterestedness; and he (Mr. S.) was not afraid to say that he would vote against it, and he was not afraid to have that vote and that expression spread before the people of the county he represented. When propositions of amendment have heretofore been brought forward, we have frequently heard it asked if the people desired such amendments. Now he would ask the gentleman whether the people of Adams county desired such an amendment as this? Besides, would it not deprive the people of that county of the services of one of her ablest citizens. Who knows what services the people might desire the gentleman from Adams to perform. Perhaps they might wish him to fill a Judgeship, perhaps that of a Legislator, and perhaps even they might wish to see him fill the office of Governor, and he wished to place no restrictions upon the people, therefore he should vote against the amendment. Was there a republican here who would say to the people, you shall not elect a member of this Convention to any office under this Constitution? Was it proper that such a measure as this should be incorporated in the Constitution? He could vote for no such measure to show his disinterestedness. He should not vote for this proposition which would deprive the people from procuring the services of many of the gentlemen who were members of this Convention. If he was a young man he would not vote to disfranchise himself through life, nor would he vote to disfranchise his young colleagues.

Mr. BUTLER moved to amend the proposition, by inserting, "except as members of the General Assembly".

Mr. STEVENS accepted this as a modification.

Mr. BELL wished to know if this resolution passed, if it would disqualify any gentleman now on this floor from holding the office of Governor of Pennsylvania. Mr. B., himself, was not ambitious, nor would he say the gentleman from Adams was ambitious, as he (Mr. B.) had never before been called to hold any high trust, until he was honored with a seat on this floor; but, although he was not ambitious, he would not like to give up his chance, nor did he think the gentleman from Adams would like to give up his chance of being elected to some office or other. As to himself, he did not know that it was so much matter, as there were a plenty of abler men than him in his county; but he would ask the gentle-

man from Adams, whether he was willing to cut himself off from being one day or other elected Governor of this Commonwealth.

Mr. STEVENS rose to answer the question of the gentleman from Chester, which he supposed was asked with all sincerity. He thought by looking at the amendment, it would be seen that it depended entirely upon the article to which it would relate, whether it would prohibit a member of the Convention from holding the office of Governor. While up, he wished to be permitted to say a few words more in relation to this question. There were two ways of meeting a proposition in all bodies, and sometimes there were just as many ways of meeting a question in a deliberate and respectable body, as in a ward meeting. This was not often resorted to in legislative bodies, and ought still less to be resorted to in such an assembly as this Convention. One way of meeting a question was to answer its objectionable features with arguments, or answer the arguments adduced in favor of it. Take it up and see what its objections are, and answer them calmly, or if you please, forcibly, according to the best of your abilities. He did not say that every one could answer a proposition of this kind with equal force, but one thing was certain, that every one, down to the most humble member of the body, if there was one more so than another, had it in his power to answer it like a gentleman. Every gentleman had it in his power to speak to the merits or answer the demerits of a proposition without impugning motives or making rude personal assaults upon the mover, and he regreted that any thing of the kind had happened in this body. If any thing can lower the body in its own self-esteem and in the eyes of an intelligent people, it is these violent, disgraceful, and ungentlemanly personal attacks; and this criminating and recriminating warfare which was carried on here. From some there was little better to be expected, but he regreted to have seen it on this occasion extending so widely throughout the House. As to the gentleman from Butler, (Mr. PURVIANCE) he should like to know who made him a judge in Israel, that he was to come in here and impute motives, and declare this disgraceful, and that uncalled for, and interrogate gentlemen as to their intentions. Mr. S. would say to that gentleman, that it was not for him to say whether he was seeking political favors. He did not stand here to vindicate himself against any such attacks, whether they came from individuals of high standing or low standing. He left that matter with his constituents to settle. He had sometimes been charged with having too little respect for the people, and at others, with showing too great a devotion to the people, and he regarded the one just about as much as the other.—When he made a proposition, he made one which he thought was right, and it was for the people, if they thought it right to approve it; but, if they thought it low, and designed for effect, they did not need the gentleman from Butler to point it out to them. He would recommend to that young man, before he sets himself up to judge of the motives of men, to tarry awhile at Jericho until his beard has grown. What was the real objection to this proposition? We have been told that it is held out as a bribe, and he presumed it would be inserted in the Daily Chronicle, that it was an attempt to bribe the gentleman from Northampton.—There was no such attempt made, and gentlemen should be careful how they send out to the public such assertions. But, if gentleman really think that this proposition will operate to deter men from voting as they

honestly believe to be right, what do they think of the integrity of those men who are so easily bribed, and would there not be some necessity for putting a check of this kind upon them, to restrain their lust for power and office. He disclaimed all intention of offering it as a bribe; but take the gentleman's own argument, and men who can thus be supposed to be bribed, certainly needed some constitutional restraint to prevent them from aspiring to office. He could not see how gentlemen would escape from this predicament in which they had placed themselves.

He considered that the gentleman from Chester (Mr. DARLINGTON) had entirely mistaken the question, when he supposed it would be disgraceful to insert such a provision as this in the Constitution. It was merely the principles and language of the present Constitution carried out. If the gentleman would refer to the eighteenth section of the first article of the present Constitution, he would find the same principle in the following words: "No Senator or Representative shall, during the time for which he shall have been elected, be appointed to any civil office under this Commonwealth, which shall have been created, or the emoluments of which shall have been increased during such time". Was this a reflection upon the people, or upon the Legislature of this Commonwealth, because the framers of the Constitution thought proper to take from them all motive for abusing the legislative power, in the creation of offices for their own benefit? No sir, it was not; and if he knew any thing about it, this Convention could not do any thing more honorable, and which would be looked upon every where, and by every body, as an act of the most patriotic and disinterested virtue, and such an one as had never before been adopted by any Convention in this country. Was it so hard a thing for gentlemen to deny themselves the privilege of holding office? Where was the spirit of self denial about which we had heard so much? He believed, however, there were some portion, at least, of this grave assembly, who would act on this subject with him. He made no particular professions of attachment to the people, or of disinterested virtue on this occasion other than those which appeared on the resolution; but, when gentlemen asked him if he was sincere in this matter, he would tell them to wait until the vote was taken, and let the record speak. It was painful for him to answer such arguments, which were no arguments at all, but it sometimes became necessary, even here, to notice them. He knew the gentleman from Chester had never before held an office, and he supposed, if it had not been for the gerrymandering we had heard so much about the other day, he would not now have held one, and it appears, since he has had a taste of office, he is unwilling to give it up. But was this measure to be binding on the people? Does our act place any shackles upon them? No sir. We merely submit this matter to the people for their ratification, and say to them, here is a new Constitution with increased offices, but we claim no offices under it. Then it will be for the people to say, whether or not we shall be excluded from holding office, and are gentlemen afraid to trust the people with this matter. When we create offices, or take the appointment of officers for a long term from the Executive, and give them to the people, to be elected for a few years, which is increasing offices, if not creating them, it would be well for us to insert a provision of this kind, to show that we have done it with purely disinterested motives. He charged no man with any design; he made no such

charges, and did not follow the example of those who, in defiance of the spirit of the rules of order, come forward and charge gentlemen with unworthy motives. He made no such charges, but still he thought it would be showing to the world, that we have acted on this matter with the most disinterested motives. But why do gentlemen tremble, when they see a measure which may, by possibility, cut them off from official emoluments and honor? Were they not willing to trust to their constituents to say they should take any profit from what they had done? Was this not a proposition which honorable men might meet in an honorable way? Cannot gentlemen vote upon it in perfect honesty and sincerity, and say to the people, we have made you a Constitution without any view to personal gain. Then it would be for the people to say, whether or not we should be prevented from holding offices under this new Constitution. If they should think that we have not passed it with the most pure and disinterested motives, they can prevent us from reaping any benefit from it, but on the other hand, if they are convinced that we passed it without any view to profit by it ourselves, they will reject this amendment.

Mr. PORTER asked for the reading of the proposed section, which being read by the Secretary, he proceeded to say, that he should vote against it, and would assign his reasons for it: that it was uncalled for: that the people had asked no such sacrifice at the hands of the members of this body. He should impugn no man's motives: he would suppose every man to be honest and sincere in the propositions he submitted to the consideration of this body. He was sorry to see the course of debate pursued by some gentlemen: they cast fire brands abroad, and impugned motives by wholesale; and when, forsooth, they thus provoked attacks upon themselves, and received but what they deserved, then they exclaimed against the unfairness and uncourteousness of personal attacks. It was really "the hard blow and loud cry". Without, however, impugning motives, he could not help seeing the object of the resolution.—It was to prevent action upon the Constitution. The gentleman from Adams, we all knew, was ultra conservative, and his object, no doubt, was to prevent amendments, either by the consumption of time, or by tying up the hands, or alarming the fears of members. It was said that self interest was the ruling principle of man; and, to a certain extent, this was true. If so, and this resolution was adopted, it might operate on the minds of some men to prevent the adoption of certain alterations, that their sense of what was right as well as the wishes of their constituents called for. That on principle he was opposed to it, and he would oppose it also for its practical effects. It was quite likely that there would be alterations in the tenure of the judicial office, by limiting it to a term of years. He did hope, that as to this, we might preserve the present tenure of the Judges of the Supreme Court; but as to the President Judges of Districts, he believed, from the signs of the times, they would be restricted in their tenure. But if the slightest alteration were made in the article respecting the Judiciary, he did not believe that every member of this Convention, according to the terms of this proposed section, would be prevented from filling a judicial station; a result he should not desire. He disliked this bringing of self into every debate, as some gentlemen did; he spoke not of self; but there were gentlemen in this body, whom he hoped yet to see filling and adorning judicial stations in this State; their talents, inte-

grity, and legal acquirements, would entitle them to it, and there would be nothing improper in so appointing them. Under the existing Constitution, we have seen certainly twenty of the gentlemen who adopted it, and created the offices specified in it, filling important situations under it, and filling many of them by the unbiassed choice, and to the entire satisfaction of the good people of the Commonwealth.

The first Governor under the Constitution was THOMAS MIFFLIN, the President of the Convention. He filled that office by three successive elections, and the day he retired from the office of Governor, he took his seat as a member of the Legislature, to which he had been elected by the people of the county in which he lived, on the day his successor was chosen.

THOMAS M'KEAN was appointed Chief Justice under the Constitution, immediately upon its adoption, and nine years afterwards he was elected Governor, and twice re-elected to that station. When he had served as long in the Executive department as the Constitution permitted, he was succeeded by SIMON SNYDER, another member of that Convention; a man of as pure mind, and of as firm and exalted patriotism, as either of the great men who preceded him. No man ever filled the office of Governor, with more ability, than that great and good man. He was one of the first of the statesmen of Pennsylvania with whom I became acquainted. I knew him, and I knew him well. He was a man of no ordinary mind, and of great and diversified intelligence. Few men had read more, or more profitably, than he; but, the great and leading trait of his mind was his strong, practical, and common sense. His intercourse with his fellow men, and the public stations he filled, enabled him to bring this to bear on men and things, and so ably and faithfully to discharge the duties of the high and responsible office he filled, as long as the Constitution permitted the people to elect him. I am pained to say, that history has not done justice to either his talents or acquirements.

JOSEPH HESTER, too, was elected to fill the Executive chair, and filled it for a term, and declined being again a candidate. Thus, for thirty out of thirty-three years after the adoption of the Constitution, every Governor we had, was a member of the Convention which formed the Constitution establishing the office. Others of the distinguished men who signed that instrument, filled other important offices under it; yet, no man ever doubted their purity or their capacity, and had such a provision as that now offered been inserted in that instrument, the public could not have received the benefit of their talents and their services.

I dislike this idea of proscribing any class or portion of our citizens, I prefer to leave it to the people to select or reject such as they please for their public servants. If the offices of Prothonotary, or Clerks of Courts, &c. are henceforth to be filled by elections, instead of appointments, as heretofore, then gentlemen, who are perfectly and legally competent to fill those stations now, would be ineligible under the proposed change.—Why should this be? Who has called for this unnecessary act of self immolation? There have been large professions made on this floor of disinterestedness and patriotism, and that, too, by gentlemen who have told us, that most generally they who profess most, possess least of those qualities. I, however, am disposed to test things by their merits, without

regard to the source from which they emanate; and, not discovering any merit in this, I cannot, and will not give it my support.

As to the idea that the proposition was, in principle, incorporated in the existing Constitution, I cannot see it in that light. That provided against members of the Legislature filling offices which they had created, or the emoluments of which they had aided in increasing. Here the offices existed, and all that was proposed to be done was, to change the mode of appointments to them, and, perhaps, the term during which they might be held. It was not like creating offices for themselves. I think, independent of the indecorum of the thing, the delegate from Adams was wrong in ordering my young friend, from Butler (Mr. PURVIANCE) to "tarry at Jericho until his beard grew", before he undertook to give his opinion. It gives me pleasure, always, to hear that intelligent and talented young gentleman, and I have yet to learn that the quantum of brains is to be ascertained by the quantity of beard. There is an animal noted for the length of its beard, which, I think, is not supposed to excel in the quantity or quality of its brains. But, on this subject, I do not know what phrenologists might say.

I have said that the people have never asked for such a provision. I will go further, and say, that it never entered the minds of the Legislature when they were legislating on the subject. The gentleman from Adams, perhaps, knows who introduced into the act of 1835, the proposition that no person should be eligible as a member of this Convention, unless he had resided for a year in the district which elected him, and the reason why it was inserted. It was done, no doubt, to prevent the election of certain gentlemen who were peculiarly obnoxious to the dominant party in that Legislature. If the present proposition had then been thought of and introduced, it might have availed that gentleman, perhaps, something in his argument, as he has avowed his belief in the power of the Legislature, by that law, to control us.

My friend from Philadelphia, (Mr. EARLE) introduced my name by way of illustrating a supposed case which he put. I am exceedingly obliged to that gentleman for so distinguishing me. A man's friends generally first occur to his mind; but I have an honest horror of the association in which he places me. Like Willy Wilson, in casting the parts of a performance, the person so distributing them, said to A, "you shall be so and so"—to B, "you shall be so and so", and "Willy Wilson you shall be the bull dog". "Na", says Willy, "I'll not be the bull dog". "Tut, tut, mon", says the other, "it was a' by way of comparishon".—"Weel", retorts Willy, "comparishon, or no comparishon, I'll na' be the bull dog". So with myself, I have no idea, even by way of comparison, to be brought in for the illustration.

But, treating this matter seriously, it is uncalled for. I ask the gentleman from Adams, or any other advocate of it, to name the instance in which any man, or set of men in the Commonwealth, has asked for it. Again, I think it is demonstrated to be improper, and its effects would be prejudicial to those necessary amendments which I earnestly desire to see incorporated in this instrument.

Mr. EARLE, of Philadelphia, explained. He said he was sorry that he had mentioned the name of the gentleman from Northampton. He certainly meant no disrespect to him. He was thinking, at the time, of an-

other gentleman's proposition, and his course in reference to the independence of the judiciary, and said that by the former he would be voting himself eligible to office. He had further remarked that the effect of his proposition would be to deprive the Commonwealth of the services of the gentleman who was an able lawyer, and also of another eminent lawyer near him (Mr. PORTER)—thinking they were not unlikely to be elected to office by the people.

Mr. PORTER, of Northampton, said that he had not supposed that the gentleman from the county of Philadelphia (Mr. EARLE) would treat him with any disrespect. They were both reformers.

Mr. EARLE said that he was gratified with the modification of the gentleman from Adams, (Mr STEVENS) and which was the same as he (Mr. E.) would have introduced. It would enable the people of Adams to avail themselves again of his valuable services.

Mr. INGERSOLL, of Philadelphia, observed that he was at a loss to say just now how he should ultimately vote. Much would depend upon what might be done as to the arrangement in reference to the clause. He would put it to the good sense of the body to say whether it was not premature to introduce the clause now? They knew not, as yet, whether they were going to make any changes. At present, he would say, that it seemed to him to be quite premature.

Mr. STEVENS, of Adams, said if it should happen that, in carrying the proposition through the committee of the whole, no amendments were made to it, they could easily dispense with the clause. Or, if it should be found to be in the wrong place, it could be transferred. It was exactly what was wanted, and the form and place were of little consequence. He asked for the yeas and nays.

Mr. FORWARD, of Allegheny, said that he could not agree with the gentleman from Philadelphia (Mr. EARLE) that we had better vote for the provision as amended. He (Mr. F.) wished to see the question finally disposed of on a different principle; and he had no desire to shun having a direct vote on the provision as introduced by the gentleman from Adams. The manner in which that gentleman had pressed it left no doubt on his (Mr. F's.) mind, that he was serious in proposing it. He thought it did not rest on any principle—had no foundation—was uncalled for, and was not recommended by sound policy and reason. He did not believe it advisable that the Convention should bespeak, in advance, the suspicions and distrust of the people against any reform that might be agreed upon here, or against any member opposed to reform. He was of the opinion that there were defects in the Constitution, and that it ought to be amended. But, whether the people had called for these amendments he could not say. He was in favor of amending the Constitution in some particulars. He did not propose to vote for reform under the penalty of perpetual exclusion from office. He was not willing to take the burden upon himself in advance. If it were urged that it was a just ground for suspecting the motives of those in favor of reform, he would retort upon those who made the change, by saying that it afforded strong presumption for suspecting them of resisting reform. He could go further and say, that those who were charged with resisting reform held no office under that part of the Constitution it was now proposed to amend—while those in favor of it did. It was a bad rule that would not work both ways. Now, what, he ask-

ed, was the difference between voting for, or against the reform? Why, it was this: if he voted for the reform, he would disqualify himself for ever. But, if he voted against it, he was perfectly safe. He would not say that there were those in this body opposed to reform, and who wished to profit by the existing abuses. It would be just as fair to say that those who went for reform did so because they wanted office. His (Mr. F's.) opinion was, that there was no reciprocity in the rule; it was significant of nothing unless gentlemen would go so far as to say that no member of the Convention shall ever hold office under the Constitution of Pennsylvania. If so, then the rule was consistent. But, short of this, it stood upon no principle of truth or equity. He would ask why should the provision be confined to the Convention alone? Was it not equally necessary to restrict the people who vote for the amendment from holding any office under the Constitution. There was as much equity in the one course as in the other; but there was neither equity nor reason in either. With respect to the question of reform, two parties existed in the Commonwealth—one was in favor of a moderate, judicious alteration of the Constitution; while the other was for pushing reform to an almost unlimited extent. A party there was, also, who entertained the opinion that the Constitution ought not to be altered, because it required no revision. The people were told that the friends of reform here might be justly suspected—that their motives did not rise above the promotion of their own interest and aggrandizement; but, that those who were opposed to reform, were really above all suspicion, and that they might be trusted with office, for they were really the friends of the people. Then, again, it was said that those who were *against* reform, were not to be trusted, and they were to stand perpetually with the mark of CAIN on their forehead.

Mr. MACLAY, of Mifflin, said he would state in a few words why he was opposed to the section. If such a proposition had been introduced into the law under which the members of the Convention were elected, he would not have objected to it. But no suggestion of that kind was made. To adopt it now, would be a sort of *ex post facto* operation. He would, therefore, vote against the proposition.

Mr. CURLL, of Armstrong, felt some astonishment that the proposition should have come from the gentleman from Adams (Mr. STEVENS) who represented a great many of the people in the county from which he (Mr. C.) came, and ranked high in their estimation. From the conspicuous part he had taken in the Convention, and the splendid talents and ingenuity he displayed, he (Mr. C.) had been led to conclude that he would be nominated, at no distant day, to fill the Executive chair, as were some of those distinguished men who framed the Constitution of 1789-90. He trusted that the gentleman would not injure his own prospects, and deprive the community of his talents, moral worth, and patriotism; but would withdraw his amendment. When he (Mr. C.) looked around him and saw no less than forty-one gentlemen of the bar—many of whom were highly distinguished in their honorable profession, and capable of filling with honor and advantage any official station in the Commonwealth, he was the more surprised that the gentleman should have introduced a proposition, the effect of which would be to cut off these valuable men. Every man was bound to serve the public, if they wanted him. All his talents were, and ought to be at the service of the people for any office they wish

him to fill. For himself, he had not long to remain on the stage of life, and he cared not for office. He felt sure that the people never contemplated that an amendment of this character would have been proposed, and he had not entertained the most remote idea that such a thing would have been introduced. It was his candid opinion that the people were beginning to think that the Convention were trifling away their precious time and money, and that they would, before much more time should elapse, rise up *en masse* and come and turn us out of this House. There had been numerous foolish motions and propositions made, the only object of which was to give gentlemen an opportunity of making long and learned speeches. In short, he must say, that the people had become disgusted with our conduct. He trusted, therefore, that gentlemen would not indulge, in future, in making long speeches, but that they would proceed to despatch the business for which they came as speedily as possible. He would repeat what, in part, he had said before, that the lawyers here were capable of filling any office with credit to themselves and honor to the State. Indeed, he might say that there was not a doctor, nor an iron master, nor even a farmer, excepting, perhaps, his humble self, on this floor, but were as capable of filling, even the Executive chair itself, with as much dignity and usefulness as the present incumbent. He would vote against the amendment, and he hoped that, if the gentleman from Adams did not withdraw it, it would be negatived. With regard to the judiciary question, we had nothing to do with it at present, therefore, it ought to be let alone. He would conclude with saying that he would vote against every amendment of this sort.

Mr. FULLER, of Fayette, remarked that the gentleman from Lancaster, (Mr. REIGART) had spoken in eulogistic terms of the amendment of the gentleman from Adams and urged on the committee the propriety of adopting it, on the ground that it would show a disinterestedness and self-denial on the part of the members of this body, and would be a strong recommendation to the people to adopt it. He (Mr. F.) would remind gentlemen that the Government of Pennsylvania was founded on checks and balances. He regarded the amendment as an unnecessary check on the *people*, and *not* their public servants. The checks and balances which were placed in the Constitution, were not intended for the people themselves, but for those to whom they delegate their power.

Mr. AGNEW said that, after the pure and holy sentiments of the gentleman from Adams, on his very disinterested proposition, it might be rash in him, not having yet passed out of Jericho, to give his reasons for voting against it. In submitting his self-immolating proposition, he seems to have studied to imitate the Grecian law-giver, who gave his countrymen a code of laws, and made them swear to preserve them until he had returned from a foreign land—then banished himself forever from his country, in order to prevent them from being changed—or, like the noble St. PIERRE, who offered himself a voluntary sacrifice for the city of his birth. He, however, thought that the gentleman was unfortunate in his imitation—instead of his proposition being for the good of the people, it was a restriction upon them. The people could easily see that it was only intended to defeat the reforms which they desired put into the Constitution. That gentleman was also unfortunate when calling for the eyes and noses, he declared that he would see how the forty-one lawyers in Convention

would vote, as it manifested a desire to put on the show of disinterestedness, when the intention was only to urge, hereafter, upon the people, the course of the professional men of this body, as an objection to the amendments which they might concur in proposing. He was opposed to the amendment, because he thought it unnecessary, unprecedented, and an attack (not impugning the motives of the gentleman) upon the integrity of the members of the Convention. Notwithstanding that the Constitution was not referred to the people for their decision, but was adopted by the Convention which made it, they did not deem it proper to adopt an amendment of this sort, for the purpose of showing the purity of their motives. Indeed, he was sure that no precedent was to be found for the adoption of this extraordinary course, in any of the American Constitutions. So far, at least, as he knew the sentiments of his constituents, he could have no hesitation in declaring that he did not believe that they expected it. He presumed that when they elected him, they supposed he possessed honor, honesty and integrity, and laid no restrictions on him. What the sentiments of the constituents of the gentleman from Adams might be, of course he could not say. Perhaps, the gentleman might have received instructions on the subject. He (Mr. A.) would again express his opinion, and that was, that the amendment proposed by the gentleman from Adams, was unnecessary and uncalled for. He believed that his constituents did not desire the imposition of this check, nor did he doubt the honesty of his own motives, and, therefore, he would now openly declare that he would not vote for a proposition of this character. He would not wish to do any act here that would debar the people of the Commonwealth from selecting any gentleman for an office which they might deem him capable of filling. There were men in the Convention of the first talents and the strictest integrity, and it would be a source of pride to him to see them in possession of the highest offices in the Commonwealth. This alone was a sufficient reason with him to vote against the amendment; but the violation of the principle of equal rights, was a still greater objection.

Mr. SCOTT, of Philadelphia, said the proposition came from a gentleman with whose views on the subject of the Constitution, he accorded, and with whom he acted in the organization of the Convention. The proposition had some plausibility on its face, and he would, therefore, give his reasons for voting against it. He would not give a vote to disfranchise himself; he was ambitious to be esteemed worthy of office, and to be *capable* of holding of it; but entertained no ambition to be the actual occupant of public stations. It was one thing to deserve public favors, another, to desire to enjoy them. The people who sent us here, desired no such self-sacrifice, and when the Commonwealth did not demand it, why should it be made? He would not vote to disfranchise one hundred and thirty-three citizens of the State, when neither principle or policy demanded it. Besides, it would be to abridge the rights of the people, and to take from them the privilege of choosing such as they may deem best qualified to sustain their interests. We all recollect the remark of the Theban General, who, after having led her armies to victory, was made superintendent of the *sewers of the city*. He accepted the office, declaring that his duty was obedience, and that it was the man that dignified the office, and not the office the man. This incident contributed more to the imperishable fame of the Theban, than did all his brilliant victories. The gentleman from Northampton (Mr,

PORTER) has called the attention of the committee to the men who framed the Constitution of 1790, who afterwards filled the Executive chair. Let us look at the Convention which framed the Federal Constitution. GEORGE WASHINGTON, who was the first President of the United States, whom the people delighted to honor—where do we find his name? Look at the foot of the Constitution of the Union: JAMES MADISON, who was chosen from the number of illustrious men to preside over the nation—where do we look for his name? At the foot of the same Constitution, and he was an active member of the Convention which framed it. RUFUS KING, although not elected, yet deemed worthy of the highest office in the Union, by a large portion of the people of the States, was also a member of the Convention that framed the Constitution. And so was CHARLES COATSWORTH PINCKNEY. Where were all these names? Among those who were the most active and influential men in the Convention that framed the Constitution of the Union.

There might be some in this Convention, whom the people might wish to call to preside over the Commonwealth. Should they be rendered ineligible? Should the wishes of the people be defeated—their right of election restricted? So there might be members of the bar, whose legal talents and learning the people might require upon the bench, and who should not be disfranchised. The members of the legal profession were placed as far as any class of citizens above temptation—and they were as far removed from the necessity of extraneous aid—from the need of office. In every country, wherever the principles of Constitutional liberty have been discussed—wherever there has been a necessity for their defence—the members of the legal profession have always been ready with the pen and the sword to defend them.

This is another reason why this section should not pass. A suspicion would fall upon members of the Convention, that they doubted their own integrity. Do we doubt it? If we do not, let it not go ahead—let us not prejudice ourselves in the eyes of the community. Besides, if it is intended to take away any temptation to create offices for the purpose of benefiting ourselves, then it does not go far enough. More than one half of us have lived two thirds of our time, and when we shall have arrived at 50 or 60 years of age we shall not be liable to be tempted with the hopes of office. To make it effectual, it should extend to our children. But what father in this Convention would deny to his child the inheritance of a freeman, equal rights and equal privileges? These were the reasons why he should vote against the proposition of the gentleman from Adams.

Mr. KEIM said he could not approve the resolution before the committee, because it is asking a sacrifice of personal rights which never had been demanded from him by the people. There was no one more repugnant to holding office than himself, and he hailed the period of return to home as the happiest of his life. If, however, he had thought that delegates from his district were expected to vote their own disfranchisement, he, for one, would have staid at home. He had heard, that in ancient times it was customary for patriotism to immolate itself upon the altar of the country, and he believed that even now, there was more than one ARISTIDES who would write out his own banishment, if the public good required it.

But he judged motives from actions; none but an omniscient power could

do otherwise ; and when he saw gentlemen introduce projects and propositions, black, white, and all colors, and, at pleasure or caprice, vote for or against them, he felt justified in the assertion that consistency was wanting somewhere. Of all places in the world, he least expected such a resolution from the county of Adams, when it was well known that one representative had been sent to the Legislature for fifteen successive years. He believed that, in reality, there was not an individual in the Commonwealth who held the sentiments of the mover of the resolution on the subject. He opposed the resolution also, because it was designed to delay the proceedings of this Convention, and allow the inference to go abroad that we were destroying the Constitution that the spoils might be divided. Sir, (continued Mr. K.) it is the supreme law of the republic that every man should render services to his country when required. The humblest cottager, when he holds his boy in his arms, while he looks upon him with parental fondness, may indulge the hope, that, in the freedom and equality of our institutions, he may attain the Chief Magistracy of our happy Union. But, sir, as well might a bawd teach virtue ; as well might the ministers of our high and holy religion who offer matins within this Hall, teach us that the smiles of Heaven and an approving conscience are the wily delusions of an evil spirit, as that there is either consistency or patriotism in the resolution now before the committee.

Mr. SERGEANT said he thought this proposition would come in with more propriety at the end of the sixth article. He hoped it would be postponed till another time. If it was laid on the table now, it could be called up at any other time. It was a subject as to which much might be said. His friend from Mifflin had said, that the provision would have an *ex post facto* operation, and that it was a subject upon which the Legislature could, if they had chosen, have made some provision, in the acts providing for the call of the Convention. But there was another consideration which had weight with him. If we did not propose the restriction to the people of Pennsylvania, then they would have no opportunity to vote for it, and, if they ever so much desired it, they would not have it. In regard to matters not concerning ourselves, we were free and impartial judges, but not so in a question involving our own interests. He happened, he said, to be a member of that Congress which raised its own compensation: no act of Congress ever turned out so many of its members as that. All attempts at raising wages in Pennsylvania had shared the same fate. The objection to such acts was, they affected the interests of those who made them. The question was, whether we should put this proposition or not to the vote of the people of the State, and he wished that it might be laid on the table, or postponed for the present, that the committee might have an opportunity of reflecting upon it. He moved that its further consideration be postponed for the present.

Mr. MANN said, I am opposed to the postponement of this question : I cannot see what is to be gained by such a proposition. That, sir, is the true state of the case. The yeas and nays have been called, and almost all the gentlemen have given their reasons for the vote they are about to give. Now, sir, if we agree to postpone, all those speeches will be inflicted again, and probably with some additions. Now, as to the proposition itself, made by the delegate from Adams, (Mr. STEVENS) I think it is such an one as not ten delegates perhaps in the committee can agree to vote for

—indeed I cannot see how any man can vote for it—it is uncalled for and unthought of by the people who sent us here, and I confess looks much more like a popularity trap, than a magnanimous act. There is nothing to my mind, either honorable or proper about it; and certainly nothing is to be gained by postponement to a subsequent day.

Mr. STEVENS said his position in this debate was something like that of a man who, in riding through a town, is beset by all the dogs, big and little, fat and lean. Suppose he should get up and allude to the personal history of gentlemen, for three or four years back? Suppose that he—for he had a right to suppose himself—should denounce the Old Roman as a despot for removing the deposits, and should offer resolutions denouncing all who were opposed to banks, and then remove into a Jackson county and accommodate my course to the popular feeling, would it be strange that I should show my new-born zeal by extraordinary violence? New converts, like young bumble-bees, are always largest when first hatched.

He was, he said, indifferent to the postponement. He did not care whether there were ten members in favor of the proposition or not. He could not tell how others would vote. Let gentlemen vote as they pleased, he would vote for the motion. If gentlemen thought it would be better for the country and for themselves to postpone it, or reject it, let them do so. He was surprised to find that there were so many here, who seemed incapable of understanding, and appreciating the motives which prompted this proposition. He had not said, that those who voted against the proposition would act from a selfish motive, and surely any one may vote for it, without being exposed to such an imputation. He did not care whether the motion was postponed or not.

Mr. BANKS felt unwilling, he said, to have this matter hanging over us as a rod. After the long discussion upon it, he was opposed to the postponement. He did not understand the object and meaning of this proposition, and if members did, he was very glad of it. He did not see how it was intended to influence our votes on the amendments. He wished to be able to act upon them freely and according to the dictates of his judgment. He was aware that different gentlemen, had different methods of approaching the same objects. Minds, he knew, were differently constituted, Our habits and associations were so different, that it was difficult for us to arrive at the same conclusions. One gentleman has one project, another a different one. One, wishes to prevent any action at all, and another to come up directly to his object. He did not impeach the motives of any one, but if some of the movements made here were not intended to prevent any amendments from being made, they looked very much like it. Some gentlemen had certainly manifested a strong desire to prevent any action. He had no objection that gentlemen should show their patriotism in their own way, but he did object to any one prescribing for him. The gentleman might, if he pleased, exclude himself from office, but he did not himself choose to be brought up to swear that the people who were as free as their mountain air, should not confer office upon whomsoever they pleased. In restraining the right of suffrage, he would go as far as to say, that any man of twenty-one years of age, should have the right to vote at the elections, without any condition or qualification, and carrying out this principle, he would not agree to exclude a man from any office to which his fellow citizens might choose to call him. He

hoped this question would be settled now and be done with. He did not wish to have all this talking, jesting, and jeering over again. Men who would cast a brand like this into this body, knowing what feeling it would excite, and what words and acts would spring from it, could not be friendly to the harmony, quiet, and union that ought to prevail here. He regreted that the President had made a motion to postpone. It had been discussed as fully as it need be, and more fully than it ought to have been. He did not wish to keep alive a subject which would have so unfavorable an influence on our proceedings.

Mr. DICKEY would, he said, vote for the postponement, for reasons which he would give. The propriety of adopting this amendment, must depend upon the future action of the Convention. If, in the course of our action, we should make a Supreme Court, with fifteen judges, as proposed in a resolution submitted by the gentleman from Philadelphia county, (Mr. INGERSOLL) he would certainly think it due to the members of this body, that a provision should be adopted, excluding them, at least for a time, from all participation in the distribution of these new offices, of their own creation. If we created a Comptroller of Public Works, with the power of appointing his assistants, and fixed salaries—and he was in favor of the proposition himself, as he wished to prevent these appointments from being made politically—he should think it proper to exclude the members of the Convention from those offices, in order to free their motives in creating them from any imputation. He would now vote for the postponement, but if it should not be postponed, he would vote against it.

Mr. SERGEANT said the gentleman from Mifflin (Mr. BANKS) would see, upon reflection, that nothing could be gained by defeating the postponement. The question must be decided, and it cannot be got rid of, until it is decided in the proper place. Suppose we take a vote against it now, we gain nothing because it may be offered again. Many had expressed a reluctance to vote on the question now, but intimated their willingness to vote upon it at another time. Its hurrying even us, would cause no uneasiness; for, in the mean time, we should make up our minds how to vote upon it; he thought, we should save time by postponing the proposition till we could reach its proper place.

Mr. FORWARD regreted, he said, that our worthy President had thought fit to move the postponement of this subject, and thus to lay it by for future agitation. He wished to see the amendment disposed of at once, and not left hanging over the members of the Convention, to tempt them from the fearless discharge of their duty. It had been assumed that they had a personal interest in the proposed reform of the Constitution, inasmuch as they might be vacating existing offices, or creating new ones for their own accommodation. Nothing could be more fallacious or unfair than this way of reasoning. It supposed that the members of the Convention would have it in their power to thrust themselves into the vacant offices without election or appointment. The proposition to create a Supreme Court with fifteen judges, had been alluded to as one peculiarly tempting to the lawyers in this body, and in regard to which, it became them to show to the world that they were acting with pure motives. I do not know, (said Mr. F.) what support may be given to this plan of a Supreme Court; but whatever it may be, it is quite certain that our interest in the subject is no greater than that of others. If the proposition were to consti-

tute a court of fifty, instead of fifteen judges, it would be nugatory until submitted to, and adopted by the people, at which time this Convention will have ceased to exist.

If offices are created, we have no greater interest in them than others. We cannot appoint ourselves, nor can we have any advantage over others in obtaining those offices. Why, then, should the numbers of this body disfranchise themselves? Why connect a reform of the Constitution with their own personal disgrace? The people required no such sacrifice—no such act of abasement. In the duties he was called upon here to perform, he knew that he was perfectly disinterested, and he deemed any man unworthy of a seat in this body who professed to be otherwise. It was right that members of Assembly should, during the term for which they were elected, be ineligible to offices created by themselves, especially when the power of appointment is in the Governor; but the disqualification proposed here is one which will commence after our public character shall have ceased, and attend us as private citizens through life.

Mr. CHAMBERS would, he said, give the reason that would govern his vote. He deprecated the excitement and the personal imputations to which this subject had given rise. He did not himself agree with some of his friends as to the character of this amendment. They seemed to treat it as if we were to make it a Constitutional provision, by adopting it here; and it was asked whether the Convention would agree to disfranchise its members. It was treated as if by our vote we would make it a permanent and binding provision of the Constitution, binding on all the people of the Commonwealth as well as on ourselves: but this is not so. It would depend upon the action of the people whether it would become a part of the Constitution or not. But, the people, as the President had observed, will not have an opportunity of expressing their opinion upon the subject, unless we submit the proposition to them. Was it not important that the Convention should stand free from suspicion before the people? We have to create and to vacate offices. We have it in our power to create offices to an extent adapted to the wants of the country. If we can create offices with such a tenure as we please, and thereby increase the chance for office, will we not be exposed to the charge of creating them for ourselves? We have one proposition before us to create a Supreme Court with fifteen judges, and with salaries greater than any ever before given. We did not know what offices we might create. If, by multiplying offices, we should become liable to the suspicion of having acted from selfish and interested motives, then we say to the people—"by this amendment, if you think proper, pass a sentence of disqualification upon us: confident as we are of the integrity of our motives, we are willing to submit it to you to say whether we shall be eligible or not, to any of these offices." It was a proposition to be submitted to the people in relation to themselves, and for the government of their course. It did not, therefore, as the gentleman from Mifflin supposed, restrain the people in the exercise of their right of electing whom they pleased as their officers. He was indifferent in respect to the time of passing upon the amendment. If any wished it to be postponed till a time when we could see what offices would be created or changed, he was very willing, or he would be willing to vote upon it now. He did not himself see what we were to gain by waiting. There was one reason certainly in favor of immediate

action upon it—it would free us from any improper influence in deciding upon the propositions for creating new offices. There would be no propriety in postponing till after we have acted on these questions. As well might we say, in a case where the competence of a witness is objected to, we will hear him first, and decide upon his competency afterwards. This Convention in acting on such subjects, ought to be free from the influence of any private interest, or from the imputation of any. He was willing to vote for it now.

Mr. WOODWARD said when the gentleman from Adams (Mr. STEVENS) first introduced this subject yesterday, he thought favorably of it, and felt inclined, with some modification of the measure, to yield it his support; but the argument to which he had attentively listened to-day, and his own reflections on the subject, had determined him to vote against the proposition. It seemed to him, that gentlemen were betrayed into the opinion that the proposed amendment was proper and necessary, by an inattention to the circumstances under which we are placed here. *We* are not about to establish new offices in the Government, nor to vacate old ones. *We* can do no such thing. All we can do, is to propose certain amendments to the people, and leave it to them to say whether they shall be rejected or adopted. If adopted, and offices are thereby made vacant, it becomes the act of the people. The operative and effective stroke must proceed from their hands. It cannot be dealt by us. Ours is a very special trust in this respect. *We propose*—the people *decide*. They have retained this power to themselves, and as they choose to exercise it, so will it be with the amendments we may make. Now, if the *people* shall choose to adopt amendments which will make vacant places in the Government, where is the necessity for our disqualifying ourselves, in advance, for filling any of those places? It will not be our act simply that makes such places; but our act approved, ratified, adopted by the people, and made their own. And if our agency in this business ought to disqualify us from holding office under the amendments of the Constitution, then, it has been well said, those of our fellow citizens who vote for these amendments at the ballot boxes, ought also to be disqualified. I cannot go so far. And for this reason I cannot agree to disqualify members of this Convention for any station to which the people may hereafter call them. I hold, sir, that the wisdom, the learning, the talents, and the virtue of this body, are public property—they belong to the nation—they constitute a part, and no mean part of the national wealth and the national glory. I am not for robbing the people of these which are theirs. I am against all manner of proscription. The humblest man in society, if he has committed no crime, is not a fit object of proscription, and why should we proscribe ourselves? The people have not demanded this sacrifice. We wrong them if we make it; for we sacrifice that which belongs to them.

A good deal has been said about the *motives* of the author of this measure. I believe them to be, as he claims they are, upright and pure. I ought to be the last to condemn them, because I had nearly, under my first impressions, determined to go with him. I can understand, sir, how such a measure may be dictated by the purest and best motives, and I am perfectly willing to accord such to the gentleman who has moved this. I am, however, prepared to vote against the amendment, and wish to do it now, I hope the question will not be postponed for the present; but as

an indefinite postponement of the whole subject, would be one mode of defeating the measure, I move, if it is in order, that it be indefinitely postponed.

The CHAIR said, the motion **for** indefinite postponement was not in order in committee of the whole.

Mr. KEIM said, he hoped that the question would not be postponed, as it must only indicate that "large bodies move slow". Whilst it gave him pleasure to acquiesce in what had been said by the gentleman from Adams on the subject, he could not but particularly approve the tenor of his remarks as illustrating the truth of his own.

He, too, had been barked at by mongrels of all kinds, and hated dogs as much as any one. Would you not suppose a person consistent, when, in his animosity to large towns, you found him place in their centre a magazine filled with at least 35,000,000 of grenades, whose explosion endangered not only the "doomed city", but threatened the ruin of the whole State?

The poet SIMONIDES was equally consistent, who, on being solicited to sing the successes of a victorious charioteer, asked, significantly, what could be said of mules? When, however, a purse of gold was placed into his hands, he became inspired, and began in glowing numbers, to "the illustrious foals of rapid steeds".

He hoped the question would be decided before adjournment.

Mr. HAYHURST, of Columbia, rose and said, at first thought, I looked with a favorable eye on the proposition now under consideration, and would yesterday, have voted in the affirmative on it, if it had been so modified as to exclude members of this Convention for but a limited time.—I did not then think it right to adopt the present proposition, unmodified. I am now convinced by the arguments which have been advanced, that the principle ought not to be entertained in any degree. Sir, what right have I, by my vote, to disfranchise my fellow citizens? Though my constituents can, without inconvenience, dispense with my poor services, the Commonwealth cannot dispense with the services of the talented gentlemen around me.

I am not prepared to deprive the people of the right to select whom they please to serve them.

I should be very unwilling to lend my aid to deprive the State of her treasure, and am, consequently, still more unwilling to deprive her of her intellect, inasmuch as mind is vastly superior to mere corporeal matter.—But by voting for the present proposition, should I not aid in robbing the Commonwealth, not only of the services of her most respectable and talented men—those who have been sent here on account of their attainments and experience, and who, no doubt, come up to the expectation of those who sent them here? But should I not also aid in defrauding her of her treasure? We have spent large sums of money in erecting and endowing colleges and seminaries of learning, for the purpose of educating the sons of Pennsylvania; and, having thus educated a number of eminent citizens, part of whom are now enclosed within these walls; is it not robbing the State of her dollars and cents, to deprive her of the knowledge and experience which they possess, by pronouncing an ostracism against them?

The honorable President of this Convention has argued, that if we do

not adopt this proposition, we deprive the people of an opportunity to "pass on our actions. To this argument I beg leave to reply (and I do so with great deference) that I conceive we do not deprive the people of that privilege. We propose such amendments to the Constitution as we may see proper; and I, for one, declare that it is my intention to support several amendments. Suppose we alter the Constitution, so as to make more offices and create vacancies, we shall return to our constituents, and they have the full opportunity of saying to us individually, through the medium of the ballot boxes—gentlemen, you have made offices and vacancies, but we do not choose that you should fill them.

We have been told that we shall, by adopting this amendment, manifest a high degree of disinterestedness, and submit the amendments, which we make, to the people, endorsed by the strongest evidence of our honesty of intention in framing and proposing them. This may be true, and I confess the doctrine coincided so far with my views of the subject, that I entertained the idea of voting for it, provided it was so amended as to exclude members for one, two, or three years, or until all the vacancies occasioned by the adoption of the amended Constitution should be once filled.

But further reflection has convinced me, that the principle is compatible with the spirit of democracy throughout. Any gentleman who *wishes to wash his hands and clear his skirts* of all liability to censure, can, by voluntarily withdrawing and refusing to accept an office under the amended Constitution, convince the public that *his* motives were pure, and yet leave the people in the possession of the right they have to require the service of any individual they choose.

I am astonished that I ever conceived the idea of excluding any member of this body from office for a single moment, because, if the principle be good, it may extend to the exclusion, not only of the members of this Convention, but of their posterity for an indefinite period of time, and through all its ramifications.

It is, therefore, plain to me that the amendment ought not to prevail, and that the people ought to retain the right to select and reject when they please; and, I hope the postponement will not prevail, because I have no doubt but that every gentleman in this Hall is prepared to record his vote now.

Mr. BONHAM, of York, said, he was opposed to the motion for postponement. This manoeuvre had, as he thought, already occupied time enough. It has been estimated that the expenses of the Convention were about a thousand dollars a day, and as a whole day had already been spent upon this matter, he thought it was as much as the people would be willing to pay. SOLOMON had declared there was nothing new under the sun, and this was probably the fact in his day, but this proposition would be deemed new at any time. There had never been any such proposition made in any Convention of the people, to frame or change any Constitution. He felt great regret that the gentleman should have introduced it here. When he came here he came with a determination to vote for no new propositions, except those which the people desired. He would go against all projects of this character. One useless proposition after another had been submitted, and a great deal of time had been spent in a useless and improper manner, and he hoped this question would be at once put to rest, one way or another. Some days ago he had hoped we should

get along, and make progress. But now a new interruption had been thrown in our way. The people would never support such a proposition. He had never heard of such a clause, and he hoped it would not be permitted to have a place among the amendments to be proposed to the people. It had not been settled whether the Constitution should be submitted to the people in the mass, or in distinct parts. This was an important question to be decided. If it was to be sent in the mass, and not in distinct propositions, that would be the ground of a strong objection to this motion, as the people would not be willing to lose the services of distinguished citizens, and thus the whole Constitution might be endangered. He would not be willing to disfranchise those who could render services to the people, by taking part in the Government. Let us reject this novel proposition, and go on with the amendments which the people sent us here to make, and not waste the time in discussing amendments which the people have not asked for, and the adoption of which might induce them to reject the whole Constitution.

After a few words from Mr. EARLE, the question was taken on the motion to postpone, and it was decided in the negative.

The question was then taken on the amendment, which was rejected, as follows :

YEAS—Messrs. Bayne, Brown, of Lancaster, Butler, Chambers, Chauncey, Cochran, Craig, Cunningham, Denny, Dunlop, Fleming, Konigsmacher, M'Sherry, Meredith, Reigart, Serrill, Sterigere, Stevens—18.

NAYS—Messrs. Agnew, Ayres, Baldwin, Banks, Barclay, Barndollar, Bell, Biddle, Bigelow, Bonham, Carey, Clarke, of Beaver, Clark, of Dauphin, Clarke, of Indiana, Cleavinger, Cline, Coates, Cox, Crain, Crawford, Crum, Cummin, Curll, Darlington, Darrah, Dickey, Dickerson, Dillinger, Donagan, Earle, Farrelly, Forward, Fry, Fuller, Gearhart, Gilmore, Grenell, Hamlin, Harris, Hastings, Hayhurst, Helffenstein, Henderson, of Allegheny, Hiester, High, Hopkinson, Hought, Hyde, Ingersoll, Keim, Kennedy, Kerr, Krebs, Lyons, Maclay, Magee, Mann, M'Cahen, M'Call, Merkel, Miller, Montgomery, Myers, Nevin, Overfield, Pennypacker, Pollock, Porter, of Northampton, Purviance, Read, Riter, Rogers, Russell, Saeger, Scott, Sellers, Seltzer, Scheetz, Shellito, Sill, Smith, Smyth, Snively, Stickel, Swetland, Taggart, Todd, Weaver, White, Woodward, Young, Sergeant, *President*.—92.

The committee rose, reported progress, and obtained leave to sit again, and

The Convention adjourned.

MONDAY, JUNE 12, 1837.

Mr. MANN, of Montgomery, submitted the following resolution, which was laid on the table.

Resolved, That from and after this day, this Convention will hold afternoon sessions, commencing at four o'clock each day, Saturdays excepted, until otherwise ordered.

On motion of Mr. READ, of Susquehanna, the following resolution, offered by him, was taken up for consideration, and read a second time.

Resolved, That so much of the twenty-third rule, as forbids the previous question in committee of the whole, be, and the same is hereby rescinded.

Mr. READ said he would say nothing further than merely to recal the scene of Saturday, to prove the necessity for the adoption of this resolution to rescind the rule.

The resolution was then agreed to.

On motion of Mr. MANN, of Montgomery, the Convention proceeded to the consideration of the resolution he had submitted this morning, relative to afternoon sessions.

The resolution being taken up for consideration, and the question being on the second reading,

Mr. DICKEY, of Beaver, moved to postpone the further consideration of the resolution for the present. The Convention had made good progress under the existing rule, and if this resolution were adopted, the members would be deprived of that part of the day which they devote to exercise. He presumed the gentleman from Montgomery had been encouraged to bring forward this subject, by the success with which the business of the Convention had been prosecuted.

Mr. MANN said, I do not wish to occupy the time of this Convention discussing this resolution; I think it must be obvious to all present, that unless we become more industrious, we shall not get through committee of the whole by the 1st of July, which I am very desirous we should do.—We certainly have improved, and progressed more rapidly by sitting every other afternoon, and I have no doubt but we shall find further advantage by sitting every day.

The question being put on the motion to postpone, it was decided in the negative—ayes 33.

The question was then taken on the adoption of the resolution, and decided in the affirmative—ayes 49, noes 38.

SECOND ARTICLE.

The Convention again resolved itself into committee of the whole, on the second article of the Constitution, Mr. CLARKE, of Indiana, in the Chair.

So much of the report of the committee as declares it inexpedient to make any alteration in the second section, being under consideration, the section was read as follows:

2. The Governor shall be chosen on the second Tuesday of October, by the citizens of the Commonwealth, at the places where they shall respectively vote for representatives. The returns of every election for Governor shall be sealed up, and transmitted to the seat of Government, directed to the Speaker of the Senate, who shall open and publish them in

the presence of the members of both Houses of the Legislature. The person having the highest number of votes shall be Governor. But, if two or more shall be equal and highest in votes, one of them shall be chosen Governor by the joint vote of the members of both Houses. Contested elections shall be determined by a committee, to be selected from both Houses of the Legislature, and formed and regulated in such manner as shall be directed by law."

Mr. BELL, of Chester, moved to amend the report by striking out all after the word "Governor", in the first line, and inserting as follows :

"And a Lieutenant Governor shall be chosen on the second Tuesday in October, by the citizens of the Commonwealth, at the places where they shall respectively vote for representatives. The returns of every election for Governor and Lieutenant Governor, shall be sealed up and transmitted to the seat of Government, directed to the Speaker of the Senate, who shall open and publish them in the presence of both Houses of the Legislature. The persons respectively having the highest number of votes for Governor and Lieutenant Governor, shall be elected; but, if two or more shall have an equal and the highest number of votes for Governor or Lieutenant Governor, the two Houses of the Legislature shall, by joint ballot, choose one of the said persons, so having an equal and the highest number of votes for Governor or Lieutenant Governor. Contested elections shall be determined by a committee, to be selected from both Houses of the Legislature, and formed and regulated in such manner as shall be directed by law".

Mr. BELL said, he was by no means tenacious of the form of his proposition. He had made the report, rather to elicit the opinions of gentlemen than from any strong desire to see his own views adopted. In case of the death or resignation of the Governor, as the Constitution now stands, the Speaker of the Senate would succeed, so that an individual, elected by the citizens of a single county, and never thought of even by them as a fit person to be Governor, may take the office of Governor.—The proposition he had now offered was in conformity with the provisions which he had found in some of the other Constitutions. How far it would meet the views of the committee, he would not pretend to give any opinion.

Mr. MANN suggested the propriety of making it "third" instead of "second" Tuesday, and the mover modified his amendment accordingly.

Mr. MAGEE, of Perry, moved to amend the amendment by striking out the words "third Tuesday in October", and inserting the words "first Tuesday in November".

The question being put, the motion was decided in the negative.

Mr. CHAMBERS, of Franklin, observed that the amendment which was now brought before the committee was one containing the proposition to establish the office of Lieutenant Governor. He was opposed to the amendment as creating an office which was uncalled for. We have had no experience of any inconvenience arising from the want of this office. Our Constitution, as has repeatedly been said, is one under which the Government has been satisfactorily administered during half a century, but as yet, we have derived no inconvenience from the want of a Lieutenant Governor. During all that period, although Governors have been elected for extended terms of office, two or three in succession, not a single case has

occured in which it has become necessary to supply a vacancy caused by death. If, therefore, this be a contingency of such rare occurrence as not to have happened once in the course of half a century, is it necessary to establish an officer for all time, in order to provide against such a contingency when it shall arise? If it should arise, provision is already made for it. The Speaker of the Senate is empowered by the Constitution to act until a new Governor shall be elected. It has been said that this is casting the Executive station on an officer who has not been elected in reference to it. Why is it said he is not elected in reference to it, when it is known, that under a provision of the Constitution, it may fall upon him? If he is a representative of the people, can we not trust them to elect an individual to act as Governor, when, in the course of events, it may happen to fall upon him? A person qualified to act in the Senate, and to fill the Speaker's chair, must be qualified to act as Governor; and, when the people know that the office may be devolved upon him, he will be elected in view of that contingency. There is no evidence of public opinion demanding such a change, therefore, he would vote against the proposition as unnecessary and uncalled for.

Mr. FLEMING, of Lycoming, said he did not know that he could add any thing to the reasons which had so often been urged in favor of the election of a Lieutenant Governor. He had no doubt, that the subject is one, which had been thought of by the people. It had occurred to him, as it was an appointment which could add nothing to the expenses of the Government, and as it gives the people an opportunity to elect an individual, with a special reference to the possibility of his being called to fill the Executive chair, that there was no impropriety in the proposition. It was true, that the gentlemen who had heretofore filled the office of Speaker of the Senate have been amply qualified to fill that of Governor of the Commonwealth. In many instances, however, he was not competent to form a judgment as to their abilities. But he was disposed to put into that high and respectable office, a man of the people's choice, and not one who had been elected by a mere majority of the Senate to fill the chair of that body—an individual always elected by a political party, and pretty generally under a high degree of excitement. From the character of our Government, from the increase of population, the excitements growing out of politics, and other causes, it may so happen, that we may have a vacancy in the office of Governor, by death, resignation, changes or otherwise. If it may occur, as there is but a probability that it will, where could be the impropriety of allowing the people to elect an officer who would be fitted, from his being chosen in reference to the contingency by the people, to supply the place. He did not see any good and substantial reasons against the election of a Lieutenant Governor. It could not, in any way, detract from the dignity of the Governor. On the contrary, it would add to, and strengthen that department of the Government. He could not doubt that it was the desire of all to place power in the hands of an individual elected by the whole people, in preference to taking one from the Senate. Distinctions have frequently been caused by party feelings, and thus, if an individual elected by a party in the Senate should be placed in the Executive office, the whole machinery of the Government would be made to work to particular party objects. He would vote for the section as introduced by the gentleman from Chester; but, if in the opinion of the committee, it should be

thought improper to introduce it into the Constitution, he would willingly assent to their decision.

Mr. MEREDITH, of Philadelphia, stated that he was a member of the committee to whom had been referred this article, and in which this amendment had been proposed and rejected. He would say a few words, in order to place before the committee the reasons which induced him to oppose it. As had been justly said by the gentleman from Franklin (Mr. CHAMBERS) there had never been any inconvenience felt from a want of a Lieutenant Governor; and unless strong and powerful reasons could be given to shew why there should hereafter be inconvenience, it would be a sufficient ground for rejecting the amendment. The more he reflected on the subject, the more satisfied was he that they who framed the Constitution of 1776, took the true ground which reason and sound policy dictated. The reasons assigned by the gentleman from Chester, (Mr. BELL) and the gentleman from Lycoming, (Mr. FLEMING) in support of this amendment, were two fold; first, the necessity for such an officer to fill a possible vacancy; and secondly, the impropriety of taking the Speaker of the Senate. The Speaker of the Senate would, under the existing provision, hold the power until the election of a new Governor. The Constitution says that he shall only hold it until the next general election; and not, if the Governor should happen to die in the February after his election, for three years—but only until the next election. This is the same principle as that which related to Sheriffs. If a Sheriff die, his place is only filled until the next general election. The time, therefore, during which the Speaker may continue in office is not the objection. It is said that the Speaker is an improper person to fill the office, because the people have not elected him. The people elect the Senate: the people, in their different districts, elect the Senators, one of whom must be Speaker of the body, and he may be called on to exercise the functions of the Executive. How is this objection proposed to be obviated? By the election of a Lieutenant Governor, to be without salary, but to receive double pay when he sits in the Senate, to decide by his casting vote, where there is no opportunity to explain his vote, or defend himself against imputation. You place him there with a barren sceptre, without pay, and he may be called to fill the Executive chair. On the other hand, you take the Speaker of the Senate, elected by the people as a Senator, and by the Senate as their Speaker, a sufficient pledge of his fitness to discharge the functions of the Executive. From a Lieutenant Governor what have you to expect? It may be that an officer may take the situation with a view to make it the path to the Executive chair. Experience has given us lessons on this point; and it was a dangerous course which he would not sanction. How can we expect a man of intellectual vigor to take office, where he must occupy a chair, liable to be broken down by the assaults of political enemies, without an opportunity being given to him to defend himself. He may become dangerous to the party who elected him, by exerting his influence in some way, equally illegitimate and unexpected. Suppose you elect a nullity, a man of weak talents, he would detract from the character of the Senate over which he was elected to preside, and when called to discharge the duties of the Executive, would cast a discredit on the reputation of the State. For these reasons, he should vote against the amendment. He considered it unnecessary; that hitherto we have suffered no inconvenience from

the want of such an officer, and that if we are to suffer inconvenience in future, this would be a bad way to remedy it.

Mr. BELL rose to make a few remarks in reply. He had not heard any objection to the principle contained in his amendment. All which had been said, in opposition to it, was on the ground of expediency. Gentlemen did not agree as to the term for which the Speaker might continue to hold office. The provision of the Constitution was not very clear on this point, and had given rise to much diversity of opinion. A reference to the section would shew that the language allowed room for strong doubt, and he had heard able men disagree concerning it. A Governor may die immediately after his inauguration, and the person who succeeds may exercise the power for three years at least. What is that democratic principle which lies at the bottom of our institutions? That the people shall select their own agents for the discharge of particular offices, and that the individual who fills that office shall be the particular individual so elected. He had heard much since he came here on the subject of gerrymandering. The session of the Legislature before the last, a district had by that process, been fraudulently formed for the purpose of cheating the people. The district which comprehended his constituents was so arranged as to give a misrepresentation of the sentiments of the people. May it not happen again, as it has already happened. May not a Speaker of the Senate be thus raised to the Executive chair, who may differ in his political views from the majority of the people? Might not an individual of this character, by chance, or by accident succeed to the Executive chair? Would not this be a direct contradiction to the sentiments and principles which we hold most sacred? We have been told that, in the period of fifty years, we have experienced no inconvenience from the want of a Lieutenant Governor. And why have we felt no inconvenience? Because it has so happened that we have had no death, or resignation of a Governor. Would gentlemen certify that this will always be the case? If we can be assured that, in all time, the Governor shall have a lease of his life to the close of his Executive term, there will be an end to all difficulty; but so long as it is possible that he may die, or be removed from office, there is a necessity for an amendment. But, it was said, all the Senate is elected by the people, and Senators are chosen for their virtue and talents. In some instances this was true; in others, not. But they were not elected by the whole people of the State, as a Lieutenant Governor would be. A Senator is but a selection of a particular portion of the people, and the election of a Speaker of the Senate is still further removed from them. He is not elected to the Chair by the people, nor even by a particular portion of the people; but, for his political views, he is elected by that body as its Speaker; and the ground on which he is elected is to preside over that body. It is said if a Lieutenant Governor be elected, he will have nothing to do, he will be without influence, and without power, and that he cannot interfere in debate. It is so, and if these objections are of any weight, they are equally applicable to the Vice President of the United States. Would any one agree to introduce the rule that the Vice President should take part in the debate? Has he the privilege of debate? The right to reply on the floor? No. Has any inconvenience arisen from his creation? There is a recent instance of a distinguished man, who presided over the Senate of the United States, who, day after day, was compelled to sit there, and

listen to assaults made upon him by his political adversaries. Did he suffer in consequence? The only effect was to disgrace that body. There was no objection made to the principle of his amendment, and he would ask the democratic members if there was any good reason why the Speaker of the Senate should be selected to exercise the functions of the Executive, in preference to an officer elected by the whole people, with a view to the contingency of the death or resignation of the Governor. If so, he would abandon the argument, and not insist on his amendment.

Mr. STERIGERE said the amendment under consideration, proposing to create the office of Lieutenant Governor, is similar to one placed on the files of the Convention at the beginning of the session, as one which, I thought, ought to be adopted. I do not think this has been proposed at the proper place: about that, however, there may be a difference of opinion; but as the question is raised, we may as well consider it now as at any other time. I shall briefly state some of the reasons why I shall vote in favor of the proposition. We must consider this officer in two points of view—as the presiding officer of the Senate, and as the Executive of the State.

The Senate is the highest legislative body in the State—its members hold their offices for long terms. In many cases they will be equally divided—and the casting vote, in either rejecting or passing a law, in which the whole State may be interested, should be given only by an officer chosen by the whole people of the State. A person so elected would be governed by the interests of the whole State—not by that of a county or district. The presiding officer of such a body should be chosen by the State at large. This mode of election is quite as suitable as the one now in force.

It is said this officer would have to preside over the Senate without any right to debate, or give his reasons for his conduct. He is to have no vote, unless the Senate is equally divided. Then, as in the Senate of the United States, he could give his reasons; he would have no occasion to do so at any other time.

It is provided in the present Constitution, and sanctioned and settled by the people, that the *Executive* officer of the State should be chosen by the citizens at large. For the same reason, the individual who may, by any possibility, be called to exercise the Executive department, should also be chosen by the people at large. The question is, how should our Executive be chosen? The present mode is not much better than casting lots for a Governor, in case a vacancy occurs. The President of the Senate is never, or seldom, chosen by the members with regard to his qualifications and fitness to be Governor, but merely in reference to his qualifications as their presiding officer. But suppose they were to select him with a view to fill both situations; he would come into the Executive chair with the voice of a very small portion of the *people*; and is it to be contended that one county or district shall select a Governor for the Commonwealth? It is a correct principle that an officer who is to exercise an authority only in his county or district, and to act only for the people of that county or district, as a representative, or senator, or the like, should be chosen by the people of such county or district only; they are the only persons to whom he is responsible. But an officer who is to exercise power and authority extending throughout the State, should also be chosen by the whole State

Suppose a proposition were made that persons should be chosen in each Senatorial district, as our Senators are elected, and that the persons so chosen should select one of their number to be Governor, would any man be found to vote for it? Not one. Yet this is substantially the manner in which, by the present Constitution, the officer is selected, who, in case of a vacancy in that office, is to be our Governor. And with reference to his Executive character, it is the worse that he is to be of the body which selects him.

It is said by the gentleman from the city that, in electing a Senator, the people know he may be Governor, and would vote with reference to the qualifications of the candidates for that office. This is not so. Upon the election ground not one voter in a thousand thinks of that matter. The candidate is voted for on account of his fitness and qualifications for Senator, and with reference to his services in the Senate, and not in the Executive department.

It is said, for forty-seven years we have experienced no inconvenience. True—and why? Because no vacancy has occurred in all that time. If there had, it is more than probable that very great dissatisfaction would have been manifested.

In providing for the election of a Vice President, we have the opinion and example of the people of the United States in favor of this proposition. In twelve of the States of this Union, a Lieutenant Governor is elected. In all these, I think he is chosen in the same manner the Governor is. This is a very strong recommendation. The other States do not agree in the mode of supplying a vacancy in the Executive department. In some States like our own, this duty is devolved on the Speaker of the Senate, and in some on other officers.

It has been truly remarked by the delegate from Lycoming, (Mr. FLEMING) that you do not increase the expenses of the Government by creating the office of Lieutenant Governor. Then why shall not the people themselves elect the individual who is to exercise the office of Governor, in case of a vacancy in that office—and who is to preside in the highest branch of the Legislature, and give the casting vote on questions in which they are all interested? We have many reasons and the examples of many other States in favor of creating this office, and no satisfactory reason against it.

Mr. BELL: A few words in reply to the gentleman from Philadelphia, (Mr. MEREDITH). My view of the construction of the Constitution in this respect, is altogether different from his. By comparing the original draft of the Constitution with the clause as it was adopted, he will see that there is no ground for his objection to my position. In the original draft of the Constitution, the 14th section stood thus: "In case of the removal of the Governor from office, or of his death or resignation, it shall devolve on the Speaker of the Senate, *until the next annual election of representatives*, when another Governor shall be chosen", &c. But this clause was stricken out, in the committee of the whole, and the 14th section provides that "the Speaker of the Senate shall exercise the office of Governor until another Governor shall be duly qualified." With the Sheriffs and Coroners the case is different; vacancies in either of these offices are to be filled by a new appointment, to be made by the Governor, to continue "until the next general election", and until a successor shall be chosen,

But the Speaker of the Senate must fill the office of Governor, until another Governor is duly qualified. But a Governor cannot be duly qualified until he is duly elected, and he can be duly elected once in three years. So, sir, we may have a case in which the office of Governor may become vacant by death or otherwise, in the first year or first month of his service, and in consequence of it, the Speaker of the Senate for the time, will be the Governor of the Commonwealth till the next triennial election.

Mr. MEREDITH : I disagree with the gentleman. The third section provides, that the Governor shall hold his office during three years, from the third Tuesday of December next ensuing his election ; and the vacancy cannot be filled by the Speaker of the Senate for a longer time, than from the occurrence of the vacancy till the following third Tuesday of December ; by which time another Governor must be elected and qualified. But there may be some ambiguity on the subject, though I can see no room for any. There are no express provisions in the Constitution which look to filling a vacancy for three years. Nothing but express terms can justify such a construction. If it had been intended that the Speaker of the Senate should fill the vacancy for the whole term for which the Governor was elected, it would have so provided in express terms.

Mr. BIDDLE : A single word in reply to the gentleman from Chester. The 14th section of the 2d article, and the 1st section of the 6th, taken together, leads me to a conclusion different from that to which the gentleman has arrived. In the case of Sheriffs and Coroners, vacancies are to be "filled by a new appointment to be made by the Governor, to continue until the next general election, and until a successor shall be chosen and qualified as aforesaid". Why were they to hold till the next general election ? Because, then, and not before, a successor can be duly qualified. The same construction precisely may be applied, to the case of the Governor. "The Speaker of the Senate shall exercise the office of Governor until another Governor shall be duly qualified". When may another Governor be duly qualified ? Why, at the first meeting of the Legislature after the next annual election. It was plain that the Speaker of the Senate could not hold the office beyond the first election after the occurrence of the vacancy.

Mr. EARLE said, if there was any ambiguity in the section, it ought to be removed ; and that there was some ambiguity in it was apparent from the fact, that ingenious lawyers, skilled in verbal construction, differed wholly in its construction. He would add, as a further evidence of its ambiguity, that, some years ago, when the Governor was dangerously ill, the Judges of the Supreme Court of the State were applied to for their opinions on the question, and they differed. The present Speaker of the Senate held an opinion different from that expressed by the gentleman from Philadelphia, (Mr. MEREDITH). Would he, therefore, entertaining the opinion that he was entitled to hold the office till the expiration of the term for which the Governor was elected, issue his writ for a new election of Governor before that time ? He was disposed to attach much respect to the Constitution of the United States, and to its powers, and to place confidence in the wisdom of the provisions which they made, unless there were strong reasons why he should not ; and he could see no reason to doubt the propriety and necessity of the office of Vice President. If

the Speaker of the Senate was to hold the office of Governor, then the Senate would, in fact, in such cases, have the choice of the Governor of the Commonwealth, instead of the people. Some gentlemen have laid much stress on the veto power; and in favor of retaining that power, they had urged that the Governor was the only power in the Commonwealth that came from the whole body of the people, and represented the whole people, and that, therefore, he was the proper person to hold a check upon imprudent, corrupt, and dangerous legislation. Would not the same reason apply to the acting Governor? Whoever exercised the Executive power, should be elected with that view, by the whole people. There was another reason in favor of the establishment of the office of Lieutenant Governor. The day will come when there will be five or six millions of inhabitants in this State, and then, when party spirit runs very high, the Executive Magistrate, wielding a power greater than either the Legislature or the Judiciary, may attempt to make himself despotic. The Legislature could exert no power in opposition to him, except when it was in session. The Judiciary none except when in session. But the Governor was always in the exercise of his power. He holds the sword, and is the highest officer in the Commonwealth, and possesses an extensive and commanding influence. If he should attempt to exercise a despotic power, ought there not to be some officer in the Commonwealth upon whom the people can rally, at once, by some common principle of concert. A Lieutenant Governor would, in such a case, form a proper rallying point, as he is an officer checked by the people. In Switzerland, where a republican government has lasted so long, there are two Executive officers who serve alternately for a year, and in some Cantons for six months. So, in Rome, there were two Consuls, and if one proved treacherous, the people could rally around the other. In Sparta, there were two Kings. There were four Magistrates, the Ephori, who were checks upon each other. These were instances of a divided Chief Magistracy, constituted to act as checks upon each other. Though we have not a divided Executive, yet it is our object to have suitable checks upon the action of the Executive.

Mr. FULLER said he was opposed, for two reasons, to the proposition. First, the people of the Commonwealth had not asked this alteration. For half a century, we had been without a Lieutenant Governor, and had experienced no inconvenience from it. If he was disposed to make change in this respect, he would not do it at this time for another reason, that it would hazard the adoption of other amendments. There were two ways of opposing reform. One directly, and another indirectly. One way to defeat any reform was to overload the Constitution with amendments, which the people had not asked for, so as to render it necessary for them to reject the whole. When we came to the 14th section, he should move an amendment, providing that the Speaker of the Senate, in case of a vacancy in the office of Governor, shall hold the office only to the next annual election. This would relieve the clause of all doubts.

The motion to amend was lost.

Mr. DARLINGTON moved to amend the section, by striking out the "second Tuesday of October," and adding after the word "the" the words "time and," so as to avoid the question as to the time of the election.

We had adopted a day for the general election, which, whether it was sustained or not, there was no occasion for altering now.

The motion was agreed to.

The second section, as amended, was agreed to.

The committee took up the report on the third section as follows :

SECT. 3. To read as follows—"The Governor shall hold his office during three years from the third Tuesday of December next ensuing his election ; and shall not be capable of holding it longer than six years in any term of nine years."

Mr. REIGART moved to amend the same by striking therefrom, in the second line, the word "three," and inserting "four," and striking out of the second line, the word "December", and inserting "January", and striking out all after the word "be," in the third line, and inserting in lieu thereof "re-eligible". The effect of the amendment, he explained, would be to provide that the Governor shall hold his office for four years, from the first day of January next ensuing his election, and not be re-eligible to the office thereafter.

Mr. BUTLER moved to amend the amendment, by striking out the same and inserting in lieu thereof, the following, viz : "The Governor shall hold his office during two years, from the third Tuesday of January next ensuing his election, and shall not be capable of holding it longer than four, in any term of eight years".

Mr. DICKEY said he was opposed to both amendments, because the general opinion and feeling of the people were in favor of the term of three years, and because there had never been any expression of opinion on the part of the people, in favor of limiting the tenure to one term.

The amendment to the amendment was lost.

Mr. HIESTER moved to amend the amendment, by adding thereto, the words "for the next succeeding four years".

Mr. PURVIANCE said, that the only section of the article now under consideration, to which he had any objection, was the one now before the committee. With the fourteen other sections of that article he was willing to be satisfied, except that which relates to judicial appointments, the amendments of which more appropriately belong to the fifth article.

The section under consideration, to which the amendment from the gentleman of Lancaster applies, he believed of the greatest importance. Sir, (said Mr. P.) I have ever felt a deep interest in the alteration of the Constitution, that we might rid ourselves of that periodical turmoil and excitement which takes place triennially at our gubernatorial elections. It is of itself sufficient to shake the stability of our government, by interfering with and severing the best friendships of our nature, and waging a continual war upon the purest feelings of the heart. He said he looked to the alteration of the Constitution in this, as well as in other particulars, as to the time when friends long parted, and kept apart by political broils, will again meet and renew friendships long since buried in the unhallowed grave of political asperity. He declared his belief that a Governor under the present Constitution possessed more power than the King of Great Britain, and as long as such power existed, we might look in vain for the unrippled wave of peace. The patronage of the Governor was like a galvanic battery, producing simultaneous shocks at the extreme ends of the State. So

many political aspirants and expectants of public favor, necessarily led to this much-to-be-deprecated excitement in the election of a Governor. Whilst this patronage, or even the smallest portion of it exists, your Executives may be influenced in the distribution of that patronage by the hope of re-election. Render them ineligible, and you remove that inducement, and hereafter will be able to elect Governors who cannot, by any possibility, look to their own advancement in the distribution of their official patronage. This Convention will, no doubt, to a very great extent, curtail the appointing power; but still the Executive will remain clothed with powers important and extraordinary. The Governor will remain as before, commander-in-chief of the army, navy, and militia of the state. He will continue as before, charged with the power of a faithful execution of the laws. His power to grant reprieves and pardons will continue the same, and although a limitation of judicial tenure will inevitably result from our labors, a co-ordinate power of appointment may still be reposed in your Executives. With such power lodged in the hands of an individual, is it not obvious that danger is to be apprehended, and that bad men, or ambitious aspiring men, would apply so powerful an engine to the advancement of their own private interests, and the perpetuation of their own power? In the distribution of the appointing power, office is not always conferred upon the most worthy, but frequently upon those who have been the most clamorous in their support of the dominant party. In twelve of the States, the principle of ineligibility had been engrafted upon their Constitutions. Virginia, by her Constitution of 1830, adopted the principle. Kentucky has rendered her Executives ineligible for seven years after their term of service expires. Maryland for four years. North and South Carolina, the former by an amended Constitution of 1836, and the latter by amendments since its original adoption, have carried out the principle of ineligibility. Alabama, Louisiana, Missouri, Illinois, and Mississippi have limited Executive service to four years. In the latter State, all officers, from the highest to the lowest, from the Judges of the high Courts of Errors and Appeals down to the Judges of the Courts of Probate, are elected by the people, and yet they have been careful to render their Executive ineligible to re-election. In Tennessee, the same principle exists, and in Delaware, the Executive is ineligible forever. In the States of Maine, Massachusetts, Connecticut, Vermont, New Hampshire, New Jersey and Rhode Island, the Governor is elected annually, which is an equivalent for the ineligibility principle, being productive of similar political advantages to the States. It brings the Executives so near the people, and renders their accountability so short, that little danger can be apprehended. Adopt this principle in Pennsylvania, and the scenes of excitement with which we are periodically visited will be at an end, and the people will hereafter be permitted to elect a Governor under no other influence than that of an honest devotion to the best interests of the country.

These, sir, are the sentiments of one who, like the EARL of Chatham, was rebuked for his want of age, and advised to tarry awhile at Jericho to acquire that which others have artificially obtained.

These loose and crude sentiments may, according to the idea of a certain gentleman, be but the barking of a cur; but, I trust, at an object less terrific in appearance than the ill-fated horse doomed to canine vengeance for no other sin than that for which the captain's horse in *Modern Chivalry*

was mistaken for a racer. Although professedly less disinterested and patriotic, I trust (said Mr. P.) I am practically more so than him, who, like the tyrant Dyonisius, is willing to punish all who refuse to chaunt his praises. To such, whose professions of disinterestedness and patriotism are so great, who are tired of the burthens of office, and desire to imitate the example of the great Grecian law-giver, I would say, carry out the principles of that much admired man—let him abjure the country, and immolate himself, like the fabulous bird, upon the pile of sweet woods and aromatic gums, and from his ashes, perhaps, another Phoenix may arise, which, if less beautiful, wise, patriotic, and disinterested, may at least be less mischievous and troublesome than the first.

Mr. DARLINGTON rose to offer a reason for his vote. Nothing would be more proper as a general rule to govern us than to enquire, first, what was the inconvenience complained of, and, next, what was the remedy. The Governor was eligible for three successive terms and exerted an extensive patronage. The evil complained of was that the Governor exerts his patronage to secure his re-election, and that the election, on account of the extent and value of the Governor's patronage, is always attended with great excitement. This was the mischief, and here was its source. How, then, should the evil be remedied? By taking away the patronage of the Governor, or by rendering him ineligible? Either will do it; and both are, therefore, unnecessary. He apprehended that the reduction of the Executive patronage would render it unnecessary to limit his eligibility to one term. There could be no doubt that his patronage would be greatly reduced; and, for that reason, this amendment was unnecessary. It was said that a considerable portion of patronage must still be left to the Governor. He might have the appointment of Justices for a limited term; but in few instances could a re-appointment take place during his term. The evils of losing a faithful, experienced, and efficient officer, were infinitely greater than any that could result from the small degree of patronage left with the Governor. For these reasons he was opposed to the amendment. As the general practice had been for the Governor to retire at the end of the second term, he should have no objection to adopting the report of the committee.

Mr. REIGART said, in offering this amendment, it might be perhaps proper for him to say a few words in explanation of his reasons for offering it. He did not care whether the term of office of the Governor was reduced from four to three years, but he did care much about his being rendered ineligible after having served for one term. We have heard much said about the independence of the Executive, and we have heard the charge frequently made, and not, perhaps, without reason, that the Executive was continually electioneering from the time he first came into office, until he had been elected for his last term. Now, he wished to take away all temptation of this kind from him, and establish him on a firm and independent basis, so that he would not be tempted to do wrong to advance his own political prospects. The gentleman from Chester thinks, if we take away the power of appointment of judges, and some of the important offices, that this will cure the evil. Now, Mr. R. apprehends that this would not cure the evil, as there would be many offices left in his hands to be filled. The appointment of county officers of themselves would be an immense patronage, and they should, of all others, be taken away from the

Executive. But, some gentlemen have said, that the people have settled that two terms are sufficient; because they had elected some of the Governors for two terms; but he did not believe they had settled any such thing. He might as well say, that the people have determined that one term is sufficient, because they refused to elect Governor FINDLEY, and Governor HIESTER for more than one term. Here he had just as much evidence that the people had settled that one term should be sufficient, as gentlemen had that they had settled that two terms would be sufficient. He thought it was quite enough for a man to be Governor for one term; and that any one should sit down contented after having filled the office for one term, with the consolation of having done his duty, without having had a single sinister object in view. He trusted that all possible inducements for the Governor to do wrong would be removed from him, and then he did not care whether he was elected for two, three, or four years.

Mr. SERGEANT (President) said that the various questions which are presented in regard to this matter of the constitution of the Executive department of Pennsylvania, seemed to bring up a consideration of services of a rather more general kind than any which had been yet taken. The first thing to be considered in regard to these changes, is the character and nature of the Commonwealth, and the character and nature of the Constitution, such as this Commonwealth ought to have. In his mind, it was a very great argument in favor of the existing Constitution, that while it has worked well, it has also been admitted, throughout the United States, to be a Constitution in harmony with the interests, the dignity, the character, and, let me add, the duties of a great State like this. It has been found worthy of her elevated position, and capacitated her to fulfil all her obligations to the Union. It has been a security to us at home, and a source of pride and gratification when abroad. He was strongly attached to it, he confessed. On this question of appointment to office, he felt as little bias as any one could do, for it had so happened that he never had held any office under the Commonwealth of Pennsylvania. He did not say that this had arisen from any patriotic self-denial on his part, because from an early period in life he had scarcely had an opportunity, and he did not now expect to be led into that temptation. But this was not the method of considering questions of this sort. It has been said, and with perfect truth, that you must make up your Governors of the materials which you have. If they be corruptible, you must make them of corruptible materials, and if they be corrupted you must make them up of corrupt materials. He did not believe, that the materials in this committee were corrupt, nor did he believe they were corruptible to any thing like the extent to which the arguments of some gentlemen would seem to lead us to believe. You have, of course, in the community from which you have to choose, good and bad men; men good and bad by comparison; none entirely good, and he hoped there were no such monsters as to be entirely bad, but still the community were made up of good and bad men. Now, with regard to a Constitution, like that of Pennsylvania, let us consider for a moment what it is, before we come to the question of the constitution of the Executive, and let us see in the course of those enquiries how far we are to derive any substantial or reliable examples from the operations of the Constitutions of other States. The first remark he should make, touching to Pennsylvania, was, that she has now an entirely free population, with perhaps an exception which did not

deserve consideration, and in this respect she is justly distinguished from those States where a large proportion of their population are not free. It must strike every one, that from this circumstance there arises a probability, at least, that the arrangement of the Government ought to be, and may be somewhat different from that of a State which was not entirely free. But farther, there arises in all such States, a capacity, if he might so say, for exercising her rights and powers in a way which cannot be done in a State which is not entirely free. If you suppose a large mass of the community divested of all political rights, then the Government is in the hands of their masters. One portion has all power, the other none, political or civil. But, if you suppose the whole mass of the community to be equal in political rights, and free to exercise their rights civil and political, then your basis is different, and that which suits the one State, will not suit the other. The second remark he should make with regard to Pennsylvania is, that this Commonwealth is essentially, decidedly, and in a marked manner, a republican State. She was born and bred, if I may so say, a republican State, and it is inherent in us from the foundation of the Commonwealth as a Province. With the exception of the little power which the Government of England had over us, thrown off at the Revolution, she always, from the earliest time has been a free republican Commonwealth, so that she is, in a decided and marked manner, a republican State. The next enquiry you come to, is that which concerns the connexion this Commonwealth has with her sister States as a member of this great republican confederacy as one of the largest and most powerful of those States, one whose influence is, perhaps, from her resources and position, greater than any one State in the Union, unless it be our near neighbor to the north. This Commonwealth, thus free, thus distinguished by her republican character, and thus important in her connexion with the Federal Union, has been remarkable also for the stability and strength and consistency of her character. Now he did not here trouble himself to think how it had worked as to party politics; they were beneath consideration in a body like this; he would still say that a remarkable feature of her character was that she had increased continually in weight and importance, which had been extremely beneficial to her and to the Union too. A firm keystone is necessary to preserve the arch. He knew it had so worked that many of us here have, for a long period of time been in the minority, and it had happened that the individual now speaking had shared this fate for the greater part of his life. But that does not disturb or lessen the value of the great truth he was insisting upon, and which he desired, if possible, to impress upon this body. The Government of Pennsylvania has been stable and permanent, at the same time that she has been confessedly and eminently republican. Let a citizen of Pennsylvania go through the United States, wherever he might, he was more than gratified to find, that every where this is the acknowledged character of the State of Pennsylvania; that individual and political, and religious rights, were effectually guarded; that the enjoyment of property was made perfectly secure, and that your institutions had stability, dignity, and strength. It has been, and is, a pattern State. The fact is, that in regard to the department, he was now speaking of, it was modeled after the Constitution of the United States, except that in the Constitution of the United States, the Executive is left without any limitation at all, as to re-eligibility. Now, sir, how ought the

Executive department of such a Commonwealth to be constituted? The question is easily answered: it has been already constituted, and it has surely worked well. Why should we change it. Let us see, whether in past experience we shall find any thing to warrant us? Your limitation of the office of Governor is for nine years in succession—he is no longer eligible than for three terms of three years. Your very first Governor, under the Constitution, was elected and re-elected for nine years. He retired from office at the end of the term, and afterwards became a member of the State Senate. Your next Governor was elected and re-elected for nine years, and he retired to private life for the few remaining years that he lived. Your next Governor was elected for a term of nine years, and after he retired he was elected to the State Senate. These were the Governors who held their offices during the full term allowed by the Constitution, and how did they hold these offices? Why, they held them by the election of their fellow citizens of Pennsylvania, and they held them independently. Let us see whether they did not. When the people chose to put a practical limitation upon these officers, they have done so; and now, let us see how it has operated. You had, after the term of Mr. SNYDER expired, WILLIAM FINDLEY elected, and he was continued for three years, when he was superseded by Mr. HIESTER, and he was continued three years, when he was superseded by Mr. SHULZE, he was continued six years, when he was superseded by Mr. WOLF, and he was continued six years, when he was superseded by the gentleman who is 'now Governor of the State. Where are those Governors who, without any limitation in the Constitution, have been turned out? Two of them are holding subordinate offices under the Government of the United States. At this very moment, Governor WOLF is filling the office of Auditor of the Treasury of the United States, which is but an inferior station, and Governor FINDLEY is filling the office of Treasurer of the Mint, which is another inferior station under the Government of the United States. He had called the attention of the committee to this fact, in order to prepare it to come to the question of dependence, and independence, about which we have heard so much. He had been accustomed to feel, and he presumed there were other members of the committee who have entertained the same feeling, that a man who has held the high situation of Governor of the Commonwealth of Pennsylvania, and whose conduct has been approved so as to have him elected and re-elected, should feel that he held in his hands a portion of the honor of the Commonwealth, he should be satisfied with *that*, have a becoming sense of its worth, and should not be driven by necessity, or seduced by temptation, to dispose of it for rewards, or maintenance in posts so far below the high dignity of Governor of Pennsylvania. He should feel as MIFFLIN, M'KEAN and SNYDER, did. The proposition of the gentleman from Lancaster, (Mr. REICART) for whose opinions Mr. S. had a very high respect, is founded upon the presumption, that it will make the Governor independent. Yes, sir, it will make him independent of the people of Pennsylvania; because, she will then have done her best for him, and she can do no more, unless it is to send him to the Senate of the United States. Then, when he holds the office of Governor for three or four years, she says to him, now you must depart, we have done all we can for you! And where does he depart to? To independence! No sir,—

So long as there is an opening for office elsewhere, and you choose to curtail offices in Pennsylvania, in point of dignity and honor, so long you may destroy his dependence on Pennsylvania. But have you made him independent? No sir. You create a dependence of a far worse sort. He would ten times rather see a man in an office, dependent upon a majority of his fellow citizens, than to be dependent upon any one else, because, that dependence is a Constitutional dependence, and so long as it works right, no objection can be made to it. But when you limit the term of office to make this officer independent, how do you make him independent? Why, you no longer make him dependent upon the majority of the people of Pennsylvania, but you condemn him to look abroad, to see how he is to get a living elsewhere, and, at the same time, by degrading the office of Governor, you diminish his self respect, and make him less nice in his choice. If he be poor, and it is generally the fate of office holders to be poor, (for very often they do not make as much in office as they spend in getting there) then you make him any thing but independent. He had said one was a Constitutional and republican dependence, and that the other was not, but he was not going to trouble the committee with examples of actual instances. Those which he had referred to, had only been to show what effect such a limitation has actually had. What objection is there to a Constitutional dependence, with regard to a person who is an elective officer? There were various kinds of officers under the Constitution, and we have to deal with them according to the nature of their employments; but, we are now speaking of the Chief Executive Magistrate who is elected by the people—of the independence of the Governor, as it is supposed it ought to be. What sort of independence is it? What sort of independence will you gain by this inevitable termination of his political career, however well he may have behaved himself? It will, instead of a dependence on the majority, which would actuate him to conduct himself in the most satisfactory manner, while he is in office, lead him so to conduct himself as to secure a provision for himself hereafter. Where will he look for it? Here is a neighboring Government, the Government of the United States, which has offices to give, and you will create a seeking in that direction, for what cannot be obtained at home. Your policy will be bent to the shape there prescribed—your true State interests will be sacrificed to the whims, passions, and views that may happen to prevail at Washington—your Governor enlisted in that army whose chief can boast that he never leaves his wounded on the field of battle. If you have not gained independence, what have you sacrificed by this change? The experience of that Executive, which, as he had said on a former occasion, was one of the greatest evils under the existing practice in our State of frequent changes in public officers; and the possession of character, which the Governor has acquired by being in office, which becomes a valuable possession to him, and a powerful correcting motive in his conduct; because, besides the security of character which you had when he came in, you have the additional security of the character he has acquired since. Here then are sacrifices, and great sacrifices, which are to be made by this measure.—Office was not created for the man, but it was created for the benefit of the people, he who is fittest to serve in it, is he, who ought to have it; and he is to be deemed fittest, (other qualifications being equal) who has had

most experience. Then you sacrifice the man who may be most fit for the situation, and who might be the choice of a large majority of the people of the Commonwealth, for a mere speculative notion, which, in practice, never has been tried, and consequently must be uncertain in its effects. He had never seen this doctrine, of a single term for an Executive applied any where, but in one place, and there it has not operated in a manner which would recommend it to us. A provision of this kind is contained in the Constitution of the Federal Government of Mexico.—The President of the Mexican Republic is elected for five years, and is then ineligible. Now, he need not say a word more than ask the committee to contrast the operations of our own Constitution, or that of the General Government with the Constitution of Mexico, and say which they consider to be best. The point upon which that Government was near being wrecked, if it be not entirely wrecked, would probably have been avoided, if instead of being driven to the necessity in 1827, of electing a new President, when the country was convulsed with disorder and revolution, they could have continued in office the man who was then President. The new election was the crisis, and there had been no peace since. There was a great difference, to be sure, between this country and that, but *there*, this theory has been carried out, and we can see how it has operated, and we see by that it is good for nothing. It appeared to him, then, that we should not reduce the limitation, because he found the limitation to nine years to have proved to be good, and if it were likely to be too long, the people can remedy it. But he would not materially shorten the term, because it had worked well, and because he could not see any reason, if the people should prefer an officer for a second term, why they should not be permitted to elect him, any more than any other officer. It was an unreasonable curtailment of the power of the people. We had a debate, a day or two since, upon a proposition to prevent the members of this Convention from holding any office created by their act, in the shape of amendments to the Constitution, if any should be made, and almost the whole body seemed to rise up, and say this was anti-republican. Clearly, there was nothing anti-republican in self denial. Every man may retire from office when he pleases, and if it suits his convenience he will do so, and his country will suffer no great loss, because, in the language of the old ballad of Cheoy Chase, they may say, "We trust we have a hundred as good as he". So every man may refuse office. The argument against that proposition was, that the people had a right to our services, and if they should so desire, we ought not to deny them the right of electing us. The vote being taken on this question, after discussion, it was rejected, 92 to 18.—Now, what say these same gentleman to the people, in relation to a Governor? They say, you must not elect him for more than three years, and forever thereafter he will be ineligible, even though three fourths, nay, though the whole of the people should wish to keep him in office. There is danger in these restraints, and he begged leave to call the attention of the Convention to it. As sure as you have unreasonable restraints, that is, restraints upon the majority, which will deprive them of any of the rights they now enjoy, so sure will you have attacks upon the Constitution, and an excitement in the country, and you will have a new Convention called to alter the Constitution, and restore to the people those rights we shall have taken away. It seemed to him, that the Constitution, as it now

stands, was a reasonable one, and should be left as it is, in this respect, unless we should adopt the reasoning of a member of Congress, he had mentioned some days since. That member wished to limit the term of office of President to four years, in order that his brother members, whom he considered aspirants, might have a better chance of being elected President. That, however, is a perversion. The office is for the public, not for the individual. There is in the nature of things a limitation to this office. A man is not advanced to be Governor, until he gets on pretty well in life. At the age of twenty-one years a man becomes entitled to vote, and at the same time, is entitled to a seat in the House of Representatives; at twenty-five a Senator. These are the steps by which he comes to be politically known and estimated; his qualifications for office exhibited to the community. It is upon this knowledge of his qualifications, that at last, he is fixed upon for the office of Governor, and therefore, it can seldom, if ever, happen that a very young man will be elected to the office of Governor. It is right that it should be so; for, he supposed, notwithstanding all that had been said about young and old men, if we take a reasonable view of this matter, it will be found, that although the older man may not be so fit to run a race or fight a battle, yet, in other respects, in prudence and wisdom and self command, he may be superior to the young man. Thus, a man is not put forward for the office of Governor, until he has manifested extraordinary discretion, or has attained that age which ordinarily brings with it the character of discretion and stability. Then, after that, a few years will make a limitation to his office; feebleness and decay come on apace and make him unfit for the situation, and at length death overtakes him, and terminates his concern with the cares of this world. So that there is very little to be apprehended from too long a continuance in office of the Executive of this Commonwealth. What is the evil as the matter now stands; and, what is there in which the Governor is likely to do harm? Is it the continuance in office of those he has the power to appoint? That subject was now open to us to alter and amend, and how far it should be done, he would not undertake at present to say. But the Governor is the representative of a majority of the people of Pennsylvania; it might be, by possibility, that he only represented a plurality, but it generally happened that he represented a majority of the people, and those appointments must be of the same character, because those partisans, who are in the majority, are always looking to the Executive for the appointments he may have to confer.—Every change you have in the Executive, you have a change of officers, so that the longer the Executive is continued in office, the less change you have. Every time he is removed you have a removal of officers. It is admitted, that under our present system, these struggles were frequent enough, and fierce enough, yet here you propose to increase the number of those struggles, which will inevitably increase their fierceness and severity, until they will be perpetual. He did not see, therefore, that we were likely to gain any thing, and believing, as he did, that our institutions under our present Constitution, have been in strict conformance with the principles we ought to maintain, he did not like to see any alterations in the system. The dignity of this office was part and parcel of the dignity of the State, and he did not wish to see it diminished. He liked to see the Governor of Pennsylvania, stand next in rank to the President of the United States.

Mr. BROWN, of Philadelphia, said he had listened with great attention to the gentleman from the city, (Mr. SERGEANT) and he must say that he was not able wholly to comprehend his arguments, as they appeared to him to be in themselves contradictory. He was, however, at no loss to understand the gentleman's object. The gentleman has reiterated the oft repeated assertion made here by all the conservatives, that the Constitution has worked well, and that every thing has gone on harmoniously since its adoption. This had been reiterated so frequently that if the people were not deaf to the assertion, they must come to the same conclusions with gentlemen. The gentleman had come forward on all occasions with the same argument, so that if it was to be taken as good for any thing we must believe that every portion of the Constitution has worked well. Now it was strange that if all the departments of the Constitution were so perfect as gentlemen had represented them to be, and had given so much satisfaction, that this Convention had been called, even to deliberate on alterations and amendments. It was strange that the people had petitioned the Legislature on the subject of revising the Constitution; and it was strange that a large majority of them should have voted in favor of a change in the instrument, and then, again, elected delegates to come here and make that change, if the Constitution was so perfect and had worked so well. But he apprehended that the gentleman from the city was altogether mistaken; the Constitution had not worked well, and no part of it had worked worse than the Executive department. The frequent elections of the Governor, and the length of the term for which he is eligible, together with the immense patronage which he wields, so far from working well and harmoniously, has produced more confusion and dissatisfaction in this Commonwealth than has been experienced in any, or all, of the other States of the Union. These defects had come fully within the knowledge of the people, and to them, perhaps, more than to any other defect was to be attributed the call of this Convention. The President of the Convention has told us that the Constitution of Pennsylvania had been taken as a model for other States. Now he (Mr. B.) had looked into the Constitutions of all the States that had formed or reformed their Constitutions since our Constitution was established, and he had not found a single one which had taken it for a model; on the contrary, nearly all the States which elect their Governors for a longer period than one year, make them ineligible at a much shorter period than the Constitution of Pennsylvania does. The gentleman from the city had told us at one time that the Governor ought to be independent, and then, again, he has told us that he ought to be dependent. He has told us at one time, that the people ought to be allowed to elect the Governor as long as they approve his conduct, and at another time he eulogizes the present Constitution as all perfection; and yet this instrument makes the Governor ineligible after nine years. The gentleman has also told us, that the frequent elections of Governors were attended with excitement, because of the number of officers who were affected by it. In answer to this argument he (Mr. B.) would say that he had no doubt nearly all the officers now appointed by, and dependent upon the will of the Governor, would be taken from him and given to the people, or otherwise provided for; and then he apprehended there would be but little excitement attendant upon the change of a Governor. He must confess that he was at a loss to understand the gentleman's argument in refer-

ence to the independence of those Governors who had not been re-elected. The gentleman had said that some were independent and some were not. Now does he mean that a Governor is to be kept in office for the purpose of becoming wealthy? This part of the gentleman's argument he was unable to comprehend.

Rotation in office is a democratic principle, and it is one which he (Mr. B.) would ever hold to, and it was one which he apprehended the people of this Commonwealth would ever stand by. The principle of rotation in office and ineligibility at short periods has been growing in favor with the whole people of the United States, since the example was first set them by the "noblest Roman of them all"—the great WASHINGTON—and it was one which would be adopted by the people of the United States generally. He had intended to present his views to the Convention, somewhat at large, on the subject of appointments generally, but as he knew that the committee was desirous of going through the first reading without much debate, he would not say any thing he had intended to say on the subject until the sixth article came up, only, that he should vote for the shortest term of office possible, and in favor of taking from the Governor the appointment of all officers, other than those connected immediately with the State Executive department.

The amendment of Mr. HIESTER was then agreed to—ayes 37, noes 33.

Mr. SMYTH called for a division of the question so as to take the question on the first branch of the amendment, ending with the word "four".

Mr. FORWARD hoped the question would not be put in this shape as his vote would be much influenced by the manner in which the question of eligibility of the Executive should be decided.

Mr. WOODWARD would enquire whether the vote just taken had not decided that the Governor should not be eligible after four years.

Mr. SMYTH had expected the amendment to the amendment would not have been agreed to. He was disposed to lengthen the term somewhat more than the present amendment proposed, therefore, he had called for a division of the question.

Mr. DICKEY said the gentleman could obtain his object by voting against the proposition of the gentleman from Lancaster. If that was voted down then he could amend the report of the committee to suit his views.

Mr. SMYTH then withdrew the call for a division.

Mr. EARLE renewed the call for the division.

Mr. MANN hoped the gentleman from Philadelphia would withdraw the motion for a division and let the question be taken fairly on the proposition. It seemed to him to be so connected that he could not vote understandingly on the first part unless he knew how the latter part would be decided. If the part was to be adopted he would vote one way, but if it was to be rejected, he would vote differently.

Mr. SMYTH said he had withdrawn his motion for a division with the expectation that the proposition of the gentleman from Lancaster would be voted down, and that he would then have an opportunity to amend the report of the committee on the section.

Mr. STEVENS could see no difficulty in voting on the question as it stood. We could vote now on the presumption that the clause in relation to ineligibility would be carried, as it had just been carried; but if it was

lost those gentlemen who voted on that presumption could change their vote on second reading.

Mr. M'SHERRY thought the question was not well understood in this way. The only way the gentleman from Centre could obtain his object would be by voting against this and proposing an amendment to the report of the committee. Then every gentleman would be able to understand it.

Mr. HOPKINSON, of the city, said that as far as he could understand the argument, it was to limit the power of the Governor of this Commonwealth to a single term and to lessen the period of it. The argument against the re-eligibility of the Governor was that he used his power to secure his reelection. That, however, would depend upon what he might have. The whole argument rested on that, for, while he was in office he might use the great power of appointment to get himself re-elected, should he happen to be vested with it. If the Governor was to have what he now had, the appointment of every officer in the Commonwealth, the argument might have some foundation. But, if on the other hand, he was to be deprived of that power, no danger was to be apprehended that he would abuse his office. If his patronage was to remain, he would vote against his holding the office for more than one term. Until he knew what that power was which might be abused, he was not disposed to vote for any alteration in the Constitution in this respect.

Mr. STEVENS, of Adams, remarked that he agreed with the argument of the gentleman from the city, that should the Governor be ineligible a second term, he should not be deprived of his patronage. The decision of the committee with respect to the term of office and the re-eligibility of the Governor, would have a material bearing upon the question of patronage. The re-eligibility of the Governor, then, ought to be settled before the committee proceeded further. And, if he was to be re-eligible, there would be reason to divest him of most of his patronage. But, if on the contrary he should be eligible for one term only, his patronage should be shaped according to the tenure of his office. He (Mr. S.) would vote to make him ineligible after the first term—though, perhaps a long one.

Mr. BELL, of Chester, concurred with the gentleman from Adams, (Mr. STEVENS) in what he had said with respect to the appointing power and the ineligibility of the Governor to office. The different terms of office which had been proposed were some of them too long, while others were too short. He thought that the limitation of four years, proposed by the gentleman from Lancaster, (Mr. REIGART) was too short. If a system of State policy was commenced by a Governor, four years might not be sufficient to carry it out. If we make the term three years, and the eligibility two terms, the people, if they desired any system of policy commenced by a Governor carried into execution, could re-elect him. He thought that good policy demanded that he should not be restricted to one term, but that the people should have an opportunity of passing upon his conduct.

Mr. BANKS, of Mifflin, observed that it was somewhat difficult for him to make up his mind what course exactly to adopt in reference to this question. He felt satisfied that whatever conclusion he came to, after mature deliberation, his constituents would acquiesce in. With regard to the question of ineligibility and cutting men off from holding offices, at limited periods, while they may be fully capable of discharging the duties devolving on them, it was a difficult matter to resolve upon. It was well known

that in New York a Judge was cut off at sixty years of age. Now, this might be well enough, when an officer was not able to transact the duties of his office. But so long as a man was qualified and efficient, he (Mr. B.) disliked exceedingly that he should be turned out. According to our Constitution, the term of the office of Governor was restricted to nine in twelve years. He was opposed to life offices, and to long terms. If the officer was an elective one, and for short periods, he thought there was no danger of permitting the people, if they chose, of continuing him as long as they please. He preferred that the term should be fixed at two years, and that he should be re-eligible for a reasonable time. He hoped that before we finished, we should shorten the term.

The CHAIR doubted whether the call of the gentleman from Philadelphia, (Mr. EARLE) for a division of the question was in order. He did not perceive clearly that if the matter were divided, the latter part of it would present a distinct question.

Mr. BANKS said that he doubted also whether it would present distinct question.

Mr. EARLE, of Philadelphia, replied that he could see no reason why the question was not divisible. He was opposed to four, three, or two years as the term of office, and in favor of electing the Governor of the Commonwealth for one year. To put him in office for a longer period was the same thing as to make a law to overrule the people—to pass a law to make a tyrant. He regarded any extension of the term beyond one year, as aristocratic, because it placed the Governor too much beyond the reach of the people; and in saying this he knew that he spoke the sentiments of his constituents. Mr. E. then moved to strike out “four” and insert “three”.

Mr. Cox, of Somerset, hoped that the amendment would not prevail, but be voted down. Then the report of the majority committee would again come up, and an opportunity would be given to the gentleman from Centre, (Mr. SMYTH) of offering his amendment—to insert “January” instead of “December”.

The question was then taken on striking out “four” and inserting “three”, and decided in the negative.

A division being demanded, there appeared, ayes 38, noes 49.

Mr. FORWARD, of Allegheny, said that he felt himself much in the same situation as his worthy friend from Philadelphia, (Mr. EARLE) in regard to this question. He (Mr. F.) would not vote for making the Governor re-eligible with his present patronage. If there was to be no reduction of the patronage of the Governor, he should vote to make him ineligible after one term. But if, as he hoped it would be, the patronage of the Executive should be taken away, he should not vote to alter the provision in the Constitution in relation to his eligibility. But now, no reduction was made, and he was called upon to vote under the supposition that none would be, and under this supposition he should vote to restrict to one term. When we have taken away the appointing power of the Governor, we can then alter this provision. We have altered the Senatorial term to three years, and he voted for the reduction; but if we give the Senate the confirming of appointments, he would vote to restore the term to four years, in order to give more independence to the Senate. Under these considerations he should vote in the affirmative.

Mr. DICKEY, of Beaver, said that he should vote to elect the Governor for the term of three years, believing as he did that the patronage of that officer would be diminished, and permit him to be re-eligible. If he supposed, like the gentleman from Allegheny, that the patronage was not to be reduced, he would vote as he said he would, to limit the term of office to four years, without re-eligibility. He believed that the people should have the power to pass upon the acts of the Executive by a second election, and he was, therefore, in favor of a term of three years, and the eligibility for another term.

Mr. FORWARD said that if the gentleman from Beaver (Mr. DICKEY) supposed that he was for retaining the present patronage of the Governor, he was mistaken. He (Mr. F.) wished it to be diminished, but not be taken entirely away from him.

Mr. FULLER was in favor of three years, and hoped, on the second reading, it would be cut down.

The question being taken on the adoption of the amendment, it was decided in the negative.

A division being demanded—there appeared, ayes 17: Noes, not counted.

Mr. SMYTH, of Centre, then moved to amend the report of the committee, by striking out the word "December", in the second line, and insert "January", which was agreed to.

Mr. EARLE, of Philadelphia, moved to strike out the word "six", and insert "three", as the limit of eligibility in any term of six years.

Mr. Fuller, of Fayette, observed that as the gentleman from Philadelphia had offered the amendment somewhat at his instance, it was right that he should tell the gentleman he had not gone far enough, in saying, that the Governor should not hold his office longer than three, in six years.

The question was then taken on the amendment, and it was agreed to.

Mr. STERIGERE, of Montgomery, moved to strike out the word "nine", in the fourth line, and insert "twelve", which was not agreed to.

The report of the committee as amended, was then agreed to.

The following sections of the report of the committee, were read *seriatim*, and agreed to:

SECT. IV. He shall be at least thirty years of age, and have been a citizen and inhabitant of this State seven years, next before his election; unless he shall have been absent on the public business of the United States, or of this State.

* SECT. V. No member of Congress or person holding any office under the United States or this State, shall exercise the office of Governor.

SECT. VI. The Governor shall at stated times receive for his services, a compensation, which shall be neither increased nor diminished during the period for which he shall have been elected.

SECT. VII. He shall be Commander-in-chief of the army and navy of this Commonwealth, and of the militia; except when they shall be called into the actual service of the United States.

The report of the committee on the eighth section was then read, which is as follows:

SECT. VIII. First line to read—"He shall nominate, and by and with the advice of the Senate, shall appoint all officers, &c.

Mr. BELL, of Chester, then moved to strike out all after the word "ap-

point", in the first line, and insert "a Secretary of the Commonwealth and an Attorney General, during pleasure, and he shall nominate, and by and with the advice and consent of the Senate, appoint all judicial officers, whose appointment is not herein otherwise provided for, as well as all officers established by law, when by such law the mode of appointment is not prescribed, and shall in such cases have power to fill up all vacancies that may happen during the recess of the Senate, by appointments, which shall expire at the end of the next session".

Mr. BELL, of Chester, said it was evident, as he had before had occasion to remark, that there was a disposition on the part of the members of the Convention to reduce the patronage of the Governor. Entertaining this opinion, then, he had brought forward his amendment. Most of the offices in Pennsylvania had not been created by the Constitution itself, but by the Legislature of the Commonwealth, and the appointment of the officers was now vested in the Governor. His object, then, was to diminish the patronage of the Executive, by giving to the Senate, while in session, a voice in the appointment of the officers now appointed solely by him. Should vacancies occur during the recess of the Senate, the Governor was to have the power of filling them up by appointments to expire at the end of the next session.

Mr. READ, of Susquehanna, said the impropriety of the mode of proceeding adopted by the Convention, was now for the first time most apparent. There had been an almost universal impression prevailing here, that all the offices included in this section, were to be taken from the Governor, and made elective. Under that sub-division, all that was to be said on the subject would come up more appropriately when the eighth article of the Constitution, which relates to offices generally, should be considered. The committee on that article certainly expected that that course would be taken. The irregularity of the proceeding consisted in having made the proposed changes in reference to appointments in the second article of the Constitution, instead of the sixth. Now, he supposed, it would not be in order to strike out the whole section, because it would be negating that which had been adopted by the committee of the whole.

Mr. STERIGERE, of Montgomery, supposed, that it was no longer a matter of debate, that the uncontrollable patronage of the Governor should no longer exist. The committee appointed on that subject, had made a report to that effect, and giving to the Senate the right to participate in making all appointments. That was a principle which existed in the Constitution of the United States, and was to be found in almost all the Constitutions of the several States. He thought, that the object which the gentleman from Chester (Mr. BELL) had in view, was a good one—that was, to give the Senate a voice in the appointments. Yet, the amendment of the gentleman as a whole, was not, in his (Mr. S's.) opinion, so well calculated to meet the views of every gentleman here, as the one which he (Mr. STERIGERE) offered on the 12th of May. It would be found on page 7 of the resolution No. 36, and was in these words:

"The Governor shall nominate and by and with the advice and consent of the Senate, appoint all officers established by the Constitution hereby amended, whose appointments are not herein otherwise provided for or which has been or shall be established by any law in which the appoint-

ments may not be prescribed ; and shall have power to fill up all vacancies that may happen during the recess of the Senate, by appointments which shall expire at the end of the next session, but no person shall be appointed to any office within any county, who shall not have been a citizen and inhabitant therein, one year next before his appointment, if the county shall have been so long erected, but if it shall not have been so long erected, then within the limits of the county or counties out of which it shall have been taken. No member of Congress from this State, or any person holding or exercising any office of trust or profit under the United States, shall at the same time hold or exercise any State or county office in this State, to which a salary is by law annexed; Provided, That the judges and other persons in office, whose appointment is not provided for in the amendments, shall enjoy their respective offices as if these amendments had not been made ”.

Mr. S. said, he hoped that the gentleman from Chester would withdraw his amendment, in order to enable him to propose his as a whole section.

On motion of Mr. DARLINGTON, the committee rose, reported progress, and obtained leave to sit again.

The Convention then adjourned till 4 o'clock.

MONDAY AFTERNOON—4 o'clock.

SECOND ARTICLE.

The Convention again resolved itself into a committee of the whole, on the second article of the Constitution, Mr. CLARKE, of Indiana, in the Chair.

So much of the report of the committee being under consideration, as declares it expedient to amend the eighth section, so as to read as follows :

“SECT. 8. He shall nominate, and by and with the advice and consent of the Senate, shall appoint all officers ”.

The question pending, being on the motion of Mr. STERIGERE to amend, Mr. BELL, of Chester, moved to strike out all after the word “appoint”, and insert as follows :

“A Secretary of the Commonwealth and an Attorney General, during pleasure, and he shall nominate, and by and with the advice and consent of the Senate, appoint all judicial officers whose appointment is not herein otherwise provided for, as well as officers established by law, when by such law the mode of appointment is not prescribed, and shall in such cases have power to fill up all vacancies that may happen during the recess of the Senate, by appointments which shall expire at the end of the next session ”.

Mr. BELL said he desired to modify the proposition. The gentleman from Susquehanna, (Mr. READ) the gentleman from Montgomery, (Mr. STERIGERE) and himself, had the same object in view—to curtail the patronage of the Executive. He thought the object would be best attained by the amendment he had now submitted. As there are some officers introduced into this proposition who would more properly come within the operation of another article, he had thought it best to introduce the words “whose appointment is not herein otherwise provided for”, to guard against any incompatibility. The amendment looks to designating certain

officers to be appointed by the Governor, and such as he shall "nominate, and by and with the advice and consent of the Senate, shall appoint", &c. The only difficulty is, whether a sufficient number of officers have been designated. But, if not, this defect can easily be repaired by an amendment.

Mr. STERIGERE then withdrew his amendment.

Mr. COX, of Somerset, moved to amend the amendment, by striking out the words "and by and with the advice and consent of the Senate".

Mr. BROWN, of Philadelphia, asked if it would not be better to take all the appointing power of the different officers, and consider them under a subsequent article, so as to have the whole subject in one article?

Mr. DICKEY, of Beaver, said the report of the committee seemed to him to be all that should be called for at present. The difficulty of the gentleman from Susquehanna might be got over. He did not like the amendment of the gentleman from Chester, to strike out the words "or shall be established by law". It might be proper to connect the Senate with the Governor in some of the appointments. If we are to have the appointments of Prothonotaries, Sheriffs, &c., to be made in this manner, it would be well to say so in a few words. If the Judicial officers are to be so appointed, it ought to read as it is here worded. He was in favor of giving to the Governor the appointments not otherwise provided by law. There had been no practical inconvenience from the appointments made by the Governor in the department of internal improvement. That was growing up to be a great system, and if the appointments are likely to be abused, the Legislature by repealing the law, can put an effectual check upon it. He would prefer to have it so, that when appointments are to be made to offices under the law, they should be made by the Governor; and if it should be found necessary to get rid of them, the law can be repealed, as it was in the case of the Canal Commissioners. This would get rid of the difficulty of the gentleman from Chester. He thought the best way would be to vote down the amendment.

Mr. DARLINGTON, of Chester, said that the only question as it appeared to him at present, was whether we should retain the provision as it stands in the Constitution, or bring the Senate into connexion with the Governor in the creation of offices. It did not appear to him that this proposition could interfere with any other article. It appeared that other offices than those now established by the Constitution would have to be appointed; and the question is, shall we leave those which are not established to be appointed by the Governor? He saw no propriety in the enumeration of the offices. The Constitution says the Governor shall appoint all not otherwise provided for. His own mind was not made up as to whether he would consent to give the Senate a control in the appointments. He rather inclined to that course; but he desired to hear the opinions of gentlemen of greater experience. The question was now brought before us, as to giving the appointment to the Governor of offices hereafter to be erected by law. On this point his mind was made up; and he thought the minds of the majority of the Convention were made up. He did not think it would be right to leave it in the hands of the Legislature to create any number of offices, and then to fill them at their pleasure. He was not disposed in this way to connect the legislative power with the power of appointment. He could not go with his colleague; he could not go for

connecting the power of legislation with the power of creating offices and filling them. He supposed the Legislature would have the power to create district courts and appoint judges. Nor could he consent to leave this matter unsettled. He believed the Convention were not prepared to do this, but that they would rather leave the appointing power where it is.

Mr. READ, of Susquehanna, said that this amendment was an important one, and he presumed every gentleman might as well express his views upon it. The gentleman that had just addressed the Convention did not appear to understand the amendment, when he asked if we were disposed to leave the power, with the Legislature to create courts and fill the benches. The amendment expressly directs that the Governor shall appoint all judicial officers, "by and with the advice and consent of the Senate". It would follow, as a matter of course, that the Legislature would have to appoint the others. The committee had exceeded their powers in making their report. It was a proper place, when the Governor held the appointing power, to leave it where it is, in the eighth section, but the committee has taken it for granted that the Executive would be stripped of this power, and if so, they thought they might as well make a provision for its exercise in the second article, although it would come more properly in another article. It was not a proper place for it in the Executive article. It came more properly within the provision of the duties of the committee on the sixth article. Under the present Constitution the Secretary of the Commonwealth is appointed by the Governor, and after he has got his commission in his pocket, he may do what he pleases, for he cannot be removed. He thought that the genius of our institutions required that a public officer should be responsible to public opinion, but this officer is at present not liable to removal for neglect or impropriety in office. It is now proposed to appoint him during pleasure, and thus to make him responsible to the Governor, as the Governor is to the people. He thought it much better that the Secretary should hold his office at the pleasure of the Governor. In relation to the Attorney General, he is peculiarly an Executive officer; he is so connected with the Executive department that they cannot well be separated. To keep him responsible, the Governor should have the power to remove him. The Executive ought to appoint, without control, these two officers. And it was as far as he was prepared to go, to give him the appointment of these without the advice and consent of the Senate. In reference to the filling of offices, which are hereafter to be created, he would say a word. Our internal improvement system has grown up to be a great source of patronage. Under that system, of course, the law creates the offices, and thus the power and patronage of the Governor has been increased ten times as much as the Constitution contemplated, because, the officers connected with this system are ten times as many as all the other officers.—He had not been able to ascertain the number of these officers but they accumulated to a vast number. Well, the proposition of the committee on the sixth article is to vest in the Legislature the authority to give to the Governor the power of appointing any officer whose appointment is not otherwise provided for, but there is a provision that the appointment of officers connected with the Internal Improvement system shall not be left in his hands. If a majority of the committee shall be disposed to strip the Governor of the power of appointing the officers referred to by this proposition, they had better adopt the amendment and when we

come to the sixth article, we can act upon the question of the appointment of officers generally.

Mr. DICKEY, of Beaver, said if he understood the amendment correctly, it was to give to the Governor and Senate the appointment of Judicial offices, and to the Governor alone the positive appointment of the Secretary of the Commonwealth and Attorney General; and also to give, execute, or reserve to the Legislature to fix the mode and manner in which all other officers shall be appointed. The Governor is to appoint the Attorney General without control; when we come to the sixth article I shall endeavor to extend this provision by amendments, so as to embrace other officers. He would give to the Governor the appointment of all the other officers, by and with the advice and consent of the Senate, which would abridge the power of the Executive more than gentlemen seem disposed to do. He was satisfied with the report of the committee as far as the second article is concerned. When we come to the sixth article, I hope we shall include most officers to be appointed by the Governor, by and with the advice and consent of the Senate; or we may insert it here. I care not where it is brought in. There is another minority report, I believe, which has not yet been brought into view. In reference to the Comptroller of Public Works, we ought to agree as to that officer. It will then become a question if the Governor shall appoint him, and then if the Comptroller shall appoint the other officers. He liked the idea of doing away with the Surveyor General's office and amalgamating it with the Commissioners of the Land Office. The report of the committee went as far as we ought to go.

Mr. Cox had supposed, he said, that some one in favor of the report, would give us a good reason why the proposed alteration should be made, and he, for one, would not vote for it until he had heard some substantial reason in its support. He could discover no possible good that arises from such an amendment to the Constitution. If the Senate are of the same political party with the Governor, they will constitute no check upon his action; for, as a matter of course, they will confirm all his nominations. Then there would be no good result from the provision in that case, and a positive injury to the public interests would result from the division of the responsibility of appointments between the Governor and the Senate. The Governor might not take the same degree of care in making his selection of officers, as he would if the responsibility of their appointment rested solely on him. If, however, a majority of the Senate were opposed to him, we should then have an Executive and Senate at loggerheads.—He could not doubt, from what had already transpired at this session, that party excitement was still in existence, and was likely to exist. The time had not come yet, when public men would act for the good of their country alone. There was no prospect that party excitement would die away. The Senators, if they were not of the same party with the Governor, might take it upon themselves to reject the nominations, without reference to the qualifications and character of the nominees. It was not at all improbable, that they would reject any man known to be an active partizan, and who was politically hostile to a majority of the Senate.—They might pursue the same course which was adopted by the Senate of the United States—he alluded to that body as furnishing instances of the evils which might grow out of the system proposed. The Senate of the

United States being of one party, and the President of the other, many nominations were rejected. A great excitement was then got up against the Senate, and there were party presses in this State, which came out and declared, that the Senate was an aristocratic body, and ought to be annihilated; and yet, as you will recollect, Mr. Chairman, the persons whose nominations were rejected, were so far from being put down by it, that it was the cause of their elevation to still higher honors.

It was the cry, from one end of the land to the other, that the Senate was usurping power; that it was not exercising its powers in accordance with the spirit of the Constitution. And, sir, without wishing to provoke any feeling among the friends of the individual, to whom I am about to allude, I will say, that the gentleman who now fills the Executive Chair of the nation, would not have been there, if the Senate had not rejected his nomination to England. The consequence of the excitement against the Senate, was a complete change in the political character of the body. Though the Senate was composed of high minded and honorable men, yet he had no doubt that, in some instances, they did reject nominations on political grounds. We had a right to infer the same evils would grow out of the introduction of the same feature in the Constitution of this State. If it was to be of no benefit, we ought to reject it. It was not a matter of experiment. We knew it had not worked well in the National Government, and what reason had we to suppose that it would work well in the Government of this State. The appointments for office would be made with more care and judgment, if they were all left to the Governor, than if they were left to him, with the advice and consent of the Senate; for, all the responsibility being left to him, he knows that his popularity is at stake, and he performs the duty with the more care and deliberation on that account. He had risen only for the purpose of stating these objections to the amendment.

Mr. AGNEW said, we could not get along without some system in our course of proceeding. The subjects properly connected with each other should be brought together. The first, second, and fifth articles, were intended to provide for the organization of the three branches of the Government—the Legislative, the Executive, and the Judiciary—and to confer on each of them their appropriate powers. The sixth and eighth articles were intended to provide for some anomalous branches of the Government, not belonging to either of the others. In the article before us, it was enough to confer on the Governor the powers which we intended to give him. We might here give him the appointment of all the officers which it is necessary to have, either with or without the concurrence of the Senate, and leave the subject there. In the sixth article we could provide, separately, for the appointment of the Secretary of State, the Land officers, Attorney General, &c. A section of this article might combine all the Judicial officers, the Prothonotaries, Registers, Recorders, Sheriffs, Justices of the Peace, &c. But so long as this Convention proceeded in this manner, it would be impossible to reconcile us.—One will vote against a provision, because it is not in its right place, and another will vote for it, because he thinks it is in the right place. We ought to go on regularly, and give the Governor as much power as we intended to give him in the sixth article, and defer the consideration of the mode of appointing other subordinate officers till we reached the sixth

article. The first, second, and fifth articles, were confined to the organization of the Government, and to clothing them with their proper powers, and any thing not connected with these objects, ought to be excluded from them. The revisory power proposed to be given to the Senate he thought wholesome and proper.

Mr. WOODWARD said, the gentleman from Somerset had demanded the reasons for placing restrictions on the power of the Governor, in making appointments. He did not rise to give reasons to a gentleman so intelligent, but to state the considerations which had influenced him in deciding in favor of the propositions, to give the Senate the power of confirming or rejecting the nominations of the Governor. In the first place, he would so far conform our Constitution to that of the United States, as to introduce this practice. He regarded it as important, that the State Constitution should be assimilated to that of the United States, so far as it could be with propriety, in order that the minds of the rising generation should be fixed upon both, as equally entitled to affection and regard. He thought it desirable that they should conform as far as practicable, and there was no reason why they should not in this respect. Another reason was, that it would enable us to receive better officers. The Senate was composed of gentlemen from every part of the Commonwealth; they were well acquainted with the districts which they represent, and they have a more correct and minute knowledge of the qualifications of individuals, than the Governor could be supposed to possess. He knew no body so well entitled to the confidence of the Governor, or so well qualified as his Council, as the Senate, in relation to the appointments. It was of small moment that we established a Constitution and salutary laws, unless we secured the services of the best officers, both as to head and heart, in administering them; and, this was not to be done, by leaving to the Governor alone, the appointment of all the officers necessary to carry on the Government. We should give more security for the rights of the people, if this check was placed upon the action of the Executive. A further reason for the measure was, that it would have the effect to diminish the inordinate desire which was now too prevalent, to become favorites of the Executive. There was nothing more common than for men, in different parts of the State, to combine for the support of a candidate for the office of Governor, with a view to provide offices for themselves and their friends, and contracts of this nature, how and where made he would not say, had disgraced the Commonwealth. He had no doubt that the proposed provision would check this corrupt bargaining of office, and promote the interests of the State, by securing an intelligent and disinterested exercise of the power of appointment. Now, sir, (said Mr. W.) if these reasons are entitled to any weight, what, on the other hand, are the objections to the proposition? The gentleman from Somerset refers us to difficulties which have existed between the Senate of the United States and the Executive. Well, what mischief resulted from the exercise of this power by the Senate? He believed, that in general, they sustained the interests of the people. There were, it was true, some periods of collision between the Senate and the Executive, but they were temporary, and they produced no evil. It was true, that some nominations, and those of individuals possessing the highest qualifications, were rejected by a factious Senate. One of them now filled the highest Executive office in the Union,

as the gentleman says, and another, the highest judicial office. Whether the country would now have had the advantage of the services of these distinguished men, if they had not been thus rejected by the Senate, was more than he could tell. From the nature of things, bad appointments were not so likely to be made with the concurrence of the Senate, as if they were made by one man, no matter who he might be.

This giving to the Senate the power of concurring with the Executive, is bringing him in some measure, more within the control of the people. The people, it is true, elect the Governor; but they also elect the Senators; and the Senators represent the people more at large than the Governor. There were thirty-three representatives of the people in the Senate, and when you connect those persons with the Executive in the appointment of officers, the people have a more direct influence in appointments, than they can have if they are left to a single individual. Then, for this reason, he was in favor of the amendment. He would be willing himself, to vote for giving the concurrence of the Senate in the nomination and appointment of the Attorney General, as he thought there would be great propriety in giving the Senate a voice in the appointment of that officer. He would not, however, make that motion, but if any other gentleman did, he would vote for it. He was fully impressed with the opinion, that there ought to be some restraint placed upon the Executive in the making of appointments, and he doubted whether any better mode could be adopted than that proposed by the amendment of the gentleman from Chester. If however, any better mode could be pointed out, he would go for it.

Mr. AGNEW was not opposed to this amendment in principle, but there appeared to him to be a difficulty connected with the question, as it now stood, and to get rid of that difficulty, he would suggest whether it would not be most proper to leave the residuary power of appointment in the hands of the Governor in this section, and when we come to the sixth article, carry out the details, as to the manner of appointment, the tenure of office, and every thing connected therewith. This appeared to him to be the better mode of proceeding.

Mr. Cox supposed, that the gentleman across the way, (Mr. Woodward) had given the only reasons in favor of this amendment which can be given. They of course, appear satisfactory to him, and they appear to be satisfactory to a number of others, who have expressed themselves favorable to this alteration. But, certainly the gentleman's first reason was not a good one. His first reason was, that he would make this alteration to make the Constitution of this State more like the Constitution of the United States. Now, it appeared to him, that we did not come here to assimilate the Constitution of Pennsylvania to that of the United States Constitution; but that we came here to enquire, what amendments were necessary to be proposed to our Constitution, in order to secure more permanently the happiness, the prosperity, and the liberty of the people of the State. If there be any thing in the Constitution of the United States that we can safely put in ours—and there cannot be any thing put in our Constitution contrary to it—we can adopt it. If there was any thing in the Constitution of the United States which experience had taught us would be salutary in our Constitution, then we ought to adopt it. But the gentleman had not undertaken to show that such had been the fact with relation to this provision. He had only said that he was not aware that any certain

injurious consequences had resulted from it. Mr. C. was not aware that any actual good had resulted from the operation of this provision; but, on the contrary, he did know, that a very unpleasant excitement had grown out of a refusal in the Senate to confirm certain nominations of the President. The second reason the gentleman had given was, that there would be an advantage in having the Senate to consult with the Executive in all appointments; because each Senator would be acquainted with the qualifications of officers in his own district, and in consequence of this the Senate would be better able to judge in appointments than the Executive. But he would ask the gentleman whether the advice of these Senators cannot be had now under our present Constitution? They can either call upon the Executive in person, or write to him, giving him their opinions in relation to the appointment of officers in their districts; so that all the good which can arise from the Senators consulting with the Executive, can be now obtained without giving them the controlling power over him. The third reason of the gentleman was, that it would prevent men from taking such an active part in elections, for the purpose of obtaining office. Now, we all know, that when a man is attached to a political party he generally makes use of every exertion in his power to sustain that party; and the very circumstance of the Senate having the power to reject or confirm the nominations made by the Governor, will, in case of there being a probability that the Senate will be on one side, and the Executive on the other, have a tendency to increase the excitement of party, and inspire political partizans to redoubled exertions to carry the Senate as well as the Executive. We all know, that the Senate would not be a controlling power when the majority would concur in political opinions with the Executive.—In the Senate of the United States, there had been no nominations rejected that ever he had heard of, while the majority of that body concurred in political opinion with the President of the United States. Again, if the Senate should not confirm some of the nominations of the Executive, if we have a Governor of the same determination and resolution of the “Old Roman”, he will just wait till the adjournment of the Legislature, and then appoint the officers of his choice. The President of the United States had set an example of this kind in the appointment of GWYNN and others after they had been rejected by the Senate. Then, if the Senate of this State should be of a different political party from the Executive, and should reject his nominations, and the Governor should have the same determination to carry out his measures, which the President had, he will not be foiled in this way. If the Senate refuse to confirm his appointments he will afterwards appoint them; and an extremely unpleasant excitement would be kept up, which ought, by all means, to be avoided and deprecated by every individual in the Commonwealth. If Senators were to act as the gentleman had supposed, and were only to make the enquiry—Is he honest? Is he capable?—without any regard to politics, then he granted it might answer the purpose; but this was not to be expected; it is contrary to all experience that men will act in this way. It would frequently happen, that the very nominations which would be rejected when the Senate were of a different political party from the Governor, would be confirmed if the Senate was of the same party with the Executive. So far from this being a salutary check, and good following from it, all experience has shown that it would be no check at all, and that evil would follow from it. A man of

some influence perhaps in the Commonwealth, might be nominated for an office and rejected by the Senate. The consequence would be, that the editors belonging to his party would raise the cry of proscription against the Senate, and would, perhaps, misrepresent the facts, and by this means, an excitement would be got up throughout the whole State, and the most pure and patriotic men in your Senate would be traduced and vilified. Surely a provision ought not to be inserted in our Constitution which would bring about such results as these.

Mr. DENNY said the only reason which was urged in favor of the adoption of this amendment, was, that there would be more caution and care used in the selection of honest and capable men for office. It was supposed the Senate would bring to the aid of the Governor, a better knowledge of the men who were to be appointed to the different offices in the Commonwealth. That might be all true enough; but the experience of the country has shown that this mode of appointment was not the most proper mode. With regard to the Senate of the United States, he did not believe they were of any aid to the President, but he thought the country had suffered a great evil from the conflicts which had taken place there; and if this system would work well any where, it would under the Constitution of the United States, because there the Senate go into secret session on the nomination, and the characters and qualifications of men are freely discussed. It was the bounden duty of Senators, there to make known to the Senate every thing they know of the character of the person nominated, and from all he could learn, their characters were freely spoken of. Now, if, with all this knowledge in the Senate of the United States, this system did not work well there, certainly we cannot expect it to work well here, where it is not even proposed that the Senate should go into secret session upon these appointments, which he should be sorry to see them do. The Senate then would be acting on these nominations in the dark, and the probability was that they would confirm those of the same political complexion with the majority of the Senate, and reject those of a different complexion. From the experience we have had in this State, in the election of officers by the Legislature, we know that they are elected without any more knowledge of their capability than the Governor would have if he had the appointment of them, and the selections were no better than those made by the Governor. In the election of Bank Directors, every one who had been a member of the Legislature knew, that a majority of them voted for particular candidates, out of courtesy to some of their brother members. He himself had voted for these officers, merely upon the nomination of a friend of his; and so he presumed it would be with the Senate; they would vote out of mere courtesy to each other, and no one would feel any responsibility, or take any trouble to enquire into the character or qualifications of the persons nominated. As to these Bank Directors, he believed the interests of the Commonwealth would have been promoted, and much money saved to the State, if their appointment had devolved on the Governor or State Treasurer; because either of those persons would be careful to put in men who would act for the interests of the Commonwealth. In the same manner he believed we would have better officers if the appointment of the officers devolved upon the Executive, than if it devolved upon the Senate, in conjunction with the Executive. Let the Governor be responsible to the people, and he will

be careful to make good appointments, because if he makes a bad appointment in any particular county, the people of that county would rise up and condemn him; but if the Governor and Senate appoint in conjunction, the Governor will escape, and in all probability the odium of the appointment will rest upon the Senator from that particular district. It is true the Governor may at times make a bad appointment, but so also may the Governor and the Senate make a bad appointment; and if the Governor makes it on his own responsibility, the people will hold him responsible for it. He hoped, therefore, that this amendment might not prevail, as he could see no good which could result from it.

Mr. SMYTH said that the argument of the gentleman from Allegheny, was, that we should not give this power of appointment to the Senate, because improper appointments would be made. Now, here he differed with the gentleman, because certainly if an appointment was to be made in a distant part of the State, the Senator from that district was better able to judge in the case than the Governor, and if the nomination was an improper one, he could prevent its being confirmed. The reference too, which the gentleman had made to the Senate of the United States, was sufficient proof that they were more competent to judge of the qualifications of officers generally than the Executive; and there could not be a doubt but the connexion of the Senate with the Executive in the appointment to office, would prove a salutary check upon that officer. Mr. S. called for the yeas and nays, which were ordered.

Mr. CLEAVINGER said, as the yeas and nays have been called in this case, I must ask the indulgence of the committee, for a few minutes, while I state a few additional reasons to those already advanced, in favor of the proposition of the gentleman from Chester. If I have rightly understood the arguments of gentlemen opposed to this amendment, they are of a two fold nature—the one, that this section is not the proper place to incorporate such an amendment; and the other, that its adoption would introduce a fundamental change in our Government, and therefore ought not to be adopted. I will attempt an examination of the objections in their order. Sir, the present Constitution has been held up to us, over and over again, and if gentlemen will compare the eighth section with the present amendment, carefully, they will find that the present amendment is not so far out of place as they imagine; this section gives the appointment of officers to the Governor, and the amendment does the same, only restraining it in certain particulars, and associating the Senate with him in others. But even if there should be some differences of opinion, as it regards its proper place, if it contain sound principles, why ought it not be adopted by the friends of reform? Secondly, we are told that the amendment is uncalled for: I would ask, what substantially, is the amendment proposed? Is it any other than the lessening of the patronage of the Executive? Sir, if there is any evil complained of, among my constituents, of a more crying nature than others, it is this enormous patronage of the Governor. Each returning election convulses our whole community—the partizans of the respective candidates forgetting their characters as freemen of a great Commonwealth, descend to the low and groveling condition of mere petty politicians, whilst the scramble for office produces a compliance on the part of the applicant, entirely destructive of repub-

lican independence. It is to correct such evils, that I go in favor of the amendment.

Gentlemen tell us that this supervisory power over the appointments of the Governor, is worse than useless, and refer us to the differences between the United States Senate and the late Executive; but surely the allusion of the gentleman from Somerset is an unfortunate one, for either the nominees in that case were incompetent, and rightly rejected, which shows the necessity of such a supervisory power, or they were competent, and the Senate in rejecting them, violated their solemn obligations, which would place the Senate in no enviable situation.

We are further told, that it will lessen the responsibility of the Governor. In my opinion this cannot be, for he will still be held responsible for his nominations to the Senate, while the Senate will be responsible to the people for their acts, and coming immediately from among them, they will know the merits of the applicants in their own districts, and be safer advisers than any to whom the Governor can apply. I might refer to the experience of every member of this committee, and ask him how easy it is for any man to get up a recommendation for an office; indeed there is scarcely any man in the community who has the moral courage to refuse signing a recommendation when presented to him; in this way, can it be otherwise than that the Governor will be imposed upon, and make bad appointments? Sir, I do not consider the proposed amendments entirely free from difficulty, yet as one great principle that ought to characterize our representative Government is, that the people should part with no power that they can exercise themselves, and as this would be bringing it something nearer to them, I shall give my vote in favor of the proposed amendment.

Mr. FARRELLY, of Crawford, said that he would say a word or two in answer to the argument that had been offered in regard to the responsibility resting upon the Governor in the event of his appointing an incompetent officer. In his opinion, the responsibility of the Governor would be increased instead of diminished, by making his nominations to the Senate. He was, in the first place, responsible to the Senate for the nominations; and in the next place, he was responsible to the people for them. Every body knew, that the President of the United States was considered responsible for all his nominations, notwithstanding that they were made by and with the advice and consent of the Senate. He was just as responsible as if he had made an appointment by himself, without the assistance of the Senate. But, the selection of a fit and competent individual was of the highest importance, and, involved the greatest responsibility. No man would risk the popularity of his administration, nor his own reputation by nominating a man who would be likely to be rejected. On the contrary, he would be desirous to select such a man of good character and abilities as would stand the best chance of being appointed, because he would wish to be able to show the people, in case of his rejection, that he was not only worthy, but capable. Being prepared to give this account of the manner in which he had discharged his duty, his administration would, in consequence, become the more popular, prosperous and happy. But, should the Executive be unable to sustain his administration, by showing that his nominations were good, he would become unpopular. We know that Senators who acted upon nominations were responsible for their rejection,

the Executive would also consequently be extremely careful in making his nominations. Under our present system, however, he might be easily deceived and imposed upon—for he had no responsible advisers—men who might be expected to act honorably and uprightly, but had to get his information, frequently from quarters about which he knew little or nothing. If we might judge of the feelings and wishes of the people from the public press, then there could be no doubt that they desired that the Senate might have a share in the appointing of the public officers. Participating, as he did, in this belief, he would vote for the amendment.

Mr. BELL, of Chester, said that from the course which the debate had taken, the amendment which he had submitted had, in a great measure, been lost sight of. The character of the amendment was one of the highest importance. It was no less than a proposition to insert in the form of our Government a new feature—a feature having for its object to restrain and restrict the unrestrained and unrestricted power of the Governor of Pennsylvania. The proposition, it would be seen, involved a new principle; and he thought, that after the little consideration which had been bestowed upon it, it might be unwise and precipitate to act upon the amendment now. A variety of opinions had been given relative to it by gentlemen whose minds were unprepared, in a great measure, for the decision of legal and Constitutional questions. He did not know whether they were prepared to decide upon the proposition now, without further deliberation. If so, he was prepared to go on, though he must confess, that he would rather that the committee should rise, and that there should be more consideration given, and discussion had upon the subject. Mr. B. moved that the committee rise.

The question was then taken, and decided in the negative : ayes 48—noes 51.

Mr. STERIGERE, of Montgomery, said that this was a very important question, and ought not to be hastily decided. There existed no immediate necessity for acting upon it now. He renewed the motion that the committee rise.

Mr. M'CAHEN, of Philadelphia, hoped that the committee would not rise, until they disposed of the amendment.

Mr. EARLE, of Philadelphia, trusted that as the Convention were to have afternoon sessions, some business would be done. He presumed that every delegate had made up his mind on the question, and therefore they ought not to adjourn until the vote was taken on it. Gentlemen were already talking of adjourning in a few days, and before they had disposed of the important subject before us. He was very sorry to hear a motion made this morning for the committee to rise, before the usual hour of adjournment had arrived. He was determined, if such a motion should be made in future, to call for the yeas and nays, and every time it should be repeated. He hoped that we should not now adjourn.

Mr. STERIGERE, of Montgomery, said that he was as anxious as the gentlemen from Philadelphia county could be, to despatch the public business, but he did not think that much would be done by sitting here till seven or eight o'clock at night.

The question was then taken on the rising of the committee, which was decided in the negative.

Mr. STEVENS, of Adams, regarded the amendment of the gentleman from Somerset, as the git of the whole matter—one of the most important amendments likely to be proposed for the consideration of the Convention; but one that, he supposed the people had heard less of than any which had been yet brought forward. When there were so many gentlemen who wished to be heard on the subject, it seemed most strange to him that some gentlemen should be so anxious that the question should not be taken. It was the usual courtesy of deliberative bodies, to allow every gentleman an opportunity of expressing his sentiments. He hoped that rule would not be departed from here. The Convention were weary with these protracted sittings. Although the whole number of members of this body amounted to 133, there were only about 90 in their seats, at this time. He moved that the committee rise.

Mr. DICKEY, of Beaver, believed with the gentleman from the county of Philadelphia, that there was a majority present in favor of taking the vote at this time. He, therefore, hoped that it would be taken now.

He wished the Executive patronage to be diminished by taking away these appointments from the Governor, and placed elsewhere. The object was to give the appointments to the Executive and Senate.

Mr. STERIGERE and Mr. Cox having withdrawn their amendments, The committee rose, reported progress, and obtained leave to sit again, and,

The Convention adjourned.

TUESDAY, JUNE 13, 1837.

Mr. BROWN, of Northampton, presented a memorial from citizens of Lehigh county, on the subjects of banks and banking.

Mr. CURLL, of Armstrong, presented a memorial from citizens of Armstrong county, similar in its import, and

Mr. MAGEE, of Perry, presented a memorial from citizens of Perry county, similar in its import.

These memorials were all laid on the table.

On motion of Mr. COATES, of Lancaster, the Convention proceeded to the consideration of the following resolution, offered by him on the 8th inst.

Resolved, That this Convention will adjourn on the 26th instant, to meet again on the 17th October next.

The question being on the second reading of the resolution, it was decided in the affirmative—ayes 46, noes 43.

The resolution was accordingly read a second time, and the question being on agreeing to the same,

Mr. WOODWARD, of Luzerne, moved to amend the resolution, by inserting, after the words "twenty-sixth instant", the words "provided the fifth article of the Constitution shall have been passed through committee of the whole before that day".

Mr. DARLINGTON, of Chester, moved to amend the amendment, by striking out the words "twenty-sixth", and inserting "twenty-fifth", and striking out all the words after "instant", and inserting, in lieu thereof, the words "*sine die*".

Mr. EARLE, of Philadelphia, moved indefinitely to postpone the further consideration of the resolution and amendments. He wished the Constitution to be completed, before the Convention adjourned. He asked for the yeas and nays, on his motion.

Mr. MANN, of Montgomery, hoped the gentleman from Luzerne would so modify his amendment, as to include all the articles of the Constitution.

Mr. WOODWARD assented, and modified his amendment so as to read—"provided all the articles of the Constitution shall have been passed through committee of the whole by that day".

Mr. EARLE withdrew his motion of indefinite postponement.

Mr. DICKEY, of Beaver, renewed the motion to postpone indefinitely.

Mr. REIGART, of Lancaster, expressed his hope that the resolution would not be postponed. As the yeas and nays had been called, he was ready to vote on the question. The Convention was thin now, and in a few days many more might be expected to leave. The farmers are already leaving us. We may get through all the articles in the committee of the whole by the 26th. Members will come up to their work, when the day of adjournment has been fixed. He did not think it was proper to make a Constitution with only a hundred members or less present.

Mr. Cox, of Somerset, hoped the motion to postpone, would prevail; and he hoped and believed that members who talked so much about the desires of the people, would vote for the motion. He did not believe that the people anticipated that we should merely pass the articles through the committee of the whole, and then adjourn. The people had not asked this. They had sent us here to make such amendments as are proper, and if gentlemen will run away seeking for offices, and neglect their duty, let them settle it with the people. He hoped we should proceed to do what the people expected to be done, and prepare to submit the amendments at an early day.

Mr. DICKEY said the reason he had moved to postpone was, that if we are to adjourn as soon as we get through committee of the whole, the people will not be satisfied, because the business will be left in an imperfect state. There would be less objection after the second reading. Before the amendments are engrossed, we might go home, mix with our constituents, and come back with their views. So far he differed; therefore, with the gentleman from Somerset. But he now desired the indefinite postponement of the matter, and he hoped it would not be renewed until we are near the close of our business. The time which has been occupied in discussing questions of adjournment, would have enabled us to discuss the amendments.

Mr. SHELLITO, of Crawford, stated that he was a farmer, but that the people had sent him here to do something definite, and he would not consent to leave the thing in an unfinished state. Was there any gentleman disposed to vote to go home and leave the work undone? If we were to do so, we might expose ourselves to the ridicule of our constituents—but we should hardly obtain their respect. We should disgrace ourselves and the State of Pennsylvania, if we were to go home and leave the work undone, which the people entrusted to us to perform. He hoped we should not go home, until something satisfactory had been done.

Mr. CRALL, of Armstrong, stated that he came here to do the people's

business—that he was a farmer, and prepared to make personal sacrifices of every kind, except that of his health, in the performance of his duty.—He would, therefore, vote against all propositions to adjourn.

Mr. FORWARD suggested, that the gentlemen who were opposed to adjournment, had better vote it down. That would be the best way of getting rid of the motion. He should probably vote against adjournment. If it was true that gentlemen were leaving us, so as to make it necessary that we should have a call of the House every two or three days, let us know it. If there are forty or fifty members who will not remain here, let us know it. He was willing himself to remain, but if one third of the House was to be absent, the propriety of adjournment might become less questionable.

Mr. BONHAM, of York, was opposed to adjournment. He had anticipated that we should go on, and do the business we were sent to do. The minds of the people had become deeply impressed with the subject, and they were extremely anxious to know what amendments we are about to propose. The best way to quiet and satisfy them was to go on with the work. He was satisfied that the air of Harrisburg was as salubrious as that of any other place. We might get through by the end of July, and let the amendments be before the people at the October election. If we adjourn, and let the work lie over, it might not be settled for another year, and the people would be kept in a state of suspense all that time. He was in favor of indefinite postponement.

Mr. CUNNINGHAM, of Mercer, expressed himself in favor of a temporary adjournment. He had heard no reason to satisfy him of its impropriety. Gentlemen talk about what the people want. We have been here six weeks, talking about matters which the people have not asked us to meddle with. He had seen no evidence that the people were uneasy. They had been very well satisfied under this Constitution, and there was no uneasiness now. They had sent us here to see if we could propose any amendments to the Constitution—not to tear it to pieces, but calmly and deliberately to examine it. Would the people expect us to remain here through the hot summer months? Gentlemen could not do so with satisfaction to themselves. There are thirty members now absent, and we may expect as many to be absent for a month to come. The farmers will not stay, and we shall very soon have no others left here than lawyers, because they have nothing to do at home. He wished to vote at once on the resolution. It was generally understood in the country that there would be a temporary adjournment, and it was not a novel thing. The Convention which sat in 1789—'90, took a recess, submitted what they had done to the people, and then returned and completed their work. The people are not at all uneasy. Some gentlemen had declared they would not leave the ground until the Constitution was finished.—The people do not expect them to remain here to finish. They can get along very well with the present Constitution. They do not want us to tear it in pieces. If the gentlemen who had talked so much, had, a month ago, talked about what the people want, we should have got through by this time.

Mr. SMYTH, of Centre, would say a very few words to justify the farmers. It had been said the farmers would leave and go home. No doubt there were some who would. He was entirely a farmer. He left home

with the understanding, that he should do all he could to put the Constitution in a state, for the people to judge of the amendments to be submitted to them. Gentlemen said we should agree to make the amendments.—How can we, if we negative the motion to postpone? If we vote on the resolution, and vote it down, we shall have another to-morrow. Should the amendment of the gentleman from Luzerne be accepted by the Convention, it will force us to go through the articles by a certain time, and we shall do our business negligently. But if we go regularly on, and not waste our time on these resolutions of adjournment, we may get through properly. We postponed a resolution of this kind the other day, and he thought that had settled the matter. His neighbors would not let his grain suffer, while he was attending to the public business, nor did he believe that any farmer's grain would be left to suffer. The gentleman on his right, (Mr. CUNNINGHAM) said he had heard of no dissatisfaction. I, (said Mr. S.) have heard of some, because we have not done any thing. He hoped the farmers and mechanics would join him in repelling the charges made against the farmers. He was not afraid—his neighbors would not let his grain suffer. He would risk his health, and stay until the business was completed.

Mr. FULLER, of Fayette, was opposed to postponement, because it would merely delay the time, and similar motions would be again brought forward. If we pass the resolution as amended, Congress can rescind it at any time, and it would prevent other resolutions from being offered. He hoped the motion to postpone would be negatived, and that the resolution would be adopted.

Mr. DICKEY: Those who are opposed to adjournment, will, of course, vote for indefinite postponement, and those in favor of adjournment, against postponement. This subject was constantly coming up for discussion.—We did vote a resolution down the other day. He hoped those who are opposed to adjournment would vote for his motion to postpone.

Mr. AYRES, of Butler, expressed himself in favor of postponement.—He did not desire to have a kind of hypothetical resolution of adjournment hanging over us. It had been said that the farmers could not stay. It occurred to him, as far as the farmers had spoken on the subject, that they were prepared to stay, and do the business they were sent to do, as far as they may be able. It had also been said, that the Convention of 1790 had a recess, and thus allowed time to their constituents to approve or disapprove of what they had done, but he believed, if the matter were understood correctly, that the Convention of 1789–1790, did not meet for the purpose of preparing amendments to submit to the people. They had to examine for themselves, and to consult with the people, because their action was final and obligatory. But we are required to submit our amendment to the people, to see if they will adopt or reject them. He was in favor of indefinite postponement, and, as far as his health would permit, he was ready to remain until the Convention had got through the business. He knew the people had spoken about adjournment, but not before the work was matured. The act of Assembly speaks of adjournment as to place. He was decidedly opposed to adjournment, either temporarily, or *sine die*, until we had gone as far as we can go, unless the climate, which is at present favorable, should force us to leave, and then the people

would not be so unreasonable as to expect us to remain. He did not know why this hypothetical adjournment was to be held over us.

Mr. **HIESTER**, of Lancaster, said, as to his own feelings, he cared nothing about it, but he would like to have the question settled. If we refuse to postpone, we can, at once, come to a vote on the resolution.— If we can reject the motion, he would move so to amend the resolution, that the Convention shall take no recess. It seems to be the general belief that there will be a recess, and the farmers wish to know when. If there is to be no recess, the farmers will write home, and make their arrangements to have their harvests done. He thought it would be better to remain here and do the business. This mode of leaving business unfinished was a bad one, and he did not desire to leave it in that state.— If we go home our minds will become distracted, and we shall not be so well prepared to resume the business, when we return. This too is the busy season, and the people will not attend public meetings to express their opinions, and we shall, therefore, gain nothing in this respect. We shall come back no better informed. He hoped the motion to postpone would be negatived, and he would then move that we determine to take no recess, so as not to be troubled any more with motions for temporary adjournment.

Mr. **STEVENS**, of Adams, thought it would be better not to postpone, but to decide at once what should be done. He saw no reason for a temporary adjournment on account of the farmers. About thirty of them had left, and we who remain can go on. We who are left are made up of a sort of lawyers, doctors, retired farmers, and we are better here than at home. Some have gone away with leave and some gone without, and we can remain working here for our three dollars a day, while the others are at home. We can go along just as well as if we are all assembled. Those who think the Constitution ought to be reformed, remodeled, are a large majority here—full or thin—so let us stay and do it. If we stay we shall make the amendments which are inevitably to be made; if we go home, we shall be tormented by our constituents. To remain here will also be more economical to the country. Let us then refuse the indefinite postponement; vote down the resolution and go on with our business.

Mr. **CUMMIN**, of Juniata, said he did not rise to throw any light on the motion. He looked at the motion of the clock, which told him this resolution had occupied an hour in the discussion, and what have we done? A resolution has been offered fixing a day of adjournment. It has been a practice for weeks to offer resolutions of this character, and then there rises a debate which runs on divers matters, without any reasonable course or visible connexion. The motions to adjourn had gone further to retard the business of the Convention than any other motions which had been made, though many others had been made which have done their part in delaying it. How many resolutions have been offered without any expectation that the amendments they recommended will ever become any part of the Constitution. A great deal of time was wasted in this way, before we could reach the order of the day. If we go on, and take the Constitution article by article, and section by section, and leave all these resolutions about adjournment out of sight, we may get through our business. He hoped there would be no more such resolutions offered until we are through committee of the whole. He was a farmer, and had left three good

working hands to take care of his business, and, if he managed well, what he could carry from this place would pay them off. These motions have come from those who are not farmers. They wish us to go home and say that nothing has been done. Some gentlemen say there has been no complaint. If I might be permitted to read a letter I have in my desk, it would change the aspect of the matter. What is our course here? Morning and evening are wasted on an amendment, and the next day another amendment is offered, precisely of the same complexion. This is the regular conduct of a number of gentlemen; and, as I have said before, learned gentlemen who make these motions think it glory enough to have their names recorded on the journals, and sent forth before the world, generation after generation. Most of the day is generally spent in long speeches, and if gentlemen would but act up to what they say, we should be the sooner able to go home. When he saw such a waste of time as the clock shows he could not refrain from remarking it; he desired to remain here and do his duty.

Mr. DICKEY, of Beaver, said he did not wish to prevent a direct vote being taken on the resolution, if it was desired. He would, therefore, withdraw his motion of indefinite postponement, and ask for the yeas and nays on the passage of the resolution.

Mr. WOODWARD, of Luzerne, remarked that he had a word or two to say in regard to the amendment. He had said, some days ago, that he was opposed to any adjournment of the Convention until he should have seen what was likely to be done with respect to amending the Constitution. He still entertained that opinion. He could not consent to go home until he should be able to show his constituents that we have made some progress in our work. When the resolution was offered, he understood it to be the desire of many gentlemen that a temporary adjournment should take place. Although, as he had just said, he was opposed to any adjournment, yet he was willing to oblige the fifty-one farmers who were members of the Convention, and who deserved respect, and were considered to understand the wishes of the people, by voting for a temporary adjournment, should they desire it. He would, therefore, move to amend the resolution so as to provide that after the Convention should have gone through the material parts of the Constitution, they should adjourn. He was anxious that no adjournment should take place until we should have passed the various articles of the Constitution through committee of the whole. He would oppose the resolution, unless amended in that form.

Mr. HESTER, of Lancaster, said that from the tenor of the remarks of the gentleman from Luzerne (Mr. WOODWARD) he judged that he was in favor of remaining here till the business was completed; and wishing, himself, to ascertain the sense of the Convention on that subject, he asked him to accept his (Mr. H's.) amendment, if he was not willing to withdraw his own. He thought that the following amendment would test the sense of the Convention whether they desired to adjourn, or not.

"Provided, that the Convention shall not adjourn to meet either here or elsewhere, but remain here until they have finished their work".

Mr. CHAMBERS, of Franklin, could see no object to be gained by adopting the amendment, for it proposed nothing definite. What did it propose? To fix a day certain? No: but that the Convention should dispose of its important business before adjourning. But, were we not left in uncertain-

ty as to the period of adjournment, until that time expired? Undoubtedly we were. When it was proposed to adopt a resolution conditionally, we could not tell, with any certainty, when we were to adjourn. But, it was said by the gentleman who offered the resolution, that if we were not ready to adjourn on the 26th we could rescind it. What, then, did we gain by fixing the day of adjournment with this understanding? He agreed with the gentleman from Luzerne (Mr. WOODWARD) that we should get the several articles of the Constitution through the committee of the whole, if possible, before we adjourned temporarily, in order that our constituents might see the progress we had made with the work they sent us to do. But, if it should be found that we could not get through consistently with a due regard to the health of the members of the body, then he, for one, was prepared to vote for a temporary adjournment. At present, however, he was not inclined to vote for fixing a day definitely.

Mr. CURLL, of Armstrong, moved to postpone the further consideration of the resolution and amendment till the 20th inst.

The question having been taken on the motion, it was negatived.

And, a division being demanded, there appeared—ayes 48, noes 55.

Mr. HIESTER moved to amend the resolution, by striking out all after the word “provided”, and inserting, in lieu thereof, the words “the business for which the Convention has assembled, shall then be entirely finished”.

Mr. EARLE, of Philadelphia, asked for the yeas and nays.

Mr. BROWN of Philadelphia, said that the Convention were now, it would appear, going to fix the day of adjournment, although it was impossible to anticipate what might then be the state of the business before them. They were to adjourn, provided that they should get through with the first reading of the articles of the Constitution. He was altogether opposed to the resolution, because it was necessarily vague and indefinite. When we should have gone through with the first reading, we might take a recess, if it should then be deemed necessary; but not before. The gentleman from Adams (Mr. STEVENS) had yesterday spoken of the thin attendance of members; but he (Mr. B.) had no reason to believe that the Convention would be so thin again. On the contrary, he had reason to think there would be a pretty full attendance hereafter. He knew that several members had been unavoidably absent, but they would arrive this evening. He hoped that the Convention would proceed, without delay, to despatch the business for which they came. And, he regarded the fixing of a day of adjournment, as calculated to retard the progress of business.

Mr. HOPKINSON, of the city, said he did not think that the Convention could now, with any propriety, fix the day of adjournment. The Convention, almost from its very commencement, had exhibited a feverish and fretful impatience for adjournment. We knew that no small portion of our time had been spent in debating when we should adjourn. He should listen very reluctantly to any suggestion of private interest, or inconvenience, in relation to the business of the Convention. We came here to do a public duty, and in his opinion, it was paramount to any thing of a private character. When we accepted this important trust, it was not as a mere matter of amusement—not to be made subservient to our private convenience. Having undertaken a trust as great, and as serious as was ever committed to mortal man, it became our duty to execute it faithfully—for the

happiness of the people of this great Commonwealth throughout all time, was concerned. In competition with such duties, he did not like to hear gentlemen argue the importance of sowing a bushel of buckwheat. The farmers and lawyers had no right to talk of their crops, and their courts, as requiring their attention, while this business of the public was in their hands. Gentlemen before they came here should have examined and been assured that the public business did not conflict with their private interest; and if it did, they should have staid at home. But, having come here, and entered upon the discharge of their high and honorable duties, no private reason ought to be alleged why the Convention should adjourn. He approved of the suggestion of going through the business we had met to transact, and then adjourning. There was a reason in it which met his understanding and his conscience; but no reason of a private character could ever induce him to dissolve this Convention.

Mr. BROWN, of Philadelphia, moved that the further consideration of the amendment to the amendment, together with the resolution, be postponed indefinitely.

Mr. EARLE, of Philadelphia, asked for the yeas and nays, and the question being taken, it was decided in the affirmative, as follows:

YEAS—Messrs. Ayres, Baldwin, Banks, Barclay, Barndollar, Barnitz, Bayne, Bedford, Bell, Biddle, Bigelow, Bonham, Brown, of Northampton, Brown, of Philadelphia, Butler, Carey, Chambers, Chandler, of Philadelphia, Clarke, of Beaver, Clark, of Dauphin, Clarke, of Indiana, Cline, Cochran, Cope, Cox, Craig, Crain, Crawford, Cummin, Curll, Darrah, Denny, Dickey, Dickerson, Dillinger, Donagan, Dunlop, Earle, Farrelly, Fry, Gearhart, Gilmore, Grenell, Hastings, Hayhurst, Helffenstein, Henderson, of Allegheny, Henderson, of Dauphin, Hiester, High, Hyde, Kennedy, Kerr, Konigsmacher, Magee, M'Cahen, M'Call, M'Sherry, Merrill, Merkel, Montgomery, Myers, Nevin, Overfield, Pollock, Purviance, Read, Rogers, Russell, Saeger, Seltzer, Schaeetz, Shellito, Sill, Smith, Smyth, Sterigere, Stevens, Stickel, Swetland, Taggart, Todd, Weaver, Weidman, Young, Sergeant, *President*—86.

NAYS—Messrs. Brown, of Lancaster, Chauncey, Clapp, Coates, Crum, Cunningham, Darlington, Forward, Fuller, Hamlin, Harris, Hopkinson, Hout, Krebs, Lyons, Maclay, Mann, Meredith, Miller, Pennypacker, Reigart, Royer, Sellers, Serrill, Snively, White, Woodward—27.

Mr. AGNEW, of Beaver, moved that the Convention proceed to the second reading and consideration of the resolution offered some days since, by Mr. STEVENS, which was as follows:

Resolved, That this Convention will adjourn *sine die* on the 7th of July next.

The motion was lost.

SECOND ARTICLE.

On motion, the Convention again resolved itself into a committee of the whole, Mr. CLARKE, of Indiana, in the Chair, on the report of the committee to whom was referred the second article of the Constitution.

The amendment to so much of the report of the committee to whom was referred the second article of the Constitution, as relates to the eighth section, being again under consideration,

Mr. BELL, of Chester, said in the outset, and before he proceeded to give the reasons which led him to offer the amendment, he would call the attention of the committee to its provisions, which appeared to be misapprehended. He read the amendment, briefly commenting upon its several parts, and proceeded. It was much to be regreted that, at this stage, gentlemen should make objections to matters of mere form, instead of confining their attention to the merits of the proposition, and directing their arguments to the discussion of the principle it involves.

It was said by the gentleman from Beaver, (Mr. AGNEW) that here was not the place for the introduction of this amendment. But where, sir, (asked Mr. B.) could a provision, having for its object the limitation of the Executive power of appointment, be more naturally engrafted than on a section prescribing that power? Besides, the question of place was immeasurably subordinate to the question of principle, and he called on members favorable to a reform of the Constitution in this particular, not to permit themselves to be diverted from a decision of this all-important principle by objections such as these. He would tell gentlemen that we had just reached debatable ground. We now, for the first time, occupied the arena, in which the great question of reform was to be combated, and where it was to triumph or be defeated. Here was the field on which this battle was to be fought, and he called on gentlemen disposed to gratify the often repeated wishes of the people, to stand shoulder to shoulder, in the unflinching support of the proposed amendment; for he would assure them, that if we now fail in the attempt to get rid of the most objectionable feature of this present Constitution, we should find ourselves hedged round with difficulties which it might be found impossible to overcome.

He would now proceed to examine, somewhat in detail, but briefly, the several features of his proposition, and endeavor to answer some of the objections which had been urged against it. It would be perceived that he gave to the Governor the absolute power of appointing the Secretary of the Commonwealth, independent of the advisory action of the Senate. Was he asked why this exception to the general plan contemplated by his amendment? He would explain. It was clearly to be gathered, from an examination of the present Constitution and the history of its formation, that, in creating the officer now called the *Secretary of the Commonwealth*, the framers of the instrument intended to provide a mere recorder of the acts and doings of the Government; to be wholly independent of the Executive; taking no part in the administration of public affairs, further than to record them. In the Constitution he is not styled "Secretary of the Commonwealth", but simply Secretary; and the duties prescribed are chiefly those of a scribe. Looking at the officer in this character, it was entirely proper to make him independent of Executive favor. But in practice, the Secretary has assumed another and a more elevated position. He is now, emphatically, the Secretary of the *Commonwealth*; the confidential and official adviser of the Governor; the head of his cabinet, and, to borrow a European title, his prime minister. Upon the capacity and honesty of this officer may depend the success of the Governor's administration, and it would, therefore, be hard that he should not be at liberty to select this officer, untrammelled by the action of the Senate, a majority of which might be politically opposed to him. For the same reasons, it should be in its power to dismiss the Secretary whenever he deemed it necessary or proper. As to the Attorney General, it might be doubted whether he was an officer at all required in the administration of the affairs of the State. It was not necessary, however, now to discuss this question; but inasmuch as the reasons which existed for giving to the Governor the absolute power of appointment in the case of the Secretary, does not apply to the office of Attorney General, he should modify the proposed amendment by striking out so much of it as relates to the appointment of that officer.

Let us proceed to the examination of the next feature of the amendment, the proposed introduction of the advisory supervision of the Senate. Its object was to meet the demands of the people by restricting the appointing power of the Governor, in every instance, except one, where it should be found necessary to leave that power in the hands of this officer. Its tendency, too, is to increase the responsibility of the Executive in the exercise of this power. A Governor, who might be seduced into the appointment of an inefficient or dishonest man to office, where the merits and demerits were not to be subjected to searching examination, would hesitate long to submit to the Senate a nomination, which might call into question how far he was directed by purity of motive and uprightness of purpose, in exercising his power of appointment. Another reason was, that it would secure the selection of better officers. Every one is willing to acknowledge the importance of a respectable magistracy—or, as it was once denominated on this floor, *Squirearchy*, who exercise, for good or evil, a vast and immediate influence over the mass of the community. Why, sir, (said Mr. B.) how is the appointment of these and other officers now procured? The candidate carries round his petition, and begs the signatures of his neighbors. As few men have sufficient moral courage to decline compliance with such a request, urged by the applicant himself, names are easily procured, although the party may be notoriously incompetent to the discharge of the duties of the place to which he aspires. The petition thus signed is laid before the Governor, and if he be thus led into the error of making an improper appointment, he easily finds his apology in the list of signatures annexed to the petition, and thus divides his responsibility with hundreds of irresponsible persons. Nay, sir, this system of imposition has been carried one step further. It may, perhaps, be recollected by many gentlemen here, that not long since an individual, notoriously infamous, who was desirous of being appointed Justice of the Peace, borrowed the signatures attached to an old petition for a turnpike or railroad, and attaching them to his petition, actually cheated the Governor into granting him a commission of the peace. So gross was the fraud, that, at the next session of the Legislature, he was removed on the address of both Houses. But, sir, vest in the Senate the power of supervision, and you put an end to appointments fraudulently procured or carelessly made. In practice, every nomination would be referred to the Senator representing the district within which the appointment was to be made, who should be made to feel the full weight of the responsibility resting on him, and be thus constrained to act with extreme caution. If no other reason could be given for the introduction of this new feature into the Constitution, this reason would, sir, be of itself sufficient.

But the gentleman from Beaver (Mr. DICKEY) objects to that part of the proposed amendment, which deprives the Executive of the power of appointing to all offices created by law. Sir, (said Mr. B.) I heard the objection with surprise, coming as it does from a member who, I believe, acknowledges the necessity of reducing Executive patronage. Indeed, this is so universally admitted, that any argument to prove it, would be extremely superfluous. But, sir, has the gentleman reflected on this subject? Has he looked to the Constitution and the laws, in reference to this question? Does he recollect, that, perhaps, nine-tenths of the officers known in Pennsylvania, are the creatures of statutory provision? The

Constitution provides for but a limited number of officers; even your county officers and your Prothonotaries, Registers, Recorders, and Clerks of Courts, owe not their official existence to constitutional provision. They were known long before the revolution, and are mentioned in that instrument as already existing. Adopt then, sir, the idea of the gentleman from Beaver, and how much would he have done in carrying on the reform demanded by the people? Nothing, absolutely nothing.

But, sir, this part of the proposed amendment, has been misapprehended by other gentlemen. It has been said, that its object is to bestow the appointing power on the Legislature, in every instance where an office shall be created by law. But gentlemen have but to read the amendment, to disabuse themselves of this error. Its leading object is at once apparent. It is to get rid of that most objectionable feature in the present Constitution, which confers on the Executive the power of appointing to all offices created by law. Not that the Legislature is to appoint in every instance, although in some cases it would be convenient that they should do so; but that they should possess the right to say, who should exercise this power. And, sir, if you strip the Executive of his patronage, where are you to entrust the power to say who shall appoint to office thereafter to be created, if not with the representatives of the people? Can any man look into futurity, and tell us what new offices the exigencies of society may demand in all time to come, so that we may provide a Constitutional mode of appointment in every instance? It is unnecessary to answer. The prohibiting provision in the Constitution which denies to the Legislature the right to provide the appointing power, has long been felt as an evil in Pennsylvania. More than one effort has been made to get rid of it; but the language of this instrument is too explicit to admit success. The case of the Canal Commissioners is strongly illustrative of this fact. In 1829, the Legislature assumed the appointment of these officers. The then Governor, SHULZE, doubtless feeling the objection arising from the Constitution, put the bill into his pocket, and, declining to annex his signature, permitted the bill to become a law after the lapse of ten days. Sir, it was understood, that the Legislature arrogated to themselves this power, on the ground that a Canal Commissioner was not an officer, but an appointee—a truly nice distinction—one that strikes me to be without a difference. But the very next Legislature, feeling the force of the Constitutional injunction, repealed the act of their predecessors, and referred the appointment to the Governor. Thus the attempt to get a portion of the power out of the hand of the Executive, failed. This, sir, (said Mr. B.) is only one instance of the perpetual struggle which has been going on between a democratic principle and an aristocratic feature of our Constitution; and the question now presented to us is, whether we will perpetuate this feature—whether we will longer submit to the action of this most objectionable provision—or whether we shall give the people an opportunity of striking it out, by the adoption of the amendment proposed. Mr. B. concluded, by demanding the yeas and nays on the question.

Mr. AGNEW said, the gentleman seemed to misapprehend him in some particulars. He had stated the other day, that the second article was intended to organize the Executive department, and give the Governor his powers.

Perhaps he had not stated explicitly his objection to the amendment. It was this : that it introduces two officers—the Secretary of State, and the Attorney General—into the Executive article, thereby mixing it up with matters not properly belonging to it. The appointments of these officers ought, as he had before endeavored to show, to be provided for in the sixth article. In that section he would place all the subordinate officers ; and, as each officer would then come up separately before the committee, we could act upon the subject free from any embarrassment. He did not object to the amendment of the gentleman from Chester on any other ground.

Mr. DICKEY would, he said, claim the indulgence of the committee for a few moments in reply to the gentleman from Chester. He had said, that he preferred the report of the committee to the amendment, and he gave his reasons for it briefly, and not so so fully and clearly as he perhaps should have done. At the outset he would observe that, with the gentleman from Chester, he came here to strip the Executive of his patronage, but while he was willing to do that, believing, as he did, that it was in conformity with public sentiment and expectation, he was not disposed to confer this patronage on the Legislature. He would give to the Governor the absolute appointment and removal of one officer alone—and that was the Secretary of State—as this officer was the confidential adviser of the Governor, there was a propriety in giving him the appointment at will. But, in all the other appointments, which were not submitted to the people, he would require the concurrence of the Senate. But, by this amendment, the gentleman gives to the Legislature the power not only to create, but to fill offices, and also to fix their salaries. If the Legislature were to create and fill offices, at pleasure, and fix their salaries, without any check or control, what will be the result ? He was not for conferring so much power as this upon the Legislature. If the Legislature created officers and fixed their salaries, it would, he thought, be highly improper to give them the power also of filling them.

If the various propositions in respect to the mode of appointing some of these officers should be adopted—and he believed they would be—we should give to the people the election of Justices of the Peace, Prothonotaries, and the Associate Judges. The appointment of the Justices of the Peace, especially, he trusted would be given to the people, and not left to the Governor and Senate, as the gentleman from Chester had proposed. His proposition then, was this : to give to the Governor only one appointment at will—that of Secretary of State—and then to provide for the appointment of all other officers, now authorized by law, or hereafter to be created by law—and which are not elected by the people—by the Governor with the advice and consent of the Senate. He would give no appointments to the Legislature.

Mr. BELL here remarked that, in his proposition, he had provided that all offices, now authorized by law, should be filled by the Governor and Senate.

Mr. DICKEY : But I also ask the same provision in relation to offices hereafter created. He wished, he said, to have all officers, with the single exception of the Secretary of the Commonwealth, either elected by the people, or appointed by the Governor and Senate. The gentleman would give the Legislature the power of creating, and also of filling all

such offices as, in the course of time, and in the progress of population and improvement, it may become necessary to create, while he (Mr. D.) would give their appointment to the Governor and Senate. This was the difference between the gentleman's amendment and the report of the committee, although the gentleman had so eloquently called upon the friends to support his amendment he could not recognize in it the kind of reform that his constituents called for. The vote upon the amendment, whether it was for it, or against it, would be no test of the strength of the friends of reform in this body. He hoped we should first settle the mode by which every officer shall be appointed, who is recognized by existing laws.— That being fixed, we could then proceed to provide for the appointment of such officer as it may become necessary hereafter to create by law. As to the office of Secretary of State, that would be provided for in another place, and there was no necessity for adopting the gentleman's amendment on account of that appointment. He would go with the gentleman so far as he could consistently with his principles. While he was in favor of what had been termed "a judicious reform", he was opposed to hazardous experiments, which were uncalled for by the people.

Mr. STEVENS proposed as an amendment to the amendment which, he said, he hoped would be accepted as a modification, to add the following proviso: "when nominations are made of officers whose duties are local, only such Senators, as reside in the district where such officers are to exercise the duties of their respective offices, shall have a voice in consenting and advising to the appointment". If the gentleman would not accept the amendment as a modification, he would withdraw it, because he knew it would be voted down by the reformers. [Mr. BELL not accepting the amendment, it was accordingly withdrawn by Mr. S.]

Mr. STEVENS said, having reluctantly, but inevitably come to the mournful conclusion, that all the vital parts of this venerable and hitherto venerated Constitution of ours, are given over to immolation, as a sacrifice to the restless spirit of change which has taken possession of this Convention, I do not address you on this occasion with the hope of staying the hand of destruction which is raised against it; but simply to offer the reasons which, to my mind, are all-powerful for resisting the depredations which are making upon this article of the great charter of our rights. The amendment proposes two things: to take away from the Governor all agency in the appointment of all officers, except the Secretary of the Commonwealth and the Judicial officers; and secondly, to curb and restrain his action, by the supervision of the Senate, in the appointment of those which remain to him. I am opposed to both of these amendments to the extent proposed. I am willing and desirous of taking the appointment of all the county officers—Registers, Recorders, Prothonotaries, and Clerks of the courts—from the Governor, and giving their election to the people. I would not object to putting the Justices of the Peace into the same hands, if this would slake the burning thirst of the reformers. But I cannot, and my constituents will not, consent to go much further in mutilating and destroying a Constitution, under which we and they have found a full and perfect protection of all their civil and religious rights—of their lives, their persons, and the titles to their property. Experiments in Governments are dangerous things, when the lands and the houses, and the personal estate of a whole people, depend upon the

result. I am opposed to this amendment, not only because it proposes too great and radical a change, but because we can hardly perceive, and the people will scarcely know, the full extent of its operation. By the present Constitution, the Governor has the appointment of all officers under it, which are not expressly taken from him. The present amendment proposes to take from him all that are not expressly granted. What will be the result? How many officers now existing, and not enumerated in the amendment, will there be to be provided for by legislation? Can any of you tell? I presume not. There are certainly many. But if *you* cannot tell, how long will it be before the Legislature will discover and provide for them? How many omitted cases will arise after the most diligent scrutiny? How many imperfect executions of the duties of those offices will arise, in consequence of such omissions? How many questions of private rights will grow out of such imperfect executions of official duties? How many remedial laws will be required to cover the defects? And how many law suits to determine the Constitutionality of such laws, will have to be tried, to settle new questions arising under this amendment, before the people will feel safe in the enjoyment of their estates, which have grown up under and been protected by the present Constitution? Sir, I can see much; but my imagination cannot conceive the full extent of the confusion and distress, which we are likely to bring upon a happy and hitherto contented people.

If we were to enumerate those officers which the Governor should *not* appoint, and provide for their election, and give him the appointment of all other officers, whether now existing, or hereafter to be created—no omissions, no mistakes, no errors or difficulty could arise to create litigation, or unsettle the tenure of property. The extent of the change would be perceptible at once, and no occasion for numerous law suits, which, however profitable to counsel, are ruinous to clients. But why take the appointment of the heads of the departments, the Surveyor General, Attorney General, Secretary of the Land Office, and Auditor General, from the Governor? They are essentially a part of his cabinet. His own comfort, and the comfort of each of them, as well as the public interest require, that there should be perfect harmony, and unity of views and action among them. But, if you take the appointments from the Governor, it may, and probably often will happen, that he will be of one party, and entertain one set of principles, and they be of another party, and hold entirely opposite principles: discord and opposition must then disturb their counsels, and injure the interests of the State. If the appointment of the Canal Commissioners, or managers of the Public Works, is taken from the Governor, and given to the Legislature, it seems to me that the most injurious consequences must ensue. If the Legislature happen to be hostile to the Executive, they will elect Canal Commissioners who are his enemies also. Instead of harmony, and a friendly desire to aid each other in their several departments, the struggle will be, who shall do the other the most injury, and render him the most unpopular. And thus, our great system of Internal Improvements, instead of being managed with a single eye to the interests of the State, will become the prostituted weapon of a war upon the Government. It is far better to have less efficient public agents, acting in friendly concert for the public good, than to have abler but hostile men plundering the public to provide the means

and the instruments for carrying on a contest against each other, founded on personal hatred or political rivalry.

Why vest the power of appointment in the Legislature. *Their* legitimate duty is to enact laws, and not to appoint those who are to execute them. Sufficient inducements are now held out to them to make them swerve from the path of duty, without multiplying the temptations by placing the patronage of this great State at their disposal.

But why is the Senate to be associated with the Governor in the appointment of officers? Gentlemen tell us, that the Senators coming from different parts of the State, will have a better knowledge than the Governor can, of the candidates and their qualifications. I proposed to the gentleman, who offered this proposition, so to amend it, that when officers were to be appointed for particular districts, the Senators from those districts alone should have the power of confirming or rejecting the nominations. If the arguments of gentlemen, in favor of the advisory power of the Senate, were worth any thing, they proved the propriety of giving that power solely to those acquainted with the candidates, and whose constituents alone were to be affected by the appointment. But the reformers rejected the suggestion, and insist that the officers of the small and remote counties of the State, shall be filled by and with the advice, consent, and at the dictation of large and distant counties! If a Notary Public, Justice of the Peace, or Judge, is to be appointed for the county of Beaver, Butler, or Adams, instead of the Senators from those districts being allowed to control the appointment, it is to be taken out of their hands, and kindly dictated by the Senators from the large counties, from the city and county of Philadelphia, and a few adjoining districts. This would be rank tyranny and cruel oppression. Instead of having officers of their own selection, the small counties would be saddled with those who were obnoxious to them—probably the favorites of the demagogues of the large districts. This imposition upon my constituents I will protest against and resist.

The Governor and the Senate would either be of the same political party, or of hostile parties; if of the same party, the Senate would be no check upon the Governor, as there would be perfect concert before the nomination, and therefore, this supervising power would be useless. If they were of hostile parties, constant and bitter collisions would exist between them, which would greatly disturb the faithful discharge of their other duties.

Have we not a melancholy example in the late contest between the President of the United States and the Senate? The President nominated several officers, whom the Senate, whether right or wrong I will not say, rejected. In many of the cases the President refused to make other nominations; and, after the adjournment of Congress, appointed the same individuals to the same posts under some different form, or suffered the office to remain vacant until he could conquer the Senate. Instead of respecting their "advice and consent", and being guided by it, he declared war upon his refractory advisers; sent the proclamation to his host of servile office holders; brought the whole force of his immense patronage to bear upon the freedom of elections, until he so far corrupted, persuaded, and intimidated the people, as to triumph over what was intended to be, and whatever ought to be, an independent branch of the Government, and

rendered them his subservient and trembling tools ! Do gentlemen desire to see similar scenes acted in Pennsylvania ? If this amendment prevails, we may see it with every new election of Governor. The Senate will either prostrate the Governor, or the Governor the Senate. If nominations are rejected by hostile Senators, the Executive, from necessity or inclination, will single out the opposing Senators, and bring all his influence to bear upon their constituents to procure their defeat. In this war of extermination, the interests of the people will be forgotten, and trampled under foot. All that will be gained in allaying the bitterness of party, by taking the appointment of the county officers from the Governor, will be lost by this unnecessary amendment—this eternal turmoil between branches of the Government, which ought to feel nothing but kindness for each other. The Senate will become unfit for its legislative, and the Governor for his Executive duties.

With regard to Justices of the Peace, I am willing to make them elective by the people, although I cannot join in the denunciations against them as individuals, in which gentlemen have indulged. Some unworthy men among them there undoubtedly are ; but, the great body of them are men of great moral and intellectual worth.

To show the facility of procuring appointments at present, the gentleman from Chester has mentioned a case, where one obtained his commission, by taking the names from a turnpike petition, and attaching them to a recommendation for that office. The gentleman had not related all the facts of the case, or he would have found that there were other influences, stronger than the names to a turnpike petition. The candidate was a Mr. WALLACE, of Allegheny county. He sent the petition, with the turnpike list to it, to the Governor, in vain. He then wrote a letter to the Governor, who happened to be a Mason, setting forth his claims to office. He stated that " he was a good democrat ; had been a warm supporter of the Governor ; had done him great service as a judge of the election ; AND WAS A BROTHER ROYAL ARCH MASON ". This letter is on file, and was produced before a committee of the Senate. The Governor could no longer resist his oath—his secret oath was upon him ; he gave him the commission. If you wish to have pure appointments, drain dry this source of corruption. Prohibit that vile institution by your new Constitution, and then you will have done something to entitle you to the gratitude of the people.

But there is another objection to this amendment, which will be fatal to its acceptance by the people, in the present enlightened condition of the public mind.

All the deliberations of the Senate upon Executive nominations must be in secret. It will not do to investigate charges, which may be made against candidates brought before the Senate, without any agency of their own in public. It is not done so in the Senate of the United States.—Charges which may be there made, under official privilege, by personal malignity or political hatred, although entirely false, might seriously affect the respectability and happiness of individuals, and of families : the scrutiny must, therefore, be in secret conclave. But these secret tribunals, these hidden judgment seats, are unjust in themselves, and wholly inconsistent with the spirit of the age. What will be said by the constituents of those gentlemen, who are the professed detesters of secret societies,

if any of them should be found here building up this hateful secret tribunal?

But why do I attempt to stay the ruthless efforts of those who would tear up the deep foundations of that Government, under which Pennsylvania has so long prospered, and become great, happy, and respected?—Its fate is sealed. It is a doomed instrument. The destructives have possession of this Hall. This Constitution, which wise, modern reformers pronounced old, obsolete, and decrepid, is bound hand and foot, and delivered over to the uncircumcised Philistines; and it will inevitably be shorn of its locks of strength, unless the people come to its rescue.—But whatever may be done here, it is my duty, as it shall be my aim, to warn the people of the attempts now making to unsettle and confuse the laws which have so long protected them, that needy and desperate adventurers may fatten on the plunder.

This work of ruin seems not to be exclusively confined to one party. True, all the members of the *one* party, whatever might have been their views when they came here, now act in perfect concert in stabbing the Constitution. They cunningly enough suppose, that if this amendment prevails, they can always secure the spoils of office, either through the Governor or the Senate, as they may always fairly calculate on having one of them in their favor. For, when the burthens heaped upon the people by that party, become so heavy that they can no longer be borne, and their Governor is hurled from power, the Senate is not always also changed. Thus patronage being their object, they act unitedly. While many gentlemen of the other party, with an ostentatious magnanimity, and a childish simplicity, either from the mistaken dictates of conscience, or to show their perfect independence and freedom from party trammels, join them in their headlong course. The struggle here, therefore, is a vain one. But I have full confidence in a steady and disinterested people; disinterested as to the fate of parties, but deeply interested in the welfare of the State, and the protection of the lives, the liberty, and the property of its citizens. Send forth to them this mangled, mutilated, and deformed Constitution, and they will put their seal of condemnation upon it; and they will still live and prosper under the well tried charter which their wise and honest fathers left them.

Mr. BANKS said, that having come to the consideration of Executive patronage, one of the most important subjects that would be brought before us, he was much gratified at the manner in which the question had been treated. It was manifest from the remarks of the gentlemen from Beaver, Chester, and Adams, who preceded him, that they were extremely anxious that the committee should decide rightly in this matter. The gentleman from Beaver, in his proposition for an amendment, clearly showed his wishes in relation to appointment for office. The gentleman from Beaver, (Mr. DICKEY) in his remarks, declared his willingness to require the advice and consent of the Senate to all appointments, while he was unwilling that any offices should be filled by the Legislature. The gentleman from Adams departed from both of these views, and intimated his preference that the Constitution, in this respect, shall remain untouched.

Mr. STEVENS explained. I am desirous that the county officers should be elected by the people.

Mr. BANKS resumed: The amendment of the gentleman from Adams,

(Mr. STEVENS) had something peculiar in it, and he did not know what to make of it unless to use the language of a venerable Senator from Somerset county, it was intended to fox the amendment of the gentleman from Chester (Mr. BELL). The gentleman had withdrawn it however, and it perhaps was not intended for this purpose. The gentleman from Adams is unwilling that any of the patronage which the Governor now possesses should be taken away from him, unless it was, perhaps, the county officers: he supposed the gentlemen means the Prothonotaries, Registers, and Clerks. He had no objection to the gentleman from Adams entertaining this opinion, and he had no objection to any gentleman entertaining any opinion in relation to the appointment or election of officers which they may deem to be right, and as the gentleman had spoken of certain gentlemen conceding their political partialities for conscience sake, he had no objection that they should act on every subject strictly in accordance with the dictates of conscience. He was desirous of giving his views to the committee, and if they met the views of other gentlemen, it was very well, but if not he had discharged his duty and should be therewith contented. This was a grave and solemn question which was to be determined, as to how far the Convention should go in the matter of authorising a supervision of the power conferred upon the Executive in relation to appointments to office, and he was satisfied in his own mind that no gentleman who sits down and reflects upon it with that seriousness and anxious consideration which should be bestowed upon it, would have any difficulty in determining what conclusion he should come to. It was not a light and trivial subject, and it was not a matter which was to last only for a day. This Constitution has stood the test of years; it has stood the excitements and storms of forty-seven years, and as has been remarked frequently, the people have lived happily under it; they have enjoyed their civil and religious rights to a most unparalleled extent, without any one to molest, injure, or encroach upon them. That being the case, it is a grave and solemn matter as to how far we are to go in taking away the power now vested in the Governor, and vesting it in some other body. So far as he knew, and he had been observant of these matters for some years, there has not, generally speaking, been any abuse of the power conferred upon the Governor in this matter of appointment. The Governor being elected to the situation he holds by the people, and being a man of integrity of purpose, and desiring, as every one is supposed to desire, the welfare and happiness of the people, he is careful in making appointments to office. He knew it had been the practice with Governors of Pennsylvania, when members of the Legislature presented to them letters of recommendation for officers in their counties, Justices of the Peace, Judges and other officers for the Governor to say to them: gentlemen, if you are desirous that this man should be appointed, endorse this paper. I know nothing of his character, but, if you will give your names it will be some guarantee for his character. Well, when members of the Legislature impose upon the Governor, is he to be charged with a violation of his duty? or is he to be condemned for a dereliction of duty when he has taken all the pains in his power to ascertain the character of these men before they were appointed? But the Governor has been imposed upon in many instances, and the people have become dissatisfied in consequence of these impositions, and was it not right to make a trial of some other method of appointing officers? The

people, generally speaking, desire a change to be made in this particular ; and if this was not so, you would not see so many reformers on this floor. This matter of reform was not a matter of yesterday, but the people have been struggling for years to bring it about. It had been sought for years previous to the passage of the act of Assembly on the subject ; and when the people had the opportunity of depositing in the ballot box their votes on this subject they shewed a large majority of them were for reform ; but that reform, as he believed, to a reasonable extent. Not a reform to the extent which some wild and visionary theorists might desire to carry it, but a judicious reform. Now whether the Senate should have an approbatory power in this matter of appointments was to be reflected upon and determined here, because it had not been determined upon by the people. The people had not in any way in which he had any knowledge of, determined as to where the power of appointment or of supervising appointments shall be placed, consequently the Convention would have to determine where it shall be lodged. Well, sir, you know well the people have not determined where this power shall be lodged. Then the question is, shall this power be lodged in the Senate or shall it be given back to the people, and shall they elect all the officers provided for by this Constitution and the amendments to be proposed to it ? For his own part he was of opinion that the people would be satisfied, perhaps, better with lodging the power of approving the nominations made by the Governor, with the Senate than if they were given back to themselves. With relation to the judicial officers he was of opinion the people would be best satisfied with having them nominated by the Executive, and confirmed by the Senate ; but in relation to county officers, Prothonotaries, Registers, Justices of the Peace, &c., he believed they would prefer electing them. He would go for giving the Senate the confirming power to this extent, and he could see no evil which could arise from it. Previous to the adoption of the Federal Constitution, Congress had the power, and exercised the power of electing all officers, or nearly so. The Commander-in-chief of the army of the United States, General WASHINGTON, was elected by Congress, and all officers who held commissions in the army down to the Regimental officers, were elected. Dr. FRANKLIN, your first Post Master General, was elected by Congress, and he had conferred upon him the power of appointing deputies all over the Union. When the Convention met for the purpose of determining as to what kind of Constitution should be the fundamental law of the land, after all the experience which had been had in relation to the selection of officers ; and after all the lights which the system gave them as to the manner in which officers should be appointed or elected, they determined to confer on the President the power of nominating, and the Senate the power of approving or disapproving the nominations made. It seemed to him, then, that the question was as fully determined by the action of the members of the Convention of 1787 in relation to the Federal Constitution, as it ever can be. It was known then how the election by members of Congress was received, how it was judged of, and how it answered the purpose ; and it was found not to answer. They took the power of election from Congress and gave the power of appointment to the President in conjunction with the Senate, and how has it answered ? Has the Government prospered since 1787 ? And do the people complain now of the method of appointment ? Is there

any attempt now to call a Convention to shake off this power of appointment held by the President and place it in Congress? Certainly not, or we should have heard it; therefore, he believed the experiment of electing by the Legislature had been fully tried and disapproved, and the experiment of appointing by the President and Senate had been approved. That being the case, he had no hesitation in saying that, the safest plan to adopt would be to take from the Governor the absolute power of appointment and give to the Senate the power of approving or disapproving the nominations he may make. In the Convention of 1787, which framed the Constitution of the United States, a committee was appointed of five members to consider the propriety of connecting with the President some body to confer with him in case of appointments to office. Mr. RUTLEDGE of South Carolina, was at the head of the committee, and after full deliberation they reported that the President should have a privy council, to consist of the President of the Senate, Speaker of the House of Representatives, Chief Justice of the United States and heads of Departments, to advise with in all cases of appointments. This project was brought before the Convention and they discussed, deliberated upon, and finally rejected it, and the plan we have now was agreed upon. From the experience of the past, and from all the lights and knowledge we have on the subject, he could see no place better suited for a depository of this power than in the hands of the Executive and the Senate; give the Executive the nominations to office, and give the Senate the power of approving or disapproving.

As to appeals to the passions of members on this floor, it seemed to him they were entirely out of place. He knew it was a practice when we wish to get at the minds of those we address to appeal to their passions. He knew when it was desired to make converts we must reach the affections; and, consequently, it is the practice of every one who wishes to carry a point whether right or wrong, to make use of this kind of appeal to induce persons to come to their aid. These practices, however, should not here be resorted to; we should exercise reason, and throw into the common fund all the information we possess, so that the Convention might be able to determine what would promote the comfort, the welfare, and the happiness of the people of this great Commonwealth. He was desirous of having the views of every gentleman submitted to the Convention so that they might act understandingly; and he had no doubt other gentlemen were as desirous as himself to hear the subject fully discussed. We can then make up our minds as to what measure will conduce most to the happiness and prosperity of the people whom we represent.

Mr. SERGEANT (President) wished to say a very few words upon the proposed amendment, because it has been acknowledged by the gentleman who last spoke, that it proposed to introduce a new and very important feature into our Constitution, to which it is supposed we have some guide. But, perhaps, it will turn out on further examination, that we have no better light than our own understandings engaged in speculative theories will afford us. This amendment consisted, he said, of two distinct branches—he would pass over for the present, that part of it which relates to the appointment of the Secretary of the Commonwealth, and the Attorney General. The first branch was, that part which proposes to unite the Senate with the Governor in all appointments, and the other branch is that which proposes to give to the Legislature the power

to declare by whom certain appointments shall be made ; as to which more particularly, he should say a word hereafter. The first objection, which applied to both, was, that they went to blend the Executive and Legislative authority. The power of appointment is strictly Executive, because all officers are appointed for the purpose of carrying the laws into execution. Thus, then, the power of appointment was naturally, and according to the best authority they could obtain, a matter which belonged to the Executive. Certainly it does not belong to the Judiciary, and it does not naturally belong to the law making power. This was self-evident, and before we take a step of such importance as blending these two powers in any manner, we ought to consider what is likely to be the consequence. Heretofore, we have studiously endeavored to keep separate the different departments of the Government, and, especially, efforts were made to restrain the Legislature from exercising certain powers conceived to be judicial ; but now we have come to the question of conferring upon it, directly, powers, which strictly and appropriately belong to the Executive ; and the question is, whether it is likely, according to our notions of right Government, to conduce to the advantage of the Commonwealth, that the Executive authority should be placed in the hands of the Legislature directly or indirectly, generally or partially, or in any manner whatever. What is the argument in favor of it ? If we were to proceed to argue upon the facts as they are alleged, it would be a difficult matter to come to any satisfactory result ; because it would involve an examination of things about which we are not furnished with sufficient, nor indeed with any evidence, and along with which there would be required a considerable notice of individual conduct which might be unjust, and at best would give us but a one sided and imperfect view. You look only at the existing state of things, and point out whatever appears to be defective, and propose a change, not because you can give a better plan, but because the old plan is alleged to be objectionable. But we ought to look at both sides—to consider carefully whether the plan proposed is not more likely to be defective and objectionable than the existing one. In doing this, it was best and safest to abstain from the use of harsh terms in relation to any matter or any body. The gentleman from Luzerne had said yesterday, no doubt without meaning any reproach, that the Senate of the United States had been a factious body ; some gentlemen entertaining different views, might use equally severe language in relation to the Executive of the United States, and gentlemen would frequently use such language according to their particular political and party bias ; but that was no way of reaching the truth, and he proposed to avoid it altogether, as an insecure and irrational basis, and to argue this question on the ground of principle ; and with respect to the general view of both parts of the proposition, he would appeal to gentlemen to say, whether they think it is expedient now to begin with that mixture of powers which every one considered as erroneous and inadmissible in a well constituted republic.

In the absence of any thing like experience to aid us ; in the absence of argument to aid us, we have recourse to analogy. The advisory power of the Senate of the United States has been, therefore, held up to us as an evidence, that this thing is right in itself ; and, as an evidence that it has worked well in practice, in the Government of the United States, and therefore, the conclusion is come to, that it would work well in Pennsylvania.

Now, is there any analogy between the two cases? that is the first question, because, if there is not, then the argument falls entirely to the ground. It appears from the history of the Constitution of the United States, that there was a proposition brought before the Convention which framed that instrument, to give to the President of the United States, the aid of what was called a Privy Council. There are two sorts of Council, and we must distinguish between them. One was merely for consultation, a consultative Council, and another was such a Council as was proposed to be established here, with a controlling power. The King's Privy Council was a consulting council. NAPOLEON, in the plenitude of his power, had a council, and he admitted, in after years, that he derived great aid from it, but it was merely a consulting council. The Governor of Pennsylvania at present has, in effect, a consultative council, because he has the members of the Legislature, to whom he can refer, whenever he deems it proper to call for their advice and assistance. If he wishes to obtain local information, are not the members from those particular districts always able to furnish him with any information he may desire, without the aid of others; for, we all know that this question, with regard to appointments comes to be considered as a local matter, and it is deemed impertinent for any other persons to interfere with it, than those who are from the neighborhood. If an appointment was to be made in county A, it was deemed not to be a matter which belonged to county B, and that the members from that county should have nothing to do with it. Then, with regard to this consultation, we know, that the operation of the present Constitution gives the Governor the benefit of the aid of members from the particular districts, and as many more as he chooses to consult. But, now you propose to give him a controlling council; and, the argument in favor of it was, that there was such a council connected with the office of President of the United States. To see whether the analogy existed, he proposed to bring into view the construction of the Government of the United States, and see whether we could, or ought to apply the system practised upon there to our own Government. Were the Senators of the United States the representatives of the people, in the same sense as the members of the House of Representatives? Certainly not. The Senate was a representation of States, not a representation of the people, and an equal representation of States, without regard to the extent of their territory, or the amount of their population. The smallest State has as many Senators as the largest State in the Union; and, of course, the smallest State had an equal voice in the Senate of the United States with the largest.—How was this brought about? By compromise—a compromise arising out of the nature of the case, and agreed to, for the sake of union. It is true, that this Government was formed by the *people* of the United States, but they were, at the same time, from separate and independent States, and in both capacities, may be said to have conferred upon that Government certain powers. What was the plan upon which those powers were granted? Why, that there should be one great body chosen to represent the people; a popular representation, and that body was the House of Representatives. That there should be an Executive also chosen by the people of the United States, in a manner directed by the Constitution. This is the office of President. The Senate is the representative of the States, and has a two fold character—first, as a part of the law making power, and

next as a part of the Executive power, in regard to certain Executive duties, that is to say, the making of treaties and appointments to office.—That body, representing the States, is thus a part of the Legislature, and also a part of the Legislature. The reason of this is plain enough. The States of the Union have granted to Congress, the Senate and House of Representatives, the power of making war and peace, so that there can be no war made, without the combined action of first the representatives of the people in the House of Representatives, and then the representatives of the States in the Senate. Consider next appointments made by the President of the United States, and consider that they are all appointed within the States, so as to affect the relation between them and the Union, and that they all have some connexion with our foreign relations. In fact, you may say that every officer of the United States may have an influence upon those relations. The Senate is also, for the same reason, invested with a portion of the treaty making power. But, as to the appointing power—it is plain that they may all have an influence upon our foreign relations. Your Foreign Ministers, your Judicial officers, and your Executive officers, of every class and kind, act upon subjects which concern more or less the foreign intercourse; having to fulfil towards foreign nations the duties we owe to them by the laws of nations, that system of laws which governs a community of nations. The States, as States, chose to have a control of all questions of legislation, and, especially, the great questions of war and peace—and a control, also, of the appointments to office, which might so materially affect them. The Senate of the United States was, therefore, to a certain extent, made a part and portion of the Executive, whether wisely or not, it was not his purpose now to enquire, he thought, however, all the circumstances considered, it was wisely done. He would ask, then, where is the analogy between this Government and the Government of Pennsylvania? or where is the analogy between the Senate of the United States and the Senate of Pennsylvania? Was this State made up of counties, townships, or boroughs, which bear the same relation to the Government of Pennsylvania, that the States do to the Government of the United States; or have you any foreign concerns to be taken care of? What is the State Senate? It is a representation of the people, for the purpose of law making—a simple legislative body, and nothing else. It acts in conjunction with the House of Representatives in the passage of all laws, and is, in every respect, similar to the House of Representatives, excepting that the tenure of office of Senators is different, and that it acts in a judicial character in trials by impeachment. Now then, can any body tell wherein there is the least analogy between the Senate of the United States, and the Senate of Pennsylvania, excepting that the Senate of the United States has a part of the law making power. Is it not perfectly obvious, that there might be, and were, good reasons for giving a power of this kind to the Senate of the United States, when no such reasons exist in regard to the Senate of Pennsylvania? That analogy then entirely fails. Where, then, is the argument in favor of giving this advisory, or confirming, or controlling power to the Senate? Could any one assign a good reason why it should be given to the Senate, any more than to the House of Representatives, or both in conjunction? It is true, we may if we choose, as far the power of the Convention goes in deciding the question, take the power of appoint-

ment from the Executive and give it either to the Senate or House, or both; but, can any good reason be shown why it should be the Senate, rather than the House, or why the Senate rather than the two Houses in conjunction? There is more local knowledge in the House of Representatives than in the Senate, and where appointments are to be made for a particular county, there will be more representatives from the county in the House than in the Senate; because in the Senate, there are but thirty-three members, to fifty-three counties, consequently there must be many counties unrepresented in the Senate; at least there are many counties in which no Senator resides. If, then, it is local information you desire, for your advisory body, it ought to be the House of Representatives. If it be a controlling power that you want, can any good reason be given why the Senate should be taken instead of the House, or instead of the two in conjunction? Is not the House of Representatives elected for a shorter period, more promptly accountable, and by gentlemen's own argument, the deposite of the power there, would be bringing it nearer to the people. If it was legislation you wanted from the members, that was quite a different matter, because, he contended, that the longer a man is in office the more experience he has, and the better legislator he makes; but if you want local knowledge, a man who had been a hundred years in the Legislature could not give you any more than one who had just been elected for the first time.

He would now come to that part which gives the Legislature power to declare what appointments may be made and by whom they are to be made. Under this amendment he should think that the Legislature ought not to take the power of appointment into their own hands; because the natural reading of the words of this amendment would be that they may make the law declaring by whom the appointments are to be made, and generally speaking, under such an authority, they could not give the power of appointment to themselves, but he took it in its broadest sense, as he supposed it was meant, and they might introduce into an act of the Legislature a provision for the appointment of certain officers, and in the same law declare who should be appointed; which is vastly more objectionable than the other. Thus, with regard to certain officers, you will have given the power of appointment to the Governor with the control of the Legislature, but with regard to another description of officers you will have given to the Legislature the nomination and appointment both, and then, first or last, the whole appointing power is brought into the Legislature, unless, perhaps by another provision a small part are to be elected by the people. All appointments, then, are to be placed in the hands of the Legislature; the whole Executive power in effect is to be given into the hands of the Legislature. When we have reached this part of the case there are two questions to be considered. He was not now going to argue whether or not the Legislature would make good appointments, because it was a difficult question to argue. He could argue upon the authority of able writers and upon principle that these powers of government ought to be kept distinct; but as it related to this subject of appointments he was aware of the difficulty of arguing with any effect because at last it came to be a matter of opinion, perhaps of mere assertion, whether or not they would make good appointments. That was the first of the questions he had alluded to. But the remaining question here was this—will not the power

of appointment, vested in the Legislature, interfere with and dangerously affect the exercise of proper legislative authority? It was but a small part of the question to consider whether the Legislature will or will not make good appointments. The primary object of the Legislature is not to make appointments; but the great purpose for which they are convened is to make good laws. The less then that you connect any other duties with the law-making function the more sure you will be that the whole of their faculties will be applied to law making; but if you add these new duties you diminish their time and attention to be given to the making of laws. We see already, in some degree, how it works. You cannot have an election of Bank Directors without sacrificing a great deal of time belonging to other duties they have to perform, and causing much excitement, and intrigue. Introduce all the appointments here proposed and how much more time do you take up; and it is not only the time which it occupies, but it occupies a vast deal of attention, and excites a vast deal of feeling injurious to legislation. If those persons who, on particular occasions, present themselves to the Executive, and sue for favors from him, were to make their applications to the members of the Legislature, where would be the time for the business of law making for the Commonwealth? Suppose we were, at this moment, clothed with power to make all offices vacant and had done so, and were about to make new appointments. Suppose our doors were thrown open to receive the numerous applicants for office with their recommendations, and letters; and suppose as would be the case, every passion and feeling should be appealed to, social, and party, what would become of us? Just so would it be with the Legislature. Ought the Legislature then to be placed in such circumstances that they may legislate with a view to appointments to office, that they may alter the system of appointment, for example, because the Governor may not appoint those they wish; and alter the *system* that they may make the appointments, not perhaps for the better, but that they may have it in their own hands? Is there not danger in this! He did not wish to take up more of the time of the Committee, as he thought every man who reflected at all on the subject, must perceive that this plan would be attended with evil results. It would destroy all sound legislative faculty. For his own part from what he had seen of the elections of Bank Directors he was convinced that the more impassable you make the gulf between the exercise of legislative and Executive authority, the better chance you have for sound Legislation, which, after all, is the great concern, and, of itself, sufficient for the whole employment of the Legislature.

The committee then rose, reported progress, and obtained leave to sit again this afternoon, when

The Convention adjourned.

TUESDAY AFTERNOON—4 o'clock.

SECOND ARTICLE.

The Convention again resolved itself into a committee of the whole, on the second article of the Constitution, Mr. CLARKE, of Indiana, in the Chair.

The question pending, being on the amendment offered by Mr. BELL, of Chester,

Mr. CURLL, of Armstrong, said: Mr. Chairman—As I have learnt this morning from the remarks of the gentleman from Adams, that we have masters and judges to scrutinize our conduct here, I want, sir, the masters alluded to, I mean my constituents, not only to judge of my vote, but of a few reasons for it. I consider, sir, that we have at least got to the beginning of our work, to wit: on Executive patronage. This, sir, has been the principal ground, together with the tenure of appointment to office, of which the citizens of this State have complained for upwards of thirty years; and latterly, so much so, that the present body were elected, or a majority of them, at least, for this express purpose, together with other important considerations, which have sprung up under forty-seven years' trial of our written Constitution. It has been conceded on all hands, that the patronage of the Governor is too great; that it is a power and responsibility beyond that of the KING of Great Britain; that a salutary check ought to be put upon the facility with which incompetent and unworthy men, through party favoritism, acquire office from a Governor: And by combining the Senate with the Governor in the appointment of officers, especially Judges of our Supreme Court and Court of Common Pleas, appears to me, and I am persuaded will to a large majority of my constituents, the only proper mode we can adopt. The proposition, then, of the gentleman from Chester, comes in very apropos; and his arguments, and the arguments of my worthy friend from Mifflin, this morning, have, if any thing had been wanting to confirm my opinion, fully confirmed it. But, sir, what are the arguments of the opposition, or rather I might say, the conservatives? Why, sir, the learned gentleman from Somerset, on yesterday, brought in the scenes of the Senate of the United States, with respect to their rejection of Mr. VAN BUREN and others, whom the President had nominated, as an argument against the adoption of the amendment of the gentleman from Chester. To day the gentleman from Adams treads over the same ground, when up jumps our learned PRESIDENT, and flatly tells us, in the very teeth of his brother conservatives, that there is no analogy between the Senate of the United States and that of Pennsylvania; and then proceeded with a train of observations, in my view, to say the least of them, very unsound though calculated, perhaps, to lead the unwary from pursuing and perfecting the very work assigned them by their constituents. Why do these gentlemen labour with a zeal worthy a better cause, to deprive the mass of the community of amendments to their Constitution? If the Senate shall be connected with the Executive in making appointments, the people will be more choice whom they elect. All men I hope are not so corrupt as gentlemen seem to suppose. The Senate will have its own honour and some reputation as a stimulus upon all its appointments. Why, then will men who claim all the democracy, the exclusive friendship equal rights, and

the supremacy of the laws, make such an effort to continue in the Executive, a patronage which is the fruitful source of all the confusion and turmoil at our Governor's elections? If gentlemen are serious with regard to no changes in this matter, as well as the Judiciary, let them boldly affirm it. But let them not think, that they will either by low abuse, or by sophistry, drive a majority of the members of this body from the imperious duty they owe to their constituents, to the Commonwealth and posterity. For my own part, I go for the amendment of the gentleman from Chester, because I think it the best we can obtain; although I believe that some of my constituents would justify me in aiding to strip the Governor of all patronage. I am not, however, a whole figure radical; I am not for breaking down any of the fundamental principles of the Constitution; but only for tearing from that instrument every arbitrary power, and especially that which exalts a Governor of a simple Democratic republic above the monarch of Great Britain. But as much of the time of the committee has been already spent, I have only to add, that I trust all the true friends of reform will lay aside their little punctilios, and unite as one man, and test the true strength of this body with regard to all essential amendments.

Mr. FULLER remarked, that he had, during the whole time that he had had a seat on this floor, refused to vote for amendments which were uncalled for by the people. He did not consider, like the gentleman from Adams, (Mr. STEVENS) that this was uncalled for; on the contrary, he believed that this was one of the amendments which we were sent here to make. It had been argued, that a check upon the Governor's patronage would take away the responsibility from the appointing power, and that it would create a scramble for office in the Legislative Hall. He did not believe that the Governor would be less responsible while it added a new responsibility—the responsibility of the Senate—and thus the rights of the people would be doubly protected. There was an advantage of having a responsible adviser of the Governor. The Senators, coming from all parts of the State, would bring a personal knowledge into the Senate, of every candidate. But giving the Governor the uncontrolled appointment of officers, and not personally knowing the applicant, he would be obliged to rely on an irresponsible information. He might ask the members of the Legislature the character of the applicant, or the respectability of the signers to his petition for office, and they might give the information if they pleased, or not. The member is not responsible, and can say that the petition contains some good names, and that the petition of an opposing applicant contains an equal number; or he may give secret information which may operate to the injury of the candidate, and then shun all responsibility. If, then, the Governor can have no information which is backed by responsibility, he is obliged to judge for himself from the number of petitions, and, as has sometimes been said, by the weight of the petitions, as may appear without opening them at all. In this way, there was no certainty in having the best officers appointed—it is all chance, and the people become dissatisfied. Make the Senate the confirming body—make it the duty of the Senator who is chosen by the people from the very community in which the applicant resides, to give information; and the people, having an additional voice in the appointments, and a further security of their rights, will be satisfied. The Senate doors would be kept open, and the characters and qualifications of the candidates would be scrutinized, and men

who could not stand the test would not often suffer their names to come before the Senate. It had been objected, by one gentleman, that it would injure the character of the candidates. He thought that this was a security to the people, and that no man should apply for office who would shrink from investigation.

The PRESIDENT objects to the Senate as a confirming power, because the greater number of officers to be appointed will retard legislation, and carry political excitement into the Legislature. It was a complete answer to this to say, that the people expect that the county officers would be made elective, and then the Senate, not having as much business as the other branch, would have sufficient time to pass on the nominations of judicial officers and heads of department.

There was another reason which had great influence with him; and that was, the people of Fayette county had, in two successive years, held county meetings, and passed resolutions in favor of this principle. These he considered himself bound to obey.

It had been stated, that this was not the proper place. He did not know a better place, and consequently he should vote for the amendment. There were but three things which he believed the people of his district were anxious to have done. One was the reduction of the Governor's patronage, the limitation of the judicial term, and a restriction upon the granting of corporations. Whenever these questions came up, he felt himself called upon to carry out the wishes of the people. He hoped that he had not been considered out of order in any thing which he had said on this subject, by any member of this Convention; and more especially by the gentleman from Philadelphia county, (Mr. EARLE) for, although the Chairman has not at any time decided that he was out of order, yet he should be very unwilling to be so far out of order as to interfere with the long speeches, and many speeches, of any gentleman who may, from an overheated imagination, conceit, that the whole weight of the business and responsibility of this Convention is resting on his shoulders. Sir, (said Mr. F.) I should consider it doubly cruel in me to increase his burthen, by laying the weight of my finger on his load.

Mr. DENNY remarked, that on yesterday when he troubled the Convention with some observations, the debate was chiefly confined to the propriety of associating the Senate with the Executive, in exercising the appointing power. To-day, gentlemen in favor of the amendment under consideration, have brought into view, and discussed in connexion with it, the question of the Governor's patronage. This is the great subject of complaint. To reduce this patronage and divest the Governor of it, is what many desire in all parts of the State. The gentleman from Armstrong, (Mr. CURLL) and the gentleman from Fayette, (Mr. FULLER) both advocate this amendment upon this ground, believing that it is to take this power from the Governor. Sir, these gentlemen labor under a mistake, as to the effect of this amendment in divesting the Governor of the patronage so much complained of. It does not take from that officer the patronage now placed in his hands: but it does what is much worse: it leaves with him the patronage, but relieves him from much responsibility. The patronage is not diminished, and responsibility is divided. The amendment does not accomplish what the gentleman from Chester, (Mr. BELL) who introduced it, professes to have in view. Does not this proposition

still leave with the Governor the whole power—the sole power to *nominate*? The power to *nominate* rests no where else—it is exclusively his. No individual can be placed in office under this amendment, but through the Governor. Is not this patronage? It is true, the Senate may not confirm the confirmation: but they can neither nominate, nor appoint. No one can get into office against the will of the Governor; and so far as we can judge from experience elsewhere, the Senate would seldom differ from the Executive; so that the applicant who secures a nomination by the Governor, is almost certain of obtaining the appointment.

Mr. D. said he was for effectually diminishing the patronage of the Governor, by taking from him the appointment of the county officers throughout the Commonwealth, and restoring the choice to the people. Let the people elect these officers. This would tend greatly to remedy the evils complained of, as arising from that prolific source, the power now possessed by the Executive of bestowing office. The change proposed is not advocated on the ground of want of confidence in the Executive, nor of any abuse of this power by any of our Governors, but because of the excitements, the pernicious influence, and the commotions which are produced at our elections for Governor.

Gentlemen should take care in their eagerness to make some alterations which they may deem reform, in their zeal for introducing innovations upon the Constitution, that they do not lose sight of and violate sound democratic principles. The gentleman from Chester (Mr. BELL) has told us, that his amendment was intended to correct what he called an aristocratic feature in our Constitution. Its operation is entirely different; it strikes from our Constitution a prominent *democratic* feature, to wit: The direct responsibility of the Governor to the people, and substitutes one of a different character. It is sound democratic doctrine, that all appointments should be made either by the people themselves, or by persons chosen by them, and least distant from them. All appointments should be made in conformity, as nearly as practicable, to the *wishes* of the people: and what is equally important, in the exercise of this power of appointment, there should be preserved, scrupulously, a direct responsibility to the people, the source of all power. The amendment conflicts with these principles. Under our democratic Constitution, the power of appointment is vested in the Governor, who is the servant of the people, who derives his power immediately from them, and they have all had an equal voice in electing him. He will always endeavor to comply with the wishes of the people—to them he is immediately responsible for the proper exercise of the powers entrusted to him. Should he abuse this trust, and disregard the wishes of the people, he becomes at once exposed to their just reproaches, and may be visited with their indignation, and rejected from their confidence. It is, therefore, not only his duty, but his interest, to carry out the views of the people, and, being so near them, he cannot but feel his responsibility, and will act accordingly.

What does the amendment propose? It proposes to remove responsibility *from* the Governor to the Senate. Associate the Senate in this appointing power, and you interpose an irresponsible body between the Governor and the people—you introduce a shield to protect him from their dissatisfaction. The character of the organization of the Senate renders them irresponsible to the great mass of the people. Chosen in

separate and distinct districts, they feel no responsibility to the people composing the districts which they respectively represent. The Governor, chosen immediately by the whole people, feels that he is accountable to the whole and every portion of them, and they look to him as their agent. Under this amendment, should the people complain to the Governor of improper appointments, he could reply, I did nothing more than perform my duty in sending to the Senate the names of the individuals who had applied, or were recommended for office: it was the duty of the Senate to scrutinize their characters, and judge of their qualifications and integrity. The Senate is to be censured for advising the appointments.

All responsibility is virtually lost when divided among so many agents. A candidate may be named to the Senate in accordance with the wishes of the people in a particular district. The Senator representing it, may support and recommend the appointment, and yet the nomination may be rejected. One may be nominated to whom the people of the district may be opposed; the Senator may remonstrate against the appointment; yet it may be forced upon the people against their wishes, by individuals not selected by themselves, and irresponsible to them. The complaints and indignation of the people cannot reach them—they have no sympathy with that portion of the community, whose rights and feelings have been disregarded.

Much has been said by the advocates of this amendment, because it institutes a supervisory power over the Governor; but it takes away a more wholesome one, the supervisory power of the people. I am in favor of a power of this kind: it should always exist, but it should be lodged in the proper hands. The same reason which is urged for maintaining this supervision over the Governor, is equally applicable to the Senate. Nothing of the kind however, is provided for. The supervisory power of the people is withdrawn, and the Senate is to be erected into an irresponsible appointing power, independent of the great majority of those interested in its proper exercise.

Mr. BIDDLE, of Philadelphia, said that many of the gentlemen who had spoken on the question, had treated it as one in reference to the patronage of the Governor. Now, that was not the question before the committee, Scarcely a single gentleman had spoken against the amendment of the gentleman from Chester, (Mr. BELL) who was in favor of the patronage exercised by that officer. In addition to some of the objections he entertained, were some against the amendment itself. It provides that the Governor shall have the absolute appointment of no other officer than the Secretary of the Commonwealth, during pleasure. When the gentleman introduced the amendment, he included in it the Attorney General. Since that time, however, he had accepted an amendment, to dispense with that officer. The amendment further provides, (continued Mr. BIDDLE,) that "he (the Governor) shall nominate, and, by and with the advice and consent of the Senate, appoint all judicial officers whose appointment is not herein provided for". It then commits the Convention on two important questions—first, that the Governor shall appoint *some* judicial officers—and second, that he shall *not* appoint other judicial officers. On neither of these questions is the Convention prepared now to act. They have not been considered nor debated. The amendment next provides, that the Governor shall nominate to the Senate

all *other* officers appointed by law not therein otherwise provided for. But it is not yet settled what officers will be appointed under the sixth article of the Constitution, nor by what tenure such offices shall be held. Until this be settled, action on the subject is premature.

Mr. B. would not repeat the reasons which had been so ably set forth by the gentleman from Adams, and others, why they should vote against the amendment, but would merely say that they were sufficiently cogent and convincing to his mind, as with the other reasons he had heard, drawn from the amendment itself, to induce him to vote against it. It appeared to him that the Convention should go on to blend the exercise of the legislative and Executive powers in the same hands. Almost every one who had opposed the amendment, had expressed himself in favor of a diminution of Executive patronage. Appeals had been made to particular portions of the Convention. Such appeals were to be regretted. All here assembled were engaged in the discharge of responsible duties, and no patriotic object could be answered by drawing lines in this body, nor by creating party divisions.

Mr. CUNNINGHAM, of Mercer, observed that he had perceived there was a majority of the Convention disposed to make some amendment in the Constitution in regard to the appointing power, and the plan here proposed was to give it to the Governor and Senate. He confessed that it appeared to him that a great error had been committed, in vesting the appointing power in that manner. He was satisfied with the Constitution as it now was in this particular; and he was not aware that the people had ever complained. He maintained that under the Constitution of Pennsylvania the people of the State had been as well secured in all their rights and privileges as under any written Constitution that had ever existed. The gentleman from Armstrong (Mr. CURLL) had intimated that although he was not what might be called a "whole hog" reformer, that he and his party were the friends of the people. Now, he (Mr. C.) would not dispute that assertion. As, however, a change was expected, he would propose an amendment, which would, undoubtedly, suit the radicals; at least, it ought to; and that was to substitute the House of Representatives for the Senate, as the confirming power of the nominations of the Governor. The House of Representatives was much nearer the people than the Senate, and if local information was desired, the House ought to be substituted. He therefore moved to strike out the word "*Senate*", and insert "*House of Representatives*".

He would say now, as he had said before, that this amendment appeared to him to be more in accordance with the views of gentlemen who had spoken in favor of reform, than any other that could be proposed. He believed that the Chairman (Mr. CLARKE) himself had only a few days ago advanced some strong reasons why an amendment of this character ought to be adopted. He thought that gentleman then stated that the Senate ought not to have the power of rejecting, and he went on to argue, generally, that the Senate was a body too far removed from the people, which was not the case with the House of Representatives.

It had been objected to the present provisions of the Constitution that the appointing power was too far removed from the people. If that was the case, then why not give the appointing power to the House of Representatives—to the immediate representatives of the people. The gen-

tleman from Philadelphia (Mr. BROWN) said, some time ago, that he had lost all confidence in Senates, here, or in higher places. He thought, therefore, he should be sure of his vote for this amendment. The gentleman's colleague, (Mr. EARLE) who had been styled the Father of the Convention, would also, he was certain, agree with him that the appointing power, if altered at all, should be placed in the House of Representatives and the Governor. The House of Representatives was so numerous a body that it could not be so easily corrupted as a smaller body, like the Senate, upon which also the influence of the Executive would be brought more directly to bear than upon the House of Representatives. In the late struggles between the Senate of the United States and the President, which had been alluded to in the discussion, the Senate was defeated. Great efforts were made with the States to effect a change in favor of the President. If there was any extraneous influence which could not be brought to sway the Senate more easily than the House, he did not know what it was. He would say no more on the subject, except to express his hope, that those who were in favor of reform, will not take the appointing power out of the hands of the people, and place it in the Senate, which was further removed from the people than the Governor. He would only add, as a further objection to placing the power in the Senate, that he would not wish to see the Senators from Philadelphia dictating appointments of officers for his county, and the other western counties of the State, of whose local concerns they necessarily had little knowledge, and in whose affairs they could feel little interest.

Mr. BROWN, of Philadelphia, would certainly go, he said, with the gentleman for his amendment. He had said, it was true, that he had little confidence in Senates, and he had now still less, after the strong testimony borne against them by a gentleman who recently presided over the State Senate. He should go for the proposition. But he apprehended, that when we had got through the sixth article, and given the election of county officers to the people, there would be few officers left for the Governor and Senate to appoint. He was in favor of giving most of the appointments to the people directly, perhaps all, except the judges of the higher courts.

Mr. BELL expressed the hope that the question would be taken without further debate, for it was evident the proposition was resorted to as one of the ways of smothering it. The gentleman from Adams told us the other day, that there were two ways of reaching an object—one to march up to it directly; and the other, to approach it by indirect means. The proposition of the gentleman was so entirely out of the question, that it would not admit of argument.

Mr. EARLE would like, he said, to have the yeas and nays on the motion. He should vote for it himself, having more confidence in the House of Representatives than in the Senate, and he was glad to find the gentleman who offered it on such democratic ground. It was his wish to put a check on the action of the Senate, and he would prefer giving a negative on appointments to the House of Representatives. Gentlemen had made speeches about responsibility. What do they mean by the term? Let them consider the meaning of the word. It meant, as he understood it, an obligation upon a person to give an account of his actions, under some penalty. The gentleman says the Governor may

send in what nominations he pleases, without responsibility. This was a strange doctrine. Who ever heard it contended that the President was not responsible for his nominations of a Post Master General, or of a Minister to Russia, or any other officer. In this age of discoveries, this was the newest and most extraordinary discovery, that the Governor would not be responsible for improper nominations. The confirmation of an improper nomination by the Senate, would not justify the Governor in making it. More responsibility is created by making the Senate the advisers of the Governor, and requiring their assent to appointments, and the Governor's responsibility is not lessened by it. It was said that we have had very good officers under the present system, and the people have been happy, and the State prosperous under it; but he said there had been great complaints of bad appointments. The Governor was under the less responsibility for them, because he could throw the blame on his advisers at a distance. We could not tell who his advisers were, and it was always the excuse for a bad appointment, that the Governor was deceived by some one or other. But if we constituted the Senate or the House of Representatives as his advisers, we should remove any ground for this excuse, and we should know where to look for the source of bad appointments. We should have two branches of the Government responsible to the people for the appointments, instead of one.

Mr. STEVENS should, he said, vote for the amendment; not because he was in favor of it, but because it was in strict accordance with parliamentary practice, to vote for such amendments as would render a proposition odious. With this view, he should vote for the amendment, and against the proposition as amended. With the gentleman who offered this amendment, he thought the House of Representatives an infinitely more suitable body for the exercise of this power than the Senate. The House was composed of gentlemen from almost every county in the State, whereas only one half of the counties are represented in the Senate. We must give every county a representative in the Senate, or, by this proposition, we take away their right to be heard in the appointment of their own officers. How would it work with the large Senatorial district of Lycoming and Centre? That large territory had but one Senator, and, in relation to all appointments in that district, there would be thirty-two votes from those who had no interest in them, for one who had. The House too, was a more responsible body, for the Senators were chosen for three years, and in a majority of districts, were never re-elected. Four out of five, served but for one term. What kind of responsibility would the Senate be under? They would care nothing about their appointments, because they are certain of their office for three years, and are equally certain that they can hold it no longer, whatever appointments they may make. But the members of the House of Representatives, who are elected yearly, and who wished to come back to their seats, so soft and so clean, would be very careful what appointments they assented to. He would prefer that the Judges should be elected by the Legislature, to having them nominated by the Governor, and confirmed by the Senate. It would create less heart-burning dissensions and excitement. Then, too, there would be no secret contracts, no inquisitorial investigations of private character, but all the proceedings would be open.

Mr. BELL: I thought this amendment was offered in jest; but, as it appears to be pressed with sincerity, I ask the yeas and nays upon it.

The yeas having been required by nineteen others,

The question was taken on the motion of Mr. CUNNINGHAM, to strike out "Senate", and insert "House of Representatives", and was decided in the negative—yeas, 15; nays, 97—as follows:

YEAS—Messrs. Bayne, Bigelow, Brown, of Philadelphia, Cox, Crum, Cunningham, Dillinger, Earle, Henderson, of Allegheny, Hought, M'Cahen, Reigart, Stevens, Weaver, Weidman—15.

NAYS—Messrs. Agnew, Ayres, Baldwin, Banks, Barclay, Barndollar, Barnitz, Bedford, Bell, Biddle, Bonham, Brown, of Lancaster, Brown, of Northampton, Carey, Chambers, Chauncey, Clapp, Clark, of Dauphin, Clarke, of Indiana, Cleavinger, Cline, Coates, Cochran, Cope, Craig, Crain, Crawford, Cummin, Curll, Darlington, Darrah, Denny, Dickey, Dickerson, Donagan, Dunlop, Farrelly, Fleming, Forward, Fry, Fuller, Gearhart, Gilmore, Grenell, Hamlin, Harris, Hastings, Hayhurst, Henderson, of Dauphin, Hiester, High, Hopkinson, Hyde, Ingersoll, Kennedy, Kerr, Konigmacher, Krebs, Long, Maclay, Magee, Mann, M'Call, M'Sherry, Meredith, Merrill, Merkel, Miller, Montgomery, Myers, Nevin, Overfield, Pennypacker, Pollock, Purviance, Riter, Royer, Russel, Saeger, Scott, Sellers, Seltzer, Scheetz, Shellito, Sill, Smith, Smyth, Snively, Sterigere, Stickel, Swetland, Taggart, Todd, White, Woodward, Young, Sergeant, *President*.—97.

Mr. FORWARD submitted the following amendment to the amendment: strike out all after the word "pleasure", and insert "all other officers whose offices shall be created by this Constitution, or may be established by law, shall be appointed by the joint vote of both Houses of the Legislature, unless such as are otherwise provided for in this Constitution".

Mr. FORWARD said he had suggested, the other day, the propriety of suspending the action of the Convention upon the eighth section of the second article, for the present, but the Convention were disinclined to listen to the suggestion. He had done so, because he thought a proposition would be made to confer on both branches of the Legislature the appointment of certain officers, and it would not be a proper place to introduce a portion of those officers in the second article. From the indications he had seen, he hardly expected to carry this motion, and should content himself with calling for the yeas and nays.

The question was taken on the amendment of Mr. FORWARD, and decided in the negative—yeas, 38; nays, 75—as follows:

YEAS—Messrs. Agnew, Barndollar, Bayne, Bigelow, Bonham, Brown, of Northampton, Brown, of Philadelphia, Carey, Cleavinger, Cline, Craig, Crum, Darrah, Dillinger, Earle, Forward, Fuller, Gilmore, Grenell, Helffenstein, Hought, Kennedy, Kerr, Magee, Mann, M'Cahen, M'Call, Miller, Montgomery, Overfield, Purviance, Reigart, Riter, Rogers, Stevens, Stickel, Weaver, Weidman—38.

NAYS—Messrs. Ayres, Baldwin, Banks, Barclay, Barnitz, Bedford, Bell, Brown, of Lancaster, Chambers, Chauncey, Clapp, Clark, of Dauphin, Clarke, of Indiana, Coates, Cochran, Cope, Cox, Crain, Crawford, Cummin, Cunningham, Curll, Darlington, Denny, Dickey, Dickerson, Farrelly, Fleming, Fry, Gearhart, Hamlin, Harris, Hastings, Hayhurst, Henderson, of Allegheny, Henderson, of Dauphin, Hiester, High, Hopkinson, Hyde, Ingersoll, Konigmacher, Krebs, Long, Lyons, Maclay, M'Sherry, Merrill, Merkel, Myers, Nevin, Pennypacker, Pollock, Read, Royer, Russell, Saeger, Scott, Sellers, Seltzer, Serrill, Scheetz, Shellito, Sill, Smith, Smyth, Snively, Sterigere, Swetland, Taggart, Todd, White, Woodward, Young, Sergeant, *President*.—75.

Mr. AGNEW then moved the following, as a substitute for the amendment: "He shall appoint all officers whose appointments are not herein

otherwise provided for, subject to the qualifications and restrictions hereinafter declared”.

Mr. AGNEW did not wish by this amendment to interfere with the principle contained in the amendment of the gentleman from Chester, but merely to carry out the views of the matter he had taken yesterday when he had addressed the committee. He wished by it to retain the residuary appointing power in the Executive, and leave to the sixth article the arrangement of the different offices, and the manner in which appointments are to be carried out. This, he thought, would be getting rid of a difficulty which appeared to exist at present in relation to this question. It would merely be retaining the residuary power of appointment in the hands of the Executive, and when we come to the sixth article, we can take up the officers separately, and every gentleman would have the liberty of voting separately on each. Some gentlemen would be in favor of appointments of officers by and with the consent of the Senate, except in some particular instances, such as Secretary of State, perhaps; others might be in favor of only appointing the judicial officers by the consent of the Senate and by this amendment every gentleman would have the liberty of voting separately on those offices; and this would be getting rid of the difficulty of having so many questions to be voted upon together. For his own part, he could not vote for the amendment of the gentleman from Chester, on account of its embracing the Secretary of State; and because another set of officers to be created by the Legislature were to be left open for future determination as to the mode of appointment. He apprehended as the amendment now stood, the Legislature might create certain offices and say that the Governor should fill them or they might create offices and fill them themselves. Now this he considered improper and had introduced his amendment for the purpose of getting rid of this question which appeared to be so perplexing to the committee.

Mr. SMYTH called for the yeas and nays, which were ordered.

Mr. STEVENS said he should vote for this amendment, and if carried, he should then vote for the amendment as amended, because it obviated one great difficulty, that of leaving the appointment of a vast number of officers unprovided for which must lead to the utmost confusion.

Mr. FORWARD did not think that the phraseology of the amendment corresponded with the explanation the gentleman had given. As he understood the gentleman, he said that a qualification might be inserted in another article by which a concurrence of the Senate would be made necessary in appointments.

Mr. AGNEW explained that there were certain qualifications and restrictions in the eighth section upon the power of appointment which he did not consider in their right place, and he proposed to move them to the sixth article, and then make a general section relative to the restrictions to be placed upon the power of appointment, and with this view he had inserted in his amendment the words “subject to the qualifications and restrictions herein after declared”. You could determine also in that article what officers were to be appointed by and with the advice and consent of the Senate, and what officers the Governor should have the power of appointing. This he considered the better mode as the question would then come up on each officer as to the manner in which he should be appointed.

Mr. FORWARD said he was then not mistaken, in relation to the phra-

seology. This word, appointment, means an absolute selection; and would not be proper if the gentleman meant to connect the Senate with the Executive in any of the appointments. In the Constitution of the United States the word nominate is used, and by and with the advice and consent of the Senate, appoint. The meaning is, that the Governor shall in some case have the sole power of appointment, and that question they might just as well settle on the amendment of the gentleman from Chester as on the amendment of the gentleman from Beaver, he should, therefore, vote against this proposition in order to reach the amendment of the gentleman from Chester, so that we might get a decided expression upon this proposition which would put it to rest finally and forever. He was now prepared to vote upon this amendment of the gentleman from Chester, and he hoped the amendment of the gentleman from Beaver might be negatived so that they might meet the other question directly and have such an expression of the Convention upon it as might be relied on hereafter.

Mr. DICKEY said he also was prepared to vote. But he wished to remark that there was more in the proposition of his colleague (Mr. AGNEW) than the gentleman seemed to think. It contemplated leaving the mode of appointment to be disposed of under the sixth article, with the concurrence of the Senate or in any other way that may be decided on. The offices in that section may not be all provided for, and, if any should be created, the proposition of his colleague would be found useful. He himself thought it would have been better to leave this matter to be disposed of in the sixth article, because we could there tell better where the appointing power should rest, and to whom should be confided the appointment of the Comptroler of Public Works and others. In that point of view he did not think the amendment of his colleague was objectionable.

Mr. BELL said he was not at all surprised that his proposition met with opposition in such a variety of shapes. Gentlemen had racked their ingenuity to find a mode of defeating it. He was not surprised at this when he looked to the quarter from which this opposition came. It embraced a principle from which some gentlemen are disposed to recoil whenever it is presented to them—a principle which must now be settled, if we would not wish to see the scenes of the last two days re-acted here. He had this morning assigned the reasons which had directed his course, and he would not now recapitulate them, as he hoped they were within the recollection of the committee. He now only rose to brush away the cobwebs which had gathered round the perceptions of gentlemen, and to disabuse the minds of some who were favorably disposed towards his amendment. He did not expect that what he had to say would produce any effect on the opponents of his proposition, but it was to its friends that he addressed himself. One objection which had been made was to the word “judicial”, and some thought it was introduced here with a view to give the Governor the power to appoint these officers in the proper section. If any fears of this kind yet existed, he hoped they would vanish. It is a reiteration. Instead of reading—he shall appoint all officers—it will only read—he shall appoint all judicial officers “by and with the advice and consent of the Senate”; it therefore, cuts off all such judicial officers. What officers will be left for him to appoint? Justices? No. When we reach the proper article for the appointment of Judges of Courts, Justices, &c., you restrict him by designating a different course of appointment. Some gentlemen are desi-

rous that the Associate Judges shall be elected by the people. That will be deliberated on, when we come to the proper article. At present it is sufficient to restrict to judicial officers. There are some who would strike out judicial officers, and say—all officers whose appointment is not herein otherwise provided for? He considered the language of his amendment the most suitable. It was necessary that some general mode should be prescribed, and there are many officers whose appointments cannot come from any other source than the Governor. When they can be derived from any other source, it is pointed out. The Constitution provides no other mode. Was it not necessary there should be a general provision on the subject of appointment? Will any gentleman point out any mode in which every officer in the State of Pennsylvania, Inspectors of tobacco, lumber, flour, and all the other thousand officers whose uses are as multifarious as their names, can be appointed? It is impossible to point them all out in detail. If they are the creatures of statute laws, it is always in the power of the Legislature to change the mode of appointment—to take it away from the Governor and place it somewhere else. There is a desire in some gentlemen to descend to minutia, and to make provision for all emergencies. It cannot be done. The general power must be vested somewhere, and the residuum of power, or as the Constitution as it now stands, expresses it, such as “shall be established by law”, must be lodged in some one. It was objected by some that this was not the proper place for this provision. Some wish it to be in the sixth article, and that one provision shall suffice, Sheriffs, Coroners, and all the other officers in Pennsylvania. But we are here limiting the power of the Governor, not chalking out a whole system. We are prescribing certain powers; and this is the proper place.

Now he would ask, was it not perfectly proper, when we were about to divest the Governor of some of his inordinate patronage, that we should determine that in the creation of offices in future, who shall appoint the officers to fill them? And where could you lodge the power better than in the hands of the Legislature of Pennsylvania? How could we look into futurity in order to see the number of offices which the exigency of the moment might require? Let gentlemen carry back their recollection to the year 1790, and let them compare the population of that time with the number of offices and officers which then existed. How could gentlemen sit here in 1837, and guess what might be the number of offices which might be required 50 or 100 years hence? It was impossible, and consequently it was necessary to leave the matter open from the very nature of the subject. Where, then, he would enquire, could the power be better left than with the people, or what was the same thing, their immediate representatives—the Legislature. There was another objection which had been urged, and at which he would glance—

Mr. BAYNE, of Allegheny, called the gentleman from Chester to order on the ground that he was taking a very wide range—going into matters not immediately connected with the subject under consideration.

The CHAIR decided that the gentleman was in order, because he was merely adducing reasons why the amendment to the amendment should not be adopted.

Mr. BELL resumed: He understood that the gentleman who had called him to order was formerly a member of the Legislature. He was surpris-

ed that he should have called him to order while he was endeavoring to show why the amendment of the gentleman from Beaver should not be adopted. At the time he was interrupted, he was going on to observe that another objection had been made by the friends of this principle.— That objection was, that the proposed amendment does not include the latter part of section eight, in reference to disqualification. Now, the gentleman from Beaver was perfectly right, we were not speaking of officers generally—

Mr. Cox, of Somerset, (interrupted:) If the committee would rise—
Objections being made in various quarters.

Mr. BELL proceeded: We were now prescribing the duties of the Governor, and it was not necessary until they were fixed, that we should introduce an amendment of this sort with respect to the qualifications and restrictions in reference to the appointment of officers. He confessed that he was not at all surprised at the ingenuity of the modes devised to evade the proposition, because it presented a principle which the Convention must now settle, unless they wished to see the scenes of the last two days re-acted. The gentleman from Allegheny (Mr. DENNY) had said, and he had been followed out in the idea by the gentleman from Philadelphia, (Mr. BIDDLE) that the amendment instead of having the effect of restricting the power of the Governor, would tend only to increase it—that the only restriction proposed to be put upon the Governor was to subject his acts to the decision of the Senate. It had been contended, too, that the Senate was to appoint all the officers. Now, if the gentlemen had read the amendment carefully over, they would have found that it restrained the power of the Governor. To be sure, if gentlemen took it up and read one sentence and detached it from its fellow, they might arrive at such a conclusion.

Mr. DENNY, of Allegheny, explained that what he had said was, that as the amendment gave the sole power of nomination to the Governor, it therefore, did not diminish his patronage.

Mr. BELL said that he should like to put a question to the gentleman from Allegheny.

Mr. FORWARD, of Allegheny, moved that the committee rise, report progress, and ask leave to sit again.

The question having been taken, was decided in the negative.

A division being demanded, there appeared ayes 36, noes, not counted.

Mr. BELL rose and concluded, after making two or three observations, very indistinctly heard,

Mr. DARLINGTON, of Chester, moved that the committee rise. The question having been taken, was decided in the negative—ayes 39.

The question was then taken on the amendment of Mr. AGNEW to the amendment, and decided in the negative.

YEAS—Messrs. Agnew, Baldwin, Barndollar, Bayne, Biddle, Brown, of Lancaster, Carey, Clark, of Dauphin, Coates Cochran, Cox, Crum, Cunningham, Darlington, Denny, Dickey, Dickerson, Dunlop, Harris, Henderson, of Dauphin, Hout, Kerr, Konigsmacher, Long, Maclay, M'Call, M'Sherry, Meredith, Merkel, Montgomery, Pennypacker, Reigart, Royer, Russell, Scott, Serrill, Snively, Stevens, Todd, Weidman, Sergeant, *President*—41.

NAYS—Messrs. Ayres, Banks, Barclay, Barnitz, Bedford, Bell, Bigelow, Bonham, Brown, of Northampton, Brown, of Philadelphia, Clarke, of Indiana, Cleavinger, Cline, Cope, Craig, Crain, Crawford, Cummin, Curll, Darrah, Dillinger, Donagan, Earle, Farrelly, Fleming, Forward, Fry, Fuller, Gearhart, Gilmore, Grenell, Hamlin, Hastings,

Hayhurst, Helffenstein, Henderson, of Allegheny, Hiester, High, Hyde, Ingersoll, Kennedy, Krebs, Lyons, Magee, Mann, M'Cahen, Merrill, Miller, Myers, Nevin, Overfield, Pollock, Purviance, Read, Riter, Rogers, Saeger, Sellers, Seltzer, Scheetz, Shellito, Sill, Smith, Smyth, Sterigere, Stickel, Swetland, Taggart, Weaver, White, Woodward—71

Mr. COX said his friend from Chester was desirous of addressing the committee, and afterwards he proposed to speak himself. He moved that the committee rise.

Mr. SHELLITO said we were not nearer the question than we were last night.

Mr. MEREDITH said that courtesy to the gentleman from Chester required that he should be allowed a proper opportunity to speak on the subject.

Mr. FORWARD said this was one of the most important questions we should have before us, and he hoped that all would be heard who were desirous of speaking upon it.

Mr. AYRES : There is not half a house here. It would be very wrong to take the question to night.

Mr. EARLE : I trust there will be no further delay on so simple a question as this. The people decided it long ago. Gentlemen who wish to be heard upon it can speak on the second reading, as they sometimes say to us.

Mr. BANKS : As I have had the honor of addressing the committee this morning, I hope other gentlemen will not be deprived of expressing their views upon it. There has been no waste of time on the subject yet, and will not be, if we take another day for it.

Mr. EARLE : I am willing to sit here and hear gentlemen till nine o'clock.

The committee, after some further discussion, rose, reported progress, and asked leave to sit again, which was agreed to ; and

The Convention adjourned.

WEDNESDAY, JUNE 14, 1837.

Mr. COATES, of Lancaster, presented a memorial from inhabitants of Susquehanna county, praying that the sixth section of the ninth article of the Constitution may be so amended that, in all questions affecting life or liberty, the right of trial by jury shall be extended to every human being, which was referred to the committee on the ninth article.

Mr. COPE, from the committee of accounts, made a report, which was agreed to.

SECOND ARTICLE.

The Convention again resolved itself into committee of the whole on the second article, Mr. CLARKE, of Indiana, in the Chair.

The amendment offered by Mr. BELL, of Chester, to so much of the report of the committee as relates to the eighth section being under consideration,

Mr. DARLINGTON, of Chester, rose to address the committee. He felt

grateful, he said, for the indulgence which the committee had granted him, in allowing him to postpone until this morning, the few observations he proposed to make on this important question. He would endeavor to repay the kindness by making those observations short, and by occupying as little of the time of the committee as possible. The amendment presented two distinct questions, both of vital importance, and demanding the candid deliberation of the Convention.

First: Whether the sole power of appointing judicial officers shall be taken from the Governor, and vested in him in conjunction with the Senate; and

Second: Whether we shall take from the Governor and vest in him jointly with the Senate, the appointment of all officers to be created hereafter.

The first question was presented distinctly by the report of the committee to whom this article was referred; and he begged leave now to advert to that report which had been mainly lost sight of in this discussion. The existing Constitution provides that the Governor "shall appoint all officers, whose offices are established by the Constitution, or shall be established by law, and whose appointments are not herein otherwise provided for". The report of the committee proposes to change the existing provision, and to make it read—"he shall nominate, and by and with the advice and consent of the Senate, shall appoint all officers", &c. Here is a distinct question presented to our consideration; and, in the observations I made the other day, I stated the doubt which suggested itself to my mind as to the propriety of voting for that report. I have now, on subsequent reflection, satisfied myself that I cannot give my consent to this part of the report of the committee. It is a change uncalled for by my constituents; new, untried, sustained by arguments founded on an analogy to the Constitution of the United States, not applicable to our institutions, experimental, and of the effect of which we can have no knowledge. Not being able to add any thing to the able arguments which have been already brought forward against the report of the committee, I will refrain from taking up the time of the committee on that branch of the subject. There is a distinct opinion in the majority of this body adverse to my opinion, in favor of giving to the Senate a controlling influence in these appointments; and this may be carried into effect by rejecting the amendment of my colleague, and adopting the report of the committee, which reads thus—"he shall nominate, and, by and with the advice and consent of the Senate, shall appoint all officers", &c. This I believe to be the opinion of a great majority of this Convention.

The second question is, in effect, whether you will vest in the Legislature the appointment of all officers to be created hereafter. This is a distinct question, and ought to be kept in the view of the committee. The object of the mover is distinctly stated—to strike out the words "*to be established by law*". On this question, he had hoped the committee would have been called on to act separately. The distinct object of the mover is to take away from the Governor the appointment of all officers to be appointed to fill offices created by law. There is as decided an opinion in this committee against giving this immense power into the hands of the Legislature, as there is against confiding it to the Governor. He was opposed to the blending of these propositions. They ought to

be kept distinct and separate ; we ought to vote separately on each, and test each of them according to its true merits. What does the amendment propose ? It embraces more than ought to be included in any one proposition. It proposes that the Governor shall appoint a Secretary of the Commonwealth and an Attorney General during pleasure. Why are these officers of the Commonwealth introduced ? In the fifteenth section of this article, provision is made for a Secretary, and his duties are prescribed. Why has it been taken from that section and introduced here ? What is the reason for this transfer ? It is this—this proposition is introduced here in order to get votes for the amendment, which the other propositions contained in it, would not, in a distinct form, be able to command. He did not intend to throw blame on the mover of the amendment, but, he would enquire if it was not practicable so to distinguish the propositions as that a vote might be taken separately on each, and the merits of each thus tested. Why could not the committee pass now on the other part of the proposition, and leave the decision of so much as refers to the Secretary of the Commonwealth until we reach the section to which that subject properly belongs ?

What is the next proposition presented by the amendment of my colleague ? It is, that the Governor " shall nominate, and by and with the advice and consent of the Senate, appoint all judicial officers, whose appointment is not herein otherwise provided for ". Why is the question introduced here as to judicial officers, when it is well known, that in the appropriate article, the provision for the appointment and tenure of those officers, will come before the Convention in its proper order ? In the fifth article, we shall have to prescribe the mode, as well as the tenure of appointment. The article which relates to the judiciary is the appropriate place for all provisions in relation to the officers of that branch.—Why, then, has this subject been introduced here, except for the purpose of making the amendment more palatable to those who would be disinclined to vote for the objectionable part standing alone. There is another point to be taken into consideration. Before we terminate our labors, we may prescribe for the appointment of other officers than such as are judicial. We may determine that there shall be an Attorney General. There is no mention of such officer in the present Constitution, but, it might be thought expedient to provide for such an officer hereafter, and, in that case, how is he to be appointed ? There would be no power vested in the Governor to make such appointment, or to appoint any other than judicial officers, if there are no provision introduced for that purpose. So also, as to a Comptroller of Public Works. The amendment provides that the Governor and Senate shall appoint all judicial officers ; and therefore, he has no power to appoint any others. The Governor cannot appoint a Comptroller of Public Works, if we should think it expedient hereafter to create one, because, there is no power of appointment vested in him in any part of the Constitution. But these are matters merely presented for the consideration of the committee ; and if any mode can be devised by which the question may be taken on each part of the amendment singly, so as to test the separate merits of each, I shall be satisfied.

To return then to the point from which I set out. The proposition to vest in the Legislature the power to say who shall fill the offices they may create, is to me the most objectionable feature which could possibly

be introduced into the Constitution. It is a principle entirely new to the Constitution of Pennsylvania; and, he trusted, before the Convention shall decide on its introduction, sufficient arguments would be adduced to satisfy the people of its propriety, for they would require some good reasons to show that it was founded on a just and republican principle. Is such a provision to be found in the Constitution of any other State in this Union? I am not informed of it, if it be so. And such is the ingenuity and research of those who advocate this new feature, that if there was any thing like it in any of the other State Constitutions, they would assuredly have brought it before the view of this committee. I consider the principle of vesting in the Legislature the power of making laws by which offices are created, and also the power of filling those offices as a union of the Executive and Legislative functions, which is at war with all sound principles of Government. Will you all allow the Legislature to create innumerable officers at their will? If so, I defy you to put them out, when once legislated into existence. Will you allow the Legislature to create the offices, and then to say how they shall be filled? Will you not keep the Executive and the Legislative departments of the Government separate and distinct, as they are kept in every other State? It has been said that the provision does not make it obligatory on the Legislature to take into their own hands the filling of these offices. True, it does not. But the Legislature may do so: they may exercise the power, if they think fit. A Legislature may consider no other branch of the Government so competent to fill the offices, and may, therefore, carry out the principle by filling the offices themselves. If they did not do it themselves, they might depute the Governor and Senate to fill the offices: or, they might delegate the duty to the House of Representatives, by and with the advice and consent of the Governor—the very principle which you but yesterday repudiated—or they might determine that the offices should be filled by joint ballot—a principle which you also rejected yesterday. I object to holding the matter at such loose ends. What have we not heard, since the commencement of the session, against the encroaching power of the Legislature? Have we not been told that it is the strongest arm of the Government, and that it is calculated to swallow up the power of the Executive and the Judiciary? Have not applications been made to us to impose restrictions on this branch, for the purpose of curtailings its dangerous powers? Such was the object of the argument delivered by the gentleman from Philadelphia, (Mr. INGERSOLL) on the subject of the distribution of powers. And are you now disposed to vest in that Legislature, whose power you have already began to view with alarm, other and enormous and unheard of powers, in addition to what they already possess? I hope this committee is not prepared, one day, to vote that this Legislature are in the possession of too much power, and, in the next, to place additional power in their hands. One of the strongest arguments brought forward by my colleague, was that the people had demanded a diminution of the power of the Executive. How far does this requisition of the people authorize us to go? Is there any diminution called for, except that the appointment of the county officers shall be taken from the Governor, and vested in the people? On no other than this point has there been any decided expression of the wishes of the people. There had been no positive expression of the decided

opinions of the people, in reference to the diminution of Executive power, further than this. There is one portion of the State, at least, which desires no such diminution of the power of the Executive, as that which is proposed by the amendment of my colleague. If there has been no such expression of the will of the people on the subject of diminishing the power of the Executive, beyond what I have introduced, far less has there been any desire expressed by the people for the increase of power to be vested in the Legislature. Whence was the idea derived that the diminution of the power of the Executive is to be connected with the increase of the power of the Legislature? Has there been, among the people, any mouth open in favor of such a proposition? Not one: there has not been a single instance within my knowledge of any expression of public opinion in favor of giving to the Legislature the additional power contemplated by this amendment. I may add, that there is a disposition, on the part of the people, to curtail the power of the Executive so far as regards the appointment of Justices of the Peace; but is it for the purpose of vesting this power in the Legislature? Certainly, it is not. We have already made a call on the Secretary of the Commonwealth for a list of the officers of this Commonwealth. We have not as yet been furnished with the list, for which I am sorry, as I should have derived much aid from it. Among the almost innumerable officers in this State, it will be found that about nine tenths are called into office under particular laws, and not by any Constitutional provision. Where do we find the authority for the appointment of the officers of the port of Philadelphia, for the Health officers, for the Auctioneers? Whence do all the host of other officers scattered over the State derive their authority, if not from law? The laws are repealable; and the very first Legislature under the new Constitution, if we get a new Constitution, may repeal all the existing laws, and, under a different Governor, vest in themselves the same power of appointing these nine tenths of the public officers. They who hold under the laws are under the control of the Legislature, and it is for the Legislature to say if they shall be appointed or not. I apprehend there has been no expression of public opinion in favor of any such change as is contemplated here; and I beg leave to call the attention of the committee to this fact, as a sufficient reason for the vote I shall give, that no such change as this is desired by the people of my district. Other gentlemen may have different views of what their constituents require. It is not for me to enquire if the voice of the constituents of my colleague has called for such change. But I will refer my colleague, and the gentleman from Mifflin, to the fact, that in the district they in part represent, so far from there having been an expression of public opinion in favor of restricting the Executive patronage, there was given an aggregate majority of four thousand two hundred votes against calling a Convention. But when the voters of Delaware, Chester and Montgomery together, have cast such a majority against a Convention at all, I am at loss to find any argument in that fact, that the people of that district are in favor of any such change. There is nothing in that to satisfy me that I ought to overthrow the provision of the present Constitution, for the purpose of substituting in its room, a principle untried, of doubtful effect, and contrary, as I deem it, to all sound rules of Government.

I shall hold myself bound to vote against the latter part of the amend-

ment, because I hold it to be not founded on just principles, nor called for by the people. I shall, also, vote against the report of the committee. I will bring back the committee to the recollection of one fact. This report introduces as part of this appointing power, the controlling influence of the Senate. I think it better by voting against this amendment, to bring that distinct principle before the committee. The amendment presents another branch of the question, which I should wish to vote upon, also, as a distinct question. I will say, in conclusion, that I cannot but deprecate the appeals to party, which have been made more than once. I think it wrong to make appeals to the radicals, to the democratic party, or to any party. The arguments by which this amendment is sustained ought to be addressed, not to the democratic party only, but to the reason of men of all parties. I hope the arguments of gentlemen will hereafter be addressed to the sound sense of every member of the Convention.

Mr. WOODWARD said: Mr. Chairman: It will be recollected by every member of the committee of the whole, that I was desirous last evening of taking the question on this amendment without further debate, and I voted twice against the rising of the committee. I was induced, however, to yield my opposition to the rising of the committee, by the desire expressed by the delegate from Chester (Mr. DARLINGTON) to be heard on the subject. It will also be recollected that during the debate yesterday, many more speeches were heard in opposition to the amendment than in favor of it. Under these circumstances, sir, I do not feel that any apology is due from me for asking the attention of the committee to some views and considerations in support of the proposed amendment.

Sir, I was struck with the good sense and propriety of the remark, made yesterday, by my friend, the mover of this amendment (Mr. BELL) that we had now arrived at a point, where it became necessary to decide a *principle*—and that our attention ought not to be diverted from the principle by any mere question of form. I have no hesitation in declaring that the amendment may be improved in matter of form, and ought to be somewhat modified in matter of substance, but, sir, I choose for the present, to regard the important principle involved in the amendment, and leave the shaping and moulding of that principle to the Convention on second reading. What is the great object proposed by the amendment under consideration? It is the restriction of Executive patronage by requiring the Senate to advise and consent to the appointments by the Governor of the chief officers, whose appointments are to be left in his hands. This, sir, I regard as one of the main objects for which we were convened.

The gentleman who had just taken his seat (Mr. DARLINGTON) advertising to the support which his colleague (Mr. BELL), and my friend from Mifflin (Mr. BANKS), have given to this amendment, referred those gentlemen, with something of an air of triumph, to the fact that the joint vote in their respective districts exhibited a majority of about 4000, against the call of a Convention, and intimated that those gentlemen did not, on this subject, represent the public sentiment in the counties of Chester and Mifflin. Now, sir, it is not for me to say that the gentleman's inference is not well founded, but if his logic be good, I submit to him whether, since in Pennsylvania there was a majority of more than 13,000 votes in favor of a call of the Convention, we, all of us, representatives of that majority, ought not to carry out and accomplish the objects proposed by the call of a Convention.

On his principles, as explained by his reference to these gentleman, this is very clear to me. And what evil, sir, pressed severer on the people than the great weight of Executive patronage? What, more than this, requires reform? Every man knows that the reduction and restriction of Executive patronage were among the objects for which the Convention was called.

The unqualified appointment of a great number, officers which the Governor has enjoyed under the present Constitution, seems to have been given to him for the purpose of strengthening the Executive arm. Under the Constitution of 1776 the Executive power was lodged in a President and Council which consisted of twelve persons, five of whom, with the President or Vice President, were a quorum. This division of Executive power among so many hands was one of the few radical defects of that Constitution, and when in 1790 our present Constitution was framed, so strong a desire seems to have been felt for the correction of this evil, that not only were all the Executive powers and patronage of the President and Council conferred on the Governor, but the power of choosing many of their subordinate officers was snatched from the people and thrown with the mass into the Executive lap. In remedying the evils of the old system, the Convention of '90 produced greater ones in the opposite direction. They lodged the Executive power in one man, and conferred on him an amount of patronage, altogether too great for any officer of a republican Government to possess. For a too weak and a too much divided Executive they substituted a too strong and a too much condensed power. Look at this power, sir, not as it was forty-seven years ago when it came fresh from the Convention of '90, but, now, as it has grown, expanded and strengthened.

The peculiar duty of your Governor is to see that the laws are faithfully executed, and besides this high trust, the Constitution and laws of the State have conferred an amount of patronage which has swelled him out of all just dimensions. He is the Commander-in-chief of the military and naval forces of the State. He appoints your Judges, Justices of the Peace, Prothonotaries, Clerks of the Courts, Registers, Recorders, Notaries Public, Inspectors, and a multitude of subordinate officers provided by law. Your departments of State and of Land, and your department of Internal Improvements are all filled by men who come and go at his bidding. Consider, sir, that our immense system of Internal Improvement, with the vast interests and the almost infinite offices which are associated with it, has grown into existence under our present Constitution, and was not in the contemplation of the framers of that instrument, when they conferred the appointing patronage on the Governor. All these officers derive their official existence mediately or immediately from the Governor, and most of them hold their places by no other tenure than his sovereign will and pleasure. He is the lord paramount, and a sort of feudal relation is established between him and a body of men scattered all over the Commonwealth.

When to all this, you add the pardoning power by which he can dig down the scaffold which the law has erected, and throw open the prison doors which justice has barred, and the veto power, whereby he can defeat the legislation of the country: I ask, sir, what but the name and voice of royalty, does he want to make him "every inch a king?" Are not the

destinies and the welfare of this great and glorious Commonwealth in too large a share committed to his guardianship? How are the infinitely diversified interests of a million and a half of people subjected to the influence of ONE MAN. And who is he, sir? or rather who may he be? I disdain all party allusions. I speak impersonally, when I say that he may be a minority Governor. By one of the most obvious of those accidents which mark the history of every political party, the majority of the people may be divided in their choice of a Governor, and a man in all respects unfit for the station may attain the Chief Magistracy of the State in opposition to the declared will of a large majority. And when such a man wields this patronage and power unrestricted, and without check, where is the security for the rights and interests of the majority? Mr. Chairman, gentlemen may cypher up the votes of the people on the call of a Convention as they please, and prove by their figures if they can, that the Constitution of Pennsylvania, which erects and sustains such a power amongst us, is the Constitution of the people's choice, and when their figures are spent and their calculations ended, I can tell them that the people of Pennsylvania love liberty too well, and cherish it with a jealousy too wakeful, ever to rest contented and secure till this vast, dangerous and still growing Executive power is hewn down into a republican size and shape. But the danger of a wrong use of this great power is not at all. It attracts too many aspirants—it heats and increases that thirst for office which has become the characteristic disgrace of the age. The office is so desirable that competitors rush fiercely into the pursuit, and their friends and expectants follow. Every man is animated with a hope that an office conferred by his favorite candidate will reward the zeal with which he contributes to his elevation. And in this pursuit of office, and this conflict of parties, society becomes excited, convulsed, distracted. Betting and bribing dishonor the public morals. Mobs, riots and murders violate the public peace. Slanders and libels prostitute the press and blight the reputation which constitutes the public wealth, and of which, as of liberty, the press should be the palladium.

Nor, sir, is this all. The young men, the future stay and hope of the State, cannot look on these contests unmoved and uninterested. Impressed by the example before them, with the idea that the acquisition of office is the main end of existence, and yielding to the warm impulses of nature, they rush into the political arena to do battle for, perhaps, *some worthless demagogue*.

You, sir, who have lived long and observed much, have seen the stripling become a politician before he became a man. You have seen him neglecting those studies and pursuits which alone could ripen and mature his judgment, and qualify him for discharging his future duties as a citizen, with credit to himself, and honor to his country; for the poor, the melancholy, the wretched purpose of mingling in political strifes which he did not comprehend, and which could only make him a *mere politician*—"a man of principle in proportion to his interest".

Who, sir, that hears me will deny that these are among the bitter fruits which this bloated and overgrown Executive influence and patronage yield to the public? And who, sir, that witnesses the blight and the mildew which this wide spread and overshadowing evil is shedding on the morals and the manners and the principles of our people, does not tremble for the

stability of our republican institutions. The people feel the evil. Their anxiety to eradicate this canker, gnawing as it is at their vitals, proves that its progress has not yet deadened their sense both of the danger and the remedy.

Now, sir, as to the remedy. First, take from the Governor and give back to the people the choice of their Justices, Prothonotaries and all those officers generally denominated county officers. Secondly, place somewhere the power of supervising the Executive appointments of the Judges and other officers of Government, whom it would not be convenient for the people to elect.

The people are entitled to the election of their county officers, and they should have it, not merely for the purpose of reducing Executive patronage, but because they never were satisfied with the system which tore it from them. Under the Constitution of '76, the people had the election of most of these county officers, and they ought never to have been robbed of the right. Let, this, therefore, be restored to them.

Then as to where the supervising power over Executive appointments should be lodged. The amendment proposes the Senate. I believe this to be the best deposite we can make of it. How, sir, is the Senate constituted? It is a select body of the representatives of the people—men chosen for their age, their experience, and their wisdom—having some permanence, elected as hitherto they have been for four years, and acquainted with the men of their districts who would be likely to become the nominees of the Governor. Being a small body in comparison with the other branch of the Legislature, the Senate can despatch its ordinary Legislative duties quicker than that branch, and acquire ample time during the usual sessions of the Legislature to examine, advise and consent or object to Executive appointments. The full information, the accurate local knowledge, and the particular acquaintance which Senators would possess in reference to these appointments, would secure to the people better and more satisfactory officers than the Governor, however well disposed, can give them now. It is said the Governor consults the members of the Legislature now in regard to the appointments to be made in their respective districts. Very well, if he does, it proves how necessary and proper it is that he should have advice, and is he not entitled to have it officially, under the oath of the member, and on his responsibility to his constituents?

Mr. Chairman: Among the reasons which I stated a day or two since, for supporting this amendment, I mentioned the propriety of conforming, where it was practicable, our State Constitution to that of the United States, by which you know the Senate advises and consents to all of the principal officers whom the President appoints. The President of this Convention (Mr. SERGEANT) had said that no analogy existed between the Governments in this respect—that the Senate of the United States is composed of men elected, not by the people, but by the States, and that no just argument can be drawn from the Federal Constitution, in support of this amendment. It is true, sir, that the Constitution of the Senate of the United States, differs from ours, and that the duties of the two bodies, in many respects differ, but the object of this reference to the Federal Constitution, was to show that it established the *principle of supervising Executive appointments*, and that this principle was applied by giving to the Senate this supervision, not because the Senate was or was not elected by

the people, but because it was a select body of men, peculiarly qualified by their stability, their wisdom, experience and gravity for this duty.

But our learned President objects further, that nearly all the officers of the General Government have, in one way or the other, some agency in our foreign relations, and that the Senate which represents the States, is therefore peculiarly the appropriate body to be consulted in their appointment. Well, sir, this is a new reason for this feature of our Federal Constitution, which does not seem to have occurred to the writers of the ablest exposition of that instrument, which is extant. If gentlemen will turn to the *Federalist* No. 76, they will see the ground elegantly and lucidly stated, on which the provision rests in that Constitution. And, sir, the argument is so appropriate to my present purpose, that I beg the indulgence of the committee whilst I read a portion of it. (Here Mr. W. read from the *Federalist* No. 76).

Here, sir, are the reasons for this concurring power in the Senate of the United States, and these reasons apply to our Senate, and fully justify the object of this amendment.

Nothing is said here, you will observe, of the reason which the learned gentleman has stated, but the necessity for lodging this supervising power somewhere for the benefit of the people, and the fitness of entrusting it to the Senate, because they are a select body of men, better qualified for the exercise of it, than any other body of men in the Government, are the general reasons insisted on.

But it is objected, also, by the same gentleman, that the amendment confounds the Executive and Legislative powers. So it does, partially, but not to the subversion of that great principle of *MONTESQUIEU*, that the Legislative, the Executive, and the Judicial powers of Government, should be in separate hands. Sir, I cherish that principle, and am incapable of doing any thing to violate it. I cling to it as to the sheet anchor of our free institutions. Let it not depart from us, or liberty will certainly depart with it. I am as anxious to illustrate and invigorate that principle in our Constitution, as the gentleman from Allegheny, (Mr. *ROGERS*) and the gentleman from the county of Philadelphia on my left, (Mr. *INGERSOLL*) who so eloquently and forcibly advocated a more express distribution of the powers of this Government a few days since. But, sir, will this amendment violate that sacred principle? "The British Constitution was to *MONTESQUIEU* what *HOMER* has been to the didactic writers on epic poetry. As the latter have considered the work of the immortal Bard, as the perfect model from which the principles and rules of the epic art were to be drawn, and by which all similar works were to be judged; so this great political critic appears to have viewed the Constitution of England as the standard, or to use his own expression, as the mirror of political liberty, and to have delivered in the form of elementary truths, the several characteristic principles of that system". But, sir, in this "mirror" of that great author he saw the partial blending of the separate powers of Government. The King of England is a part of the legislative authority—he alone makes treaties with foreign nations, which have for many purposes the force of laws. He appoints all the members of the judiciary department. One branch of the legislative department has the whole judicial power in cases of impeachment, and is the supreme appellate tribunal in all cases.

So in our own Constitution, the Governor has an agency in legislation, and the Senate exercises judicial powers on the trial of impeachments. The principle of a distribution of the powers of Government does not forbid this partial control of one department over another, and it is violated only when the *whole* powers of any two departments are joined in the same hands. I deny, therefore, that this amendment will break down this salutary principle. It will give the Senate a partial control over one species of executive duties, just as you give it judicial power for one class of cases. But, it will be no more true that the Senate is entrusted with the general executive power, than that it is true that it possesses the judicial power of the State.

Another objection to this amendment has been urged by the gentleman from Adams (Mr. STEVENS). He thinks it will produce constant collision and difficulty between the Executive and the Legislature, especially if they should happen to be of different politics. I do not think so. The Governor and Senate are elected by the same people, and if our recent amendments stand, they will be chosen for the same term. The Governor and a majority of the Senate will generally be of the same political stamp, and in making their selections for offices they will seek for the best men of their party. But suppose they are of different politics? The Senate would not reject the nominations of the Governor, because the nominees were his political friends. They could not control his choice. He would offer them some other political friend, perhaps not so well qualified as the former, and they would be obliged by their responsibility to their constituents to confirm some one of his nominations for each office. Do gentlemen think the Senate of Pennsylvania would act in a factious manner, merely to thwart the views of the Executive? I do not believe it. Let your Constitution give them this power to be exercised advisedly, judiciously, and with reference to the interests of the people, and then its language to the future Governors of Pennsylvania will be, you have fought the battle and won the victory—to you and your party belong the spoils—divide the offices among your friends, but the Senate shall enquire, “are they honest? are they capable?” You shall not reward the poor, wretched, political tools who have disgraced your cause by their support. Offices were established for the benefit of the people, and you shall confer them on the upright, the respectable, the competent of your party. This, sir, is the language I would have our Constitution hold to the Executive ear. Sir, I can see nothing in this objection, but I can see that the people will be shielded from the infliction of dishonest and incompetent officers, if the Senate is to advise and consent to their appointment. The gentleman from Adams saw fit yesterday to make an appeal to his political friends on this floor, with a view of arousing their prejudices against this amendment. He declared that Pennsylvania was essentially democratic. I hope he will remember that. That the Senate would generally be democratic, and whenever other parties elected their Governor, would lose the benefit of the triumph. [Mr. STEVENS explained that it was not his party that acted on this principle, but the other party knowing that we may sometimes obtain the power, wish to deprive us of the benefit of it].—Mr. W. continued: Does the gentleman wish *any* party in Pennsylvania whom accident may have placed in power to distribute offices to the prejudice of the people? I repeat I have no objection to party appointments;

but I would have them of a character to promote the public interest. I do not think the gentleman's appeal—for it certainly was of the nature of an appeal—will have much influence here. His political friends on this floor, so far as I have observed their bearing, are liberal, high-minded gentlemen, and most of them friends of judicious reform. They are not the men to be influenced by such considerations. I have seen no indication, except what the gentleman has given, of a disposition to keep the way to office open for scheming politicians, and I should be sorry to think so badly of the gentleman himself, as to suppose he would act in this business amending our Constitution, on the suggestions he makes to others.

Mr. Chairman, my opinion in regard to the introduction into our Constitution of this supervisory power over Executive appointments has been much influenced by the example of other States, especially the new States of the west. In the Constitutions of most of the western States, the Judges are elected by the Legislature, whilst by that of Michigan, they are appointed by the Governor, by and with the advice and consent of the Senate. Which of these young republics has taken the constitution of our Executive for its model? Not one of them. I believe the Governor of no State in this Union has so much unrestricted patronage as in this Pennsylvania of ours. Look at Michigan. The people of that State have emigrated from every State in the Union. They have watched the operation of the Constitution of the United States in Executive appointments, and they have seen the practical results of the systems adopted by the several States. Their Convention had lights which no former body of the kind ever enjoyed. They had the unerring guide of experience. The members of that Convention were gathered from every part of the country. Sir, I know one of them well. Unfortunately for Pennsylvania, and most fortunately for Michigan, JOHN J. ADAM, a ripe scholar, an accomplished gentleman, and true patriot, emigrated from the Keystone State to the then territory of Michigan. He was in that Convention, and with the rest set his hand to the principle we propose now to introduce into our Constitution. Sir, I value highly this authority. The Constitution which that Convention established is a noble production, in all respects worthy of the young, but vigorous and flourishing republic whose liberties it so amply secures.

It is time, Mr. Chairman, that the executive patronage and power of the Governor of Pennsylvania were reduced. He should be brought down to republican dimensions, as the same officer in other States has been. I do not wish to make the office contemptible. It never can become so in this great State. It will always be the object of the highest ambition of our best citizens. But I believe that the public interests require that much of his appointing power should be taken away and that most of that which is left should be exercised under the advice and consent of the Senate. The people expect this of us, and it is our duty to execute their will. If we can eradicate or mitigate the evils which I believe are justly chargeable on this source, we shall have rendered the State "some service," and shall find our reward in the approbation of a grateful people.

Mr. FORWARD, of Allegheny, rose and said, that when the question of Executive ineligibility came up, he took the liberty of expressing his opinion in favor of a single term. It appeared to him that that might be an essential step towards accomplishing our views of reform. He supposed it to have been a measure of reform,

The proposition, however, was actually voted down by the professed friends of reform. Yes! he would repeat, by the professed friends of reform! They were not content with a single term, but were determined that he should be re-eligible. He (Mr. F.) thought differently from some of his friends on the subject. It had been proposed, too, to take away the whole of the patronage from the Governor, and give it to the two branches of the Legislature. That also, was permitted to be voted down by a few of the friends of reform. They voted down a proposition which would accomplish the object they professed to have at heart, and for which they were lustily contending in this body. He would ask whether it was not right that the patronage should be taken away from the Governor? Shall it remain in his hands to demoralize and corrupt the State. Shall it be used for the purpose of party manœuvre? It had been contended that the effect of it was pernicious as respected politics, the press, and the elections! Why not, then, he asked, divest the Governor of it and give it to the Legislature? The gentleman who was last up (Mr. Woodward) had drawn some lame and impotent conclusions in regard to dividing the appointing power. If his argument was good for any thing, he should have carried it further, and taken away the whole of the patronage of the Governor. What did the gentleman propose? Why, instead of taking away the patronage, he would bring into its exercise a new partner, and this appendage was to become a new established firm in the Commonwealth. Now, he (Mr. F.) was not prepared for any measure of this sort—for any policy which was founded on the proposition of the gentleman from Chester. He was opposed to the amendment of that gentleman, for two reasons. At a distance it was calculated to impose upon the sight; but it would not bear a close examination. It then dwindled into insignificance. It had a “promise to the ear which might be broken to the hope”. What was it? Why, it was that the Governor shall nominate, and by and with the advice and consent of the Senate, appoint all judicial officers, whose appointment is not herein otherwise provided for. Now, this was no power at all given to the Governor. It would be made wholly contingent. It did, in fact, give him nothing. He shall appoint to all offices created by law, and which are not provided for, by the Legislature. Here was nothing given to him, unless there was left open and unexplored the whole field of office committed entirely into the hands of the Legislature. The clause of the amendment offered nothing but this: that the whole matter should be left open to the Legislature to create offices—to exercise the patronage themselves. The exercise of this patronage by the Legislature would be quite as fatal, if not more so, than at present under the existing system.

He had hoped that the gentleman from Luzerne (Mr. Woodward), or the gentleman from Chester (Mr. Bell), or some other gentleman who approved of the amendment, would have gone somewhat into detail, and give an explanation of their views on the subject of reform. They exclaimed against the opposition to reform, and contended that the amendments which might be offered were done so with a view indirectly to defeat the proposition for reform. What, he enquired, are their views? He was in favor of electing the Justices of the Peace by the people. He would therefore, take this power from the Governor, and give it to the people. Was that a part of the project of the gentleman from Chester—he was a reformer,

Would he elect the Justices of the Peace? Not at all. Well, what would he do with the countless multitude of men, spread over the whole State? He would leave them in the hands of the Governor, or the Senate, or somewhere else out of the hands of the people. And that was reform with the gentleman.

He (Mr F.) was entirely opposed to leaving any appointment unprovided for, in the Constitution. He would not commit to the hands of the Legislature any power in this respect. He was for providing a mode of filling all offices that shall be made by the Legislature, for the purpose of preventing any abuses of newly created power. Now, that was a plan of reform—a mode by which all the abuses might be avoided concerning which we heard such loud and reiterated declarations in this body. He would provide that all officers shall be appointed in the Constitution of the State—leaving nothing to the Legislature. Let the power be safely lodged before-hand in some depository where it would be properly exercised. These gentlemen who are so favorable to reform, and are so fearful lest they should be frustrated in some of their schemes are, nevertheless unwilling to commit themselves upon a vital question in a matter of reform. He would ask these gentlemen whether they are willing to divest the Governor of the power of appointment and removal from office? What was the greatest abuse, the greatest evil, which was complained of in the State? It was the turning men out of office for opinion's sake. What, he asked, was the consequence of the election of a new Governor? Why, that the incumbents of office, who did not happen to be in favor of the newly elected Governor, were expelled from office. And, this arbitrary power was given the Governor by the Constitution. Would reformers, he enquired, tell us, in so many words, that this arbitrary power should be cut up by the roots—that no body should exercise it? That officers shall hold their places for a specific term, and not be liable to expulsion, except for bad behaviour? Would they say that all offices that might be created by the Legislature, should be for a prescribed term? And that the incumbents should not be liable to arbitrary, capricious expulsion from them, because they chose to exercise that high prerogative which God has given men of thinking for themselves? Were these matters which were taken into consideration by them, and to be found in their plan of reform? Let them say so, if it is. He hoped that the Constitution would be so amended as to provide, in explicit terms, that all officers shall hold their places for a prescribed term—whether they be created by the Constitution, or by law, and that no man shall be reduced to the hard necessity of yielding his conscience, or his place to arbitrary, tyrannical power.

Why was it, he would ask, that the reformers deprecated defending the minutia, as it was called, of their plan of reform? Why was it not one of them had favored us with his views, and told us whether he was in favor of that arbitrary system of power, or not? And whether he would cut it up by the roots? If this pernicious weed were plucked up and cast away, one of the greatest of existing evils will be removed. Let a man fill an office for a prescribed term, and then he will have nothing to fear from the exercise of arbitrary power. But, under the present system, he was placed in a state of dependence, to a certain extent; he was made a slave in the exercise of his functions—deprived of the freedom of thought, which is the code of moral as well as of free Government. It was not a little

singular that among the many projects of reform that had been brought forward, and in the numerous addresses we had heard from those who claimed to be almost the exclusive abettors of a new system, no gentleman had yet avowed that he was for destroying this arbitrary power. Now, what was the purport of the amendment before the committee? He would call on every friend of reform promptly to reject it. What was the language of it? Why, that the Governor, by and with the advice and consent of the Senate, may appoint to offices created by the Legislature, unless the Legislature shall provide another mode of appointment. In another clause, it would be found, that as respects the higher judicial officers, the Governor is to have no grant of power whatsoever. That matter was left open, to be provided for hereafter. He was opposed to the whole scheme. He did not wish to give to the Legislature the power of prescribing the mode in which the offices should be filled. The Legislature had no legitimate right to fill them—to exercise the power—to hold it as a sort of capital in the trade of politics. No good reason could be given, why it should be taken out of the hands of the Governor, and given them. The amendment, then, left the whole official patronage of the Commonwealth in the hands of the Legislature. Now, was that the purpose of the mover? Was this a general, fundamental rule of the Constitution? No, it was not. We had an exception to the general rule in itself, inasmuch as the proposed amendment effected nothing; it conferred nothing—granted nothing—left nothing open. And, what was worse, left every thing to the Legislature.

He would put it to the friends: "Are you prepared to give the Legislature of this Commonwealth the power of creating and disposing of offices?" He would repeat the question. Let gentlemen come up to the mark, and answer yea or nay. He believed that that was no part of the contemplated reform that was in the minds of the people who voted for this Convention. He would agree to give his vote for the insertion of a provision in the Constitution—that all offices shall be for a term of years, during which a man who behaved well should hold it in safety.

In regard to the participation of the Senate in appointments, and the reasons which had been assigned by the gentleman from Chester in favor of it—that gentleman had said that he desired to see a supervisory power in the hands of one branch of the Legislature in reference to appointments. Now, this appeared to him (Mr. F.) a surrender of the whole question; it yielded the whole ground, and proved conclusively, if it had any weight, that the worthy gentleman from Chester had fallen into an error. Yes, the gentleman desired to bring it within the reach of one branch of the Legislature—the representatives of the people. Why not give the whole power to that branch of the Legislature? Why give it to the Senate in a divided form? Let gentlemen recollect that it was the Senate which possessed the power to negative the vetoes of the Governor. He would call the attention of the gentleman who proposed the amendment to this fact. Why not say, that the Senate should nominate and the Governor confirm? Could gentlemen give a reason for it? Did not every argument show that the Senate ought to have the power of nomination? Certainly it did.

There was another point of view in which the amendment was to be regarded, and that was in reference to the power of appointment being

participated in by both the Governor and Senate. They might be opposed to each other in politics, and hence many difficulties might grow out of that state of things. Now, this was an alternative which was not to be lost sight of in contemplating the policy of the amendment. Supposing that the Senate and Governor should happen to belong to the same party, the argument of the gentleman assumes that the Senate would be altogether passive. No interest—no concern in the central body would cause an appointment, until the movement of the Executive. He would act first, and would nominate to the Senate, and then they would confirm. Was that to be the practice of the Government which they might fairly anticipate? Or, was it this: That the Governor's cabinet and the Senate, being members of the same party—having a common object and common purpose in view, would confer together? Was it not more than probable that the Senate itself would dictate the appointment? Was it not more likely that the Senate would act on party views than the Governor? The influence of the Senate would be brought to bear on the Governor. And, it was obvious that when vacancies occurred, the Senators would confer together, and then speak to the Governor, and settle who should have the appointment. And ten to one, almost all the appointments would be dictated by the Senate. If the Senate and Governor both participated in the power of appointment, the first would consult with the last. They must stand or fall together. Now, what, he asked, was to be gained by a partnership of this sort? Why, nothing. If he belongs to the same party, he would concur with the Senate, or the matter would be settled by general consultation with the party. When the Senate majority, or the House of Representatives concurred in sentiment with the Governor, (the very persons connected with his election) was it to be supposed that the appointments would be made without a general consultation—without an appeal to the common interest? Why, no. There was this advantage, in giving both branches a voice in appointment—that it made the Executive more independent of the Senate. So would his course be more free—his purposes more untrammelled. He would act as he (Mr. F.) had just said, more independently, and more for himself. And, was not the public interest concerned in this? He maintained that the Governor would be able to act with as much intelligence, at least, without the Senate, as with it. For, if they should belong to the same party as himself, they would dictate to him. And if they were hostile to him, it would then be the Senate against the Governor—divided in itself, perhaps, harmonizing in nothing, and doing every thing to frustrate and annoy him in the performance of his duty. Suppose that the Governor appoints a good man, and the Senate had an object in defeating that appointment, lest the Governor should gain some popularity, could they not do it? What, he asked, could be expected from the Senate, looking to what had been the practice of the Governor for the last thirty years? If the Senate, then, could lessen the popularity of the Governor, they would act accordingly. But, it might be said, that in doing so, they might injure themselves. Why, it was possible they might. He was speaking of the principle—of a common abiding purpose of a party in the Senate. Was it not the voice of all experience? Would there not be a scene of continual distraction at the seat of Government? He need not look beyond the State of Pennsylvania to see what had happened elsewhere—to show that no good could result from a connexion such as was contemplated by the amendment.

Now, with respect to the responsibility of the Governor. It had been said that the responsibility of that officer was to be increased. He would ask, by what magic was that to take place? "Increase", that was the word. Why, he would be responsible to the Senate, and that was what he, above all things, wished to avoid—for it was so much taken from his allegiance to the people. Responsibility to the Senate! For what? By doing so, you took from him the independent exercise of his power. In practice, be admitted that the Governor would be responsible. But, a responsibility might be thrown upon him by the Senate, which he ought not to take. He might find it impossible to fill offices, unless he made such nominations as they would concur in. And this circumstance might be very unfortunate, as the nomination might be less worthy than he could have desired to make. Now, this was a responsibility which they took upon themselves; but it was of that kind which ought to be diverted from him, and laid upon other shoulders.

His view of the subject of patronage was exactly this: If the Governor was to have the power, either in partnership or singly, he was in favor of limiting the exercise of it to a single term. He was against re-eligibility where power was given which might be abused. If the Governor was to be stripped of his power, or left with only a small remnant of it, he (Mr. FORWARD) was willing that he should be re-eligible. He felt persuaded that the proposed change was pregnant with evil, and could do no good. He protested against the indulgence of a practice which he had observed here, and especially in the gentleman from Luzerne, (Mr. WOODWARD) of putting arguments into the mouth of his opponent. That gentleman had, in reference to the amendment pending—as to whether the patronage of the Governor should be continued—made us say that in our course here we had argued that the patronage ought to be continued. I protest (continued Mr. F.) against any such argument being ascribed to us. We have disclaimed all that sort of reasoning. We would deprive the Governor of some of his patronage. We are not in favor of his appointing Justices of the Peace. The difference between those who call themselves reformers and us, is this: They talk of reform, which reform means with them a partnership with the Senate. In fact, no reform at all. They talk of diminishing the patronage of the Executive. And how? By taking it away? No. But, by leaving it here. They do not ask to diminish the patronage beyond the point we will go, or even so far.

I have now, in as brief a manner as I could, put the committee in possession of my views. I reiterate, that if this power is to be taken from the hands of the Governor, let it be removed altogether, or given to the Legislature, or the people. If, however, it is to be in the hands of the Governor at all, let it be exercised by him alone, to be enjoyed only for a single term. Now, that is reform—plain, wholesome, legitimate reform? I will conclude by asking the reformers these questions: Will you limit the term of the Governor to four years, without re-eligibility? Will you take away his power and give it to the Legislature?

Mr. BROWN, of Philadelphia, said he would in as brief a manner as he could, place the committee in possession of his views, and the reasons which should influence him in giving his vote. He would notice what had fallen from the gentleman from Allegheny (Mr. FORWARD), commencing with his argument, where he had left off. He was in favor of giving

to the people, as far as was practicable, the election of some of their officers; and next, he was for placing the right of appointment to office with that body which immediately represented the people, and who were most responsible to them. He would vote for the amendment of the gentleman from Chester, not because he approved it, but merely to get on with the different articles of the Constitution, until the respective offices now contained in the fifth, sixth, and other articles, were disposed of, and then the section could, on second reading, be made in accordance. He considered the amendment better than the section now in the Constitution; but both, he thought, ought to be stricken out, or very much modified, and he did not think any reformer who might vote for either, would do so with any intention to sanction their principles. He would go with the gentleman from Allegheny, (Mr. FORWARD) and with him who would go farthest, in giving back to the people the election of all their agents; and when he could not thus obtain for the people that power, which fifty years' experience under the present Constitution had shown they could best exercise, and which, he had no doubt, fifty years' further experience would clearly show they could and ought to exercise to its full extent, he would then go with that gentleman to place the appointments in the Legislature, as most responsible to the people, and he would only, as a last resort, give it to the Governor and Senate as an evil, less, if less it was, than giving it to the Governor alone. He agreed with the gentleman from Allegheny on another point.

He (Mr. B.) would have Constitutional provisions for the appointment of all the officers that now are, or that may hereafter be created. If the Convention should determine, as he believed they would, that Justices of the Peace and local Magistrates ought to be elected by the people, then he would require, by the same article, that all such officers that may hereafter be created, shall be thus elected. If it should be determined that the Judges of the Supreme and county Courts ought to be elected by the Legislature, he would have all such officers that may hereafter be created, thus appointed. If it should be determined that county officers ought to be elected by the people of each county, then he would have all county officers that may hereafter be created, thus elected. So, if the Convention should determine that the Canal Commissioners, or those who have the control of the public improvements, by whatever name they might be called, ought to be elected by the people, or appointed by the Legislature, then he would have a Constitutional provision similarly regulating the appointment of all other officers that may hereafter be created in this department. Thus, Mr. B. said he would establish a Constitutional law of appointment relating to all officers; a law that should govern the Legislature, and not leave it the power to make that law for itself, and thus to set at naught one of the most important principles of all Constitutions. But if, he said, when they had gone through the Constitution, and had thus determined the mode of appointment and tenure of office of all officers necessary or proper to fix or provide for in the Constitution; they should think that a residuary power of appointment ought to be created, or left somewhere, they would, certainly, looking to what they had done, be better prepared to say what that power should be, and how it should be exercised. At present, before they had entered the threshold of appointments, he was not disposed, by any vote of his, to say where that residuary power should rest; nor would

he vote for the amendment at all, if that vote was to sanction the supposition that he intended to leave with the Governor, or the Governor and the Senate, any considerable amount of patronage. He was for stripping the Governor of his patronage, and he thought it would be but mockery to talk of doing this by only uniting the Senate with him. He would not leave any power that could be exercised by the people in the hands of one man, or thirty-three men; the "forty tyrants" of Athens were nearly as bad as any of the single tyrants of Rome, and he would not trust either the one or the other any farther than would be found absolutely necessary.

Mr. SILL said that he could not say, as some gentlemen have done, that this was a question on which he had entertained no doubt. On the contrary, he had entertained much doubt and difficulty on the subject; he had reflected much upon it, and had listened with great attention to all the arguments which had been submitted to the Convention on the subject.

As far as he had been able to learn the opinions of gentlemen in the Convention, there seemed to be a prevailing intention to give to the people the election of several officers, the appointment of which is now vested in the Executive. This met his entire approbation. He thought that most of the offices, which were mainly of a ministerial or executive character, and did not involve the exercise of extensive discretionary or judicial powers, might, with propriety be made elective by the people. Perhaps, if a state of society could be supposed to exist, when all the members that composed it were on a perfect equality in point of intelligence and influence, it might, in such cases, be expedient and proper that all appointments to office should emanate directly from the people. But as this was not, and probably never would be, the case, it was safer for the people themselves, that some offices, especially those of a judicial character, should not depend immediately on their election. For, if this were the case, there might be danger that those who exercised such offices, might, in the discharge of them, favor those who had the most power and influence, thereby to promote or secure their own advancement to, or continuance in office. It, therefore, becomes necessary, and essential to the due and equal administration of justice, that such officers should be independent in the discharge of the duties of their offices—that is—so much so, as not to leave a prospect of gaining more by conciliating the favor of the rich and powerful, than that of the humblest individual in society.

It therefore becomes necessary and proper to look to some other power as the source of appointment in offices of this kind. And here, the two modes of appointment are submitted for the consideration of the committee, one of which contemplates an appointment by the Executive alone, the other by the Executive, with the advice and consent of the Senate.

Which of these two modes presents the greatest advantages, and is liable to the least objections?

In considering this subject, it will at once be admitted, that two requisites are indispensable to the proper exercise of the appointing power, viz: a knowledge of the qualifications of the candidate for appointment, and a disposition to promote the welfare, and, as far as is consistent, gratify the wishes of the people who are to be affected thereby.

In considering this matter, it is further necessary to premise, that the power proposed to be given to the Senate is not merely advisory; if it

were, there could be no objection to it; but it is absolute in its nature, and controlling on the acts of the Executive. The Executive might nominate; but, without the concurrence of the Senate, no appointment could be made. The Senate must, therefore, in this respect, be considered rather as an independent power, than as acting merely as the advisers of the Executive.

It is claimed by those who advocate the exercise of such a power by the Senate, that, from their number and location, they could have a great advantage over the Executive, with respect to their knowledge of the candidate for appointment. In this opinion, I cannot concur. I admit that this may be correct, as applied to individuals in the Senate; but not to the majority of that body, who alone are competent to act.

Suppose an appointment to be made from one of the counties in the western border of the State. The Senator representing that district might have a better knowledge of the applicant than the Governor could have. But could this be said of the majority who constitute the will of that body? I think not.

The Governor may generally be supposed to have a general knowledge of the public and prominent men of the State at the time of his election. It will most commonly happen, that he will select from the public, men who have served in the Legislature, or in other situations which have afforded an opportunity for a general acquaintance with the people of the State. He will have a knowledge of every quarter of the State, and of some portion at least of its citizens. It will be his interest and his duty to extend and infuse this information, and he will avail himself of all the means in his power to obtain a correct knowledge of the characters and qualifications of the different candidates for office. To this he would be impelled by the strongest motives, as the welfare of the people and the success of his own administration would depend much on the fidelity with which this duty was discharged.

The same objections could not with propriety be applied to the Senate. The great majority might be total strangers to the character and qualifications of the applicant for office; they would not feel the same interest or the same responsibility in the matter as the Executive, and might act with more indifference as to the effect the appointment might have upon the people.

But there was another consideration which was entitled to great weight. It is very desirable that appointments to office should not only be fitting and proper in themselves, but that they should, as far as practicable, conform to the wishes and opinions of the people who were to be immediately affected thereby. A due regard to this principle tended to secure the affections of the people, and promote the security and permanence of the Government; and this consideration would be far more likely to have weight with the Executive than with the Senate.

The Governor is the immediate representative and agent, not only of the whole State, but of every county and every portion of the State. The people, not only of the whole State, but of every county, look to him as the man to whom they have confided their dearest rights, and to whom they have entrusted the highest confidence. He is the man whom the people have delighted to honor. The strongest obligations of duty and of gratitude are thus imposed upon him to consult the wishes and promote the happiness of those who have thus confided in him.

How different is it, in this respect, with those who constitute a majority of the Senate? What connexion have they with the people of any particular county that may be interested in an appointment? Where is the ligament or tie that binds and connects them in interest, or in feeling? Their interests, their views, and their feelings, may be totally dissimilar and distinct—strangers to each other, with no common bond of union, they are left open to the operations of other considerations than the interests or wishes of the people.

It has been repeatedly stated by some gentlemen who are in favor of this amendment, that there was much of bargain and sale, and trafficking of votes, in legislative bodies; and several resolutions have been presented with a view of preventing such a course. If such practices exist, what could prevent their operation in the votes given on nominations by the Executive? Members might have their particular favorites, and the gratification of their wishes in one case, might be the condition of giving their vote in another. And thus, in a matter which depended merely upon opinion, and which it would be difficult to regulate by any fixed rule, there would be great danger that selfish motives and considerations, and not the welfare of the people, might be the prevailing motives of action.

There is, also, another objection to the principle of this amendment. There is no direct responsibility from a majority of the Senate to the people of any particular county, or portion of the State, that may be affected by an appointment to office. Suppose an appointment to be made for the county of Erie: If it is unpopular, or odious, or injurious to the interests of the people, there is an immediate responsibility from the Governor to the people of that county. He is their immediate representative and agent. He is elected, in part, by their votes, and they have a right to claim from him a due regard for their interests and welfare. Should they feel aggrieved, they have a right to remonstrate, and he is bound to attend to their complaints.

But what responsibility is there from the Senators of the eastern and middle counties, who compose the great majority of that body, to the people of the western counties? They are not their immediate representatives, are not elected by their votes, and have no responsibility to them. The people of their own districts would not be affected by any improper appointments that might be made in any other portion of the State; and they themselves, might turn a deaf ear to any complaint from those on whom they were not dependent for their political existence.

Why, then, should the controlling power of appointment be taken from the Executive, who is the immediate representative of every portion of the people, and given to a body, between a majority of whom and the people of any one county, no relationship exists, and no responsibility is acknowledged? There is no sufficient reason for it.

A principle of this kind would operate to the injury and disadvantage of the smaller counties. It was as important to the small counties as it was to the large ones, that their offices should be filled by good appointments. But an arrangement of this kind would lessen their relative weight and importance in those matters in which they were immediately concerned. A small county might not have the vote even of a single senator to represent their interests in that body. A large county might be entitled to several votes, and the combination of a few large counties might have

a controlling influence on appointments, made to the injury and detriment of the small counties.

The Senate of Pennsylvania, as constituted, is not intended, nor is it adapted to the discharge of any duties but those pertaining to legislation. The introduction of this principle, involving the exercise of new powers and the discharge of new duties, would be injurious to the proper action of that body itself. It would withdraw its attention from the proper duties of legislation, would prolong its sessions, and distract its deliberations by those intrigues and contentions, which would grow out of the pretensions of rival candidates for offices.

It has been urged that the patronage of the Executive is too extensive, and that, if it were thus divided with the Senate, the evils occasioned thereby would be done away, or greatly reduced.

There can be no doubt that the extent of the Executive patronage is one of the greatest evils in our Government, and more than any other cause, induced the calling of this Convention. Active partizans and politicians were in the habit of claiming offices in the gift of the Executive as a reward of political services.

It had been his fortune, some years since, to spend one winter at the seat of Government at a time when a new administration came into power, and he had a full opportunity of observing the operation of this principle. It occasioned such a struggle for office as he thought discreditable to the State and injurious to the community. He believed, however, that it was almost entirely the county offices which occasioned so much contention, and he understood it to be the intention of the Convention to make these offices elective, which would, in a great degree, remedy the evils complained of. But would this evil be remedied by giving the Senate the power of confirming or rejecting nominations? He thought not. There would be no means of coming before the Senate, but by the nomination of the Executive. It would then, as it now is, be necessary to obtain his favorable opinion before an office could be obtained. The Senate of the United States had the same power over the nomination of the President, and yet he did not think that it tended to prevent the existence of the same evil in Presidential elections. It is probable that that provision in the Constitution of the United States was what first suggested the idea of vesting the same power in the Senate of Pennsylvania; and yet the principles upon which the two Governments are constituted are so dissimilar, that the reasons in the one case do not at all operate in the other. The Constitution of the United States was a work of compromise, in which the Senate was so constituted as to give the small States the same powers as the large States. In acting on nominations to office, the small States had the same weight as the largest. The State of Delaware, which had but one member of the House of Representatives, had the same voice in the Senate as the State of Virginia, which was entitled to twenty members. If, in this State, each county was entitled to an equal number of Senators, the cause would be more applicable, and the operation of the principle would be more equal. In every point of view he could see no good reason for the introduction of this principle into the Constitution of Pennsylvania, and should vote against it.

Mr. STERIGERE said, if any one amendment to the Constitution was required by the people, it was one for the reduction of the Executive

patronage. He had not yet heard any man say that the appointing power ought not to be taken from the Governor. He was anxious to have a distinct vote on this question, and he had intended, before, to submit a proposition for that purpose, but he had given way to the gentleman from Chester. He had hoped to have his objections to that proposition obviated, but as they had not been, he was obliged to offer one with a view to bring up the simple question, as to the curtailment of the Executive power. He was opposed to giving the power of appointment to the Governor alone, in any case—not even in regard to the Secretary of the Commonwealth. He was not intended as the confidential adviser of the Executive. He was constituted as an officer of the Commonwealth, not as the private and confidential agent of the Governor. He would connect the Senate with the Governor, in all appointments. Public attention had of late been drawn to the enquiry, why an officer should be dismissed by a single man. If the Governor chose to dismiss an officer, he would have the reasons made public, and discussed, and decided upon in public. He would leave well enough alone, and he would make no alteration in the Constitution, except for the purpose of making it accord with the wishes of the people. The Constitution, in the fifteenth section of the second article, provides for the appointment of a Secretary of the Commonwealth, and prescribes his duties, and he thought it better to leave that matter as it stood, leaving the Secretary to be appointed, like all other officers, by the Governor and Senate. It would complicate the subject to bring that officer into the section under consideration. He also objected to the proposition of the gentleman from Chester, that it struck out the last clause of the eighth section, which provides, that, “no member of Congress from this State, nor any person holding or exercising any office of trust or profit under the United States, shall, at the same time, hold or exercise the office of Judge, Secretary, Coroner, Prothonotary, Register of Wills, Recorder of Deeds, Sheriff, or any other office in this State, to which a salary is by law annexed, or any other office which future Legislatures shall declare incompatible with offices or appointments under the United States”.

He would ask, who was in favor of striking out any part of the Constitution, which was good and proper? It was said, that it might be introduced in some other place; but this was the proper place for it; and it had better be left here. He therefore moved, in order, he said, to make the proposition of the gentleman from Chester correspond with these views, to amend his amendment, by striking out all that follows the word “shall”, in the first line of the section, and inserting in lieu thereof, as follows, viz: “nominate, and, by and with the advice and consent of the Senate, appoint all officers whose appointment is not herein or shall not be by law otherwise provided for, and shall have power to fill up vacancies in all offices, by appointments which shall continue until the end of the next session of the Senate, unless the vacancy shall be sooner filled as herein directed; but no person shall be appointed to any office, within any county, who shall not have been a citizen and an inhabitant therein one year next before his appointment, if the county shall have been so long erected, but if it shall not have been so long erected, then within the limits of the county or counties out of which it shall have been taken. No member of Congress from this State, or any person holding or exer-

cising any office of trust or profit under the United States, shall, at the same time, hold or exercise any State or County office in this State, to which a salary is by law annexed”.

The amendment having been read, Mr. STERIGERE said it would be perceived that it incorporated the substance of the proposition of the gentleman from Chester, and retained a part of the Constitution as it now stood, to which there was no objection whatever. It omitted the Secretary of the Commonwealth; any provision respecting whom would be out of place here, and to whose appointment by the Governor, at pleasure, he objected. In regard to the main question presented, he could say nothing now; nothing which had not been well said before. But he would generally remark, that something was due to the opinions of people of the other States. The same principle is adopted, not only by many of the States, but by the United States. The Constitution of the United States was the model upon which our Constitution was framed, but we had, in this instance, departed from it. In all but one or two articles, the two Constitutions conformed, and there was no reason why we should not make our Constitution conform to that of the United States, in this article. We had, also, by giving the appointing power to the Governor, departed from the Constitution of 1776, by which the power was divided between the President and the Council. In this respect, also, our Constitution differed from that of about one half of the States of the Union. How, he asked, had this provision been approved by the people? He undertook to say, that the people, generally, disapproved of it, very strongly. There had been much complaint as to the manner in which the appointments were made. Sometimes the Executive was imposed on, and bad appointments were made through mistake. Complaints had been general on this subject for years past, though not always on account of the abuse of the power, so much as of the mistakes made in its exercise. The Senate had been selected as the most efficient and safe supervisory power that could be placed over the exercise of the appointing power. He would here remark that in regard to the provision of the Constitutions of the United States, on this subject, that ALEXANDER HAMILTON, though there was no man among its framers of a higher tone of politics than he, advocated the propriety of giving the Senate a negative on Executive appointments. If any gentleman wants an answer to all the objections that can be urged against this provision, let him read the paper in the Federalist, on this subject. He would not read it, because the gentleman from Luzerne had already brought it to the notice of the committee. The PRESIDENT had yesterday enumerated many particulars in which our Constitution differed from that of the United States, but he failed to shew any satisfactory reason why the same restrictions ought not to be imposed upon the appointing power, in one case, as well as in the other. The judgment of other States was different. Some appointments were, in some of the States, given to the Judiciary, and some to the Legislature; and in New York, under the old Constitution of that State, the Judiciary was combined with the Governor in making appointments. But it was a favorite doctrine every where, that some person should be associated with the Governor in the exercise of the appointing power, either by giving their advice and consent, or by holding a check over the exercise of the power. Much had been said, and frequently said, about the prosperity of the

State, for the last forty-seven years—and it was a matter of which we all had just reason to be proud—but had all this prosperity grown out of the present Constitution? Was there any connexion between our prosperity and the mode of appointment, whether by the Executive, the Legislature, or by the Governor and Senate? He apprehended not. Though we had gone on prosperously, this had no bearing on the question before the committee. He had not risen to discuss this question, because he could add nothing new to the argument; but to offer his amendment, and bring his reasons for offering it, distinctly before the committee. He agreed with the gentleman from Beaver, (Mr. AGNEW) that this matter ought to be presented singly, so that we can understand what we are voting upon. It ought to be disembarassed of every other question before the committee. He hoped we should vote first on the simple question, whether the appointments shall be controlled by the Senate, or not. He trusted that his amendment would be adopted, and upon it he asked the yeas and nays.

Mr. HOPKINSON rose and remarked, that the few minutes which would be allowed him before the usual hour of adjournment, would suffice for all that he had to say on this subject. In forming a free Government, the most difficult question was always in relation to the disposition of the Executive power. In regard to the Legislature, the course was plain. Its duty was to make laws. As respects the Judiciary, it was equally plain; they were to administer justice, according to law. But, when we come to the Executive, we come to a question which has embarrassed statesmen and writers, from the earliest date of free Constitutions to this hour. The question has often come before the people of the United States, and of the several States, and has undergone different decisions, according to the various circumstances under which it was presented. When gentlemen, therefore, tell us that this and that is the provision in the Constitution of such and such a State, it is entitled to very little influence with us. They must tell us what are all the other provisions upon which it bears. They must give us a full view of the general spirit and construction of a Constitution, then we can see how it agrees with our own. There must be harmony between all the various powers of the Government. Let them, therefore, go through with the whole Constitution, which they appeal to, and show that, in spirit and genius, it is similar to ours. That the authority of new and inexperienced States were entitled to as much respect on these questions as was claimed for them, he did not admit. Pennsylvania had been engaged in considering questions of Government for a hundred and fifty years, and had acquired much experience in regard to it. He was surprised to hear the gentleman from Luzerne talk about Michigan, as an example for Pennsylvania, in the formation of a Constitution. To appeal to Michigan, an infant of yesterday, was like referring a man of mature age, to a child, for lessons of experience. Their Government had not been in operation two months. He had a high respect for the gentleman to whom the member from Luzerne had referred, as a member of the Convention of Michigan; but he was confident that the modesty of that gentleman would be put to the blush if he knew that he had been placed on a footing with a McKEAN, a LEWIS, a WILSON, and the host of great men who framed the Constitution of 1790. If great men were entitled to any consideration, Pennsylvania had the highest

authority for the principles on which her institutions were founded. The framers of the Constitution of 1790, had before them the opinions of all the writers on Government, and also the Constitution of the United States, to which it was their object to conform, as far as was proper and practicable. Why, then, did they not give this power to the State Senate, as it was given to the Senate by the Federal Constitution? Some of the very same gentlemen were members of this Convention, who had assisted in framing the Constitution of the United States. Why did they make this marked difference between the two instruments? Had they not some distinct reason in their minds for departing from their model in this particular? And were they as competent to judge of the propriety of conforming this Constitution to their chosen model, in this instance, as we are? We do not know the reasons which actuated that body; but, surely, they saw some distinction between the construction and objects of the State Government and those of the Federal Government, which made this striking difference, in their opinion, proper and necessary. They understood the reasons why this feature was introduced into the Federal Constitution, and, if they had thought them applicable to the State Government, they would, undoubtedly, have adopted it as part of the State Constitution.

It being one o'clock, Mr. HOPKINSON yielded the floor, and the committee rose, and

The Convention took the usual recess.

WEDNESDAY AFTERNOON—4 o'clock.

SECOND ARTICLE.

The Convention again resolved itself into a committee of the whole, on the second article of the Constitution, Mr. CLARKE, of Indiana, in the Chair.

The question pending, being on the motion of Mr. BELL, of Chester, to amend the eighth section.

Mr. HOPKINSON, of Philadelphia, resumed his remarks. He had said that the Convention of Pennsylvania, which sat in 1790, to frame a Constitution, had before them all the lights which could guide them, save one; and they had finally decided on what we knew they had done. In framing the Constitution of 1790, the Convention had but the choice of three modes of appointment to office. 1st. Either, as it stands in the Constitution of the United States, by giving the appointing power to the Executive, by and with the advice and consent of the Senate. 2d. By taking away the power of appointment altogether from the Governor, making him a mere nominal Executive; or, 3dly, by taking the course they did take, and confiding the power solely and exclusively to the Governor, and vesting in him the entire responsibility. It seemed to him that the choice was a wise one, founded on a just and correct confidence in the set of men whom the people of Pennsylvania would select to fill the chair of the Executive. It was not for a Pennsylvanian to say that this confidence had been misplaced: it was not for a Pennsylvanian to say that the confidence so placed in this people was a mistake on the part of the framers of that Constitution. He would not take it upon himself to say whether that

confidence was well grounded or not. He had nothing to say, for or against it. But he would say that out of the three modes from which the Convention had to select, they had taken that which experience had proved effectual in securing the prosperity, security and happiness of the people of this Commonwealth. He believed that if we ever could attain a perfect form of Government, a monarchy would be found to be the best. But a perfect King, or a perfect Government could not be found on earth. The Convention did not throw all the power of appointment into the hands of an irresponsible Executive, but established what seemed to be the best sort of responsibility. The whole labor, the undivided burden of the office was imposed upon his shoulders, and he was subject, in case of any violation of the high trust which was placed in him, not only to the loss of his office, but the stigma which, at the end of three years, the people would fix upon him, of having abused their confidence, either corruptly or injudiciously. He (Mr. H.) considered this as coming as near to a perfect system of Government as we could come. The system thus brought into action was not a complex machine, the checks and balances of which were not understood, but simple in its principles and in its movements, affording effectual security to the rights of the people. There was no decided responsibility, but the people said to the Executive by the voice of the Convention, "we give you the power to exercise on your own responsibility: at the end of three years, you will come to the people for their judgment on your conduct, and they will decide if you have fulfilled the obligations of your trust worthily or not."

He had said that the framers of the Constitution of 1790 had all the lights before them which could guide them in their course, except one—and what was that one? It was *experience*. This brings us to the great question. Has experience shown that the mode established by the Convention of 1790 was unwise, and is it expected of the wisdom of this Convention to make a better mode? If so, then let us proceed with the work. If it can be shown that the present mode is unwise, he would not stop until it had been so modified as that one undoubtedly more fit for the condition and wants of the people had been devised. But he had as yet heard no evidence to induce the belief that the present mode is unwise, and that the people desired to see a better. The gentleman from Luzerne had presented to us an appalling view of evils which had resulted from the abuse of Executive patronage, but he believed that gentleman had drawn largely on his imagination; he was eloquent and powerful, but still the accuracy of the picture was doubtful. He told us that corruption was abroad, that the people were degraded and demoralized every where, and that all this evil was to be attributed to the enormous power of the Executive. It was, indeed, an awful picture. He (Mr. H.) however had seen nothing of the kind, he had heard of nothing of the sort. The body politic, it is true, was sometimes diseased, when to all appearances, every thing was sound and wholesome. But it cannot be pretended that such is the case here. We have no hidden disease, like a worm gnawing at our vitals, preying secretly and unseen. He would appeal to honorable members of this Convention to look among their constituents and their neighbors, and say if they could discern there any of this vice which the gentleman from Luzerne has depicted as having spread its destructive influence through our State,

Mr. WOODWARD explained. He did not mean to say that the people were degraded, but that the influence of the Executive was demoralizing. He could not have been supposed to mean that the people were degraded in the mass.

Mr. HOPKINSON : Who then, are demoralized, if it was not the people ? If a State can be said to be demoralized, it must imply the people of the State, or he knew not in what sense the language could be understood. But it was not so, the people were not demoralized. A corrupt and demoralized people would have made choice of different institutions from ours. In the internal body, disease might prey upon the vitals, without any external appearance of pain or decay. It might, also, be so in the body politic. We have been told of cancers, and the most frightful indications of approaching and immediate dissolution. But it cannot be so. If there has been any evidence of such a state of disease, where is it ? He hoped the committee would not suffer their judgments to be carried away by such pictures : or their reasons to be beguiled by these deceptions, however ably expressed, and they were expressed with great eloquence. Every one would naturally put to himself the question : "Am I in this condition ? Are my neighbors in this diseased and demoralized State ?" And he might look beyond, and ask if the people are so. The people of this State are a thinking, quiet, thrifty and virtuous set of men, not to be demoralized by an unsuitable distribution of a few of the offices of the Government. It was of little consequence to them who filled these offices, or who did not fill them. The Governor might also very properly use the language of a celebrated statesman—"for every friend I gain by giving an office, I make ten enemies". Why then, this clamor against the Executive ? It arises from the fact, that a few dissatisfied men go about spending their time in complaining and abusing, while they who are satisfied with the existing state of things, remain quietly at home, attending to their concerns, and saying nothing. It is the dissatisfied office hunters who are making all the noise abroad. Had they been gratified in their desire after office, there would have been heard no complaint of the enormous patronage of the Executive. But supposing that this great patronage of the Executive, this power which the Governor has to dispense offices, has produced the deleterious effects which have been ascribed to it, will the circumstance of connecting the Senate with him in the exercise of the power, put the country into any better condition ? An argument was addressed to the gentleman from Luzerne of this kind. If the Senate be connected with the Governor in the power of appointment, will any benefit result to the country ? The gentleman from Luzerne was too good a lover of Pennsylvania not to see the effects of this association at once ; he had too much sagacity not to foresee that the Senate would hold the Governor at arm's length. That gentleman felt the power of the argument that if the Senate were to have the confirmation of all appointments, it would convulse the State, and he had answered it in the only way in which it could be answered—that the Senate would never set up its vote in opposition to the Governor, and would never reject a nomination because the individual was of different politics. The Senate of the United States had shown that if ever they rejected a nomination, it was from some personal objection to the individual, and not because he belonged to the minority of political parties. The gentleman from Luzerne had said, truly, that the Senate would

only have to ask if the individual was capable and honest? On that ground (said Mr. H.) I meet the gentleman from Luzerne. He had understood that the charges against the Governor were, that he had spread his friends throughout the country, and by means of his patronage in every county, had raised up a band of friends, not to say mercenaries, and had thus laid the foundation of his power. There was something in this argument, supposing it true, which shewed that the Governor had so used his power. This is the bane of every party, every where, that it loved to multiply and spread its partizans through the country. This is not proposed to be remedied. This is looked upon as all right; that it is but a fair exercise of power to bestow offices on those who have contributed their favours as partizans. It follows, then, that all that is to be required from the association of the Senate with the Governor in the appointments to office, is the prevention of the appointment of men who are notoriously dishonest. Is it so? Is so great a change as this required in our fundamental law, for so small an object? For, after all, when the change shall be made, we get rid of no part of the power of the Executive, except that he cannot appoint dishonest and incompetent men to office. If he has any regard for his oath, any respect for himself, he will not do that now. The Governor will never, knowingly, appoint a dishonest or incompetent man to office. He may sometimes be deceived. The time, however, would come when the question would be more fairly before the Convention, whether any evils exist under the present system, and, if they do, whether this is an adequate remedy. The idea of curing such evils, if they exist, by connecting the Senate with the Governor in the power of appointment, and thus taking away from him his great patronage, is absurd. Take away the demoralizing influence of this patronage—how will you do it? By connecting the Senate in the dispensation of it?

Why, sir, this is something like a system of medicine where a man is given the hundredth part of a grain of medicine to cure a violent disease. The object to be obtained cannot be reached now, it may be reached hereafter, in another and a better form; but he did not think that this would produce any good effect. He should, therefore, vote against the amendment.

Mr. READ was sorry the amendment of the gentleman from Montgomery (Mr. STERIGERE) had been brought forward. It only made the subject more intricate and was not calculated to effect the object for which it was offered. Although it proposes a check, it does not go, in any considerable degree, to effect the great object which reformers have in view—that is, it does not go to strip the Governor of his patronage. It leaves this with the Executive, and offers so small a remedy to the evils arising from Executive patronage that it would hardly have been worth the people's while to send us here if that was all we were to effect on this subject. He had been surprised at the opposition, coming from some quarters, to the amendment of the gentleman from Chester, (Mr. BELL) and still more surprised that the gentleman's colleague (Mr. DARLINGTON) should have submitted a grave argument founded upon the supposition that the amendment was so intricate that it was impossible to understand it. It appeared to him so plain that a child of ten years of age could understand it. The first part of the amendment is that the Governor may appoint a Secretary of the Commonwealth during pleasure. Cannot the gentleman understand

that? There appeared to him to be no intricacy in it. The second part of the proposition provided that the judicial officers shall be nominated by the Executive and confirmed by the Senate. These were the only distinctions in the proposition, and can the gentleman not understand this. He was surprised that the gentleman had looked upon this amendment as being a question so perplexing, and intricate that it could not be voted upon understandingly. Why, sir, was this serious argument, or was it merely throwing sand in our eyes for the purpose of preventing us from coming to a decision on this first great and important proposed amendment to the Constitution which we have been sent here to make? He considered them two very simple and plain propositions, and if the gentleman is in favor of one and opposed to the other he can call for a division, and vote in accordance to his views. There is no intricacy in it, and all that part of the argument founded upon that supposition cannot meet with much countenance here. The gentleman is very much alarmed at the idea of vesting in the Legislature the power of creating offices and directing the mode in which those offices shall be filled, after they are erected. He would ask the gentleman, however, in what other place he would have us leave this power of creating those numerous offices which the imagination cannot now foresee, but which must become necessary as others have become necessary which never entered into the minds of those gentlemen who framed the Constitution of 1790? He would ask if that Convention could have foreseen or anticipated any thing like our present system of internal improvements with the eight or nine hundred officers which were connected with it? They never dreamed that these officers would become necessary, and it was impossible for us to look into futurity and tell what officers it might be necessary hereafter to create. He agreed with the gentleman from Allegheny (Mr. FORWARD) that it was wrong for gentlemen to put arguments into the mouths of others and then go on to argue against them. This had been done with regard to those who advocate the amendment, and if any gentlemen have a right to complain they are the persons. He agreed with gentlemen that we should provide for the appointment of all officers now known; and he would go as far as any one in defining the mode and manner of appointment, and the tenure of office of all officers that can be defined under this Constitution. But we were legislating for the future, and provision should be made for the appointment of officers which might become necessary, and which we know nothing of now. He would go as far as any gentleman in fixing and defining the mode, manner and tenure of office of all those officers of which we have any knowledge; but we cannot look into futurity and see what is to take place in a hundred years. We cannot now provide for those offices because they do not exist, and we do not know what they may be when they come to exist. Those who oppose the amendment of the gentleman from Chester, argue that we should do as they did in 1790, leave all this residuary power with the Executive. Now, past experience has shown that this would be improper. Under such a limitation a practice has grown up ten times more onerous to the people than the framers of the Constitution ever thought of.

Mr. FORWARD said, if the gentleman alluded to him, he disclaimed ever having used such arguments.

Mr. READ had understood the gentleman to argue against the principle which he supposed we on this side contended for, that of allowing the

Legislature to create offices and fill them themselves. He alluded to those offices which now exist. Now he would tell the gentleman that this is not the position which we on the reform side of the House have taken, and therefore contrary to the gentleman's own maxim he has put into our mouths arguments which we never dreamed of, and then argued against them. But he would leave this subject for the present, and reply to some of the remarks of the gentleman from Chester (Mr. DARLINGTON). That gentleman objects to this amendment, a portion of which related to the Secretary of the Commonwealth, because it was out of place. He says the fifteenth section provides for the appointment of that officer, and enquires, why it is introduced here. Why it is simply because by the rules we cannot strike out the whole section. We are brought into this dilemma by the set of rules we have, which he would not have agreed to, if he had had the making of them. The whole section, upon the principle of the reform men, ought to go out, but it was not in order to strike it out; therefore it being necessary to leave something in, we have inserted here the Secretary of the Commonwealth, and it is perfectly in place, if we are to allow the Governor to appoint and dispense with that officer whenever he pleases. We can then dispense with the remaining portion of the section and the fifteenth section, and does the gentleman suppose we have not the power to do this? Does he suppose that because the Secretary of the Commonwealth was in the fifteenth section of the old Constitution he must still be left in the fifteenth section; and that he cannot be put in any other. It would be perfectly proper to dispense with both these sections, upon the same principle and for the same reason that you dispense with horses on a public road where locomotive engines have been substituted. The principle of the gentleman from Chester carried out, would amount to this; that it would be a great piece of folly in us to use locomotives because the people of 1776 used horses; and this is the amount of the argument of the gentleman against transferring the Secretary of the Commonwealth from the fifteenth to the eighth section. The gentleman also asks us why we introduce matter relating to the judiciary into this section which is appropriately Executive. He would answer, because we propose to give the Executive the nomination of these officers, and we will regulate the length of time they are to serve in another article. Now is there any thing improper in all this? The gentleman's imagination had conjured up another difficulty, which was, that if the amendment of the gentleman from Chester was agreed to, it might happen that a sort of vacuum would be left in the Constitution. If the gentleman would refer to the report on the sixth article of the Constitution he would find that no such occasion could take place. He would see that ample provision was made there for all contingencies. There could never be a vacuum—and no office would ever be created by the Legislature without the power to fill it. There could be no office in existence without an electing or appointing power. Then this part of the gentleman's argument falls to the ground. But the gentleman comes to what he considers a more important part of the argument, and tells you with great gravity that there never has been an indication that the people are in favor of a reduction of the patronage of the Governor with regard to these offices.

Mr. DARLINGTON said he had a distinct reference to the people of his own section of the country.

Mr. READ was glad of it, for if it applies only to one county, it was one which should have but little weight here; because if there was any thing which the people of the whole State had called for, long and loud, it was the abolition of life offices. No man could look in one of the public papers which had been published in this State for the last five years without coming to the conclusion that the power of the Governor to appoint Judges for life was a subject of general complaint among the people. It was a subject upon which the calls for reform had been perhaps longer and louder than any other subject. It is true they have long been endeavoring to obtain some reduction of the patronage of the Governor for the purpose of curtailing his power; but the idea of life officers being created by an officer who was only elected himself for three years, is more abhorrent to the people than any other grievance of which they have complained under the present Constitution. The gentleman's argument then, so far as it related to the people of Chester county, amounts to nothing.

The gentleman now admitted that he did not pretend to deny, in relation to the State at large, that the people had expressed themselves most clearly, and explicitly in favor of reform in this particular. But, they had not indicated any disposition to increase the patronage of the Legislature. They had gone so far as to say that no more Judges should be created. He (Mr. R.) had had some experience in the Legislature, and knew perfectly well the irregularity which sometimes took place there. And he would tell the gentleman from Allegheny that he was opposed to leaving with the Legislature one particle of power more than was absolutely necessary. He was for limiting them to the lowest extent, making, however, due provision for the future. He would confess that he was opposed to any supervision of the judicial officers. What, he would enquire, was the theory of our Government? Was it not that all power was in the people? It was; and that no power which they might delegate, should be used to the injury of the best interests, and the welfare of the people. Every one would admit that the powers of the Government were Executive, Judicial, and Legislative. He knew of no good reason that could be assigned, why the judicial officers should not be elected in the same manner as the members of the Legislature. The objection which had been made to it was—that it would be very inconvenient. He was in favor of an elective Judiciary. We should endeavor to overthrow the inconvenience which had been spoken of, and effect the object as it was for the benefit of the people from whom we derived our power. The gentleman from Erie (Mr. SILL) says, "why not take the power of appointment entirely away from the Governor, and give it to the Senate, or House of Representatives"?

He (Mr. READ) would answer the question by saying, because there was greater safety in committing it to two parties who immediately represented the people, than to one who did not.

Mr. SILL said, that it was not he who had made the remark attributed to him.

Mr. READ continued: He might have been mistaken in attributing it to him. It seemed to him that there was great propriety in dividing the power of appointment, (if the idea of having an elective Judiciary were given up) between one or the other branch of the Legislature and the Governor. For his own part, he was opposed to giving the power to the Executive. But if he was to participate in it, then he preferred that the

Senate should act with him, and not the House. As the gentleman from Luzerne (Mr. WOODWARD) had, in a most lucid and forcible speech, advocated the election of Justices of the Peace, it was not necessary, therefore, that he should go into an argument on that point. The gentleman had said all that was necessary to say on the subject, and in a more happy and felicitous manner than he (Mr. R.) could say it. The gentleman from Allegheny (Mr. FORWARD) complained of the reformers having voted down the proposition which he had introduced, to deprive the Governor of all his patronage, and give it to the Legislature. Now, that, instead of being a reform of our system, would make it more objectionable than it now is. He had always been in favor of checking the power of the Legislature, having witnessed much of legislative assumption.

The gentleman from Erie (Mr. SILL) had said, that the argument was unanswerable, that the Senate had less knowledge of the characters and abilities of the persons nominated, than the Governor. He (Mr. R.) maintained that such was not the fact. The gentleman from Allegheny had likewise complained again, that those who professed to be in favor of reform, did not tell what they want; and he objected to any reform, because the reformers do not tell him what they mean by reform. He called upon them to tell him what they purposed to do? He (Mr. R.) would tell the gentleman, so far as he was concerned, that he would give the Governor the absolute appointment and removal of the Secretary of State, because that officer had, in practice, become the Governor's confidential adviser; and he would agree that he should not have the power of removing any other officer. Further, he would agree to limit the term of any office, whether created by the law or the Constitution. He would give the Governor the appointment of Judges, with the advice and consent of the Senate: he would give the people the election of all Justices of the Peace and county officers. The gentleman asks why we should not give the whole of the appointments to the Senate? He (Mr. R.) wished to dispose of the appointing power in any other way than by giving it to the Executive. He admitted that there was some weight to be attached to the objections entertained by the gentlemen from Allegheny and Chester, with respect to giving the Senate a participation in the making of appointments, and in the exercise of the veto power, which was founded in the necessity of the case, and that alone. There was no other way of imposing a check on Executive appointments. The gentleman from Allegheny had said, why not give the whole power of appointment to the Senate only? He (Mr. R.) had already answered that question. The only practicable way was to divide it between the Executive and one of the branches of the Legislature—which, he did not care—but the Senate, as the smaller body, was the better.

In regard to the offices hereafter to be created, of the number and character of which we know nothing, was it best to leave them all to the appointment of the Governor, or to the immediate representatives of the people? It did not follow that the Legislature should create the offices in order to fill them. They were to be controlled by public sentiment for the time being, and, according to the public sentiment and their own judgment, they will give the appointment to the Governor, or to the people at large, or fill the office by election in joint ballot. It was better to leave it to the discretion of future times, to say how the officers here-

after called for by the public exigencies, should be appointed. Some sorts of officers, like the Canal Commissioners, might, in the course of a century, become necessary; and would it be wise to anticipate the public sentiment of that day, by saying that they should be appointed in a particular mode? He would say that it was better to leave it to the discretion of the future to do as might then be deemed expedient, than for us to say that they shall not have the power to create a new office;—that the creation of it, or the appointment to an office, must be by the Governor.

The amendment of the gentleman from Montgomery, (Mr. STERIGERE) he hoped would be withdrawn; if for no other purpose to prevent distraction among those favorable to reform. He believed a large majority of this body were favorable to reform, and if the amendment of the gentleman from Montgomery was not withdrawn, he called on the reformers to negative it for the present, for the purpose of comparing their views on the proposition of the gentleman from Chester.

Mr. FORWARD: If the gentleman supposed that I intimated any thing about the tenure of the Judiciary, he is mistaken. I did not express the opinion that the Judges of the Supreme Court should hold their offices for a term of years. I offered no sentiment of the kind. My opinion is, that the tenure of the Judges should be that of good behaviour.

Mr. DICKEY had listened with surprise, he said, at the appeals of the gentleman from Susquehanna to the reformers. He talks of reformers as if the gentleman from Chester and himself, and two or three more, were the exclusive reformers here. The gentleman from Chester (Mr. BELL) yesterday called the reformers to the rally. He called on them to sustain this great principle of his, which, according to his notions, is the great point of reform. The gentlemen who called upon the reformers so loudly, neither understood their own principles, nor themselves. This he did not speak without book. A few days ago, the gentleman from Susquehanna, was willing that both the Secretary of State and the Attorney General, should be appointed by the Governor alone. He had spread it on record as his opinion, that the Attorney General should hold his office at the pleasure of the Governor.

Mr. READ said, he thought so still, but he surrendered his wishes in that particular, in accordance with the views of his friends.

Mr. DICKEY said the gentleman from Chester just proposed to give the appointment of the Attorney General to the Governor, and then, to suit some of his friends, he modified the proposition by omitting that officer: and he yet asked us to rally in support of his amendment on principle. On what principle? On the principle of a combination of those who claim to be the exclusive reformers? The gentleman from the county of Philadelphia, (Mr. BROWN) stricken with the weight of the argument of the gentleman from Allegheny, gave up the principle of the proposition under consideration, and asked us to vote for it as a matter of convenience, in order to get on with the business. One of them yields his principles to the other, and then they join, and cry out for a rally of the reformers. But, sir, what principle are we asked to vote for? The gentleman from Chester tells us, that he is opposed to giving the election of Justices of the Peace to the people, and his amendment contemplates their appointment by the Governor, and yet he calls reformers to the rally.

Mr. BELL here said his amendment did not provide for the appointment of Justices of the Peace by the Governor.

Mr. DICKEY : The gentleman declared, in his remarks, he was not in favor of the election of Justices by the people, and yet he called the *reformers* to the rally. I suppose, then, sir, (said Mr. D.) that I and my friend from Allegheny, who are in favor of electing this army of Justices by the people, are not reformers. His friend from the county (Mr. BROWN) was, he said, bound by every principle to vote against this amendment. His resolution of the 10th of May now stood on record, and wholly discountenanced any proposition like this amendment, upon which the reformers were called to rally. The gentleman could not vote for the amendment without voting directly against his own resolution ; and yet he tells us that, as a matter of convenience, we ought to vote for this amendment.

The amendment of the gentleman from Chester does contemplate the appointment, by the Governor and Senate, of nearly two thousand officers—of thirty-seven Judges of a superior grade, besides Recorders and other officers, and of nearly two thousand Justices of the Peace. The gentleman from Chester was in favor of giving all these appointments to the Governor and Senate. He believed, the only true way of getting at the question was to vote down both amendments—that of the gentleman from Montgomery, and that of the gentleman from Chester, and then determine how and where the appointing power shall be placed. These gentlemen reformers must, in conformity with their own principles, vote against the amendment of the gentleman from Chester.

Mr. BROWN, of Philadelphia liked the argument of the gentleman from Beaver, he said, because, it would require very little effort to answer it. He has charged us all with inconsistency because, after trying our own propositions for six weeks, and coming to no conclusions, we have yielded some of the opinions which we held at first. It was evident that we should never do any thing, unless we yielded some of our own peculiar notions in forming a general system of reform. But what principle had he or his friends violated ? The gentleman was welcome to the record. He had, in his resolutions, provided that the Governor should appoint a Secretary of State, with the advice and consent of the Senate ; and, now, forsooth, because he was willing that the Governor alone should appoint him, he was charged with inconsistency, and violating a great principle. Truly, the gentleman from Beaver must have peculiar notions of principle. Mr. B. did not think there was much principle or importance in it either way. But he (Mr. B.) had been charged with another sin—he had called on the reformers to rally ! And for what had he called on them to rally ? Why, to pass the amendment that they might proceed on ; and when they had got through with all the appointments, they could then remove from this section any thing objectionable. But it was a sin, in the eyes of the great reformer from Beaver, to ask the reformers to rally ! He (Mr. B.) had called on them to rally, and he was pleased to see that they had rallied—that they were now disposed to give up their own personal and sectional notions of reform, and mere disputes about words and terms, for the great objects of reform that the people require. And why had the reformers rallied ? They had been here six weeks, and had suffered themselves to be thwarted and defeated by the opponents of all

reform, because they were not united. They saw that to carry any reform they must act together. His constituents, he said, required extensive and radical reform—to an extent that, he had been told since he had been here, would not receive the approbation of the people of the whole State. His constituents would elect all their officers—they would go for short terms—they would go for Judges for three or four years; but was he to vote for continuing the present life tenure, because he could not get short terms for them? No! If he could not get three or four years, he would go for seven, eight, ten, any thing short of eternity! Would he sacrifice any principle in this? He was for reform! all the reform he could get. He was not like the gentleman from Beaver, all talk of reform, but who would not vote for it, because a word was out of place, or a letter missing, or a section wrongly numbered. He had heard of propositions of compromise—they had come in whispers to his ear, but they were from the wrong source; and he warned the friends of reform to beware! For himself, he was willing to compromise; but it must be with the true friends of reform, not with its enemies, or such friends of reform as the gentleman from Beaver; and when he again called on the friends of reform to rally, that gentleman need not think he was included in the call.

Mr. DICKEY remarked that when he was up before, he ought to have said that there were ten thousand Justices of the Peace in Pennsylvania. Governor WOLF, alone, appointed seventeen hundred. So the gentleman from Chester proposed by his amendment to give the appointment of eleven thousand offices in all to the Governor; and this was the principle on which he proposed to effect a reform. That was the principle which reformers were called upon to support. The gentleman from Philadelphia says I am welcome to the record. Very well; here it is, a part of his resolution of 10th May, reads as follows:

“Resolved, That the Executive Departments of this Commonwealth ought to be amended:

By taking from the Governor the appointment of all officers, others than those connected with the State Executive Departments, Secretary of State, Auditor General, Surveyor General, Secretary of the Land Office, and their assistants; and requiring the concurrence of the Senate to the appointment of the heads of those departments”.

There is the principle laid down by the gentleman five weeks ago, and yet he now gives his support to an amendment of directly a contrary character. But he would leave the gentleman's course to be settled between him and his constituents.

Mr. READ: The gentleman from Beaver had said that I advocated an amendment looking to the appointment of the Justices of the Peace by the Governor and Senate. The amendment of the gentleman from Chester does not, in its face, provide for such an appointment. If it did, I would not vote for it.

Mr. DICKEY: I accept the explanation. I know that the gentleman will go with me in giving the election of the Justices to the people, when we come to the sixth article. But then the gentleman from Chester will call the reformers to the rally against that, for he had avowed himself against it. He did not see how the gentleman from Susquehanna could vote for the amendment of the gentleman from Chester. After the avowal of its object, consistency would require that he should vote it down.

Mr. BROWN, of Philadelphia, was obliged to the gentleman, he said,

for his lessons in consistency. But he would remind him that he had said this morning that he did not approve of the amendment, but would take it in preference to the section as it stood. He would vote for this motion in order to get on; and then he would go with the gentleman from Allegheny, to fix the mode of appointing the several officers.

Mr. DICKEY said he would now call upon the true friends of reform to stand by their principles, and vote down the proposition of the gentleman from Chester, who was opposed to the election of Justices of the Peace by the people.

Mr. EARLE hoped, he said, that the reformers would wait a long time before they took HOBSON'S choice between the propositions of the gentleman from Beaver, and the gentleman from Chester. He trusted that neither would be supported; and that no proposition that looked to the continuance of life offices would be sustained. He hoped no gentleman would consent to compromise a single principle. There was no necessity for it. Compromise was always dangerous. Let every one offer his own views, and, if he cannot carry them, let him adopt the best that can be sustained. The gentleman from Beaver appeared to be anxious to have it put on record by the Stenographers, and sent abroad, that the amendment of the gentleman from Chester proposed to give the Governor and Senate the appointment of Justices of the Peace. But it was not so. If it proposed that, very few would be willing to go for it.

A few remarks in reply to the gentleman from the city (Mr. HOPKINSON) That gentleman thinks the people have not suffered under the existing Constitution. There was a similar opinion advanced five or six weeks ago. The people, however, have settled that question. If he (Mr. E.) wished to know the sufferings or the wishes of the people, the gentleman from the city would be the last individual he would think of going to for the information. Not that the gentleman had not talent and intelligence; but his habits were most retired, and it was impossible for him to know what the people think and wish. The people of Philadelphia who put their ballot in the box for the gentleman to take his seat in this Convention, were, ten to one, in favor of this change which was now proposed, twenty-two years ago, and such an amendment would then have been made in the Constitution, had it not been for gross fraud and falsehood, perpetrated under a great name, by which they were cheated out of it. It was found necessary to resort to fraud and falsehood at that time to obstruct the progress of reform. The friends of reform asserted that they advocated equal justice, and the existence of equal rights to all men. The opponents of reform took this up, and said it meant equal distribution of property. They knew this would not go down without some authority, and they sent it abroad under the name of high influence, and it was distributed all over the State; and by this falsehood, and these artifices, the enemies of reform have cheated the people until they will consent to be cheated no longer. The gentleman from Philadelphia said the noise all came from disappointed office-seekers, and that the question of a Convention would not have been raised, but for the operation of these private griefs. Some gentlemen might think it hardly generous in us, if we were to say that the opponents of reform dared not rely on their own merits, and could not get into office any other way than by intriguing with the Governor, hoping that something would turn up to put off reform and produce a compromise.

This compromise would have been willingly made by those who opposed reform, and who, if we would have consented to exempt the Supreme Court from the action of the Senate, would have consented to take the negative of that body on the other officers.

The gentleman from Allegheny (Mr. FORWARD) pursued a course of argument and action he (Mr. E.) did not exactly understand. Yesterday, he desired to give the whole power of appointment to the Legislature, and to-day he opposes the proposition to give any part of that power to the Legislature. He voted for one of these propositions, but he refuses to vote for the other. He could not see distinctly what object the gentleman had in view. To-day he is against any part of the power being given to the Legislature, and yesterday he was in favor of giving the whole, and called the yeas and nays on the question. He voted with that gentleman yesterday, and he thought there could be no danger from such an apportionment of powers. The gentleman was opposed to bringing in one new particle, yet he was willing to bring in two.

Mr. FORWARD denied that his argument was such as the gentleman had represented it to be.

Mr. EARLE resumed, and said, the gentleman asked why we should not suffer the Senate to nominate. That was tried yesterday, and tried without success. The gentleman was fearful of entrusting this power to the Legislature. I (said Mr. E.) am not so fearful of the effect of a legislative guard over the appointing power. Now the gentleman wants no partner, yesterday he wanted two partners. I am willing to go half way with the proposition of the gentleman, on the principle that half a loaf is better than no bread. The gentleman proposed two out of the three to be associated, but now he objects because he cannot get the two he wants: and was willing to risk the power with the Governor alone rather than bring in the Senate. The gentleman complained that we are not pledged to any particular measures, that we do not clearly explain what we want. We have been engaged for two days in arguing the subject, and he now asks us to give some pledge. For my own part (said Mr. E.) I hold myself in reserve on that point. It would be out of order at this time, and it will be sufficient if we do it on the day when we shall vote on the subject. The gentleman from Allegheny has not pledged himself on any point; he was always doubting and hesitating, and now asks us to pledge ourselves. The gentleman hesitated so much and so often, that he reminded me of WALTER the Doubter. He was sure if the gentleman was in the Senate, and they wanted officers in Philadelphia, that he would not try to force upon them bad officers. Did he not then believe that all Senators would be like himself and not abuse their trusts? If the gentleman did believe so, he trusted he would vote with him (Mr. E.) in reducing their term of office. But admitting they had this bad propensity, he did not think the evils would result from it which gentlemen imagined. If there would be any combinations formed, he thought it would be the small counties against the large. But gentlemen have said that the Governor was besieged by office seekers. Now it was the intention of the reformers to place a body guard near him to protect him; and the Senate would be this protection. It was necessary that the Constitution should be clear and explicit in its language, so that no misconstruction would be placed upon it. There should be no ambiguity in matters of this kind, because he believed one half of the suits

in the United States had arisen from ambiguity in the laws and Constitutions. Although the Constitution provided that the Governor should appoint all officers, yet by a forced construction it was violated. The Supreme Court itself, had, in his opinion, violated the Constitution by the appointment of officers which the Constitution says the Governor shall appoint, and the Canal Commissioners were elected by the Legislature. The reason of this was that the Constitution was contrary to the spirit of the age, and, consequently, it will not be observed and respected. His object then, was to reform this Constitution in such manner as to make it acceptable to the people, and it will then be respected. It seemed to be remarkable to him that gentlemen must have so many checks in some matters, and would agree to none in others. In law making they must have a Senate for four years to check the House of Representatives, a Governor to check both, and after that a Supreme Court to check the whole three, yet strange as it might seem, the Judges of this Supreme Court, which was the highest check, were appointed by the Governor. If this Governor was possessed of so much wisdom, why not trust him with all these powers? Why not trust him with the law making, the Judicial, and the Executive authority? In not trusting him with these powers you assume that he is not infallible. Then if he was fallible in law making, might he not be fallible in the appointment of officers for life. He was sorry the gentleman from Montgomery and the gentleman from Chester could not go together. He should vote for both of their amendments.

Mr. SERGEANT (President) rose chiefly to draw the attention of the committee to a matter of fact. We have been theorizing all day, upon general argumentative grounds, without the appeal to a single fact upon which to rest our arguments. There was a case now going the rounds of the newspapers, which was precisely in point, and he was surprised it had not been referred to in the debate. It occasioned a great deal of controversy to know who was right and who was wrong in the matter, which he did not wish to discuss, and still less to decide, but would leave that question to the State which it concerned. The case was this: The State of New Jersey has a legislative body consisting of two branches, the one made up of three representatives of each county, which body corresponds with our House of Representatives; the other is a Council consisting of one member from each county, amounting in all, he believed, to fourteen members. This legislative body has the power, in joint meeting, of appointing nearly all the officers of the State of New Jersey, and when they assemble at the time officers are to be appointed, it is notorious that you hear of nothing else but appointments. This, however, was speculation—he would now come to the facts. The State of New Jersey being in such a condition of distress, as made it, in the opinion of the Governor, necessary to convene the Legislature, in order to provide a remedy for existing evils, he called a special meeting of the body at an unusual time, for that very purpose, and for no other. They met, and there was a majority of the lower House in favor of passing the measure of relief. They passed it accordingly, and sent it up to the Council. The Council, it appears, stood eight of one party, and six of the other; but of the majority, two were absent. The division of those present was six to six, and the Governor had a casting vote. The House of Representatives, as before stated, passed the law deemed necessary to relieve the distress;

but when it came to the Council the minority refused to consider it, unless the other side would agree first to go into an election for officers of the State. They refused to do so, stood their ground, which they were able to do, because there was no quorum without them. The Council finally separated, and the Legislature broke up, without the measure of relief, which all agreed to be necessary, ever being considered in the Council. This was the statement going the rounds of the newspapers, according to his recollection, so far as it was material to the present purpose. The time for electing officers, it may be remarked, had not arrived, in its regular course. It would have been in the following winter session. In the meantime there was to be an election, and, it was said, the minority in Council were apprehensive there would be a change in the Legislature, giving the power to the other side. They wished, therefore, to anticipate, and to secure to themselves the appointment of officers for the next term of years, before the election. This was a striking illustration of the evil which must result, from placing legislation and appointment in the same hands. The legislative power was sacrificed to the petty object of getting the State officers. A measure of relief, universally desired, and of the most urgent necessity, was put aside for the sake of the offices. The special session, called only for the purpose of that measure, was made abortive. The whole expense and trouble of it were thrown away. The public distress was left without relief. It is impossible to find a stronger argument or illustration than this fact affords. Such a fact ought to be conclusive against mixing these powers together.

He begged the indulgence of the committee to say a word or two more. He wished every member of the committee to consider the fact he had stated. It was a general fact, applicable to all legislative bodies, and as such he wished to deal with it. He was not desirous to discuss its applicability to any particular Legislature. But, taking the evidence before the Convention, he would ask whether the Legislature of Pennsylvania were less likely to be injuriously influenced than the Legislature of New Jersey?

The gentleman from Susquehanna had borne the most decided testimony against our Legislature. What gives greater strength to his assertion, is, that he had been a member of the Legislature, and speaks from his personal knowledge. He had been a distinguished member of the House, and, he believed, a member of the Senate. He had had large opportunity of observation. Whether he had observed correctly, he would not pretend to say. He would not repeat, in words, what the gentleman said in regard to them; but he certainly gave them a character which entitled them to any thing but confidence—which showed they ought not to be entrusted with additional powers, nor exposed to new temptations.

Nay, the very end and aim of the evidence was to establish that they were unfit to exercise the powers already committed to them. The Legislature according to his statement, stands in need of a check, and that body which stands in need of a check proposed to make a check it is to another—to put one wild horse by the side of another wild horse to keep him in order.

If the Legislature, in the exercise of those powers which already belong to it, required restraint, to give it still greater powers seemed to be very bad philosophy indeed.

But, it is said, the Governor requires a check. Be it so, for the sake

of argument. Still he (Mr. S.) understood a check to be something that by its steadiness and correctness, as well as weight, would prevent irregularity and misconduct. Will the Legislature or the Senate answer this purpose? If he comprehended the gentleman's meaning it was that the Legislature is not to be trusted with the powers it now possesses. They were abused. If that were the case, how was it qualified to operate as a check upon others. It would be just the reverse. The elements of disorder would be increased, and confusion would be the consequence.

Now, with respect to the advisory power, the gentleman from Montgomery (Mr. STERIGERE) had relied upon the authority of the Federalist to show, that it had been introduced into the Constitution of the United States upon general grounds, and not from the peculiarity of the structure of our Government. But it is not to be taken for granted that the reasons of "PUBLIUS" were in all cases those upon which the Convention acted. The Constitution had been agreed upon in Convention, and the letters which pass under the name of the Federalist, were written to recommend its adoption to the people of the United States. The writers were men of great ability, and they, very naturally and wisely, used every argument likely to be available.

The known object of the writings of "PUBLIUS" and others—the authorship of which belonged, in unequal proportions, to HAMILTON, MADISON, and JAY—was to gain the good opinion of the people of the United States in favor of the Constitution, as agreed upon in Convention—they contributed much to its adoption, by showing the excellence of the provisions contained in that instrument, and quieting the apprehensions that were entertained in regard to them. Still, I am persuaded, that the advisory power of the Senate of the United States is a portion of Executive power, which, as well as the treaty making power, was retained by the States, in that body where they were equally represented, as States. For, let it be remembered, that Constitution was itself a matter of compromise, and a part of that compromise was that the Senate should represent all the States equally, and should not only share the Legislative, but the Executive power also. They share with the Executive the power of appointment as well as in the treaty making power. The object of the Federalist was to recommend it as it was found in the Constitution, upon such reasons as might seem to favor it. And, what, he asked, are they? Why, that the Senate is a "*select*" body—this word "*select*" being made emphatic by *italics*. This proves that the writer of the article thought that the revisory body must be a *select* body. What did the writer mean by a "*select assembly*"? Why, the Senate of the United States was undoubtedly a *select assembly*. It consisted of a few of the most eminent citizens not more than two from a State, sent there to exercise the whole authority of the States. It partook of the nature of a representative body: it partook also of the nature of a congress of ministers from different States, sent there to exercise authority in behalf of the States and thus to constitute a "*select assembly*".

Now, he (Mr. SERGEANT) wished to know in what sense it could be said that the Senate of Pennsylvania was more of a select assembly than the House of Representatives. It was composed, it was true, of a less number of members. But how was it select? Was it not a body elected by the same people? Was it not a body elected for the same purposes?

For legislation, simply? Was it not a body, only distinguished from the House of Representatives on account of its members being fewer in number and elected for a longer period? But, in no other sense was it "select". It was, like the House of Representatives, a popular representative body, and nothing more. He desired to know, then, where was the distinction between the House of Representatives and the Senate, that should constitute the one a *select* body, to correspond with the meaning of the writer of this article in the Federalist? If (said Mr. S.) you speak of superiority of knowledge applicable to appointments, it is clearly inferior. There is more knowledge, of this kind in the House of Representatives than the Senate—exactly in proportion to to the excess of its numbers. There is more knowledge, too, because the members represent smaller spaces, neighborhoods, and are more acquainted with the people. The writer of this article goes on to show what the contest likely to arise may be, and what are the evils to be avoided on each side. I call upon those who are arguing for the introduction of such principles, into our State Constitution—for there are two distinct ones involved in this amendment—to tell me what analogy they can find. As applied to the Government of the United States, constituted as it was, I can understand the arrangement as it stands in the Constitution upon the grounds which have been adverted to. The States chose to reserve this power, by lodging it with their representatives, where every State has an equal voice. But, no such distinction exists between the Senate and the House of Representatives of the State.

I do not wish to take up the time of the Convention, and especially when a rally is called for, which seems to put an end to discussion. A desire to bring into view an apposite exemplification of the effects of uniting the Legislative and Executive powers, is my apology for again taking up the time of the body upon this question.

Mr. RITTER moved that the committee rise, report progress, and ask leave to sit again.

The question having been taken on the motion, it was decided in the negative.

Mr. BELL rose: After the great leader of reform has given us his views,—

Mr. STEVENS here moved that the committee rise; to which motion some opposition having been manifested,

Mr. SERGEANT (President) said that, according to all parliamentary usage, the gentleman who brought forward a proposition was entitled to be heard in reply to all the objections urged against it.

Mr. STEVENS (alluding to the opposition to the motion) remarked that this was not the spirit in which we should make a Constitution for millions of people. He proposed that the committee would rise, and that this subject would be acted upon with proper deliberation.

The committee then rose—ayes 76—reported progress, and obtained leave to sit again.

The Convention adjourned.

THURSDAY, JUNE 15, 1837.

SECOND ARTICLE.

The Convention again resolved itself into committee of the whole, on the second article of the Constitution, Mr. CLARKE, of Indiana, in the Chair.

The question pending being on the motion of Mr. BELL, to amend the eighth section of the second article,

Mr. BELL, of Chester, said it was with very great reluctance that he rose to make a few observations, and he would not have troubled the committee with a word, but that several gentlemen had assailed his proposition in a manner which rendered it necessary for him to claim the indulgence to be heard in reply. The argument itself had been exhausted, and if any proof of that fact were necessary, the scenes which were exhibited before the committee yesterday, substituting personal assault in the absence of argument, would be sufficient. He could not conceal his astonishment at the unprovoked attacks which had been made upon his proposition. He had heard many things in the course of the debate which had wounded his feelings, but none more so than that gentlemen should have mixed up personalities with the discussion. This, perhaps, was owing to his own entire inexperience in these matters. At home it had been his fortune to mix in a kind of society where the finer feelings of our nature were appreciated, respected and reciprocated. It may not be so in deliberative bodies. The course which has been adopted here, and of which he complained, may be the proper mode of assailing and frustrating an argument on the construction of a turnpike or a railroad, or the establishment of a bank in some favorite town; but it appeared to him to be strangely out of place, and out of taste, in an assembly met for the purpose of amending the fundamental law of the State, involving the weal or woe of the whole people, perhaps, for many years to come. He would hold up his hands against such a mode of meeting arguments on the important questions we are met here to discuss, instead of treating them with the candor and fairness due to them and ourselves. Efforts had been made to rouse feelings of party, which would be fatal to that calm discussion by which, only, just conclusions could be reached. The gentleman from Beaver had alleged that the source of this proposed reform is not pure. Did the gentleman intend to say that he, in his course, is pure and honest and upright; and that I, in mine, am impure and dishonest? I will tell that gentleman (said Mr. B.) what I am not—I am not one to say one thing and to do another; but I am at all times ready to show my hand, and to say to the world what I am, and what I am not. His consistency had been called in question, he knew not on what authority, or from what book; but he would suggest that a little word is sometimes a dangerous thing, when it calls up reminiscences which friends would willingly forget, and foes might be too generous, unprovoked, to recur to.—The gentleman from Beaver (said Mr. B.) is welcome to point and discharge his answers at me. To me it is exceedingly disagreeable to engage in this petty warfare. It is altogether in opposition to my nature, and in this instance, the attack is altogether uncalled for, and unjustifiable.

He would proceed to consider very briefly a few features of his propo-

sition, which seemed to have been misunderstood. All the arguments against it were founded in misconception, and the circumstances were merely misrepresentations. There was but a single gentleman who had put his opposition on the true ground, who had been manly enough to say what he thought. The respectable Judge from the city of Philadelphia, (Mr. HOPKINSON) had said, that he never heard any complaints of the people against the working of this provision in the Constitution. No one would doubt that the gentleman spoke the truth—he was not in a situation to hear these complaints; they never penetrated the privacy of his life, and such was his own purity of character that he never suspected abuse. It would not be necessary for him to recall facts, or to travel over the history of the past, to prove that this Convention owes its existence to the dissatisfaction among the people on account of the abuse of Executive power. For the last seven years, the attention of the people has been called to this subject. The gentleman from Allegheny, (Mr. FORWARD) for whom he entertained feelings of the highest respect, had said, that although this amendment becomes large at a distance, when it comes to be subjected to a microscopical observation, there was nothing in it. If there is no principle involved; if the idea of the gentleman from Allegheny was correct, then he would agree that it was not deserving of the notice of the committee. He was astonished, however, at the obtuseness which could discover nothing more in his proposition. It was urged that there was nothing in the principle, because they who proposed it would not carry it out, they would go no further than appeared on its face, but would stop there. If this were true, there could be some reasonable ground for opposition. But the fact was altogether assumed. We must make a beginning somewhere, and this is the proper place. There would be some reason in gentlemen's objections if the charge was true. The gentleman from Allegheny had told him, that if he proposed any thing in the shape of reform or amendment, he would go for it. What is this?—It is a proposition to take from the Executive the appointment of all officers created by law, and leave it to the Legislature to determine how future, offices, which should be created by law, were to be filled. It was an attempt *in limine* to make the appointing power an exception to the general rule, instead of making it the general rule itself. What is the general rule now? It is that the Governor shall always appoint the officers of the Commonwealth; and the proposition now offered is, that he shall not appoint, except where it is pointed out by the Constitution that he may. But gentlemen have said, you effect nothing by this but the introduction into the Constitution of a mere abstract principle. It does, however, effect more, although if it only effected that it would be something.—But when we come to the Prothonotaries, Sheriffs, Clerks of courts, and other officers, he would go as far as the gentleman from Allegheny, in fixing the mode of their appointment, so as to leave nothing to the Executive. He was entirely willing to go with the gentleman. The gentleman might find some difficulty in filling out the details, but if his Constitutional learning will help him out of that he may rely upon me. In me he will find an ally. The gentleman desires to point out some mode, to look into futurity, and provide in what manner officers shall be appointed hereafter. So do I, and if the gentleman can point out any possible mode by which this desirable object may be accomplished, he will find me

going along with him. But we are not now prescribing the mode of appointment of officers to offices, which are now in existence, or which may hereafter be created. We are only prescribing, at this time, what the Governor may do, and what he shall not do. We had been told by the gentleman from Beaver, that the amendment gives a power to the Governor to appoint about 10,000 Justices of the Peace. He had listened to this assertion with astonishment. He could not believe his own ears.— He wrote down the language of the gentleman, that the amendment would give the power to the Governor to appoint 10,000 Justices.

Mr. DICKEY : That was my explanation yesterday, coupled with the explanation, that the amendment would give the Governor and Senate the appointment of all judicial officers now; and if the principle were followed out, which the gentleman had laid down, and in which he had called the reformers to the rally to follow his lead, that the election of Justices ought not to be given to the people, all these officers would have to be so appointed.

Mr. BELL said he called no one to follow his lead. But it seemed to be alleged by the gentleman from Beaver, that power should be given to the Governor and Senate to appoint 10,000 Justices. Whether there was that number to be appointed or not, he denied that the conclusion of the gentleman from Beaver was a legitimate one. On the subject of the election of Justices of the Peace, and those judicial officers, who have been so needlessly and unceremoniously dragged in here, I am as yet open to conviction. With the candor which always characterises me, I repeat that I am as yet open to conviction, and that I will remain so. If the gentleman from Beaver, who asked the Convention not to vote with me, because my reform emanated from an impure source, will convince me that my views have been conceived in error, I will yield to him. How does this amendment put into the hands of the Governor and Senate the appointment of 10,000 Justices? I might presume the gentleman had fallen into the error of supposing that he was addressing persons destitute of common sense, and if the people are intended to be appealed to in this language, I will say so. If a majority of this Convention should be found to be opposed to the appointment by the Governor, of the Associate Judges, is there any thing in this amendment which can prevent them from carrying their decision into effect? Is there any thing which prevents the people from deciding that the appointment of judicial and ministerial officers shall be vested in the Governor and Senate. The opposition rests on other ground than this: it is an opposition to the idea of reducing the amount of Executive patronage. This is the true ground of opposition; this is what the proposed amendment contemplates, and this the ground of objection to it.

One word more, and he would promise to be brief, in relation to what fell from the President of the Convention yesterday, not on the subject of connecting the Senate with the appointing power, but as to making the Senate a check upon the Governor. It has been insisted that this proposition is designed to give the Governor and Senate a partnership interest in the appointing power. It is not so. It is to place them in opposition, to make the Senate a check on the Governor. He would strip the Governor of all power, if it were possible to do so; but it was necessary that there should be some power left in the hands of the Executive. Whenever it could be otherwise vested, he was disposed to transfer it; and when

it could not be, he desired to impose a check. How could any other way be devised of reducing this power than by putting it in the hands of the Senate as a check upon it? We had been told of a fact which is said to be going the rounds of the newspapers, and what is this fact? He did not know from his own reading, as he had not seen the statement in any authenticated form, for he had no reliance on newspapers. It is, that the Legislature of a State assembled for a particular purpose, refused to do another kind of business. There is no analogy in the case to any possible contingency which can arise under this amendment. Do we propose to vest the appointing power in the Legislature in joint ballot? No one has made a proposition of this kind, except the gentleman from Allegheny, and there was a very decided vote against him, so much so, as to shew the hopelessness of offering the proposition again; there can be no collision, therefore, between the Senate and the House of Representatives. There will be no danger of any such complaint in reference to the exercise of the appointing power. The nomination will be before the Senate alone, and the majority will either confirm or reject it. This, therefore, is a plain answer to what fell from the President of the Convention on the subject of the fact which he quoted from the newspapers, and the danger of collisions between the two branches.

He felt that he had occupied more of the time of the committee than he had intended, when he rose; and he would add nothing further, except to apologize for the length of remarks into which he had been led, and to express his hope that he should not be called on to make any further observations on the subject, but that he should have a decision on his proposition.

Mr. DICKEY, of Beaver, said he had never intended to charge impurity of motive against the gentleman from Chester. If he had used the term "impurity", at all, he could only have used it in reference to the course of the gentleman, as a reformer. He was too well acquainted with the gentleman from Chester, to cast any such charges against him. But he had a right to look at his course as a reformer, and to the reformers of whom the gentleman from Chester is taking the lead, and to say that the proposition of the gentleman did not come from so good a source as the proposition of the gentleman from Allegheny, (Mr. FORWARD) and that, as a leader, the gentleman from Chester was not so safe as the gentleman from Allegheny. But if any thing he had said, had wounded the gentleman, he could only say, the fluttering of the pigeons proved that the shot had struck. He had stated that when the gentleman from Chester first offered his amendment, it was only to strike out a few words; but after it had been modified, he also stated with his usual candor, that the modification was the result of a conversation between the gentleman and the gentleman from Susquehanna and others. From this, he had inferred that there had been a consultation out of doors, on which this rally was intended to act. It was this which induced the gentleman from Philadelphia county to say he should vote for the proposition, in order to pass on to the consideration of the other propositions. When he yesterday had used the expression in reference to the rally of the gentleman from Chester, as the leader of the reformers, he did say that the amendment of the gentleman from Chester proposed to give the appointment of all the judicial offices to the Governor and Senate; and when he found, on reference to

the record, that the gentleman was not in favor of giving the election of Justices to the people, he had said that the views of the gentleman from Chester looked to throwing into the hands of the Governor and Senate the appointment of the ten thousand Justices of the Peace. If the gentleman from Chester would turn to the proposition he had offered, he would find that he was in favor of the appointment of an Attorney General by the Governor; and he said, when he offered it, that it was at the suggestion of the gentleman from Susquehanna, that he had modified it; and he would say now to both the gentlemen, that if that was the principle of the gentleman from Chester, his opinions had undergone a change, when he mounted his regimentals, and called on the reformers to rally upon his present proposition. He agreed with the gentleman from Chester that we are here for the purpose of altering the fundamental principles of the Government, of altering the fundamental law which would govern millions of citizens yet unborn, and that we ought not to be governed in our course by considerations of mere convenience, or by party feelings, or out door consultations. Every man ought to be free to act on his own opinions of right and wrong: and it was this conviction which made him yesterday say to the delegates that they are bound to vote against the amendment of the gentleman from Chester, because it did not contain the principles which that gentleman himself had advocated. Gentlemen ought not to vote for the amendment of the delegate from Chester, because it would give the appointment of a host of officers to the Governor and Senate, which the Convention desired to give to the people.

Surely the gentleman from Chester would not deny that he wished to settle this question on the principles he had openly avowed. He (Mr. D.) could not vote for the amendment, because he voted not on those principles, and he would not put it on record that he voted to give a power to the Governor and Senate, which would draw into it the appointment of the army of Justices of the Peace.

There was another principle to which he had ever been opposed, and to which the gentleman from Susquehanna, judging from his remarks yesterday, would also be opposed. He had no idea of allowing the Legislature to create offices, to fix high salaries, and then to appoint persons to fill those offices. In reference to the Chief Justice, and the nineteen other Judges: Suppose the Legislature should say, the judicial department shall consist of so many Judges, and we will appoint these Judges from our own body. Yet this power is contained in the principle of the amendment. We are here to settle the fundamental law, and we ought to introduce a clause in the Constitution prohibiting the filling of any office created by this Constitution, by the Legislature. The power ought to be lodged somewhere. He had his own opinions as to where it should be lodged. But it should be fixed by the fundamental law, in order that, whenever it may be thought fit to deposit it, the filling up of the offices by the Legislature, should be prevented. He would not vote to say what was already in the Constitution, and the residue of the amendment related to the creating of offices and filling them. That is the objectionable part of the proposition, and he would ask every reformer, every pure reformer, and he believed there were many such, to join in preventing the power to fill these offices from being in the Legislature. On this principle, he called all true reformers to the rally, and to ask the yeas and nays, in

order to shew who are they who vote for such a proposition. He viewed this amendment as the most extraordinary one that had ever been offered in any legislative body. It strikes at the root of our system. We do not say the people shall determine, but we will leave it open to the law; we will leave it to the Legislature, that they may fill the offices out of their own number.

As to the Secretary of the Commonwealth, and the other parts of the amendment, he did not care much about it, although he thought this would be more in place under another article. He was willing to go with the gentleman from Chester, as to the appointment of the Secretary of the Commonwealth by the Governor, but he could not coincide in that part which relates to all the judicial officers. In the fundamental law, it became us to settle where the fundamental power shall be.

Mr. BROWN, of Philadelphia, said, a looker-on might suppose that a contest was going on between the gentleman from Beaver, (Mr. DICKEY) and the gentleman from Chester, (Mr. BELL) which of them had been, or was to be considered, the *great leader of reform*. He (Mr. B.) hoped these gentlemen did not intend thus ruthlessly to pluck from the brow of his colleague (Mr. EARLE) the laurels he had so hardly earned, and so long worn with honor, as the great leader of reform, and whose modesty alone had, no doubt, prevented him from asserting his right to this prerogative. Nor would they, he trusted, whichever of them might win the crown as the *great leader*, put under the ban any humble reformer like himself, (Mr. B.) who might at this time, and hereafter, deem it safer to be guided by the dictates of his own judgment, than to follow either of them as leader,

Mr. STERIGERE modified his amendment so as to read as follows :

"SECT. 8. The Governor shall *nominate, and by and with the advice and consent of the Senate* appoint all officers whose offices are established by the Constitution hereby amended, and whose appointments are not *herein* otherwise provided for, *or which have been or shall be established by any law in which the appointments may not be prescribed, and shall have power to fill up vacancies in all offices by appointments, which shall continue till the office be filled as herein directed*; but no person shall be appointed to any office within any county, who shall not have been a citizen and inhabitant therein one year next before his appointment, if the county shall have been so long erected, but if it shall not have been so long erected, then within the limits of the county or counties out of which it shall have been taken. No member of Congress from this State, or any person holding or exercising any office of trust or profit under the United States, shall at the same time hold or exercise any State or county office in this State, to which a salary is by law annexed".

Mr. STERIGERE said he wished to make one or two observations, in which he would consume only a few moments.

Mr. S. said this was the same amendment which he proposed, at first, in his resolution of the 13th of May. He would say but a very few words in its support. The old Constitution provides that officers may be appointed in the same manner as is directed by law, and the same principle was in the Constitution of the United States, which says—"But Congress may by law vest the appointment of such inferior officers as they think proper, in the President alone, in the courts of law, or in the heads of depart

ments". So far then as the Constitution of the United States and of the State were any authority, they sanctioned this principle. As the Constitution stands, and as it will stand, for we have refused to strike out the veto power—the Governor would not be stripped of his patronage and power. The veto power was a sufficient defence for him. If a bill could become a law by passing both Houses, without his assent, the objections to the proposed amendment would have more force. Was there not much in this to obviate the objections of the gentleman from Beaver. The authority of ALEXANDER HAMILTON had been quoted in favor of both propositions. He argued, as the President tells us, in favor of giving the appointing power to a select body. What was that select body? A Senate chosen for six years, required to have resided in the State nine years, and to be thirty years old. We propose to give the power to the same body. A select body of men, of whom we require residence and the age of twenty-five years as qualifications for the office. The only idea conveyed by the term select, was that of a small body. The idea conveyed, was, that it should not be a numerous body. Mr. HAMILTON could never have thought of referring the power to the House of Representatives with two hundred members. There was little idea then that the Senate would be so much increased, and Mr. HAMILTON would, probably, have thought the present number of fifty-two too large. He felt bound to submit the simple proposition involving the question of a negative power on appointments. Now the argument against it was, that it was out of place; and that the Governor ought to have the control of the Secretary of the Commonwealth. In no State of the Union has the Governor a power both to appoint or remove an officer at pleasure, except Illinois. He referred to the provisions of several State Constitutions in support of this position. In the United States, Government they were appointed by the President with the advice and consent of the Senate, and removed by the President. The gentleman from Susquehanna called on him to withdraw this proposition because he said it produced distraction. He did not see how it would have this effect, unless others should misapprehend it as much as the gentleman had. Again, he was called upon to withdraw it for the purpose of settling this grand principle, that is, that the Governor should appoint and remove the Secretary of State at pleasure. That is the grand principle upon which the proposition is so strenuously supported. The only difference between the pending proposition and his amendment was, that the latter made no provision in relation to the Secretary of State. When the question was taken singly and simply on the negative power over appointments, then he would be willing that the grand principle of appointing the Secretary of the Commonwealth should be settled. Every one who wished to vote on the simple question proposed in his amendment would now do it, and every one, he thought, ought to have an opportunity to vote upon the question in a way satisfactory to his own mind. He hoped the principle would be settled in this way; but, if the committee voted down his amendment, he should go for the other proposition.

Mr. BAYNE said as there had been a rally of parties here, he would, out of respect for the opinion of those who had witnessed our proceedings, take this occasion to exculpate himself from his share in the general charge of following a leader. He followed no man's lead; and, at the same time, he would say, that he was in favor of reform. He believed, also, that there

were none of us who were not, to some extent, in favor of reform. He should not vote for either of the propositions before the committee, because he believed them to be more radically aristocratic in principle than any thing which was contained in the old Constitution.

Gentlemen say, that a certain grade of officers must be nominated by the Governor, and confirmed by the Senate. How will they escape from the suggestion that this is an aristocratic principle, when the appointment of an officer, whose term is not fixed, is made by a Governor, who has a year to serve, and by a Senate, two thirds of which will continue in office a year beyond that time? In this way, the appointments would be further removed from the people than they now were. If an exceptionable appointment should be made, the officer cannot be removed until the Senate shall be changed, so that a vote of two thirds may be obtained for his removal. By a combination they could prevent the removal of any officer. Why should all this machinery be associated with the power of appointment? It would lead to many difficulties and doubtful constructions. In high party times every thing would be unsettled, and a thousand questions would arise as to the construction of the Constitution in relation to these appointments. Where would we find any rule for settling the questions that might arise. There was no principle by which they could be settled.

Mr. STERIGERE asked for the yeas and nays on the amendment, and they were required.

Mr. INGERSOLL would, he said, say one word, as the question was about to be taken. He should vote against the amendment of the gentleman from Montgomery, and for that of the gentleman from Chester; but he disliked them both, and one nearly as much as the other. At a proper stage of the proceedings, he hoped the questions involved in these propositions would be freed from the embarrassments which attended them, when presented in this form.

Mr. FORWARD would merely say, that of the two propositions, he preferred that of the gentleman from Montgomery, and should vote for it as a choice of evils; but when the main question came up, he should vote against the amendment.

The question was then taken, and determined in the negative—yeas 11, nays 109.

YEAS—Messrs. Cleavinger, Cox, Dillinger, Earle, Forward, Foulkrod, Helffenstein, Mann, Meredith, Sterigere. White—11

NAYS—Messrs. Agnew, Ayres, Baldwin, Banks, Barclay, Barndollar, Bayne, Bedford, Bell, Biddle, Bigelow, Bonham, Brown, of Lancaster, Brown, of Northampton, Brown, of Philadelphia, Butler, Carey, Chambers, Clarke, of Beaver, Clark, of Dauphin, Clarke, of Indiana, Cline, Coates, Cochran, Cope, Craig, Crain, Crawford, Crum, Cummin, Cunningham, Curren, Darlington, Darrah, Denny, Dickey, Dickerson, Donagan, Donnell, Dunlop, Farrelly, Fleming, Fry, Fuller, Gearhart, Gilmore, Hamlin, Harris, Hastings, Hayhurst, Henderson, of Allegheny, Henderson, of Dauphin, Hiester, High, Hopkinson, Houpt, Hyde, Ingersoll, Keim, Kennedy, Kerr, Konigsmacher, Krebs, Long, Lyons, Maclay, Magee, M'Cahen, M'Call, M'Dowell, M'Sherry, Merrill, Merkel, Miller, Montgomery, Myers, Nevin, Overfield, Pennypacker, Pollock, Porter, of Lancaster, Purviance, Reigart, Read, Riter, Ritter, Rogers, Royer, Russell, Saeger, Scott, Seltzer, Serrill, Scheetz, Shellito, Sill, Smith, Smyth, Snively, Stevens, Stickel, Swetland, Taggart, Todd, Weaver, Weidman, Woodward, Young, Sergeant, *President*—109.

Mr. READ did not, he said, till this morning, perceive that there was

any ambiguity in the amendment, as offered by the gentleman from Chester, but he now found that the friends of reform could not view it alike. Wishing to put its principles in so distinct a form as to admit of no misunderstanding, he moved to amend the amendment, so as to read as follows, viz :

“ He shall appoint a Secretary of the Commonwealth during pleasure, and he shall nominate, and, by and with the advice and consent of the Senate appoint all judicial officers of courts of record”.

He asked for the yeas and nays on the motion, and they were ordered.

Mr. DARLINGTON would like to know, he said, if all the amendment of the gentleman from Chester was to be stricken out by this motion.

Mr. READ said, he intended it as a substitute for the amendment, and also for the 8th and 15th sections of the second article.

Mr. DICKEY said he would vote for the motion, and he was very happy to find that he had knocked the noise out of the proposition of the gentleman from Chester.

Mr. BELL said he would accord with the views of the gentleman from Susquehanna, if he could do so conscientiously. There were some members who wished to give the election of Associate Judges to the people ; but the amendment, as it stood, gave all judicial appointments of courts of record to the Governor and Senate. As it stood, it provided that the Governor, with the assent of the Senate, should appoint all judicial officers of courts of record, including, of course, the Associate Judges. By this amendment, therefore, we may deprive ourselves of the power of giving the election of these officers to the people, if we should so choose.

Mr. STEVENS said, it was now evident to all who looked impartially upon our proceedings, that it was the desire and design of gentlemen, in pressing these amendments, to show their party strength, the firmness of their adherence to party organization, and the severity of their party discipline, and, certainly, their adherence to their party was very laudable. All the variant views with which they came here, were to be accommodated to their new party arrangement, and their new party name—radicals ; and, by their vote on these amendments, they intended now to show us their strength and discipline as a party.

The Constitution provides, that the Governor shall appoint all officers whose appointments are not otherwise provided for therein. But, if this amendment should be adopted as a substitute for the eighth section of the second article, we should, when we came to the tenure of office, and to the fifth article, be restrained from saying how the Associate Judges, and other judicial officers of courts of record, should be appointed, whether by the Governor himself, the Governor and Senate, or by the people. No man was so dull as not to see that, leaving all these officers untouched now, we could, when we came to them, in succession, in their proper places, provide for the mode and tenure of their appointment. Why not wait till we came to the proper place, and then say how they shall be appointed, but for the reason which he had already indicated ? That reason he had heard avowed over and over again—honestly avowed—honestly, he meant, as regarded the avowal. He heard gentlemen, here and there around him, declare that they disliked this proposition—they wished it had not been offered, but here it was, and vote for it they must. His friend from Beaver had declared, that he would vote for this motion ; per-

haps, because he is so well pleased with his victory over the gentleman from Chester. But was not this a worse provision than that? If you adopt this amendment, you must give the Governor and Senate the appointment of all judicial officers, whether you desire it or not hereafter, when you come to consider the question as to the proper mode of appointing them. There were some reformers who wished to elect the Associate Judges; but this provision took from them the power to do that, should they see fit. For what other reason than that which he had stated had the motion been made? He called on the *reformers*—if he could be allowed to approach them so nearly—and he did not wish to come too near them—he called on those who denominated themselves reformers, *par excellence*, to say why they cannot wait, till they come to the 5th article, and fix this mode of appointment there? If we gave them all to the Governor and Senate now, and if, when we came to the other articles, the party should not happen to agree in caucus, as to any alteration in the mode of appointing the different judicial officers, each man being too much attached to his own bantling to exchange it for another's, what then would be our condition? Ten thousand officers, including Justices, Inspectors, &c. would be sent to the Senate by the Governor; and all those appointments must be gravely acted on by a secret tribunal, sitting in judgment on the characters of thier fellow citizens. How many years would this process occupy before the Senate could take up its proper legislative business? How, he asked, would those who, upon principle, are pledged to oppose all secret tribunals, relish such a measure as this?

Is not this course persevered in by the new party, (asked Mr. S.) for the purpose of showing their triumph over us, who think that judicious reform does not consist in destruction? If that was not the object, then they had better leave this, and go on to those articles where provision is to be made for appointments. But he knew that the decree had gone forth, and that the party had strength enough to do what they pleased. It was for us to save as much from the scalping knife as we could. He hoped the gentleman from Beaver would reconsider his determination to vote for this amendment. He hoped that gentlemen would reflect upon the object of this proposition. There was an association in India, who, when they wished to prepare a man for crimes, blind folded him and made him rob, after which, he was ready for any thing else. In this case, the party compel their adherents to vote blind folded for this provision, which some of them have openly said they disliked, with a view to prepare them for further operations.

Mr. DICKEY said, he thought, when he determined to vote for this amendment, that it embraced only the Judges of the Supreme Court. But, as he was in favor of electing the Associate Judges and Justices of the Peace, he could not vote for it. His objection to the amendment, as offered by the gentleman from Chester, was, that it left too much unsettled. The present motion was free from that objection; but it gave to the Governor and Senate some appointments which he had always been in favor of giving to the people.

Mr. READ said, being anxious to have the gentleman's vote, he would modify the amendment by adding the following: "unless otherwise provided for hereafter in the Constitution".

Mr. DICKEY: The provision hereafter may never take place. The

party organization may be too strong for that. He did not wish to leave the appointment of Associate Judges and Justices to the Governor and Senate, in the hope of altering it hereafter.

Mr. BROWN, of Philadelphia, said the gentleman from Adams, (Mr. STEVENS) and the gentleman from Beaver, (Mr. DICKEY) had made loud charges against the reformers of caucuses and combinations, and by thus raising a party war cry, had attempted to excite the prejudices and passions of delegates, instead of appealing to their reason, or convincing their judgment. To this he had no reply. He (Mr. B.) would take upon himself to deny that any caucus or combination had been attempted or effected by the party to which he belonged, but what had taken place in Convention. The charge was therefore untrue in any shape, and he called for the proof or for its retraction.

Mr. DICKEY said as the gentleman from the county had alluded to him, he would state that, from what passed yesterday, he was led to believe—and he now repeated it—that the gentlemen acted in concert, without regard to their own peculiar views. The gentleman from Susquehanna had yielded his own views, in part, to the gentleman from Chester, who modified his amendment, after it was printed, to suit the gentleman from Susquehanna. The gentleman from the county also, as he then stated, had placed upon record principles directly hostile to those of the amendments which he had asked us to support.

Mr. BELL said the gentleman's charge was without shot this time. The gentleman from the county had, he thought, exhibited more sensitiveness in regard to this charge than it called for. It was true, that he had modified the amendment, in order to get rid of some objections made to it. The gentleman from Susquehanna offered a provision differing, in some respects, from his own, and after making some slight alterations in it, he (Mr. B.) had adopted it as a modification of his own original proposition. This was all the foundation that existed for the charge of caucusing and combining. He did not know how many it required to make a caucus: If two were sufficient, he supposed this might be a caucus.

Mr. FORWARD was inclined, at first, he said, to vote for this amendment; but there was a difficulty as to its meaning. Was not the Register himself a Judge, and of a court of record? Supposing the Legislature passed an act making the Justices of the Peace courts of records; then the whole aspect of the provision is changed. In point of fact, the most essential power of a court of record, to fine and imprison, is possessed by the Justices of the Peace. The Legislature could easily give any thing in addition which was necessary to constitute courts of record. In this way, an evil would arise, and a fearful one, which was not provided against in this amendment.

Mr. STEVENS said, being called upon by the gentleman from the county, (Mr. BROWN) in a tone of indignant virtue, for the evidence of his charge of party organization, he would explain what he had said. He had said what he should not have said, if there could be any mistake in the matter, that the gentlemen reformers were brought, by party concert, to vote for a secret tribunal to sit in judgment on the characters of their fellow citizens. How this was brought about, he did not say, whether by meeting in doors or out, in this Hall or elsewhere. As a proof of this, he would repeat, that he had heard gentlemen say, some in conversation, and others openly

in committee, that they did not like this project, but must vote for it. He referred to the record about to be made up, to tell whether gentlemen are not united by a party vote; and whether, in fact, the lines which have been drawn are not, and he might as well declare it now, VAN BUREN and ANTI-VAN BUREN. If the VAN BUREN men all voted one way, would it not be a strong proof of his assertion? Count over the votes after this question is taken, and if the record contradict this assertion, then he would thank Heaven that he was mistaken. Gentlemen were brought into this measure, not by principle nor by instinct—for they were opposed to it—but by concert had in doors or out of doors, he did not know which.

If we took up the returns on the question of a Convention or no Convention, we should find that the votes were not a test of the quantum of reform required by the people; and, when we came to submit to the people the monster which we were now concocting, it would be rejected with disgust and disapprobation. Among those who had joined the new party, were more than twenty-six members from counties which gave majorities, larger or smaller, against calling the Convention. If those gentlemen opposed this proposition, it could not be carried. He referred to the members from Berks, and asked whether those gentlemen were going to vote according to the party organization of radical and anti-radical, or of VAN BUREN and ANTI-VAN BUREN?

Look at Mifflin and Juniata, and see what majorities they gave against the call of a Convention; and will the delegates from those counties vote upon the reform principle, or upon the VAN BUREN principle? Well, what brought about this state of things? Look at the majorities which Lehigh and Montgomery gave against the call of a Convention; and will the delegates from those counties vote in accordance with the will of their constituents, as expressed at the polls? or will they vote in pursuance of their party organization? How was it with Northumberland and Perry, which gave large majorities against touching one hair of the head of this venerable instrument, which is now going to be decapitated? Gentlemen need not tell him that they were voting in accordance with the will of their constituents. York county, too, was in the same predicament, and he would see how his honest friends from York will consider themselves bound to vote upon this question, which was a question of no less moment than letting out the very life's blood of the Constitution. Let the record which is about to be made up, tell how all these gentlemen vote; and if it contradicted him, he would thank Heaven that he was mistaken in his calculations. Far be it from him to say that these gentlemen would vote contrary to what they believed to be their duty; for following up their party, and acting in concert with it in every thing, they religiously believe that it is their highest duty on earth to vote with that party. He had stated the facts—now let us come to the vote, and it will be seen whether he was right or wrong.

Mr. READ said there was nothing in the remarks of the gentleman from Adams, which would require any answer from him; but he rose to remove a difficulty from the mind of the gentleman from Allegheny (Mr. FORWARD). It was true that a Register was a judge of a court of record, but he was not included in this amendment, because he had added the words, "not otherwise included in this Constitution", and the gentleman would find in the reports upon the sixth article, which he presumed would

be agreed to, that the committee had provided for the election by the people, of Registers, Justices of the Peace and Aldermen. Then he apprehended there would be no difficulty in the matter; because, before we get through the sixth article, we shall provide for these officers. He hoped, therefore, that this difficulty would not appear insurmountable to the gentleman.

MR. STEVENS wished to make an enquiry for information in relation to this question of concert of action. The gentleman from Philadelphia (MR. BROWN) had said there was no concert. Now he believed if the gentleman would call upon his colleague, (MR. McCAHEN) he would find that that gentleman had a list of yeas and nays, which he had taken on this, and the judiciary question. He would make the enquiry of the gentleman, whether this was not the case.

MR. WOODWARD called the gentleman from Adams to order.

MR. STEVENS: The gentleman will take down the words which are out of order.

MR. WOODWARD said there was a rule of the House, which required gentlemen to confine themselves to the question under discussion; and he would submit to the Chair whether it was in order to bring before the Convention the opinions and conduct of gentlemen in private, and which, perhaps, ought to be considered confidential. He would also submit to the Chair whether gentlemen were to sit on this floor, and listen to the personalities of any man, and hear him disclose private communications.

THE CHAIR (MR. CLARKE, of Indiana) said he knew of no rule which would prevent the gentleman from giving to the Convention any information within his knowledge.

MR. STEVENS said he had slandered nobody. He had cast no reproach upon the gentleman from Philadelphia. If there was any thing reproachful about it, it was the act of the gentleman from Philadelphia which was reproachful, and not his stating it. He had imputed no bad motive; and, if the gentleman from Luzerne considered it disgraceful, it must be the act of the gentleman which was disgraceful, and not the mentioning of it.

MR. WOODWARD said he had understood from the public papers, and from every other source, that all party considerations and party distinctions, were to merge in the general desire to revise and amend the fundamental law of our State. He had come here to make no party appeals, and to introduce no party topics; and he trusted he should have found the same disposition prevailing throughout the Convention. But what have we listened to at the close of the debate upon the first principle in the Constitution, which we have reached of vital importance? What but appeals from principle to party, and from whom do they come, but from those who, of all others, have been the most clamorous in their denunciations of party. Are there parties on this floor—political parties? He believed it—but he knew, and he rejoiced and gloried in it, that there were no parties on this floor, in whose ranks were not to be found rational and reasonable reformers—men who are ready and willing to carry out the will of the people of Pennsylvania. And what now is the effort made, but to drive those men from their principles, by appeals to party, and allusions to party distinctions, and to secure from them a vote against their honest convictions. He knew the talents of a certain gentleman (MR. STEVENS)

for drilling, but he had hoped that the experience of the gentleman, in this body, had been sufficient to teach him that this was not the appropriate place for the display of his *drill powers*. This hope has been disappointed; and now it remains to be seen whether those gentlemen who came here avowed reformers, were to be driven from their principles.—It seemed to have had its effect with the gentleman from Beaver, for he avowed his determination to go for the amendment of the gentleman from Susquehanna, until he heard the appeals of the gentleman from Adams, when he retracted.

Mr. DICKEY, explained. He had avowed himself favorable to the proposition of the gentleman from Susquehanna when it was first presented; but upon examination he found it included *Justices of the Peace, and Associate Judges*, which he wished to have elected by the people. The gentleman must do him the justice to say that he had advocated this throughout the whole of the debate. This statement he had made to the House on a former occasion.

Mr. WOODWARD accepted the gentleman's explanation. He knew the gentleman had retraced his steps, but when he did so he had undertaken to say that the vote in favor of this measure was to be the result of combination, and the gentleman from Adams had improved and enlarged upon this theme. There was, however, no combination except that which principle always produced among honest and honorable men; and that combination embraces gentlemen of all political parties here. Then why this constant alarm about combination? Why, sir, it is for the purpose of stifling the voice of a million and a half of freemen. The people have determined upon ridding themselves of the odious features of their Constitution, and their will cannot be restrained—the drill gentleman cannot defeat it. He sees the popular voice is about to prevail, and hence his patriotic lamentations at the decline of Executive tyranny. This was a question between popular rights and tyranny, and all history has shown that whenever this has been the question, there have not been wanting men to advocate the old forms, and appeal to the passions of the people to support the long established Governments, however tyrannous they may have been. The throwing off the chains of the mother country was the result of precisely the same sentiment which convened this Convention and combined honest men of all parties to support the principles of the patriots of that day; and the opposition to that measure was precisely of the same character of the opposition of the gentleman from Adams, to the measures of reform on this floor. In saying this he did not wish to be misunderstood. There was a party here composed of gentlemen who were opposed to all change, and they say they are in favor of retaining the instrument as it is, because they honestly believe it to be for the best, and they use reasonable arguments to convince members of the soundness of their opinions; and these gentlemen were entitled to the respect of every one, and they have a large share of my respect. But those gentlemen who make appeals to the spirit of party are not of this honorable high-minded class of men; but men who tell you that they are reformers; that they are in favor of some reforms; and they have been sent to this Convention, perhaps, in virtue of their professions in favor of reform. But how have they displayed themselves since they have been here, and what has been their course in relation to removing those evils of which the people complain? The

very moment a reform is about to be made, they raise the war whoop of their party and call upon gentlemen to come to the rescue of that instrument which has oppressed, and is now oppressing the people of Pennsylvania.

This has always been among the expedients resorted to, by the defenders of *instituted tyranny*. The time for reform has come. The spirit of seventy-six is burning still, and, however much the gentleman may wish to, he *cannot* smother or extinguish it.

Mr. DICKEY, was very much pleased to see that there was no party organization existing here, because he was afraid, as he had stated that there was some combination here which was to carry through measures of a most objectionable character.

He was glad to see the freedom of discussion which prevailed, which had forced those, who, yesterday, called gentlemen to the rally on a particular amendment, to abandon it, and offer a substitute which was not so objectionable. He took that as an evidence that party organization did not exist. He had however, been afraid that a combination existed which, perhaps, might lead to an attempt to carry out a sentiment which he had heard on this floor and saw reported in the Daily Chronicle, which was as follows: "suppose the majority of this Convention should adjourn *sine die*, in case the minority consisting of sixty-six members should remain and make a Constitution, he should like to know what lawyer would say it would not be the law of the land, if it was approved by the people". This was a sentiment of one of the reformers of this Convention and he had been afraid that an organization prevailed here which might lead to an attempt to make reforms by a minority of the Convention.

Mr. STEVENS said it must be obvious to every body that scarcely does a member rise of those who call themselves reformers to answer any thing which he (Mr. S.) said, but they took occasion to answer his arguments by stating that there were certain gentlemen in this Convention of a very high character; and certain other gentleman not of so high a character, and then they went on to describe those different gentlemen in such a manner as they could not be mistaken. Now sir, this is mere blackguarding; it is the way mad dogs do; they ran about biting and throwing their saliva on all who came in their way. But he must be excused from acting the mad dog on this occasion by way of revenge. If nothing else would deter him from it, the recollection of the rabid dog in the "Vicar of Wakefield" would, for, under a sleek exterior, he expected the gentleman from Luzerne contained enough of poison to produce a similar result; for, recollect, in the case referred to, that an angry dog bit a filthy man. His friends and relatives were in great trouble; and as the poet has it,

"The *man* recovered of the bite,
The *dog* it was that died".

The gentleman from Luzerne was secure from the bite of any rational animal who had any regard for his own safety.

The question was then taken on Mr. READ's amendment, which was adopted, yeas 62; nays 59, as follows,

YEAS—Messrs. Banks, Barclay, Bedford, Bell, Bigelow, Bonham, Brown, of Northampton, Brown, of Philadelphia, Butler, Chambers, Clark, of Dauphin, Cleavinger, Craig, Crain, Crawford, Cummin, Curl, Darrab, Dillinger, Donagan, Donnell, Dunlop, Earle, Farrelly, Fleming, Foulkrod, Fuller, Gearhart, Gilmore, Hamlin, Hayhurst, Helf-

fenstein, High, Hyde, Keim, Kennedy, Krebs, Lyons, Magee, Mann, M'Cahen, Miller, Myers, Nevin, Overfield, Purviance, Read, Ritter, Rogers, Sellers, Seltzer, Scheetz, Shollito, Smith, Smyth, Snively, Stickel, Swetland, Taggart, Weaver, White, Woodward, Sergeant, President—62.

NAYS—Messrs. Agnew, Ayres, Baldwin, Barndollar, Bayne, Biddle, Brown, of Lancaster, Carey, Clarke, of Beaver, Clarke, of Indiana, Cline, Coates, Cochran, Cope, Cox, Crum, Cunningham, Darlington, Denny, Dickey, Dickerson, Forward, Fry, Harris, Hastings, Henderson, of Allegheny, Henderson, of Dauphin, Hiester, Hopkinson, Houpt, Ingersoll, Kerr, Konigsmacher, Long, Maclay, M'Call, M'Dowell, M'Sherry, Meredith, Merrill, Merkel, Montgomery, Pennypacker, Pollock, Porter, of Lancaster, Reigart, Riter, Royer, Russel, Sager, Scott, Serrill, Sill, Sterigere, Stevens, Todd, Weidman, Young—59.

The question then recured on the amendment as amended, when

Mr. STERIGERE moved to amend the same by adding to the end thereof the following: "and shall have power to fill up vacancies in all offices by appointments which shall continue until the offices shall be filled in the manner provided for by this Constitution, or by law".

Mr. STERIGERE would merely state, that a provision of this kind was necessary, so that vacancies might be filled which occurred at a time when the Senate was not in session, and these vacancies would only be considered as temporarily filled, until they were filled by the concurrence of the Senate.

Mr. AGNEW said he had taken occasion, some days ago, to call the attention of the committee to the difficulty connected with the question of amending this eighth section in the manner proposed, and he thought the Convention must, by this time, perceive that he was right in that matter. He considered that by mixing up those officers in this section, we wandered from the question, and hence the discussion which we have had. There was a large class of offices hereafter to be established, which there was no provision here for filling. If we would in this section provide a residuary power of appointment, we could then go on understandingly, and carry out the system when we come to the sixth article. There we can settle and determine on each case when it comes up, and gentlemen can then act without those conflicting views which appeared now to prevail. Each proposition would then come up in a distinct form to be voted upon, and every gentleman could vote in accordance with his own views on each case.

Mr. READ said that the reason he did not put any thing further in the amendment, in regard to the power of appointment, was, that he did not mean to give the Governor any more power than was there set forth; and if the gentleman will turn to the report on the sixth article, he will there find a provision for such a power as he calls a residuary power; there he will find means provided for the appointment of all officers. It was not his intention to give the Governor any more power than was here provided for, unless, upon future contingencies, which we now know nothing of, the Legislature should confer such appointments upon the Governor.

Mr. AYRES, of Butler, remarked, that as one of the committee who made the report, he desired a direct vote upon it. It would be found on examination, that the report of the committee recommends only one alteration in the section giving appointments to the Governor, and that was the introduction of these words—"by and with the advice and consent

of the Senate"? Now, he would repeat, that he desired a direct vote to be taken on this amendment, in order that the principle might be settled. The amendment at present under consideration, included other matters, and left open the question in relation to offices which may hereafter be created. It had been said, that this would be settled in the sixth article. Well, perhaps it might; but there was no guarantee, except the expression of the opinion of members here. He had voted against the amendment to the amendment of the gentleman from Chester, notwithstanding that it contained many things which he approved. The original amendment had been again amended, and he liked the amendment better than the other. But, still it was too complicated, and unless it should be so altered as to meet his views, he would vote not only against it, but also the amendment itself, in order to get back to the report of the committee. Then the question would be presented which we are to decide. What was it? It was, whether the Senate should be associated with the Executive to exercise the power of appointment conjointly. The question was one of the highest importance, and required the serious and deliberate consideration of every member of the committee. Should the committee decide, that the Senate shall participate in the appointing power with the Governor, then the details could be settled in the sixth article.

Mr. MERRILL said, it had not been his intention to trespass on the time of the committee, in discussing the principle which was now proposed to be introduced into the Constitution, had it not been for the remarks which had fallen from some gentlemen. He was in favor of the report of the committee.

He had come here, entertaining the opinion that the Governor's power was too large. What was harmless in 1790, might now be dangerous. We were four or five times as numerous and twenty times as rich now, as at that time; and, there was every fair prospect of our population and wealth continuing to increase to an extent of which no man will now undertake to calculate the limits.

Although he thought that the power of that officer ought to be somewhat curtailed, he could not approve of the extent to which some proposed to cut it down. He thought the tenure of office should not be reduced; but, that a power should be vested somewhere to restrain his action. What objection could be urged against it? None, he apprehended, that was entitled to much weight. It was said to be desirable to leave all the responsibility with the Governor. There might be so much power in the hands of one man, that he would defy and laugh at responsibility. The EMPEROR of Russia has all the responsibility, but who dares call him to an account? There was a propriety in making every depository of power responsible to the people for the exercise of that power, but that responsibility ought to be practical, capable of being enforced. He thought it better to make a portion of his action subject to some advisory power. He was opposed to the proposition of the gentleman of the county of Philadelphia, to divide the power of appointment between the two Houses. He did not believe it could possibly answer a good purpose; but, believing that there should be some check put upon the action of the Governor, he could see no better way of effecting that object, than by making the Senate a participant in the appointing power. He should have no objection to an Executive Council, such as existed in

some of the other States, did he not see, that the experiment was supposed to have failed there, by it being gradually relinquished. He supposed that experience had shewn its inutility—seeing no evidence that such a council would be desirable here, he should oppose it. There seemed then to be but one alternative, either leave him independent as he now is, or subject his nominations to the advice and consent of one body of the Legislature. It might not then be perfectly free from ill, but could we make it better?

Some delegates had spoken of vesting the appointing power in the Legislature. He was astonished to hear the proposition. Have we not been told by many old members, that it was not to be trusted? And yet, forsooth, it was now proposed to give them this great power! He was sorry to say, there was a report of a committee, which would put more Executive power into the hands of the Legislature than would be left elsewhere—there was a report of a committee, proposing that all State officers should be filled by votes of the two Houses of the Legislature. Who could have expected so strange a proposal at this time of day?

He would call to the recollection of the committee one historical fact, to shew the operation of an advising and consenting power, as connected with appointments. A vacancy occurred on the bench of the Supreme Court of the United States. The President nominated a citizen of Massachusetts, a man of high character, and a brave soldier in the war of the revolution, and certainly of no mean standing in his profession. The Senators thought—for these Senators had a right to think—that the public good required a man of superior legal attainments, and they advised against his appointment. Another was nominated, a citizen of Connecticut, a leading politician of the right stamp, of an unexceptionable character, and first rate abilities; but he had held the office of Post Master General for ten or twelve years; and the Senate doubted his qualifications as a lawyer. Thus a Senate might doubt the infallibility of a President or his nominee, and yet not be guilty of political or moral treason. This nomination was rejected. The third time, the President sent to the Senate the name of JOSEPH STORY, a man admitted on all hands to be one of the first jurists of the age. He was appointed. This, and hundreds of other instances, which need not now be recited, shews the effect of such a power existing in the Constitution of the United States. Can any gentleman point out any countervailing evils arising out of this power? I think not.

He would ask, if there were not instances in this State where a similar advisory power would have been of great use in the appointment of Judges? Was it not well known that the purest and most honest Governors had been imposed upon by false recommendations? And is it not also known, that members have joined in recommendations in writing, which they have privately retracted in conversation with the Governor? It being no official act, they have not felt bound to advise that officer truly, “as it came to their knowledge”, but in the manner which would best subserve their own present, or ulterior views?

He believed, that whatever just complaint had at any time existed against the judiciary, was mainly attributable to the want of such a power in our Constitution. He thought with one or two exceptions, no bad

Judge had been appointed by a Governor, who was personally acquainted with him.

He was astonished to hear the annunciation of the member from Susquehanna, that the people had called for a change in the tenure of judicial officers. That gentleman had declared that the judiciary system was imperfect. Now he (Mr. MERRILL) would say, that so far as his knowledge extended, it was the best in the world. In no country was justice administered with greater impartiality, and in no country, so far as he could learn, was the law business so nearly even with the current business of the people. He knew of no such decision of the people, as had been referred to; and when gentlemen make these assertions on this floor, it is right for others to state what they believe the sentiments of their constituents to be. He would say one word further on this subject. If, when the judiciary question came up, it could not be demonstrated, as clearly as any thing not strictly geometrical can be demonstrated, that the present tenure was best for the people, he would give up the cause. He had come here with a fixed determination to vote against every amendment, where it was at all doubtful whether the change would be for the better. On this subject, he would give the doubt to the other side. If they could establish a reasonable doubt of this being the best, he could almost agree to go for a change; so perfect was his conviction, that the Constitution as it stood, in that particular, was right. This was, however, an episode to the main argument; and he should not have so deviated, but, from a conviction, that whenever any gentleman goes out of his way to have a fling at the judiciary, it is the duty of some other gentleman to follow him and reply.

It had been proposed to make the appointments by joint vote of the two Houses. This would make worse legislation, and worse officers, than we now have; and it will be readily admitted that, in both these particulars, we cannot afford to be worse off than we now are. But he believed that the Senate having much leisure, and not being numerous, and not having the origination of any appointments, we might thus procure better officers without doing injury to their legislation. He coincided with the gentleman from Butler, that the committee ought to reject the amendment, and that we ought not be put to the necessity of coming to the Legislature for officers. He was sent here to limit, restrain, and reduce the power of the Governor; and he wished that removals should be made in the same way, and by the same advice and consent, which were required in making the appointments. He would not consent that one man should hold his bread at the mere capricious, unreasonable, tyrannical will of another. No man ought to be removed by the Governor alone. He was, therefore, in favor of making the Senate a participant in the appointing power; and if this prevailed, it was his intention, at the proper time, to move an express provision, limiting and restricting the power of removal in the same manner. He had seen how this great power in the General Government had been put into the hands of the Executive by construction. He would not be willing to leave any room for such construction hereafter. For these reasons he was opposed to the amendment, and in favor of the report of the standing committee amending the Constitution.

Mr. SMYTH, of Centre, remarked that he had listened to the observations of the gentleman from Union (Mr. MERRILL). The gentleman had spoken

ken in praise of the Judiciary, and against the injustice of depriving one man of his bread at the will and pleasure of another, &c. The question, however, after all, turned principally on this—shall the Constitution be so amended as to curtail the patronage of the Governor, or not? He would say that if there was any one thing more desired than another by his constituents, it was that the Governor's patronage should be abridged. It was an amendment which was talked of, by almost every man in the county of Centre, as being absolutely necessary. Now, what did the report of the standing committee say? Why, that the Governor shall appoint—"by and with the advice and consent of the Senate, all officers", &c. What did our constituents require us to do? They desired that we should deprive the Governor of his patronage, for in divesting him of that power a great deal of evil would be removed. He had been here shortly after the inauguration of the late Governor HIESTER, and although that officer did not perceive the tricks that were resorted to in order to induce him to give offices, he (Mr. S.) did. Never did he witness anything like the scramble there was to obtain them. Now, both his constituents and himself desired to prevent this sort of work in future. He did not think that the report of the committee met the wishes of the people generally, and of his constituents in particular, and for that reason he would vote for the amendment to the amendment.

Mr. FORWARD, of Allegheny, moved to postpone the further consideration of the whole subject before the committee for the present, in order that the committee might take up the fifth article of the Constitution in relation to the appointment of the Judges, Justices of the Peace, &c. And, after disposing of that, the committee would come to the residuary power, upon which they would then be enabled to act understandingly. He did not believe that any member in giving his vote on the subject under consideration, would consider it as final, but would wait for the distribution of power to be made under the fifth article.

Mr. READ, of Susquehanna, hoped that the committee would not agree to this irregular, and childish mode of proceeding, for, if they did, the consequence would be that they would have to go over their work again, as every gentleman who might have spoken on the subject would suppose that his argument was forgotten. He trusted that the committee would not postpone the matter under consideration, but go on until it was finally disposed of.

Mr. FORWARD observed that the object he had in view in making the motion was for the very purpose of avoiding that child's play, as the gentleman was pleased to call it: for, it was perfectly obvious that if the committee decided the question now, it would come up again for discussion.

The question being taken on the amendment to the amendment, it was decided in the negative.

A division being demanded, there appeared—ayes forty-seven; nays forty-nine.

Mr. CHAMBERS, of Franklin, said he had not intended to say any thing on the subject which had occupied the attention of the committee for several days. But, as the question for their decision had been unexpectedly varied within the last hour, he thought it necessary that he should make a few remarks in explanation of the vote which he had already given, and in reference to that which he intended to give on the pending question,

He preferred the amendment of the gentleman from Susquehanna to that of the gentleman from Chester, and therefore voted for it. He came here entertaining the opinion that the Executive power under the Constitution of this Commonwealth, ought to be abridged—that public expediency, public policy, and public security required that a portion of that power should be transferred to some other depository, and that it should be exercised under such proper checks and restraints as would be satisfactory to the people generally. He must confess that whilst he was of opinion that it ought to be abridged, he had no little difficulty in satisfying his mind as to what power of appointment was to be substituted for it. Nor was his mind entirely made up with respect to the power that should be substituted in regard to making the several appointments of officers that would be provided for in the Constitution. To a certain extent that power was to be delegated to the people. And, he would have preferred, as remarked by the gentleman from Allegheny, (Mr. FORWARD) that the committee should have proceeded to consider the manner in which they would dispose of a portion of that power in the form of an election by the people, or otherwise, before we acted in reference to the *residuum* that was left with the Executive. If the Convention had gone on and decided what should be the mode of appointment of the county and other officers, they would have arrived at some conclusion as to what power would remain to be exercised by the Executive. And, if the resolution which he offered about ten days since had been adopted, we should not have found ourselves in this dilemma. The object of it was to submit subjects of a kindred character for the action of the committee, (whether they were found in one or more articles of the Constitution) after they should have been referred to the same committee and reported upon. It would then have been in the power of the committee of the whole to have laid aside one and taken up another. That, however, has not been done, and the committee had just refused to postpone the subject under consideration, on the motion of the gentleman from Allegheny, for the purpose of proceeding to the consideration of another article. He (Mr. CHAMBERS) had already stated that he preferred the amendment of the gentleman from Susquehanna (Mr. READ) to that of the delegate from Chester (Mr. DARLINGTON). He did so because the amendment of the gentleman from Chester gave to the Legislature, as he (Mr. C.) conceived, all the powers of appointment which are not provided for in this, or other parts of the Constitution. He had come to this Convention with an opinion not less unfavorable of the Executive power than of the Legislature. We had heard, in this body, within the last few days, from gentlemen of high character, who were members of the Legislature of Pennsylvania, that it had been usurping powers beyond those which were delegated to it. We had heard, too, that its powers were dangerous and required to be limited. And, if he (Mr. C.) recollected rightly, the Convention were told by the gentleman now occupying the CHAIR (Mr. CLARKE) that his experience as an old legislator had convinced him that the power of the Legislature was overwhelming.

Entertaining the opinion that he did, that the power of the Legislature had a tendency to increase, he was, therefore, averse to giving that body the power of appointing to office. Although the amendment of the gentleman from Chester did not go exactly that length, it nevertheless

deprived the Governor of all those powers not provided for in the Constitution, or by law. He thought that there was some danger to be apprehended from leaving it to the Legislature to say who shall exercise the power of appointment, as they might in their jealousy of the Executive retain it for themselves. Now, this was the reason why he preferred the amendment of the gentleman from Susquehanna, to that which had been submitted to the committee by the gentleman from Chester. But, that amendment was not satisfactory to his mind, nor was he disposed to prefer it to the report of the committee, for the same reason that the *residuum* of the power of appointment was to remain with the Legislature. And, as the gentleman from Susquehanna had observed, that it was not his intention to give the Governor any other power of appointment than what was contained in his amendment, so he (Mr. CHAMBERS) had said that he was disposed to restrict and limit his power. He was also against giving any preference to the Legislature over the Executive, in reference to powers not given by the Constitution. He felt no alarm at the supposed danger of conferring on the Senate the power of passing on Executive nominations. The exercise of that power was very different from making appointments to office. The Senate could originate nothing, and would, in consequence, be free from that intrigue and management at which some gentlemen seemed to be so much alarmed.

He had not intended to have occupied so much of the time of the Convention, but the attitude in which he stood in relation to the amendment, rendered it necessary that he should make this explanation, differing, as he did, from many of his friends. He would conclude by saying, that he would vote for the report of the committee, because he preferred it to the amendment of the gentleman from Susquehanna.

The question was then taken on the amendment as amended, and decided in the affirmative—yeas 61; nays 59—as follows:

YEAS—Messrs. Banks, Barclay, Bedford, Bell, Bigelow, Bonham, Brown, of Northampton, Brown, of Philadelphia, Butler, Clarke, of Indiana, Cleavinger, Crain, Crawford, Cummin, Curll, Darrah, Dillinger, Donagan, Donnell, Earle, Farrelly, Fleming, Foulkrod, Fry, Fuller, Gearhart, Gilmore, Grenell, Hamlin, Hayhurst, Helfenstein, High, Hyde, Ingersoll, Keim, Kennedy, Krebs, Lyons, Magee, Mann, M'Cahen, Miller, Myers, Nevin, Overfield, Purviance, Read, Riter, Ritter, Rogers, Sellers, Scheetz, Shellito, Smith, Smyth, Stickel, Swetland, Taggart, Weaver, White, Woodward—61.

NAYS—Messrs. Agnew, Ayres, Baldwin, Barndollar, Bayne, Biddle, Brown, of Lancaster, Carey, Chambers, Clarke, of Beaver, Clark, of Dauphin, Cline, Coates, Cochran, Cope, Cox, Craig, Crum, Cunningham, Darlington, Denny, Dickey, Dickerson, Dunlop, Forward, Harris, Hastings, Henderson, of Allegheny, Henderson, of Dauphin, Hiester Hout, Kerr, Konigsmacher, Long, Maclay, M'Dowell, M'Sherry, Meredith, Merrill, Merkel, Montgomery, Pennypacker, Pollock, Porter, of Lancaster, Reigart, Royer, Russell, Saeger, Scott, Serrill, Sill, Snively, Sterigere, Stevens, Todd, Weidman, Young, Sergeant, *President*—58.

On motion of Mr. STEVENS, of Adams, the committee rose, reported progress, and obtained leave to sit again.

The Convention then adjourned till 4 o'clock.

THURSDAY AFTERNOON—4 o'clock.

SECOND ARTICLE.

The Convention again resolved itself into committee of the whole on the second article of the Constitution, Mr. CLARKE, of Indiana, in the Chair.

The question pending being on the report of the committee on the eighth section as amended,

Mr. STERIGERE moved to amend the section by adding the words following:

"And shall have power to fill up vacancies in all offices by appointments, which shall continue until the office shall be filled, as provided for by this Constitution, or by law".

The CHAIR stated that this amendment could not be received, as it had been already rejected by the committee.

Mr. STERIGERE suggested that the motion was different. He had moved the amendment before, as an amendment to the amendment of the gentleman from Chester. He now moved it as an amendment to the report of the committee. It stood, therefore, in the same position as if it had not before been offered.

The CHAIR said the proposition was the same, and had only changed its situation before the committee, and the amendment was the same. There was no change in the language, and it could not be received.

Mr. STEVENS moved to amend by adding to the end of the section the following words: "*Provided*, That, in acting on Executive nominations, the Senate shall sit with open doors".

Mr. DENNY asked the yeas and nays on the amendment, and it was decided in the affirmative, as follows:

YEAS—Messrs. Baldwin, Barndollar, Bayne, Bedford, Biddle, Bonham, Brown, of Northampton, Brown, of Philadelphia, Carey, Clark, of Dauphin, Cleavinger, Cline, Coates, Cochran, Cope, Cox, Craig, Crain, Crum, Cunningham, Darlington, Darrah, Denny, Dickey, Dickerson, Dillinger, Donnell, Earle, Forward, Foulkrod, Fuller, Gearhart, Gilmore, Grenell, Hastings, Hayhurst, Helffenstein, Henderson, of Allegheny, Henderson, of Dauphin, Hiester, High, Hought, Kerr, Konigsmacher, Krebs, Long, Lyons, M'Cahen, M'Call, M'Sherry, Meredith, Merkel, Miller, Montgomery, Myers, Overfield, Pennypacker, Pollock, Porter, of Lancaster, Purviance, Reigart, Read, Riter, Ritter, Rogers, Royer, Russel, Saeger, Scott, Smyth, Snively, Stevens, Sweetland, Taggart, Todd, Weaver, White, Woodward, Young, Sergeant, *President*—79.

NAYS—Messrs. Agnew, Ayres, Barclay, Bell, Bigelow, Butler, Chambers, Clarke, of Beaver, Clarke, of Indiana, Crawford, Curll, Donagan, Farrelly, Fleming, Hamlin, Harris, Hopkinson, Hyde, Ingersoll, Kennedy, Maclay, Magee, Mann, M'Dowell, Merrill, Nevin, Sellers, Scheetz, Shellito, Sill, Sterigere, Stickel—32.

Mr. COX moved to amend by adding to the end the words following: "And in confirming or rejecting the nominations of the Governor, the vote shall be taken by yeas and nays".

The question being taken, the motion was agreed to—ayes 63.

The question being on the report of the committee as amended, Mr. DARRAH, of Berks, asked for the yeas and nays, and they were ordered.

Mr. KERR, of Washington: Is this an amendment of the report of the committee?

The CHAIR: It is, but will supersede the eighth section, if adopted.

Mr. Cox said the amendment, as amended, was less exceptionable to him than before. Still he should vote against it, because he could not consent to confer the power of appointment on the Senate, in conjunction with the Governor.

Mr. DICKEY would vote against it, because it covered more ground than he liked, embracing, as it did, all the judicial officers, and he desired that the Justices of the Peace should be elected by the people.

Mr. READ said, he did not expect to change the vote of the gentleman from Beaver; but, there are some who are anxious that the Associate Judges should be elected by the people. There is a provision in the sixth article, by which this may be provided, if it should be the decree of the majority that it should be so. The present article, as amended, includes the appointment of all officers, "unless otherwise provided for". If in the eighth article, it should be the disposition of the majority to make a provision, that these Judges shall be elected by the people, they can do so.

Mr. DICKEY said, when he suggested a modification of that kind it was refused. He did not desire to take the station of leader.

Mr. EARLE: The gentleman from Beaver can move an amendment.

Mr. DARLINGTON asked whether the amendment did not leave unprovided for that part of the eighth section, which relates to the incompetency of officers of the United States, to hold certain offices under the State Government.

Mr. READ said this was not the place for that provision, and it had been transferred to the sixth article in anticipation of this vote.

Mr. DICKEY moved further to amend the report of the committee, as amended, by inserting after the words "courts of records", the words "as well as all officers established by law". This, he said, would leave nothing to be provided for hereafter. It would fill all the offices at once.

Mr. READ said, the adoption of this motion would be a renewal of two solemn decisions which had been made this day, and he hoped it would not be listened to at all.

Mr. DICKEY was quite surprised, he said, at the gentleman's opposition to the motion. It was a part of the gentleman's favorite amendment, as proposed by the gentleman from Chester.

Mr. READ had before stated, that he did not understand the meaning of that amendment, and if he had, he would have opposed it.

Mr. DICKEY: So it turns out that the gentleman, after calling us to the rally, yesterday, in support of the amendment of the gentleman from Chester, did not know what was in it. It was a part of that amendment, and if the gentleman now chose to vote it down, let him do so.

Mr. STEVENS said he hoped the appointing power would be placed somewhere in the Constitution, and if it was not provided for here, perhaps it would be elsewhere. The amendment, as it stood, left a large class of officers without any mode of appointment.

Mr. DICKEY asked the yeas and nays, and they were ordered.

Mr. BRILL said the object of his amendment was, to prevent the Governor from appointing all the officers. The most objectionable feature in the Constitution, was, that the Governor appointed all officers now authorized by law. He therefore had wished to introduce an amendment into the Constitution, providing that all officers shall be appointed by the

Governor, unless, by the act creating the office, some other mode of appointment shall be fixed. He moved to amend the amendment, by adding to it, after the word "law", the following: "when by such law the mode of appointment shall not be otherwise prescribed". This was a portion of his former amendment, which the gentleman from Beaver had omitted.

Mr. DICKEY said, this part of the provision in the gentleman's original amendment he had left out intentionally, because he objected to its principle. He was opposed to leaving it to the Legislature to fix the appointing power; and he wished to settle, by Constitutional provisions, the mode of appointing all offices created now or hereafter to be created by law. All the offices overlooked, or not named, were to be appointed by the Governor and Senate; and there was nothing in the section as it had been amended, to prevent the Legislature from establishing a Supreme Court, with fifteen Judges, and a salary of five thousand dollars each, and then filling the offices with some of their own members. He asked the yeas and nays on the gentleman's motion. The question involved a principle of vital importance.

The yeas and nays were ordered.

Mr. DARLINGTON said it appeared to him that the committee would act more understandingly, if his colleague would withdraw his motion for the present, until the vote was taken on the other motion.

Mr. BELL said he would withdraw it, and renew it, if the amendment of the gentleman from Beaver should be adopted.

Mr. PURVIANCE said, if he understood the proposition of the gentleman from Beaver, it gave to the Governor the appointment of all officers hereafter to be authorized by law. Of course, it included all the minor offices not enumerated in the Constitution. He hoped that the friends of reform would promptly vote it down. It was very gratifying to some gentlemen to offer these vexatious propositions, because they tended to embarrass the committee, and prevent the friends of reform from meeting the question.

Mr. M'CAHEN said he preferred the proposition which was adopted this morning, as it now stood, and he did not believe that the mover of the amendment would himself vote for the report, as amended, even if his motion should be adopted. In order to get the opinion of the committee, he called the previous question. The motion was seconded by eighteen delegates, as follows:

MESSRS. SMITH, PURVIANCE, DONAGAN, FRY, DILLINGER, WEAVER, OVERFIELD, CRAIN, TAGGART, NEVIN, SMYTH, MAGEE, SWETLAND, FOUKROD, FULLER, GILMORE, and MILLER.

The question then being, "shall the main question be now put"?

Mr. DENNY asked the yeas and nays, and they were ordered.

The question was then taken on ordering the main question, and decided in the affirmative—yeas, 63; nays, 56—as follows:

YEAS—Messrs. Banks, Barclay, Bedford, Bell, Bigelow, Bonham, Brown, of Northampton, Brown, of Philadelphia, Butler, Clarke, of Indiana, Cleavinger, Craig, Crain, Crawford, Cull, Darrah, Dillinger, Donagan, Donnell, Earle, Farrelly, Fleming, Foukrod, Fry, Fuller, Gearhart, Gilmore, Grenell, Hamlin, Hastings, Hayhurst, Helfenstein, High, Hyde, Ingersoll, Keim, Kennedy, Krebs, Lyons, Magee, Manta, M'Caen, Miller, Myers, Nevil, Overfield, Purviance, Read, Ritter, Ritter, Rogers,

Sellers, Scheetz, Shellito, Smith, Smyth, Sterigere, Stickel, Swetland, Taggart, Weaver, White, Woodward—63.

YAYS—Messrs. Agnew, Ayres, Baldwin, Barndollar, Bayne, Biddle, Brown, of Lancaster, Carey, Chambers, Clarke, of Beaver, Clark, of Dauphin, Cline, Coates, Cochran, Cope, Cox, Crum, Cunningham, Darlington, Denny, Dickey, Dickerson, Dunlop, Forward, Harris, Henderson, of Allegheny, Henderson, of Dauphin, Hiester, Hopkinson, Houpt, Kerr, Konigmacher, Long, Maclay, M'Call, M'Dowell, M'Sherry, Meredith, Merrill, Merkel, Montgomery, Pennypacker, Pollock, Porter, of Lancaster, Reigart, Russell, Saeger, Scott, Serrill, Sill, Snively, Stevens, Todd, Weidman, Young, Sergeant, *President*.—56.

The question was then taken on adopting the report of the committee **as** amended, and decided in the affirmative—yeas, 61; nays, 58—as follows :

YAYS—Messrs. Banks, Barclay, Bedford, Bell, Bigelow, Bonham, Brown, of Northampton, Brown, of Philadelphia, Butler, Clarke, of Indiana, Cleavinger, Crain, Crawford, Curll, Darrah, Dillinger, Donagan, Donnell, Earle, Farrelly, Fleming, Foulkrod, Fry, Fuller, Gearhart, Gilmore, Grenell, Hamlin, Hastings, Hayhurst, Helffenstein, High, Hyde, Ingersoll, Keim, Kennedy, Krehs, Lyons, Magee, Mann, M'Cahen, Miller, Myers, Nevin, Overfield, Purviance, Read, Riter, Ritter, Rogers, Sellers, Scheetz, Shellito, Smith, Smyth, Stickel, Swetland, Taggart, Weaver, White, Woodward—61.

NAYS—Messrs. Agnew, Ayres, Baldwin, Barndollar, Bayne, Biddle, Brown, of Lancaster, Carey, Chambers, Clarke, of Beaver, Clark, of Dauphin, Cline, Coates, Cochran, Cope, Cox, Craig, Crum, Cunningham, Darlington, Denny, Dickey, Dickerson, Dunlop, Forward, Harris, Henderson, of Allegheny, Henderson, of Dauphin, Hiester, Hopkinson, Houpt, Kerr, Konigmacher, Long, Maclay, M'Call, M'Dowell, M'Sherry, Meredith, Merrill, Merkel, Montgomery, Pennypacker, Pollock, Porter, of Lancaster, Reigart, Royer, Russell, Saeger, Scott, Serrill, Sill, Snively, Sterigere, Stevens, Todd, Weidman, Young, Sergeant, *President*.—59.

The Convention took up the report of the committee deeming it inexpedient to make any alteration in the following section :

“**SECT. 9.** He shall have power to remit fines and forfeitures, and grant reprieves, and pardons, except in cases of impeachment”.

Mr. **HIESTER** moved to amend the section by adding to the end thereof, the following: “But he shall assign his reasons for all reprieves and pardons granted, and for the remission of all fines and forfeitures annually to the Legislature”.

Mr. **H.** said he conceived the pardoning power to be a very important and very necessary one, and he did not know that it could be vested in better hands than the Executive, but like all discretionary powers it is likely to be abused. He did not know certainly that it had been abused, but he had heard much complaint on this subject from citizens of his own county as well as others. We have received a statement from the Secretary of the Commonwealth on this subject, and it does appear that the power has been extensively used by all the Chief Magistrates, whether correctly or not, he did not pretend to say; but it appeared to him, that it ought to be done, that people might have a knowledge of the reasons which induced the Executive to grant the pardons, or remit the fines which they might feel an interest in. He knew of no better means of effecting this object than by requiring the Executive to lay his reasons annually before the Legislature, not that he considered it of any importance that the Legislature should have the knowledge, but that through this medium it might reach the people, so that they might have the opportunity of judging in the matter. This would, in his opinion, be a sufficient check upon the

Governor to prevent him from granting any pardons, or remitting any fines, unless there were good and sufficient reasons for doing so.

Mr. BELL, of Chester, moved that the committee rise.

Mr. STEVENS, of Adams, thought that the committee ought to rise. He recollected that when the House of Lords passed to a second reading a bill of pains and penalties against the QUEEN, by a majority of nine, they immediately adjourned. And ministers finding so small a majority, and many difficulties in their way, immediately abandoned the prosecution. It had been his fate, once or twice in the Legislature, to hear the death of a member announced, when the House instantly adjourned to be withdrawn from reflections unsuited to the mournful occasion. Now, we had just passed, by a majority of three, a bill of pains and penalties upon a thing that was sacred to us all. Yes! by a bare majority of three have we destroyed the Constitution. He trusted, then, that the Convention would now adjourn, so that members might not have their minds disturbed by any trivial matter, but have them withdrawn from the melancholy scene before us.

Mr. MANN, of Montgomery, said the gentleman had better move that the officers of the Convention furnish those that wish to mourn, with crape to wear on the left arm, by way of mourning at the event. The matter was not so dreadful, however, as to require an immediate adjournment. He hoped we should continue in session half an hour longer; and, in the mean time, he hoped the gentleman from Adams would continue to indulge his grief, and not lose sight of its melancholy occasion.

Mr. STEVENS replied, that it would give him pleasure to adopt the suggestion of the gentleman from Montgomery, if he thought it would have the effect of making the credulous and unreflecting entertain and exhibit a proper feeling on a solemn occasion. Gentlemen here felt just as much delight at having broken down the Constitution, as a boy would in taking a bird's nest. He would not think of making such a motion, for there would be a majority of three against him. He would as soon think of recommending crape to any man whom he might see dancing on his mother's grave!

The question was then taken, and it was decided in the negative. A division being demanded, there appeared ayes, 48; noes, 51.

The question recurring on the amendment of the gentleman from Lancaster,

Mr. MERRILL, of Union, moved to amend the amendment, by adding thereto the words, "but in all cases of felony, pardons shall be granted by and with the advice and consent of the Senate".

Mr. DUNLOP of Franklin: I should like the gentleman to tell us what felony is.

Mr. MERRILL: Felony used to be an offence punishable with fine and imprisonment.

Mr. DUNLOP: If that is the definition, will the gentleman tell us what is not felony?

Mr. DARLINGTON, of Chester, moved that the committee rise.

Mr. EARLE, of Philadelphia, was sorry that gentlemen had not a more becoming respect for the decision of this body, than to be continually making frivolous motions of this sort, after they had been already voted down,

Mr. DARLINGTON called the gentleman (Mr. EARLE) to order. He had no right to the floor, whilst a motion was pending that the committee rise.

Mr. EARLE did not so understand the Chair to decide.

The CHAIR said that the question had not yet been propounded on the rising of the committee.

Mr. EARLE hoped that the committee would show their disapprobation of renewing these motions at every moment, by a large majority, and agree to go on and do some business.

Mr. DARLINGTON withdrew his motion.

Mr. BROWN, of Philadelphia, said that he felt some interest in the question under consideration. But, as he was then troubled with the head-ache, and several members were confined to their rooms from indisposition, he thought the Convention had better now adjourn, for it was quite evident there was a disinclination to sit any longer. He would, therefore, renew the motion that the committee rise.

Mr. EARLE hoped that his colleague would withdraw his motion. He (Mr. E.) would move that the gentleman have leave of absence. He doubted not, that they could do without him. And, if he should find himself mistaken, he would get a reconsideration of the matter under discussion, so as to give the gentleman an opportunity of recording his vote. He did not think there was a majority in favor of rising, if he might judge from the vote which had just been taken against the motion. They had already wasted a great deal of time. He trusted that the committee would rise.

Mr. SHELLITO, of Crawford, remarked that it must be evident that the Convention was not in a frame of mind to take a vote on any question to-day.

The question was then taken, and decided in the affirmative.

The committee rose, reported progress, and obtained leave to sit again, and

The Convention adjourned.

FRIDAY, JUNE 16, 1837.

Mr. FORWARD, from the committee to whom was referred the seventh article of the Constitution, made the following report, which was ordered to be laid on the table, and printed.

ARTICLE VII.

SECT. 1. The Legislature shall, as soon as conveniently may be, provide by law, for the establishment of schools throughout the State, in such manner that all children may be taught at public expense.

SECT. 2. The arts and sciences shall be promoted in such institutions of learning, as may be alike open to all the children of the Commonwealth.

SECT. 3. Without amendment.

SECT. 4. The Legislature shall not invest any corporate body with the privilege of appropriating private property to its own use, unless the owners or proprietors of such property shall have been previously compensated therefor.

W. FORWARD,
GEORGE M. KEIM,
GEO. W. RITER,
TOBIAS SELLERS,
E. C. REIGART,
JAMES POLLOCK,
THOMAS H. SILL.

Mr. RITER, of Philadelphia, from the minority of the same committee, to whom was referred the seventh article of the Constitution, made the following report, viz :

The minority of the committee on the seventh article of the Constitution, respectfully report, that numerous petitions from various parts of the State, indicate, beyond all doubt, the strong desire of the people, that Constitutional restraints should be put upon the much abused power of the Legislature to create corporations, especially bank corporations.—Your committee are convinced, not to do so would be to violate the will of the people, clearly and anxiously make known by direct communication of said will to this Convention. Even if your committee, therefore, doubted as individuals, they do not feel at liberty to hesitate, as representatives of the people, to say that this evil must be remedied, or it will lead to deplorable consequences. They, therefore, submit the following amendments, to be made imperative as a Constitutional interdict on future Legislatures.

That all banks chartered hereafter, shall be upon the following conditions, viz :

1. No bank shall be chartered unless it has the concurrent action of two thirds of two successive Legislatures, and that public notice be given of such intention in the immediate neighborhood where such bank is to be located, at least sixty days prior to said application to the Legislature.

2. No bank shall be chartered for more than eight years.

3. No vote for directors or president of a bank shall be given by proxy.

4. No bank shall divide more than seven per cent. per annum of the

profits of said bank ; the surplus of profits over seven per cent. per annum, to be paid annually into the State Treasury.

5. Each and every stockholder of all banks to be personally, and to the extent of all his property, answerable for all debts of the bank in which he holds stock.

With such provisions, your committee trust that banks may be hereafter safely conducted. That such has not been the case hitherto, let the present crisis answer. Your committee do not desire to destroy or injure the property of chartered banks, only to reduce and define their privileges so they may not destroy or injure the property of others.

GEORGE W. RITER,
TOBIAS SELLERS.

The report having been read,

Mr. STERIGERE moved to refer back this report to the committee, for the purpose of having it corrected, so as to conform to the rule which precludes any other report being received from a standing committee, except amendments.

The motion was agreed to, and the report of the minority of the committee was recommitted.

Mr. KEIM, of Berks, from the minority of the same committee, made the following report, which was ordered to be laid on the table, and printed :

SECT. —. The Legislature shall not charter any bank for a longer period than five years, nor for a greater amount of capital than dollars. The stockholders of every bank shall be responsible, in their private property, for the debts and liabilities thereof; *no bank shall establish branches*, nor shall any charter authorize the issuing of bank notes under the denomination of twenty dollars.

GEORGE M. KEIM.

The PRESIDENT laid before the Convention the following communication and statement, in reply to a requisition on the Secretary of the Commonwealth, for a statement of the taxable inhabitants, which was ordered to be laid on the table, and printed.

SECRETARY'S OFFICE. }
HARRISBURG, JUNE 15, 1837. }

SIR—In compliance with a resolution of the Convention over which you preside, I have the honor to transmit the accompanying statement of the number of taxable inhabitants in the several wards, boroughs and townships of the State, according to the septennial enumeration of 1835.—Subjoined will be found a table showing the whole number of taxables in each county, and in the whole State, at the same period.

I am, sir, very respectfully,

Your obedient servant,

• THOS. H. BURROWES,
Secretary of the Commonwealth.

HON. JOHN SERGEANT,
President of the Convention.

STATEMENT

Of the number of taxable inhabitants in the respective wards of the several cities, and the respective boroughs and townships, of the several counties in the State, according to the enumeration made in 1835-6, viz :

COUNTIES, &c.	No. of Taxables.	COUNTIES, &c.	No. of Taxables.
ADAMS COUNTY.		Robinson township, -	313
Gettysburg borough, -	403	Moon, -	234
Tyrone township, -	185	Fayette, -	507
Franklin, -	372	Findlay, -	268
Mountjoy, -	224	Franklin, -	169
Mount Pleasant, -	352	Ohio, -	277
Straban, -	322	Ross, (reserve tract, 364, aggregate) -	650
Latimore, -	231	Pine, -	311
Hamiltonban, -	360	Deer, -	454
Liberty, -	224	Indiana, -	511
Berwick, -	320		
Huntingdon, -	341	ARMSTRONG COUNTY.	
Menallen, -	482	Freeport borough, -	118
Germany, -	381	Kittanning, do. -	148
Reading, -	242	Kittanning township, -	412
Cumberland, -	259	Toby, -	401
Conewago, -	200	Buffalo, -	274
Hamilton, -	269	Perry, -	219
		Red Bank, -	478
ALLEGHENY COUNTY.		Clarion, -	560
South Ward, (Pittsburg) -	529	Sugar Creek, -	312
North Ward, do. -	684	Plum Creek, -	321
East Ward, do. -	1334	Wayne, -	311
West Ward, do. -	906	Kiskeminetas, -	365
Northern Liberties, (borough) -	650	Allegheny, -	345
Allegheny, do. -	1104	Franklin, -	289
Birmingham, do. -	180		
Lawrenceville, do. -	143	BEAVER COUNTY.	
Peebles township, -	169	Little Beaver township, -	370
Pitt, -	711	North Beaver, -	411
Wilkins, -	467	South Beaver, -	196
Plumb, -	400	Brighton, -	154
Versailles, -	228	Ohio, -	233
Elizabeth, -	747	Beaver borough, -	312
Jefferson, -	316	Fallston district, -	193
Mifflin, -	270	New Sewickly tp. -	546
St. Clair, (M'Cully's district) -	462		
St. Clair, (Obey's district) -	690		

COUNTIES, &c.	No. of Taxables.	COUNTIES, &c.	No. of Taxables
North Sewickly, -	510	Greenwich, -	322
Shenango, -	456	Hereford, -	370
Economy, -	320	Heidleberg, -	833
Moon, -	212	Kutztown borough, -	159
Hopewell, -	259	Longswam, -	358
Racoon, -	135	Maidencreek, -	310
Hanover, -	322	Maxetawny -	364
Green, -	310	Oley, -	331
Big Beaver, -	260	Pike, -	185
Chippewa, -	115	Reading, North ward, -	530
BEDFORD COUNTY.		Reading, South ward, -	687
Bedford borough, -	190	Richmond, -	279
Bedford township, -	286	Robeson, -	309
M'Connellsburg, -	105	Rockland, -	295
Greenfield, -	313	Roscomanor, -	300
Providence, -	513	Tulpehocken, -	511
Southampton, -	272	Tulpehocken, Upper -	318
Woodberry, -	739	Union, -	240
Air, -	310	Windsor, -	505
St. Clair, -	287	BRADFORD COUNTY.	
Londonderry, -	120	Athens township, -	221
Napier, -	563	Athens borough, -	77
Union, -	184	Asylum township, -	149
Cumberland Valley, -	157	Albany, -	100
Colerain, -	209	Burlington, -	171
Dublin, -	179	Columbia, -	294
Belfast, -	285	Canton, -	194
Bethel, -	251	Franklin, -	60
Hopewell, -	409	Granville, -	92
BERKS COUNTY.		Litchfield, -	129
Albany, -	236	Monroe, -	174
Alsace, -	453	Orwell, -	210
Amity, -	259	Pike, -	192
Bern, -	543	Ridgebury, -	149
Bern, Upper, -	472	Smithfield, -	251
Bethel, -	325	Springfield, -	237
Brecknoch, -	194	South Creek, -	71
Cumru, -	548	Sheshequin, -	164
Colebrookdale, -	307	Troy, -	218
Caernarvon, -	189	Tuscarora, -	67
Douglass, -	193	Towanda, -	231
District, -	132	Ulster, -	86
Exeter, -	338	Leroy, -	103
Earl, -	219	Wells, -	166
		Warren, -	213
		Wysox, -	245

COUNTIES, &c.	No. of Taxables.	COUNTIES, &c.	No. of Taxables.
Rome, - -	142	Muddy Creek, - -	405
Windham, - -	153	Middlesex, - -	350
Wyalusing, - -	172	Parker, - -	245
		Slippery rock, - -	443
		Venango, - -	140
BUCKS COUNTY.			
Bristol borough, -	227	COLUMBIA COUNTY.	
Bristol township, -	323	Hemlock, - -	327
Bensalem, - -	327	Bloom, - -	453
Buckingham, - -	580	Sugar Loaf, - -	154
Bedminster, - -	398	Roaring Creek, - -	322
Doylestown, - -	467	Mount Pleasant, - -	147
Durham, - -	143	Mifflin, - -	370
Falls, - -	423	Madison, - -	302
Haycock, - -	240	Limestone, - -	121
Hilltown, - -	453	Liberty, - -	268
Middletown, - -	477	Fishing creek, - -	129
Lower Makefield, -	298	Briar creek, - -	340
Upper Makefield, -	338	Mahoning, - -	368
Morrisville borough, -	74	Derry, - -	350
Milford township, -	461	Greenwood, - -	257
New Brittain, - -	308	Cattawissa, - -	345
Newtown, - -	316		
Nockamixon, - -	435	CENTRE COUNTY.	
Northampton, - -	325	Bellefonte borough, -	189
Plumstead, - -	511	Boggs township, - -	376
Rockhill, - -	434	Bald Eagle, - -	220
Richland, - -	412	Ferguson, - -	273
Solebury, - -	617	Gregg, - -	350
Southampton, - -	278	Hains, - -	395
Springfield, - -	455	Harris, - -	371
Tinicum, - -	392	Howard, - -	343
Warwick, - -	237	Halfmoon, - -	268
Warminster, - -	192	Lamar, - -	364
Warrington, - -	143	Logan, - -	176
Wrightstown, - -	166	Miles, - -	250
		Potter, - -	344
BUTLER COUNTY.		Patton, - -	161
Butler borough, -	200	Rush, - -	69
Butler township, -	280	Spring, - -	307
Buffalo, - -	325	Walker, - -	279
Cranberry, - -	323		
Connoquenessing, -	520	CAMBRIA COUNTY.	
Centre, - -	356	Cambria township, -	265
Clearfield, - -	185	Allegheny, - -	288
Donegal, - -	300		
Mercer, - -	250		

COUNTIES, &c.	No. of Taxables.	COUNTIES, &c.	No. of Taxables.
Conemaugh, - -	515	Uwchlan, - -	342
Summerhill, - -	153	Vincent, East, - -	250
Clearfield, - -	124	Vincent, West, - -	271
Susquehanna, - -	183	Willistown, - -	379
Jackson, - -	97	Whiteland, East, - -	229
Richland, - -	144	Whiteland, West, - -	271
Washington, - -	193		
CHESTER COUNTY.		CLEARFIELD COUNTY.	
Birmingham, - -	68	Decatur township, - -	90
Brandywine, - -	376	Pike, including the new town-	
Bradford, East, - -	268	ships of Penn and Bell, - -	235
Bradford, West, - -	285	Bradford, - -	167
London Brittain, - -	106	Covington, - -	61
Caln, East - -	312	Jordan, - -	63
Caln, West - -	255	Lawrence, - -	167
Charlestown, - -	217	Jay, - -	87
Coventry, - -	526	Fox, - -	74
West Chester, - -	342	Gibson, - -	87
Londonderry, - -	138	Brady, - -	120
Fallowfield, East - -	245	Girard, - -	24
Fallowfield, West - -	369	Chest, and Burnside, - -	167
Goshen, East - -	168	Beccaria, - -	56
Goshen, West - -	140		
London Grove, - -	297	CRAWFORD COUNTY.	
New Garden, - -	252	Meadville borough, - -	258
Honey Brook, - -	446	Mead township, - -	285
Kennett, - -	240	Wayne, - -	101
New London, - -	318	Oil Creek, - -	155
Marlborough, East - -	295	Troy, - -	45
Marlborough, West, - -	273	Randolph, - -	173
Newlin, - -	172	Woodcock, - -	340
Nottingham, East - -	368	Richmond, - -	99
Nottingham, West - -	104	Athens, - -	76
Nantmeal, East - -	401	Rome, - -	91
Nantmeal, West, - -	376	Sparta, - -	101
Oxford, Upper - -	252	Bloomfield, - -	49
Oxford, Lower - -	258	Rockdale, - -	90
Penn, - -	133	Venango, - -	229
Pennsbury, - -	200	Cussewaga, - -	228
Pikeland, - -	328	Spring, - -	262
Sadsbury, - -	373	Beaver, - -	100
Schuylkill, - -	399	Coneaunt, - -	258
Tredyffrin, - -	369	Summerhill, - -	214
East Town, - -	183	Hayfield, - -	247
West Town, - -	148	Vernon, - -	311
Thornbury, - -	37	Sadsbury, - -	321

COUNTIES, &c.	No. of Taxables.	COUNTIES, &c.	No. of Taxables.
Shenango, North, -	230	DELAWARE COUNTY.	
Shenango, South, -	252	Tinicum, - -	31
Fallowfield, - -	276	Bethel, - -	70
Greenwood, - -	168	Upper Chichester, -	92
Fairfield, - -	205	Lower do - -	93
CUMBERLAND COUNTY.		Birmingham, - -	109
Allen, - - -	423	Newtown, - -	137
Carlisle borough, -	783	Thornbury, - -	139
Dickinson, - -	508	Edgmont, - -	160
Pennsborough, East, -	453	Springfield, - -	172
Frankford, - -	291	Ridley, - -	178
Hopewell, - -	204	Upper Providence, -	182
Mechanicsburg borough,	125	Nether, do. - -	197
Mifflin, - -	296	Marple, - -	201
Monroe, - -	308	Concord, - -	218
Newton, - -	291	Haverford, - -	222
Newville, - -	152	Radnor, - -	257
North Middleton, - -	355	Darby, - -	268
South Middleton, - -	462	Middletown, - -	253
Silverspring, - -	369	Aston, - -	275
Southampton, - -	305	Upper Darby, - -	314
Shippensburg, - -	28	Chester, - -	332
West Pennsborough, -	397	ERIE COUNTY.	
Shippensburg borough, -	297	Amity, - -	109
DAUPHIN COUNTY.		Beaverdam, - -	206
North Ward, Harrisburg,	373	Conneaut, - -	300
South Ward, do	505	Erie, - -	670
Lower Swatara, - -	219	Elk Creek, - -	330
Upper do - -	240	Fairview, - -	260
Londonderry, - -	469	Girard, - -	528
Derry, - -	487	Greenfield, - -	187
Lower Paxton, - -	297	Harbour Creek, - -	383
Susquehanna, - -	291	Le Bœuff, - -	165
Middle Paxton, - -	323	Mill Creek, - -	517
Rush, - -	42	M'Kean, - -	329
Jackson, - -	189	North East, - -	466
Halifax, - -	380	Springfield, - -	409
Upper Paxton, - -	310	Union, - -	93
Mifflin, - -	335	Venango, - -	172
Lykens, - -	367	Wattsburg, - -	45
Hanover, - -	483	Wayne, - -	143
Middletown, - -	198	Waterford borough, -	95
		Waterford township, -	234
		Washington, - -	334
		Concord, - -	107

COUNTIES, &c.	No. of Taxables.	COUNTIES, &c.	No. of Taxables.
FAYETTE COUNTY.		Wayne, - -	206
George, - -	451	Dunkard, - -	213
German, - -	449	Jefferson, - -	243
Tyrone, - -	242	Morgan, - -	281
Springhill, - -	437	Franklin, - -	283
Luzerne, - -	327	Morris, - -	324
Washington, - -	641	Whitley, - -	349
Union, - -	487	Cumberland, - -	365
Henry Clay, - -	157		
Dunbar, - -	407	HUNTINGDON COUNTY.	
Franklin, - -	314	Allegheny, - -	217
Menallen, - -	252	Antis, - -	296
Bridgeport, - -	141	Barre, - -	435
Union borough, - -	291	Dublin, - -	154
Wharton, - -	204	Frankstown, - -	685
Redstone, - -	242	Franklin, - -	256
Saltlick, - -	310	Hopewell, - -	188
Bullskin, - -	245	Henderson, - -	468
Brownsville, - -	248	Morris, - -	335
Connelsville, - -	249	Porter, - -	251
		Sherley, - -	338
FRANKLIN COUNTY.		Springfield, - -	284
Washington, - -	1103	Tyrone, - -	220
Antrim, - -	818	Tell, - -	181
Montgomery, - -	608	Union, - -	357
Warren, - -	135	Woodberry, - -	579
Peters, - -	419	Warriormark, - -	326
Metal, - -	292	West, - -	377
Fannet, - -	388	Walker, - -	155
Letterkenny, - -	397		
Lurgan, - -	222	INDIANA COUNTY.	
Southampton, - -	349	Mahoning township, - -	405
Greene, - -	579	Greene, - -	354
Guilford, - -	468	Wheatfield, - -	319
Hamilton, - -	334	Blacklick, - -	310
St. Thomas, - -	343	Conemaugh, - -	298
Chambersburg, - -	575	Brushvalley, - -	294
		Washington, - -	280
GREENE COUNTY.		Centre, - -	280
Marion, - -	119	Armstrong, - -	192
Greene, - -	134	Young, - -	179
Aleppo, - -	167	Blairsville, - -	178
Richhill, - -	187	Indiana, - -	106
Monongahela, - -	198	Montgomery, - -	74
Centre, - -	198		

COUNTIES, &c.	No. of Taxables.	COUNTIES, &c.	No. of Taxables.
JEFFERSON COUNTY.		Mount Joy, - -	506
Ridgeway, - -	40	Raphoe, - -	728
Barnit, - -	76	Sadsbury, - -	274
Eldred, - -	37	Salisbury, - -	718
Perry, - -	209	Strasburg, - -	935
Pine Creek, - -	103	Warwick, - -	818
Rose, - -	252	LEBANON COUNTY.	
Snyder, - -	41	Lebanon borough, -	385
Young, - -	146	North Lebanon, -	288
JUNIATA COUNTY.		Swatara, - -	326
Lack, - -	173	Bethel, - -	326
Fayette, - -	187	South Lebanon, -	474
Tuscarora, - -	209	Heidleberg, - -	558
Turbett, - -	240	Hanover, East, -	456
Fermanaugh, - -	248	Jackson, - -	538
Milford, - -	323	Londonderry, - -	408
Greenwood, - -	341	Anville, - -	609
Walker, - -	344	LEHIGH COUNTY.	
LANCASTER COUNTY.		Northampton borough, -	455
Bart, - -	392	Hanover, - -	285
Brecknock, - -	230	Heidleberg, - -	508
Caernarvon, - -	343	Lowhill, - -	176
Cocalico, - -	975	Lynn, - -	375
Colerain, - -	301	Maccungie, Upper, -	334
Columbia, - -	566	“ Lower, -	445
Conestoga, - -	497	Milford, Upper, -	643
Donegal, East, -	784	North Whitehall, -	451
Donegal, West, -	517	South “ -	438
Drumore, - -	450	Upper Saucon, -	597
Earl, East, - -	882	Salisbury, - -	330
Earl, West, - -	338	Weissenburg, - -	300
Elizabeth, - -	486	Northampton township, -	45
Hempfield, East, -	466	LUZERNE COUNTY.	
Hempfield, West, -	403	Abington, - -	267
Lampeter, - -	754	Blakely, - -	141
Lancaster, - -	111	Braintrim, - -	112
“ city, - -	1647	Buck, - -	42
Leacock, - -	745	Carbondale, - -	350
Little Britain, - -	524	Covington, - -	60
Manheim, - -	433	Dallas, - -	112
Manor, - -	812	Eaton, - -	125
Martic, - -	514	Exeter, - -	179

COUNTIES, &c.	No. of Taxables.	COUNTIES, &c.	No. of Taxables.
Falls, - - -	192	Fairfield, - - -	213
Fairmount, - - -	83	Loyalsock, - - -	180
Greenfield, - - -	269	Chapman, - - -	92
Hanover, - - -	179	Muncy Creek, - - -	216
Huntingdon, - - -	267	Hepburn, - - -	248
Kingston, - - -	325	Washington, - - -	317
Lehman, - - -	61	Forks, - - -	35
Monroe, - - -	56	Grove, - - -	75
Northmoreland, - - -	172	Cummings, - - -	88
Nicholson, - - -	248	Davidson, - - -	53
Newport, - - -	178		
Neshcopeck, - - -	213	MCKEAN COUNTY.	
Pittston, - - -	235	Bradford, - - -	65
Providence, - - -	238	Ceres, - - -	93
Plymouth, - - -	265	Corydon, - - -	66
Salem, - - -	168	Hamilton, - - -	12
Sugarloaf, - - -	317	Keating, - - -	138
Tunkhannock, - - -	169	Liberty, - - -	24
Union, - - -	185	Sergeant, - - -	16
Washington, - - -	98	Shippen, - - -	28
Windham, - - -	274	Norwich, - - -	50
Wilkesbarre, - - -	502		
LYCOMING COUNTY.		MERCER COUNTY.	
Williamsport borough, -	252	Mahoning, - - -	621
Muncy " - - -	150	West Salem, - - -	494
Jersey Shore " - - -	112	Neshanock, - - -	459
Dunstable township, -	132	Slippery Rock, - - -	365
Elkland, - - -	139	Lackawannoek, - - -	327
Wolf, - - -	154	Delaware, - - -	308
Lycoming, - - -	331	Cool Spring, - - -	281
Cherry, - - -	120	Wolf Creek, - - -	285
Penn., - - -	73	Springfield, - - -	260
Nippenose, - - -	84	Pymatuning, - - -	253
Bald Eagle, - - -	79	Sandycreek, - - -	249
Mifflin, - - -	190	Shenango, - - -	242
Lewis, - - -	68	Salem, - - -	241
Clinton, - - -	175	Mercer, - - -	147
Pinecreek, - - -	92	French creek, - - -	142
Limestone, - - -	149	Hickory, - - -	302
Moreland, - - -	123	Sandy lake, - - -	220
Franklin, - - -	92		
Jackson, - - -	43	MIFFLIN COUNTY.	
Brown, - - -	44	Lewistown borough, -	362
Wayne, - - -	61	Decatur, - - -	148
Shrewsbury, - - -	54	Oliver, - - -	388
Muncy, - - -	153		

COUNTIES, &c.	No. of Taxables.	COUNTIES, &c.	No. of Taxables.
Wayne, - -	183	Forks, - -	451
Armagh, - -	486	Hamilton, - -	329
Derry, - -	445	Hanover, - -	84
Union, - -	418	Lausanne, - -	117
MONTGOMERY COUNTY.		Lehigh, - -	372
Abington, - -	379	Lower Mt. Bethel, - -	609
Norristown borough, -	379	Lower Nazareth, - -	289
Pottstown, - -	187	Mauch Chunk, - -	319
Cheltenham, - -	233	Moore, - -	480
Douglass, - -	193	Plainfield, - -	291
Franconia, - -	229	Pocono, - -	160
Frederick, - -	260	Ross, - -	174
Gwynned, - -	353	Saucon, - -	508
Hatfield, - -	203	Smithfield, - -	216
Horsham, - -	260	Stroud, - -	313
Limerick, - -	323	Tobyhanne, - -	102
Lower Salford, - -	232	Towamensing, - -	258
Lower Merion, - -	654	Upper Mt. Bethel, - -	477
Lower Providence, - -	304	Upper Nazareth, - -	202
Marlborough, - -	251	Williams, - -	427
Montgomery, - -	192	NORTHUMBERLAND COUNTY.	
Moreland, - -	469	Turbut, - -	730
New Hanover, - -	300	Chilisquaque, - -	260
Norriton, - -	279	Point, - -	139
Plymouth, - -	301	Northumberland, - -	231
Perkiomen, - -	308	Sunbury, - -	239
Pottsgrove, - -	286	Augusta, - -	486
Springfield, - -	158	Shamokin, - -	442
Towamensing, - -	175	Rush, - -	238
Upper Dublin, - -	356	Upper Mahanoy, - -	338
Upper Merion, - -	493	Little Mahanoy, - -	109
Upper Hanover, - -	314	Lower Mahanoy, - -	384
Upper Providence, - -	425	Milton Borough, - -	337
Upper Salford, - -	256	PERRY COUNTY.	
Whitpain, - -	289	Rye, - -	129
Whitemarsh, - -	461	Tyrone, - -	445
Worcester, - -	271	Wheatfield, - -	235
NORTHAMPTON COUNTY.		Juniata, - -	384
Allen, - -	485	Liverpool, - -	203
Bethlehem, - -	575	Toboyne, - -	426
Bushkill, - -	376	Saville, - -	252
Chesnuthill, - -	225	Centre, - -	314
Easton borough, - -	1123	Buffaloe, - -	212
East Penn, - -	249	Carroll, - -	197
		Greenwood, - -	181

COUNTIES, &c.	No. of Taxables.	COUNTIES, &c.	No. of Taxables.
PIKE COUNTY.		SOMERSET COUNTY.	
Middle Smithfield, -	209	Somerset borough, -	148
Price, - - -	65	Milford township, -	356
Coolbaugh, - -	32	Somerset, - - -	408
Dingman, - - -	63	Turkeyfoot, - - -	232
Delaware, - - -	104	Addison, - - -	236
Milford, - - -	160	Elk Lick, - - -	284
Lehman, - - -	97	Southampton, - -	127
Palmyra, - - -	107	Greenville, - - -	130
Lackawaxen, - -	100	Allegheny, - - -	111
		Brothers' valley, -	454
		Stony creek, - - -	184
		Shade, - - -	264
		Conemaugh township, -	160
		Quemehoning, - - -	264
		Jenner, - - -	281
POTTER COUNTY.		SUSQUEHANNA COUNTY.	
Wharton, - - -	40	Auburn township, -	143
Ulysses, - - -	33	Bridgewater, - - -	435
Roulet, - - -	29	Brooklyn, - - -	256
Genessee & Allegheny,	30	Clifford, - - -	227
Hector, - - -	23	Choconut, - - -	188
Eulallia, - - -	62	Dimock, - - -	154
Harrison, - - -	68	Gibson, - - -	206
Bingham, - - -	76	Great Bend, - - -	147
Sharon, - - -	114	Harford, - - -	202
Oswego, - - -	18	Harmony, - - -	85
Hebron, - - -	41	Herrick, - - -	116
Pike and Jackson, -	22	Jackson, - - -	128
		Lawsville, - - -	179
		Lenox, - - -	127
		Middletown, - - -	165
		Montrose, - - -	115
		New Milford, - - -	208
		Rush, - - -	151
		Springville, - - -	175
		Silverlake, - - -	122
		Thompson, - - -	63
SCHUYLKILL COUNTY.		TIOGA COUNTY.	
Tamaqua, - - -	155	Chatham township, -	84
Schuylkill, - - -	176	Morris, - - -	20
Rush, - - -	84	Covington, - - -	103
East Brunswick, -	212		
Upper Mahantongo, -	245		
Brunswick, West, -	275		
Orwigsburg, - - -	180		
Pinegrove, - - -	302		
Wayne, - - -	254		
West Penn, - - -	286		
Manheim, - - -	471		
Barry, - - -	94		
Union, - - -	122		
Mahantongo, Lower, -	243		
Pottsville borough, -	731		
Norwegian, - - -	840		

COUNTIES, &c.	No. of Taxables.	COUNTIES, &c.	No. of Taxables.
Strabane, North, -	217	YORK COUNTY.	
Strabane, South, -	216	York borough. S. ward, -	629
Somerset, -	287	do. N. ward. -	364
Washington borough, -	400	Hanover borough, -	239
Canton township, -	224	Fawn township, -	164
WAYNE COUNTY.		Carrol, -	202
Scott township, -	70	Heidleberg, -	305
Preston, -	101	Manchester, -	469
Buckingham, -	38	Conewago, -	224
Manchester, -	57	Newberry, -	439
Damascus, -	155	Washington, -	256
Lebanon, -	70	Lower Chanceford, -	249
Mount Pleasant, -	221	Codorus, -	517
Clinton, -	98	Shrewsbury, -	277
Canaan, -	238	Manheim, -	306
Dyberry, -	305	West Manchester, -	270
Bethany borough, -	69	Hellam, -	440
Honesdale borough, -	171	Hopewell, -	418
Berlin township, -	98	Franklin, -	177
Palmyra township, -	105	Paradise, -	406
Salem, -	161	Fairview, -	378
Sterling, -	163	Springfield, -	222
WESTMORELAND COUNTY.		Dover, -	411
Hemphill township, -	994	Chanceford, -	301
Mount Pleasant, -	414	York, -	266
E. Huntingdon, -	329	Spring Garden, -	356
S. Huntingdon, -	457	Windsor, -	620
Rostrover, -	379	Warrington, -	285
Franklin, -	428	Monaghan, -	224
Salem, -	496	Peach Bottom, -	233
Allegheny, -	518	CITY OF PHILADELPHIA.	
Washington, -	357	Upper Delaware ward, -	1112
Derry, -	686	North Mulberry, " -	1303
Fairfield, -	396	Lower Delaware, " -	1149
Ligonier, -	362	South Mulberry, " -	1000
Donegal, -	444	High Street, " -	786
Unity, -	563	Chesnut, " -	688
N. Huntingdon, -	376	Middle, " -	855
Sewickly, -	321	Walnut, " -	492
Loyalhanna, -	277	South, " -	751
Greensburg borough, -	169	Dock, " -	947
Mount Pleasant, -	110	Locust, " -	1080
Laughlinstown, -	97	Pine, " -	715
Ligonier, -	50	Cedar, " -	1253
		New Market, " -	973
		North, " -	1315

COUNTIES, &c.	No. of Taxables.	COUNTIES, &c.	No. of Taxables.
COUNTY OF PHILADELPHIA.		2d ward, Kensington, -	680
1st ward, N. Liberties, -	706	3d do. -	1043
2d do. -	548	4th do. -	801
3d do. -	889	5th do. -	711
4th do. -	693	Roxborough township, -	882
5th do. -	1212	Germantown, -	1019
6th do. -	1004	Oxford, -	682
7th do. -	1098	Bristol, -	323
Unincorporated Northern Liberties, -	571	Lower Dublin, -	662
Penn township, -	494	Bybury, -	215
1st ward, Spring Garden, -	928	Moreland, -	89
2d do. -	820	Blockley, -	738
3d do. -	909	Kingsessing, -	205
4th do. -	798	Moyamensing, -	1768
1st ward, Kensington, -	550	Passyunk, -	304
		Southwark, East	1879
		Southwark, West	1938

TABLE

SHOWING THE WHOLE NUMBER OF TAXABLES IN EACH COUNTY.

COUNTIES.	No. of Taxables.	COUNTIES, &c.	No. of Taxables.
Adams, - -	5,167	Luzerne, - -	6,119
Allegheny, - -	13,797	Lycoming, - -	4,396
Armstrong, - -	4,553	M'Kean, - -	492
Beaver, - -	5,308	Mercer, - -	5,203
Bedford, - -	5,352	Mifflin, - -	2,411
Berks, - -	11,740	Monroe, - -	1,825
Bradford, - -	4,721	Montgomery, - -	9,774
Bucks, - -	10,450	Northampton, - -	7,190
Butler, - -	4,322	Northumberland, - -	3,933
Cambria, - -	1,912	Perry, - -	2,942
Centre, - -	4,705	Pike, - -	631
Chester, - -	11,682	Potter, - -	557
Clearfield, - -	1,395	Philadelphia city, - -	14,419
Columbia, - -	4,252	Philadelphia county, - -	25,159
Crawford, - -	5,164	Schuylkill, - -	4,770
Cumberland, - -	6,047	Somerset, - -	3,639
Dauphin, - -	5,508	Susquehanna, - -	3,592
Delaware, - -	3,900	Tioga, - -	2,554
Erie, - -	6,082	Union, - -	4,353
Fayette, - -	6,094	Venango, - -	3,014
Franklin, - -	7,060	Warren, - -	1,626
Greene, - -	3,267	Washington, - -	8,470
Huntingdon, - -	6,144	Wayne, - -	2,120
Indiana, - -	3,166	Westmoreland, - -	8,223
Jefferson, - -	904	York, - -	9,559
Juniata, - -	2,102		
Lancaster, - -	17,100	Whole No. in the State, - -	309,421
Lebanon, - -	4,501		
Lehigh, - -	5,355		

SECOND ARTICLE.

The Convention again resolved itself into a committee of the whole on the second article of the Constitution, Mr. CLARKE, of Indiana, in the Chair.

The question pending being on the amendment offered by Mr. MERRILL to the amendment offered by Mr. HIESTER to the ninth section.

Mr. MERRILL modified his amendment so as to read as follows :

“ But no pardon shall be granted for offences punishable by imprisonment in the penitentiary, but by, and with the advice and consent of the Senate”.

Mr. MERRILL said he knew of no part of the patronage of the Executive which was so much complained of as the exercise of the pardoning power. So long as he had known any thing of judicial proceedings, there had been a strong feeling against the exercise of the pardoning power. There should be some amendments to this part of the Constitution. He was by no means tenacious of his proposition. The amendment of the gentleman from Lancaster he approved of. Whether it went far enough or not, he should vote in favor of it. He had no doubt the Governor would grant pardons with more caution after this enquiry. The effect of the amendment would not be to prevent the action of the Governor at all, but merely to lead him to act with more careful discrimination. The mere restriction imposed on him by requiring him to render his reasons for granting a pardon, would not, at all times, be sufficient, and, therefore, he had submitted this amendment. If the proposition of the gentleman from Lancaster was sufficient to cure the evil, it was all he (Mr. M.) wanted. He asked for nothing more.

Mr. REIGART said : Mr. Chairman : The amendment offered by my colleague to the ninth section of the second article of the Constitution, has my full and entire approbation. But, sir, I cannot vote for the amendment offered by the delegate from Union. The first does not restrain Executive clemency ; the latter gives to the Senate the controlling power in pardons for the higher offences. I could not contract the exercise of this Executive prerogative, by connecting it with the Senate. To me, it seems that the Senate (from the demonstrations we have already had here) will have enough to do, in the connexion already determined upon, with the Executive ; and for one I would not be willing to go further in this particular : but the amendment of the delegate from Union should not prevail for another reason—it entirely precludes the Executive, even in connexion with the Senate, from granting a pardon, or even a reprieve, on a conviction for murder or treason ! Is it not obvious, that many cases might occur—nay, many have occurred—in which it was necessary to pardon ? Need I refer gentlemen to such cases ? Can they not readily be conceived ? May there not be many cases of mistake ? Testimony subsequently discovered, which may most conclusively establish the innocence of the accused ? Where, then, is the power to restore this innocent man to the blessings of liberty, and to the society of his fellow-men ? Shall he be incarcerated until the Legislature convenes, and await their action, before he can be restored to society ? Would not such a course be a resort to that kind of judicial nay, Executive legislation, which has been so much deprecated here ? I trust, therefore, that this amendment of my colleague may be agreed to without referring to any alleged abuses of this power. What, sir, does the

amendment of my colleague propose? Not to take away this power from the Executive; not to abridge it; nay, not even to restrain it, except inasmuch as it may be restrained by the ordeal of public opinion. This has been called "a Government of checks and balances", and is most emphatically so: it consists of three great powers, Legislative, Executive, and Judicial. If, sir, you permit the Executive branch of that Government to control—nay, sir, negative the action of the Legislative and Judicial branches—will you not, at least, require some public reason to be given for the exercise of that power? In vain do the Legislative branch enact laws for the prevention and punishment of crime! In vain do the judges of your courts, through the intervention of juries, try offenders against the laws, and sentence them to undergo the punishment prescribed by those violated laws, if you will still permit the Executive branch to pardon all criminals without giving a single reason for it; I mean a public reason. It is true, reasons are generally contained in the pardon itself; but these reasons are not made public; the public know nothing of them; they never reach the public mind in any way whatever. Sir, we all agree that this pardoning power should be placed somewhere, and we may, perhaps, generally agree, that the Executive is the safest depository. I ask not that this power be abridged—nay, not even restricted. Make it the duty of the Executive to give his reasons to the Legislature—if these reasons are unsound, the public will pass sentence of condemnation on them. If they be sound, they will be sustained; indeed, it would be kindness to the Executive to permit him to give his reasons to the public. These reasons ought not, nor cannot be of a private nature; they necessarily must be of a public kind. Why, then, should they be confined to the breast of a single individual? For these reasons, as well as many others that might be given, (but with which I will not detain the committee), I hope the amendment offered by my colleague will prevail.

Mr. FORWARD said he cherished the highest respect, both for the gentleman from Lancaster, and the gentleman from Union, but he regreted that they should have brought forward propositions to amend a part of the Constitution, which, in his view, it was most important to leave untouched. Every new amendment hazards the adoption of the Constitution by the people. It has to pass through a perilous ordeal. In reference to this matter of pardoning, it is a thing to be left to the clemency of the Governor, and the people do not wish to see it interfered with. It is a matter of favor, and should be separated from a matter of right. Let it preserve the character of mercy—if extended, unmerited mercy. The moment you fix restraints, there is an end of it. Under all christian Governments, it has been found necessary to lodge this power somewhere, and the safest depository is the Executive.

If justice is to have its way, mercy will be shut out altogether. But there are, at times, circumstances in which it is proper for the Governor to interfere, and mercy should glow towards the unfortunate individual.—What is required by the amendment? That the Governor shall give his reasons. How long would it take him to throw out all his reasons? How many nameless circumstances may have operated upon him, which it would be difficult to place on paper? The labor imposed on the Executive would be immense. He would be compelled to keep a record, to which posterity might look for the counsel which may have influenced

any particular act of mercy. There are other considerations which may operate on the Executive. Suppose a case of a minor, a child, misled into errors, upon whom Executive clemency has been properly brought to act, but in which case the publication of reasons might involve a whole family in trouble. They might disclose circumstances which would be offensive to the public eye, and at the same time, strike deeply into domestic peace. He wished for no reasons. Discretion must be vested somewhere. We must suppose the Governor to be a man of honor, that he may be trusted. There is no instance in which pardon has been obtained from him by improper means. He would rather see the Governor err on the side of mercy, than exhibit an unfeeling disposition. Has the Commonwealth suffered by the improper extension of mercy? Are pardons too numerous? Are there instances of individuals, who have been released from the penitentiary, before their term has expired? Have you never seen, or heard, of a person snatched from these abodes of vice, restored to society, and removing the stain which was upon his honor by a course of unremitting industry and probity? In cases like these, where proper appeals are made to the humanity of the Executive, are all the reasons which may operate on him to extend a merciful ear, to be published to the world? He would put another case, and one not of unfrequent occurrence. A stripling, who has a drunken father, and has been seduced into a crime, placed at the bar of his country, finds there, for the first time in his life, that sympathy which he never found in a father—say, a boy of twelve years of age. What is to be done? I have seen such a case, where, if convicted, the boy must go to the penitentiary. Humanity interfered.—They who never saw him before interfered in his behalf, looked for a prudent master; the trial was suspended, an appeal was made to the Governor, and mercy was permitted to interpose. Would any one wish to see the whole of that affair, with the array of reasons, spread on the record before the public eye? The youth was saved by a prompt interference.—Why would you delay? Why embarrass? Persons will be found ready to come forward and claim, as a matter of right, to see the record. There will be errors to pardon, as well as errors to condemn; and, there is no danger of the Governor being too merciful. Why restrain the action of mercy? There can be no good reason for it. Take another case—a riot. Would you send hundreds to prison, and keep them there, because they may have been misled in a moment of thoughtlessness, by some individual? So it has been in Pennsylvania before; so it is in Massachusetts, and so it is elsewhere. The attribute is one which he would never wish to see abused. Let the Legislature interpose in case there should be abuse, and let that body call for reasons. He had no wish to change the clause; he would not interpose any obstruction to the flow of mercy.

Mr. SERGEANT (President) wished to be informed, if it is not now the uniform practice of the Governor to give his reasons on granting a pardon? He never saw one yet which did not contain the reasons. He never remembered to have seen one which did not. The reasons always accompany the pardon. If so, the practical execution of the power is now the same as it would be, if this amendment were agreed to; with only this difference, that you would make the pardon invalid, unless the Executive assigned his reasons for granting it. If it is decreed that the reasons should be assigned, the only object must be to require of the Governor

that he shall give his reasons more at large. In that case, this amendment would be insufficient for the purpose which it contemplates. It would be impossible to say what would be all the considerations in the bosom of the Governor, which induced him to extend the act of mercy to an individual. This power has its origin in the imperfect condition of all human things. You make laws to punish offences. But, inasmuch as all human legislation is imperfect, something may be done which ought not to bring the doer to punishment; or the punishment prescribed may be greater than would be right, or something may have occurred after the conviction of the person, and hence it is, that the power of pardoning has been vested in the Executive. No one expects perfection in any human institutions.—We cannot expect that the pardoning power will be so exercised in all cases, as to satisfy all persons. Some will always be found, who will think that either more or less ought to have been done. This is the *residuum* of imperfection, and, after all that can be done, there will be this *residuum*. We can never get all to agree, that all which is done, is done right. The clause would not be improved by the adoption of this amendment. There always must be made to appear to the Governor sufficient ground for pardon, before he will be induced to extend it. There may have been instances of pardons granted without reasons having been assigned, but he had never seen any. If the Governor should obtain a certificate of good behavior—if the jury should recommend to mercy, or for any other reasons which he may think sufficient, it would always appear in connexion with the pardon, and thus as much as could be obtained if the amendment were adopted, is obtained as the Constitution now stands.

Mr. BIDDLE said: Mr. Chairman: It is my misfortune to differ from the gentleman from Allegheny (Mr. FORWARD) and the PRESIDENT of the Convention. I consider the question before the committee both interesting and important. Pennsylvania has been distinguished by her benevolent institutions, and particularly by the philanthropic spirit which induced her, at an early day, to mitigate the severity of her penal code. So early as the year 1794, she obliterated from her statute book capital punishment, save in the single instance of wilful, deliberate, and premeditated murder, or of murder committed in the perpetration of, or the attempt to perpetrate, certain atrocious crimes. The same humanity which thus induced her almost to abolish sanguinary punishments pervaded her whole code of laws. If we desire to perpetuate this system of justice administered in mercy, we must be cautious not to render punishment so uncertain that the guilty may no longer dread the consequence of their crimes. It is the certainty, not the severity, of punishments, which gives them their efficacy. If you increase the chances of escape for the guilty, you must supply the defect by adding such sternness and rigor as may terrify into submission. We have sought the reformation of the offender, not his degradation and destruction. Let us persevere in our present liberal and enlightened policy. Let us not, by a mistaken clemency, defeat our object. The chances of escape on which the criminal calculates, are at least three-fold. First: That he may altogether elude detection. Second: That, if detected, through the defectiveness of testimony, irregularity in his trial, or various casualties, he may escape conviction and sentence. Nothing but the clearest proof, he well knows, will be permitted to prevail against him; and he is perfectly familiar with that principle of law, which

declares that it is better that an hundred guilty should escape than that one innocent man should suffer. Thirdly: He cherishes a strong hope, that, if both these chances fail, he can appeal to the mercy seat of the Executive—supplicate his clemency—and by skilful management in exciting sympathy, escape, if not the whole, the greater part of the penalty of his guilt. Thus, sir, that salutary fear which the certainty of punishment alone furnishes, is taken away; and the hardened villain laughs in scorn at the impotent threatenings of the outraged laws of his country. The power of pardon is a high prerogative. It confers on an individual the right to set aside the operation of the laws. It is proper it should be so. The PRESIDENT has well said, that the pardoning power results from the imperfection of human tribunals. If they were perfect, and all the sentences pronounced by courts were strictly just, then there would be no occasion to invoke mercy to dispense with their rigor. The only proper cases for the exercise of this extraordinary power, are, either in the case of after discovered innocence, or of circumstances of an unusual character rendering the further continuance of punishment unjust or improper. Such cases are of rare occurrence. That this power has been abused, will not admit of serious question. Since the adoption of the present Constitution, there have been 4,461 pardoned, excluding remissions of fines and penalties, making an average of 94 pardoned every year. This pity for the guilty is cruelty to society. The objects of pardon, for the most part, are not those unfortunate creatures who, from earliest infancy, have been exposed to the influence of evil associations, and, becoming the victims of guilt, have sunk into vice in its lowest and most disgusting forms; but those more accomplished offenders, who, having enjoyed the advantages of virtuous society and education, have turned aside from the paths of rectitude, and used their advantages and their talents to prey the more destructively upon the property, the security, and the peace of their fellow men. When overtaken in the course of guilt, and consigned to deserved punishment, they generally have the address so to deport themselves as to excite the compassion, conciliate the good will, and secure the favor of their keepers, and of the inspectors of the prisons. Frequently, by the double refined baseness of becoming spies, and betraying their more ignorant associates in iniquity, they have purchased their own pardon; and have been restored to society more depraved and with greater facilities for criminal advantages, than when they entered the prison house.

Sometimes powerful connexions and even political influence have prevailed in obtaining Executive mercy. It may be asked, is the proposed amendment adapted to remedy the evil? I think that if it will not cure, it will greatly diminish it. Few Governors will be willing annually to report to the Legislature ninety-four pardons with the reasons which have induced them. The very publicity will prevent the excessive abuse, and so apply a corrective. But I have heard it said, that the prisons could not contain the criminals, and that, therefore, it had become necessary to discharge them. If this be true, it was the more necessary that it should be made known to the Legislature, that they might promptly apply an appropriate remedy. The gentleman from Allegheny has said, that it will impose an onerous duty on the Executive. To this an answer is furnished by the President of the Convention, who spoke on the same side of the question with that gentleman. He justly remarked, that it is customary

to set forth, on the face of every pardon, the reasons which induced it. It is only necessary that a clerk should transcribe these reasons, in order that they may be laid before the Legislature. A brief and summary statement is all that is asked—not a nauseating detail of crime. A powerful appeal has been made to your sympathies. You have been eloquently asked if you would take from the Governor the bright attribute of mercy? I answer—God forbid.

“ No ceremony that to great ones ’longs,
Not the King’s crown, or the deputed sword,
The marshal’s truncheon, or the judge’s robe,
Becomes them with one half as good a grace
As mercy does.”

This amendment would not divest the Executive of the power of tempering the severity of justice with clemency. Such appeals always strike a responsive chord in the heart. But let us not in mercy lose sight of justice, and of the security of the community. Sir, while I advocate, and shall, by my vote, sustain the amendment offered by the gentleman from Lancaster, (Mr. HIESTER) I cannot agree to the amendment offered by the gentleman from Union (Mr. MERRILL). He proposes that the confirmation of the Senate should be required. Already we have imposed on that body executive duties, and have thus blended two departments which, I cordially agree with the gentleman from the county, (Mr. INGERSOLL) should be kept carefully distinct and separate. I cannot agree to make the Senate a general reservoir. But the argument of the gentleman from Allegheny is on this point conclusive. If it should be made manifest that an innocent man was wrongfully suffering as a criminal, who would consent that he should languish in a degrading and cruel imprisonment, until the Senate should be convened, if they were not in session? I trust none. I shall therefore vote against this proposition, and in favor of the original amendment. I believe that if we adhere to our present mild system, we must take from punishment its uncertainty. I believe that, in order to accomplish this, some check must be imposed on the pardoning power. And, in conclusion, I believe that if the Governors be required, whenever they exercise this high prerogative, to give publicity to the act, that they will use it cautiously and judiciously. For these reasons, I shall feel myself justified in voting to make the proposed amendment.

Mr. STERIGERE, of Montgomery, said that the very eloquent speech which they had just heard, from the gentleman from the city, (Mr. BIDDLE) had produced a strong impression on his mind, as well as on that of others, but it did not lead to the conclusion to which the gentleman had conceived. Every argument brought forward by him, seemed to be in favor of restricting the Governor in the exercise of the pardoning power. Still, he had said, that he would vote for the amendment of the gentleman from Lancaster, (Mr. HIESTER) and against that of the gentleman from Union (Mr. MERRILL). The amendment of the gentleman from Lancaster only required that the Governor should give his reasons to the Legislature for granting pardons, whilst that of the delegate from Union restrained the power. He (Mr. S.) did not think it at all necessary that the Executive should be required to give his reasons. If any one wanted to see, they could do so by going to the Secretary’s office, where they would be found recorded. He thought there was no object to be gained by requiring the reasons to be

furnished to the Legislature. Indeed, there might be cases where it would be very impolitic for the Governor to place his reasons for a pardon before the public, and this was the chief argument against the restriction. He had heard of a pardon being granted to one criminal, in order that others might be detected and punished. In a case of that sort, then, it would be an act of great impropriety to inform the Legislature of the motives which actuated the Executive in granting a pardon. The necessity of having a depository for the pardoning power, seemed to be admitted by every one. There had been frequent complaints made in regard to the improper exercise of it, and the abuses which had grown out of it. Gentlemen would recollect the case of the robbery of the Philadelphia Bank, some years ago, by a man of the name of LAMARD. He was pardoned, and he went and lived in the county of Montgomery, where he commenced business, and did very well. He became an honest and industrious man, and enjoyed as high a reputation as any one there. In this instance, then, the pardoning power was well exercised.

Mr. S. related another case of two individuals convicted of robbing their neighbor, one of whom was afterwards pardoned by Governor HESTER, in consequence of false representations being made to him. Mr. S. informed the Governor of the man's real character, but it was then too late, as the pardon had just been granted. He was, however, not long afterwards convicted of two crimes, and he was sentenced to the penitentiary for twenty-six years, in which place he died not long since.

Now, he (Mr. STERIGERE) thought, that the single instance which he had named, went to show that there should be some control or restraint on the exercise of the pardoning power. He would, therefore, vote for the amendment of the gentleman from Union, and against that of the gentleman from Lancaster.

Mr. CHAMBERS, of Franklin, said he did not think that the public interest required the adoption of either of the amendments which had been submitted in relation to this section of the Constitution. Every gentleman who had addressed the committee admitted that the pardoning power was necessary, and that it ought to be placed somewhere. With one single exception only it was conceded that no where could it be better reposed than with the Governor. The Executive, as an individual was better qualified than any one else to judge when and where it ought to be exercised. There had been and would be abuses in the exercise of this power. It was, as had been observed, incident to all human institutions. They were imperfect, and had to be executed by imperfect man. Now, the question was—would the effect of the amendments proposed be to secure the community for the future, against the evil complained of? Gentlemen supposed that if the Governor should be required to furnish the Legislature with his reasons for granting a pardon, there would be a check for the evil. The fact was, that the source of the evil was in the people themselves, who wanted firmness to resist the importunities and distresses of the family and friends of the condemned, and prevailed upon the Governor by their statements and petitions, to exert his power. It was a want of moral firmness in him, and was a mistaken clemency, which did great injustice to the State. But, this power, thus abused, was one that was not to be fettered, or embarrassed. In attempting it, we might either entirely destroy it, and create greater abuses than those which now exist. Now, what was

proposed by the gentleman from Union (Mr. MERRILL) in the amendment which he had submitted? The object of it was to impose a check on the Governor, and it requires the concurrence of the Senate in granting a pardon. His (Mr. C's) opinion was that it would not impose a check, and it was giving to the Senate the exercise of a power, for which they were not qualified. That body, from its organization, was rendered incompetent to investigate evidence of facts, such as would be produced in particular cases. The Senate was unfit to participate in the pardoning power, because they were more liable to be influenced by prejudice, passion, and feeling than the Governor, who knows and feels his responsibility for what he may do. If he discharged his duty with honesty, impartiality, and fidelity to the people of the Commonwealth, he would bestow upon every case which might come before him much investigation, and he would consider and deliberate long before he acted. The effect of the amendment of the gentleman from Union would be to increase the number of pardons, and to lessen the responsibility for them. The Governor, instead of deciding a case himself, after full consideration, and being unwilling to assume the responsibility of it, would willingly submit it to the Senate. And, what would be its fate there? Why, they would go into the consideration of the case with their prejudices and feelings in its favor. Was not the fact, too, of his submitting it to them, evidence of his own feelings in favor of it? The very existence of doubt on his part would have the effect of inducing the Senate to grant reprieve, or pardon. Again: another objection he had in submitting the granting of a pardon to the action of the Senate was—that in case of the conviction of any popular man, in times of great party excitement, of treason, or any other high crime, the difficulty would be increased by submitting the pardon to a body, when, perhaps, it would be acted on in reference to party feeling and interests, granted by the casting vote of the presiding officer. That would be such a spectacle as had never before been witnessed in a country of liberty and law. He trusted, then, that we would not now introduce an experiment upon our Constitution, which might bring about that state of things. We knew that all investigations into the guilt or innocence of a party were always conducted in a secret manner by our courts of justice by the impanelling of a grand jury to enquire into the circumstances, and bring in a bill accordingly. The Senate, then, being a distinct body, and unconnected with the Executive power, ought not to participate in the power of granting pardons, for it was not proper that anything done in reference to it should be exposed to the scrutinizing eye of any part of the community. And, therefore, for these reasons, he was opposed to the amendment submitted by the gentleman from Union, and he objected to that of the gentleman from Lancaster, because he believed it to be unnecessary, and did not create more checks than now existed. It appeared that from the establishment of the Government down to the present time, the average number of pardons per year had been from eighty to one hundred; and he had no doubt that nine-tenths of them were granted with great propriety. He would repeat what he had said before that he could see no good reason why the Senate should participate with the Governor in the exercise of the pardoning power. Whatever information that body might require in regard to any pardon might be obtained from the Secretary of the Governor in whose office was preserved a register of all the official acts of the Governor. The fifteenth section of the second article provides that,

"He shall keep a fair register of all the official acts and proceedings of the Governor, and shall, when required, lay the same, and all papers, minutes and vouchers, relative thereto, before either branch of the Legislature, and shall perform such other duties as shall be enjoined him by law".

This section was introduced for the purpose of giving the Legislature the power of bringing before them the acts and proceedings of the Governor, in relation to the pardons which he had granted, and which they might wish to lay before the public. Now, he regarded this as sufficient public security, if the Legislature were disposed to look into any cases for the purpose of spreading these facts before the people.

Mr. HOPKINSON, of Philadelphia, remarked that the opinion he entertained was that this judiciary power required some restriction, and his objections to the amendment were that they were inadequate to the object. Such had been the construction of the criminal code of Pennsylvania as to render the exercise of the pardoning power unnecessary. There were only two classes of cases in which pardons ought to be granted under our system. The first was, in cases where such circumstances of palliation exist as take away from the crime the character of guilt. And, the second was, in cases where, subsequent to judgment, a man was found innocent of the crime for which he had been sentenced. Beyond these two, he knew of no cases where the power ought to be used. He had now no hesitation in declaring that pardons in this State had become a business of political patronage. Whom does the criminal go to in order to obtain his pardon? To the court where he was tried? Or to any one who knew anything about the case? No, they do not. They go to influential party men, and these they induce to get up a petition, and procure the signatures of influential men to it. In this way more pardons were got from the influence of the men who act for them, than by the merits of the application. He would go so far as to take away from the Governor the right of pardon, unless in those cases where the court, by which the convict was sentenced, recommended him to pardon. He would vote against the amendments, and would, at the proper time, introduce an amendment to that effect.

Mr. BROWN, of Philadelphia, said the attention of the public had been turned in various parts of the State to this subject, and great complaints had been made in many places of the manner the pardoning power had been exercised—he might say abused—but he did not think the amendment proposed by the gentleman from Lancaster (Mr. HIESTER) would cure the evil complained of. His amendment only required the Governor to lay before the Legislature his reasons for granting a pardon, a reprieve, or the remission of a fine or forfeiture; but what good could result from this? The Legislature could take no measures on the subject. No matter what might be the motives or the reasons he might assign, however feeble or fraudulent the evidence on which he acted, they could neither punish him for what he had done, nor prevent him from doing the same again—his power was derived from the Constitution, and not therefore subject to legislative regulation or control. This great power—the power to open the doors of the prisons and penitentiaries, and let loose upon society any number, or all, of those who had been placed there by the judicial tribunals of the State under the solemn requisitions of the law,—Mr. B. thought ought not to be vested any where in the mere will or caprice of any one man, no matter what might be his character or his of-

fice. The gentleman from the city (Mr. HOPKINSON) has shown, what has been too well known, the great abuses that this power has been subject to where it now is—how liable the Governor was to imposition, and how often he had been imposed upon by designing, interested persons. Almost every member of the committee could recur to cases where pardons had been obtained that ought not to have been obtained. He (Mr. B.) had known many cases in the city of Philadelphia, where persons had been convicted and sentenced to imprisonment, who were set at liberty in a few days after committal. Now, he could not say how they came to be imprisoned, and then liberated. He apprehended there were others who exercised the pardoning power besides the Governor, although, by the Constitution, he had the sole right to pardon; he judged this from the number of the cases he had alluded to as having occurred in the city of Philadelphia alone. He did not wish throw any obstacles in the way of the exercise of clemency when it was proper to be exercised; but mercy ought to season justice, not to supersede it. If the penalties of the law were too severe, let them be ameliorated. But it was folly to make laws to punish crimes and go to the expense of detection and solemn trial to have their violation punished, and before the criminal is well in prison, suffer some interested friends, or feeced attorneys, who can induce some respectable persons to aid, to petition and obtain a pardon from the Governor. The safety of society and the laws of the land, are thus sacrificed to mistaken feelings of sympathy or interest. Its operations were frequently injurious and unjust, inasmuch as the criminal pardoned used the first hours of his liberty to commit another crime, and thus is, himself, far less an object of mercy than the larger portion of those left in prison, but who had no friends to apply for pardon, or means to fee an attorney to plead with the Governor for them.

The power, in his opinion, was wrongly placed. It was a servile imitation of the British Constitution, which held that the people belonged to the King, who could do no wrong; and the Constitution of Pennsylvania intended to make the Governor the shadow of the KING of England; and while we are stripping the Governor of his royal robes, he thought it would be well to take this one from him also, and place it where it could be more judiciously exercised. Where that power should be placed, he was not prepared to say. If it was left with the Governor, he had thought the grand jury, whose duty he believed it was to visit the prisons, would be the proper persons to certify to the Governor the propriety of granting a pardon. It had been suggested to him that the court before whom the case had been tried, would be more likely to know the whole facts of the case, and it ought to recommend to the Governor those proper for his clemency. Perhaps some other mode might be devised by which this power could be more safely and properly exercised than by either of them—he was not particular where it was placed, so that it was properly guarded. It would be better left, he thought, somewhere in the county where the prosecution had taken place: in any event, the recommendation ought to come from some official and responsible body, and not be left as now, in the power of a few irresponsible individuals, who might and who had imposed on the Governor, who was himself too remote to ascertain truly the facts of the case. Indeed, the power was too much for any one man to have in a Government of laws. It had been said that ours was a Gov-

ernment of laws. That could not be true when the mere will of an individual, without trial or evidence, could overrule the requisitions of the law, and prevent its execution.

The only case, he thought, where fines ought to be remitted, or criminals pardoned, were, when facts and circumstances, developed subsequently to condemnation, changed the aspect of the case. All punishment was for the public good, and it was necessary, to have a salutary effect, that its amount be known before the crime is committed, and that it shall be certain in its infliction. It was this certainty, more than the degree of punishment, that had been found salutary. If the penalty of the law was in any case too severe, the law ought to be amended; but this was the duty of the Legislature, and should not be left to the Executive. He would repeat that he did not wish to close the avenues to the mercy seat; but he wished to keep them pure, and open alike to all who ought to approach it; and he merely threw out these suggestions to the committee that, when the section should come up on second reading, the Convention would be able to furnish a remedy for the evil complained of.

Mr. BIDDLE, of Philadelphia, said it had been remarked by his friend from Franklin, (Mr. CHAMBERS) that the source of the mischief was to be found in the people themselves. He believed that, in this respect, the gentleman had fallen into a mistake. A reference to the record would show, that by far the greater number of pardons that had been granted, were to inspectors; and that the interference of the people had been like "Angel's visits—few, and far between". He agreed with gentlemen that the amendment proposed by the gentleman from Lancaster, did not altogether meet the evil; still he thought that the Governor, having to communicate to the Legislature the reasons why he granted the pardons, would reduce the number, and that there would not be ninety-six each year. The effect consequent upon having to submit his reasons to public inspection would be to make him very careful how he exercised the pardoning power. He (Mr. B.) rose principally to say that he cordially acquiesced in the suggestions of his venerable colleague from the city, (Mr. HOPKINSON) and which had been carried out by the gentleman from Philadelphia (Mr. BROWN). If the amendment, now pending, should not be carried, he would offer one providing that no pardon should be granted without a recommendation from the Judges before whom the criminal was tried. He had had it in view to offer an amendment of that character, but on a consultation as to it, he had come to the conclusion not to do so, lest by trying to get so much, he might lose all. He heartily rejoiced to see that the different views which had been given on the subject, were treated with so much respect. He could see no difference between the recommendation of the Judges of a court, and giving publicity to the act annually. He (Mr. B.) did not require that the details—the circumstances attending the crime should be furnished, but only a brief exposition of the reasons for the exercise of Executive mercy. It did appear to him that the amendment proposed by the gentleman from Philadelphia was in perfect consistency. He (Mr. B.) would vote for the amendment of the gentleman from Lancaster, and with equal satisfaction, as for that offered by the gentleman from Philadelphia.

Mr. FLEMING, of Lycoming, said that the subject under consideration was one of great importance, and therefore ought not to be acted upon

hastily. He confessed that he had had some difficulty in making up an opinion in regard to it. He did not feel that he was under any obligation to advocate any particular side of the question. He went for what he deemed to be right, not only as respected the subject immediately under consideration, but every other that might be discussed in this Convention. He was glad to say that he had been relieved from some other difficulties which occurred to his mind, when the amendment was first suggested by the arguments of some gentlemen who had spoken on it. But still he could not exactly see the force of the reasoning relative to exposing the reasons of the Governor for exercising the pardoning power, to public view, when called for by the Legislature. He was entirely at a loss to perceive what advantage the people would gain from that exposition, and which rendered it important that there should be an amendment inserted in the Constitution to restrict the Governor's power. It appeared to him that the present mode of obtaining the reasons of the Governor for granting a pardon, or reprieve, was amply sufficient, without requiring that he should lay his reasons before the Senate. He conceived that there was nothing to be gained by the adoption of the latter course, and, therefore, he was opposed to altering the Constitution in this respect. According to the present language of the Constitution, the Legislature possessed authority to call on the Governor for the reasons that have actuated him in discharging that high and important duty. Then, why, he would ask, was it necessary to insert a provision such as was proposed? It appeared to him to strike at the very root of the objects to be obtained, by the clause in the Constitution. It was not difficult to conceive of cases where it would be impossible for the Governor to spread before the Legislature, reasons which would be satisfactory to the public. A diversified combination of circumstances and considerations might properly influence the Governor to grant a pardon; yet, if he is compelled to spread his reasons upon a record, they may not appear sufficient in law and fact to justify the exercise of that power. He opposed the amendment of the gentleman from Union, because he was unwilling to connect the Senate with the Governor in the exercise of such a power. It converted the Senate into a high criminal court, where every agitating and exciting criminal case would be tried over again, and the sentences of the courts overruled and set aside, from considerations of interest or politics, or merely from passion, or caprice, or mistaken clemency. The Governor, in every case where he was urged for a pardon, would refer the application to the Senate, where many influences could be brought to bear in favor of or against a pardon, and the Senate would be forced into a trial of each case.

He (Mr. FLEMING) would say that with regard to the position assumed by the gentleman from Philadelphia, he considered it a very objectionable one in many respects. He desired to see some degree of certainty in the punishment of an offender. He did not want a man to be tried over again by a whole community; nor did he wish to place the pardoning power in the hands of the Senate, or the House of Representatives, to be there tried and convicted over again. It was easy to imagine that all the political feelings and influence that could be brought to bear on the body, would be introduced, either for or against the individual. Was it not to be expected, that the influence of both friends and foes, would be

used there? Under that state of things, he would ask, if it was possible that the pardoning power could be fairly and impartially exercised? The Senate would then grant a reprieve, or pardon. But would not the Executive be relieved from all responsibility? What a scene would there be presented: the accuser and the accused would be brought face to face, and the result might be, that a rehearing would be ordered before another tribunal. And what good was to be effected by the adoption of that course? He would ask, if the Convention were willing to take away from the Supreme Court the revisionary power, and give it to the Senate? A body, which it had been said here, was influenced by politicians, and by letters, and other means of that sort. Well, then, he was not at all inclined to place this all-important power in the hands of a body where it would not be properly and fairly exercised. The venerable delegate from Philadelphia, (Mr. HOPKINSON) for whose opinions he entertained the highest regard, made use of an argument in which he (Mr. F.) could not acquiesce, and that was, that no pardon ought to be granted, and no fine remitted, unless through the recommendation of the courts before whom the individual was convicted. Now, what would be the consequence? Why, it would be to deprive the Executive of the right of exercising the pardoning power, and to transfer it to the courts of law. For his own part, he would have more confidence in the Governor's exercising the power impartially, than in the courts. Will the Executive of Pennsylvania say that he will not grant a pardon, or remit a fine, when, at the same time, the court which tried the offender recommends him to do so in the strongest terms? He (Mr. F.) would venture to say, that in ninety-nine cases out of one hundred, the Governor would not refuse one instant. It seemed to be contrary to the nature of man, that he should not only be vested with the power of trying and punishing a fellow-being, but also have the power of pardoning him! In that case, not a little of responsibility would be left with the Executive. On the contrary, the whole of the responsibility would be left with the officers who try the offender. He would ask the committee if they were really serious, and whether they were prepared to vest in the judges the power to grant pardon and to remit fines? He trusted that they would hesitate a long time, before they would venture on so dangerous an experiment. It was his opinion, that there were few men who would have the boldness to undertake so fearful a responsibility, in addition to his other duties. One among the many other consequences of the judges being vested with the pardoning power, would be, that they would continually be pestered with petitions and prayers and appeals, to induce them to depart from their duty, by granting reprieves and pardons to unworthy objects. Nothing that he had yet heard, had convinced him that a better provision than the existing one could be inserted in the Constitution. And, after all the reflection which he had been able to bestow upon this important subject, he was unable to arrive at the conclusion, that the authority could be placed in better or safer hands than those of the Executive of the Commonwealth. If, as had been alleged, a few individuals had been pardoned who ought not to have been, within the period of forty-seven years, he did not regard that as a sufficient and well founded objection why the clause should be stricken from the Constitution, and the power of granting pardon transferred to other hands.

He would be the last man in the world to proceed against an individual,

when in the honest discharge of his duty, and in endeavoring to do good, he had committed an error. He had never heard of an instance, where the Governor, by the exercise of the pardoning power, had endangered the rights and interests of the people. When had a murderer been turned loose on society? If no grievance was to be complained of, why make any change in the Constitution? We could not foresee any more difficulty hereafter than we suffered now in this respect. If the people were to be the judges of the conduct of the Governor, and, if they continued to elect him to the office, with a view to his competency for it, as long as the Constitution remained, so long would there be a sufficient check upon the exercise of this power. If the Governor should exercise the power corruptly, he could be impeached and removed. He was not beyond the reach of the law. There was as easy, and as certain a remedy against him as against the Judiciary. On the whole, therefore, he could see no reason why this power should not be left where it was, and he should vote against both propositions.

Mr. FORWARD asked the indulgence of the committee, while he made a few remarks on the proposition of the gentleman from Philadelphia.—What was meant by the court; in this proposition, he did not know. Did it mean to include the jury? Would the people of Pennsylvania accept of a Constitution which conferred such a power as this on the courts? They would have an invincible repugnance to it. Leave the power of pardon to the court! Why not submit every case between individuals to the determination of a court without a jury? The Judges are supposed to be placed, by their function, above the mass of the people, and to have no sympathy with, nor to know, their feelings. No Judge was trusted to decide a private controversy; much less can he decide the fate of an individual in a matter of life and death. The people do not look to the court for mercy, but for stern and inexorable justice. They were not supposed or required to have any feeling of mercy. They were required to do justice according to law, and only in accordance with its stern mandates.—But, how were the courts to exercise this authority? Were they to hold a special session to consider the claims upon them for pardons? Were counsel to be employed both by the convict and the Commonwealth?—Was the trial to be gone through with again, and the case again decided upon principles other than those of law? How often did it happen, that on the trial of a case, there were found impressive circumstances which strongly appealed to the feelings of every man, and which should require the interposition of the pardoning power, but which, in law, could furnish no excuse nor palliation of the crime, and which, by the stern rules of evidence, are excluded from consideration. Would the court permit these circumstances to have their proper weight, and if they did not, ought the pardoning power to be trusted to them? Would the court stop to consider all the minute circumstances which go to afford a palliation for criminal acts, and should all the facts, which might pertain to a question of clemency, be exposed to the public eye? The people would not justify us in making such an innovation upon their usages and feelings. We had heard of very little complaint of abuse under the present provisions of the Constitution. Would the Executive of the Commonwealth gain popularity by letting criminals loose upon society? Will party men seek favor in this way? If there is any abuse, the Legislature can correct it. They can

enquire for the reasons which influence the decision of the Governor, and if they find him false to his duty, a penalty awaits him, from which there is no escape. The number of pardons granted had been referred to. But it was usual to pardon convicts out of a penitentiary a few months before the expiration of their term, and few of them remained there for the whole time for which they were sentenced. It made a useful impression on their minds, to be pardoned out even a few months or weeks before the expiration of their term. He had known many instances where mercy had reached the convict before justice had fully meted out to him its punishment, and he did not think there was any impropriety in it.

Mr. MERRILL remarked that it was truly a great and important power, and one as to which there might well be doubts, and very grave deliberation. Many complaints had been made in his county in regard to the application of the power. He knew of no particular instances which had been the subject of complaint; but the people had complained that here was a great power—a power capable of defeating the ends of justice, and of being exerted to the deep injury of the community, placed in the hands of one man, without responsibility for its exercise. The people say that the influence of this power had been to encourage crime, and that it ought to be, in some way, controled and restricted. He agreed that this was an indispensable power, and that it would be impossible to guard it entirely from abuse. But the question was where it would be least liable to abuse? If gentlemen thought the proposition of the gentleman from Lancaster would be sufficient to prevent abuse, he was quite willing to take it. But, if the power should be taken from the Governor, where should it be put? Was there any place where it could be with more propriety deposited than in the Senate? It might be allowed to stand where it was in regard to all petty offences, but be restrained in regard to high crimes. With regard to the suggestion of the gentleman from Philadelphia, it was certainly a question of very grave consideration whether tribunals, created only for the purpose of dispensing justice, should be authorized to depart from the strict principles of law—whether they can pass sentence in mercy, and be governed by those mitigating circumstances, which arise in equity, and restrain the administration of the law. It was said that there should be some power to grant reprieves. But he did not propose to interfere with the power of the Governor in regard to reprieves, nor in regard to pardons in small cases. He did not think that there was any other body so well qualified for the exercise of this power as the Senate.

The motion to amend the amendment was negatived.

Mr. BUTLER moved to amend the amendment, so that the section will read as follows, viz :

“ He shall have power to remit fines and forfeitures, and grant reprieves; and he may also grant pardons upon the representation and advice of the Judges of the court before whom the individual may have been convicted; but no pardon shall be granted in cases of impeachment”.

Mr. M'CAHEN said that he did not approve of the amendment of his friend from the county, (Mr. BUTLER) and could not vote for it. He believed the court might be best acquainted with the character of a case before them; but the judgment of the court might be prejudiced; they might be partial: he believed the jury would be as proper authority to recommend as the court; they became acquainted with the facts: they

may, from their situation in society better know the individual condemned ; besides, Judges of courts are familiar with sentences : it is true, they are like other men, partaking of the feelings of humanity, yet they are less liable to employ the merciful attributes in favor of its object.

That the pardoning power may have been abused, he did not doubt ; but better that it should be so in most cases, than that in any case a meretricious application should be denied. He was opposed to surrounding the mercy seat with such barriers as would prevent the humble supplicant from being seen. The power of pardoning was a great prerogative, perhaps a dangerous one. He hoped that no Executive would be guided by *political interests* in the dispensing of *mercy*—it was a subject which approached all the sympathies of the human heart, and error in such case was virtue : we are early taught lessons of mercy : we are instructed to forgive injury. Divine authority has enjoined it upon us ; and he hoped, therefore, that we should not hastily decide in favor of any amendment that would debar the wretched from obtaining forgiveness. He had understood that other gentlemen had propositions which he trusted would suit better the views of the committee and his own.

Mr. STERIGERE : If any thing has been clearly demonstrated, it is the inexpediency and impracticability of lodging the pardoning power in the courts. But, one objection to it had occurred to him which had not yet been mentioned : That it would give us fifty-eight tribunals instead of one for dispensing mercy in the form of pardons, reprieves, &c.—for every court in the State would, under the proposition, have the power. Now, it was a rule that justice should be equally dispensed to all. But here we shall have one court in one county that will deal out justice with mercy, while another court in another county, will dispense it in inflexible rigor. In every point of view the proposition was inadmissible.

Mr. DUNLOP said the amendment required that pardon should only be granted on application to the court, where the criminal was convicted. But where are all the Judges to be found ? Suppose they are dead. How then is the application to be made ? They might be in different places. How was that to be remedied ? We were talking of changing the tenure of the judiciary ; and perhaps the term of the criminal in the penitentiary would be longer than that of the Judge on the bench. After the expiration of the Judge's term of service, what was the criminal to do ? Perhaps the Judge who sentenced him might be dead—perhaps emigrated, or it might be, living in obscurity.

Mr. BROWN, of Philadelphia, said the gentleman was rather hypercritical. It was not the Judges, but the court to which the application was proposed to be made—the court where the conviction was obtained.

Mr. DUNLOP : They must apply to new Judges, then, who knew nothing about the case. They might as well go to TOM, DICK, and HARRY, as to Judges who never knew any thing of the facts. This put at rest the argument that the circumstances in relation to the case could only be properly known to the court where the convict was tried.

Mr. BROWN said we should undoubtedly preserve justice as well as mercy ; and justice was, in itself, sometime only mercy. He wished to have some responsible person whose duty it should be to certify to the Governor in any case, that the facts justified the interposition of the pardoning power. The Governor was often misled by persons who were

either interested in deceiving him, or were themselves imposed upon by interested and partial statements. But, if the application was to come through a responsible body, whose names were known, and whose official character was at stake, they would be extremely careful to represent the facts of the case. It did not matter whether this body was the judges. It might, perhaps, be as well to confide the duty to the grand juries.—What he had in view was, to enforce justice, while, at the same time, he did not wish to check mercy. He would not, as his colleague said, throw a barrier in the way of the mercy seat ; but he would limit the application of the pardoning power, to those who were fit and proper subjects for it.

Mr. CHAMBERS remarked, that he was of opinion, that public policy or security did not require the adoption of either of the amendments proposed in relation to the Constitutional provision on the subject of reprieves and pardons. The dispensation of mercy, by the exercise of this power, was deemed a necessary one in the organization of Constitutional Government, and public opinion indicated, throughout the several States, that it could not, with propriety, be lodged in any other department than the Executive. The Executive is qualified to exercise the case, deliberate, and decide. He does it under the entire responsibility which he is supposed to feel and respect.

The power has, without doubt, been abused : pardons have been granted that ought not to have been granted. The source of a large portion of this abuse is with the people, who, by their memorials and petitions, have often misled the Governor. It is well known how easy it is to procure names to a petition to the Executive for pardon. There is in society a want of resolution and moral firmness to resist such applications. The tears of the wife of a convict, or the importunity of an aged father, soliciting the signature of a name recommending their husband or child to Executive mercy for a pardon, are seldom unsuccessful. The Executive is often censured, when, if the public were made acquainted with the names and number of those who recommended the pardon, their surprise would be turned from the Governor to the acts of respectable and influential neighbors, who have signed the petition for it.

There are cases requiring the interposition of the Executive after judgment, when subsequent discovery shows that the accusation was unfounded or malicious, and where public justice does not require the execution of the sentence.

If this power be abused, would the concurrence of the Senate remedy the evil, or be the desired check on the Executive ?

He was opposed to the concurrence of the Senate, as that body is not so constituted as to qualify it for the exercise of this power. The Senate being a numerous body, would not investigate the charge and evidence, and consider the circumstances with the attention and deliberation necessary, and which, as we are to presume, would be given by a single Executive who was alone responsible. The responsibility in the Senate is too much divided to be sufficiently felt in exercising mercy. Senators would yield more readily to solicitations of friends, or be influenced by prejudices from some other quarter.

The Governor, when he doubted the propriety of the pardon, would relieve himself of responsibility in referring it to the Senate. The Senate would be inclined to view favourably all such cases ; and the very circum-

stance that there was doubt, when the question was between punishment and mercy, would operate in favor of the pardon. The effect would be, not to lessen the number of pardons, but to exercise them in cases when the Governor doubted their propriety, and was unwilling to grant them on his own responsibility, but relieved himself by a reference to a numerous body with whom the responsibility was divided.

Again, we will suppose the case of a man of influence in society convicted of high crime, perhaps a popular favorite in time of high party excitement. There is an application for his pardon, which is submitted by the Governor to the Senate. Would the floor of the Senate be a suitable place for the discussion and consideration of such a case after trial and judgment by the proper tribunals? Would not that Senate be likely to participate in the feelings or excitement of the day, and under those feelings be debating on the life of a fellow citizen?

The juries that have passed or tried, and pronounced on the guilt of the convict, had done it in their retired chamber, out of the presence of every other person; but the Senate would, in public, be debating whether they should take away the life of a citizen or not, and that to be decided by the casting vote of a single member.

This would be a spectacle that had not yet been witnessed in this land of liberty and law: and it is a spectacle that I would be unwilling should be exhibited by an experiment under the proposed amendment of the gentleman from Union (Mr. MERRILL).

As to the amendment proposed by the gentleman from Lancaster, (Mr. HESTER,) it is unnecessary and objectionable. It requires that the Governor shall communicate to the Legislature all the pardons he may have granted, with the facts in relation thereto, and his reasons. Of the pardons granted, the nine tenths are probably granted with propriety, and some proper cases for the interposition of the Executive clemency. Why should all those cases, with the evidence and reasons, uncalled for, be spread before the Legislature and the public? Under an existing provision of the Constitution, the Legislature may require the Governor to lay before them the papers, &c. in relation to any pardon granted by him. By the provisions of the fifteenth section of the second article of the Constitution, "the Secretary shall keep a fair register of all the official acts and proceedings of the Governor, and shall, when required, lay the same, and all papers, minutes and vouchers relative thereto, before either branch of the Legislature". Of the act of the Governor in granting a pardon, a register is to be kept by the Secretary: the papers and documents in relation to it, and on which it was granted, are to be laid before either branch of the Legislature, when required. The Legislature can have the information when they require it. This power can be exercised by them, for their information, as well as for the public, and may operate as a check on the Executive, by causing him to lay before the Legislature the papers and evidence on which he acted in granting a pardon. This can be had whenever the public is dissatisfied, or there is reason to believe that the Executive power of pardon has been abused. So far as the call for information and the evidence is to operate as a check on the Governor, it can be had when there is occasion for it, under the provisions of the existing Constitution. Entertaining the opinion that the amendment of the gentleman from Lancaster is unnecessary, and that the amendment of the gentleman from

Union would be mischievous in its operation, he would vote against both, and in favor of retaining the Constitution, in that particular, as it is.

The question on the amendment offered by Mr. BUTLER was then taken and decided in the negative.

The question being on the amendment of Mr. HIESTER,

Mr. McDOWELL moved to amend it by striking out "fines and forfeitures". It was not necessary, he said, that the Governor should give his reasons for remitting militia fines of from two to five dollars.

Mr. DARLINGTON could not agree with the gentleman as to the propriety of striking out these words. Fines and forfeitures were not confined to the militia. Though they were vested in the counties, yet the Governor remitted them, and the Treasurer took the money out of the county treasuries. This was a greater subject of complaint than any other in connexion with the subject. In some cases, where taverns had been kept without licenses, and where the fine had been imposed to the amount of the license, and security given for its payment, the individual, though well able to pay, procured a remission of the fine from the Governor. If there was any abuse of the power requiring correction it was this. These indulgencies had, he said, been granted, at times, for reasons which would not bear the light.

Mr. McDOWELL said whether it was necessary or not to make any alteration in this part of the Constitution, it was altogether unnecessary to impose on the Governor the onerous duty of laying before the Legislature his reasons for remitting every petty fine. Whether any alteration at all would be proper was a matter of grave consideration. He was willing to restrict the pardoning power, but not too far; and he believed it would be a sufficient check to require the Governor in such case to lay before the Legislature his reasons for granting the pardon. It was more or less unsafe to leave to any man to exercise his discretion. There was a difference, too, between public discretion and private discretion. When the Governor submitted his reasons, then the Legislature may consider them as partial or not, according to their judgment. This provision would, in a great measure, prevent the abuse of the pardoning power.

Mr. SHELLITO said a great deal of light had been shed upon this subject in the debate. He did not think it would be advisable to make any alteration until after further reflection. The question, he hoped, would be deferred till the second reading.

The motion of Mr. M'DOWELL to amend, was then negatived.

Mr. EARLE was extremely anxious, he said, that something should be done in this matter. We came here to carry out some of the wishes of the people, and there were few, if any, objects that the people had more at heart, than a change in the pardoning power. He believed that the official list of pardons before us, was sufficient to convince all that there were sufficient reasons for the complaints on this subject. He referred to a case, where a person convicted of murder in the second degree, was pardoned, after a few months confinement, through the political influence of his friends. There had been many cases, he said, where an improper influence had been successfully exerted in obtaining pardons. He hoped the friends of reform would rally to day, and carry through this proposition, particularly as those which proposed stronger restrictions on the exercise of that power had been voted down. The tenants of the peni-

tentary were to be pitied, and should be treated with kindness and care. It should be considered as a hospital for those who were so unfortunate as to be afflicted with *monomania*; for most crimes were the result of physical formation. These unfortunate persons should be kept out of harm, for their own sake, as well as for the benefit of society. But they should be employed and compensated for their labor; and they should have books and amusement, and the means of happiness. If penitentiaries were conducted on this plan, they might effect the reformation of their inmates; for reformation was to be produced, where it can be effected at all, by kindness, and not by cruelty. But he would never pardon a criminal who had been convicted twice of the same offence.

Mr. HIESTER said, that after the able arguments that had been presented, it would be presumptuous in him to attempt to throw any further lights upon the subject, and he only rose to reply to an enquiry put by the President of the Convention, and to answer one or two objections that had been made by gentlemen. The PRESIDENT had asked whether the Governor did not *now* accompany all pardons with the reasons for which they were granted? And if so, whether he was to be required to furnish *other* reasons to the Legislature? Mr. H. said if such were the case, as had been already stated by the gentleman from the city, (Mr. BIDDLE) nothing further would be required than for him to transmit to the Legislature the reasons on file in the Secretary's office. That his (Mr. H's) object in submitting the amendment, was to give *publicity* to the reasons by which the Governor was actuated. The gentleman from Franklin (Mr. CHAMBERS) had said that the evil was to be traced to the people themselves.—That there was too great a readiness on the part of men of character and respectability, to sign petitions to the Governor for pardons, and that he was often deceived in that way. If, (said Mr. H.) the Governor had no other or better reasons than the respectability of the application, let that be published, and it would check and prevent men from signing so freely, when they saw their names to those petitions exhibited to public inspection. The gentleman had also said, that under the fifteenth section of the article then under consideration, the Legislature was authorized to call on the Secretary of the Commonwealth, for any information on file in his office—and that they could, therefore, at any time, obtain the reasons for which pardons were granted, if they thought there was an abuse of power. Although this might be done, (said Mr. H.) it was not *required*, and he wished to make it *obligatory*, so that the information should *necessarily* go before the public. The gentleman from Lycoming (Mr. FLEMING) had told the committee, that it could not be expected that reasons could be assigned that would be satisfactory to every one. This was very true; but they ought to be such as to satisfy a *majority* of the community, and if that were the case, it would be quite sufficient. It had been stated by the gentleman from Allegheny, (Mr. FORWARD) that there might, in many instances, be mitigating circumstances in favor of pardoning offenders, which it would not be proper to have published, as it might be an injury to them, or to their relatives and friends. Mr. H. said that, as the trial and conviction of all offenders was notoriously public, and was spread upon the records of the courts, he could therefore not conceive that the publishing any *palliating* circumstances as a reason for granting a pardon, could possibly be detrimental to the individual pardoned. That, in a republican Government, no agent ought to be allowed to do any act that

should not be published to the community for their scrutiny and animadversion.

Mr. REIGART called for the yeas and nays, which were ordered.

Mr. FULLER had not intended to say any thing on the subject, but as the yeas and nays had been called, it might be necessary to give some explanation of the vote he should give. When the amendment of the gentleman from Lancaster was first proposed, he thought it rather objectionable, and had supposed it would have been better to make it the duty of the Governor to publish his reasons in some of the newspapers of the State, for remitting fines or pardoning criminals; but when he came to reflect upon it, he found he had objections to that course; and he now thought the amendment was such a one as would serve for a sufficient check upon the Executive, and he thought some check was necessary. It was the opinion of the people of his district, that the pardoning power had been abused, and for the purpose of putting some check upon the Governor, he would vote for this amendment.

The question was then taken on Mr. HIESTER's amendment, when it was disagreed to—yeas, 51; nays, 67—as follows:

YEAS—Messrs. Ayres, Banks, Barndollar, Bedford, Biddle, Bigelow, Bonham, Brown, of Lancaster, Butler, Clark, of Dauphin, Clarke, of Indiana, Craig, Crum, Darlington, Darrah, Denny, Dickerson, Doran, Earle, Foulkrod, Fuller, Grenell, Hamlin, Hiester, High, Hyde, Ingersoll, Keim, Kennedy, Konigmacher, Krebs, Long, Lyons, Mann, McCall, McDowell, Merrill, Merkel, Miller, Myers, Nevin, Reigart, Ribor, Ritter, Sellers, Scheetz, Sill, Smith, Stickel, Swetland, White—51.

NAYS—Messrs. Agnew, Baldwin, Barclay, Bayne, Bell, Brown, of Northampton, Carey, Chambers, Clarke, of Beaver, Cleavinger, Cline, Coates, Cochran, Cope, Cox, Craia, Crawford, Cunningham, Curll, Dickey, Dillinger, Donagan, Donnell, Dunlop, Farrelly, Fleming, Forward, Fry, Gearhart, Gilmore, Harris, Hayhurst, Helffenstein, Henderson, of Dauphin, Hopkinson, Hout, Kerr, Maclay, Magee, McCahen, M'Sherry, Meredith, Montgomery, Overfield, Pennypacker, Pollock, Porter, of Lancaster, Purviance, Read, Rogers, Royer, Russell, Sæger, Scott, Serrill, Shellito, Smyth, Snively, Starigere, Stevens, Taggart, Todd, Weaver, Weidman, Woodward, Young, Sergeant, President—67.

Mr. EARLE moved to amend the section by adding the words—"in cases of capital punishment, the Legislature shall have power by law duly directed, to commute the punishment".

Mr. EARLE said that one of the principal reasons why complaints had been made in relation to the pardoning power, was, that the persons convicted of capital punishment had been pardoned, when it was believed they should have been punished in some manner, if not by death; but there was no discretion in the courts in case the evidence was sufficient to convict the offender, of murder in the first degree; and by a construction of the present Constitution there had been no cases of a commutation of punishment of this kind. He thought, therefore, that every one must perceive that there might be cases where the offence should not be punished with capital punishment, but which should be punished in some other way. Under this provision, the Governor will be enabled to postpone the punishment until the Legislature meets, when they can act upon it, if they think proper.

Mr. BELL moved to amend the amendment, by striking out "the Legislature shall have power", &c., and inserting "the Governor shall have power to commute the punishment".

Mr. BELL, said if it was proper to lodge this power any where it ought to be lodged in the hands of the pardoning power. He did not know that

it would be proper to give such a power as this to any one, but if it was given to any one he should think that the Governor would be the proper person. That one body should have the commuting power and another the pardoning power, he thought inconsistent.

Mr. BELL's amendment was then disagreed to, ayes 24 : noes not counted, when

The amendment of Mr. EARLE was disagreed to without a division.

Mr. CRAIG then moved to amend the ninth section by adding to the end thereof the following : " provided that an application, signed by the Commissioners of the county in which the case originated, shall first be presented to him".

Mr. CRAIG, regreted that there seemed to be so much indisposition on the part of the Convention to do anything in regard to a reform of this section of the Constitution. He was fully persuaded it was one of those articles in which the people have been calling for reform, and under the operation of which many abuses have been committed in the Commonwealth. The gentleman from Allegheny has appealed to us to say whether any abuse had been committed on the part of the Executive in this particular, in any part of the Commonwealth. We might answer this question by enquiring of him in what part of the Commonwealth abuses of this kind have not existed? If we were to attempt to state the particular cases it would occupy the attention of the committee for a great length of time. He apprehended there was not a gentleman here who could not relate cases in which there was a flagrant abuse of the power. He himself knew of cases of men being pardoned, who, on trial, narrowly escaped from being brought to the gallows. He had known of one individual being pardoned, after one or two years confinement, who had been sentenced to ten years imprisonment for the crime of murder in the second degree. He had known cases of pardons where the moral sense of the community had been shocked when the fact was made known to the public. He had known a case where an individual who had narrowly escaped the gallows, was pardoned before he reached the penitentiary, and that too without any additional evidence in the case. Nor did he suppose that there was any thing very singular in these instances. He presumed similar cases could be presented from every part of the Commonwealth. It was in the very nature of things that the Governor would be deceived in these cases. How was it that pardons were procured for criminals? There were two ways, and a variety of operations under these two ways. A criminal, who has rich and independent friends, hires men to procure a pardon, and they go to the Governor with a petition signed by some of the neighbors of the criminals ; and this testimony in his favor is entirely *ex parte*, having been taken separate and apart from the rest of the community, and the men who lend their names for this purpose hope they will never come to light. This is the way the testimony is got up, to be laid before the Governor, and when it is brought before him it is entirely *ex parte*. He has heard nothing of the case, perhaps, except by distant report. Then the friends of the criminal, or those hired for the purpose, importune and harrass the Governor. Instances, too, have been known where men of high character have come before the Governor and presented this kind of testimony, and failing to obtain their object, have gone to the political friends of the Governor to obtain their aid and influence, and they would come in and plead

the cause, and perhaps they would succeed, as was too frequently the case, when the community was well rid of the criminal, and would suffer by his release. When applications are made for pardons for criminals it ought always to be taken into consideration, that a due regard should be had for the community.

All the efforts which had been made to amend this section had been to give the community light on the subject, and that was exactly what was wanting. When a court and jury have waded through a case for a week, or perhaps more, and brought forth all the testimony which could be had, you leave it to be set at naught by the decision of the Governor. Now, we want to have brought to light the whole matter, so that the community in which the transgression has been committed, may be made fully acquainted with all the facts of the case. The amendment he had presented had only been presented as a last resort. There were others before the Convention which he preferred to it, which had been voted down. He thought it was desirable that the community in which the crime should have been committed, should be first made acquainted with the case when an application is about to be made to the Governor; and he apprehended these Commissioners who were generally men looking ahead for offices from their fellow citizens, would feel some responsibility; and if the case was of an outrageous character, they would, in all probability, not lend their names to it; but on the other hand, if it was a proper case for the exercise of the pardoning power, and new testimony had come to light after the decision had been made by the court and jury, it was probable, and almost certain, that they would aid in rescuing the criminal from punishment. A few words more and he would be done. The object of punishment was not merely for the sake of punishment, but it was, perhaps, two fold; First, to reform the criminal; and, secondly, to deter others from the commission of crimes. Now, under the present system, as the Constitution now stands, there is no certainty, when a man is convicted, that he will remain any time in the penitentiary, and, as had been truly remarked, one of the greatest checks to prevent men from committing crimes, was to know that offenders would certainly be punished without the possibility of escape. Now, how was it with vagrants, generally, who were every day committed to the penitentiary? Why, sir, the hope is entertained and they have reason to entertain the hope, at the time they commit the crime, that if it is discovered, and they are convicted to the penitentiary, that they will be able to procure a pardon; and more especially so if they were in the possession of any money, for he did hold that money would do a great deal. By this he did not pretend to say, that any Governor had ever been bribed; but he did say, and cases could be substantiated where men had been hired to procure pardons for criminals, and they have succeeded in procuring those pardons in some most notorious cases. Well, sir, this criminal is not deterred from the commission of crime again, because, if he was again convicted he would entertain the hope of being again liberated in a short time. It has also become customary for keepers of prisons to use their influence to have liberated those who behave well, and this influence is brought to bear on the Governor. Many of the most notorious criminals behave remarkably well when they are first put in prison, for the purpose of getting the favorable opinion of the keepers, and they make applications

for their release, in connexion with the friends of the criminal or those employed to procure his pardon. He thought something ought to be done on this subject. He was not certain that his amendment was the best which could be proposed, but he submitted it with the hope that some gentleman would examine it and suggest such modification as would make it acceptable.

Mr. DUNLOP was of opinion that this amendment would not be any improvement on the present system. He had heard it urged, that Governors had granted pardons in many cases, when it was not proper that they should have done so, and that political partisans had influenced them in other cases, and that the power of pardoning had been greatly abused.— He did not know, but what there might have been some cases where abuses had been committed, but he did not believe that any of the Governors had been influenced by political considerations in this matter. If you take up the report on this subject laid before the Convention, you will find that the number of pardons granted annually, from the commencement of the administration of Governor SNYDER, up to the present time, have been about the same. During the three terms of Governor SNYDER's administration, he granted 990 pardons. In Governor HIESTER's single term he granted 303 pardons. Governor FINDLAY, in his single term, granted 431 pardons. Governor SHULZE, during his administration, consisting of two terms, granted 664 pardons, being 332 in a single term, and Governor WOLF, during his administration, consisting of two terms, granted 404 pardons, being 202 to the single term. This showed that the Governors had pardoned about the same number. Mr. D. had a conversation with Governor SHULZE on the subject, and after telling him of the complaints which the people had made in relation to the granting of pardons, the Governor had told him it was not in the nature of things that it could be prevented, because the penitentiaries would be overflowed. He was told at that time, if he recollected aright, that the Walnut street penitentiary, in the city of Philadelphia, had twelve hundred convicts in it, so that it became necessary for the Governors to pardon a portion of the convicts, to prevent the penitentiary from being overflowed. It appeared by this statement, that the Governors, since the commencement of the administration of SIMON SNYDER, had pardoned about the same number of criminals, on an average, excepting Governor WOLF, and it might be proper to say, that the reason he pardoned so few was, that the new penitentiary had been completed, where ample accommodations were provided. The Legislature had also passed a law lately, providing for the punishment of certain offences, by a confinement of one year in the county jails. This would, in a great measure, correct the evil which had been complained of. There was one singular fact in relation to the new penitentiary, which was, that there never had been returned to it a single person who had served out the time for which he had been sentenced, in that establishment. It either effected a complete reformation, or produced such a dread in the minds of those who had once been there, that they conducted themselves in a most cautious manner in the commission of any crimes. He had heard a story told in relation to one of the old convicts, at the time that a couple of gentlemen, who had been sent from Europe to examine our prison system, which clearly showed the good effects which that institution had upon criminals. One of these gentlemen enquired of one of the old

convicts, how this sort of punishment seemed to operate upon them. Sir, said the old fellow. "I tell you what it is, no man of science, who has been here once, will ever come back again". Mr. D. should like to know of the gentleman from Washington, what the commissioners were to do in this matter? It was a matter which no one liked to meddle in, being an extremely unpleasant duty, and unless we require the commissioners to do something, it did not appear to him that we would effect our object. In reply to a remark of the gentleman from Bucks, he would say, that he had been informed that the Governor never remitted military fines: that did not come within his duty.

Mr. McDOWELL: The report just laid on our tables says that he does remit military fines in certain cases.

Mr. DUNLOP had not spoken on his own knowledge; but upon the information of a Major or, perhaps, a Colonel of the militia; and if he had been misinformed all he had to say was, that he would never trust a militia Colonel again to give any information as to a matter of law. In conclusion he would take occasion to enquire whether it did not strike every gentleman in the Convention that every attempt to deface, alter, or change this Constitution brought it out more pure and beautiful, and cast a halo of glory around the heads of the framers of this "matchless instrument".

The amendment of Mr. CRAIG was then disagreed to, without a division.

The committee then took up the report of the standing committee on the tenth section.

The tenth section reads as follows:

"SECT. 10. He may require information in writing from the officers of the Executive department, upon any subject relating to the duties of their respective offices".

The committee proposed to amend this section as follows:

"SECT. 10. He may, at all times, require from all, except the judicial, officers, written information concerning their offices".

Mr. INGERSOLL said it was the intention of this body, if he could anticipate any thing, to deprive the Governor of most of his patronage, and of course his time and attention would not be so much occupied in future as it had been formerly. It was the intention of the committee then, by this amendment, to give the Governor the supervision of all the officers, so that he might call upon any of them for information in relation to their respective offices, excepting the judicial officers; whereas, by the present Constitution, he only called upon his cabinet officers for information.

Mr. DARLINGTON had some reverence for this Constitution, and thought we should adopt its phraseology in all cases where it could be done. He would, therefore, move to amend the report by striking out all after the word "from", and insert "all except the judicial officers on any subject relating to the duties of their respective offices".

Mr. STERIGERE could not see the necessity of this amendment or the report of the committee. It seemed to him that the Governor only wanted information from the Executive officers, and not from the county officers; and that he should be confined, exclusively, to the Executive officers.

Mr. DARLINGTON said a part of the duty of the Executive always had been to communicate to the Legislature such information as he may think

necessary for their action. Now, in certain cases, it might be proper to call on the county officers, Registers, Recorders, and other county officers, for this information. The committee which reported this amendment could see no objection to it, and could see no difficulty which might arise from it, and thought that, at times, it might be productive of good results; therefore, they had introduced it for the consideration of the Convention.

Mr. DICKEY could not see any reason why this amendment should be adopted; nor could he perceive the object to be attained by it. It was right enough that the Executive should have the power to call upon those officers who were properly executive officers for information, but he could see no good to result from extending this power.

Mr. INGERSOLL said the gentleman from Beaver had not adverted to what appeared to be generally conceded, that the Governor was no longer to have the appointment of a large portion of those officers, and they were to be in no way answerable to him for their appointments. Then, it being made the duty of the Executive to see that the laws were faithfully executed, it appeared obvious to him that some such amendment as this ought to be adopted. It being about the time that the committee should rise he would make that motion, so that gentlemen would have time to consider on this amendment by the time the committee met this afternoon.

The committee then rose, reported progress, and obtained leave to sit again this afternoon.

The Convention then adjourned.

FRIDAY AFTERNOON—4 o'clock.

SECOND ARTICLE.

The Convention again resolved itself into a committee of the whole on the second article of the Constitution, Mr. CLARKE, of Indiana, in the Chair.

The question being on the motion of Mr. DARLINGTON, of Chester, to amend the tenth section so as to read as follows: "He may require written information except from judicial officers, upon any subject relating to the duties of their respective offices".

The question being taken, the motion was decided in the negative—ayes, 34.

The question being on agreeing to the report of the committee as relates to the tenth section,

Mr. DUNLOP, of Franklin, said he did not care much about the proposition in the report of the committee. It might be well enough to pass it, because the Legislature sometimes require information which can only be obtained from the Governor. The Legislature were only elected for one year. He was sorry for it, and wished there was a feature in the Constitution to change the term. The Governor only had the power to collect information. If the Legislature want information, they are obliged to appoint a committee, and to give that committee power to send for persons and papers. This sometimes occupies one half of the session, and the other half is consumed in fabricating a bill. It will induce the officers of the Governor to pay respect to the Governor. They would be compelled to supply him with the information which may afterwards be called for by the

Legislature, and this information can better be procured from the Governor, than from any other quarter. For this reason alone, he was in favor of the section. But why should it be confined to the Executive, when there are departments, not strictly Executive, from which information may be required. We may want information from the canal officers, and these cannot be termed Executive officers. All of us who have had the slightest legislative experience, are acquainted with the difficulty of obtaining that kind of information. They had to go all over the State to look for it, and collect it. This was a difficult and inconvenient matter for the members of the Legislature, when the time of every man was occupied with his private bills. Therefore there ought to be some provision to facilitate the obtaining of information from those who are not strictly Executive officers, to enable the Governor to answer satisfactorily any calls of the Legislature.

Mr. DICKEY, of Beaver, said that it had struck him that the terms used in the report of the committee were rather too broad, and that too many officers were included. There was a great number of militia officers, all of whom might be brought within the operation of this section. As Commander-in-chief, the Governor could now call on these officers for information, but this was usually done through the Adjutant General. He thought it unnecessary to say "*all*", so as to include every officer in the Commonwealth. It might be made to include some others than those which are strictly Executive officers, such as those of the canal department. When the question was up before, he had not thought it necessary to give this enlarged power. Nothing, as yet, seemed to have been settled. We cannot tell how much the patronage of the Executive is to be diminished, until we come to the sixth article. It would be better to let it remain as it is in the Constitution, until we come to the second reading. Then if it shall be thought necessary, we may make this amendment. But gentlemen would only get into difficulty by adopting the amendment in this place.

Mr. M'DOWELL, of Bucks, expressed a desire to act understandingly on this, as well as all other questions. He would be content if only a few amendments were made in the Constitution. Before this question was settled, he would wish to know from those who were wiser than himself, what constitutes the Executive department. He was not so skilled in the mysteries of these high places, as some gentlemen were. He did not ask who were Executive officers, but what was the Executive department. He had heard of many men, who had not been appointed to office, who had a great deal to do with the Executive department. In this Government, as well as in other Governments, there were men who had control over many things, and influenced the course of the Executive. He did not know what officers these were? Whether they were the Secretary of State, the Canal Commissioners, the Attorney General, or who they were. He would be glad to know who it is that constitute the Executive department? For aught he knew, there was no difference between the report of the committee and the old Constitution. All officers are to be called on to give information, and, for aught he knew, all these officers constituted the Executive department. He wished for some information.

Mr. DICKEY replied: He would attempt to answer the gentleman from

Bucks, as far as he could. According to the theory of our Government, there are but two distinct branches—the law creating, and the law executing power. The Governor constitutes the law executing power. The Governor has several departments under his immediate supervision. An important one—the Internal Improvement department answers every call made upon it by the Governor. The Auditor General, the Attorney General, and the Head of the Land office, constitute a part of the Executive department.

Mr. INGERSOLL, of Philadelphia, rose also to say a few words in answer to the gentleman from Bucks. He stated that this report emanated from a suggestion of his, if he might be allowed to disclose the secrets of the committee room, which, according to parliamentary usage, are considered as among the *arcana* of legislation. He had submitted the suggestion, and had not found a dissenting voice, and he had thought that the Chairman of the committee would have vindicated the clause. Although submitted by me (continued Mr. I.) I regarded it as his business to take charge of it, holding myself responsible for nothing more than the mere principle which belongs to the humble individual before the committee. Another view I wish to present. When I came to this body, I was under the impression that my duty ends with suggestions, and that I am not to be called upon to support, to defend, and carry propositions. I came here with no such impression as that. I look upon it that we are all sitting here, as a special, or a standing committee of the people of Pennsylvania, selected by them, for our age, for our wisdom; and from the confidence they have in us that we will faithfully do their will and guard their interests. Here all the members—although we are a hundred and twenty-three—all told—like the members of a standing or select committee, are to report; and no member is bound to go further than that; and it is for the wisdom of the people to decide upon the wisdom of that report. I speak not of the theory, but the fact; for we are, perhaps, as well capable of deciding as any, when I say that the suggestion of a subject is sufficient: and I hold myself ready on all occasions, on any subject, or on any branch of any subject, without any explanation—for the ground has been well broken weeks ago—to go into the exercise of my duty, so far as to submit propositions to the people, for their judgment to decide upon. Therefore, I hold myself not responsible for any suggestions I may make. I came here, like my friend from Philadelphia, with a Constitution, written from beginning to end, but I did not come here to force that instrument either on the Convention, or on the people, but for the purpose of suggesting it, and then leaving it to the Convention to act in relation to it, as they might think proper, while I profess myself to be indifferent as to my suggestion, having explained it. I beg leave to consider myself *functus officio*, and by no means, and in no manner, responsible for it, whatever may be its fate. Gentlemen around me are better able to judge of its merits than I am. I am only bound to state its bearings as far as I can do so, and after that I shall have nothing further to do with it. I have no anxiety concerning it; and, therefore, having briefly submitted what I have to say concerning it, I shall leave it to its fate, determined, as I am, hereafter, to record my vote on every subject, and indisposed to ask more time now than for the simple explanation of the proposition.

Mr. I. then proceeded to institute a parallel between the Constitution of

the United States and the Constitution of Pennsylvania, to shew that, in both instruments, there was a provision authorizing the Executive, in each Government, to call on certain public officers, constituting what is commonly known as his Cabinet, to furnish him with information in writing. He then proceeded with his argument. This, then, is the Constitution of the United States; and here is the Constitution of Pennsylvania, modelled, (as he understood) on that of the United States, both conferring on the President, or the Governor, the power to call on what we understand to be the cabinet of the President or the Governor for information in writing. He was not aware what constitutes the cabinet of the Governor. It may be, the Secretary of the Commonwealth, and the officer at the head of the Land office. The cabinet of the President of the United States consists of the Secretary of the State, the Secretary of the Treasury, the Secretary of War, the Secretary of the Navy, the Postmaster General, and the Attorney General. The Executive of the United States, and the Executive of the State, are Constitutionally empowered to call on the Heads of the Departments for information concerning the state of their departments, and no more. The words of the Constitution of the United States are, "he may require the opinion, in writing, of the principal officers in each of the Executive departments, upon any subject relating to the duties of their respective offices". He came here as a reformer; whether he belonged to what is called the radicals, the aristocratic party, or the monarchical party, after reading all that the papers had said on the subject, he confessed himself to be at a loss to determine. Could he not have come here, anxious that the Governor may be divested, as far as possible, of the immense power of patronage bestowed on him by the present Constitution, borrowed, as he believed, from the Constitution of the United States, from a bastard analogy to the British Constitution, so far as to give him this patronage, without wearing the uniform of either of these parties? The patronage of the British Government was not given to the sovereign to enfeeble, but to strengthen the Government, and he did not come for the purpose of debilitating the Government. A weak Government is a foolish Government. He wished to make this Government strong, not by increasing the amount of individual patronage, but by other, and more legitimate means. He came here to strengthen our Government, by taking away the patronage from the Governor—the inferiority, he would call it, of distributing little offices throughout the Commonwealth—by stripping him of this inferiority of the Chief Magistrate, and making him, what it was intended he should be, the Executor—and the mere Executor of the laws.

He wished to make his duties conform to the language of the Constitution as contained in the thirteenth section of the second article, which is identical with that of the report of the committee of which he had the honor to be a member. "He shall take care that the laws be faithfully executed". He wished to see a Governor of this Commonwealth so officially constituted that this should be his sole duty—that he shall superintend the immense system of finance which had now become incorporated with our Government. A debt of five or six and twenty millions, itself clothed with a heavy, and daily expenditure, and tending unavoidably to a system of taxation—for delude ourselves as we might, that debt could never be paid without calling on the people to pay it. No institution—no bank, he would say it, without prejudice or politics, or anything else, noth-

ing but the people could pay the debt which the people had contracted, and which is owing by them. This immense system of debt and patronage, none of which did he regret—in all of which did he rejoice as productive of great public benefit and advantage as connected with public improvement, must be followed by some privation on the part of the people.

You sir, (said Mr. I.) know better than I do, for I never heard it until I came on this floor, that there are no less than nine hundred officers connected merely with your system of internal improvement. If there are, suffer me to say, that there are nine thousand connected with internal indebtedness. It is my wish—my daily care—my anxious solicitude that the Chief Magistrate shall take care that the laws be faithfully executed—that he shall not be perplexed—not be belittled—not be perplexed with the appointment of Mr. A. or Mr. B. but that he shall see the laws faithfully executed—that that system of finance, indebtedness, internal improvement and land department shall be his constant care—that he shall know—re-eligible, or not—that he shall know his political character—his reputation—his re-election, if he be re-eligible by the people—his promotion to Federal office beyond that of Chief Magistrate of this State, (if there can be a point beyond, which I deny, and I concur in the opinion that when any Chief Magistrate of this Commonwealth descends to be a clerk under the Federal Government, he forgets what he owes to the Commonwealth) are not to be affected by the bitterness of party collisions and the fury of political strife.

He (Mr. INGERSOLL) wished to see the Governor of this great State, really the Governor, and looking to the great interests of the State, and to nothing else. And he wished him to understand that that was the way, and not to look to the little preferment which men in meaner offices may covet. And, if there was a higher dignity to be obtained, and he knew but of one, if any higher, he could only obtain it by doing his duty to his fellow citizens, and seeing the laws faithfully executed, and not by the paltry dispensation of the little offices of the State. How was this to be done? He had said that when he came here he understood himself to be so far a reformer as to wish to see the Governor stripped of that patronage which had a tendency to belittle, and to destroy him—he spoke impersonally, without intending to give offence, for he never took the floor without fearing to give offence to some of the friends of the favorite dynasties of Governors—he wished to see the Chief Magistrate of the Commonwealth, what the Constitution of 1790 intended to make him—a mere executor of the laws—merely a superintendent of the public interest—the mere creature, if gentleman chose—and he used the term in no grovelling or offensive sense—of political and historical recollection. How is this to be done? In his opinion, and he was not anxious about the effect of that opinion, any more than an individual ought to be anxious—he deemed his duty done when he had made that suggestion, and if gentlemen differed from him, and the Convention thought otherwise, he acquiesced with cheerfulness—it could only be done by diminishing the patronage of the Governor. He came here impressed with the idea which, it seemed to him, had resounded through this Hall from the first moment that he came into it, up to this hour that the Governor was to be deprived of this debilitating patronage. And if so, what was to be his situation? He was commander-in-chief of the army. Thank God, (said Mr. I.) we have a

army. He was commander in chief of the navy. He (Mr. I.) believed we had no navy, unless it was our canal boats, and we were not likely to have any other. What, then, was he to do? He was to superintend the internal affairs of a million and a half, and before long, it would be two millions, and to give to from time to time to the general Assembly, information of the state of the Commonwealth. How was he to get it? As long as he was the appointing power, and could say to his officers "you must give me an account of the state of your department, or I will dismiss you"—as long as he could say "you must do this, or take the consequence", it was easy to see how he could obtain the information—it was easy to understand how at the commencement of every session, he could give information of the state of the Commonwealth. But all this would be at an end if his theory was adopted. He knew not if it would be adopted: he knew not that the Governor would be stripped of his patronage; he could only act in theory—in the hope that he would be divested of his patronage, and if so, what would be the object of his labors? He would be confined to the only Constitutional power in his hands, which enjoined him to call on all his officers for information, that every man connected with the internal improvement system, canal debt, the school system, and school fund, (which he hoped would be made actual and operative, and not a mere vision as it had been under the old Constitution) and every man connected with the law department, Prothonotaries, Clerks in court, and all subordinate officers, and other officers that he could not immediately recollect, for they were all, with their responsibilities, directly answerable to the Chief Magistrate, for a full statement of the officers of the Government that he might be empowered to inform the body, usually occupying this Hall—the (the Legislature body) what amendments, alterations, or improvements might be necessary. As he understood the matter, according to his theory, though this appointing power be taken from the Governor, it must be vested somewhere, in the Governor, the people, the Legislature, or some depository of power.

Men in public offices will die—will resign, or behave ill, and there must be power to substitute others. It must be deposited somewhere. That power appeared to him a provisional power—an Executive power. He would say that if a clerk of a court, or any officer elected by the people, should die, resign, or vacate his office, the Governor should not only be empowered, but enjoined to fill it by ordering an election, or otherwise. The Executive should superintend the affairs of the Commonwealth.—He had thought, at one time, of putting in a Constitutional provision, requiring him to visit the whole Commonwealth—that he should see with his own eyes, public improvements, and become particularly acquainted with all that was done. It appeared improper to introduce this into the Constitution, but it would be according to practice. His object was to make the Governor the Executive Magistrate of the Commonwealth, to see that the laws were faithfully executed. How could he do this, unless he could at all times call upon his officers for information? Suppose that information was given to the Governor by petition, or letter, from an individual citizen, that the Prothonotary of Westmoreland or Chester—the Canal Commissioner of this, or the other county, or any other officer, is doing this, that, or the other, productive of much malversation in their offices. Suppose that the Governor was informed of this in a credible

way, ought he not to be authorised to say to these officers, you are charged with misbehaviour in your office, and you must furnish me with a full statement of the affairs of your office? Should not this power be given to the Governor? It was possible that his idea covered too much ground, but he was not sure that it did. Perhaps his suggestions in reference to militia officers was going too far. He was not versed in military matters; but he would empower the Governor to call on a Major General, General, an Adjutant General, or without being restrained by form, to ask a Captain or Corporal, if he chooses. He merely threw these ideas out for consideration. These were the reasons which induced him to take the course which he had adopted.

Mr. SCOTT, of Philadelphia, said he felt it his duty to protest against the assumption by the gentleman from Philadelphia (Mr. INGERSOLL) of the fact that it was universally conceded by all men, of all parties, in the Convention, that the patronage of the Governor of the Commonwealth was to be taken away. And he presumed the gentleman intended it to be understood by that sort of bare and naked stripping which the power and dignity, and authority of that officer received by the vote of yesterday afternoon, without an opportunity being given for discussion, and an opportunity of making amendments, and without regard to—

Mr. INGERSOLL here stated that he was not in the House when the previous question was demanded, and he had uniformly, upon all occasions, protested against calling the previous question.

Mr. SCOTT continued: He had not yet said "previous question". It had not yet issued from his lips. But he did not wonder that any anticipation of it should startle the gentleman from Philadelphia. The annals of the legislation of this country furnish no precedent like that of yesterday. He wanted it to go abroad to the people of this Commonwealth, how their Constitution was to be swept away from under their feet, and its defenders not even allowed to be heard. The framers of the Constitution of Pennsylvania occupied twelve months in constructing it, and yet we who had now lived under it in the enjoyment of happiness and prosperity, for forty-seven years, begrudged a day, or an hour's consideration and reflection, before we put the axe to its roots. We did cut down, yesterday, one of its main props, and it was to be forthwith leveled to the ground. And how was it done? The journals would show. Why, the committee on the second article of the Constitution made a majority report, suggesting a change in the patronage of the Governor, and that his power should be reduced. It was made in opposition to the opinions of one half of this body, or, at any rate, within one or two, of one half. It was then laid on the table. A motion was then made to take it up and consider it. By whom? Not a conservative? No: but by a gentleman under the other flag. Being then taken up, it was debated through Monday and Tuesday, and then a motion was made to amend the report. The amendment was debated through Wednesday and Thursday. And, on the latter day, at four o'clock, the proposition to amend the Constitution finally received the shape which gentlemen wished to give it. And, then, for the first time, the Convention came to the question as between the amendment and the old Constitution. In one hour after that question was presented to us, every mouth was closed, and every chance of saving the old Constitution snatched from us by a call for the previous question, or the gag, as it was

appropriately designated in a certain legislative body. Not one word was said as between the amendment and the ancient Constitution of our fathers. And, was that the way in which the members of this body were to frame and fashion that Constitution—the law in which they are to live to the remotest posterity? He would say that it was in vain for us to follow out the Constitution if it were to be accompanied by this species of preventive reflection. Why could we judge—

Mr. BANKS, of Mifflin, (interposed :) He did not wish to interrupt the gentleman, nor would he call him to order, though he had wandered from the question. But he really did hope that this battle would not be fought over again.

The CHAIR asked whether the gentleman called the gentleman from Philadelphia to order?

Mr. BANKS replied that he did not.

Mr. SCOTT resumed: He was very happy to find that gentlemen all over the House were inclined to hear him out. When interrupted, he was going to ask how it was possible for the committee to consider the question before them, or how they were to understand it? What officers were there to be called upon by the Governor? What was the meaning of the vote of yesterday? What did it leave the Governor of the Commonwealth of Pennsylvania? It gave him the poor privilege of appointing his own Secretary. That was the extent of the power that was left him. The eighth section of the second article of the Constitution. That was gone.

In the room of it we had given him the power of nominating certain officers to the Senate, provided, that in the mean time, we did not change our minds. Can the Governor appoint an Attorney General? No. Secretary of the Land Office? No. Surveyor General? No. An Auditor General? No. A Superintendent of Public Works? No, no. He can appoint no one of the heads of the departments which it is his duty to superintend. Do you turn to the Constitution of the United States, and tell me that it furnishes an analogy to this Constitution, which we are thus making. It is said that the powers thus left to the Governor are analogous to those bestowed on the Federal Executive. Why, sir, the National Executive has the power, with a stroke of his pen, to blast the fortunes of millions. But you strip the Governor of the State of all power for good or ill. You reduce the Governor to the rank of a Chief Constable. You put him amongst the departments of the public service, as a sort of chief spy in the camp—a police constable for the people. All that he can do is to collect information from the different departments, and report it to the Legislature. Were the officers to be elected by the Legislature, or triennially by the people at large? How was the plan to be carried out?—Suppose the Governor, in accordance with his duties, should call upon the Heads of Departments before the session of the Legislature for information, upon the subjects pertaining to each department, for the purpose of laying it before the Legislature, what answer will he receive from the officer? It will be this: "I hold my authority from a source as high as you do yours, and I owe no responsibility to you. When the Legislature call upon me I will do it". That is the answer he will be likely to receive, and thus can the Heads of Departments evade the law if they choose: either by giving unsatisfactory information, or withholding it altogether. Is this

(asked Mr. SCOTT) the kind of reform that the people asked when they talked of diminishing Executive patronage? He did hear complaints of county officers, and of offices being obtained by and used for electioneering. But he and his political friends were free from any reproach on this account, for they had no part nor lot in the appointment of those officers who were charged with abusing their trust. The remedy for these defects is to elect the county officers by the people. The report of the committee did not propose to go beyond the limits of the county, in changing the mode of appointing officers. What had this subject to do with the Heads of Department. With the exception of the State, however, all the other Heads of Departments ought to derive their existence from the Governor, whose duty it was to superintend those departments. A great anxiety (Mr. S. said) was evinced, on the part of the members of the Convention, to return to their homes. He had heard the fifty-one farmers here expressing a great anxiety to be at home. What was the cause of this general restlessness? Why did they wish to go home? Because, they knew they would find there fair and flourishing fields; yellow harvests; spacious barns; no tax-gatherers; no police officers to forbid them from doing with their produce whatever they pleased; no one to interfere with their enjoyments. What more than this, he asked, can be desired at the hands of any Government? If the people were happy and free, and unmolested in their possessions, and their industry, and if in this overflowing ocean of happiness, there was not one drop of poison, what more could be demanded of a Constitution, from which such results flowed? We had, he feared, in altering this Constitution, gone too fast and too far already; but still we were driven on to make further innovations. He entered his protest against stripping the Governor of his power, and he trusted it would not receive the sanction of the people. These few remarks had been drawn from him prematurely. When the friends of the Constitution could once more be heard in its behalf, this matter, he hoped, would again be brought before this body for consideration.

Mr. M'CAHEN: Because it was my lot yesterday, and of my own accord, to move the previous question, I find myself brought to account.

Mr. SCOTT explained: He had spoken of the previous question, and it was a fair subject of remark. But he had made no remarks of a personal bearing. He did not allude to one person more than another.

Mr. M'CAHEN said the gentleman had committed a great mistake, in saying this was the first time that the previous question had been resorted to. On the seventh of May, it was demanded by the gentleman from Northampton, and others, and it had a salutary effect then; and he believed that it had a salutary effect yesterday. He would, however, state that, if he had known that the gentleman from Philadelphia had intended or wished to speak, he would not have prevented him, by making the motion at that time. He did expect to be scolded for the motion, but not by the gentleman from Philadelphia; for he had known him long, and had the highest respect for his learning and gentlemanly deportment.

Mr. EARLE remarked, that before we met, a plan was well known to have been made to force this body to an early adjournment, *sine die*, without doing any thing; and that plan having failed, we were now to be represented as tyrants, refusing to listen to any discussion. The

subject upon which we acted yesterday, attracted public attention for years; and the public had determined, that the patronage of the Executive should be reduced. If we had decided that question the first half hour, it would not have been premature. After all, we had decided nothing, but that the Senate should have a negative on the higher judicial appointments; and this decision was made after a debate of four days. The gentleman from Philadelphia says that the people are happy and prosperous on their farms, and he gives that as a reason why the Governor's patronage should not be reduced. Has not the gentleman confidence in these happy people, to let them vote, whether their happy situation shall be changed? The Constitution had not yet received the mortal stab; and when it did, it was the people that must give the fatal blow. We could do nothing more than to propose amendments to the people. If there was any suppression of debate here, the people would have ample time to debate the subject hereafter. Was it a reason that the Constitution should not be altered, that the people were happy on their farms? If competence produced happiness, it would be found every where—in Russia, and in England. Every where there were laws for the protection of property, and every where you might find people who were rich, and surrounded with the means of enjoyment. But there were other modes than this, of testing the excellence of a Constitution; and, if there are not, the gentleman need not be so much alarmed, lest the people should desire a change in their Constitution.

The CHAIR would take occasion to say, that gentlemen had wandered widely from the question under discussion, and from this time forward he would endeavor to keep them more close to it.

MR. DICKEY would ask, whether it would not be better to let this report be passed over for the present, and let us come to the sixth article, and act upon it first. When that was done, we would know to what extent the patronage of the Executive would be diminished, and then we would be able to say which officers it might be necessary to authorize the Governor to call upon, and we can then adopt this section in such form as seems best. It did appear to him that at present it covered too broad ground, because he could see no necessity for the Governor calling upon all the militia officers who were elected, for information. It was wholly unnecessary to call upon them for information in relation to any neglect of duty, or misdemeanors in office, because they were not amenable to the civil officers in such cases, but were subject to a trial by court martial. He did not know that there was any Constitutional provision on the subject of electing militia officers; but it is settled by a law of the Legislature that they shall be elected. In the State of New York, when they revised their Constitution, they conferred the power of electing militia officers upon the citizens, by Constitutional provision. In this State it has been done by law, and he did not know but it was contrary to the letter of the Constitution. But be that as it may, he could see no necessity for giving power to the Governor to call upon those officers who were only responsible to their superior officers; and he hoped it might be passed over for the present.

He wished now to make a single remark in reply to one of the gentlemen who had spoken from the county of Philadelphia, which he did not wish to see go abroad without some notice. That gentleman had express-

ed an opinion that the Commonwealth of Pennsylvania was burthened with an oppressive debt, from which she never could be relieved except by taxation. Now, he (Mr. D.) had always been an advocate of the Internal Improvement system, and he believed the works of the State would yield a revenue in the course of years amply sufficient to pay off the entire debt of the State, without resorting to taxation at all.

The report of the committee was then disagreed to, yeas 30, noes not counted.

The report on the eleventh section was then taken up, but there being no amendment proposed, it was passed over.

The twelfth section was then taken up. The committee having proposed no amendment to this section, it was read as follows :

"SECT. 12. He may on extraordinary occasions convene the General Assembly ; and in case of disagreement between the two Houses, with respect to the time of adjournment, adjourn them to such time as he shall think proper, not exceeding four months."

Mr. SILL moved to strike out the words "four months" and insert "eight months".

Mr. S. said, the usual time of adjournment of the Legislature had been April or May. This section was intended in case of disagreement between the two Houses, that the Governor should adjourn them, but not for a longer period than four months. Well, in case of an occurrence of this kind, they would be adjourned until about the month of August, which he apprehended would be a very inconvenient time, and such a time as the Legislature never had met. If the amendment he proposed was adopted, it would allow the Governor to adjourn the Legislature to the time of their next usual meeting. He was aware that an occasion of this kind never had happened, but if this provision was of any use, it ought to be in a form which would make it of some practical utility.

Mr. HAYHURST suggested, that the gentleman would perhaps obtain his object better by modifying his amendment, so as to make the adjournment be for a time not exceeding their next annual meeting.

Mr. S. accepted this as a modification.

Mr. DICKEY could see no necessity for this amendment, because, if the Governor adjourned the Legislature over the second Tuesday in October, it would be a new Legislature.

The amendment was then disagreed to.

There being no amendment reported by the committee to the thirteenth section, and no motion made to amend, it was passed over.

The committee then took up the report of the standing committee on the fourteenth section. The section was read as follows :

"SECTION 14. In case of the death or resignation of the Governor, or of his removal from office, the Speaker of the Senate shall exercise the office of Governor, until another Governor shall be duly qualified. And, if the trial of a contested election shall continue longer than until the third Tuesday in December next, ensuing the election of Governor, the Governor of the last year, or the Speaker of the Senate, who may be in the exercise of the Executive authority, shall continue therein until the determination of such contested election, and until a Governor shall be qualified as aforesaid".

The standing committee had reported the following amendment to the fourteenth section, which was read :

"SECTION 14. In case of the death or resignation of the Governor, or of his removal from office, the Speaker of the Senate shall exercise the office of Governor. And, in case of the death, resignation, or removal from office of the Speaker of the Senate, the Speaker of the House of Representatives shall exercise the office of Governor, until another Governor shall be duly qualified. And, if the trial of a contested election shall continue longer than until the third Tuesday of December next, ensuing the election of Governor, the Governor of the last year, or the Speaker of the Senate, or of the House of Representatives, who may be in the exercise of the Executive authority shall continue therein until the determination of such contested election, and until a Governor shall be duly qualified as aforesaid".

Mr. STERIGERE moved to amend the report of the committee so as to make it conform to a former amendment, by striking out "December", and inserting "January", which was agreed to.

Mr. BELL then moved to amend the report of the committee, by inserting after the word "Governor", where it is printed in italic, the following words : "until the next annual election of Representatives, when another Governor shall be chosen, in the manner herein before mentioned; and until another Governor".

Mr. BELL said, in a discussion here some days since, the question was raised as to how long the Speaker of the Senate should exercise the office of Governor, and there appeared to be great doubt in relation to it. He found upon referring to the minutes of the Convention of 1790, that a provision had there been introduced similar to the one he had just proposed; but why it had not been adopted, he was not able to say. He thought a provision of this kind should be inserted in this section, so that there might be no doubt as to the time, which the Speaker of the Senate was to hold the office of Governor, in case of the inability of the Governor.

Mr. STEVENS was not sure the amendment would get us rid of any difficulty without introducing one as great. If there was any defect in the present Constitution, we have never yet experienced any evil results from it, and probably we never shall, as he supposed a Governor would never die here. Suppose the amendment now introduced should be incorporated in the Constitution, and the Governor should die one week before the election, who was to fill the office of Governor after that election? No new Governor could be elected, and the Speaker of the Senate could not fill the office after that election should have taken place. Then who is to fill the office? Suppose he dies within twenty four hours of the election, by the amendment of the gentleman from Chester, no person can fill the office after the election, and consequently it must be vacant.

Mr. BELL thought, that by the report of the committee as it stood, the Governor then in the exercise of the office, or the Speaker of the Senate would exercise it until another Governor should be elected at the next annual election; and in case of the death of the Speaker of the Senate, the Speaker of the House of Representatives would come in. He could not see the difficulty in the same light in which the gentleman from Adam, viewed it; but he thought the report of the committee had provided for filling the vacancy in all possible contingencies which could arise. It wa

time, as the gentleman from Adams had remarked, that we have never had such a contingency, but no man can assure us that such an event as the death of a Governor will not take place, and then the question would be, how long should the Speaker of the Senate fill the office of Governor. Certainly he should think no gentleman would be willing that he should exercise that office for four years.

Mr. CUNNINGHAM saw an objection to this amendment. Of course these elections were to take place in consequence of proclamations issued by the Sheriff; but suppose the Governor if he resided in the eastern part of the State, should die on the first of October, after the proclamations were published, there would not be time for the news to go to western counties, so that, but a small portion of the counties would have the information. In this way the forms prescribed by law could not be complied with, if the Governor was to be elected at the next annual election, and if complied with it would be in but a very few of the counties. In his estimation we had better leave the Constitution as it is in this particular, or take the amendment as reported by the committee, leaving the Speaker of the Senate to exercise the office until a Governor was regularly elected, because a case might arise where if an election was to take place at the next annual election, all the counties would not be able to participate in it.

Mr. BELL said, it was evident that the committee endeavored to provide for every contingency, but it was intended that the Speaker of the House should, in no case, fill the chair of the Executive beyond the next election. If gentlemen looked to the language of the section, they would see there was a doubt on this point. The section now reads as follows :

"In case of the death or resignation of the Governor, or of his removal from office, the Speaker of the Senate shall exercise the office of Governor, until another Governor shall be duly qualified. And, if the trial of a contested election shall continue longer than until the third Tuesday in December next, ensuing the election of Governor, the Governor of the last year, or the Speaker of the Senate, who may be in the exercise of the Executive authority, shall continue therein until the determination of such contested election, and until a Governor shall be qualified as aforesaid."

He proposed to make it read, "until the next annual election of representatives, when another Governor shall be chosen, in the manner hereinbefore mentioned". Now it would be impossible, under that amendment, that the Speaker could enjoy the dignity and patronage of the Executive office longer than one year. What objection was there to this? Did gentlemen wish that doubt and difficulty should still overhang this feature of the Constitution? He referred to the letter which had just been published by the Postmaster General, (Mr. KENDALL) in reply to a letter addressed to him, or at him, by Mr. WICKLIFFE, in which Mr. KENDALL puts this very case, which he would refer to. Mr. METCALFE, the Governor of Kentucky, died in office, and shortly afterwards the Lieutenant Governor assumed the Executive functions, insisting on his right to do so. Some thought he had no right, and a political war ensued. Mr. KENDALL says he was, himself, opposed to this assumption of power by the Lieutenant Governor, who held on to the office, and succeeded in having his right established. Here the object of the amendment is to prevent all ambiguity, on a point, in which a learned gentleman, the other day, admitted there was ambiguity. If gentlemen, in favor of removing this doubt, can

point out any mode of change which would be more acceptable, he (Mr. B.) would cheerfully accede to it. He was only anxious to avoid the difficulty, and he thought it would be avoided by adopting this amendment.

Mr. CUNNINGHAM, of Mercer, agreed that it was desirable to remove this difficulty. Suppose that the Governor should die on the first of October. The annual election is now proposed to be on the third Tuesday of October. The Governor has died on the first, and the Constitution provides that the election of a new Governor shall take place at the next annual election, which will be on the third Tuesday. If the Governor died in Philadelphia, how are those of the people, who reside along the shore of Lake Erie, to learn the fact before the day of the annual election? It would be impossible that they could get the information, so that other counties would obtain it, and could proceed to the election, while we, on Lake Erie, should not be in possession of it, and could not elect at the annual election, because we should be ignorant of the fact. He concurred in the first part of the proposition.

Mr. AGNEW, of Beaver, thought the principle was a good one, for the purpose of filling vacancies. He would put another case. Suppose a Governor should die, or resign, and the new Governor was prevented from being qualified under the law, who is to fill the office in the interval? If he understood the proposition, the Speaker was only to hold the office until the next election. If the Governor could not be qualified, who would hold the office?

Mr. EARLE, of Philadelphia, expressed his regret to see the conservative spirit so strong among reform members, that they were disposed to pass over this proposition without debate. It was one of great importance. The gentleman from Chester (Mr. BELL,) had told the Convention what had happened in Kentucky, because they did not like that the man, not chosen by the people, should fill the office. The case here is still stronger. The Speaker of the Senate is chosen by the members of that body, and may owe his election to successful intrigue. He only represents a part of the people, and he may have changed his politics since he was elected. Should such a man continue to fill the office? Every man would answer, "No". He was glad to hear the gentleman from Mercer say, the first proposition should be to fix the principle. He would suggest a modification, that if the Governor die or resign, six weeks before the annual election, so as to give time for information to reach every part of the country—if he should die between that period and the meeting of the Legislature, the Legislature could make provision for an election in the spring, or at the next annual election.

Mr. DARLINGTON, of Chester, would suggest that if the Governor should die on, or before the first or fourth of July, then the election should not take place till a later period. The reason he suggested this modification to his colleague was, because it would be found impossible to get the party of the late Governor, or of the one that was opposed to him together immediately.

Mr. BELL, of Chester, offered a further modification of his amendment.

Mr. FORWARD, of Allegheny, said, suppose the death of a Governor occurs three weeks before a new Speaker of the Senate is appointed, then the Speaker of the House would exercise the authority of Governor,

Mr. DICKEY, of Beaver, moved that the committee rise ; but afterwards withdrew the motion.

Mr. DARLINGTON renewed the motion, and then withdrew it.

Mr. STEVENS, of Adams, said he thought that as gentleman did not know what to do, the safest way would be to let the old clause alone. The further we departed from each provision of the Constitution, the more difficulty we got into. He was opposed, not only to the amendment but to the report of the committee.

Mr. BELL remarked that it was manifest that the gentleman from Adams was afraid lest gentleman should get into the habit of making amendments.

Mr. STEVENS: I want some change.

Mr. BELL said—want *some* change! Oh! yes, but we want a little more than the gentleman does.

Mr. FORWARD observed that he had previously said that the Constitution was really defective in this particular. He had remarked that contingencies might arise, for which the Convention should provide.

Mr. BELL said that he had not heard exactly what had fallen from the gentleman. It was impossible to provide against every contingency. And suppose that the Governor, Speaker of the Senate, and Speaker of the House should all die, what was to become of us? The objection arose not from the amendment, but from the face of the Constitution as it stood. It was acknowledged that there was a defect in principle on the face of the instrument, which his amendment was intended to remedy. But if any gentleman could propose a better, he would accept it.

Mr. AYRES, of Butler, said that an idea occurred to him in the course of this discussion which he desired to notice. In the event of the Chief Magistrate being removed or dying, provision was made to meet the contingency by placing the Speaker of the Senate in the chair. But it might happen that there would be no Speaker of the Senate at the time of the decease of the Governor; he might be out of that body, or might die before the term for which he fills the office had expired. The provision would then be entirely nugatory.

The difficulty might be obviated, by providing that some person, other than the Speaker of the House of Representatives, should fill the vacancy, in the case of the death of the Speaker of the Senate, when there was no Speaker of the House. This difficulty had escaped the notice of the committee, but it could be easily obviated by an amendment.

On motion of Mr. DICKEY, the committee rose, reported progress, and obtained leave to sit again to-morrow.

The Convention then adjourned.

SATURDAY, JUNE 17, 1837.

Mr. RITER, of Philadelphia, from the minority of the committee to whom was refered the seventh article of the Constitution, and to whom was recommitted the report of a minority of that committee, made the following report, which was laid on the table, and ordered to be printed :

All banks chartered hereafter, shall be upon the following conditions, viz :

1. No bank shall be chartered unless it has the concurent action of two thirds of two successive Legislatures, and that public notice be given of such intention in the immediate neighborhood where such bank is to be located, at least sixty days prior to said application to the Legislature.

2. No bank shall be chartered for more than five years.

3. No vote for directors or president of a bank shall be given by proxy.

4. No bank shall divide more than seven per cent. per annum of the profits of said bank ; the surplus of profits over seven per cent. per annum, to be paid annually into the State Treasury.

5. Each and every stockholder of all banks to be personally, and to the extent of all his property, answerable for all debts of the bank in which he holds stock.

GEORGE W. RITER,
TOBIAS SELLERS,
GEORGE M. KEIM.

Mr. DUNLAP, of Franklin, having asked and obtained leave to make a motion, moved, that when the Convention adjourns, it adjourns to meet on Monday morning, at ten o'clock.

Mr. M'CALL, of Washington, asked for the yeas and nays.

Mr. BROWN, of Philadelphia, asked if it was in order to call the yeas and nays on a question of daily adjournment.

The PRESIDENT stated that the motion was to change the hour of meeting, therefore, the yeas and nays might be called.

Some short discussion ensued, and the yeas and nays were ordered on the motion, after an unsuccessful attempt to interpose a motion to postpone.

On motion of Mr. BROWN, of Philadelphia,

The Convention adjourned.

MONDAY, JUNE 19, 1837.

SECOND ARTICLE.

The Convention again resolved itself into a committee of the whole, on the second article of the Constitution, Mr. CLARKE, of Indiana, in the Chair.

The question pending, being on the amendment of Mr. BELL, of Chester, to so much of the report of the committee as relates to the fourteenth section,

Mr. BELL modified his amendment so as to read as follows: "In case of the removal of the Governor from office, or his death, resignation, or inability to discharge the duties of the said office, the Speaker of the Senate shall exercise the office of Governor until another Governor shall be duly qualified: but, in such case, another Governor shall be chosen at the next annual election of representatives, unless such death, resignation, or removal shall occur within three calendar months immediately preceding such next annual election, in which case a Governor shall be chosen at the second succeeding annual election of representatives. And if the trial of a contested election shall continue longer than until the third Monday of January next ensuing the election of Governor, the Governor of the last year, or the Speaker of the Senate, who may be in the exercise of the Executive authority, shall continue therein until the termination of such contested election, and until a Governor shall be duly qualified as aforesaid".

Mr. B. said that the gentleman would perceive, that he had adhered to the language of the old Constitution, as far as it was applicable. The amendment agrees with the provisions of the present Constitution, so far as relates to the Speaker of the Senate exercising the power. But it goes on to introduce a new principle: "Unless such death, resignation, or removal shall occur within three calendar months", &c., in which case the Speaker of the Senate will hold the office of Governor for one year longer. After this new principle, the amendment again adopts the words of the present Constitution. His object was, not to depart from the old Constitution, except where it was absolutely necessary. He was not aware that any opposition would be offered to his amendment.

Mr. STERIGERE said this amendment was to provide in all possible cases; but there was still one case which was not provided for, and that was, when there was no contested election, and the Governor was incapable of taking the office. He had looked into the other Constitutions, and especially that of the United States, and had found a provision. He would suggest, therefore, an amendment to fill the vacancy in case of other disability than death or resignation. He hoped the gentleman from Chester would modify his amendment.

Mr. BELL said he would have introduced some words to meet such cases, when they occur, as such cases may occur, if he had not been fearful of departing from the words of the Constitution. He accepted the proposition, and modified his amendment accordingly, by inserting the words between brackets [or inability to discharge the duties of the said office.]

Mr. KERR, of Washington, asked the gentleman from Montgomery what was meant by inability, and who are to judge of the inability?

Mr. STURIGERE replied, that we may suppose the case of a Governor, who becomes so sick as to be unable to put his name to a bill, or to take the oath of office when elected. The second article of the Constitution of the United States says: "In case of the removal of the President from office, or of his death, resignation, or inability to discharge the powers and duties of the said office, the same shall devolve on the Vice President", &c. The gentleman may imagine a great many cases, in which inability may exist.

Mr. PURVIANCE, of Butler, said he did not think it necessary to amend this section. It was only troubling the people to present such an amendment to them. On reference to the second section, it would be seen that no difficulty could arise as to the Constitution. It was provided that the Governor shall be elected on the second Tuesday of October. He apprehended, in the event of the death of the Governor before the expiration of his term, a Governor would be chosen before the next meeting of the Legislature. There would be no difficulty about it; and we should not make amendments to meet a contingency which may never arise, and about the construction of which there might arise a difficulty.

Mr. BELL said, that the ambiguity of the language of this section had given rise to much discussion, and difference of opinion among distinguished jurists, and every one who reflected on the subject would see the difficulty. It was doubtful, whether in case of the death or removal of the Governor, the Speaker of the Senate would hold the office till the next annual election, or till the end of the term for which the Governor was elected. Some gentlemen hold, with great strength of argument, that the Speaker would be entitled to hold the office to the end of the term, while others held that he could only retain it till the next election. The contingency had occurred in the State of Kentucky. The same difficulty had arisen in relation to the construction, and a contest between the Lieutenant Governor and the other party took place, in which Mr. KENDALL participated. The contest continued during the whole term in which the Lieutenant Governor continued to hold the office. He was careless about a mere ambiguity of form, but where there was any ambiguity in a matter of principle he was desirous to remove it. Did any gentleman believe, that it should be put in the power of the Speaker of the Senate to wield the office and authority of the Governor of Pennsylvania, if the latter should chance to die on the day of his election, during the full term for which he was elected? He asked if gentlemen would consent to leave this at the mercy of construction, and whether they would not think it better to provide against any such contingency. His object was to fix the principle beyond the danger of misapprehension. Gentlemen had not listened very attentively to the discussions which had taken place, or consulted their own judgments very closely, or they could not have come to the conclusion that there was no ambiguity. Is there no ambiguity?—no doubt? Then there is no necessity for amendment. But Constitutional lawyers of distinction have thought that there is ambiguity, and that there is great necessity for amendment. Such a contingency may happen every day we live, every hour we breathe. There was another provision which had suggested itself to his mind. If the Speaker of the Senate should not be a member after the expiration of the session of the Legislature, who would have to fill the office of Governor, after the adjournment? or would the next Speaker

of the Senate have to fill the vacancy? or might it not become necessary to issue a writ of *quo warranto*. It was not necessary, however, to raise shadows merely for the purpose of driving them away. The provision which he had now offered was both necessary and proper.

Mr. FULLER, of Fayette, said that two days ago, when the gentleman from Chester proposed to introduce a provision for a Lieutenant Governor into the Constitution, he (Mr. F.) objected to it as unnecessary. One of the reasons assigned for the introduction of this officer was, that it might happen that the Speaker of the Senate might exercise the office of Governor, for two years or more, and if so, he might hold it in opposition to the will of the majority of the people of Pennsylvania, as he would not have been elected by the people. Then he (Mr. F.) objected, and expressed a hope that some such provision as this, to prevent the Speaker of the Senate from exercising the duties of the office of Governor longer than the time which would be necessary for the election of a Governor, would be introduced. The present proposition met his approbation. He had thought the modification of the gentleman from Montgomery unnecessary, but, as it could do no harm, he would make no objection to it.—He knew there was a variety of opinions as to the Constitutional authority of the Speaker to fill the office of Governor beyond the time of the annual election, and it was very proper that the doubt on the subject should be settled by an explicit provision in the Constitution. An important principle was involved, whether the people of Pennsylvania would have a man in the Executive Chair who had been directly elected to it through the ballot box, or one who was elected by the Senate. Altogether, he thought it important that the proposition should be definitely settled here, and at this time, as doubts seemed to exist in relation to the subject.

Mr. DARLINGTON, of Chester, said he felt rather inclined to favor the amendment of his colleague, on the subject of the vacancy in the office of Governor, and was disposed to restrict the length of the time during which the Speaker of the Senate should fill it. But, he thought they should not be able to provide against every contingency which might arise. He was struck with the force of the question put by the gentleman from Washington, (Mr. KERR) what was to be considered disability, and who was to judge of it? No answer had been given to the second part of the question. He wished to have something definite on the subject of disability. There was another difficulty also in the amendment of his colleague. It proposes, in case of death, resignation, or removal, of the Governor, within three calendar months preceding the election, that the election of a Governor shall not take place until the second succeeding annual election.—Suppose either should take place in the fall of 1838, when the term of the Governor will expire. Suppose within three months of the next election, the Governor should die or resign, would it not be considered as creating a vacancy only to the time, when a new Governor would be elected under the Constitutional provision, or would the Speaker have to fill the office one whole year after the new Governor was elected? It would be impossible to provide for every case which might be named. He would be willing, in view of the difficulties in the way, to trust the question as to the length of time for which the Speaker of the Senate should hold the office, to be settled whenever the contingency should occur.

Mr. EARLE, of Philadelphia, said it was admitted by some, that there

was great purity in the English language. He was not disposed to admit this. He would not agree, that a hundred and thirty-three gentlemen, some scholars and some lawyers, could not provide language which would meet all contingencies which we could foresee. We may not, it was true, foresee all; but such as we can see, we ought to provide for. It might be said, that the person last elected should continue to fill the office, until the new Governor should be qualified. The contingency of the death of the Governor, within three calendar months of the election, was worthy of consideration, and might be remedied by the insertion of a proviso.

Mr. KERR, of Washington: The proposition of the gentleman from Montgomery, (Mr. STERIGERE) I presume, still remains as it was accepted by the gentleman from Chester, as a modification of his amendment. I have felt disposed to vote for the proposition of the gentleman from Chester; not that there is any necessity for the alteration, because we have never yet had any difficulty under the Constitution, as it is now planned; but, as it was stated that there was some ambiguity in the language, and it was proposed to cure that, I was disposed to vote for it.—But, as the amendment now stands, with the modification of the gentleman from Montgomery, I shall go against the whole. I asked the gentleman what was the to inability which the modification looked. He made me no answer. I asked who was to be the judge of the inability? To this the gentleman made no answer. Suppose the Governor should be sick, and not able to sign a bill. This would be an inability, but who would be the judge? Suppose that the Legislature was opposed to the Governor, and should take hold of the occasion, pronounce the Governor unable to exercise the duties of his office, and declare that the Speaker of the Senate shall act. As it was possible that difficulties may arise under this new clause, he would go against the whole.

Mr. FULLER, of Fayette, moved to amend, by striking out so much of the amendment as comprised the modification of the gentleman from Montgomery, as accepted by the gentleman from Chester. The motion was agreed to without a division.

Mr. AGNEW, of Beaver, asked, how long is it intended that the Speaker of the Senate shall remain in the office? Suppose the Governor dies, and a new one is elected; the *officers on the hill* are appointed to hold their offices for fixed terms, for three years, how is their tenure to be affected? The cabinet is appointed by the Governor. The new Governor finds the cabinet officers of the preceding Governor, who had appointed them for three years. When it shall so happen, that their terms of service expire in the last year of his administration, the Governor must appoint new ones, and transfer them to the new Governor, until their three years may have expired. Should not the commencement and end of their terms be made to correspond with the term of the Governor. He also wished to know if the new Governor was to hold his office only for the term unexpired.

Mr. BELL apprehended that many imaginary difficulties would be started. The gentleman from Beaver had asked how long the new Governor was to exercise his office. If the gentleman would look to the Constitution, he would find his answer there—that the Governor shall hold his office for the term of three years. If elected for three years, he will serve for that term. We propose to say nothing about the term; only, that in case

of the death, resignation, or removal of the Governor, another shall execute the duties of the office until a new Governor is chosen. Was there any difficulty here? Could any gentleman conjure up a dream of any? Did not every one know that the Constitution, or the laws of Pennsylvania, had fixed the terms of office? and that the *officers on the hill*, as they are called in popular phrase, are independent of Executive will. Gentlemen had said that when they come to that part of the Constitution, where there is a proper place for it, they will introduce a provision to make these officers dependent on the Governor, so that he may control them. The question would then have to be settled, if a cabinet officer shall be dependent on Executive will, and not hold his office for a term of years. He, however, would object to such a change. But the Convention had, after deliberation and discussion, decided that the Governor should have no other appointment than that of Secretary of the Commonwealth; all others of the officers of the hill, were to be appointed, in conjunction with the Senate, such officers as were not of the cabinet should be independent of the Governor. His friend from Adams (Mr. STEVENS) had presented a minority report in which he proposed to merge the office of Surveyor General in that of the Secretary of the Land office. If the gentleman would refer, he would find that this was not a cabinet officer, but that he was chosen in reference to duties which might be required in the wild lands of Pennsylvania. His office has recently become of less importance. He is rarely called on for any duty, and, therefore, it was proposed to merge the office in that of the Secretary of the Land office. If it could be shewn that the Secretary of the Land office or any other officer is a member of the cabinet, he (Mr. B.) would be willing to give the appointment to the Governor, but until that could be shewn he would prefer to keep him independent. The Governor is to exercise the duties of his office for a term of three years, and ought not to have the appointment of officers.

Mr. AGNEW said he was well aware of the nature of the appointment and duties of these officers; and the committee would recollect that he had designated them by the terms—officers of the cabinet and officers of the hill. The Constitution provided that the Governor might require information from the officers of the Executive department, and they were often considered and called cabinet officers, and, in fact, and in practice, were cabinet officers. The laws had provided, also, that these officers should hold for three years, the term for which the Governor was elected. The purpose of this arrangement was to give consistency and harmony to the administration of the Government. What are the officers of the departments? He understood they were, though not in law, yet in fact, and in practice, cabinet officers. The Governor could not discharge his duties with the same efficacy, nor be responsible for the operations of the Executive department, unless he had a share in appointing those who were to aid him in the different departments. But if the Governor should die in the first year of his term, the officers of the chief Executive departments would continue during two years of the next Governor's term, who in the last year of his term would appoint the officers to continue during two years of his successor's term, and so on thenceforward. Thus the Governor and the heads of department might always be in opposition to each other, not only as it regards parties, but also particular systems of State policy. He had desired to call the attention of the committee to the confusion which

might ensue on the death of a Governor. If the new Governor intended to pursue the same policy as his predecessor, he would desire officers of the same political complexion, and then might continue in office those he found there. The discussion which had taken place showed the propriety of adhering to the existing provisions of the Constitution on this subject, as any alteration would be attended with some difficulties.

Mr. MONTGOMERY, moved further to amend the amendment by striking from the report all after the word "Governor" in the third line, and before the word "until", in the sixth line, and inserting in lieu thereof as follows, viz: "And if the removal of the Governor should have taken place three months before the next election for members of the House of Representatives, then a person shall be elected to fill the place of Governor so removed, at said election. But if said removal should not have taken place three months before said election, then a special election shall be held within three months after said removal to fill said vacancy: *Provided*, that if the time the removed Governor had to serve shall not exceed nine months, then no special election shall be held, and the person who was the last Speaker of the Senate, shall exercise the office of Governor, until a person shall be duly elected and qualified for Governor, which election shall be held at the next election for members of the House of Representatives".

The motion was negatived.

The amendment offered by Mr. BELL was then agreed to.

The question then recurring on the report of the committee as amended,

Mr. EARLE said the difficulty suggested by the gentleman from Beaver (Mr. AGNEW) was one that ought to be provided for. He suggested a proviso that "nothing shall prevent a new election of Governor at the end of the term for which the last Governor was elected". This might be adopted provisionally, and, upon the second reading, the section, if needful, could be perfected. The principle, he hoped, would be adopted.

Mr. SMYTH said the provision could not be accepted as a modification now.

Mr. DICKEY hoped, he said, that the report of the committee, as amended, would be rejected. The amendment proposed by the gentleman from Mercer (Mr. MONTGOMERY) was the one which ought to have been adopted; but the committee saw fit to reject it, without discussion or consideration. That amendment remedied the whole difficulty, whereas that of the gentleman from Chester created new difficulties, without remedying the present defect.

The question was taken, and the report of the committee as amended was agreed to: ayes 53, noes 45.

The committee then proceeded to consider so much of the report as declares it inexpedient to make any amendment in the fifteenth section, which section was read, as follows:

"15. A Secretary shall be appointed and commissioned during the Governor's continuance in office, if he shall so long behave himself well. He shall keep a fair register of all the official acts and proceedings of the Governor, and shall, when required, lay the same, and all papers, minutes, and vouchers relative thereto before either branch of the Legislature; and shall perform such other duties as shall be enjoined on him by law".

Mr. DARLINGTON moved to amend the same by striking out all after the

word "the", in the second line, to the word "he", in the third line, and inserting in lieu thereof, as follows: "pleasure of the Governor".

Mr. READ said a moment's reflection would convince the gentleman that this was not a proper amendment, as it was a repetition of a provision made in the eighth section. He moved to amend the amendment by striking out all from the begining of the section to the word "shall", in the third line, and inserting in lieu thereof, as follows: "The Secretary of the Commonwealth".

Mr. DARLINGTON would, he said, state in a few words his reasons for offering this proposition. He was not able to see why the provision for a Secretary of the Commonwealth was to be stricken out of this section which was its appropriate place, and inserted in the eighth section. This was the proper place for providing for the appointment, and prescribing the duties of the Secretary. Was it proper to provide for the appointment of an officer in one section, and to prescribe his duties in another? The provision in the eighth section was forced upon us by the previous question. No one doubted the propriety of giving the appointment of the Secretary to the Governor at pleasure, but the provision should be stricken out of the eighth section and placed here.

Mr. READ had hoped, he said, that the gentleman would be content to drop the subject of the previous question. The gentleman well knew that every one had as much right to move the previous question as the gentleman had to rise here and speak. It was a legitimate motion; and, if it was not, the gentleman and his friends would prevent us from doing any thing here. It was childish to object to decisions that they were forced by the previous question, when that was a legitimate and parliamentary mode of proceeding. The gentleman now wished to upset the decision, solemnly made, after a long discussion, that the appointment of the Secretary should be provided for in the eight section. We had solemnly decided upon one clause of the Constitution, and now the gentleman asked us to go back and undo what we had done. If this dilatory and vacillating mode of proceeding were adopted, we might make up our minds to stay here for years, and, indeed, to lay our bones here. There was a proposition to put the same identical words in two different sections, which would be absurd. It was ridiculous to go on so, at the very time that we were talking of dispatching our business and going home.

Mr. DARLINGTON said it was not strange that the gentleman should feel a parental solicitude for a measure that he brought forward himself. But as to the committee having solemnly decided to change the location of this provision from the fifteenth to the eighth section, it was no such thing. The committee did sustain the previous question, and did agree to the amendment. But many said that it must be altered so as to conform with other parts of the Constitution on the second reading. It was only adopted for the purpose of altering the principle. Will the gentlemen who thus voted and expressed this opinion, abandon it to please the gentleman from Susquehanna?

Mr. DICKEY said this fifteenth section was the proper place for all provisions relative to the Secretary of the Commonwealth. If the eighth section had been considered the proper place, we should have gone on and provided the duties of the officer in that section. It was true that the amendment of the gentleman from Susquehanna was adopted after much

debate, but not by a full vote. He did not think with the gentleman that the vote taken under the pressure of the previous question, was a solemn and final decision. It was yet to be determined whether we should suffer the provision to remain where it was put by that vote. Time would show whether it was to remain there or not. He was in favor of adhering to the landmarks of the Constitution of 1790, and he should, therefore, vote for the amendment of the gentleman from Chester. Though the committee passed the amendment of the gentleman from Susquehanna, after several days labor, yet they were satisfied that it was imperfect, and that it had not been well considered by those who advocated it. Some modification might have been made in regard to it, had not gentlemen, being afraid to go on with the discussion, chosed it by the previous question.

Mr. SMYTH asked the yeas and nays on the question, and they were ordered.

The question was taken, and

The amendment offered by Mr. READ, to the amendment proposed by Mr. DARLINGTON, was agreed to—yeas 57; nays 49—as follows:

YEAS—Messrs. Banks, Bedford, Bell, Bigelow, Bonham, Brown, of Northampton, Brown, of Philadelphia, Clarke, of Indiana, Cleavinger, Craig, Crain, Crawford, Curll, Darrah, Dillinger, Donagan, Donnell, Doran, Dunlop, Earle, Farrelly, Fleming, Foulkrod, Fry, Fuller, Gamble, Gearhart, Gilmore, Grenell, Hamlin, Hastings, Hayhurst, Helffenstein, Hiester, High, Hyde, Kennedy, Krebs, Lyons, Mann, Martin, M'Dowell, Miller, Myers, Nevin, Overfield, Read, Ritter, Rogers, Sellers, Seltzer, Scheetz, Smyth, Stickel, Swetland, Taggart, White—57.

NAYS—Messrs. Agnew, Ayres, Barndollar, Bayne, Brown, of Lancaster, Carey, Chandler, of Chester, Clarke, of Beaver, Clark, of Dauphin, Cline, Cochran, Cope, Cox, Crum, Cunningham, Darlington, Denny, Dickey, Dickerson, Forward, Harris, Henderson, of Allegheny, Henderson, of Dauphin, Houpt, Jenks, Kerr, Konigsmacher, Long, Maclay, M'Call, M'Sherry, Merrill, Merkel, Montgomery, Pennypacker, Pollock, Porter, of Lancaster, Purviance, Reigart, Royer, Russell, Saeger, Sill, Sterigere, Stevens, Todd, Woodward, Young, Sergeant, *President*—49.

Mr. DICKEY moved to amend the amendment, by striking from the section all after the word "Governor" to the end of the section. He would, he said, briefly state his views on this subject. By the decision on the eighth section, the Secretary of the Commonwealth was to be appointed and removed by the Governor, at his pleasure, on the ground that he was the confidential adviser of the Governor. Then the question occurred, how far the Secretary was subject to the Legislature, and under obligations to perform duties imposed on him by the Legislature. If he was not amenable to the Legislature, it might be improper to require him to "perform such other duties as shall be enjoined on him by law". He offered the amendment in order to test the principle, and gentlemen would vote on it as they pleased.

The amendment was disagreed to.

The amendment, as amended, was agreed to, and the report of the committee as amended was adopted.

The report of the committee, recommending the adoption of the following as a new section, was taken up for consideration.

SECTION 16. "The Prothonotaries, Registers, Recorders of deeds, and Clerks of the several courts, (except Clerks of the Supreme Court, who shall be appointed by the court during pleasure) shall be elected by the citizens of the respective counties; and, the Legislature shall prescribe

the mode of their election, and the number of persons to hold said offices in each county, who shall hold their office for three years, if they so long behave themselves well, and until their successors are duly qualified; vacancies to be supplied by the Governor until the next annual election".

The minority report was also read, as follows :

SECTION —. "The Prothonotaries, Records of deeds, Registers of wills, and Clerks of the several courts, (except Clerks of the Supreme Court, who shall be appointed by the court during pleasure) shall be elected by the citizens of the respective counties qualified to vote at the general election, and shall hold their offices for three years, if they so long behave themselves well; and, the Legislature shall provide for the mode of their election, and the number of persons in each county, who shall hold said offices; the Governor shall supply any vacancy that shall occur by death, resignation, removal, or otherwise, until such vacancy be supplied by the people, as herein before provided for".

Mr. DARLINGTON moved to postpone the further consideration of this portion of the report. The question involved in it could be better considered when the sixth article was taken up. He objected to bringing in all the county officers into one section.

Mr. DICKEY was in favor of the postponement. All the officers proposed to be elected by the people ought to be provided for in the sixth section.

The CHAIR said the committee might either negative the motion, or a motion might be made that the committee rise, and then the Convention might refuse to sit again.

Mr. DARLINGTON asked if there was not another section to be considered?

The CHAIR said, a motion might be made to postpone that for the present.

Mr. DARLINGTON moved to postpone the subject.

Mr. STEVENS hoped the postponement would not take place. He could see no reason for it. It did not matter where these officers were provided for. He had no doubt that, when we got through, it would be necessary to appoint a committee to revise and arrange the different parts of the amended Constitution. All these officers could then be placed in one section, if it was desirable.

Mr. DICKEY said, these provisions properly belonged to the sixth section. That was the appropriate place for all the officers to be elected by the people. He had no objection to test the principle now, but it would be more appropriately in place in the sixth article. He hoped the subject would be postponed. The other section also might be postponed, and the committee rise.

Mr. READ thought we had better postpone this subject and let it be inserted in the sixth article where it will appropriately belong. The committee on the second article had reported it, because they deemed it a proper amendment, and they did not know whether the committee on the sixth article would report one similar to it, and, furthermore, they did not know whether the appointments would be vested in the Governor. The report in relation to the Superintendent of the Public Works should also be postponed, until we arrive at the sixth article.

Mr. DICKEY congratulated the committee on the disposition evinced to

consider subjects in their proper place. He would have been much gratified if this disposition had prevailed at an earlier day, and that the gentleman from Susquehanna had permitted the matters, appropriately belonging to the fifteenth section, to have remained there.

The motion to postpone was then agreed to; and,

The committee rose, and reported to the Convention the second article of the Constitution, as amended.

The PRESIDENT having resumed the Chair, it was ordered that the report lie on the table for the present.

Mr. KERR then moved that the Convention go into committee of the whole on the fifth article of the Constitution.

Mr. Cox moved to postpone the consideration of this subject for the purpose of taking up the third article of the Constitution. He thought we had better take up the subjects in the order in which they stood in the Constitution. This was but a short article, which he apprehended might be disposed of in a day or two at most.

Mr. WOODWARD said, if he was right, the fifth article was the special order of the day. He did not, however, feel disposed to press its consideration upon the Convention, inasmuch as the Chairman of the committee on that article (Judge HOPKINSON) was not now present.

Mr. MERRILL hoped the motion to postpone would prevail, for the reason suggested by the gentleman from Luzerne.

The motion to postpone was then agreed to.

THIRD ARTICLE.

The Convention went into committee of the whole, Mr. KERR, of Washington, in the Chair, on the third article of the Constitution.

The first section of the third article reads as follows:

"SECTION 1. In elections by the citizens, every freeman of the age of twenty-one years, having resided in the State two years next before the election, and within that time paid a state or county tax, which shall have been assessed at least six months before the election, shall enjoy the rights of an elector: *Provided*, That the sons of persons qualified as aforesaid, between the ages of twenty-one and twenty-two years, shall be entitled to vote, although they shall not have paid taxes".

The standing committee on the third article had reported the following as a substitute for this section, which was read.

"SECTION 1. In elections by the citizens, every freeman of the age of twenty-one years, and upwards, who has resided in the State one year immediately preceding such election, shall be entitled to vote in the county or district in which he shall reside".

The minority of the committee on the third article had made the following report, which was read:

"The minority of the committee have had the subject under consideration, and report as an amendment to section first, and instead of two years' residence, &c. The remainder of the section they report without amendments. To the end of the section they report the following additional proviso, viz:—And provided further, that the sons of persons qualified as aforesaid, shall have a right to vote between the ages aforesaid, although their fathers may have been dead more than one year".

Mr. RUSSELL moved to amend the report by adding to the end thereof the following: "And provided also, that the temporary absence of any

citizen from this State, even with the intention of residing elsewhere, shall not deprive him of the rights of an elector, if such absence does not exceed one year".

Mr. R. said he had known several cases of great hardship under the Constitution as it now stands, in relation to persons who had moved to one of the western States, with the intention of residing there, and returned again immediately. The construction placed upon our Constitution is such, that if a citizen leaves the State, with an intention to reside in another State, although he may not remain there a week, he is deprived of exercising the right of an elector, and has again to acquire a citizenship by remaining two years, without having the power to vote in that time.— Now, he considered this a great hardship, and had proposed the amendment for the purpose of meeting the case, because, under such circumstances, he did not think citizens should be deprived of a vote.

Mr. REIGART perfectly concurred in opinion with the gentleman who had proposed this amendment. He thought it a hard measure of justice that a citizen of Pennsylvania should be deprived of the rights of an elector, because of the mere circumstance of his having left the State for the purpose of residing in another and changing his mind and coming back again. The construction however put upon the Constitution, prevented citizens under such circumstances from exercising the right of suffrage. In our community there are many young men who, thinking they can better their condition, leave our Commonwealth and go to one of the western States, and after they get there they find the prospect perhaps of improving their situation not so good as they anticipated, and they return to the place of their nativity in a very short time, and it was certainly very hard that these men should remain two years, as was the case under the old Constitution, before they are entitled to the privileges of an elector. To be sure the present amendment of the gentleman from Montgomery proposed to reduce the time to one year, but still the amendment of the gentleman from Bedford (Mr. RUSSELL) goes farther, and very properly as he conceived. Although he was not one of those who had cried out for equality of privileges and made loud professions of devotion to the people, still it seemed to him that this proposition was right and proper and he hoped it would be adopted.

Mr. CUNNINGHAM would suggest to the gentleman that he had offered his amendment in the wrong place. It seemed to him it should be in the report of the committee.

Mr. DUNLOP would enquire of the gentleman from Bedford whether absence, with the intention of residing elsewhere, deprived a man of the rights of a citizen? The intention was not the matter, it was the act which deprived the man of the right. A man's going away with an intention to reside elsewhere was not changing his residence, but it was the act of residing in another State which showed that he had changed residence. The intention was nothing, it was the act which carried out this intention which we were to judge from. If a man actually takes up a new residence, then he would be deprived of the rights of an elector if he should return.

Mr. CRAVINGER knew of many instances in his section of the country of a similar character with those mentioned by the gentleman from Bedford, and which it was the object of his amendment to provide for. Difficulties in some instances had arisen too, with regard to the question of

change of residence, and he hoped some such amendment as this would be agreed to. In his opinion the mere circumstances of a man leaving the State with the intention of changing his residence would not disqualify him as an elector; but that coupled with the act of taking up his residence in another State if it was but for a single day, must be considered as a change of domicil, and consequently if he returned he would be deprived of this right. Now he had known of a case of a man going to Illinois, for the purpose of residing there, and, becoming dissatisfied, he returned immediately to this State, and he was deprived of the right of suffrage until he resided here for two years. Now this he considered a very hard case, and one which ought to be provided for. Therefore he hoped this amendment would be agreed to, or some one of a similar nature.

Mr. RUSSELL said, as it had been suggested that there would be a more appropriate place to insert this amendment than where it now was, he would withdraw it for the present, and introduce it at a place where it would probably meet the views of gentlemen better.

Mr. STERIGERE then moved to strike out the report of the committee and insert the following:

SECT. 1. In elections by the citizens, every free white male citizen of the age of twenty-one years, having resided in the State one year next before election, and within that time paid a State, county, road or poor tax, or a militia fine, which shall have been assessed or imposed on him, or shall be exempted from the payment of tax, shall enjoy the rights of an elector. Every free white male citizen born in the United States, between the age of twenty-one and twenty-two years, and every son of a naturalized citizen, between the age of twenty-one and twenty-two years, who may have resided in the State one year before the election, the last year thereof in the county where he may offer his vote, shall enjoy the right of an elector, although they may not have paid tax or militia fine. Provided that neither paupers nor persons under guardianship, nor persons who have been convicted of any infamous crimes, nor persons who may be found *non compos mentis*, shall be permitted to vote at any election. The election laws shall be equal throughout the State, and no greater or other restrictions shall be imposed on the electors in any city, county or district, than are imposed on the electors of every other city, county, or district.

Mr. STERIGERE said, in the first place this amendment differed from the old Constitution, by the introduction of the words "free male white citizen". This amendment he considered proper, as it was the language of some seventeen or eighteen Constitutions in the Union. It also provides for conferring the right of suffrage on all persons who have paid a State, county, road or poor tax, or a militia fine. It does not go so far as the Constitution of New York, allowing those who work on the roads, to exercise the right, because of the difficulty of obtaining correct evidence of this fact at the polls. In the paying of a road tax or a militia fine, there was an evidence of the facts on record which could be produced at the polls, which was much better than any parol evidence. It also excludes paupers, and persons under guardianship, and persons of unsound mind, from the rights of an elector. All these propositions he considered plain and simple, and had brought them forward because he considered that the right of suffrage ought to be somewhat extended; but, at the same time,

he was not disposed to go as far as they went in some of the other States.

Mr. ROGERS said, Mr. Chairman : The subject is one of importance, and one in which the great mass of the people feel a deep interest. It is to them the vital part of the Constitution. Well has it been said that the laws which establish the right of suffrage, are fundamental to a democratic Government. The sentiment is a true one. It is the very foundation upon which we are to rebuild the political fabric. Determine into whose hands you will trust the right of suffrage, and you fix at once, the controlling and sovereign power of the community.

In no one of the northern, middle, or western States of the Union, with I believe, but two exceptions, has the right of suffrage been heretofore trammelled with such rigorous and disqualifying provisions as in Pennsylvania. While the great States, the one upon our northern, and the other upon our western border, have demanded but one year's residence to acquire the rights of a citizen, Pennsylvania, with singular severity, has required a residence of two years and a tax qualification, which, in its silent practical effect, amounts in the most cases to more than an additional year. The extreme northern states, Maine and New Hampshire, have been still more indulgent, and, by mild Constitutional provisions, have limited the term of mere residence to as short a period as three months. The States of Indiana, Illinois, and Michigan, settled principally by the hardy sons of New England and Pennsylvania, who have modeled their frames of government with all the lights of experience to aid them, have adopted the same liberal and enlightened views upon the subject of suffrage. None have added the tax qualification, or founded their political institutions upon property. Shall Pennsylvania be less liberal than those states ? Shall she treat with colder distrust and suspicion those free citizens of the United States, sons, perhaps, of sires who participated in the revolutionary struggle, who in the spirit of adventure, from necessity or choice, seek her soil as the theatre of business or ambition ? Shall Pennsylvania, distinguished for her simple institutions, her integrity of character, her peaceful and illustrious founder, WILLIAM PENN, a name that breathes nothing but good will, kindness, and concession—shall she found her supreme laws in harshness, injustice, and seeming oppression ?

But in my opinion the most odious feature in the present Constitution, is the requirement of tax as a qualification for voting. A principle that cannot be sustained upon any ground of expediency or right, and wholly inconsistent with the spirit of equality. I view it as a relic of that property qualification, which has been deemed in all ages, by the privileged class, so powerful a chain to bind and restrain the people, and to strengthen the foundation of society. It is a sentiment of English growth that will not flourish upon American soil. It had its origin in the fanciful visions of the early theoretical writers upon Commonwealths, who wrote, like HARRINGTON, in the first struggles of liberty with tyranny, with no examples before him of free republics, but those drawn from ancient history, and with no impressions but those derived from the circle of licentious courts. Very different are those noble sentiments of natural freedom and natural equality, espoused by LOCKE, defended by MILTON, and sealed with the blood of SIDNEY, upon the scaffold.

Some one has said—I think the sentiment is commonly attributed to

MACHIAVEL—that “no Government can long continue free unless by a frequent recurrence to first principles”. Sir, let us go back to first principles—let us examine into the foundation of things. What is the right of suffrage?

By suffrage, I apprehend, is meant, in its most enlarged sense, that expression of will by which man signifies his disposition to enter into the social compact—and to institute Government. It is by that also he manifests his assent or dissent to the measures of that Government. It is evidently, then, a natural and inherent right, and not at any time surrendered; for, by the exercise of it alone, can man pass from a state of nature into the social compact. If a natural right, then, so precious is its nature, that the humblest man in the community cannot be divested of it. Forfeited it may be by crime and other circumstances, but taken from him never without violence and injustice.

The enquiry has been often and repeatedly asked, will you surrender to men who pay no taxes, and who have no property, a control over the property of others? Sir, does property, merely, elevate the character of an individual?—does it confer independence of mind? does it brighten the intellectual vision, or fit the possessor in any degree for the better discharge of the duties of a citizen?

Sacred, are the rights of property—yet compared with our other great and essential rights, they sink into insignificance. “Life, liberty, and the pursuit of happiness”, not of property, are set forth in the Declaration of Independence. What greater stake can any one have in Government than he, whose life, liberty, and happiness, are at the disposition of the laws?

Sir, who has not witnessed in this State, the hardship and severity of the tax qualification? Who has not seen the old revolutionary soldier—he who had fought your battles—and poured out his blood to rear this fabric of free Government, presenting itself at the polls, and his vote rejected, because he had not been regularly assessed, or because he was too poor to pay a tax! Sir, there is another class of citizens upon whom the tax qualification is much more onerous and oppressive. I mean the laborers of the community—who work in your manufacturing establishments—who follow the current of your improvements—who build your railroads and canals. The tendency of their employment compels them often to change their residence—they cannot be regularly assessed, and they consequently lose their vote.

Yet, sir, is there any portion of the community more industrious, more patriotic, in whose breasts the love of country is more deeply planted, or who feel a greater interest in the political questions of the day? Who rally with more alacrity to the field of battle, leaving behind them the workshop and the plough, when foreign or domestic foes threaten the liberties of the country? Who fought with more gallantry, or filled in greater numbers the ranks of your armies, than the laboring class, during the last war?

Disqualify them from voting, and what is the moral effect? You destroy all incentive to exertion—you stifle every generous impulse—you curb the spirit of independence and manly pride of freemen, and quench the burnings of that fire of ambition which carries so many, in this country, from the humblest ranks to the highest stations of life.

Sir, the fire of genius burns as brightly in the humble cottage, as in the

hall of wealth and splendour. Let those who would coldly disfranchise poverty, recollect some of its numerous instances.

Remember Arkwright and the peasant Clare,
Burns o'er the plough sung sweet his wood notes wild,
And sweetest Shakspeare was a poor man's child.

Sir, the history of a great State, contiguous in geographical position, and closely allied in habits, interests, and pursuits—I mean the State of New York furnishes us interesting proof, as well as a prominent example, upon the present subject of discussion. In the Convention of that State, which met in 1821, to revise its Constitution, the fears of the timid, and the eloquent efforts of distinguished men, Chancellor KENT, Chief Justice SPENCER, and others, caused a list of qualifications to be added to the right of suffrage, viz: the highway qualification, and a military and tax qualification. But, the same Constitution contained in it a provision for its future amendment, by the action of the Legislature, and a vote of the people.

Scarcely had the Constitution of 1821 been adopted before a proposition was introduced in the Legislature of that State, to amend the provision—by lopping off the various qualifications, which was sustained by the people, and finally effected in 1826. Leaving as a Constitutional provision of that State, the naked and simple proposition of universal suffrage, qualified by the single circumstance of a year's residence in the state—very similar to the report of the majority of the committee.

Sir, the man who was foremost in that measure of reform, and who, as Governor of the State, recommended it in his message, and whose name would lend respect to any principle advocated by him, was one of the brightest ornaments of his time: I mean DE WITT CLINTON. Struck down by death in the very blaze of his genius, in the full meridian height of his career of honor and usefulness. Has not property been secure in the State of New York since 1826, the time of the adoption of that principle? Has not that State gone on since, with the strides of a new born giant in an astonishing career of internal improvement, commercial enterprise, and general prosperity?

Sir, in all this glorious confederacy of States, can you point me at the present time, to a more pleasing spectacle than the State of Illinois? Can you point me to a State that has made more rapid advances in the useful arts, and in every thing that embellishes life? Yet that State, since 1818, has lived under a mild Constitutional provision in regard to suffrage—that of six months' residence, merely, without any other qualification. Have not the people of that State been prosperous? Has not its Constitution produced, with as quick a growth, the manly virtues, as its teeming luxuriant soil, fruits and flowers? Has not, since the adoption of its Constitution, social order prevailed? Have not the rights of the people been protected? Has not, during that time, the improving hand of civilization transformed the wilderness to a garden, dotted it with villages, and chequered it with improvements?

Sir, I am disposed to be liberal upon the subject of suffrage. I had the extension of it near my heart when I came into this Convention. If, in my power, I would found this Government upon two broad and enduring pillars—universal suffrage, and general education. While I would concede

the one as an estimable right, I would advocate the other as a measure of incalculable good.

I would carry into the lowliest hamlet in this wide extended Commonwealth, that knowledge, and that political power which would enable its possessor to pursue correctly his happiness, and maintain his rights and independence. Then would Pennsylvania occupy her just and proper position. The proud fortunes of her past history would be eclipsed by the brighter events of the future. And every citizen, whether native or adopted, wherever or in whatever circumstances he might be, would feel his heart glow with pride, that he was the humble son of an honored and venerated mother.

Mr. JENKS moved to amend the amendment by striking out the word "white" wherever it occurs. Mr. J. said he lived in a county where there were a number of colored individuals, and he had never heard the provision in the Constitution, as it now stands, objected to. There are in the county of Bucks individuals of this description worth twenty and fifty, and he believed, in one instance, worth a hundred thousand dollars. Now, he would ask whether it would be proper for an individual who has so deep a stake in society to be excluded from the exercise of the elective franchise. If this amendment should be adopted, he thought he should have no objection to the amendment of the gentleman from Montgomery. It struck him that we ought to have a tax qualification; but by the report of the committee all tax qualification was thrown aside. He would ask gentlemen if this was right. If this report should be adopted you might go to your poor houses and bring forth some hundreds of voters who were a county charge and they would have the right to say to what amount the property holders should pay a tax. This he considered wrong in principle, and although he was disposed, on all proper occasions, to make the elective franchise as free as possible, yet he was unwilling to allow individuals who had no interest in society to say what amount other citizens should be taxed. There was nothing onerous in the present qualifications. Thousands and thousands have the right to vote on paying a tax of some ten cents a year, and was it desirable that the elective franchise should be made cheaper than this? Was it desirable that a number of persons should have the free exercise of the right of suffrage, who not only had no stake in the community, but were dependent upon that community for support? Yet by the report of the committee you put it in the power of this class of persons to say to what amount your farmers and mechanics shall be taxed. It was wrong in principle, and he would ask gentlemen to consider upon it before they gave their vote for this amendment, for depend upon it, if it is adopted it will be impossible to see to what extent citizens of the Commonwealth may be taxed by the influence of the votes of paupers; because they would have a voice in the election of your county commissioners, who have to make the whole fiscal arrangements of your counties, and they can lay your county taxes at what rate they see proper. These paupers, too, would contribute largely to the election of representatives of the people, who would have the right to say to what amount the people of the State shall be taxed for purposes of internal improvements. The thing was wrong in principle, and he trusted the committee would not sustain it. If the amendment he proposed was made in the proposition of the gentleman from Montgomery, he thought there could be no objection to it.

Mr. MARTIN, of Philadelphia, was opposed to the amendment just now offered to strike out the word "white", and thus make the blacks, not only voters, but eligible to office. He would go as far as the gentleman who had just taken his seat, or any other gentleman in this Convention, to open and extend the right of suffrage; but he would not hold out pretensions which were never intended to be realized, and which could not be realized. He would not excite the hopes and hold out the delusive shadows of privileges to the black men which must end in disappointment. So far from such a provision as this in the Constitution being a blessing to the black population, it would be a curse, and would bring upon them misery and ruin. This matter of raising the blacks to a level with the whites, might be a theme of declamation for some gentleman, and they might discourse upon equality and freedom when they had not the least idea of bringing the black man to an equality with themselves. There was not a man in this Convention who had any idea of placing himself and the black man upon an equal footing in society. The object, and the only object was to place the black upon a level with the white laborer, and thus degrade the poor laboring white man. For his own part he could never consent to do it, because he foresaw that misery must inevitably follow to the African, if mistaken philanthropy or political hypocrisy should finally bring down the standard of the white man to a level with that of the black man. We are attempting by this amendment more than we can carry out. Any attempt to amend the Constitution to place the black population on an equal footing with the white population, would prove ruinous to the black people. He was certain that in the county of Philadelphia any attempt of the black population to exercise the right of suffrage would bring ruin upon their own heads. Public sentiment, rising above all law, prevented them from coming to the polls, then why will we hold out to them expectations which never can be realized? He knew that much might be said on this subject, and he had, perhaps, heard as much on this subject as any other gentleman. This discoursing about equality, however, was a mere sham, and only intended to deceive. There is no intention or disposition in any gentleman in this Convention to raise the standard of the black man to his own level. This never was anticipated or thought of by any one here; and it was only intended to raise the standard of the black man to that of the poor white laborer, and thus pull down the standard of this class of our citizens. He hoped the committee would examine this subject in all its bearings, before they adopted a measure of this kind. He was in favor of extending the right of suffrage as far as any other gentleman here, but still we must have some limits and some bounds to it.

With regard to the tax qualification, he thought that a slight modification of the clause would be necessary, and before it should be disposed of, he would move that it be so modified as to read "liable to be taxed". He conceived that there was no object to be attained by holding out views to these people, which would never be realized. Those who had not aided, and were not *liable* to support the Government, ought not to claim to direct it. Now, had we any right to bestow the elective franchise on those who may have forfeited it? He would offer an amendment to that effect, as he had done a resolution, which was now on file. He thought it was absolutely necessary to insert the word "free" in the first line, unless it was the intention of the Convention to deceive the colored people by inducing them

to suppose that they were very favorably inclined towards them, and were going to open a door by which their brethren in the southern States would have an opportunity of coming to Pennsylvania and being put on an equality with the whites. Now, he felt satisfied that there was not a member here that entertained any idea of that sort. Then, why, he would ask, should we clothe any article of the Constitution with fraud and sophistry, for it was nothing else? Why should we not express our real meaning in words that could not be misunderstood? The gentleman who had so forcibly urged the striking out of the word "white", would not be willing that a colored man should take his seat in this Convention, and be a colleague of his. And, even if the gentleman were not to object, he (Mr. M.) would. He could never give his consent that a black man should sit in this body. Was there a man in the Convention who would like to see a county represented by a black man on this floor? Was there one who would take his seat beside a negro, and deliberate on the questions before us. There were no such feelings of equality here, and the attempt to make the black people believe so was a gross fraud. They could not vote now—public sentiment rising above all law and the Constitution, prevented them from coming to the polls. He had never known of their voting in any county in the State. In the county of Philadelphia the colored man could not, with safety, appear at the polls, and to bring him there would endanger the peace and happiness of the whole black population. He would ask the gentleman from Bucks (Mr. JENKS) if the blacks would not be eligible to office, should they be equal to the whites at the ballot boxes? Would his respectable black fellow, who was worth \$100,000, be elected, if he should run for the Legislature? And, if he should, did the gentleman suppose that he would be allowed to take his seat here? He would not; he would be turned out of doors. Then, why, he (Mr. M.) would ask, should the Convention do any thing that was only calculated to deceive the colored population? It was to do them injustice, because it was holding out expectations to them which could never be realized. He trusted that the word "white" would be retained, and at the proper time, he would move to amend the tax qualification by the insertion of the words "liable to be taxed".

Mr. MERRILL, of Union, said that according to the laws and Constitution of the United States, every man who was not either a fugitive from justice, or labor, was a free man. Was it possible that freemen who possessed property, and even those who did not, but were qualified in other respects, were not to be allowed to vote, on account of their complexion? If there were men in Pennsylvania so situated, he would like to know under what sort of a Government we had been living—what kind of freedom we were supposed to enjoy, and whether we deserved to continue free under such an extraordinary state of things? Gentlemen had undoubtedly a right to interpret the Constitution as they chose, but for his own part, he had no hesitation in avowing his opinion, and that was—that a colored man (if free and otherwise qualified, according to the Constitution of Pennsylvania) has a right to vote, and there existed no power to prevent him. It could not be alleged, that because the colored population of the county of Philadelphia had not come forward to vote, on account of the excitement which would be raised against them if they did, they had not the right. Was that any argument? Were they not free men? He had been in hopes that there would have been no difficulty concerning

the word "white", and he did not know how far the Judges of elections might not be inclined to go—whether they might not enquire into the genealogy of a man, in order to discover if he had any Choctaw or other Indian blood in his veins, so as to deprive him of the right of voting.—They could not, however, do this, no matter what might be the color of the voter. It was useless to discuss the matter any longer. He hoped that the word "white", would not be inserted, for there was no necessity for any change in the Constitution. He would vote against the amendment of the gentleman from Montgomery (Mr. STERIGERE). It was altogether too complex.

Mr. BELL, of Chester, would suggest to the gentleman from Bucks, (Mr. JENKS) that it would be better to withdraw the amendment.

Mr. JENKS, of Bucks, said that he perceived that the amendment which he had offered was likely to consume a great deal of time. His object in offering it was, to secure that part of the Constitution that was now under consideration, and under the operation of which we had suffered no inconvenience, from being altered, as it left this exciting subject slumbering as it were. Mr. J. then withdrew his amendment.

Mr. MARTIN then proposed to offer a modification, but the Chair decided that it was not now in order.

Mr. DORAN, of Philadelphia, regreted that he felt himself compelled to differ from his friend from Montgomery (Mr. STERIGERE) in regard to the amendment which he had offered, because, he entertained the highest respect for that gentleman's intelligence, good sense, and political honesty. The amendment contained some features which he found it impossible that he could vote for. If the principles which it embraced were carried out by the Convention, they would operate to a great extent, to disfranchise a large portion of the citizens of Pennsylvania. It was not his intention now to introduce the question of the abolition of slavery, but he intended to offer some remarks upon a few subjects which had not been referred to in the progress of the debate, and in relation to which we could, he thought, all arrive at a fair and proper conclusion. Now, what, he would enquire, was the object of the amendment? Why, he found that the effect of it would be to disfranchise at least three fourths of those citizens who are entitled to vote. It was to deprive paupers, persons under guardianship, persons who have been convicted of any infamous crime, &c., of the right of exercising the elective franchise. Did the gentleman, by using the word "pauper", mean to say that the man who had no property should not be entitled to vote, whilst, on the contrary, the man who had, should exercise that right? Did he mean, to use the language of Mr. WEBSTER—"a poor man in opposition to a rich man"? He desired, and hoped that the gentleman would give him a satisfactory answer to these questions, before he could vote to disfranchise those of his fellow citizens who might come under the denomination of "paupers". But, suppose we took the word in its general signification, and were to say that the poor man shall not vote, in what a condition should we place our country, and what would be its fate ultimately? Let it not be forgotten, that our forefathers declared that every man who pays a tax shall vote. Was it possible that we were going to assert the doctrine, that a poor man who earns his bread by the sweat of his brow, shall not be permitted to vote, as well as the man who rides in his coach?

Mr. STERIGERE explained: It was proper that he should state that the

word "pauper" has as definite and distinct a meaning as any other word in the English language. His meaning was not a poor man in opposition to a rich, but that a man who is kept in the work house at the public expense.

Mr. DORAN continued: He would ask, even taking the explanation of the gentleman as to the construction he put upon the word, whether the Convention would go so far as to adopt a provision of this sort? Did it follow because a man had been so unfortunate as to be compeled to go to a poor house, that therefore he should be disfranchised, and held up as not entitled to give his vote at an election. Why, such were the vicissitudes of fortune, that he who might be rich to-day, would, perhaps, be poor to-morrow, and compeled to exist on the public bounty, and, the moment they partook of it, according to the amendment of the gentleman from Montgomery, they were to be deprived of the elective franchise. How many men of talent, and men who had fought the battles of their country, but who, through misfortune, and by some untoward event, had been compeled to throw themselves on the bounty of the public. And yet these poor men were to be deprived of the right of suffrage. He was free to confess that he could never give his consent to such a proposition; and he was much mistaken if it would meet the approbation of the Convention. To say that the war-worn veteran, the man of science, and the ingenious mechanic, who, in their more fortunate career, paid a county tax, and were entitled to vote, should be deprived of that privilege on account of their misfortunes, was going further than he could give his assent to. Independent of the principle, there was a great difficulty connected with the proposition, for there were paupers of various sorts in Philadelphia, and perhaps in Montgomery—some were yearly, and some occasional. The more he examined, the more was he convinced that he could not vote for an amendment of this character. It was his intention to ask for the yeas and nays, in order that the people might see what gentlemen here thought of a qualification of that sort.

He said, that the Constitution declares that poverty is not a crime, and insisted that our fathers held it not to be so, and they did not introduce such a provision as was now proposed. He cared not what a man had been, or was, provided he was honest when he went to the polls, he would take his vote. How many instances, he would ask, were there of men who had been convicted of great crimes, undergone punishment, and become better men, who would, by this provision, be deprived of the elective franchise? It, at least, would not have the effect of inducing a man to become honest. The amendment, indeed, was not to be tolerated. He would ask what harm had ever originated from allowing a man to vote who had ever been convicted of an infamous crime? And, until he should hear some more plausible argument for depriving men, whose characters were impeached, of the right of suffrage, he would vote against the proposition. Although the Constitution says that every freeman of the age of twenty-one years and upwards, shall enjoy the rights of an elector, the gentleman had nevertheless put in words destroying the former part of the section. Now, what sort of a construction was to be put on the words *minors* shall not be allowed to vote? He (Mr. DORAN) supposed the gentleman meant to say that every person under twenty-one years of age is not to have the right of suffrage.

Mr. STRICKER: That is not in the amendment,

Mr. DORAN : There was many a man under guardianship who was not entitled to vote. He believed that his friend from Montgomery was a single man. However, there was many a man in a state of guardianship to his wife. And, because the gentleman happened to be a bachelor, he would avail himself of the opportunity of disfranchising those who were under guardianship—petticoat government, if gentlemen choose to call it so! Why, if the gentleman was determined to go on offering propositions like this, and thus setting a text for all bachelors—the married men must retaliate by saying that those who are not willing to come under the guardianship of a wife shall pay a still heavier tax. The Chairman, he thought, from his happy and contented appearance, must be a married man, and he doubtless would sympathise with those on the present occasion, who were similarly situated. Now, because the gentleman from Montgomery was in the enjoyment of single blessedness, he would exclude all the married men, because under guardianship, from the right of suffrage. He (Mr. D.) felt himself extremely sorry to differ from the gentleman, but still as he could not vote conscientiously in favor of the amendment, he should be compelled to vote against it.

Mr. BROWN, of Philadelphia, remarked that it was somewhat difficult to determine who were paupers, according to what he apprehended was the gentleman's meaning. For, the definition of the word "pauper" was all that receive alms. Now, he did not suppose that the gentleman meant to disfranchise all who received alms. He would suggest to the gentleman that the term "pauper" was too general in its application. With regard to the disfranchisement of those convicted of infamous crimes, it might so happen that a man might be convicted who was afterwards found not to be guilty.

Mr. STERIGERE said that, at the request of some of his friends, he would modify his amendment by striking out the word "white".

Mr. S. remarked that he thought the observations which had fallen from the gentleman who had just taken his seat in reference to what he (Mr. STERIGERE) had said, as most extraordinary indeed. It was not at all difficult to start objections in relation to almost anything. A proposition to exclude every person who received alms, which meant the same thing as "pauper", from voting, included those who existed on the bounty of the public—whether in doors, or out of doors. The term "pauper" was plain and definite as "citizen", or any other word in the language. In many of the States of the Union these people were excluded from voting, and in his opinion with great propriety. He thought that men who were supported by the bounty of the public ought not to be permitted to vote. So far from deeming it a hardship as some gentlemen seemed to think it, that a man who had been punished for some great offence, should not be permitted to exercise the elective franchise, he thought it nothing more than was just and proper. Inasmuch as our laws were made with the avowed object of preventing crime, and for the purpose of punishing, disgracing those who committed it, the offender ought not to be allowed to participate in the popular suffrage. He denied that this exclusion would have the effect, as had been argued, of encouraging the commission of crime. On the contrary, he thought it would have a tendency to prevent it. His amendment had been somewhat misunderstood as regarded "pauper". His only object was to prevent them, so long as they remained at the public

charge, and no longer, from exercising the right of voting. Those, of course, who contributed to the support of the Government should be allowed to participate in its advantages. Mr. S. after having explained the objects contemplated by his amendment, stated that it embraced a principle which ought to be incorporated in the Constitution. He then asked for the yeas and nays.

Mr. DORAN, of Philadelphia, said that the interpretation he gave to the word "pauper" was a poor person; particularly, one so indigent as to depend on the parish or town for maintenance.

It would be found in the second volume of Noah Webster's Dictionary.

Mr. DICKEY, of Beaver observed, that he was in favor of extending the right of suffrage. It was at this time particularly called for, by the people of Pennsylvania. The requiring of a two years, residence had led to its restriction; and the people of the county whom he had the honor to represent, wished that restriction to be removed. He believed the tax qualification, required by the present Constitution, was totally unnecessary, and that its tendency only was to disqualify those from voting who were entitled to vote, either from the neglect, or some other fault on the part of the assessors. Every one well knew that the tax qualification was merely a nominal thing, for any person in the Commonwealth may be taxed a very small sum to entitle them to exercise the right of suffrage. He had known a tax as low as three cents to be levied for the same object. He was in favor of giving the right of voting to every citizen in Pennsylvania without their having any tax qualification whatsoever. And, he was not for excluding those individuals whom the gentleman from Montgomery designates as "paupers". He knew of a case, at the last Session of the Legislature, of a poor old revolutionary soldier being deprived by the Senate of a pension of forty dollars because he was a recipient of the public bounty, being then an inmate of the Bucks county poor house. The course of that body, on the occasion, was treated with scorn, if not with contempt, by the honorable Senator of that district, who took the opportunity of stating, in answer to what had been said, that these forty dollars would add to those comforts of the poor house which were furnished the old veteran, whose days were fast drawing to a close. Now he (Mr. D.) would ask the gentleman from Montgomery whether, in a case of this sort, he would deprive the individual who had assisted in obtaining our independence, of the right of suffrage? He, for one, was not disposed to do so. He did not think that poverty should deprive a man of the right of voting. And, a man should vote because he was a man, and not because he paid a tax. He would vote against the amendment of the gentleman from Montgomery and in favor of amending the report.

Mr. DARLINGTON, of Chester, said that he should vote against the amendment of the gentleman from Montgomery, notwithstanding he was in favor of retaining the tax qualification, because he wanted it unconnected with the other matters contained in it. If the amendment should be rejected, he would offer one presenting the question fairly—as to whether or not the tax qualification shall be preserved or not.

Mr. BELL, of Chester said that he was opposed to the amendment of the gentleman from Montgomery, and in favor of amending the report of the committee, striking from it "one year's residence" and inserting six months and requiring that a man's property shall be taxed that period of time

before he shall be allowed to vote. He thought it only right that every man who paid a tax should be entitled to vote: but it was manifestly necessary that he should reside some time in a community, in order to feel an interest in its welfare before he should be entitled to exercise the right of voting.

Mr. CLARKE, of Indiana said, that he would vote against the amendment of the gentleman from Montgomery. He was in favor of the report of the committee, for it exactly met his views, and those of his constituents, that there should be no other restriction upon the elective franchise, except the requisition to be a freeman. It had been remarked abroad that this country has been for years progressing in extending the right of citizenship.

He had no faith in the old doctrine that no man should have a voice in the Government, because he had no property, no freehold to give him an interest in the community. It was the old contest between power and right, which had been antagonist principles from the time that men entered into society. The freehold qualification had been obliged to yield to the advance of free principles; and the tax qualification, which was a part of the same system, ought also to be abolished. Every man, whether he had property or not, had a stake in the community, and was bound, when called upon, to serve the country. One object of the amendment of the gentleman from Montgomery was to exclude those who have been convicted of infamous crimes, from the exercise of the elective franchise. Now, the objections which existed to that were many, and they had been well stated by the gentleman from Philadelphia (Mr. DORAN). In the Constitution of New York, a clause was inserted giving the power to the Legislature to pass an act to exclude persons from voting who had been convicted of infamous crimes. This was far enough to go, and as far as reason dictated.

The tax qualification grew out of an incident connected with the war of the revolution, when our fathers contended that the British Parliament had no right to tax the people without giving them a representation, and that taxation and representation should go together. Now, that was a right sound doctrine. But our fathers never meant to place taxation before the right of representation. No taxation should be a pre-requisite—a freeman should be a freeman—and no question should be asked at the polls of a freeman, except “are you a resident of the district”?

There was another and a stronger objection to this tax qualification. It would put the dearest rights of freemen into the hands of third persons. A dishonest or forgetful assessor, or a negligent collector, could deprive a free citizen of the right of suffrage. For his part, he wished to keep this right in his own hands, and would never vote to put it into the hands of third persons. A poor man should not have his rights, his dearest rights taken from him, for the pitiful consideration of a six or ten cent tax.

He had known several instances of great hardship to have occurred under the operation of this tax qualification, of men being deprived of their vote: he trusted therefore, that it would be abolished. His belief was that the poor man had as great a stake in the community as the rich. The protection of life and the enjoyment of liberty, were as dear to the poor man as to the rich, and his personal right ought to be the same.

On motion of Mr. STERIGEE, the committee rose, reported progress, and obtained leave to set again.

The Convention then adjourned till 4 o'clock.

MONDAY AFTERNOON—4 o'clock.

THIRD ARTICLE.

The Convention again resolved itself into committee of the whole on the third article of the Constitution, Mr. KERR, of Washington, in the Chair.

The question pending being on the motion of Mr. STERIGERE, to amend the report of the committee as to the first section.

Mr. STERIGERE remarked, that the report of the committee was in favor of universal suffrage. To enable the committee of the whole to take the question, and test this principle, he would withdraw his amendment.

Mr. BELL moved to amend the report, by striking out in the second line the words "one year", and inserting in lieu thereof the words "six months"; and, after the word "election" in the third line, by inserting the following words, "and shall have paid a State or county tax within two years".

Mr. DARLINGTON, of Chester: Is it in order to make an amendment, to strike out the whole of the report of the committee?

The CHAIR: It is in order.

Mr. DARLINGTON: I move to strike out all after the word "years" in the second line, and inserting in lieu thereof, as follows:

"In elections by the citizens, every freeman of the age of twenty-one years, having resided in the State one year next before the election, and within that time paid a State or county tax, which shall have been legally assessed, shall enjoy the rights of an elector: *Provided*, That the sons of persons who are, or may have been qualified as aforesaid, between the ages of twenty-one and twenty-two years, shall be entitled to vote, although they shall not have paid taxes. *And provided also*, That the temporary absence from this State of any qualified elector, or his actual residence elsewhere, shall not deprive him of his right of suffrage, if such absence and residence shall not have exceeded the term of one year".

Mr. D. explained the object of his amendment. It proposed three distinct changes. 1st. To change the term required for residence from two years to one year: 2d. In regard to assessment of tax. It had been suggested to make the qualification the payment of a State or county tax within two years, to have been assessed within six months. He had substituted the words "legally assessed". The assessor might be neglectful of his duty, and by his neglect, deprive a citizen of the right of suffrage. He would leave it open so that the Legislature may remedy this at any time, and that by paying his tax, if himself a citizen, may be entitled to vote: 3dly. He had introduced a provision in the cases of sons of persons qualified to vote. Under the existing Constitution, there had been cases of fathers having died before their sons had reached the age of twenty-one years. In many instances, it had been decided according to the Constitution, that the sons were entitled to vote. This was the just construction; but, in other cases, it was decided that they had not the right. The amendment he had proposed would let in the sons of any individual who had ever been qualified, so that if these persons had moved out of the State, if they ever had been entitled to vote, their sons were still to be entitled. He was not in favor of raising the tax. He held it to be

right that he who was entitled to a vote, should pay his part of the expenses of the Government. The principle of taxation and representation would thus go hand in hand, as it was established by our fathers in the revolution. What was complained of then? That we were taxed without being allowed a representation. No one had complained of the operation of this principle. Government could not be kept up without expense; and all, according to their respective means, ought to contribute? If it was considered wrong in Great Britain to tax us without representation, would it be right in us to separate taxation and representation. Were there any prepared to say, that the many thousands who either will, or cannot be made to pay a farthing, by way of contribution to the expenses of the Government, should have a voice in that Government? Let every man pay according to his means, the poor according to their poverty.—The man who has only his cow, may pay his five or six cents. No matter how small the sum, if it be only contributed. He had heard, in Chester county, of such a thing as hunting up a cow to be taxed. Every man's occupation is taxed; even the day laborer is called on to pay according to his slender means, and in cases to which this principle has not yet reached, he would leave it to the Legislature to fix the amount of tax.

Mr. REIGART, said, Mr. Chairman, I cannot support the principles contained in the amendment of the delegate from Montgomery, (Mr. STERIGERE) which he has just withdrawn; because, in the first place, it contains some new doctrines and untried experiments; besides it is too much in detail, and not sufficiently explicit: nor can I give my cordial assent to either of the amendments proposed by the respectable delegates from Chester. My object, however, in addressing the committee at this time, is more for the purpose of correcting an error, into which the delegate from Indiana (Mr. CLARKE) seems to have fallen. He has told us that he admired the revolutionary doctrines, as to the right of suffrage: that delegate had told us that the tax qualification was odious; that it should not be retained in the amended provisions of the Constitution; and that the people expect, and have a right to expect, its expurgation from the Constitution which we shall submit to them. Permit me, sir, for a moment, to examine the positions he has assumed, before answering his other arguments. The charter of liberties granted by Mr. PENN, to the colonists, in 1682, (and I now speak from recollection only) imposed a freehold qualification of some fifty acres of land and payment of tax, on the elector as well as the elected, and this continued to be the qualification until the commencement of that blessed revolution, which sundered us as a nation from the parent country, when our ancestors, goaded to desperation by the long continued oppression of a foreign tyrant, and still more tyrannical ministry, reared the standard of freedom, and proclaimed liberty to an astonished world. It is, sir, the history of all ages and all nations—that, however difficult it may be to commence the revolution of a long established and strong Government, it is no less true that when the ball of revolution has commenced revolving, it revolves with fearful rapidity, and that there is sometimes great danger of anarchy. This danger was happily averted by our politic and wise revolutionary fathers: these great men had the history of the world before them: they foresaw when they commenced revolution in what it must terminate, when they renounced their alle-

giance to kingly rule, if they failed to adopt another better suited to their condition. These men, in the midst of revolution, flushed with victory, elevated with the more pleasing anticipations of the future, untried in the science of self-government, did not lose sight of the great fundamental principle of Government: they had long contended against taxation.— Without the right of representation, this, as all are aware, was alleged as one of the principal moving causes of revolution. In the Constitution of 1776, we find the principle engrafted. None can exercise the right of suffrage without the payment of a public tax, and one year's residence in the State. The property qualification was rightly abolished: it was not then, and is not now, in unison with our feelings, nor our policy as Pennsylvanians. Our Delaware neighbors, it is true, still retain the property qualification in their amended Constitution: it may be suited to their condition; it may be their policy, but it is not ours; and I hope we shall not outlive the time in Pennsylvania when the possession of a few acres of land shall confer on any of our citizens any right which those who own no land cannot enjoy: let there be an equality of rights in every respect—a community of interests—and let the laws operate mildly and equitably on all. I have thus endeavored to show that the delegate from Indiana is mistaken in the view he has taken of this matter, and that the revolutionary Constitution contains no doctrines as he has contended; for in one thing, I apprehend, we shall agree; that is, that one year's or six months' residence in the State shall be sufficient to confer the privileges of an elector on such resident, if he be a citizen. To this I would superadd the payment of a tax, however small it may be; and this, if for no other purpose than as evidence of his citizenship, and of his rights as an elector.

Gentlemen may declaim as much as they please of the rights of the people: they may talk as they will of their love for the dear people.— Without, for myself, making any such professions, and without truckling to any man, or set of men living, I am willing to be judged by my own kind and indulgent constituents, and by my fellow citizens generally; by my public acts; by my votes here, and not by my professions of love for them, although I yield not to any gentleman in true respect for my constituents: they have that high intelligence and virtuous indignation which would teach them justly to despise and loathe me if they suspected me capable of the base offence of truckling to any human being. I then, sir, avow myself opposed to the exercise of the elective franchise by any man within this Commonwealth, who shall not have paid a tax of some kind within two years, of the exercise of his privileges as an elector.— This may sound harsh to the ears of some gentlemen who avow themselves to be the exclusive friends of the people: the sentiments are my own; I am responsible for them: if this be aristocratic, then I am an aristocrat. Sir, I have yet to learn that any poor man in this Commonwealth has complained of the payment of a tax of ten cents: the poorer classes of my constituents have never thought on this subject; many of them would be offended with any collector of taxes who omitted to call on them for the payment of their taxes: if they are poor, they are generally honest and industrious: they pay their taxes cheerfully: they know that it places them on a level with the rich and powerful: they have the same rights as the rich man: they pay in proportion to their means and ability: they know that they are all under the protection of the same mild laws, and in

the spirit of freemen they go to the polls, vote for whom they please unquestioned, there being nothing to make them afraid. But, sir, what does the delegate from Indiana propose? To place the *vicious vagrant, the wandering Arabs, the Tartar hordes* of our large cities on a level with the virtuous and good man—on a level with the industrious, the poor and the rich? These Arabs, steeped in crime and in vice, to be placed on a level with the industrious population who inhabit our hills and valleys, our towns and villages! Why, sir, the bare proposition is insulting and degrading to the community. Let the delegate from Indiana give us some cogent reasons to induce us to place the Government of the country in the keeping of such a crew as this. In the name of an honest and industrious community, I protest, sir, against such a subversion of all principle as this: in the name of my constituents, I hold up my hands against a proceeding which confers on the idle, vicious, degraded vagabond, a right at the expense of the poor and industrious portion of this Commonwealth: in the name of reason, of justice, common sense, and common honesty, I deprecate any thing of this kind, and hope for deliverance in the good sense and sound principles of this Convention.

But the delegate from Indiana asks us to adopt his proposition on another ground. He tells us that he will never agree "to commit his rights to the keeping of another". He tells us that before a man can experience the privileges of an elector, he must have been assessed at least six months before the election. This, sir, is true; it is properly so; it is a wise Constitutional provision; one that I trust may long exist; one that is calculated to preserve the purity of our elections, and to the elector the free and unbiased exercise of the elective franchise. Does this work injustice? Why the delegate tells us that it is placing his rights as an elector at the mercy of the assessor; in this the delegate is entirely mistaken. He has arrived at a wrong conclusion from assuming too much. The exercise of the rights of an elector are at his own disposal. He may give the assessor notice to assess him at the proper time: he may call on him for that purpose if he pleases: if he suspect him of fraudulent intentions, he can, with great ease to himself, prevent it. But I apprehend the conclusion at which he arrives is rather imaginary than real: it is baseless and unsubstantial. The acts of Assembly secure the rights of electors beyond the possibility almost of failure: if he have paid a tax within two years, the elector cannot Constitutionally be deprived of his vote: if he has not paid one within that time, it is perfectly within his knowledge, and he knew the fact long enough to do himself justice in this respect, by calling on the assessor and apprising him of the omission; and if he neglect doing so, he is certainly himself in fault, and should not complain of his own omission; or if he remove into a new neighborhood after the assessor has visited it, and taken the enumeration, he should apprise the assessor of the circumstance, that he may make the proper entry in the book. I have thus, sir, endeavored to show, and I trust successfully, that the last ground assumed by the delegate from Indiana, is equally untenable, and that, instead of the privileges of the election being in the keeping of others, it is entirely in his own, and if he does and will not attend to the requisitions of good and wholesome laws, he must only blame himself, and take the consequences of his own act. In conclusion, sir, permit me to observe, that the gentleman from Chester (Mr. DARLINGTON) should al-

ter his amendment, so as to fix the time at which the assessment should be made, and give the right of voting to all young men between the ages of twenty-one and twenty-two years of age, without reference to the qualifications of the parent. With these alterations, I would give to his proposition my zealous and cordial support.

Mr. CLARKE, of Indiana, said the gentleman from Lancaster (Mr. REIGART) had misunderstood his argument. There must be some particular magic in this three or six cents. He had no objection to it as a tax.—But, he objected to the payment of it as a preliminary to the exercise of the elective franchise. He would ask if there was no distinction to be made between the principle which our fathers contended for in the revolution, and this. It was then said to Great Britain, you shall not tax us without giving us the right of being represented. Now we say, you shall not be represented without you are taxed. There was a great difference between the two propositions. All progress in the arts and sciences, and every sort of improvement, is gradual. The gentleman had referred to WILLIAM PENN, and primogeniture. PENN made a great stride towards free principles, when he made an attack on the principle of primogeniture, by decreeing that only two shares of the estate should descend to the eldest son. All were considered by him equal in the eye of the law. But our forefathers did not see all things at once.

The revolution of 1688 did not establish liberty as far as it had since been enjoyed, and neither did our revolution. It was too late in the day to say that a man's privileges should only last while he paid a six cents tax. No tax ought to be made a pre-requisite for the exercise of the right of voting. But it was said wondering Arabs may come, men without house or home, and that persons must be here a year; that these men who pay no tax cared nothing for the Government, and that those who were most interested in point of property ought to regulate the Government. But, Mr. Chairman, this is the old antagonist principle of wealth against liberty; but it was a principle that had come to us from our predecessors, and would descend from us to the latest posterity. It was the principle of wealth standing in opposition to liberty. What poor man was there in the country, who had no stake in its prosperity? Had he no interest in the safety of his life, reputation, and family? What man was there so poor as to have no interest in the Government under which he lived? Was his personal liberty, his freedom of conscience, his right to worship his MAKER in such way as he pleased, nothing to him? Was not his family, his children, as dear to him as to the rich? Put all these things into the scale against property, and the fortune of a GIRARD would be a trifle as light as air, in the comparison. Don't tell me that the poor man has no stake in the country. He has a stake in the country and its Government as great as that of the wealthiest man in the community. Wealth was never permanent. It was here to-day and gone to-morrow. While it lasted, it gave a man a sufficient preponderance in the community. When it was gone, the right of suffrage was more necessary to a man than ever. The poor man required the protection of that right, more than the rich: and, if any man ought to be entitled to two votes, instead of one, it was the poor man. There was no fear that riches would ever fail to have influence enough: Poverty ought to have some privileges that would counterbalance the influence of wealth. These were a few of his reasons for opposing any tax qualifica-

tion. All men ought to be considered as men, and, as such, were entitled to vote. He hoped the amendment of the gentleman from Chester would not prevail.

Mr. DICKEY was anxious, he said, to have this question settled on a broad basis, and he hoped the gentleman would withdraw the amendment and let us test the question. He concurred altogether with the gentleman from Indiana in his views of this question.

Mr. HAMLIN said he came from a part of Pennsylvania, which, for two hundred miles, bordered on New York, and he had never heard there any objection to a tax qualification, as an evidence of citizenship, though in the bordering State of New York there was no such qualification. The people of his district, required no change in this particular. It was there considered as the easiest mode in which the question could be tested, whether a man had come across the line from New York to vote, and for that purpose only, or whether he had become a citizen of Pennsylvania. There was no better way to obtain this evidence than by a tax qualification. He did not think the amendment of the gentleman on his left went far enough. He had begun the construction of a magnificent bridge, but he had carried it only half way across. He wished to prevent the introduction of fraudulent votes at elections, by maintaining some proper restrictions. The elections in New York and Pennsylvania took place at different periods, and some might cross the line and vote in both States, unless there were restrictions. There should be some way to show that a man was a citizen of Pennsylvania. There was another reason for requiring a residence as a qualification for voting. A man should live long enough in a community to understand its interests, and to know the qualifications of the candidates for whom he voted.

He could, by inquiry, obtain the necessary information in six months, and he thought it was about the proper time to fix, as necessary to entitle the citizens of one State to vote in another. He was opposed to the term of two years. A man from a sister State ought not to be looked upon as an alien. It was against common sense and common justice. A man from another State had all the qualities of the head and heart that a native born Pennsylvanian had, and should only be required to wait long enough to enable the officers of the election to determine his residence, to enable him to vote.

Mr. BROWN, of Philadelphia, was opposed to the amendments of both of the gentlemen from Chester, and he was not perfectly satisfied with the report of the committee. The amendment of the gentleman from Chester (Mr. BELL) was good, so far as it required but six months' residence; but it retained the tax qualification which he was opposed to. The report of the committee required one year's residence, to which he was opposed. He did not like the words "citizen", and "freeman", in the report; they appeared to him without definite meaning, and he intended, at a proper time, to offer an amendment giving the "rights of an elector to every citizen of the United States of twenty-one years of age, who has resided six months in the State". After comparing the different propositions before the committee, he asked why we should retain the tax qualification? The gentleman from Chester, (Mr. BELL) and the gentleman from M'Kean, (Mr. HAMLIN) say it is evidence of residence; but neither of these gentlemen say that it ought to be assessed six months before the election; then

where is the evidence of residence? It may be assessed the day before the election. This six months' assessment provision seems to be given up on all sides. Then, as an evidence of residence it is defective. But this is not the objection to it—it is wrong in principle. The qualifications of an elector should be higher and deeper than the mere payment of taxes—he should be a man and a citizen. True, he ought to pay his taxes; so every man ought to pay his debts; but they should be collected as other debts are collected, and his inability to pay should not disfranchise him. His poverty should not be made a crime. The rights of an elector should be so established that no other power than the body politic by Constitutional acts, could prevent its exercise.

Under the tax qualification, electors might be disfranchised by the Legislature, or by the wilful or careless neglect of an assessor. The gentleman from Lancaster (Mr. REIGART) says every one can have himself assessed. True, he may if he dances attendance on the assessor, who may be some miles off, a dozen times before he finds him at home. But is this the tenure by which the rights of an elector ought to be held? The rights of an elector was justly described by the gentleman from Allegheny, (Mr. ROGERS) as the foundation of our Government. It is the rock on which the temple of liberty is built—the fountain from which all free institutions flow. The electors are the Government itself, and to say that the payment of a mere pittance was requisite to establish this high and sacred right, was degrading its character, and impairing its obligations. Here Mr. B. went into an argument to show how electors might be deprived of the right, by not being taxed—how the State and county might dispense with personal tax. By the receipts from the Public Works, Banks, &c. the State might need no such tax, and the counties might require some service in lieu of the tax, and thus deprive, by law, the citizen who had no property to tax, from his right to vote. The gentleman from Lancaster (Mr. REIGART) says, by taking away the tax qualification, we will be overrun by “wandering Arabs”, vicious vagrants, who have no interest in the State. Is this so? said Mr. B. Has the poor man no interest? Are his personal rights and safety nothing? Is the sacred right of conscience nothing? Is it nothing to him that he stands among men a man, equal to the highest and wealthiest? Has he no love of country? None of that devotion to liberty? Has he no attachments to his home, though it may be another's? Is it nothing to him that, around his humble hearth, his wife and children gather in peace, and dwell in security—and when he goes forth, no press-gang awaits to drag him from them? Government to the poor man is his all! Take from him what it gives, and you leave him nothing—he sinks to the level of the brute. All history proves that the poor man feels as great an interest in the Government of his choice as the rich—nay, if he might make a comparison he would say a greater. Who fought the battles of liberty? Who were the first and the last to defend its sacred temples? Was it none but the rich? What poor man ever deserted his home or his country in times of peril? What poor man during the revolution ever turned traitor? When the liberties of the country are in danger—when tyranny is about to usurp her place—the poor man will be found fighting in the last ditch, on his own hearth stone, until the last drop of his blood be shed. He can purchase no greater good than free Government. But the rich man may buy favor even with tyranny itself; under some

such forms of Government, the rich flourish most. His very property—the pleasure he derives from it—will induce him to purchase its safety and protection. Then, why say that the poor man has no interest? That he has not an equal interest with the rich? Why denounce him as a vagrant, or an *Arab*, and attempt to disfranchise him, as was designed by the gentleman from Lancaster, (Mr. REIGART) and others? Mr. B. said it was not his wish to make any distinctions between the rich and the poor. The rich men of the State are as patriotic as any in the world—it was their interest to be so. But this was no reason why the poor should be stamped as less patriotic, and it was to disprove this that he had *instituted* a comparison. He wished them to be in the service of the Government equal, and was opposed to any distinction.

Here Mr. B. went into an argument on the provisions of the other Constitutions of the several States on the right of suffrage, which required short periods of residence only; and said he was anxious to break down the barriers that divide the citizens of separate States. He thought that the provision of the Constitution of the United States, that “the citizens of each State shall be entitled to all the privileges and immunities of citizens in the several States”, ought to be carried out to its fullest extent. He was in favor of State rights; but we ought to make the people of these United States, as far as practicable, one great family; and wherever the citizen of any one of the States might go, he might find himself at home—a citizen and not an alien. Mere lines established for the purpose of local Government, ought not to divide too strongly a people whose habits, feelings, interests, and knowledge of each other, and of the great principles of free Government, were so similar and so perfect. All that ought to be asked of any citizen of the United States was a residence—not a temporary but a permanent residence. All other barriers should be removed. What equality of privilege was there when a citizen of Pennsylvania might go to Virginia, and, in one day, by the purchase of a twenty-five dollar freehold, or, by a three months’ residence in Maine, become a citizen, yet, when he returned to Pennsylvania, the home of his youth, he must remain two years before he can be again acknowledged as a citizen? This was not only unjust, but impolitic. We should found our institutions in the hearts of the people, the whole people—there should be no complaining voice within our borders. This was the kind of Government he hoped we would establish.

Mr. BELL said, there was not so much difference between these two amendments. The principal difference was as to the time of residence, and his was more liberal as regarded taxation. Although his amendment called for a State or county tax, it gave two years to pay it in. The question then being between the six months and the one year residence, he would state briefly why he preferred the former. He resided in a county bordering on two States—the States of Delaware and Maryland. We are somewhat of a wandering people, moving from one State to another very frequently, and every one who went over the line and came back, or persons who came over, would, by the amendment of his colleague, have to remain one year before they would be entitled to a vote; but, in fact, they would have to remain eighteen months, because the established time for moving is on the first of April, and from that time to the time of election, would be just about six months. If, however, they were not

then entitled to a vote, they would have to remain a year longer, before they would be entitled to it. In making a Constitution, we ought to take into consideration the habits of the people, and so frame it as to conform to those habits, as nearly as may be deemed expedient. It is well known, that the people are in the habit, all over the State, of removing on the first of April; therefore, if you provide for a six months' residence, you will just have it between April and October; whereas, if you make the time longer, you compel citizens to remain eighteen months before they become entitled to this privilege. We have heard a great deal about State rights, and State pride, and the Legislatures of some of the States have passed acts asserting those rights, but he (Mr. B.) prided himself in being a citizen—not of the little town of Chester, not of the circumscribed county of Chester, and not of the widespread Commonwealth of Pennsylvania, but of the great confederation of the Union, a citizen of the United States. That was the name on which he would pride himself.—If he were in France or England, would he pride himself on being a citizen of this State, or that? would he base his claim to respect abroad on being a citizen of a northern State, or a southern State, on being a citizen of Maine or Louisiana? No, sir, he would point to the flag which represented his whole country, and he would tell those who interrogated him, that he was a citizen of the United States. This was the sentiment of those who framed the Constitution of the United States, and it was the sentiment of those who formed that flag which represents the whole Union. He would call the attention of gentlemen to a clause in the Constitution of the United States, which secures our individual rights, not as an inhabitant of a State, but as a citizen of the United States. That Constitution says: "The citizens of each State shall be entitled to all the privileges and immunities of citizens of the several States". Why was this inserted in the Constitution of the United States? Because, the framers of that Constitution felt that they were forming a nation; they felt that they were building up a great union of States, which would present to the world the idea of magnificence, of dignity, and of consolidation.—But, why the necessity of requiring residence as a qualification for the exercise of the elective franchise? Our Constitutional provision on this subject, has been called in question, as contravening the Constitution of the United States. Be this as it may, the only reason why we require a term of residence is, that persons coming from other States may have the opportunity of becoming acquainted with the political and local concerns of those among whom they reside. It has been well said, that every citizen of the Union is acquainted, to some extent, with the characteristic features that distinguish the different States, and would any man tell him that it would require one year for a person coming from New Jersey, New York, Delaware, or Ohio, to make himself acquainted with our particular concerns? It seemed to be admitted on all hands, that a two years' residence was unnecessary, and he contended that a residence of one year was unnecessary. The whole question was, as to how long it should be deemed necessary for an intelligent citizen of the United States, to remain in a place to make himself acquainted with their concerns.—He had heard no reason yet which would induce him to believe that it would require a longer term than six months. If a term of residence had not been required in the Constitution of 1790 he did not know but he

should have been disposed to dispense with all residence qualification. As it was fixed there he was willing to dispense with it entirely, but he would go for making it as short a term as possible. As to the tax qualification, he agreed that every individual should, in some degree, contribute to the burthens of the Commonwealth. He who receives protection from society should, in some way, contribute to the burthens of society; and he knew of but one way in which this could be done, and this was by the payment of a tax, which was large or small, in proportion to the means of the individual. The gentleman from Beaver (Mr. DICKEY) had said that they go as low as three cents in taxing those who are poor in his county. Now in the county of Chester he had never known persons to be taxed less than twenty-five cents; and no man in the community, he thought, ought to exercise that inestimable privilege, the privilege of exercising the right of franchise, who would not pay twenty-five cents. But there was another view to be taken of this matter. In all the counties to the south and east we have what are called poor houses, where all the paupers of the county are kept, and they are there put under the charge of a superintendent on whom they are dependent for every thing. Take away your tax qualifications and what a spectacle would be presented to the eye, to see some four or five hundred of these miserable and degraded wretches marching up to the polls, and voting according to the direction of the person who had them in charge, and turning the scale, if the contest was close. These persons are generally degraded, miserable, and infamous characters, who are the mere slaves of their keepers. We have heard that the revolutionary soldier, the man who has fought your battles, would be deprived of a vote. Why he must tell gentlemen that particular instances do not make rules. He would appeal to any gentleman to say whether the character he had given of the inmates of your poor houses was not a correct character. He did not wish to exclude from the polls any poor, virtuous, industrious man, and he believed that there were none such who would not be able to pay twenty-five cents tax, but he did wish to exclude the paupers who were the mere slaves to the men whom the law places over them. He would ask the gentleman from Philadelphia (Mr. DORAN) whether he had ever entered one of those lazarettos, and contemplated the sight of misery, and infamy, and crime, which were there to be seen? If he has, he must have forgotten it, or he would not have stood up and declaimed in favor of the inmates of such a place; and endeavored to put them in a situation to give them a voice in our elections which might overrule the express will of the majority of the freemen of a county in many instances.

Mr. WOODWARD would like to enquire of the gentleman from Chester, and the gentleman from Philadelphia, both of whom in their arguments had referred to a clause in the Constitution of the United States, whether that clause had any kind of influence upon the regulation of the elections of the several States, and the rights of the citizens of those States to vote. If those gentlemen answer that it has not, he should like to know what it had to do with the whole subject.

Mr. BELL said he had not referred to it as governing this question; but had merely referred to it with regard to the political relations in which one State stood to another.

Mr. BROWN had mentioned it as a plain common sense matter, and he

understood it to mean precisely what it said, that "the citizens of each State shall be entitled to all the privileges and immunities of citizens in the several States". He presumed it only had reference to a particular class of privileges and immunities, but he wished to carry out the principle in its broadest form. He wished to carry it out as far as possible, and give it the most liberal construction.

Mr. DICKEY rose and asked the two gentlemen from Chester to withdraw their amendments for the present, so as to give them the opportunity of testing the question, on the principle of the tax qualification.

Mr. DARLINGTON would have no objection to withdraw his, in case it could again be moved, after the vote was taken on the report of the committee.

Mr. BELL considered that the question could as well be taken, and the principle tested, on his amendment, as on the report of the committee; therefore, he could not withdraw.

Mr. DICKEY said he must then make some few remarks in explanation of his views, with regard to these amendments. He concurred with the amendment of the gentleman on his right, (Mr. DARLINGTON) so far as the one year's residence was concerned, but he was opposed to the tax qualification, as introduced by the other gentleman from Chester, for the reasons ably given by the gentleman from Indiana (Mr. CLARKE). Gentlemen on both sides of the House had asked, whether an elector should not have a stake in the community? This had been answered fully by the gentleman from Indiana, who had shewn that the poor man had as great a stake in the community as any other, if not more, and he would not take up the time of the committee by repeating those arguments, which must be fresh in the memory of every gentleman. He objected to the six months' residence, as a qualification. If the principle contended for by the gentleman from Chester, over the way, (Mr. BELL) was correct, why require six months? Why require any time? He conceived that a year was a short enough time for a person coming from another State, to become acquainted with our local politics, and interests. The gentleman from the county of Philadelphia (Mr. BROWN) had made allusion to the State of Virginia, where a man might become a citizen immediately, and be entitled to a vote. The gentleman, however, must recollect, that there a property qualification is required, and persons only are entitled to the right of suffrage after they own property. It was a very different matter in this State, as no such qualification was required. Although the doctrine of State rights and State pride had been repudiated here, he was one of those who prided himself on being a citizen of Pennsylvania; and he would permit no man, coming from another State, to vote at our local elections, until he had been a sufficient time among us to identify himself with the interests of Pennsylvania, and become acquainted with her policy. He would require a residence of one year, and he would do that upon the principle of reciprocity, because the State of Ohio, and many of the other States, required a residence of that length of time. It was necessary that we should require a residence of some length of time, for the protection of the interests of the State. We have a great Internal Improvement system to protect, and its resources to husband, for the purpose of paying off our heavy State debt; and, immediately to our north, we have a great State with rival interests, and unless we require a

residence to qualify an elector, we may be interfered with by the citizens of another State. Unless we require a residence qualification, citizens of New York might be thrown upon us at the time of an election, by thousands and tens of thousands, for the very purpose of putting down the interests of Pennsylvania, and putting up the interests of New York.

He would require of a citizen coming from another State to reside in Pennsylvania a longer period than six months, in order that he might become identified with the feelings and interests of the community in which he lives. He would require one year, as was done in Ohio. Therefore he should vote against both the amendments of the gentleman from Chester; and to the report of the committee he would offer a new section which would exclude persons guilty of infamous crimes from the right of suffrage, and at the same time, authorize the Legislature to pass an act requiring that a registry should be kept of the voters in the different districts in order to prevent men from voting in more places than one.

Mr. RUSSELL, of Bedford, offered an amendment to the amendment, providing that the temporary absence of a qualified elector, or his residence in another State, shall not deprive him of the rights of an elector, unless it shall exceed the term of one year.

Mr. DARLINGTON, of Chester, accepted the modification.

Mr. RUSSELL remarked, that the proposition he had offered was so plain as not to require any explanation from him. It was well known that by the existing provision in the Constitution, men have been deprived of the right of suffrage on account of a temporary absence from home. His amendment, if adopted, would prevent the continuance of the grievance.

Mr. STERIGERE, of Montgomery, observed that the amendment would conflict with the other proposition. There seemed to be some incongruity as to it. The gentleman's proposition required a year's residence, whilst his (Mr. S's.) required a longer.

Mr. M'CAHEN, of Philadelphia, said that he was in favor of every man paying his taxes for the support of his country; but he thought that taxes ought to be, like the other requirements of law, collected and paid without reference to the right of suffrage. Every man was bound to observe the laws, and no difficulty could interpose that does not now exist in the collection of taxes levied upon our citizens. He would have the sacred right of voting FREE; and not shrouded in a qualification necessary to support your Government. He wished that our citizens might not be deprived of their votes when the election came, because they had omitted to pay their taxes, or because the assessors had neglected to assess them. He wished that perfect equality should prevail upon the election day. The gentleman from Chester (Mr. BELL) thought that the inmates of our alms-houses or poor-houses, chiefly in the eastern part of the State, would be brought by the managers or directors to the polls, and vote agreeable to instructions. He believed that the tax proposition would not obviate the complaint, because if they could "turn the election", the directors or managers could pay the tax. The consideration of ten dollars would be nothing, if the result of the election depended upon these votes. He thought the gentleman's argument would apply with equal force against persons employed in factories who might be presumed to be under the influence of the employer, and therefore it lost its force in its application to paupers. He believed the abolition of the tax qualification would do much to discourage the vicious

means now used to obtain an election; the reform now proposed would introduce better feelings, and our elections would pass off without many of the attending evils heretofore experienced. The paying of taxes did not confer greater interest in our affairs: every man had some stake in his country: the industrious citizen who reared and educated his virtuous family, had the greatest possible interest in the welfare of his country. The payment of taxes had frequently been made by others than the individual required to pay it, and the voter was far more influenced in consequence of it, than if he had been without obligation.

Mr. SHELLITO, of Crawford, said that he would be in favor of requiring six months' residence as a qualification for a voter, particularly if there should be no property qualification.

Mr. STEVENS, of Adams, said that he would vote against the amendment of the gentleman from Chester, opposite (Mr. DARLINGTON) not particularly because he did not like it, but because he thought there was more probability of obtaining some security against bringing all the vagrants or vagabonds in the State, to the polls, and of running into the extreme of radical licentiousness, by the adoption of the amendment of the gentleman near him (Mr. BELL).

It was well known that any man who chose to be assessed, could compel the assessor to tax him, if he has any taxable property, or any occupation. It embraced every man who was worthy of exercising the right. It was not necessary that he should have property to the amount of one dollar, if he had any occupation whatever. If he laboured one day in the week, and begged all the rest of the time, he could compel the assessor to return him as a voter. No one could be deprived of a vote by this small tax qualification, except paupers, who were placed on the public charge by the certificate of a magistrate, common vagrants, and convicts in the penitentiary and jails. Now, he asked whether those gentlemen who talked so much about the inalienable rights of voting, would contend that such persons were entitled to exercise that right? Surely it was only the victims of vice, intemperance, and folly who became paupers—and he asked whether the republican principle required, that they should come to the polls, and direct those who fed and clothed them, whom to choose for office? It was not true, in fact, as has been declared here, that wealth was the old antagonist principle to liberty, and that the rich were enemies to freedom and to the poor. He had listened with regret to declamations so well calculated to array classes of the community against each other. The doctrine would break down all the barriers of free Government. Who were HANCOCK, WASHINGTON, and CARROLL? Were they poor men? Were they not rather of the aristocratic class? Rich men were sometimes tyrants, and poor men, too, when they had the power. In the heart, and not in the condition, were to be found the principles which governed the actions of men. Every man of virtue and good feeling, would be a patriot and a friend of freedom, whether he was poor, or whether he was rich—at home or abroad. But the man of ambitious feeling would be a tyrant, whether he was rich or poor—whether he was the owner of a hundred slaves, or the hired and miserable driver, who lashed them to their tasks, they were alike tyrants in principle, however different in condition. The doctrine of the natural hostility of the rich to the poor, was that which CATILINE taught to the debauched, and ruined, and

abandoned men, whom he engaged in his conspiracy against order, and virtue, and liberty.

Mr. BROWN, of Philadelphia, rose and said, that the gentleman from Adams (Mr. STEVENS) had, heretofore, been allowed, on all occasions, to deliver his usual harangues about "JACK CADES", "slang mobs", and "mad dogs", without any one noticing them, knowing, that such epithets had no other effect here than to characterize their author: but, as that gentleman had thought proper, recently, to take some three or four days to write out his inflammatory effusions, and thus send them prepared to the community, through the Daily Chronicle, he (Mr. B.) thought they ought not to be allowed to go thus forth from this Hall without notice.

The friends of an extension of the right of suffrage had given arguments in favor of their propositions. The gentleman from Adams had not attempted to meet these arguments; he found it easier to declaim than argue. The friends of reform had not said one word about rich or poor, until the distinction was made by their opponents. The gentleman from Lancaster (Mr. REIGART) denounced the attempt to take from the right of suffrage the tax qualification, as one that would bring to our polls a host of wandering Arabs, who would have an equal weight in the elections, with the property holders of the State, and patriotically asked what interest such men had in the country? He (Mr. B.) had attempted to show, that the poor man had proportionately as great, if not a greater interest than the rich—his personal rights were his all. He had asked, when and where the poor man had proved untrue to his country? When were they not found ready to shed the last drop of their blood for the soil on which they lived—for the hearth stone around which their wives and children gathered, though the soil and dwelling were not their own? What poor man was ever a traitor to his country? He (Mr. B.) had also said, when liberty was endangered—when tyranny was about to usurp her sacred temple, the first to sacrifice their country's interest to their own, were the rich. He did not say the rich were all such—he spoke of history. To the poor man, his liberty, his right to worship his God, and enjoy the peace of his home, were his all; he was the first and the last to protect and defend them. He had not the means to buy their security, if invaded, nor to remove where they would be secure—the rich could do both. Does the gentleman from Adams deny this? No: he meets it in his accustomed manner, by talking of vagabonds and CATILINES, and says he never expected to hear, in this Hall, such appeals to liberty—such distinctions made between the rich and poor. But, the gentleman from Adams should recollect, it was his own friends that made the distinction, by attempting to degrade and disfranchise the poor man. He (Mr. B.) would say to that gentleman, he never expected to hear, in this Hall, such declamatory appeals about JACK CADES, mad dogs, and CATILINES; appeals to the lowest passions of the lowest of mankind, and made for other places than this Hall.

We have given argument, and I ask that gentleman for argument. If he denies what I have said, I am ready to meet him now, or at any time, and prove, from history, all I have asserted to be true. We have only asked for the rights of suffrage for citizens of the State of Pennsylvania, resident upon her soil. If they are not to be allowed the rights of citizens, give us some reasons for it, not abuse; we want argument, not denunciation. Take from them the dearest rights of freemen, but do not denounce

them as *wandering Arabs* and *vagabonds*, and those who advocate them as *CATILINES*. Such denunciations are out of place here, in this Hall, or in Pennsylvania; they are worthy only of the last days of Rome, and those who debased and destroyed her liberty.

The committee then rose, reported progress, and obtained leave to sit again.

[A conversation arose in Convention concerning an irregularity which had taken place in reporting the second article of the Constitution, as one of the sections of that article had neither been postponed by a vote of the committee of the whole, or considered. Mr. STEVENS, of Adams, thought the most proper course would be to recommit the report to the committee of the whole, and made a motion to that effect. Mr. READ, of Susquehanna, moved to amend that motion, so as to commit the report to the committee of the whole on the sixth article. Mr. CLARKE, of Indiana, suggested that the Convention might go again into committee of the whole, and then rise, and ask leave to sit again, and that leave might be refused, and thus the difficulty would be removed. Mr. CUNNINGHAM, of Mercer, said that would not do at all, as it would be destructive to the amendment, an error had certainly been committed, and the Convention might go again into committee of the whole, to consider the subject. Here the conversation terminated, Mr. READ having moved an adjournment.]

The Convention then adjourned.

TUESDAY, JUNE 20, 1837.

Mr. SMYTH, of Centre, presented a memorial from citizens of Centre county, praying for certain regulations and restrictions on banks and banking.

Mr. MAGEE, of Perry, presented two memorials from citizens of Perry county, similar in their tone and prayer.

These memorials were laid on the table.

Mr. EARLE, of Philadelphia, presented a memorial by a delegation of citizens of the city and county of Philadelphia, on the subject of specie payments by the banks, and the issue of small notes by corporate authorities, which was referred to the committee to whom had been referred the seventh article of the Constitution.

Mr. MILLER, of Fayette, submitted the following resolution, which was laid on the table, and ordered to be printed :

Resolved, That the thirty-second rule be so amended, that it be in order to call the ayes and noes on questions of daily adjournment, and that for that purpose, the words "except on a question of daily adjournment", be stricken out.

Mr. MYERS, of Venango, submitted the following resolution, which was laid on the table, and ordered to be printed :

Resolved, That the fourth section of the fifth article of the Constitution be so amended, that from and after the first day of January, one thousand eight hundred and thirty-nine, the several courts of Common Pleas shall be established in the following manner : The State (excepting the city and county of Philadelphia, Lancaster and York, and

Allegheny, in which the district courts already established by law shall remain as heretofore, subject to such alteration as the Legislature may from time to time direct) shall be divided by law, into convenient districts, consisting of three adjoining counties. A President and two Judges, persons of knowledge and integrity, skilled in the laws, shall be appointed in each district, one to reside in each county, any two of whom shall be a quorum; but the Legislature may, from time to time, vest such powers in a single Judge as they may deem necessary, to expedite the proceedings of the court and effect the ends of justice: *Provided*, That whenever it shall occur that the number of counties in the State, with the exception aforesaid, is such that each and every district cannot consist of the precise number of three counties, the Legislature may provide for one district, to consist of two or four counties, as in their opinion will best promote the public interest and further the administration of justice.

The report of the committee of the whole on the second article of the Constitution was then taken up for consideration, as the order of the day.

The question pending being on the motion of Mr. STEVENS, (made after the rising of the committee of the whole yesterday) to recommit the report to the committee of the whole,

Mr. READ, of Susquehanna, moved the indefinite postponement of the subject.

Mr. CUNNINGHAM, of Mercer, hoped the motion would not prevail. The sixteenth section of the second article was under consideration when the committee rose. It may be supposed that the committee were discharged after reporting the article to the Convention. But the committee had not yet got rid of the subject. The Convention had referred the whole article to the Convention, and all of it had not yet been considered. He did not see any inconvenience which could result from going again into committee of the whole; and our course would go down to posterity, as an example, as a precedent, and as an illustration of our mode of doing business. You, sir, who preside with so much dignity, will be shewn to the world, unless we correct our proceeding, as exhibiting a strange example. We ought to go again into committee of the whole, with the same Chairman, and correct our proceeding, or the committee might ask leave to sit again on a distant day. He did not care much about it as regarded himself, but he desired to see things done correctly, in order that generations to come may not laugh at our mode of going through our business, and call us blunderers.

Mr. CLARKE, of Indiana, said he had talked with some old legislators on the subject, and they all agreed that the subject stands now in as good a situation as it can occupy. A motion was made to postpone the new section for the present. A motion was then made that the committee rise. The committee had thus gone through, and, in his opinion, were discharged. The section was postponed for the present; the report was made, and the committee were discharged. The Convention had power at any time to go into committee. He did not think they would be committing themselves to those who would come after them, by leaving the subject where it was. It was just in as good a situation as it could occupy. If the motion of the gentleman from Susquehanna gave the whole matter the go by, he would vote for it.

Mr. M'SHERRY, of Adams, thought the difficulty might be got over by amending the journal.

Mr. Cox, of Somerset, said the better way would have been for the committee to rise, and report, and that the Convention should then have

refused leave to sit again. Had that been the course pursued, the sections would have come up again before the Convention on the second reading, and thus the whole matter would have been put into its regular form.

Mr. READ had no great anxiety on the subject. It was making a great deal of a small matter. If the ideas of the gentleman from Somerset, and the gentleman from Mercer were carried out, it would then become of great importance. The remedy proposed by the gentleman from Somerset, would strike out all the amendment. The gentleman from Mercer would have leave given to the committee to sit again, on a distant day, and that might turn out to be when the Convention would not be in session. If we go into committee of the whole again, amendments may be offered, which will keep us three weeks. The gentleman from Indiana took the correct view of the subject. It would be better to let the matter rest, and not pursue a course which will carry us over the whole ground again.

Mr. COX said he had no desire to go into committee again: so that the gentleman from Susquehanna misunderstood him if he supposed so. He had said it might have been the better way to have done so yesterday.—He did not apprehend that such a course would have cut out all the amendments.

Mr. CUNNINGHAM: The report of the standing committee was referred to the committee of the whole, and the sixteenth section was under consideration. During the consideration of that section, the committee rose and reported the report with amendments. Where is the report on the sixteenth section? What had been done with it? It is postponed for the present, and lies on the President's table unfinished. It is laid by, until we have gone through the other articles. Thus when the report has been reported, it is laid by with one section unacted on, while it appears on the journal as though all the sections had been gone through.

Mr. STERIGERE, of Montgomery, did not see the subject in the same light. The great objection was in the disposition of the business. It was equivalent to a motion to postpone indefinitely, if a motion be made to postpone for the present, as it is understood that the section is not again to be taken up. All knew the reasons for this. But on the record of our proceedings it appears that this particular report is disposed of.

Mr. BAYNE, of Allegheny, said it occurred to him that the motion of the gentleman from Susquehanna, would put the subject in a situation in which it will be just as unintelligible. The best mode would be to discharge the committee of the whole from the further consideration of the article, and to refer this sixteenth section to the committee on the sixth article. The committee could make it a part of their report; and it could be received by the Convention as a part of their report.

The question was then put, and the motion to postpone indefinitely was decided in the affirmative.

On motion of Mr. MANN, of Montgomery, the report of the committee on the second article of the Constitution was postponed for the present.

THIRD ARTICLE.

The Convention again resolved itself into a committee of the whole, on the third article of the Constitution, Mr. KERR, of Washington in the Chair.

The question pending, being on the motion of the delegate to amend the amendment of Mr. BELL,

Mr. EARLE, of Philadelphia, rose and said, that he had intended to make some observations on the subject, and it was immaterial when he made them, now, or at any other time. However, as he was in possession of the floor, he might as well proceed now, as at any other time to deliver his sentiments. He would then observe that it appeared to him that the subject which at present occupied the attention of the committee, was one of the very highest magnitude and importance. It involved the laying of the foundation—the very superstructure of the Government. He would lay the foundation of the Temple of Liberty broad and deep; he would found it on a rock, so that when the winds come—the rains descend, and the floods arise, it shall not fall, but shall stand for ages, affording protection, and producing happiness to the whole family of the Republic. No system could be adopted which could operate without some inconvenience, and the best was that which secured the greatest degree of liberty and happiness to the greatest number. There was a good idea in the celebrated Marseilles' Hymn: "Man is man, and who is more"? Those who held that some were more than men and others less, had endeavored to introduce distinctions into society, the effect of which was to reduce one portion of the community to the condition of slaves—while it raised the other to a grinding aristocracy. Having found it difficult to attain their object by direct, open, and fair means, they had generally attempted to introduce, under the form of a republic, and under the name of liberty, the substance of slavery and despotism. And, among the most insidious and effectual means of accomplishing their object, had always been found these two measures—long terms of office, and of residence as a qualification for the right of citizenship. They sought long terms of office, because by that means they were enabled to become the oppressors of the people—the humble classes who were compelled to change their places of residence more frequently than the wealthy and affluent. Free Governments, when rightly organized, were founded on this principle. that although mankind, on the whole, were beneficent beings, yet when our interest comes in contact with the public good, we were apt to be biased, and our judgments were not to be trusted. In the ancient democracies, which were established in small communities, every man was allowed a voice in making the laws, and thus every portion of the community was protected against oppression. All experience had shown that if any portion of the community was deprived of any political right, the republic must fall. It had been found important to extend the principle of absolute democracy into a Government of extensive territory—hence we had adopted the nearest resemblance. In forming this Government the intention of its framers was to bring it as near as possible to an absolute democracy, and that was by establishing short-terms of office, and universal suffrage. He would place a Government, which was based on the right of suffrage, upon several grounds: First, he would say that man should vote because he was a man. He would lay that down as a broad and general principle, and he would never depart from that principle in a single instance, unless the most cogent and powerful reason could be shown for departing from the general rule. In the next place, a man had a right to vote because he was subject to the laws—being liable to be punished for violating them. And, there were

laws passed as to where he might fish, and hunt, &c.—when he might labor, and not, and where he might smoke a segar, or not ! This was actually a fact, for he had seen it in the Boston papers that a law had been passed there that no one should be allowed to smoke a segar longer than two hours after dinner. Well, then, he (Mr. E.) would say that every man who was subject to bear a portion of the public burden, should have a voice in that Government—he should participate in that Government, which he helped to support. And, as he (Mr. E.) thought that on a careful examination it would be found that these reasons went to show the necessity of supporting the most liberal proposition that was ever presented for our consideration. He would say that all exclusions which are not absolutely indispensable, are pernicious. First, because they are oppressive, as opposed to the natural equality of man, which is declared in our Declaration of Independence. They are pernicious, because degrading, and the tendency of them is to sink that portion of the community, who are deprived of their rights, in their own estimation and that of their fellow-citizens. Treat a man as an outcast, and he becomes an outcast, in fact, and he is ready to aid any set of men who desire to destroy your Government. There could be no doubt, then, that the strongest Government was that which exists by the voice of the whole people, for they were ever ready to rally around it, and to defend it. But, the moment you exclude any portion of the people, they felt little or no interest in your Government; and it was much easier to stir up discontent and rebellion among those who are deprived of their rights, than those who have them. Such men would almost prefer a despotism to the free institutions in which they have no share.

But, adopting these general rules and principles, let us examine the reasons which are given for excluding some men from the enjoyment of the right of suffrage. The first exclusion which is proposed is the term of residence, and before we require a term of residence, we must enquire whether there is some intrinsic justice in, or absolute necessity for, it—apart from the question of policy.

If the narrow minded restrictions which prevented men from going where they pleased, and doing what they pleased, were removed, how much would it tend to improve the arts, and to extend the principles of philanthropy, religion and civilization ? Man had a natural right to the earth, and to live where he pleased upon it. No restrictions ought to be placed upon this right, and all such restrictions tended to maintain and strengthen bigotry, prejudice, ignorance, and tyranny. There was no correct principles upon which the exclusion of citizens of another State, who came to reside among us, from voting at the polls, could be sustained ; nor was there any reason why a long residence should be required of them as a qualification for voting.

Supposing Pennsylvania to be overrun with population, and that some Pennsylvanians should wish to go, in order to better their condition, and settle in Wisconsin, Michigan, or Arkansas, but that they found that there had been been restrictive laws passed there in reference to the sales of the best lands, and that they, as Pennsylvanians, were not entitled to the same privileges as others. Now, why should Pennsylvania act towards strangers in a manner that she would not approve of in respect to herself ? Let Pennsylvanians remember that some of our worthiest and most distinguished

citizens had come from other States and countries—among whom were BENJAMIN FRANKLIN, (who came from another State, and of whom we are justly proud)—Mr. DALLAS, and Mr. GALLATIN. Such examples should teach us to rid ourselves of this narrow feeling. It had been said that this restriction was not on account of the birth of an individual, but was a mere requisition of that residence which was necessary to enable him to act as a citizen. He (Mr. E.) would admit, this principle might be acted upon, as far as it could be shown that it was necessary to apply it. He thought that on a full examination of the subject, it would be found that the term of residence was of little consideration only. There had been no inconvenience experienced whatever by the State of Massachusetts, from the year 1776 down to 1820, from persons coming into it, although just before the day of election. When the Convention was called in 1820–21, to amend the Constitution, he was then in the habit of reading the newspapers containing accounts of the proceedings, and he did not now recollect having read any thing concerning any objections having been made in reference to the matter. When we considered the manner in which we, ourselves, exercised the right of suffrage, we should find a very short residence, indeed, sufficient to enable the emigrant to vote intelligently. We could not expect the emigrant to act differently from what we ourselves acted. We must not expect him to act as a different being, but to act according to some set of rules. How do we, ourselves, act? Do we not act according to some general principles? Do we not act as the party forms its opinions? And, do we not act, generally, without even knowing the persons whose names may be placed on the ticket? That principle had been acted on for twenty or thirty years, and yet we expected people from abroad to act more intelligently than ourselves! Was it reasonable to expect it? At the election for Chief Constable in Philadelphia, in 1830, which was decided on party grounds, men of the highest standing, both as regards talent and respectability, voted, although he verily believed that not one out of five knew the man, or any thing relative to his character or competency; but they had confidence in the honor and integrity of those who nominated him. Now, that was just what we should all have. A man who comes from New Jersey knows perfectly well what are the political distinctions which divide us. He read the newspapers, as we do, and saw the political questions of the day, that were canvassed in Philadelphia. We, ourselves, generally, got our information from newspapers, and private conversations, a few days only before the election; and the candidates are brought to the knowledge and notice of the people, but a few days before the election took place. Now, we did not act upon this principle, when we formed our opinions in regard to the politics of other States? Then, why should not the people, who come here from some other State? He saw it stated in the United States Gazette, that the success of one party at the recent election in the State of New Jersey, was owing to the praiseworthy exertions of a gentleman in Philadelphia, who had traversed the State, and who had sent there many voters; and that persons had been loaned money to enable them to go to the polls. Now, here was an instance—a proof of the politics of a neighboring State being well understood by individuals not living in it. Well, then, he would repeat what he had already said, that a very short residence was all-sufficient to enable

men coming here, to understand our politics, and to vote. A long term of residence was objectionable, because the end in view was never obtained, and because it was not founded in principle. It required a man to reside two years in the State, before he could vote for members of the Legislature; while in a less period, he was allowed to vote for township officers, or members of Congress. He thought the rule not only unreasonable, but unjust and oppressive; because it deprived a man of the right to vote, who returned to Pennsylvania, after having been compelled to seek employment in another State. It operated as a sort of penalty on the laboring man. It was unjust to oblige a man to submit to laws, and bear burdens, without giving a participation in making those laws, and in imposing those burdens.

This system of long residences was never enforced in practice. Every year men went away from the State and returned before the election, and if a man were asked, had he lived in the State two years before, he, perhaps, answers that he had: but how were they to know that he was telling the truth, or not? The effect, then, of this rule was to deprive an honest man of his vote, while it permitted a less honest man to tell a falsehood. He might have come from New York, or crossed the Ohio line, and how was his assertion to be denied. It was impossible, in general, to contradict his assertion. Hence, the impolicy of requiring so long a residence. It was wrong, because its defects were demoralizing, and in altering our Constitution we should do away with every thing calculated to demoralize the community.

He had been greatly disgusted at the want of morality in politics—men having resorted to things contrary to the principles of sound morality, and acted so as to change the entire character of an individual. And, indeed, some politicians had gone to such a length, that, to be actually a politician was an imputation on a man's character.

With regard to the objections that had been urged against a short residence, they appeared to him (Mr. EARLE) not founded in reason.

It had been said that, if we abandoned this restriction, wandering Arabs and vagrants, would vote, and people from New York would be imported to control our elections.

He entertained no apprehension that the free wandering Arabs from Adams county would overrule an election so as to prevent the election of the honorable gentleman near him (Mr. STEVENS). But there was nothing in these objections—no truth and no reason. As to these wanderers, even if two or three of them did get a vote now and then, it was but a slight inconvenience, if any, in the operation of the system. As to importing votes, several weeks before an election, it was absurd and impossible. We could not even get our citizens in a body to the polls. In every district many staid away from the polls from neglect or from occupation. How could people from another State be induced to come over then to vote? Our offices were not profitable enough to tempt the candidates and their friends to such expensive efforts. It was difficult in any district to collect, by party subscription, a sufficient sum to defray the expenses of printing attending an election. There was nothing at all in these objections.

Mr. E. said he would next proceed to consider the tax qualification. With regard to one of the reasons alleged for the tax, which was, that it led to the ascertaining of the voter's residence, If this were the object of

it, then he would say that a different and a better mode could be adopted than that; one that would not be attended with so much inconvenience and trouble. According to the time proposed—time was allowed a man to go away to another State, and return again. If you wished to ascertain a voter's residence, let your assessment be made one or two months before the election, and let that assessment be taken as *prima facie* evidence of his right to vote. And let no man vote unless he can show such other proof as the law and Constitution require. But taxes (continued Mr. E.) were to be evidence that a man contributes to the public burdens. He thought the rule would be a good one, if every man was allowed to vote, without any qualification of this sort being necessary. Take the instance which had been mentioned by some gentlemen in the course of the debate, of the poor revolutionary soldier who was unable, through misfortune and poverty, to pay a tax—ought he to be excluded? Was a poor man, who had labored hard all his life, and who was now suffering from infirmity and old age, to be deprived of a vote? Where, he would ask, had that man's money gone? It had gone into the pockets of the wealthy. The property of the wealthy was generally the product of the labor of the poor. He did not say that it was wrong. But, was it right that the poor man, who was unable to pay a tax, should be prohibited from voting? The objections did not appear to him to rest on principle. It was alleged that if persons in the poor house were to be permitted to vote, there would be a dangerous influence exercised over their minds. Now, he apprehended that that influence would be much less than was imagined. He believed that in this free country there was but little to fear on that score. Men were generally disposed to act according to their own volition. They valued the right of suffrage too highly to allow themselves to be tampered with. Could not the manager of the alms house pay the tax? and would there not be a greater influence exercised over the voters, if he were to pay the taxes for them? And, if no tax were required, was it not more probable that a much less influence, at least, could be exercised? Then, if these men were allowed to vote, they might vote under influence, but it might be an honest influence. It did not follow, as a natural conclusion, that it must be a dishonest influence. Most of us vote under an influence of some kind or other. Most young men in the country would be found voting under the influence of their parents, their friends, or their associates, or under the influence of the newspapers which they read. There was no such thing as freedom from influence. We voted under the nomination of a party—often without knowing any thing about the candidates for office. The merchant's clerk, the carman, the laborer, and others, frequently voted under the influence of their employer. Now, that might be a bad influence; but, nevertheless they voted under it. Indeed, you might take the whole of society together and it would be found that the majority of it voted under the influence of others—because all men have not time to turn their attention to political affairs, and, consequently, have to put their confidence in those upon whose information and judgment they rely. And those did no harm; for both parties were operated upon in the same way.

He would maintain, then, that the rule of permitting a man to vote only on condition that he contributes to the public burden, and which depended on mere personal inquiry, must be an unsound rule, and could not be carried out. Now, for instance, a bachelor contributed very little to the support

of the Government, while a man with a family—a large one, too, perhaps, contributed many dollars. He had a great stake in the welfare of the republic—for, not only himself, but his children after him would feel a deep interest in the prosperity of the country. There was no man, not an absolute tenant of a poor house, who did not, in some shape, contribute to the support of the public burthens. If he rented a house, or a spot of land, he paid in the rent, the tax on that house or land; if he ate bread and salt, he paid a tax individually by contributing to the reimbursement of the producers of the articles, who did pay taxes; if he wore clothes, he paid a tax; and, by laboring on the high-ways, or serving in the militia, he contributed to the service of the public.

The amendment of the gentleman from Chester (Mr. DARLINGTON) had been objected to, for the reason that the requisition contained in it would be of no avail, as a man could go and get himself assessed the day before the election. And with regard to the assessor's either negligently, or wilfully omitting to assess voters, he agreed with the gentleman from Adams (Mr. STEVENS) that the assessors could be compelled to assess every man. Gentlemen had argued that offices held during good behaviour, were not life offices. Now, that assertion was true to a certain extent—as to the theory, but not the practice. Those offices were generally held during life.

It was true, as he had already remarked, with respect to the assessors, that you may prosecute an assessor for not assessing you, but you must prove wilful neglect on his part, but that was a very difficult thing to do. It could not be done once in a hundred instances. You might say that a poor man shall go and be assessed six months before he should be entitled to vote. It was imposing an unjust distinction between the rich man and the poor man. For, the first was always assessed, while the last was overlooked, he not having at all times a residence to enable him to vote. It had been contended here that if there was to be a general suffrage, the consequence would be the admission of the degraded and worthless part of the population to participate in our elections. Now, he did not think that among our population there were so many degraded and debased beings as the gentleman from Adams had intimated. It did not necessarily follow that because men were poor, they were debased and degraded. Nor, was it to be imagined that if paupers were deprived of the right of voting, that necessarily you excluded all that was vile and disgraceful. He would enquire whether there were not among the voters of the city of Philadelphia, the educated sons of our most wealthy men, who practised all kinds of vice and dissipation, while much better and more worthy men were excluded from a participation in the elective franchise? He thought if we looked around society, we should find as many dishonest and corrupt men among the tax payers as among the non tax payers. It appeared to him, therefore, that no sound or valid reason could be assigned for requiring a long term of residence, or the payment of a tax, but that the law should be modified so as to require citizenship only to entitle a man to the exercise of the elective franchise. And, if any restrictions were to be imposed at all, let them operate as penalties. He would not allow a vagrant to vote. It was easy to prevent improper influence from being exercised by providing for the punishment of those who do it. He would introduce a provision against permitting any man from voting who could be proved to have betted on an

election. The practice of betting had been carried to a great extent, and its effects on the community generally, were of a disreputable, demoralizing and dangerous character. It was, in fact, turning the whole population into gamblers.

He was in some doubt as to whether the proposition of the committee, or the amendment of the gentleman from Chester, (Mr. DARLINGTON) should be preferred. He was in favor of a three months' residence, and, therefore, he would vote against the report of the committee, and, also, the amendment of the gentleman from Chester. If, however, he could get nothing better, he would vote for that amendment. If there was a slight modification of the amendment, he would decidedly prefer it to the report of the committee. He wished that some gentleman would amend it so as to provide for the performance of service in the militia, labor on the highway, or examination by the law of taxation. The amendment, if thus modified, would meet his approval. One strong objection he had to it now was, that it required too long a residence, the consequence of which was to its being absolutely out of the power of a citizen to enjoy his rights. He might be a native of the State, and been away from it, and be well acquainted with its true interests, and yet he could not vote after he had paid his tax. A man coming here a month after the election would have to wait twenty-three months before he could vote.

Mr. FLEMING rose, he said, to say one word on the question before the committee. The question was, whether we should require any evidence by which we can satisfy our minds, that a man has a permanent common interest in the community? This was the question—whether we should compel them to exhibit some evidence, or not, of that interest in the community? He was not disposed to go to any extreme on either side—and it appeared to him that the discussion ran into extremes on both sides. On one hand, he had heard it alleged, and he heard such language with pain—that the proposition for the removal of all restrictions was vile, foolish, and dishonest; and that such a policy would tear up and break down any thing like reason and justice. For the mover of the proposition, he had a high regard. The question, as he understood it, was on the motion of the gentleman from Chester. How did that proposition differ from the present provisions of the Constitution? It was in effect the same. Gentlemen would make an alteration in the article, with a view, it was said, to promote the convenience of the voter. Was the mere convenience of the voters the subject of discussion here? It was the rights of the people under the Constitution and laws that we were to consider. He did not look on the matter of residence as a trifling concern. If we were to require any evidence by which an identity of interest was to be found, there was none more established and certain than a known, fixed, and settled residence amongst us. A person would not settle in the State for a year for the mere purpose of voting. If he became a resident here for a year, it was a satisfactory proof that he was willing to be governed by our laws, and to assist in supporting the laws; and that he has a common interest in the welfare of the community. How was it with tax qualifications? Wishing to treat this question fairly, and throwing aside all extraneous considerations, he would ask what it is? It was necessary to exclude improper persons from voting. He contended that there were no poor in Pennsylvania, unless it was those who were

sustained as paupers. There was no man in Pennsylvania who would labor that was unable to vote; for all the taxes were imposed in this State according to the means of the individual who paid it. Every man who was able to labor could pay his tax, and become entitled to vote. But still he was opposed to a tax qualification, because he could not but view it as a part of the old fifty acre lot qualification. Why do we require a man to purchase his vote? to pay in dollars and cents for the elective franchise? Was there any difference in receiving payment for a vote, and requiring the possession of property and the payment of taxes, as a preliminary to the exercise of the right? Unless this property qualification was stricken out, his friend from McKean, (Mr. HAMLIN) who yesterday raised so fine a bridge to land him to his conclusions, would have to take the ferry before he got half way to them. We had heard no reason given why a man should be compelled to pay for his vote in dollars and cents, as if his title to the elective franchise depended upon the accidental possession of a certain amount of property; nor had we heard any reason why the payment of a tax should be considered as affording a sufficient evidence of a permanent interest in the welfare of the community. Was a man's interest, in the community where he resided, proportional to the amount of his property? Would that principle be sustained by any one here? He was disposed to strike out every thing that looked like a property qualification. He considered residence and occupation as the best evidence of such an interest in the community as entitled a man to take a share in the choice of public officers. It ought to be stricken out, because it was not the strongest and best evidence of a common interest in the community.

Now, sir, what is the payment of a tax when carried out, in practice. We have all been at elections. The evidence of the payment is often taken from the lips of an individual at the polls, where every possible inducement is held out to commit the base and destructive crime of perjury. Will not this provision cause thousands and thousands to commit this most detestable crime? No man of any degree of experience can doubt that perjury, base and vile perjury, will be committed daily, at the polls, in consequence of the requisition of this tax qualification. What, he asked, would be the effect of this influence on the morals of the country? An individual who once steps over the line of truth never retraces his steps, and to give such an individual the right of voting, was, by no means, a desirable object.—Instead, therefore, of being an evidence of the character of an individual, the polling of a vote might, under temptations to perjury, have a direct tendency to demoralize, both the individual and the community, of which he is a member. It will not tend to the improvement of the moral character of the voter, upon whose choice of men the interests of the country so much depended. He had not risen to make a speech about this matter. He should vote for the report of the committee; and, when we got to that report, perhaps it might be necessary to make some addition to it.

Some were in favor of such an extension of the privileges as would throw open the door, and give every pauper the right to vote. He did not believe in that. It was right to give those a vote who bore the burdens of the community—who were tugging, toiling, and laboring all the year round for their subsistence, and that of their families, and who were called upon, in times of public danger, for military service. These were the men who

were entitled to vote, and none of these ought to be excluded. It was said that a soldier of the revolution, or a person who had become a cripple, might be in the poor house, and that it would be very hard to deprive them of a vote. He did not think so. Every one must bear his own misfortunes. When any of us cannot render an equivalent for the rights we enjoy, it is time to retire. Such persons cannot have the same interest in the welfare of the community, as those who are striving for the support of themselves and their families.

Mr. DUNLOR stated the provisions of the pending amendment, and said that the question brought up the whole subject of residence and tax qualification, and of the right of young men to vote. It was his opinion that there were some evils in the present provisions of the Constitution on this subject, and that the property tax, as a qualification for an elector, ought to be taken away. He had come to the conclusion that it would be better for the peace of the community, and for the personal welfare of the voters, to abolish the tax qualification entirely. With regard to the qualification of residence, he was in favour of retaining it, at least, to some extent. Ought not some residence to be required? Yes, every man must, of course, be a resident of the district where he votes. But for how long a time? It made little difference, perhaps, whether six months, a year, or two years. But, if we took away the property qualification, we ought to fix upon the longest term of residence. A man who came dodging into the community for a short time, and was then off again, ought not to have the privilege of voting; but, he should stay long enough to show his attachment to the community, and to be recognized by the people, as a resident of the district. Six months was too short a time for that. The time should be long enough to show that a man is not a stroller or vagabond—long enough to be known and designated as a resident by his neighbors. Two years was not too long a time to require as the evidence of a man's attachment to a place, and his intention to reside in it. Very little complaint had ever been made by the people in the country, of the length of the residence required. There might have been some in the county of Philadelphia; but, perhaps, it arose there from an anxiety to import voters. From what he had heard, he said this without meaning any offence to any body; he believed that both parties, in that county, were sometimes so much interested in the result of their elections, as to introduce persons to the polls who were not known as residents, but who, by dint of oaths, made their way through as qualified voters. Upon these practices we ought to put a restraint, by requiring a long residence, so that every man, when he came to the polls, could easily be recognized as a resident. He did not deny, that in six months, a man might take much interest in the affairs of any community in which he might settle; but, so short a term would offer inducements for emigration into the State, for the very purpose of taking a controlling part in its political affairs. The provision in the proposition of the gentleman from Chester, (Mr. DARLINGTON) allowing the privilege of suffrage to those qualified voters who removed from the State, and returned to it within a year, he was opposed to, as offering too much encouragement to emigration from the State. He would ask, whether it was not better to put trammels on the emigration of our citizens, than to offer any encouragement for it? What was the tax qualification in effect? It was a tax of a fivepenny-bit, the smallest piece

of coin known in the State, in any employment, occupation, or property. Was the payment of this *fi*p to confer on a man any additional qualification as a voter? But a property qualification could not be maintained, but at the point of the bayonet, in any free Government. It was giving a privilege to the few over the many, that the many would not submit to.

Does it give a man any better character? Does it make him a better citizen? Does it increase his interest in the community to pay a tax of five pence? Suppose a man should forget to pay, would he not nevertheless be just as much entitled to vote? Suppose a man is not designated as tax paid on the assessor's list, and cannot prove that he has paid a tax, and, as a conscientious man, declines to take an oath about it, is he any the less entitled to a vote, as a free resident citizen of the community? The payment of a tax gives him no additional qualification. The most dissolute men in the community, who are led to the polls in a state of intoxication, may vote, though we know that their tax is paid by others, who direct their vote. Are these vicious and dissolute men, who exercise no opinion of their own at the polls, made the better by having a tax of five pence paid for them? Is any man the better qualified, as a voter, by having his tax paid for him, or paying it himself? The fact was, it was no test of citizenship, none of discernment, none of honesty or worth. Many evils resulted from this provision in the present Constitution. When the contest is a hard one, a man's vote is frequently challenged. He is charged with swearing falsely, and with not having paid his taxes—the consequence was wrangling, blows, and a general fight. Every man who has ever been at the polls with the darling people, has witnessed this, and has seen many oaths taken too, which he believed to be false. Every one has heard the dear fellows, when a man has gone to the window to vote, or come from it, after voting, cry out, “that man has paid no tax”. Men come to the polls, anxious to vote, and, sometimes, hesitate and equivocate a little, when asked if they had been assessed and paid a tax. In cases where a man has paid a tax, if he has taken no receipt for it, unless the assessor knows him, he has no right to vote. A man who has no receipt, and is not known to the tax gatherer, is rather awkwardly situated. He cannot vote without swearing that he has paid a tax, and, if he does not choose to swear upon so trifling a matter, he loses his vote. But another man, who is less conscientious will swear through and vote, though the bystanders cry out that he has paid no tax. How disagreeable was it for a conscientious man to be put on a footing with one who has just perjured himself. The system was a discouragement to honest and conscientious men, and a benefit to rogues. It produced lying, swearing, cheating and drunkenness. This very tax qualification was the cause of more of the lying and fighting that took place on the election ground, than any thing else. All the disputes there were about the tax. It was the fruitful source of the riot and the false swearing, and the drunkenness that attend the elections; and, if it was taken away, there would follow calm and tranquil elections, such as were never before known in the Commonwealth. The whole experience of fifty years showed that it produced these results, and every man who valued the peace and quiet of society, and wished to maintain the respectability and purity of popular elections, would approve of the proposition to abolish this provision of our present Constitution. It would be no benefit to the community to retain a quali-

fication which could be so easily purchased by all, and which, in fact, is purchased for those who are too idle and useless to procure it for themselves. The number added to the list of voters by abolishing this provision, would not be great. The number in each county who are not assessed, is not great—perhaps not exceeding twenty or thirty in each county. But it would save that many fights to abolish the qualification, and save still more in lying, cheating, and swearing about the matter. It would save many squabbles and suits too before the Justice's Courts. In the county of Philadelphia it might make some difference in the number of voters, but in the country, where the people in general were more sober and pure, it would not make a difference of more than twenty or thirty votes in each county.

It would prevent the only bribery that occurred at our elections—those cases where votes were bought for elevenpence or a glass of whiskey.—A party man, who is on the watch for votes, will offer to treat a man, and pay his tax, if he will vote so and so. Well, the man says he does not care—he will accept the offer. Why, then, not let this man vote as he pleases, without the tax? In some districts, the judges and inspectors of the elections will not suffer a man to vote, until he produces a receipt of the payment of his tax. The man who has lost his receipt goes away discontented, and, after, to drown his mortification in the bowl, or to engage in a fight against those by whom he feels himself to have been wronged. There was no end to the disputes arising from this source.

He should say little about the subject of rich and poor, which had been, very unnecessarily, as it appeared to him, brought into this debate. He liked the poor as well as the gentleman from Indiana, who had said so much in their behalf, and he also liked the rich. He liked all. The gentleman from Indiana had talked of the hostility of wealth to liberty, and the attachment of the poor man to liberty and democracy; but, his doctrines were not borne out by our experience in our own country. Let the gentleman go amongst the rich fat farmers in Berks, who were firm and unwavering democrats, and tell them that they are too rich to be friendly to equal rights and privileges. Let him go to Fayette, and the rich county of Westmoreland, and tell the wealthy farmers there that they are no democrats. Why, they were all democrats, and were only anxious for the peace, quiet, and welfare of the community. If the gentleman talked in this way, he would talk without reason or fact on his side. Let him turn to the founders of our free institutions—to WASHINGTON, who commanded our armies, without receiving any compensation for his services—to HANCOCK, and CARROLL, and others of the signers of the Declaration of Independence, whose large fortunes were pledged to the cause of independence, and say, if he chooses, that they were not friends of liberty—that they were not poor enough to be republicans, or to take an interest in the welfare of their fellow citizens. He would also refer the gentleman to Mr. VAN BUREN, the head and front of his party, who was very wealthy.—Let him tell Mr. VAN BUREN, and the KEIMS, INGERSOLLS, BUTLERS, and MULENBERGS of his party, that they are no democrats, and that they are opposed to the rights of the people. Where was THOMAS LEIPER and that blind eyed old merchant who helped the country with their money, at the darkest crisis of the late war. The poor men were the whigs and anti-masons, who were good democrats, and willing to preserve the peace and order and

prosperity of the country. There were democrats both among the rich and the poor. Where did the gentleman find any ground to found such doctrines upon. Every man in the community was a democrat as far as the peace and welfare of the community was concerned, though he might not be a radical, nor in favor of disturbing the rights of property, nor of throwing it into one mass to be divided, on agrarian principles, among the idle and industrious, the thrifty and the profligate. Do we not teach our youth economy and industry, and do we not call upon God to bless them in their basket and in their store? Do we not hold to them the pursuit of wealth as a laudable and proper object? But, when, after years of toilsome industry, that object is acquired, shall we then denounce them, as the gentleman from Indiana has, as the enemies of liberty, and of free institutions, and equal rights? He (Mr. D.) deprecated this cry of the rich and poor, and he thought it unworthy of the gentleman from Indiana. The gentleman had himself held various offices under the Commonwealth, for many years; for what? To make himself poor in property, and rich in virtue? He had too much respect for the gentleman to believe that the receipt of a salary had corrupted him. If he continued to receive a salary to the end of his life, he would be just as honest, and as well meaning, and democratic a citizen as he now was. He had heard it declared from the pulpit, by a very able and eloquent divine (the President of Dickinson college) that the tendency of christianity was to lead men to riches, because it rendered them economical, industrious, and moral. We are taught industry and economy by the scriptures and these necessarily lead to wealth. We are also urged to toil and industry, that of our abundance we may give a portion for the purposes of charity, and for the propagation of the Gospel. He hoped we should hear no more of this doctrine of the hostility of the rich to liberty.

It would suit the JOHNNY CADES in the purlieus of the cities, where there were many who desired turmoil and confusion, and clamored for convulsions in which they had nothing to lose and much to gain. But, in this grave assembly, which can be operated on by no such considerations, it ought never to be mentioned. This, he said, was an episode, and had nothing to do with the question under consideration, to which he now came back. We ought not to exclude any one from voting, in his opinion, because he has not paid a tax. He had seen the votes of honest and intelligent men rejected, because they were not assessed by name, though their estates were assessed. In one case, where the inspector of the election had a bet depending, he had great difficulty in getting him to admit some votes that were objected to on this account. He had also witnessed cases, where very meritorious young men were excluded, because they had paid no tax, and young men were our most ardent, and patriotic, and disinterested citizens. He would never exclude young men of twenty-one from the polls, whether their fathers voted or not, or whether they had been assessed in the wrong way, or not at all. We dont want these distinctions in society—we dont want any register to entitle the citizen to a vote. For these reasons, he should vote to take away the tax qualification, and he would be in favor of continuing the two years residence; so that every citizen of the Commonwealth, old enough, should be entitled to vote, but he would not open up your alms houses and permit the inmates thereof to exercise the right of suffrage.

Mr. CLARKE, of Indiana, said, the efforts of the gentleman were like the gambols of a kitten playing with a ball, instead of watching the hole for the rat. There was an old rat which he wanted to catch here, and he should have been pleased to have had the aid of the gentleman from Franklin, if he would leave off his play, to catch it. The gentleman had entirely misrepresented him, when he said that he (Mr. C.) had charged the rich farmers with being the enemies of liberty. When he had spoken of the wealthy, it was in reply to arguments of a gentleman from Lancaster, and he did not mean the farmers, but he meant your bankers, your speculators, and a large portion of the mercantile class; and, all that class of men who make the counting houses their churches, their ledgers their bibles, and gold their idol and God. These were the men he had spoken of—the farmers were, in principle, democratic, whether they were rich or poor. But, the gentleman had been buffeting his own friends, and principally his friend from Lancaster. Mr. C. was situated, with relation to these two gentlemen, something like the English man of war, which got between two Spanish cruisers, on a very dark foggy night, and gave each one a broadside, and slipped out, and left them to sink each other. Mr. C. was combating the argument of the gentleman from Lancaster, when he spoke of the poor, but certainly, with no intention to draw distinctions between them and the rich. He was, however, delighted to hear that the gentleman was not in favor of the tax qualification, and he hoped he would have his aid in eradicating this principle from our Constitution.

Mr. SERGEANT said, that on all questions of this kind, there was a sort of middle ground; but, unfortunately, though it was often the best and safest, it seemed not to have a great deal of attraction. The copious and ready topic of declamation appears to be against the rich and in favor of the poor, treating the rich and the poor, not simply as extremes, but as the only existing classes. Without meaning any thing disrespectful to those who have been bandying these words about, he would say that such discussion was perfectly idle, if not worse; that it had no intelligible meaning at all, and he would venture to assert, that, if those who had used these terms so liberally were called upon, they could not tell what they meant by them. Yet, they answer the purposes of what has the color of argument, and, sometimes they answer a far worse purpose, for every man must see, with regret, that of late years, in this country, there has been a growing inclination to produce a war between two classes, denominated the rich and the poor. Who are the persons meant by these denominations? There are but very few who are rich any where. If there were many, so as to make it common, the distinction would be lost. There are, unfortunately, too many who are poor, but they, too, are comparatively few. If there were none, then again the distinction would be confounded and lost. But, these things have been wisely ordered by a good Providence. That book, which never leads us astray, tells us what is the best condition of man. It teaches us to ask, "Give neither riches nor poverty", and God, in his wisdom, has so ordered it, that the great majority of mankind, in an ordinarily constituted community, are neither rich nor poor, in the extreme sense of those words. Thus, the happiness of mankind is provided for by the government of a gracious Providence, who has so ordered it, that the largest class shall consist of those who have the means of happiness. It was entirely idle too, for gentlemen to talk about

the vices of the city, and the vices of the country, and to endeavour to draw distinctions, founded on comparative viciousness in the one and the other. He did not doubt that there was vice, to some extent, every where ; and, where there is the greatest number collected together, in a given space, there will there be the largest quantity of vice, and, he hoped the moral government of the world was not so entirely confounded, that there would not also be the greatest amount of virtue. Where there were but few inhabitants there would be a mixture, probably, in the very same proportions ; and, he believed, this was all that could be made of it. It was wrong and unjust, and it was injurious too, to be arraying the city against the country, and the country against the city. They were both inhabited by the same kind of men, of one common nature, and if you wish to make a comparison, you should deal justly and exactly with the matter. If, in searching the city, you find a vagabond there, and then, in the same pursuit, find a vagabond in the country, they will be pretty much alike.— The essential character is the same, of equal worthlessness, though, perhaps, modified, in some particulars, by external circumstances. If you would make a more general comparison between city and country, you must take the middle grade, the great body of the people ; not those who are very poor, nor those who are over rich ; not those who are oppressed with poverty, and its temptations, nor those who are surrounded with the snares and seductions of great wealth ; and, we can show you just as good men, and in as large a proportion in the city, as you can show us in the country, and we can show you just as many good men among the rich in the city, and in as large a proportion, as you can in the same class in the country. Within the last twelve months, the city of Philadelphia, and the Commonwealth of Pennsylvania, have received a vast benefit from two men, who were as plain and simple in their style and deportment, as any in the Commonwealth ; men who had lived no life of ostentation, and did not aim to make a great figure in the world, although one of them had served in public life, and a good deal too. One of these men bestowed the accumulations which he had made through a long life upon an establishment for the benefit of poor females. The other of them, who has died within a few months, has vested the residue of the accumulations of his life, in an institution for the relief of the blind. One of these individuals lived originally in the country, and the original sources of his wealth were in the country, although the latter years of his life were spent in the city ; and the other was a resident of the city throughout, and had entirely accumulated his property there. The one was a good country-man, and the other was a good city-man, and both have been benefactors of the Commonwealth of Pennsylvania. There had a strange kind of spirit overtaken the Convention. It was but a few days since it had been spoken of as a wealthy body, obnoxious, he supposed, to the imputation of being rich men, and, therefore, enemies of the poor. He did not know how the fact was as to their wealth, but he took it for granted that the body was composed neither of very rich men nor of very poor men, but generally of men who were in moderate circumstances, and belonged to that great middle class which was the strength of a Commonwealth. It was composed of men who are to be relied upon, because they have a stake in the community. But this body, yesterday and to-day, would seem to have been almost exclusively engaged in taking care of the rights of

the poor, and he did not exactly know what the result of this was to be. Not very long since, he was present at a meeting of a highly respectable religious body—the Methodist General Conference: a question was brought up, not of very great serious importance in itself, that is to say, as he understood, whether they would permit pews in their churches such as were generally to be found among most other denominations. On this question they run into precisely the same kind of discussion which we have heard here in relation to poor and rich, until at last a gentleman rose and said: as he (Mr. S.) thought with great good sense—he feared his brethren had turned their faces so much towards the poor that they had turned them entirely away from the rich, who, as men, and fellow creatures, were certainly entitled to some consideration. Now he too wished to know, what gentlemen meant by talking so much about the poor; because, we might go into dangerous extremes on this point. He had heard it asked, whether the victim of misfortune was to be deprived of the right of suffrage, no matter under what circumstances. But he would, on the other side, ask these partial philosophers, whether an industrious labouring man, who has an established residence, and maintains his family, and besides, pays something to the support of the Government, was to be entirely lost sight of in order that all our kindness may be bestowed on his next neighbour who does none of these things? He would ask, gentlemen, whether we were to forget the meritorious classes, who keep themselves out of the poor house by their industry, work for a livelihood, and have a little to contribute to the maintenance of Government? He did not care how small it was; whether it was ten cents, or five cents, or three cents. The man who is able to contribute three cents, has three cents above what is necessary for the maintenance of himself and his family, and he is to be considered an industrious and useful citizen of the community. The surplus, however little it may be, is a proof that he supports himself and his family. Well sir, shall we take his ten cents or three cents from him, and give them to one who lives in the poor house and earns nothing, and contributes nothing to the public burthens, and yet declare that there is no distinction between them? This would be making the man to whom you give, more meritorious than the man from whom you have taken; and this was the whole burthen of the argument of those who advocated the principle that there should be no tax qualification. This was the unavoidable result of that argument.

Now let us come to the point of this matter, on which we have been making an experiment, on a pretty extended scale. What is that experiment? Why, have gentlemen forgotten our structure of Government. Each of the States of the Union is a family by itself; and all these families are united by the common bond of the General Government. Then it was the duty, as well as the right of each State, to make up its own family and keep them distinct from every other family, in order to maintain its integrity and qualify it to perform its duties as an independent State of the confederation. Can you, then, or will you allow citizens of other States to come here and vote? If you do you are bringing about consolidation, and you so far destroy the nature of the Government and the security of the Federal Union. This is wrong.

But, to return from this digression, and there seems to be a growing disposition to make political reasoning and judgment directly contrary to social reasoning and judgment. What in the judgment of men individu-

ally is virtuous, and good, and right, and deserving of esteem and confidence, is, by political reasoning, to be condemned and ostracised. As has been remarked by the gentleman from Franklin, (Mr. DUNLOP) what is it which a parent teaches his child? If he cannot get any thing better to put into his hand, he gives him POOR RICHARD—sound philosophy on some points, in simple language—and it teaches him to make himself rich and independent by industry and economy, learned by assiduous study, and worthy of confidence by practising virtue and self restraint; and this followed out, makes him a rich man, a virtuous man, and, it may be, a learned man. Well, are those things which a man teaches his child to aim at, and strive to attain; those things which gives him rank and character, and fix his claim to high respect and confidence, to be lost sight of; nay, to be contemned and disparaged? Is the man who has those traits of character which induce the parent, on his dying bed, to single him out as the person to whom he is to leave the care of his fortune, and the protection of his children to be made obnoxious, because he has been successful in life?—because he has been successful in worthy pursuits.

What is this talk about the rich and the poor to end in? A gracious Providence, for his own wise purposes, has permitted the distinction of poor and rich. The poor are among us, that the rich may aid and assist them, and in distributing charity, improve their own hearts. Who is it that would destroy this order, and set the poor and the rich at war?—Providence has wisely distributed riches and poverty for the benefit of both poor and rich; but the politician would destroy the work, and counteract the benevolent designs of his MAKER on earth—and for what?—There is but one way of bringing all men upon an equality. The canon of Heaven is against making all rich, but the work of men may succeed in making all poor. This the politician can do, for bad laws and bad government can accomplish it. And who would be the gainers by this? The poor: No, sir. He represented a city abounding in monuments of charity. The halt, and the lame, and the blind, the helpless, the destitute, the poor, and the unfortunate of every description, all have institutions provided for them; and there charity ministers to their aid in every form their circumstances require; and upon what foundations were these institutions laid? Their foundations were laid by wealth! He would not speak of the individuals alluded to by the gentleman from Franklin, whose magnificent endowments were known; but he would refer to the late JOHN KEELE, said to have been himself educated at free school, at the end of a long life, spent in employments not of great profit, he had left upwards of one hundred thousand dollars to charitable institutions. He would refer to the late Dr. PRESTON, who had left between two and three hundred thousand for the foundation of an establishment of charity. He would refer to Mr. BIRCH, who had recently left a large amount for similar objects. Who has been harmed by such men being rich? Who will be blessed by it? The halt, the lame, the blind, the unfortunate, the poor. Is the stream of charity which flowed from these good men's hearts, (which it refreshed and purified to their great benefit) to alleviate the wants, and gladden the hearts of the poor—is this beneficent stream to be cut off? Where would those charities all have been, if that city had been made up of nothing but the poor. Yet here is to be a war got up of the poor against the rich—of those who are benefited, against those who

alone can be their benefactors. He should be glad, he repeated, to know what was meant by gentlemen in this use, or rather abuse, of the terms poor and rich. Here is a tenant who hires a farm, and makes enough to pay his rent, and maintain his family; and there is but very little more wanting to make him a rich man. If he lays up but ten pounds a year, he is improving his condition, and he has in this, one of the greatest elements of happiness, because happiness does not consist so much in the amount a man has, as in the continued improvement of his condition. Such a man is a very rich man, compared with your pauper in the poor house. If, then, this malignant feeling which it seems to be the desire of some to see engendered, is to be excited, between whom will it exist with the greatest intensity? Not between the extremes. It will be between those who are nearest to each other. The greatest animosity would be felt by the poor man against the one next above him in wealth; he would be the rich man to him, because he is the nearest of those above him. These were now, perhaps, thought to be mere matters of speculation, but he apprehended the time might come when this land would be infested with demagogues, and every one knows what are the peculiar dangers in such cases. The monarch on the throne, especially if he be clothed with despotic authority, never hears the voice of any but of parasites and flatterers; and the man who would speak the truth to him, if not worse treated, would surely be asked to walk out of his royal presence, never again to enjoy the sunshine of his face; for the presence of the monarch is sunshine to those seeking his favor. Well, who is your monarch, in this country? The people. You are always in the presence of your sovereign, and are you different from those who are in the presence of other sovereigns? Is there not the same inducement to flatter, cajole and deceive the sovereign here, as elsewhere? One kind of sovereign as another? Was it not just as easy to flatter the sovereign under one form of Government, as another? The people as a king? And did not every one know that the danger to be apprehended in republican Governments, was, that this sovereign might be flattered and fooled, just as other sovereigns are? Then, where is the security against this? It is neither in the poor, nor the rich, but in the middling classes; who are the stay and support of every community. They enjoy the real independence, because they look for nothing in the shape of office, and what they do is for the good of the country. But once have a class of politicians, by trade, who are looking for office, and nothing but office, and are dependent on what they can thus get, then will your security for property be unsafe, and your institutions begin to tremble. To be sure, should such a race of men come, they would be little to be envied, for they will generally share the same fate as under other forms of Government. They may bask in the sunshine of their sovereign for a time, by the use of unworthy means, but sooner, or later, the smile will be changed to a frown, the chill of disgrace will strike to their hearts, and you will see them ready to exclaim with WOOLSEY, if they had served their God as faithfully as they had served their sovereign, he would not have thus deserted them. But they have, in the mean time, helped to ruin their country, and new demagogues succeed them, till the work is done.

Now in the Constitution which is to govern this family of ours, is it true that there is such an inherent right in that class of persons who are a

public charge, to participate in the Government of the State, that we cannot regulate our elections so as to exclude them? Have we no right to say that the man who is a public charge; who, not only contributes nothing to the support of the Government, but draws from the pockets of the industrious poor the means of his support; shall not come into our family upon a footing with those who contribute to its support? We have a duty of charity to perform towards them, enjoined upon us by authority too high to be disregarded. We are bound to help the pauper, but where is his right, while he remains in this state of dependence, not only to demand of us alms, but also the privilege of regulating the affairs of our family? If you proceed from the case of the pauper to the case of any other, he would like to know where the principle was in a republican, or any other Government, which does not make a test of contribution of something, however small, to the common benefit of society? Where is the inherent right under which we all claim to be associated as a Commonwealth? It is that each contributes in proportion to his means, and each receives protection according to his wants. The poor man is protected in his house, his family, his occupation, and his industry, and he is secured, also, in the prospective enjoyment of all he can accumulate, but exactly in the proportion of that accumulation of property is he called upon to contribute. He would give the right of suffrage to the poorest of those who contribute any thing. But the lowest of those in this scale of contribution, are precisely those who would be most wronged and offended by forcing upon them as their equals those who contribute nothing. If you had granted this privilege to all the men in the country who were unable to pay, it would have made no difference to STEPHEN GIRARD, and he would, probably, never have grumbled about it; but bring up along side of a poor but honest, industrious laborer, a pauper from your poor house, and that poor man will feel that an injury is done him, in giving the pauper a share of his right; because you thus take away from him a part of his rights. There is where the distinction is to be produced, and not among the rich, because they are too far distant to feel it. Those who are nearest together will be those who will feel the destruction of this distinction most. He went for a residence of some time, and a contribution of something to the support of society, and he went for this upon the principle of mutual contribution and protection, and he could not see that any one had the right to expect any thing beyond this.

Mr. MARTIN was opposed to the amendment before the committee, and it was not because it required a tax qualification, but because the qualification as proposed by the amendment, was entirely unsuited to the purposes for which it was intended. We are told by gentlemen who have spoken that in some of the counties the personal tax in some cases is reduced as low as ten cents; and the amendment required that this tax should be paid within two years. It seemed to him that the paying of ten cents within two years should not entitle a man to give a vote. He believed it was possible to introduce a tax qualification very far superior to that of having paid a State or county tax of ten cents within two years. He was not aware that the tax was so exceedingly low in any of the counties, and he was certain there was no tax qualification in the county of Philadelphia much below one dollar. When he acted as assessor in Philadelphia the lowest tax qualification was seventy-five cents, and this was a personal tax on the occupation of poor men. It was possible however, by the law that asses

sors might reduce this tax as low as ten cents or to one cent, but this appeared to him to be no qualification at all. He thought it possible to introduce into this Constitution an amendment which might be considered unexceptionable. He wished to see an amendment incorporated in the instrument which would entitle all citizens to a vote who were liable to pay a tax. It is not the mere matter of paying ten cents in two years which should entitle the individual to the right of franchise; but it should be based upon his liability to pay a tax. He had given notice that he intended to move an amendment of this character and he should do so as soon as he could get the opportunity. He was not at all disposed to exclude the independent, virtuous poor from the enjoyment of this inestimable right; nor did he believe there was a man in the Convention who has any disposition to make wealth a qualification, so that all these remarks about rich and poor was so much thrown away. He had lived long enough to see the poor grow rich, and the rich grow poor, and all we want is equal and just laws to make us a happy people. His object was to have the Convention examine this subject carefully and incorporate into the Constitution the principle he had suggested, and leave it to the Legislature to carry it out in detail. He could not go for placing our industrious, virtuous, but poor citizens upon an equality with vagrants, for no one can go through the city of Philadelphia without seeing that there are such individuals there. If these men were to be placed on equality with other men, the Legislature has done wrong in passing vagrant acts. Who was it that would attempt to raise the standard of the vagrant to the standard of the poor, but virtuous laborer? He could not believe any such thing was ever intended here. He would never consent to bring down the standard of the laboring classes to the standard of the vagrant or of the black man. He never would consent that the man who wandered about from one place of debauchery to another, and lived by dishonesty or upon charity, should, if he could scrape together ten cents within two years to pay as a tax, step up along side of the honest, industrious poor man and enjoy the same rights with him at the polls. If they have the right to vote, they also have the right to be elected as representatives and this right he did not think should be granted to them. He did not believe the amendment was founded upon a sound basis. It requires a State or county tax to be paid within two years. Now it was possible in the course of human events that the Commonwealth would require no tax for its support, and it was also possible that there might be a time when there would be no county tax required. Then, what is to become of this amendment? Is it to remain in force and if it does, is there no person to be allowed to vote if there is no tax levied? Under this tax system, as proposed, a person may lose his right to vote because the assessor may not have assessed him, or he may lose it by the neglect of the collector; but if we have a clause in the Constitution granting the right of franchise to all liable to pay a tax, all those difficulties will be avoided, and this appeared to him to be the true basis. He threw out these views to the committee for their consideration, not intending at present to pursue this subject further, but reserving to himself the privilege of going more at large into the subject if it became necessary. In conclusion, he would say that it was not his intention to raise the vagrant to a level with the poor industrious citizen but to draw the lines of distinction by a Constitutional provision and leave it to the Legislature to carry it out.

The committee then rose, reported progress, and obtained leave to sit again this afternoon, when

The Convention adjourned.

TUESDAY AFTERNOON—4 o'clock.

THIRD ARTICLE.

The Convention again resolved itself into a committee of the whole, on the third article of the Constitution, Mr. KERR, of Washington, in the Chair.

The question pending, being on the motion of Mr. DARLINGTON to amend the amendment of Mr. BELL,

Mr. BIDDLE said: Mr. Chairman, if I were not greatly deceived, the gentleman in front of me, from Indiana, (Mr. CLARKE) used this morning language substantially to this effect: He had spoken of wealth as an antagonist power, constantly warring against free institutions; and being pressed by the gentleman from Franklin, (Mr. DUNLOP) he rose to disclaim having intended reference to wealthy farmers, who were, he conceded, a meritorious class of the community, and said he referred to bankers and merchants whose counting-houses were their churches, whose books were their bibles, and, of consequence, whose God was wealth. Sir, I heard such sentiments with surprise and with pain. Of our farmers, my inclination and truth both impel me to speak in the most favorable terms. A more intelligent, upright, industrious, and patriotic yeomanry exists no where, than the Pennsylvania farmers. But let me appeal to the farmers, and enquire of them, who enhance the value of your farms, and bear the rich harvests of your fields to foreign climes? The merchants. Who, in return, bring back to your doors the merchandize and productions of every part of the world? The merchants. What has created our splendid improvements, our canals, and our railroads? The spirit of commerce. What, in the darkest hour of our late war, shed a halo over our country, and, in a blaze of glory, effaced the stain of a succession of defeats on land? Our navy, the child of commerce. Who bears a higher character of honor, punctuality, industry, integrity, and enterprize, than the American merchants? None. Who, when in the year 1793, pestilence stalked through the deserted streets of our fair city of Philadelphia, and the hand of death was marked on every door, ministered by the bedside of the suffering and dying? A Philadelphia merchant. Who was the first to subscribe his name to that declaration which proclaimed to the world, that these States were free, sovereign, and independent—and which pledged life, fortune, and sacred honor, to maintain its principles? JOHN HANCOCK, an American merchant. Who, when the resources of our country were prostrate, her credit gone, and ruin impended, by his great abilities and patriotism restored confidence, and once more gave a vital impulse to the finances of our country? ROBERT MORRIS, a Philadelphia merchant.—Who was one of the earliest and most devoted promoters of that great scheme of christian benevolence—the American Bible Society—which is spreading the bible and its blest influence throughout the world? ROBERT RALSTON, a Philadelphia merchant, whose wealth was always freely poured out in dispensing charity, and in sustaining works of benevolence. I

might easily swell the catalogue of liberal, munificent, enlightened, patriotic, American merchants. When, as a class, have they ever merited reproach? Never. Stigmatize and degrade the merchant, and what will become of public credit, and how and when will the State debt be paid? Credit, commerce, and free institutions, are closely connected and flourish together. The occasion does not require that I should enlarge my remarks.

Commerce, the first of human avocations,
Unites, enriches, civilizes nations.

As one of the representatives of a commercial city, and one proud of the unstained character of our merchants, I have felt it my duty to repel the reproach attempted to be cast upon them. If it had been the outpouring of boyish petulance and folly, I might have passed it by unnoticed; but when it gravely fell from one whose age and experience should have taught him wisdom, and who, from his intimate connexion with our great works of improvement, should have been among the last to strike such a blow, I could no longer restrain an honest indignation; and I now pronounce every charge against the patriotism of our merchants a foul calumny.

Mr. CLINE, of Bedford, rose to make some remarks. A great deal had been said, in the discussion which had arisen out of the question before the Chair, which had no strict relevance to the subject, as a great deal had been said before the committee, on other questions, which seemed to him to be entirely irrelevant. But, inasmuch as he expected to be called on solemnly to record his vote on the very important question which had employed the attention of the committee for a considerable length of time, he would take the liberty, very briefly, of giving his reasons for the vote which he was about to give.

The discussion before the committee seemed to involve the simple question, how far a man is to be permitted to partake of the benefits of society, without being himself willing to contribute to the support of that society? This is at least the most important question on which we are called to decide.

I shall say nothing about the two propositions; one offered by the gentleman from Chester, on the other side of the House; and the other offered by the gentleman from Chester, who sits behind me. I will merely remark, that I prefer the proposition of the latter gentleman, inasmuch as it provides for a greater length of time, during which a man must reside in the State before he will be entitled to vote. So far, as regards the ordinary transactions of life, it would not be proper to take a beneficial act without contributing something. This principle holds good as to ordinary transactions. No member of any association, formed for a particular object, is permitted to exercise an equal influence with the rest unless he has contributed, in some degree, to the support of such association, and divides with the other members the responsibility and the expense. In religious societies, also, no one is permitted to vote on any question concerning the church government, unless he has made some contribution: no one is allowed to have a voice in the election of a minister, unless he is a pew holder, or a contributor in some mode, and to some extent. So, also, in reference to other institutions which exist in society. In banking institutions, no man is able to vote for directors, unless he is a stockholder, or

partakes, in some degree, of the responsibility of the transactions of the bank. This is considered all right and proper, as regards those institutions, as well as other institutions, moral or literary, or whatever their character may be. And some hold the principle to be good as to political societies; an individual comes into society, he is willing to enter into the social compact; now, on what principle can it be said that he has a right to exercise all the privileges of a free citizen, and to enjoy the rights which are guaranteed to him by that compact to which he has become a party, and, more especially, to exercise the inestimable right of voting, without being willing, at the same time, to contribute in common with the other members of the same political community. As soon as he becomes a member of the body politic, he becomes a party to the compact; and there is an implied obligation on his part to share in the burthens of society; and he cannot expect to share its privileges or its blessings, without, at the same time, performing, in good faith, the obligations which that society impose on him. Government must be supported from some source, and I know of no other means for this purpose, than a resort to taxation. This means has been resorted to by all Governments, and I suppose will continue to be resorted to so long as Governments shall continue to exist.

But it has been said, that the Legislature may impose taxes, without making such imposition a necessary qualification for voting: and that the payment of a tax is now no more than evidence of qualification, and has nothing in it essentially necessary to constitute a qualified voter. This position I am disposed to controvert. I believe, after all, that there is some good reason for paying taxes, even those which amount to no more than ten or twenty cents; and the best reason in the world is, that Government stands in need of support, and can only be effectually supported by taxation.

But again, sir, we are told that this tax qualification bears oppressively and injuriously on the poorer classes of society, and that it necessarily disfranchises a large portion of our meritorious citizens, whose only fault is that they are poor and unfortunate. But we ought to remember, that few men are really so poor as not to be able to pay the small amount of tax required, except those who have rendered themselves so by their own folly and extravagance. I know there may be exceptions to this rule, as there are exceptions to all general rules, and these exceptions cannot be provided for in the Constitution. But this is the necessary result of our imperfect institutions. No system of human policy is so perfect as to secure to every individual those rights which, in strict justice, he might be entitled to. We are bound to arrive as near to perfection as possible, but ought not to introduce a general evil, merely because it would be the means of benefiting a few.

It appears to me that the importance of this policy is not to be regarded, in reference to the paltry sum which may be collected, but in reference to the influence which the measure would exercise on the individual himself. It would be saying to him—"as you are a member of society, you ought to have a voice in the Government, and you cannot be considered a member of the State before you share in its responsibilities, and are willing to put yourself on an equality with the rest of your fellow citizens". It would thus tend to elevate the poorest man in his own estimation. If you tell him he has no right to pay the tax, but may yet enjoy all the privileges of

a citizen, what would be the effect upon him? Would it elevate him in the scale of society, or make him a better citizen? Would it not rather lower him in his own estimation? Would it not lead him to believe that he may neglect his duties, because it would not be necessary for him to be industrious in order to be respectable, and to share equally the benefits of a citizen? I would wish to have some reference to the individual, with a view to elevate him up to the standard of the community, and not degrade that to his standard. How often would it happen that, instead of men having the good of the community at heart, as a primary consideration, their views and efforts would take a downward direction? How often do we discover motives purely selfish actuating individuals, and lying at the bottom of their schemes? Is it not notorious, a policy and such schemes have been advocated even in the doctrines asserted on this very floor? Would it not be better to elevate those who desire an equality of rights by showing them that they cannot enjoy that equality of right without exercising those qualifications by which we, and all the members of the community, may be benefited?

There is another consideration which has its weight with me. These taxes are of some importance to support the Government. They would not be as readily paid by the man, who has been told, that he is entitled to be admitted into all the benefits of the compact, without such contribution. If he is told he must pay his tax before he can vote, he will exert himself to pay it. He will endeavor to make himself able to pay it, when he understands the payment will increase his weight and importance in society. Tell him he need not pay a tax, and he will evade any legislative enactment to the contrary, unless it be positive, which compels him to pay. This would be peculiarly the case, in relation to those whose welfare we have in view, when we say they shall pay no taxes. It has been said, if you take away the provision which compels the payment of a county tax, you will let loose a horde of men—of what character and description? Of that which would destroy any Government, who have rendered themselves incapable of paying any tax, because they have lost sight of all those feelings which impel an individual to hold a station in society. And shall we, for the purpose of gratifying and flattering the sovereign people, adopt a measure which would let loose upon us men of this description? For, if any thing can disorganize a Government, it would be only to carry this principle, contended for here, a little further than it has already been carried, to produce these results which we should mourn, without being able to counteract. Tell them that they have all these inalienable rights by nature, and, notwithstanding they may be able to contribute, they will throw their weight in the elections, and the most degrading consequences will ensue. Would this be doing justice to society? I agree with the President of the Convention, that some regard is due to the rich as well as the poor, and the middle classes. We have heard a good deal said about an array of the rich against the poor. I am sorry for it: it should be heard no where, much less should it be heard in this grave Convention. I am sorry that the opinion has been reiterated here, that the poor are oppressed on account of this by the rich. I think it is not so. Instead of gentlemen letting themselves down on a level with certain classes of our citizens, they ought to endeavor to elevate those classes on a level with themselves. Their course of proceeding may be popular, but is it patrio-

tic? Let us rather endeavor to cultivate the minds of such as seem not properly to appreciate the rights which they ought to exercise. Let them understand that the intelligent are preferred to the ignorant, that the wise and thrifty, and understanding, are held in higher estimation than the indolent and the careless. In reference to a certain class, you may do all they ask, and the more you do the more they will expect. It is in vain to say, then, they shall be benefited at the expense of other portions of the community. Are they so to be benefited? The exertions in behalf of such will not be made by politicians, but by those who are disinterested, and noble minded enough to use the only effectual means, by giving them the advantages of light and knowledge; and, until they receive that light and knowledge, it will be as well that they are not permitted to vote at all. I trust they will receive that light and knowledge, and then they will not ask to be excused from paying taxes. I wish to see men at the head of the political parties, who will consult the real good of these individuals, and who will give them that knowledge and evidence which will enable them to vote advisedly, and to pay their contributions before they are permitted to vote. He would vote for the amendment of the gentleman from Chester, behind him, because he liked the term of residence better than that proposed by the other gentleman (Mr. BELL).

Mr. Cox, of Somerset, said that he would not detain the committee long, as the subject had already been very fully discussed, by gentlemen who were, perhaps, better able to do it justice than himself. But, inasmuch as it was a question of very considerable importance, he thought it was only proper that he should assign some reasons why he would vote against both the amendments, and in favor of the report of the committee. Now, it was right that he should enquire, whether the payment of a tax gave a man the right to vote—whether it was that only which qualified him for an elector, or other considerations taken in connexion with it.—He was free to confess that he did not believe that, in justice, the paying of a tax should give any man the right to vote, although coupled with other reasons. Because, if the payment of a tax were that which gave an individual the right of suffrage, the right of voting for officers who are to govern the country, and make the laws for it, then there ought to be some standard—some certain amount of tax specified, which each individual ought to pay, in order to entitle him to a vote. Now, it appeared to him, and it must appear to every one else, who would bestow a moment's reflection on the subject, that, if it were the payment of a tax which constituted the right of suffrage, how happened it, that each man was entitled to one vote only, he having paid a tax, no matter what might have been the amount? Under the Constitution and laws of the Commonwealth, no difference was made between a man who had paid a tax, within two years, of but six and a quarter cents, and he who had paid, in the same period, one hundred, or even five hundred dollars, they were entitled to only one vote each. He (Mr. C.) would maintain, that the very circumstance of the exact amount of the tax to be paid not being specified, went to show, that the framers of the Constitution of '90, did not mean that the payment of a tax was to qualify a man to vote—to give him the right of suffrage. Notwithstanding, he contended that the payment of a tax does not, and ought not to qualify a man to vote; still, he was free to admit, that there were good reasons, which he would give hereafter, why persons should

not vote who were a public charge. It was a principle which was incorporated into the Constitution of all the States, except where men were held in bondage, "that all men are born free and equal". This declaration was engrafted in the Constitution of Pennsylvania. "All men are born equally free and independent, and have certain inherent and indefeasible rights, among which are those of enjoying and defending life and liberty—of acquiring, possessing and protecting property and reputation, and of pursuing their own happiness".

Now, this is a principle which is recognized as sound in Pennsylvania, and he trusted that it would always be considered so. It was important that we should look at this feature in our Constitution, and see whether, in order to maintain those rights which are guaranteed by this instrument, it may not be necessary, and right, and proper, and just, that every man should exercise the right of voting, although he may not have paid a tax within a year or two, or even in the course of his life. The Constitution says, among the rights which a man possesses are—those of "enjoying and defending life and liberty". He would ask, was it not a liberty and a privilege for a man to vote for those who were to govern the country? And might it not be essential to his own liberty and happiness that he should have that right and exercise it, notwithstanding he might have paid no tax? If the time should ever come, when there should be an attempt to overthrow the Government, it might be of great importance, that men of small property should be able to rally in defence of freedom. Suppose that, hereafter, a Convention should be called, who would take away the right of suffrage from all those who did not own five hundred dollars, or that no man should vote who had not a freehold estate, would not the principle of a tax qualification be taken as a precedent? Would not the same argument be used, as we have heard on this floor, in favor of this amendment? And, suppose a clause of that sort to be now inserted in the Constitution, and to become a part of the fundamental laws of the land—what, he would ask, would be the situation of a vast number of our citizens, who were, at present, entitled to vote? Why, perhaps, as many as one-fourth, or one-fifth of all those who now exercised the elective franchise would be deprived of that right. It would, then, not be improbable that the next movement on the part of those who, in a great measure, would have the power in their hands, would be to enact and declare that such citizens as did not possess a freehold of the value of one hundred or five hundred dollars, perhaps, should be bond men—should become the vassals, or the slaves of those who possessed property to a certain amount. Well, as it was possible that such a state of things, as he had just described, might arise, it was manifestly incumbent upon us to do every thing in our power at this time to avert it. He was not disposed to draw any invidious distinction between the rich and the poor. He hoped, then, that he would be pardoned by some gentlemen on this floor for using the appellations "poor" and "rich", because it was almost unavoidable in a discussion of this character.

He was about to observe that it was true, unfortunately true, and every day's observation proved beyond controversy that there are poor persons in this land, and we are bound to believe, from the lights of experience that it would always be the case. The time would never arrive, he thought, when all would be wealthy, or comfortably circumstanced. It would be

recollected that a few years ago a law was passed abolishing imprisonment for debt under five dollars and thirty four cents, and it had been several times amended so as to bear as lightly as possible on that class whom it was intended to benefit. That act was passed in order to ameliorate the condition of the poor. Now, it was right and proper, and was our duty to make the condition of the poor as good as possible. God knows that they have a hard task enough, to struggle with misfortunes that spring from poverty. They have to bear up against the ills of life, and buffet the cold and unfeeling tempests of the world, unprotected. How different, then, was the condition of the wealthy, or even those who were comfortably off! He gave his full assent to the truth of the old and trite adage that "wealth is power". All experience, indeed, had shown it to be so. Those who are rich, as well as those who were in middling circumstances, have the power to protect themselves in all their rights. The President of this Convention, he has no doubt, had seen the truth of his remark verified in a thousand or five thousand cases in the city of Philadelphia, which, although not the largest city in the Union, certainly possessed as much virtue, honesty, and intelligence as any other city in the world of the same size. He doubted not, then, as he had already observed, that the gentleman had seen in the Mayor's court, a poor man tried for some petty offence, without a friend being present to raise his voice in his defence. And, how happened it? Why, it was because he had not the wherewithal to employ counsel. But, on the other hand, and it illustrated the fact which he had stated that "wealth is power". Let the rich man be accused, and brought to the bar of justice, and he will not be accused without reason. Able counsel surrounds him: men dependent upon him sympathize in his behalf, and he will not be cleared if he is not-guilty: and it is sometimes hard to convict him of guilt.

Now, all that he (Mr. Cox) had stated, only went to shew the duty which devolved upon this Convention, to do all in their power, consistently, with justice and propriety, to secure the poor all those rights which were essential to their happiness and their liberty. He would maintain, then, that the paying of a tax ought not to be considered, and could not, in justice, be assigned as a reason why a man should have the privilege of voting for those who were to govern the country—to make its laws, or to carry them into effect. There were many and all-sufficient reasons which could be assigned why a man ought to vote, without paying a tax. Let the questions at the polls be not, have you paid a tax? but, are you a citizen of the State, or of the United States? Are you liable to do military duty? To shoulder arms in defence of our common country? The duty of fighting in defence of the country was a high and important duty, and gave a man higher claims to high privileges than all the taxation that could be imposed. The poor as well as rich were liable to this duty. During the late war—he was too young to know much about it—yet he believed that if a man was called upon to defend the country, he had the privilege of hiring a substitute, which would cost him from one to three hundred dollars. The poor man could hire no substitute; when called upon, he must go. This was another reason why the tax qualification should be abolished.

He insisted that the theory of tax qualification, of compelling men to contribute to the Government before they exercise the right of choosing

their rulers, could not be sustained on any principle of justice or equity. To-day, men might be wealthy, and to-morrow, in indigent circumstances. And, because he was so unfortunate as to be placed in that condition, he was deprived of a right which he enjoyed while rich. He fully concurred in the sentiments expressed by the gentleman from Indiana, (Mr. CLARKE) that the right of suffrage does not depend upon the paying of a tax, but upon a man's being a citizen of the State—subject to the laws for its Government, and being at all times ready to uphold them. Let gentlemen revert to first principles, and see how it could possibly be that the right of taxation should precede that of suffrage. Suppose all the members of a community to meet together, as was done in ancient times at Athens, for the purpose of making laws for their own government, and appointing their own rulers. In fixing the rate of taxation among themselves, they would, of course, adopt the principle that every one should pay according to his means, towards the support of his Government. The inability of one man to pay as much as another, would not at all affect his right to a share in the Government which he assisted in erecting. He (Mr. C.) would say, then, that according to every principle of natural right, and of natural justice, the right of voting took precedence of taxation.

Again, Mr. Cox said, this theory of tax qualification, of compelling men to contribute to the Government before they exercise the right of choosing their rulers, cannot be sustained on any principle of justice or equity. To-day men may be wealthy, and to-morrow in indigent circumstances. The existence of the right of taxation was sufficient. The power to tax all men in the community for the support of the Government was all that was necessary. If the assessor passes over a man, it is no reason for depriving him of his vote: his liability to taxation is sufficient to entitle him to the right. In regard to those who were supported at the public charge, in accordance with the humane spirit of our institutions, he could not see that they were entitled, on any principle, to exercise the right of suffrage. Those who had for a long time been confined in the poor-house, and thereby in a great measure cut off from the community, could know very little of the public interests, and, if they voted at all, would probably vote in accordance with the will of their overseer, who would take them up in a gang to the polls for that purpose. Many persons, however, were, under the present system, deprived of their votes, who were intelligent, industrious, and honest citizens, by the neglect or refusal of the assessors to tax them. In some towns, the assessors were not in the habit of taxing laborers, on the ground that the occupation was not such as was contemplated by law. These men might be as patriotic as any, and they could not but feel indignant at being excluded from the privilege of voting. Again, it was said, that in some instances, revolutionary soldiers, who were not paupers, had been deprived of their votes. He knew of a case himself wherein a revolutionary soldier, having neither property, profession, nor occupation—nothing by which he could be taxed under the existing law, was debarred from the exercise of the right. On no principle should this man, who fought for the liberties which we enjoy, be deprived, when now on the brink of the grave, by the laws of that country for which he had risked all, of a voice in the elections. He would rather three or four unworthy men should vote, than that one such

man should be denied the privilege. He should vote for the report of the committee, with a provision for the exclusion of persons supported at the public charge, and a provision requiring one year's residence, which he thought short enough.

Mr. FULLER said, that with some exceptions, this appeared to be rather a one-sided subject. An object of great importance in the right of suffrage was uniformity; and the question was, whether it would be best effected by citizenship or taxation? With respect to taxation, in what way did that give uniformity to the exercise of the right? Was a man identified with his fellow-citizens by paying a tax, or by contributing to the support of the Government? There were various ways in which a man could be forced to pay a tax, or to perform a service for the Government, without becoming entitled, under a present law, to the right of suffrage. Those who, in any way, contributed to support the Government, ought to participate in it. He was disposed to give a man a vote after one year's residence, because he is a man, and not because he is subject to a tax. He was opposed to the amendment, on account of the six months' residence which is proposed. Six months was too short a time. The election in Virginia took place in April, and the citizens of that State bordering on ours might come into Pennsylvania about that time, and yet be entitled to vote at our election in October. This ought to be avoided, if it could be done without any sacrifice of principle; and there was none in saying the time should be six months longer. The advantages of such a provision would greatly overbalance any of the disadvantages that had been pointed out. He repeated that he was opposed to the tax qualification, and in favour of six months' residence. In the Constitutions of Michigan and Arkansas, the two last States which were admitted into the Union, citizenship and residence were required, and nothing else. With all the experience of the older States before them, they had thought proper to adopt that policy. There was a difference in the views which had been brought out in regard to the protection of the poor and the rich. He did not think the gentleman from Indiana, (Mr. CLARKE) was so much out of the way in saying, that a poor man was better entitled to two votes than a rich man was to his one, because the rich are protected by the influence of wealth. The poor man alone was called to do military duty in time of war, while the rich man provided a substitute, instead of going in person. It is true that the rich man thus discharged his duty; but he considered the mere payment of fines as very inferior in merit to personal service. The poor man, in fact, was deeply interested in the defence and welfare of his country. To make any distinction, therefore, between the rich and the poor, to the disadvantage of the poor, was highly unwise and improper. It was idle to make any difference between them, for the reason that the poor man of to-day may be rich to-morrow, and those who are rich to-day may to-morrow be poor. We seldom see wealth pass into the second generation; and honesty, industry, and economy are, in this country, a sure road to riches. This would be the case as long as this Government endured. Property would be constantly changing hands. No line of distinction was, therefore, to be drawn, and the rights of the poor were never to be lost sight of. There was no danger that the rights of the rich would ever be forgotten; if they were injured, they would make their voice be heard. He would go against the

amendment and for the report; but he hoped some alteration would be made in that.

Mr. CLEAVINGER said although he observed that there was a great deal of impatience in the committee to take the question, he must ask their indulgence for a few minutes, while he presented his views. He should endeavor to take something like a practical view of the right of suffrage, inasmuch as he represented a people who were practical persons. Now the argument which has been introduced here on this question, with regard to the right of suffrage, is either founded upon a property qualification, or it is not. Although some gentlemen had intimated something which might convey the idea that it was founded upon a property qualification, still it had not been contended for to any considerable degree; and although arguments had been adduced, which went, in some measure, to show that the Constitution of '90 required a property qualification to entitle an elector to the right of suffrage, still he had no hesitation in saying that that Constitution was not founded upon any thing like a property qualification. Then if the right of suffrage did not depend upon a property qualification, what is it in practice? He considered it to be nothing more than a mode of evidence by which to determine the personal right; because in his opinion, the right of suffrage was a personal right, which attached to the individual upon his becoming a member of the community, and did not depend upon the contingency of possessing property, or the paying of a tax. It was a personal right which attached to him as a member of the community; and so important a franchise ought not to depend upon any thing transient, uncertain or contingent. Well, if it be merely a personal right, and does not depend upon a property qualification, let us examine whether the payment of a tax is a proper criterion by which you can test that right. He contended it was not a proper criterion, and that it was altogether too uncertain a contingency for the right of suffrage to rest upon. The idea was not to be entertained for a moment that the inestimable privilege of exercising the right of a free citizen of Pennsylvania, should depend upon the payment of a few cents to a tax collector. Suppose it should become unnecessary or inexpedient to impose a tax on the people, then, according to this doctrine, the right of suffrage would cease to exist, and there would be an end of the Government. This contingency may, or it may not happen, but if it does happen, and this provision stands, then the state of things he had pointed to must inevitably occur. But supposing this contingency does not happen, what is the next step to ascertain the right of suffrage? The Government employs an agent for the purpose of ascertaining whether or not a person is entitled to the right of suffrage. And suppose this officer proves unfaithful, and neglects or refuses to perform his duty, then, the right of suffrage, would, by this neglect or omission, cease to that extent. Then, again, supposing the assessors should perform their duty, and lay the tax, and the collector should neglect to collect it, as was frequently the case in some parts of the country, the individual is again deprived of the right of suffrage. Then, in the formation of a fundamental law, he would say that it ought to be founded upon just and equitable principles, so that it would neither curb nor restrain the people in the free exercise of their just powers. He was opposed to all kinds of qualifications which depended upon taxation, because it was unjust, and it did not appear to him that the doctrine of a property qualification, was seriously attempted to be urged upon the Convention.

The next question then, to be examined, was, whether or not there should be some form of determining the person's right which appertained to every member of the community, as he held that the right of suffrage was a personal right, which should be exercised by every member of the community. Then, the only inquiry was, as to how long a person should remain in our State to entitle him to this privilege. It, in his opinion, would only be necessary to require a person coming from another State into our borders, to remain long enough to become acquainted with our institutions and State interests. Well, all the citizens of the different States in the Union are supposed to be somewhat acquainted with the principles of Government practised here, and it would only be necessary for them to remain long enough to become acquainted with our particular State policy, and to do this he thought six months would be sufficient. He apprehended that no difficulty would arise from requiring persons from other States to remain here only six months to entitle them to the right of suffrage. At any rate, our own citizens coming back from another State ought to be entitled to a vote on a residence of six months. In the county he had the honor to represent, they were not in the habit of taxing occupations, and without a person has something to tax, he is deprived of a vote, although he may be an actual resident. He would then take away the tax qualification, and fix the term of residence as short as might be deemed sufficient to prevent fraud, and enable a person to become acquainted with the interests of the country. He was opposed to extending the right of suffrage to vagrants and paupers, and he would so amend the section as to prevent them from voting, but to every *bona fide* resident, who was not a pauper or vagrant, he would allow the privilege as a personal right, which, he contended, he ought not to be deprived of.

Mr. FORWARD regarded this as a vital question, and lying at the very foundation of the Government. No gentleman could think of addressing the committee at this late hour, and he thought they could profitably spend another day in the consideration of this all important subject. He hoped therefore, that the committee would rise, and he made that motion.

The Convention then rose, reported progress, and obtained leave to sit again to-morrow, when

The Convention adjourned.

WEDNESDAY, JUNE 21, 1837.

THIRD ARTICLE.

The Convention resolved itself into committee of the whole, on the third article of the Constitution, Mr. KERR, of Washington, in the Chair.

The question pending being on the motion of Mr. DARLINGTON, to amend,

Mr. FORWARD addressed the committee, giving his views in favor of abolishing the tax qualification, and substituting the system of registry of votes. He was also disposed to take from paupers, criminals, minors, and lunatics, the right of voting. [The remarks of Mr. F. are omitted, because they were never returned, after being sent to him.]

Mr. SCOTT, of Philadelphia, said, the elective franchise is a subject of great ~~indeed~~ ^{at least} and importance. Its just arrangements, and the entire security of the citizens in its enjoyment, lie at the foundation of our institutions.

To the security of its enjoyment we have not directed any attention—yet, it is obvious, if that point be not well guarded, it is of little consequence how perfect or imperfect the thing may be, which we adopt in relation to the right itself.

It is a matter of notoriety, that in some parts of the State, violence prevents the exercise of the right, by the acknowledged possessor, and repels many from the polls, without reference to their wealth or their poverty, their station, or their pursuit. In many cases, the only qualification which ensures the enjoyment of the right, is personal strength. The freeman's dearest privilege must be asserted at the risk of his life—and the Pennsylvanian, born on the soil, must contend, in personal conflict, with men, who are strangers to her institutions, and almost to her language. To the aged man, and to the peaceable man, the polls are often practically closed.

It is said too, that the places of the real voters are usurped by fraud—and, that the numbers on the tally list, are too often swelled by large additions of individuals voting against all right, and in defiance of all law.—And it is not asserted, that these evils, and these injuries, are confined to, or perpetrated by any one class of politicians, or denomination of parties, but are common to all—that wrong begets wrong, and injury is encumbered by greater injury. It is even asserted, (by the delegate from Lycoming) that perjury stalks abroad on the election grounds, and the moral sense is lost in the phrenzy of a political contest.

If these things are true, and that they are in some particulars true, wherever the population is densely congregated, must, I fear, be admitted, and that they will become more palpable to our senses, as our population, our cities, our towns, and our boroughs increase, must be equally admitted. If these things are true, then the foundations of republican government are shaken; and it is folly, and worse than folly, to discuss a question of the expression or limitation of the franchise, before we have secured the freedom and the purity of its exercise. I would demand of gentlemen, who advocate the broad doctrine of a *natural* right to vote, as an essential feature of freedom, the preliminary pledge of sincerity in the adoption of effectual means to secure the practical exercise of the right, and to guard it from unauthorized invasion and base prostitution.

Let this be first done. Let the freeman's right, in the extent to which it *now* exists, be secured to the freeman—put it in the power of the poor man and rich man, to walk unmolested, unsolicited, unbought, uncorrupted, untimidated, unwatched, to the box, and there deposit his own, free, unbiassed expression of sentiment, as to who shall make his laws, and who shall execute them; you will then have done much for the cause of republican government, and may then call, with more show of reason, for a relaxation of the few and simple guards imposed by the present Constitution.

Sir, *this* is *not* attempted. We are content that violence, that fraud, that perjury, shall dishonor our elections, and are solicitous only to give a greater theoretical extension, to a privilege now practically denied to many, and, I am afraid, abused by more.

What is it, that the amendment proposed to the Constitution asks us to do, and which, the two delegates from Chester have, by their respective amendments, endeavored to modify?

The amendment proposed by the committee, dispenses with the payment of a tax as a pre-requisite to a vote, and lessens the term of residence!—And, it is upon the question of *tax*, that the argument has chiefly turned.

It seems to me, that this provision in the Constitution has not been duly appreciated. It is spoken of, by some, as a property qualification—by others, it is called a tax qualification. I do not regard it as a *qualification* at all. The qualifications of a voter, are those features of his political character, which make him out as one fit to be trusted with the privilege of a vote. And they are—full age, citizenship, residence. These are, strictly, the only qualifications. And then, when he is thus qualified, the Constitution has imposed on him a duty, which, it says, he must perform, before he shall avail himself of his qualification. He *does* vote, because he is a man, and a citizen—he does *not* vote, because he has neglected an important duty to the society of which he claims to be a member.

If the provision in question is not a qualification, what is it? There is no difficulty in the question. Government cannot be conducted, in other words, the rights of person and property cannot be guarded, the life and liberty of individuals cannot be kept sacred, without the expenditure of correspondent means. The financial department of Government is not the least difficult, or the least important, and, it is matter of great moment to secure the necessary contributions of the citizen, without annoyance to him, and so as to be effectual for the public. No better machinery for this purpose could be devised, than the provision in relation to his vote.—The desire to participate in your elections is a never failing stimulus to induce to payment; the mortification of a public rejection is a never failing check upon avarice. The principle operates silently and constantly.—Suits, collectors, distresses, sheriffs' officers, do not suit the genius of our people, and instead of enriching, would impoverish the Commonwealth. The provision in question has substituted a sentiment of honor. Its influence is perfect and magical.

Sir, I advocate the cause of the poor, when I entreat that this principle may not be broken down. To them the due and proper support of the Government is of as much interest as to the wealthy. They are more wedded to the soil, less able to seek new lands, when their own ceases to protect them. The principle is of deep moment to them, because it brings forth the means of the wealthy, and deposits them in the Treasury of the Commonwealth.

The character of the voter is ennobled by it. He presents himself at the polls in the attitude of one who has done his duty—who has contributed his share to the support of that Government, in the management of which he demands to participate. He meets the proudest of the land on a footing of perfect equality, because he has done as much, according to his means, for the common weal. Degrade the voter and you destroy the franchise. The time will come, if you do so, when wealth will purchase votes; and, the sports of the Circus may, among us, as among the Romans, decide the fate of the nation. I consider the principle to be at the basis of republican Government. Men will love, and will uphold those institutions which they support by their own contributions. Freeholders are the

fiercest republicans upon the same principle. They feel their interest in the nation. No matter how small, how humble. It is their's, their home, their castle—paid for by their own labor. What class of people have asked for this exemption? Sir, if you should assemble the humblest among us, and offer them the exemption, they would reject it with scorn, and tell you, that the same honest labor which supported wife and children, would enable them to support their Government.

The very fact too of the payment of tax leads to reflection, induces examination of measures, and of men. We examine that for which we pay. It is true, that the spirit of party has done much to depress the spirit of inquiry, and that we too often vote, not as our judgments would dictate, but as our leaders order, and the destruction of the fabric of our liberties may be the result. So much greater then the necessity of adhering to every counteracting principle.

It is essential too for the preservation of the rights of the minority. A majority is assessed, and pays its contributions, because otherwise its votes are lost. Blot out this provision, and your minorities may be called upon to support that Government which your majorities elect, and then you will cease to have minorities—all will hasten to come within the pale of protection.

The principle like all others in that admirable instrument, the existing Constitution, is the result of wisdom. I hope it will not be rashly touched.

One word, sir, upon the question of residence. How long *that* should be before the privilege of voting is obtained, may be matter of speculation. I submit, that a knowledge of the Constitution and laws of the State—of its schemes of policy—of its resources—of its wants—of the characters of its public men—of its candidates for office, cannot be acquired in a very brief space of time, by men who are at the same time attending to their own private duties; and yet, a knowledge of all these things is necessary to a just and proper exercise of the elective franchise. The scheme of throwing open your polls, your Government, your peculiar advantages, whatever they may be to every new comer, at his own option, is wild and Utopian. Should an individual be thus lavish, he would soon be reduced to want, embittered by the contempt which his folly would engender. In a Commonwealth, the madness would be the same in principle, and meet with no better result.

Let the farmer look to it, sir. Blot out this principle, and the tax on trades, occupations, personal property, will soon become a dead letter.—Land will be the only available fund, because it can be seen and be reached, and the burdens, now equally distributed, will fall *there*.

I shall give my vote for the amendment of the gentleman from Chester, because, I believe it to be better than the report of the committee—and then, for the existing provision of the existing Constitution, because I believe that to be better than either.

Mr. PURVIANCE said that he disclaimed any intention in any thing he might say, of creating invidious distinctions, or presenting improper contrasts between the rich and the poor. For the sake of the argument, nothing of the kind was necessary, and he should deprecate here, and elsewhere, any appeal calculated to enlist the poor against the rich. Both these classes of the community, as has been shown by the worthy President of

this body, are intimately connected with each other in interest, and occupy a relative position, which cannot, and, if it could, ought not to be severed. In any reference which may be made to the peculiar condition of the poor, he wished it to be clearly understood, that it was because the subject unavoidably led him to do so, and he hoped it might not be attributed to any desire to awaken and provoke unhappy prejudices on the part of one class of the community towards another.

He (Mr. P.) was opposed to the amendment, and the amendment to the amendment, offered by the two gentlemen from Chester, (Messrs. BELL and DARLINGTON) and was in favor of the report of the committee, with some slight alteration or additional provision. The article of the Constitution, which has been materially amended by the report of the committee, has been the subject of much complaint—not only in the county which I have the honor to represent, but as it appears from what other gentlemen have said, in other sections of the State. It requires two years' residence and the payment of a State or county tax, which *shall* have been assessed at least six months previous to the election. By this inflexible provision of the Constitution, a citizen who may have left the State for a short time, to reside in another, and who may, in a month or two, have changed his notion and returned, is necessarily obliged to remain two years without the enjoyment of his former inestimable privilege of election franchise. Another difficulty equally oppressive, in the same provision, is the requisition of assessment six months previous to the election, which puts the rights of our fellow citizens in the hands of assessors, some of whom neglect, and others may wilfully refuse to make the assessment. He (Mr. P.) knew of cases where assessors had been requested to insert names upon their list; but omitted to do it until it was too late, and thereby prevented citizens from enjoying their much desired privilege. These evils he was anxious to remedy, and believed the report of the committee would answer that end. This report had met with serious opposition from gentlemen, because it proposes to dispense with the tax qualification—a restriction in his opinion, as unnecessary upon the right of suffrage, as it was uncalled for at the adoption of the present Constitution. Tax qualification and property representation are relics of Governments unfit to be the models of a free republican people, where distinctions do not exist, and where the humble citizen has equal chance of attaining the highest office and honor of the country. It was doubtless introduced into the Constitution, for the purpose of fixing the residence, and ascertaining the citizenship of the voters; and was thought to be the most practicable mode of obtaining a registry of the resident population. If the object of its introduction into that instrument, can be attained by any other mode, gentlemen should be willing to yield to the wishes of the people, in striking out a provision unnecessary and odious in its character. A registry of all the male inhabitants of the State could be had without reference to their property qualification, and less difficulty and excitement would occur at our elections. Sir, (said Mr. P.) reforms, such as will remove the excitement and tumult which, periodically, agitate the country, are such as should first receive the attention of this body. Changes producing wholesome and salutary effects, are most needed and loudest called for. The right to vote is a natural right, and should be unrestrained by any regulation but that of citizenship. It is our birth-right, and should be kept as free as the air we

breathe. The lame, the blind, and the halt are equally entitled to the enjoyment of this greatest and best of privileges. But, say the gentleman from the city, (Mr. SCOTT) and the gentleman from Bedford, (Mr. CLINE) in the constitution of society every member acknowledged the obligation to support the country by the payment of taxes. He (Mr. P.) did not dispute the proposition, but was at a loss to discover its connexion with the principle of suffrage. The payment of a tax is a duty every one owes to his country, as long as it may require such support, and a duty from which none can be relieved by any change in the article under consideration. The right of suffrage is a privilege—a natural privilege to which all are entitled, and of which none can be divested. The one is a duty, the other a privilege—the one an obligation to the Government, the other an indisputable right, to which no requisite but residence should be prefixed. Why should a man's right to vote be founded upon the payment of a tax? Does money make the mind? Does the payment of a paltry tax clear the judgment and enable the voter to make a better choice at the polls? Such queries cannot fail to receive a negative answer from every intelligent mind. Let us (said Mr. P.) examine this doctrine of tax qualification further, and see the deplorable extent to which it may be carried. You confer upon your Legislature for all time to come, the power of saying what the amount of the tax shall be, and to what particular class of citizens it shall apply. Although no such abuse of power has as yet occurred, yet under the existing provision of the present Constitution, such abuse might readily happen, and for the time being, no remedy could be applied. Suppose a Legislature should pass a tax law, imposing upon each citizen of the Commonwealth a tax of five dollars for Government purposes, and declaring that no county should make an assessment of rates and levies under such law as the Constitution now stands. No citizen could exercise his privilege of voting, until he had first paid his tax of five dollars. The power of the Legislature is unlimited in the regulation of taxation, and might be extended to ten, or twenty, or fifty dollars, for the non payment of which the citizen must inevitably suffer disfranchisement. But further. Suppose the Legislature should declare a certain description of persons alone to be taxable, would it not necessarily follow that all others would be excluded from the right of suffrage, because that right is made to depend upon the payment of a State or county tax?

If farmers were exempt by law from taxation, they would be completely disfranchised and compelled to relinquish a privilege as dearly cherished, as it is important and intimately connected with their immediate interests. Thus it may be perceived, that this power in the present Constitution, is to say the least of it, dangerous and alarming in its tendency, and requires, at the hands of this body, the application of a proper remedy. In striking out the tax qualification, we are not without precedent. Gentlemen have referred to the Constitution of Vermont, and have spoken of the wisdom and excellence of the institutions of that State. In that patriotic little State, so devoted to sound principles, there is no such thing to be found as tax qualification. Where, let me ask, is a more happy and prosperous people to be found? Where a people more ardent in their love of liberty? More virtuous and patriotic? Universal suffrage, universal freedom, and universal happiness pervade this magnanimous little State. Will gentlemen, in drawing upon this State as a model in other respects, deny its force in

this ? The "*Green Mountain Boys*", identified with the history and glory of our country, have repudiated the doctrine which charges a man with a duty, which he may be unable to perform, before he can obtain a privilege, to which, by nature, all are equally entitled. But is this the only State which is without a tax qualification on the right of suffrage ? New Hampshire, the Granite State, a people of steady and industrious habits—the birth place of the lamented SCAMMEL—has refused to tax the inestimable privilege of elective franchise. Are the people on that account less happy, less virtuous, less true and devoted to the institutions of their country ? Are they more excited and disturbed by their periodical elections ? No State in the Union is more exempt from party conflicts, and none more peaceable and quiet in the management of their Government affairs. Maryland, the home of the CARROLLS and WIRTS, by an amendment of her old Constitution of 1776, made in 1801, dispensed with the tax qualification, and required nothing more than a twelve months' residence in the county. The States of Kentucky, and Tennessee, and Maine, have adopted the same principle. The States of Indiana, Missouri, Mississippi, Alabama, and others, have, in the construction of their fundamental laws, adopted the principle, the rational principle, that votes should depend upon the mind, and not the money of the voter. This principle, in whatever aspect it may be presented, cannot fail to strike the mind as the only rational and proper basis of suffrage qualification.

The gentleman from the city (Mr. SCOTT) has declared his belief that we have commenced our reform of the suffrage principle in the wrong place, and has referred to the scenes of excitement which occur in the city as the place necessary to apply the remedy. I deplore the evil referred to as much as that gentleman possibly can ; but I cannot believe it falls within the legitimate scope of our Conventional duties. The Legislation of the country should be brought to bear upon this unhappy state of things ; and if I mistake not, a salutary change for the better has been effected in behalf of that gentleman's constituents in the particular referred to, and, with him, I hope the time is not far distant, when the evil will be entirely removed. That gentleman, (Mr. SCOTT) in portraying the evils which he supposed might result from a change in the principle of suffrage, has put a case, the inevitable consequence, as he believes, of dispensing with the tax qualification. He was understood to say, that in the registry of citizens, some dishonest assessor, or register, might put the burthens of Government on his political opponents. This evil so much dreaded by that distinguished gentleman, in my humble opinion, would not be so likely to occur under a system of universal suffrage, as under the present Constitution. Reference has been already made to omissions in the assessment of voters under the existing provisions, and has always proved a source of great, and, I may say, painful excitement.

Much, said Mr. P., has been said on the subject of paupers, vagabonds, and wandering Arabs ; and gentlemen have fancied that, by dispensing with the tax qualification, it would admit to the polls hordes of paupers, who would, in the language of the gentleman from Chester, be led there in regiments ; and, when there, be made to vote as the keeper of the poor house might desire. Sir, said Mr. P. this is but a picture of fancy. No high-minded honorable man, having a regard for his reputation and standing in society, would so far forget himself as to appear in public at the head

of a regiment of paupers. There is nothing to be apprehended from an occurrence of the kind referred to. The tax qualification is odious in its effects upon a class of citizens upon whom it was certainly not intended to have any operation; I mean the war-worn veteran—the soldier of the Revolution, who, by toils and perils, has worn out his existence, and left himself in the possession of nothing but the clear, unshrouded judgment and intellect, with which, by the God of Nature, he had been endowed; and who, although physically disabled from earning the pittance necessary to purchase his vote, is not the less able to discover the interest and desire the promotion of the happiness of his country. Such a man would scorn to receive that small pittance even from the best and nearest friend on earth, to purchase a right and privilege which had been earned by his blood. I shall vote against the amendment to the amendment, although I believe it better than the present Constitutional provision, with the hope that if voted down, we will have an opportunity of voting directly upon the principle of tax qualification. If a majority should agree to retain it, it should at least be so modified as to prevent abuses by the adoption of a proper mode of assessment.

Mr. BAYNE was not in favor of the amendment, and with the exception of a single item in the clause in the present Constitution he would go for retaining it. He believed as soon as we attempt to abolish the tax qualification we endanger the very elementary principles on which Government was founded. He did not hold that the mere paying of the tax made the man better qualified to judge in political matters; but it was a relation which must necessarily exist between individuals and the Government. If you do not have a tax how are you to know your citizens on an election day? When a man comes up to vote, what evidence have you that he is a citizen and ought to have a vote? or what evidence have you that he will become a citizen? He would be willing to reduce the tax to the lowest possible amount, but he would retain it, if it should not be more than one cent. His colleague (Mr. FORWARD) had suggested a registry as a substitute for taxation, but this principle was certainly liable to most of the objections which had been brought against the tax qualification. Certainly those entrusted with the making of your registry would be on the same footing with the assessors, and collectors and would just be as apt to overlook, and neglect to register citizens of the Commonwealth, as the assessors would be to neglect to assess them. He was of opinion, however, that the tax qualification might be retained and a system of registry introduced, which would furnish to the citizens of the Commonwealth a better security for their votes than they now have, or than they would have if the tax qualification was abolished. The abolition of the tax qualification would, in fact, be a restriction of the right of suffrage. Suppose you elect inspectors and judges in times of high political excitement, no matter of what party, when your poor men come up to vote, if they do not happen to be of the same politics with your election officers, they may be excluded because these officers may say to them they are not residents, and what evidence could be produced that they were residents? They would have no assessors, book: no duplicate to refer to, to prove the fact, and in this way they would be excluded from voting. He considered the very origin of the idea of taking away your tax qualification as an attack upon your institutions, calculated to undermine and uproot the settled principles of your Government.

Government is formed of a community of individuals who have plighted their faith to sustain and support it, and the moment you attempt to take away the evidence of that pledge, you make an attack upon the settled principles of your Government. He must therefore hold to the tax qualification; but at the same time he would be in favor of the registry suggested by his colleague.

Mr. BROWN said, gentlemen had placed this tax qualification on various grounds. Some as an evidence of the character of the citizen; some as an evidence of residence; and some place it on the ground of having contributed something to the support of Government. The gentleman from Allegheny, however, he considered had pointed out the proper mode to be pursued in this matter, which was by a uniform system of registry. The tax qualification was wholly useless; and had been shewn by the gentleman from Franklin, (Mr. DUNLOP) and other gentlemen, to be defective in every respect. Who was it that could stand up here, and say, that the foundations of Government should be laid on principles so narrow as the payment of a small sum of money? He was opposed to any such principle, and would vote against any proposition which would require the payment of one dollar, or fifty dollars, to entitle a man to the inestimable right of suffrage, and he thought it must strike every man as entirely unequal, unjust and degrading to the elective franchise. He would place the elective franchise on higher grounds than the mere payment of a sum of money. When a man comes to the polls to exercise that sacred right, he would only desire to know of him, if he was a freeman and a citizen; and he would not require of him to produce a certificate that he had paid one dollar, or twenty-five cents, or any other sum. He would have him come forward and claim his right, as a man and a citizen, and not because he had contributed a sum of money. He would have him come forward and claim his right, because he was here on the soil laboring for the support of his family, and to build up the prosperity of the State. These are the men who are the very life of the body politic, and they should be entitled to all the privileges of citizens of Pennsylvania, without any restraint whatever. They are the men who build your public works, develop the resources of your State, contribute to the support of your Government in time of peace, and fight her battles in time of war, and why should they be restricted? But, gentlemen have said, that if you take away the tax qualification, you will not be able to collect your taxes for the support of Government. This was not the case. It was the pride of poor men, generally, to contribute to the support of their Government. They pride themselves in paying their taxes, and will not only pay their money for the support of Government, but they will give their services to their country whenever they are required.

If the poor man feels a pride in paying for his right to vote, it is a false pride, and ought to be done away. The poor man when he goes to vote, ought not to look at his paying a tax as giving him that right. He ought to feel that he came there to exercise his right as a freeman, and not that he obtained that right by the payment of a tax. He (Mr. BROWN) thought that the difficulties stated by the gentleman from the city (Mr. SCOTT) as existing in the city of Philadelphia, by which native citizens had been deprived of the right to vote by foreigners—mere personal conflicts—

arose, in part from the large number that are brought together to vote, and ~~more, perhaps, from the fact that many native citizens present themselves to vote, and are refused, in consequence of the very obstacles incident to the present requisitions of a tax qualification.~~ So far as the difficulties are brought about by the first cause, the election districts could be made smaller; but this was a subject for legislation, and needed no Constitutional provision. If, by the latter, they would be remedied by removing all obstructions from its free exercise by those entitled to the right of an elector. The gentleman said, if we take away the tax qualification, the payment of taxes would fall upon the farmers. And, he called on the Convention to look well to the effect of it, before they determined to adopt that course. Now, he did not know whether the gentleman was serious or not; but, he thought that this was intended for effect elsewhere. He (Mr. B.) believed that a man might be coerced into payment of his taxes, as for other debts, and he would not like to have his tools taken away from him, any more than a man would like to be deprived of his land. The grievance is the same to each.

He hoped that their support of the Government would not be wanting, and that they would find the means to pay their taxes, without being subjected to the loss of property, or being rendered ineligible to vote. The gentleman from Allegheny, (Mr. BAYNE) has called us incendiaries—

Mr. BAYNE explained: He said the effect of the proposition was incendiary; but that he had no idea of charging gentlemen with being actuated by incendiary motives.

Mr. BROWN continued: That might be. It was, nevertheless, improper to use terms of that character here. Long harangues had been delivered about the "rich and the poor", and those in favor of extending the right of suffrage, had been denounced for making distinctions between the rich and the poor. And the gentleman from Adams (Mr. STEVENS) said, that if the poor man felt the Government oppressive, he might leave it.

Mr. STEVENS: I never thought it—much more said it.

Mr. BROWN said the gentleman might have a short memory. He (Mr. B.) did not wish to refresh it. Yes, the gentleman said that the poor man could leave the Government if he felt it oppressive. The poor man has a deep interest in the elective franchise, as much so as the rich man. And the only argument for a registry was—that a poor man is not so easily identified as a rich one. Indeed, it might be said that the poor man had a greater interest in the Government than the rich man, as the latter could take his property, and remove to another State, or country, while the former could not remove. No one here had contended for bringing to the polls any class of citizens who could not now be brought there, and who were not considered as having a right to vote. Every man in the community had a right to vote under the tax qualification. The opponents, then, of the tax qualification only wished to remove the obstacles that experience had shown might be, and had been, placed in the way of the enjoyment of that right. They had been charged with advancing incendiary doctrines. But they had only attempted to obtain what had been already adopted by fourteen States of this Union. They wanted to try a new theory, but to adopt for Pennsylvania what had been found good in other States, and what they believed a majority of her citizens would

approve. In requiring a shorter residence than two years, they had acted on the same principle. Eight States required but six months, or less, and twelve others only one year; and he thought Pennsylvania ought to be as liberal in her institutions as any other State. We ought to require no longer residence than was necessary to obtain a sufficient knowledge of our men and our institutions to exercise the right properly. There was no principle in this—it was a matter of opinion, and he thought six months was long enough. Any one who could not, in this period, obtain the necessary information would not be likely to obtain it in six years.

Mr. M'DOWELL said he had some difficulty in understanding the legitimate subject of debate, in consequence of the two amendments submitted by the respective gentlemen from Chester, the general features of which were so little dissimilar. He presumed, however, that the whole subject was open, as well the report of a majority of the committee, as the amendments. He did not know whether he should vote for the amendments or not—he had not examined them in all their bearings; but he had no difficulty in coming to a conclusion upon the report of the committee. The tendency of his mind was positive and direct. He could not for one moment, give his sanction to such a report. Sir, what is it? *Every freeman of this Commonwealth, who has resided therein one year, shall be entitled to vote.* This is, in substance, the report. Did the respectable committee who made it, anticipate and weigh all its consequences? Is there any member of this body willing to have it incorporated into the Constitution, unaltered and unamended? He was not a little surprised that such a report should have been submitted, and this Convention gravely asked to make it the fundamental law of the land, and that inestimable right of freemen, the right of suffrage, made to depend upon it. Sir, said he, we are to take this report as a whole, and, consider it in the light of a Constitutional provision which is to regulate and govern the elective franchise for ages to come. We are asked that it shall be the law of the land. Let us for a moment examine its provisions.

Every citizen of this Commonwealth who is a *freeman*, is entitled to vote. Every man who comes from another State, and resides here one year, is a citizen. All foreigners who have been naturalized in any of the States of the Union, and resided in this State one year, are citizens of this State. Sir, who are the *freemen* of this Commonwealth? The learned gentleman from Philadelphia (Mr. DORAN) asked, the other day, who or what a pauper was? He (Mr. M'DOWELL) felt mischievously inclined at the time, to call upon that gentleman to define a *freeman*. In a moral point of view, it might puzzle that or any other gentleman to say, who were free or who were not—politically, he was certain the inquiry would end in perplexity. But, sir, the present inquiry is into Constitutional and legal freedom. Who is a *freeman* according to the Constitution and laws of Pennsylvania? Sir, every *human* being (except slaves) who is born or lives in this State, is a *freeman*; consequently every *male* who resided here one year, is a *citizen and a freeman*, and entitled to vote, according to the report of the committee. Foreigners are freemen, but they are not *citizens* till they become naturalized, when naturalized, they have the same rights as native born citizens; and so they ought to have. But let us carry the examination a little further and see how it operates. Every worthy and every worthless negro in the Commonwealth is entitled to vote

without inquiry or restraint. Was he right in his construction of the report? If a negro is a human being, and not a *baboon*, as some contend—if he is born in Pennsylvania—is twenty-one years of age, and is not a *slave* then he is a freeman and a citizen, and is entitled to vote. Sir, is it not so? A free negro is the freest man on earth—his freedom is unrestrained and irresponsible—unmixed with a rational intervention or Constitutional limitation. Are we seriously asked thus to enlarge the ballot boxes? He did not deny the right of a negro to vote under the present Constitution, if he brought himself within its provisions—was assessed and paid his tax. He believed he had the abstract right to do so. But under the present Constitution few colored men exercised the right of suffrage in the State: in his county a few voted: in many places they were restrained by public opinion or public prejudice. In the present state of their mental and moral condition, it was, perhaps, best so. But, sir, are all the negroes in this Commonwealth to be turned loose upon us on election days: the five thousand in the city and county of Philadelphia, and ten thousand elsewhere? Adopt the report of the committee, and every negro in the State, worthy and worthless—degraded and debased, as nine tenths of them are, will rush to the polls in senseless and unmeaning triumph. The chimney sweep and the boot black will eat the fruits of liberty with the virtuous mechanic, laboring man, farmer, and merchant—the master and the man contend for victory at the same poll.

And who shall gainsay this state of things? Adopt the report of the committee, and no man would dare to question the right of any negro to vote. Sir, said he, is not this a highly *coloured* illustration of the beauty and perfectability of *universal suffrage*? But we do not stop here—the penitentiaries and county prisons are to be opened, and the felon and the traitor to his country, who escapes from the prison walls in the morning, walks to the poll before night, and votes, because he is a freeman, and because his imprisonment prevented him from flying from crime, and compelled him to remain a *citizen*. The man who violates all law, and glories in that violation—he who plots treason against the State, and seeks but the opportunity to destroy it, is to enjoy, undiminished and without interrogation, the elective franchise. The alms-houses, too, are to yield up their decrepid and unfortunate inmates—and paupers, publicly charged upon the counties, and dependent entirely upon the benevolence of Government for subsistence, are to be permitted to direct and perhaps control, by their votes, the measures of the charity that sustains them! Adopt the report of the committee, and these things will all happen—their occurrence is Constitutionally provided for, and no human power, while that Constitution remains, can interpose to prevent it.

I know, Mr. Chairman, said he, this is a delicate subject—there is so much love for the dear people, in and out of this Convention, since I came here. It seems to be matter of strife who can say most pretty things about the people—the dear people. I suppose it is all genuine. The rich and the poor have been dragged into the discussions, and some of the gentlemen seem to think, that Government is only instituted for the benefit of the poor. I should be very glad if my venerable friend from Indiana (Mr. CLARKE) would carry out his project of procuring four votes for every poor man; the probability is, that at least three of them would fall to my lot. There are rich men it is true, and there are poor men, and there are

good and bad of both kinds. There are some very honest, liberal men among the rich, and some great scoundrels no doubt, and much ill-gotten means. There are many honest, sound-hearted, industrious men among the poor, very many have become indigent through vice and crime. But, sir, neither the rich, nor the poor, have any exclusive claims upon this Convention, and this incessant cant about the rich—the poor—the people—is liable to great distrust. I do not believe all I see nor all I hear in this world, sir. At all events, let not this profligate love for the people—this ranting about the poor and the rich, betray us into wickedness and folly. Let us not forget the purpose of our assembling—the high and noble duties we ought to perform—the purity of motive and soundness of judgment which ought to govern us. God knows, sir, (said he) I am the last man that *ought* to abridge the liberties and rights of the poor man; and if I know myself, I am the last that *would* do so. But, sir, there are other ingredients that lay at the foundation of our Government, than popular representation—than the right of suffrage. I have been taught to believe that virtue in all things ought to take precedence of vice, and that that Government is best whose people are most virtuous and enlightened: like man, it needs a constant moral vigilance to keep it from perversion and profligacy. I admired the sentiments of the gentleman from Indiana some days ago, in support of his amendment to fix the age of a representative at twenty-eight. I am not willing to go quite so far as he, but I hope yet to have the opportunity of sustaining him in his views. Like him, I am anxious to improve the moral sentiment and feeling of the Government—to elevate its tone and character. But I am sorry to find that, while he aims to amend one branch, he does that which prostitutes another.

It is said the tax qualification operates oppressively upon the poor man. Does it do so? If the argument of any gentleman had the least tendency to convince me, I would abandon it. Sir, every man can, if he will, and has it in his power, to obtain a vote. Every man who receives the benefits of Government, owes it certain duties—a mere pittance is paid by the poor man, by which the State is benefited, and he is not injured. I wish to make the right of suffrage a prize to awaken the people to its importance—to make every man feel a deep and abiding interest in it—to secure for it a proud and generous feeling. Is this to be done by rendering it so cheap that it loses its character and its interest? I wish to inspire the poor man's heart with the noble feeling, that when he goes to the poll to exercise the highest and most sacred right of a freeman, he does so in consequence of a duty he has performed to that Government, which cherishes and protects him. Besides, sir, it encourages virtue, it enjoins industry, it fosters patriotism, it lights an ambition to do that which secures a high behest. It deprives no poor man of a vote, who deserves or tries to deserve it. It is true, sir, there is one class of poor men upon whom it may operate oppressively, and may exclude them from this inestimable right. The gentleman from the county of Philadelphia, (Mr. EARLE) who has studied more reform, and knows more of the rights and wants of the people, than any man in this Convention, or out of it, has his eye upon this class; and, therefore, his notion of universal suffrage, is, that a man should vote because he is a *man*, and not a beast. I mean, Mr. Chairman, a class of beings that they have in large numbers in the city and county of Philadelphia, and of which a few, very few, may be

found in all parts of the State : I mean, sir, *vagabonds*—men who have neither home nor country—who desire none, and delight in the privation ; who eschew Government and law as an evil, and an encroachment upon their liberties ; who prowl and depredate by night, when honest men sleep ; who lodge in beds of ashes and charcoal, and shake themselves like other lazy dogs when they get up—men, some of whom commit crimes for the sake of plunder ; and others, that they may obtain the luxuries of the watch-box, the prison, or the alms-house, as matters of choice.

Mr. Chairman, although I am for retaining the tax qualification, it is not for the *amount* of tax I do so. It is principally because I believe that the assessment and payment of a tax, however small, is the best and most simple *evidence* of a man's *residence* and *right* to vote. I am, therefore, for simplifying and reducing the assessment and tax as much as possible, so as to render the process practicable and accessible to all. I would deprive no man of his vote, because the assessor had neglected or omitted to perform his duty ; but I would endeavour to impress upon the elector the necessity of feeling sufficient interest in the right of suffrage, as to place it out of the power of an assessor to defeat him. Sir, said he, these are my reasons for opposing the report of the committee. I believe the operation of it would prostitute and degrade the right of suffrage—that it would tend to fraud and licentiousness.

Mr. HASTINGS, of Jefferson, said, as I have not been troublesome heretofore, I will ask the attention and indulgence of this committee for a few minutes, while I as briefly as possible try to explain my views on the very important subject now before them. I am opposed to the amendment offered by the gentleman from Chester on my right, and if that proposition should be negatived, I shall then ask for a division of the question on the amendment of the gentleman from Chester on my left, (to end with inserting six months in lieu of one year's residence). In that part of his amendment, I will go with him. I am in favor, sir, of coming as near as may be to the system of universal suffrage. A residence in the State for six months by a naturalized, or a native born citizen of the United States, is, and of right ought to be, a sufficient qualification for an elector. I am for expunging from the Constitution, that aristocratical feature of tax qualification. I am for retaining, and cherishing, and observing, and keeping inviolate that sentence so appropriately inserted in our bill of rights, "that all men are born equally free and independent", and "that all power is inherent in the people". I desire to see that principle carried into full effect. You know, Mr. Chairman, and every member of this committee, I think, can, or ought to respond to the well known fact, that many, very many intelligent poor men, are deprived of the right of suffrage for no other reason, than that they have been unfortunate, and have now no property to tax—or that the assessors have either designedly or otherwise neglected to assess them. It has been argued here, that to take away the tax qualification, would open the door for paupers and vagabonds to enjoy the right of suffrage—be it so : I go upon the well known maxim, that it is better that ten guilty persons should go unpunished, than that one innocent man should suffer. Sir, retain the tax qualification, and you are virtually saying to the unfortunate poor man—we are willing that you shall perform military duty—we are willing that you shall be drag-

ged forth to fight our battles—we are willing that you shall spill your blood in defence of our sacred rights—but you shall have no voice in our councils ; we will not allow you the right solemnly guaranteed to you in another part of this Constitution. Sir, as the principle has (on a former occasion) been sanctioned on this floor, that the basis of representation should be founded on population, and on that occasion it was clearly shown, that, in the cities and counties, many hundreds of inhabitants were taken into that enumeration, who were not allowed to vote. Sir, if you retain the tax qualification, you are saying to these men, we want to make use of you to increase our representation in the halls of legislation ; but we do not want your votes ; you shall have no voice in saying who shall represent you. I hope the amendment to the amendment will be negatived, and that the latter part of the amendment, offered by the gentleman from Chester on my left, will also be negatived.

Mr. DICKEY, of Beaver, remarked, that before the vote was taken, he would bring into the view of the committee an amendment which he had drawn up, and would offer in the event of the amendment pending being rejected. He should not vote for the report of the committee, unless it was amended. He was opposed to the tax qualification as unnecessary and contrary to the principles and genius of our Government. The gentleman from Bucks, and the gentleman from the city of Philadelphia, had contended for the tax qualification, as being particularly necessary and highly beneficial in its effects in society. It seemed that those who had contended for the necessity of identifying the voter, had now abandoned that ground. He concurred with the gentleman from Allegheny, (Mr. FORWARD) that a registry of voters was preferable to a tax qualification ; indeed, it was the only thing that was wanted. He believed that the requirement of the payment of a tax before a freeman could exercise the right of suffrage, was a violation of the principles laid down in the bill of rights. Mr. D. then read the following, which he said he should offer, to come in as a new section, in case the amendment of the gentleman from Chester, was voted down, and the report of the committee preferred. That report would require some amendment. He was of opinion that it was too extensive in its application, and should be confined to a township :

1. In section 1, to strike out "*county*", and insert "*township, ward, or*"—and to add to the end the words "*not elsewhere*", so as to confine the voter to the township, ward, or district, in which he resides.

2. To add a new section :

Section . Laws may be passed excluding from the rights of suffrage, persons who have been, or may be, convicted of infamous crimes. Laws shall be passed for ascertaining, by proper process, the citizens who shall be entitled to the right of suffrage hereby established ; and the Legislature shall provide, by law, that a register of all citizens entitled to the right of suffrage in every election district or ward, shall be made at least twenty days before any election, and shall provide that no person shall vote at any election, who shall not be registered as a citizen qualified to vote at such elections.

Mr. STEVENS, of Adams, said he had risen merely to make a suggestion to the gentleman from Chester, (Mr. DARLINGTON) which he thought would obviate the difficulties which seemed to exist in the minds of some gentlemen. The proposition which he held in his hand, he trusted the

gentleman would accept and adopt as a modification of his amendment, to which some objections had been raised. Mr. S. then read the following :

“ In elections by the citizens, every freeman of the age of twenty-one years, having resided in the State one year, or if he has been previously a qualified elector of this State, six months, and having paid a State or county tax in the Commonwealth within two years next before the election, shall enjoy the right of an elector, provided that all citizens between the ages of twenty-one and twenty-two years, having resided in the State one year next before the election, shall be entitled to vote, although they shall not have paid taxes”.

Mr. DARLINGTON, of Chester, remarked that he was anxious to preserve the tax qualification, and to fix the residence at one year, and as there was nothing in the amendment of the gentleman from Adams conflicting with these principles, he would accept it as a modification of his amendment. In doing this, he hoped that all those who approved of the main principle in the amendment would vote for it. If there were any thing objectionable in any particular part, it could afterwards be amended. Those who approved of the tax qualification, and not the year's residence : and those who were in favour of the years' residence, but were opposed to the tax qualification, could call for a division of the question and thus obtain their ends. The gentlemen from Allegheny, Somerset, and Beaver, who were in favor of a registry of voters in preference to a tax qualification, would be found, in the end not differing with the friends of the amendment. The registry, he believed, would be found inconvenient in the country, where the population was sparse, however well it might be suited to the dense population of the cities. He therefore believed a registry would not be adopted ; and if it was not, he thought its friends would support the amendment. He did not propose to go into any lengthy examination of the subject, but merely to notice the argument of his colleague, (Mr. BELL) who had endeavoured to convince the committee that one year's residence was equivalent to eighteen months, in consequence of the practice of moving on the 1st of April. He thought that no considerable number of farmers came, on the 1st of April, into Pennsylvania to rent farms ; but if there was, there were other elections besides those in the fall ; and if there were not, he thought a citizen of another State would feel no great hardship by waiting one year before he exercised the right of voting at our elections. Now, he did not put the tax on the ground of evidence, but on the principle of reciprocity, that every one who undertook to direct the affairs of the Government must give something to its support. No man allowed a stranger to come into his family and direct its affairs ; and no stranger should be allowed to come into any community and dictate without paying his taxes, and bringing something to the support of that community. But it had been said that the poor men, those that pay no taxes, were obliged to bear arms in defence of the country. But did not the tax payers bear arms ? He bore arms and paid the tax also. He also paid a tax in time of peace to support him in the poor house, if his improvidence or his vices had brought him there : so that if there was any inequality in the public burdens, it fell upon the tax payer.

Who supports the pauper while he is in the poor house ? Is it not the

tax payer? Does not the tax support the Government, and all the public institutions of the country? If then, we should give to the pauper an equal privilege at the polls with him who bears the public burdens, it would be unequal and unjust. It would also tend to encourage vice, idleness, and improvidence, by putting them on an equal footing with honest and frugal industry. We had heard something of the practice of other States in relation to this subject? In fourteen of the States there was, it is said, no tax qualification. But, in some of them, there is a property qualification? The case was entirely different in Pennsylvania. Here we had no property qualification. Did gentlemen propose to introduce one as a substitute for a tax qualification? There was an essential difference in the principle of the two. He denied, that, in requiring the payment of a tax, we imposed any property qualification. It did not render it necessary, that a man should have a dollar's worth of property in order to be entitled to vote. If he had any means of getting his daily bread, he was entitled to be assessed, and upon the payment of a few cents, could vote. Now, sir, I look upon a tax qualification as important in another point of view, as a means of inducing many cheerfully to contribute their portion towards the public burdens. This was the only means of collecting a tax from thousands of those who were careless and indifferent as to the public interests. Suppose the county should undertake to collect its dues, and should imprison a man in order to coerce the payment of taxes, the result would be, that the county would get nothing, and would be obliged to add to the public burthens the amount of the costs. But, by connecting the payment of the tax with the exercise of the privilege of voting, the tax was voluntarily, cheerfully, and punctually paid.

Mr. DORAN put a question to the gentleman from Adams, whether, by his amendment, he intended to make a distinction between native citizens and naturalized citizens, and if so, for what reason? Why did he put the naturalized citizens on a level with blacks?

Mr. STEVENS replied, that he considered all citizens of the United States, whether native or naturalized, as American citizens. He had no objection to naturalized citizens. He would modify the amendment, so as to read "citizens of the United States".

Mr. BELL said, every one felt the argument to be exhausted, and every thing which could throw any light on the question, had been urged on the one side or the other. He should not have risen to add any thing to what he had before said on the subject, if it had not become necessary, amongst the various and rival propositions that had been submitted, to point out the exact difference between his proposition, and that which was now under consideration. His colleague, he said, had given up one of the principles of his amendment, which he had insisted upon, viz: the assessment previous to the election. The proposition of the gentleman from Adams did not require any previous assessment. This difference, his colleague seemed to have overlooked, and it was one of leading importance. What was the difference now between his proposition and his colleague's? It consisted only in this, that he requires one year's residence as a qualification, instead of six months' residence. Why should there be any distinction between citizens, who had always resided in Pennsylvania, and those who had resided in any other State? What difference should it make on which side of the Delaware a man is brought up? For what reason should

a man, who is brought up in New Jersey, or Maryland, or Delaware, and then chooses to remove into Pennsylvania, and become one of us, as he had a right to do, under the Constitution—be compelled to reside here for one year, or, in fact, as he had previously proved, for eighteen months, before he can be entitled to the rights of citizenship? At the same time that we make this onerous distinction, our own citizens may be gone to Maryland, and become entitled to the rights of electors in six months.—Why should we draw this deep line of distinction between our own citizens and those of our sister States? Why should we fix this deep gulf between them and us, and say to them, you shall come no further? The only reason offered is, that it is necessary that they should take some time to acquaint themselves with our local policy and interests, and the qualifications of those who are candidates for their suffrages. But this reason would not apply in many cases. He did not think so meanly of the general intelligence of our people, as to suppose that they are not sufficiently well acquainted with the interests of the States, in their neighborhood, as to be able to discharge the duties of an elector, without any residence.—But, if through ignorance or incapacity, any one should be unable sufficiently to comprehend our interests, after a residence of six months, he would not be any better qualified at the end of eighteen months, or of as many years. The only good reason for requiring any residence, as a prerequisite to the right of voting, was, that it furnished a proof of the intention of the person to become a part and parcel of our community, where he offers to exercise the right. This was the only reason that could justify the requirement of any residence; and, it was only, because some satisfactory evidence of this fact was necessary, that he would agree to require any residence. Surely, it would not be alleged that a man, in reference to an approaching election, would abandon his home, and come here and reside for six months, for the mere purpose of voting at that election. He should, therefore, deem a six months' residence, as ample for the purpose of furnishing satisfactory evidence of an intention to become a permanent resident. The only question to be decided, in these cases, was that of domicile. Why, then, should we retain a restriction which had its origin in ignorance, in fear, and in jealousy of foreign States? Before the adoption of the Constitution, we were disjointed provinces, and strangers to each other, and so strong and deep were local prejudices then rooted, that it required all the influence and exertions of WASHINGTON, JEFFERSON, and MADISON, to induce the several States to sacrifice some of their local feelings to the general welfare. We were not then a nation.—We had hardly begun to pride ourselves upon our national flag. But now, each citizen of every State prides himself upon being a citizen, not of that single State, but of the whole and undivided Union. One more word in regard to the question, and he was done. It was agreed by all, that one year's residence was sufficient for the purposes for which any residence should be required—amply sufficient to enable a person to become acquainted with our local interests; but, he would tell the gentleman that, in fact, his proposition made a residence of a year and a half necessary. Those who were engaged in agriculture, generally, removed on the first of April—this was a rule which they never departed from, except in cases of pressing necessity. The individual, who moves into the State at that season, must wait till the election succeeding that of the next fall, before he

can vote, making the residence qualification eighteen months, instead of a year, as proposed. This was a simple fact founded on experience.— Were gentlemen willing, he now asked, under any circumstances, to require eighteen months' residence? Why should such a distinction be made between native born citizens of Pennsylvania, and those of our sister States? Why should we make a distinction between a man who, at any time, has been a citizen of Pennsylvania, and one who has lived all his life on the borders of Pennsylvania? Why should only six months' residence be required in the one case, and in the other, eighteen months?— He could see no reasonable ground for any such difference. He was not influenced in this question by any petty pride of opinion, nor by any partiality for his own proposition. It was to the merits of the proposition alone that he looked.

Mr. STRAIGER had intended, he said, to make some remarks on this subject, but the views which he entertained, having already been brought before the committee in a favorable manner by the gentleman from Mifflin, (Mr. BANKS) he should not now say a word, but for what had fallen from the gentleman from Chester, who had just taken his seat. That gentleman, he said, held his seat here in virtue of the votes of the people of Montgomery county, which he in part represented, and he had risen to disclaim the sentiments of that gentleman on this subject, as far as the people of that county were concerned. He had mixed much with the people of that county, and he had never heard one of them say that a residence of six months was a sufficient qualification for voting. This was not the sentiment of the people of that county, so far as he knew any thing of their opinions. The consideration that the qualification required under the amendment would, in effect, be equivalent to a six months' residence, was not sufficient to induce him to reduce the term below one year. We should have some regard to the fact that Pennsylvania is an old State, and that her population is of a staid, settled, and fixed character. The people of Pennsylvania had been associated together, under different forms of Government, for two centuries, and had become assimilated to each other.— Moreover, being an old State, it was not so much her policy to invite and encourage emigration into her limits, as it was with new States which were sprung up out of the wilderness, and were in want of people. If we were a new State, and sparingly peopled, it might be consistent with propriety, to abolish all distinctions between our own citizens and emigrants from other States. The argument, therefore, that these restrictions do not exist in some Constitutions, did not apply here. The policy of Wisconsin and Michigan, would necessarily be different from ours in regard to this subject. If we, regarding our own interests as an old State, gave a preference to our own people, over all occasional immigrants, or transient residents, it did not follow that it was an onerous and improper restriction upon the people of other States, or that we considered them as interlopers and intruders. It was not so. All that we required of citizens of other States, who came among us was, to sow and reap, to exhibit evidences of intention to reside among us, and to become acquainted with the operation of our institutions, before he offered his vote at our elections. In Virginia, and in some other States, a shorter residence was required, and, why? Because their Constitutions required a property qualification, and, as a further proof of residence, they required house keeping, &c. But, he

did not believe that strangers from other States would be as well qualified immediately to participate in our elections, as our own citizens, who had always lived here. And he could not see why they might not as well exercise the right after one day's residence, as after so short a residence as six months. He regarded the proposition of the gentleman as unsuited to the interests and feelings of the State. In regard to the proposition which looks to universal suffrage without restriction or qualification, the gentleman from Allegheny had, he said, blown that sky-high. He had clearly shown that the right of suffrage was not a natural right. If it was a natural right, then we could put no restraints whatever upon it, and every negro, and pauper, and convict in the State, would come to the polls and exercise the right as freely as any person in the Commonwealth. If it was a natural right, we could not confine it to persons of twenty-one years and upwards. The law creates and fixes the right of suffrage: and it was not a natural and inherent right, but one which was subject to legal regulation in regard to sex, age, color, residence, and other things. As to the abuses of the right of suffrage which had been so much complained of, they were now, perhaps, of small consideration. But he should be very sorry to see the time when respectable citizens of this Commonwealth would be jostled at the polls by negroes, and prevented from voting by the character of the persons who surrounded the polls. He did not believe that the item of universal suffrage would be tolerated by the people of this State, and it was not at all adapted to their habits and interests. He had risen merely to object to the sentiments of the gentleman from Chester, as those of the people of Montgomery whom he represented here. The opinions of the people of that county were averse to any great extension of the right of suffrage. They did not wish the tax qualification dispensed with, nor the residence qualification reduced to six months. Not seeing, however, any difference between one tax and another, if it contributed in any degree, to the support of the public burthens, he hoped the proposition in reference to the tax qualification would be so amended as to include a township, as well as a county or State tax.

Mr. BONHAM thought it, he said, inexpedient and improper to fix upon so short a term of residence as six months. There was one circumstance which furnished an argument against it, and had been adverted to. In the State of Virginia, the members of Congress are elected in April, six months before the election for members and the general election here. A person, therefore, who had voted in April for a member of Congress in Virginia, would then remove across the line into this State, and, the next October, vote again for a member of Congress from this State. This would be conferring upon the same man a two-fold privilege. Every man ought to be satisfied with voting for one member of the same Congress. The residence of six months was too short at all events. It was not proper, in his opinion, to confer the privilege of voting upon every wanderer that happened to come along. There was no reason why every transient resident should be permitted to participate with the citizens of the State in the elections. The residence required should not be less than one year certainly, and it would not be considered as any great hardship upon citizens of other States to wait that long for the privilege of voting. In regard to that part of the proposition which permitted those who have been citizens of the State to vote in six months after their return to it, he did not know that

there was any serious objection to it. He would agree to that, though he took no great interest in the matter.

Mr. FLEMING would say one word as to the time of the assessments, as it had a bearing upon the term of residence. Under the old system of laying taxes, the assessments were made before the first of April. If, therefore, a person came into the State on the first of April, he had to wait two years and a half before he could vote, because the assessment was made before his arrival. But, under the act of 1834, the assessments are made after the first of April, and the difficulty is, thereby, removed. A person even coming into the State in April, would be assessed and pay a tax before October, and would be qualified, so far as that requisite was concerned, to vote in October. The assessment was directed to be made before the first Monday of April, with a view to prevent the great loss consequent upon the number of removals after this time. So this provision not only removed the collection of taxes, but it removed the evil complained of by the gentleman from Chester (Mr. BELL).

Mr. SMITH, of Centre, said that, in acting on this matter, we should act with a view to the interests of the community generally and not of any particular district. He had not risen, therefore, to speak of the sentiments which his colleagues entertained on this subject, nor in reference to the interests of the people of his own district. He never met with a question of a more difficult and intricate nature than this. In respect to the tax and residence qualifications, as imposed by the present Constitution, he had never heard any complaint; but of the neglect of assessors to perform their duty in assessing every individual, he had heard a great deal of complaint. There were many cases where poor men, who were unable to carry on a prosecution against the assessor for omitting to put their names on the tax list, came to the polls to vote, supposing that they had a right to vote, and there found that they had not been assessed. They had not had an opportunity offered them to pay a tax, so as to entitle them to vote. The tax qualification was required and was necessary, not as a source of revenue, nor as a property qualification, but as the means of ascertaining the residence and citizenship of an individual. The very highest assessment he had ever known, was five mills on a dollar. No one would refuse such a tax, or a few cents tax on an occupation, for the sake of coming within the requisition. It was a very small sum to pay, and he had never heard any complaint of it, but the neglect of the assessor was a matter of general complaint. Many of the inhabitants of Centre county had turned out, as the records would show, as volunteers in the last war, and some of them were now poor. They were hard working laborious men, willing to pay their quota, and anxious to vote. They changed their place of voting often, because they were many of them attached to the iron works. A tax qualification for them would be preferable to a register, for they moved from place to place in the county to get work. If they were obliged to give a certificate of registration before they voted, it would subject them to great difficulty. There ought to be something to show that those who vote are citizens, and a tax qualification was better than a registry for that purpose.

Mr. MERRILL said, the community had certainly a right to prescribe the terms upon which persons should be admitted into it as voters. The people are the sovereigns, and when they are asked if they will part with their

sovereignty, they can say yes, or no. I might as well go to you, sir, and say that I will be a co-tenant with you of a farm, on my own terms, as citizens of another State can come here and prescribe the terms on which they will exercise the rights of citizenship in this State. There might be some complaints, that Pennsylvania was not liberal enough to strangers. Suppose he had thought so himself. It was certainly his choice to remain, or go away; but, he had chosen to remain, and had never yet had occasion to repent of it. He found fault with the amendment as it stood, because it did not require a residence in the district where the vote was given. A requisition of that kind was the only mode of knowing the rights of voters, and preventing intrusion upon them. A tax qualification alone would not do it. There was no other way than to require a residence in the district where the vote was offered, so that the voter might be known, and recognized as a member of the community. If the registry principle could be introduced, it would, in his opinion, be one of unspeakable value. Our country was increasing in population. We could scarcely see what it was coming to. But, no part of this State was long to be sparsely settled, not even our mountains. It was becoming every year of greater importance, then, to secure the freedom and purity of elections.—Elections were unequal, and not free, just in proportion as persons not entitled to vote were permitted to vote. It was our duty to protect the rights and interests of the people of the State—the people who were here, and who had always been here. What was complained of? That some people might come here, and find that they could not vote quite as soon as they might wish. Well, was that an injury to us? Not at all. It was an injury to them, if to any body. It might be an injury to us, if persons could come into the State, and voting upon a short residence, control an election. There was one county in Pennsylvania, where a member was three times elected by a majority of fourteen votes. How easy would it be, in such close elections, to turn the scales by the introduction of a few fraudulent votes. That member, thus elected to the Legislature, might probably hold the balance in that body on an important question, and carry a highly important law by his vote. In this way, the whole policy of the State might be controlled by means of a few spurious votes. He had no attachment to a tax qualification, but he was attached to the rights and interests of the people of Pennsylvania, and would stand by any thing that would go to secure them. He would be willing to give up the tax qualification, if sufficient evidence could, in any other way, be secured of citizenship.

The committee then rose, reported progress, and obtained leave to sit again, and

The Convention adjourned.

WEDNESDAY AFTERNOON—4 O'CLOCK.

THIRD ARTICLE.

The Convention again resolved itself into a committee of the whole, on the third article of the Constitution, Mr. KERR, of Washington, in the Chair.

The question pending, being on the amendment offered by Mr. DARTINGTON, of Chester,

Mr. HAYHURST addressed the committee as follows: Mr. Chairman—I am opposed to the tax qualification as a *qualification* for voting, because I do not believe that the payment makes a man more wise or more honest; but I am, nevertheless, willing to vote at present for the amendment offered by the gentleman from Chester, as modified at the suggestion of the gentleman from Adams. I do so, however, under the impression that the same can be so amended and modified as to be more liberal and comprehensive in its terms. If it should not be so modified, I now reserve my right to vote against the section as amended.

Sir, I am prepared to vote for the assessment of taxes, not as a matter of principle, but simply as a matter of practical convenience. It is necessary in the management of the affairs of society to proceed methodically—and not at random, as savages do. That method which secures each person in possession of his rights, with the least trouble and expense is best. It is necessary that each voter should be easily able to convince the election officers of his residence and his right to vote. For this purpose, I see no more convenient method than the usual assessment. The township or ward assessor returns his annual list to the county Commissioner's office, from whence an official copy is transmitted to each election district, and thus, without any expense or trouble to individuals, a registry is furnished.

Now, sir, the assessment being made and returned, furnishes the evidence of residence, and, as such, is all I desire; but I am still willing to go a little further. The record is the assertion of the assessor, that a certain citizen is a resident of a certain district, and I am willing that the citizen so resident may affirm that declaration, by some act of his, however trifling that act may be.

If you provide for a register of voters in some other manner, it will increase the machinery of Government, and be burdensome rather than beneficial to the poor man; because, if he reside four or five miles from the register, it will consume half a day to go to, and return from, that officer, which loss of time will exceed the amount of tax proposed to imposed. Therefore, as a matter of convenience, it is better to allow the Assessor to make the requisite record of residence as heretofore.

But I wish the plan now under consideration to be made more liberal, and if this be not done, I possibly may vote against the section as amended, either now or on a second reading.

As the record made by the assessor is essentially what is desired, I conceive the least possible addition to it is all that ought to be required. The assessment of county tax is the root of all other taxes; and, therefore, the payment of either road tax, poor tax, or any other public contribution of that nature, ought to confer a right of suffrage, because the payment of

the one signifies the acquiescence of the individual in the record of the Assessor as well as the other. It will be a relief, and have a tendency to extend the right of suffrage, to permit persons to vote on having paid a poor tax, road tax, or having wrought on the high-ways; because, some men are unable at the moment to discharge their county tax, who have paid one or other of the minor taxes.

Poor tax is usually about one fourth of the county ratio, and consequently the man who pays ten cents county, will pay two and a half cents poor tax, and thus he can, if unable to pay more, secure his vote by paying less than three cents.

As the poor rate is less expense than any other mode of proving his residence, I conceive it would be beneficial to adopt it as the qualification—if, however, that proposition be not introduced, I still conclude to vote against the amendment.

Mr. FARRELLY, of Crawford, wished to state the grounds on which he should vote for this amendment. He was entirely opposed to the tax qualification. He was also opposed to the alternative of a registry; but, on that point, he was open to conviction. Why should a tax be adopted, as evidence of qualification? Who are the voters? Why are they entitled to give a vote? We are told they derive their right from Government, and that the community are to determine who shall vote, and who shall not. Who is there to set himself up and say, I have a right to vote, and you have not? Who will say, you shall not vote, and I will? How then do the community determine? It belongs, as a right, to every man, as a party to the compact, as one of the individuals upholding, sustaining the Government; and it is always in the power of the majority to annihilate the compact. The only qualification required is implied in the question. Are you a member of the community?—a resident member? How is this to be ascertained? By the fact of a residence for a certain time. One year is the fittest period; because, in the course of a year, a citizen will have performed all the duties of a citizen; so that, within that space, he will have become fully qualified. It is, therefore, a proper and fit period. A shorter period would not answer, and a longer would exclude those who have a right. But if we adopt the principle of taxation, the right will be uncertain. It will vary according to the principle of taxation in different counties. According to an existing act, only certain property is liable to taxation; and it is possible that a man of wealth may hold none of that description of property, and although he may have been born and reared in the county, still, not holding any of that property, in despite of his having a large family, and every other qualification, he is excluded from the right of suffrage. Neither was it so much of a concession to the poor, as had been represented. He was not for giving the right any more to the poor than to the rich, unless the poor was better entitled to it. He desired to do justice, and nothing more. He would simply enquire as to the matter of right, and not if it related to rich or poor. The principle of justice was the only one in which he was guided to his conclusions. The payment of a tax is one of the duties of a citizen—the giving the vote is another. Why take away one duty, to discharge the other? It is the duty of every young man to give his vote, and he ought not to be deprived of the power of discharging that duty. We had been told that taxation is only required as evidence of a qualifica-

tion. Why are we called on to substitute the evidence of a qualification for the qualification itself? Why are we to substitute this evidence? It appears to be an absurdity. It can answer no good purpose. If a person be clearly qualified, why not give him his right? Let him show his qualification in the way which is most fit. We may fix the qualification of one, by this evidence, when thousands are qualified who will not be able to produce the evidence. It has been said men may be qualified to vote, but until they perform this preliminary duty, they have not a right to vote. These reasons were somewhat too refined; they effected no practical purpose, and ought not to have any influence. The people demand the most extensive right of suffrage. This was one of the principal reasons for calling the Convention, one of the grounds on which the people voted for it. They expect that the right of suffrage will be extended, that the tax qualification will be dispensed with, and that every member of the compact shall be allowed to give his vote; because he is, at all times, liable to be called on to discharge the onerous duties imposed on him. They do not ask it as a concession to the poor: they do not plead it for the poor. These appeals to our sympathies in behalf of the poor, are not calculated to produce any good effect. He went on the broad principle, that whatever was the right of an individual, as a member of the Government, and a free citizen, let him have it, whether he be rich or poor.

Mr. DARLINGTON asked for the yeas and nays on the amendment, and they were accordingly ordered.

Mr. DICKEY, of Beaver, wished to say a word or two before the vote was taken. He did not wish any vote to be influenced by what he had said as to offering a clause. But he cautioned gentlemen not to be led astray by the idea that this amendment would destroy the tax qualification. He would ask the friends of reform to vote against all these propositions to amend, and then he would propose his registry of votes, or by some other mode endeavour to carry out the principles of a more satisfactory extension of the right of suffrage.

Mr. EARLE, of Philadelphia, hoped that if the Convention should determine to adopt the principle, that wealth shall govern, and not numbers, they would make it as liberal as possible, and shorten the term of residence. He was against the amendment of the gentleman from Chester, (Mr. DARLINGTON,) and was disposed to take that of the gentleman from Chester, on his right (Mr. BELL). He wished brief, to notice an error of the gentleman from Fayette; and the gentleman from York, whose argument struck him with force, and he did not detect its fallacy till after consideration. That gentleman had stated that persons could come from Virginia, after voting at the elections in that State in April, and vote again at our elections. The gentleman did not advert to the fact that our elections for Congress, instead of being six months after, were eighteen months before the elections in Virginia. The elections in Maryland, he believed, took place about a month later than in Pennsylvania. He had not heard a single argument of any force against a residence of six months; not a reason why a citizen of a neighbouring State, after a six months' residence among us, should not enjoy the rights of an elector. He believed that the citizens of other States should, according to provision in the Constitution of the United States, have all the privileges of citizens

of all the States. We all are brethren, people belonging to one nation, and ought to be allowed to migrate from State to State, without losing our rights. We have no right to require a longer residence than is required to prepare for the duties of the election. A term of six months is sufficiently long: our State politics are so organized, that in six months they may be properly understood. It was said that persons who come to settle in our State, knew the disabilities to which they would subject themselves. But did that establish a right to exclude them from voting. The right to emigrate is a natural right, and belongs to every man. It was said that our population is filled up. Suppose a man chooses to sell out his property and to go to Michigan. He leaves a vacancy in the population. Has he not a right to sell out to a New Yorker, and has not that gentleman, who has become the purchaser, a right to all the privileges which belonged to his predecessor? Much complaint had been made in reference to the introduction of the old question between the rich and the poor. Who introduced that question? It came from the other side of the house. It was a question that had been agitated from the time that men began to know their rights. In the ancient republics, it was a subject of controversy, and it is now the subject of controversy in Europe. It comes not from the poor—it comes from those who wish to exclude them from any participation in the Government, except the payment of taxes. In all Governments, a portion of the rich endeavour to tax the poor for their benefit, and this creates the controversy. Once in England, Mr. Fox, who was prime minister, imposed a tax upon incomes. This would affect the rich, and the consequence was, that as the poor were unrepresented, he was turned out of office. In the Convention which assembled a few years ago to amend the Constitution of Massachusetts, a leading member advocated a representation on the basis of property instead of population, and since that time has made a speech against exciting the poor against the rich. One gentleman in this Convention says, that the middling classes are the most virtuous. But what is the conclusion? Why, the rich as well as the middling classes are to vote, and the poor are to be deprived of the privilege.

Recur to all history and you will find this to be the fact. There was a constant contest in Greece between the poor and rich, and it was the same case in Rome and the rich always commenced this contest. It was the same case in England, and the poor have not yet attained their rights there. It was not the side of the House he belonged to, who had made these distinctions. We have only replied to them when they have been made. It has been said by some gentleman that a poor man shall not vote because he contributes nothing to the Government. Well, if you adopt this principle you should carry it out. One gentleman had said that you must take the middling class as a basis as they were the support of the Government. Well, taking them as a basis what would be the natural conclusion? It would be that you reject the poor and the rich, and stand by this basis; but gentlemen do not do this; they exclude the poor and retain the rich. Gentleman have said too that the man who contributes to the support of Government is the only one entitled to the right of suffrage. Now let us see if they will carry out this principle. The poor laboring man contributes more than the rich man. He works upon your highways, pays a tax on nearly all he wears, on nearly all he eats, and on nearly all that his

family wears, and his tax is infinitely greater than that of the wealthy man. He, is, too, a producer in the community and both the wealthy and his country are reaping an advantage from his labor. If he is engaged as a workman in a manufactory he is actually paying a tax to the Commonwealth, for although the money comes out of the hands of the proprietors they always regulate the prices which they pay to their workmen by the profits of the establishment, so that they pay their taxes out of the industry of the poor laborers. The producers, then, are the only tax payers after all, and these are the men gentlemen will not allow to vote unless they come up and pay a tax. When, however, the wealthy man dies and leaves his property to a spendthrift who has never been a producer of any thing, you allow him to vote as a meritorious citizen. Thus the man who has been brought up in idleness, and has, perhaps, launched out into debauchery, is recieved at the polls as a meritorious citizen, while the man who has been a producer all his life, and who has, perhaps, paid twice as much tax in the manner he had before alluded to, as the rich man, is excluded from the polls as unworthy to exercise the right of franchise.

The gentleman from Philadelphia (Mr. SCOTT) had drawn a distinction between qualification for the right of suffrage and the condition precedent to the enjoyment of the right of suffrage. The gentleman says, that paying a tax is a condition precedent to voting and not a qualification. Upon reference to authority he found the word qualify to mean to fit for any purpose. Now, if the man was fit to vote, why not allow him to vote without restriction. Then, this was a mere purchase of the right of suffrage, and a man is not entitled to it until he has purchased it.

Some gentleman have said that if you abandoned the tax qualification you will introduce corruption on your election grounds. And what was the remedy which they introduce for this? He did not suppose any gentleman believed that votes could be bought for less than fifty cents a piece. Gentlemen however, stick to the tax qualification, and have introduced in their remarks the idea that the tax will not be more than six cents. Will this prevent corruption? If any one was disposed to buy votes and could do it, he need only pay the tax, and this would be no preventive to corruption at all. Then the only way to prevent corruption was by opening up to all this right; make the right of suffrage entirely free, and there will not be any to be bought. The gentleman from Philadelphia had said that they suffered under a grievous system upon the election grounds; that aged and infirm men were driven from the polls by the violence of the multitude. He would ask, however, what this had to do with the question before the Chair. It was to be sure to be regreted, but it only showed that there were more persons led to vote at one place than there ought to, and if the gentleman would go with him at a proper time, he would insert an amendment in the Constitution that there shall never be more than four or five hundred citizens vote at one place. A bill had been brought before the Legislature to divide the city and county of Philadelphia into a much larger number of wards than at present, and the political friends of the gentleman from the city had voted it down. If the evil complained of by the gentleman existed, let him go for dividing the wards and it will be removed. The gentleman from Allegheny has said that a man's paying a tax was an evidence of his willingness to obey the laws, and another gentleman had said that it was an evidence of his adhesion to the Govern-

ment. He could not agree to the doctrines of either of those gentlemen. He took it that you could make a man pay a tax the same as any other debt; and is it an evidence that a man loves his country because he pays what he is compelled by the laws to pay? or was that an evidence that he was a good citizen? Neither, was serving in the militia an evidence. The true evidence of his being a good citizen was his going to the polls and putting in his vote. That is an evidence that he is one of your community, and will obey your laws; and the man who comes here and stays six months does not vote for laws to operate upon others, but for laws which are to operate upon himself.

It is said we have a degraded population in this country. If this be true what is the best way to elevate them? It is to make them feel that they are men. It is to make them feel their self respect and consequence in society. Permit them to enjoy all the rights of men, and if they abuse those rights the rich will perhaps set about improving their character and condition by education and wholesome laws. He would give every man a vote because he was a man, and because if you do not give him a vote he is governed by laws which he has no voice in making. He would give every man a voice in the choice of his masters so that if he is oppressed by them he could have the opportunity of changing them. He would give a horse, or a dog, or a cat, a choice between a cruel and barbarous, and a just and a humane master if it were possible for them to make a choice. He would give every being who was under the hand of a master, which all were in a Government of laws, the right of choosing that master. This was the true principle of democracy, and he wished to have it carried out in our elections, and carried out in our Legislative Halls.

Mr. CUNNINGHAM, said a plan had suggested itself to his mind within a short time, which he thought would prove satisfactory to the Convention, which was something similar to the outline suggested by the gentleman from Beaver, (Mr. DICKEY) in regard to a registry of voters. He believed a large majority of the Convention were opposed to what is called a tax qualification, and, entertaining this impression, he wished so soon as the proper time arrived, to introduce something into the Constitution as a substitute for the tax qualification. The outline given by the gentleman from Beaver, he did not think went far enough, as it only left it with the Legislature to make provision for the registry. If the tax qualification was dispensed with, he wished to see in the Constitution itself something which will be imperative. Something which would establish a residency which would amount to about the same thing as a tax qualification, because if this was not done there would be no means of ascertaining at the polls whether a man belonged to one district or another and he might give his vote in three or four districts. From all he had heard on the subject he had come to the conclusion that the imposition of a tax was for the purpose of revenue, and not for the purpose of showing any moral and political improvement in the man which made him more capable in judging of the affairs of State. The man taxed was no better qualified, from that fact, to judge in political matters, than the man who paid no tax. His idea was that the tax was introduced for the purpose of showing, when the person came to vote, that he was a resident; that he was a person who had a residence in the State, and in the particular district where he would be entitled to vote, and had an interest, so far as a resi-

dence would go to give him any in the community ; and that that residence distinguished him from a stranger who happened there accidentally at the time of election.

Now, if we can fix some substitute for this tax qualification, which will answer every purpose at the polls, to draw a distinction of this kind, it appeared to him, we shall have accomplished every thing desired by a majority of all parties here. His idea was, that if we can establish a permanent and equal registry, to correspond somewhat with the suggestion of the gentleman from Beaver, it would answer every purpose at the polls to prevent fraud, which a tax qualification would answer, and perhaps better. He thought gentlemen of all parties, from the city and county of Philadelphia, would bear testimony, that the registry system, since adopted there, had added greatly to the peace and safety of the city, and prevented fraud to a very great extent. We have all heard of the effect it has had there, and it was not to be doubted, it would have a good effect all over the State. He threw out these ideas, not expecting that the question would finally be determined upon to day, and if the amendment pending should be rejected, he would submit his proposition, and ask the committee to rise, so that it might be printed by to-morrow morning, for the examination of gentlemen.

It appeared to him, that all parties concurred that there should be some distinction as to the persons entitled to vote, but it appeared that taxation was not the proper distinction. Moderate men of all parties, however, must agree, that no man ought to have a vote, unless he has obtained a residence in the State—he would say for one year, and the evidence of that residence must be either taxation or registry. The man, before he should be entitled to a vote, ought to come forward to some known officer, and report himself as being a citizen, and place his name on the district book, so that it might remain there to be examined by all who wished to see it. If he removes from that district to another before the election he can take a certificate which will show that he has manifested his intention of becoming a citizen of the State. This would guard against all the evils to be apprehended from persons coming in from other States and interfering in our elections, which he repudiated as much as any one. The man who comes into our State and manifests no disposition to become a citizen ought not to be entitled to the same privileges as the one who shows a willingness immediately to become a member of our great family. Then, by the proposition he intended to submit, all a person had to do, when he came into the State and had resided the proper time, was to go to the proper officer and manifest his desire of becoming a citizen by placing his name in the district book, to be kept for that purpose ; and if he removes from that district he can obtain a certificate which will be an evidence at the polls of his having become a citizen of the State.

He thought this would prevent vagabonds and other idle persons, who have no fixed residence, and who feel no interest in the affairs of the State, going from place to place and voting. The proposition of the gentleman from Beaver differed from his in this respect particularly : it did not say there shall be a register, but that the "Legislature may provide for register". In the session of 1835-6, the Legislature passed an act authorizing the assessors of the city and county of Philadelphia, to obtain the names of the resident voters. That law had worked well, and

he trusted that some gentleman from that quarter would advocate the keeping of a registry. It would be recollected that at the next session of the Legislature, the political complexion of the House of Representatives had changed, and the law in question was repealed so far as that body was concerned. But, the Senate refused to do it. His proposition went further than that of the gentleman from Beaver. He would, therefore, by the permission of the Chair, read the following: "*Provided, that no citizen shall vote at any election for representative, unless he has entered, or caused to be entered, his name in a book to be kept by the principal assessors in some ward, district, or township in this State, at least* ^{months} *before such election in each year; and until the Legislature shall pass a law or laws to carry into effect this proviso, no citizen shall vote at said election, who has not paid a State or county tax, which shall have been assessed at least six months previous to such election*".

Should such a proposition be adopted, (Mr. C. said) there would be no need of a tax qualification as evidence of citizenship. A person who had been registered in one county, if he removed to another, may get a certificate of registry, which would answer not only the purpose of a certificate of a tax qualification, but furnish the evidence of citizenship long enough to vote in the State of Pennsylvania. Mr. C. said his plan was this: to dispense with taxation, and require a registry of voters; and, until the Legislature shall establish some law by which it shall be ascertained who shall vote, to require that none should vote but those who paid a tax. In this way, he believed he should meet the views of a majority of the Convention and of the people. He had never heard any complaint among his constituents of the tax qualification; but he had heard every one complain that paupers were not excluded from voting.

Mr. DICKEY, of Beaver, said that he did not know, even if they settled the principle of tax qualification, how they could dispense with a registry, for it would be of great service to the inspectors, as it would enlighten them as to those who were entitled to vote in particular districts, and prevent their being excluded. However, he was not tenacious on the subject. He perfectly coincided with the gentleman from Mercer, as to the expediency of throwing guards around the right of suffrage, so as to prevent it from being abused; and, if the tax qualification was abandoned, as he was willing it should be, what was called a registry ought to be substituted for it, in order to establish citizenship and residence. He regarded the report of the committee as being much too general in its terms, and thought the better course would be to establish a registry. Although an attempt might be made to render it odious, because by a special enactment it was confined to the city and county of Philadelphia alone, he trusted it would prove abortive. It had been alleged that the law was unconstitutional, because it was not general. That objection, however, would be got rid of so soon as the law was made to operate in every district alike. It was very certain that some such safeguard as this should be thrown around the elective franchise. And, if it were not done, frauds would be committed, no matter what might be the character of the provision inserted in the Constitution. There was not a gentleman familiar with the legislation of the State for the last two years, but what was aware that frauds had been committed in the city and county of Philadelphia, in the exercise of the elective franchise. And, the object of adopting a registry

was to guard against frauds. He would state it as a fact that would not be disputed, that both of the political parties to the contest of the third Congressional district, were engaged in importing voters to be used at the special election; and he had heard it said that the result of the election was doubtful, for the reason that there was no registration of votes in the district. How it would terminate, he knew not.

The CHAIR would remind the gentleman that he was wandering far from the subject under consideration. He hoped the gentleman would confine himself to the subject.

Mr. DICKEY replied, that he would endeavor to do so. He was sorry that he had departed from the subject immediately under consideration.—He trusted that gentlemen would vote for the amendment which had been suggested by the gentleman from Mercer, or some other that would effect the object contemplated by it.

Mr. STEVENS, of Adams, was sorry to hear the gentleman from Mercer, (Mr. CUNNINGHAM) make the proposition he had to the committee, and at the same time, declare that he had never heard the tax qualification objected to. He inferred, from what had fallen from the gentleman, that he only meant his amendment as a substitute for the report of the committee, provided it was negatived. He (Mr. S.) trusted that the report of the committee would prevail, and the committee would be saved the trouble of discussing the proposition. He had not heard a single farmer here, who was not in favor of the present proposition, and of giving the Government of the country to the real and substantial part of the community. He hoped that the question would be taken now, instead of in the course of three or four weeks, when, without having taken up the other plans, we should be driven into the sickly season. He was persuaded that the committee were ready for the question.

Mr. BANKS, of Mifflin, called for the reading of the amendment of the gentleman from Chester.

[The amendment was read accordingly].

Mr. DARLINGTON, of Chester, asked for the yeas and nays.

The question was then taken on the amendment to the amendment, and decided in the affirmative—yeas, 69; nays, 54—as follow s:

YEAS—Messrs. Agnew, Ayres, Baldwin, Barndollar, Barnitz, Bayne, Biddle, Brown of Lancaster, Carey, Chambers, Chandler, of Chester, Chauncey, Clarke, of Beaver Clark, of Dauphin, Cline, Coates, Cochran, Cope, Craig, Crum, Darlington, Denny, Dickerson, Donagan, Dunlop, Fry, Gearhart, Harris, Hayhurst, Henderson, of Allegheny, Henderson, of Dauphin, Hiester, High, Hopkinson, Hought, Jenks, Kerr, Konigsacker, Long, Maclay, Magee, Mann, M'Call, M'Dowell, M'Sherry, Merrill, Merkel, Montgomery, Nevin, Pennypacker, Pollock, Porter, of Lancaster, Reigart, Royer, Russel, Seeger, Scott, Sellers, Seltzer, Scheetz, Sill, Snively, Sterigere, Stevens, Sweetland, Todd, Weidman, Young, Sergeant, *President*—69.

NAYS—Messrs. Banks, Bedford, Bell, Bigelow, Bonham, Brown, of Northampton, Brown, of Philadelphia, Butler, Clapp, Clarke, of Indiana, Cleavinger, Cox, Crain, Crawford, Cummin, Cunningham, Curll, Darrah, Dickey, Dillinger, Donnell, Doran, Earle, Farrelly, Fleming, Forward, Foulkrod, Fuller, Gamble, Grenell, Hamlin, Hartings, Helfenstein, Hyde, Kennedy, Krebs, Lyons, Martin, M'Caben, Miller, Myers, Overfield, Purvance, Read, Ritter, Rogers, Shellito, Smith, Smyth, Stickel, Taggart, Weaver, White, Woodward—54.

The question being on the report of the committee as amended,

Mr. MANN moved further to amend the amendment, by adding to the end thereof the following; "but no person shall be entitled to vote, except

in the district in which he shall actually reside at the time of the election".

The motion was agreed to.

Mr. MARTIN moved further to amend the amendment, by inserting after the word "every", the following words, viz : "white male".

Mr. M. asked the indulgence of the committee to rise, in order to afford him an opportunity to be heard, in support of the amendment to-morrow.

The motion was disagreed to.

The CHAIR decided, that the amendment offered by Mr. MARTIN was out of order, in the place where it was offered.

Mr. MARTIN said, it must be in order somewhere, and he did not care where, so he could get a vote upon it.

The committee then rose, reported progress, and obtained leave to sit again, and

The Convention then adjourned.



ERRATA.

Page 66—line 15, for "five" read "four".

Page 66—line 17, for "five" read "four".

Page 96—line 27, for "SPRINGERS" read "BELL".

Page 167—line 33, for "Somerset" read "Beaver".

Page 225—line 17, for "second" read "first".



INDEX

TO

THE SECOND VOLUME.

A.

ADAMT, Rev. Mr. —Resolution to grant use of Hall to,	216
Reported by committee of whole, 225, 226;	
postponed,	231
Considered in committee of whole, 4 to 32-32	
to 55-57 to 80-81 to 115-116 to 138-157	
to 161-161 to 173-175 to 199-202 to 216-	
	216 to 225
ADJOURNMENT —Resolutions concerning, 32, 143, 144, 175,	
	199, 295, 302
Debates concerning,	143 to 154-295 to 302
Motion concerning,	460
ANDREW, Mr. (of Beaver) —Remarks of, 1st article,	137, 187, 188, 189
On 2d article, 248, 249, 287,	
288, 290, 305, 306, 329, 390,	
	458, 464, 465, 466
Motion by, to consider resolution of adjournment,	302
Motion by, to amend 2d article,	328; 329
AMENDMENTS —Proposition to change rules concerning,	138
ARTICLE I —Reports from committee on,	3, 4
ARTICLE IX —Report from committee on,	56
ARTICLE II —Considered in committee of whole, 231 to	
256-259 to 283-283 to 295-302 to 319-320	
to 332-333 to 358-358 to 374-375 to 398-	
397 to 402-420 to 445-445 to 459-461 to 470	
Reported by committee of the whole, 470 ;	
postponed,	470
Motion to recommit,	498, 499, 500
ARTICLE VII —Reports from committee on,	403, 404, 460
ARTICLE III —Considered in committee of the whole, 470	
to 483-484 to 498-500 to 520-520 to 530	
-530 to 551-552 to 561	
AUDITOR GENERAL —Communication from, concerning militia fines, &c.	227 to 230
AYRES, Mr. (of Butler) —Remarks of, on resolution of adjournment,	298, 299
On 2d article,	333, 390, 391, 459

B.

BANKS —Memorials concerning,	56, 81, 138, 296, 498
BANKS, Mr. (of Mifflin) —Remarks of, on 1st article, 25, 26,	43, 86, 87, 121
On 2d article, 252, 253, 279, 280,	311, 312, 313, 314, 333, 452
BAYNE, Mr. (of Allegheny) —Remarks of, on 1st article,	94
Proposition by, to amend rules,	116
Motion of, to reconsider vote on amendment of Mr. EARLE, to amendment of STEVENS, to 1st article,	223
Call to order by,	331
Remarks of, on 2d article,	381, 382
On motion to recommit report of committee of the whole,	500
On 3d article,	537, 538, 539
BELL, Mr. (of Chester) —Remarks of, on 1st article, 16,	31, 46, 47, 119, 120, 134, 158,
159, 167, 171, 172, 203, 204,	205, 206, 221, 225
On motion to reconsider,	37, 38
Motion by, to amend 1st article,	61; agreed to,
Remarks of, on motion to amend 1st article,	87
Motion by, to amend 1st article,	133
Remarks of, on resolution concerning previous question,	139, 140
On resolution concerning order of business,	156
Demand of, for division of question on amendment of Mr. STE- RIGERE, to 1st article,	314
Remarks of, on 2d article, 240,	241, 260, 263, 284, 265, 236,
279, 282, 283, 234, 274, 302,	303, 304, 305, 308, 326, 328,
330, 331, 332, 367, 374, 375,	376, 377, 378, 383, 385, 398,
399, 440, 441, 456, 457, 458,	459, 461, 462, 463, 464, 468
Motion by, to amend 2d article,	260, 281, 282, 283, 284, 440, 456, 461
Motion by, that committee rise,	401
Remarks of, on 3d article, 479,	482, 483, 491, 492, 493, 494,
	546, 547, 548
Motion by, to amend 3d article,	484

INDEX.

567

BIDDLE, Mr. J. C. (of Philadelphia) —Remarks of, on 1st article, -	20, 21
On resolution of adjournment, -	145, 146
Remarks of, on 2d article, 266, 324,	
325, 423, 424, 425, 439	
On 3d article, -	520, 521
BONHAM, Mr. (of York) —Remarks of, on 1st article, -	40, 41
On 2d article, -	237, 238
On resolution of adjournment, -	297
On 3d article, -	549, 550
BROWN, Mr. (of Philadelphia) —Remarks of, on 1st article,	10, 11, 16, 67, 96
On resolution concerning previous question, -	141, 142, 143
On resolution of adjournment, -	151, 152, 301
On 2d article, 277, 278, 284, 326, 349, 350, 351, 367, 368, 369, 380, 385, 402, 428, 429, 430, 435, 436	
Motion by, to postpone indefinitely resolution of adjournment, -	302
Remarks of, on 3d article, 481, 489, 490, 491, 493, 494, 497, 498, 538, 539, 540	
BROWN, Mr. (of Northampton) —Memorial presented by, -	295
BUTLER, Mr. (of Philadelphia) —Remarks of, on 1st article, -	83, 84, 85, 86
Motion by, to amend 2d article, -	249, 268, 434
C.	
CHAMBERS, Mr. (of Franklin) —Remarks of, on 1st article,	12, 13, 14, 46, 127
On resolution of adjournment, -	149, 150, 300, 301
Resolution of, concerning order of business, -	154
Remarks of, on resolution concerning order of business, -	155, 156, 157
On 2d article, -	254, 255, 260, 261, 394, 395, 396, 426, 427, 428, 436, 437
CHANDLER, Mr. (of Philadelphia) —Remarks of, on 1st article, -	9, 10, 49, 50, 51
On motion to reconsider, -	36

- CLARKE, Mr. (of Indiana)**—Remarks of, on 1st article
 31, 36, 42, 49, 168, 169,
 175, 176, 177, 178, 179,
 181, 182, 183, 214, 215
 On motion to reconsider, - 37
 Motion by, to amend 1st ar-
 ticle, - 43, 168, 173
 Remarks of, on resolution
 concerning previous ques-
 tion, - 143
 On 3d article, - 483, 488, 489, 513
 On motion to re-commit re-
 port of committee of the
 whole, - 499
- CLEAVINGER, Mr. (of Greene)**—Remarks of, on 1st article,
 48, 49, 180
 On 2d article, - 292, 293
 On 3d article, - 471, 472, 529, 530
- CLINE, Mr. (of Bedford)**—Remarks of, on 3d article,
 521, 522, 523, 524
- COATES, Mr. (of Lancaster)**—Motion by, that committee
 rise, - 171
 Resolution by, concerning
 adjournment, - 175, 295, to 308
 Memorial presented by, - 333
- COMMITTEE OF THE WHOLE**—On 1st article, 4 to 32—32 to
 55—57 to 80—81 to 115—
 116 to 138—157 to 161—
 161 to 173—175 to 199—
 202 to 216—216 to 225—
 postponed, - 231
 On 2d article, 231 to 256—
 259 to 283—283 to 295—
 302 to 319—320 to 333—
 333 to 358—358 to 374—
 375 to 376—397 to 402—
 420 to 445—445 to 450—
 461 to 470
 Minutes of, proceedings
 on concerning, - 174, 175
 Resolution to amend, - 202, 203
 On 2d article, 470 to 483—
 484 to 498—500 to 520—520
 to 530—530 to 551—552 to 561
 Report of committee of the
 whole, on 2d article,
 postponed, - 500
- COMMUNICATIONS**—Secretary of, communications from, 55,
 56, 404 to 410

INDEX.

569

COMMITTEE, STANDING —On the 1st article, reports from,	3, 4
On the 9th article, report from,	56
On the 7th article, report from,	403
Reports from minority of,	404, 460
COMMITTEE OF ACCOUNTS —Report of,	230
CONSTITUTION —Propositions to amend,	116, 230, 498, 499
COPE, Mr. (of Philadelphia) —Resolution by,	3, 333
Memorial presented by,	32
COUNTIES —Memorial concerning representation of,	3
COX, Mr. (of Somerset) —Remarks of, on 1st article,	23, 24, 81, 114, 115, 126
Motion by, to amend 1st article,	81, 170
To reconsider,	34
To postpone resolution concerning previous question,	140, 141
Remarks of, on 2d article,	280, 286, 287, 289, 290,
	301, 332, 333, 398
Motion by, to amend 2d article,	384, 497
Remarks of, on resolution of adjournment,	296
Motion by, that committee rise,	333
To postpone 5th article,	470
Remarks of, on motion to recommit report of committee of the whole,	499, 500
On 3d article,	524,
	525, 526, 527, 528
GLASS, Mr. (of Washington) —Remarks of, on motion to amend 1st article,	224
Motion by, to amend 2d article,	441, 444
Remarks of, on 2d article,	441, 442, 443
CRAWFORD, Mr. (of Westmoreland) —Motion by, to amend 1st article,	187, 195, 216, 217
CUNNINGHAM, Mr. (of Dundee) —Remarks of, on 1st article,	38, 39
Motion by, to reconsider,	56
Remarks of, on order of business,	154
On resolution concerning slaves,	280, 301
On resolution of adjournment,	299, 300
CUNNINGHAM, Mr. (of Dover) —Remarks of, on motion to refer minutes of committee of the whole,	174

CUNNINGHAM, Mr. (of Mercer) —Remarks on resolution of adjournment, - - -		297
On 2d article, - - -	325, 326, 457, 458	
Motion by, to amend 2d article, - - -		325
Remarks of, on 3d article, - - -	471, 557, 558, 559	
On motion to recommit report of committee of the whole, - - -		499, 500
CURL, Mr. (of Armstrong) —Motion by, to amend 1st article, - - -		36, 43
Remarks of, on 1st article, - - -		40
On 2d article, - - -	247, 248, 320, 321	
Memorial presented by, - - -		295
Remarks of, on resolution of adjournment, - - -		296, 297
Motion by, to postpone resolution of adjournment, - - -		301

D

DARLINGTON, Mr. (of Chester) —Remarks of, on 1st article, - - -		16, 31, 32, 117, 120, 160
Demand of, for division of question, - - -		84
Remarks of, on motion to reconsider, - - -		87
Motion by, to postpone indefinitely, - - -		87, 210
Motion by, to amend 1st article, 117, negatived, - - -		121
To amend resolution, concerning previous question, - - -		139
Call by, for division of question, - - -		175
Resolution by, concerning recess, - - -		175
Motion by, to amend resolution concerning slaves, - - -		200, 202
Remarks of, concerning slaves, - - -		201, 202
On 2d article, 236, 237, 240, 270, 284, 285, 333, to 338, 363, 383, 398, 399, 402, 438, 444, 445, 458, 463, 467		
Motion by, to amend 3d article, - - -		167, 268, 444, 466, 467

INDEX.

471

DARLINGTON, Mr. (of Chester) —Motion by, to amend resolution of adjournment,	-	295
That committee rise,	332, 401, 402,	459
To postpone report of minority on 2d article,	-	469
To postpone the subject of the 2d article,	-	469
Remarks of, on 3d article,	482, 484, 485, 494,	
	545, 546, 554, 560	
Motion by, to amend 3d article,	-	484, 495
DENNY, Mr. (of Allegheny) —Reports by,	-	3, 4
Remarks of, on 1st article,	16, 17, 18, 26, 27,	134, 135, 138
An appeal from decision of CHAIR,	-	33, 34, 51
Resolution concerning adjournment, called up by,		143
Remarks of, on adjournment,	144, 152, 153	
On 2d article,	291, 292, 322, 323 324, 332	
DICKY, Mr. (of Beaver) —Remarks of, on 1st article,	44, 45, 113, 114, 121, 127,	
	167, 169, 183, 215, 224	
On resolution concerning previous question,	-	139, 140
Motion by, to postpone resolution concerning order of business,	-	157
Remarks of, on do.	-	157
Motion by, to amend 1st article,	168, 170, 171	
To postpone resolution concerning slaves,		200, 202
Remarks of, on 2d article,	253, 268, 278, 281, 284, 286,	
	295, 306, 307, 320, 366, 367,	
	368, 369, 377, 378, 379, 380,	
	383, 384, 385, 388, 389, 398,	
	399, 445, 446, 447, 454, 455,	
	466, 467, 468, 469, 470	
On resolution concerning afternoon sessions,	-	256
Motion by, to postpone resolution concerning do.	-	256
To postpone indefinitely, motion of adjournment,	298, 299, 300	
Remarks of, on resolution of adjournment,		298 299

- DICKEY, Mr. (of Beaver)**—Motion by, to amend 2d article, 397, 468
 Motion by, that committee rise, - 459
 Remarks of, on 3d article,
 482, 489, 594, 495, 644, 554, 659, 560
- DORAN, Mr. (of Philadelphia)**—Remarks of, on 1st article,
 96, 100, 162, 163, 164, 173
 Motion by, to amend 1st article - - - 162
 Remarks of, on 3d article,
 479, 480, 481, 482, 546
- DUNLOP, Mr. (of Franklin)**—Remarks of, on 1st article,
 28, 29, 30, 32, 33, 34,
 35, 49, 51, 74, 75, 76,
 94, 95, 221, 222
 Motion by, to amend 1st article, - - - 33, 34, 35
 To postpone, - - - 34
 Resolution by, concerning slaves, - - - 199
 Remarks of on 2d article,
 235, 401, 435, 443, 444, 445, 446
 On 3d article,
 471, 509, 510, 511, 512

E.

- EARLE, Mr. T. (of Philadelphia)**—Remarks of, on 1st article,
 30, 31, 32, 41, 45, 46,
 50, 51, 54, 55, 67, 68,
 82, 122, 123, 124, 126,
 130, 131, 132, 170,
 209 to 213, 218, 220, 224
 On motion to amend 1st article, - - - 35, 47, 48
 Motion by, to amend 1st article, 47, 121, 122,
 132, 133, 170, 172, 218, 219
 Proposition by, to amend Constitution, - - - 116
 Amendment by, to 1st article rejected, - - - 133
 Motion by, to change rules, - - - 138
 Remarks of, on resolution of adjournment, 150,
 151, 296, 301, 302
 Remarks of, on 2d article,
 238, 239, 245, 246,
 258, 266, 267, 294,
 326, 327, 333, 369,
 370, 371, 398, 401,
 402, 438, 439, 440,
 453, 454, 458, 463, 464, 466

EARLE, Mr. T. (of Philadelphia)—Motion by, to amend 2d article, - 239, 240, 281, 440 441
Demand by, of division of question, - 278
Motion by, to postpone indefinitely resolution of adjournment, - 296
Remarks of, on 3d article, 501 to 507, 554, 555, 556, 557¹

F.

FARRELLY, Mr. (of Crawford)—Remarks of, on 1st article, 123, 124, 132
Motion by, to amend 1st article, 132; negatived, - 132
Remarks of on 2d article, - 293, 294
On 3d article, - 553, 554
FLEMING, Mr. (of Lycoming)—Remarks of, on 1st article, 8, 9, 88 to 94
Motion by, to amend 1st article, - 35
Remarks of, on motion to amend 1st article, - 85
Memorial presented by, - 280
Remarks of, on 2d article, 235, 236, 261, 262, 530, 431, 432, 433
On 3d article, 507, 508, 509, 550

FORWARD, Mr. (of Allegheny)—Remarks of, on 1st article, 4, 5, 6, 7, 8, 31, 32, 46, 68, 69, 70, 123, 124 134, 167, 168, 173, 206, 207, 208, 209, 216, 234
Memorial concerning b'ks. presented by, - 138
Remarks of, on resolution of adjournment, 144, 145, 148, 149, 297
On 2d article, 246, 247, 253, 254, 278, 280, 281, 328, 329, 330, 333, 344, to 349, 362, 366, 370, 382, 385, 394, 421, 422, 433, 434, 458, 459
Motion by, to amend 2d article, - 328
That committee rise, - 332
Report by, - 408
Remarks of, on 3d article, 530

FRY, Mr. (of Lehigh) —Motion by, to amend 1st article,	-	183
Remarks of, on 1st article,	-	188
Proposition of, to amend Constitution,	-	230
FULLER, Mr. (of Fayette) —Remarks of, on 1st article, 24, 25, 35, 36, 80, 81, 82, 87, 88, 94, 120, 171		
Motion by, that committee rise, 82; motion withdrawn by,	-	88
To amend resolution concerning order of business,	•	157
Remarks of, on 2d article, 248, 267, 281, 321, 322,		440, 463
On resolution of adjournment,	•	299
Motion by, to amend 2d article,	-	464
Remarks of, on 3d article,		628, 529

G.

GAMBLE, Mr. (of Clearfield) —Motions by, to reconsider,		86, 216
--	--	---------

H.

HAMLIN, Mr. (of M'Kean) —Motion by, to amend first article,	-	57, 66
Remarks of, on first article, 57 to 61, 62, 63, 71, 72, 80, 86, 95, 96		
On 3d article,	-	489
HASTINGS, Mr. (of Jefferson, &c.) —Remark of, on motion to amend 1st article,		216
HAYHURST, Mr. (of Columbia) —Report by,	-	230
Remarks of, on 2d article,	256, 257, 455	
On 3d article,	552, 553	
HIESTER, Mr. (of Lancaster) —Motions by, to amend 1st article,	-	35, 172, 173, 216
Remarks of, on 1st article,	-	172, 173
Motion by, to amend 2d article,	-	268 278 400
Remarks of, on resolution of adjournment,		299
Motion by, to amend resolution of adjournment,	-	300, 301,
Remarks of, on 2d article,	-	400, 401, 439, 440
On 3d article,	-	543, 544
HOPKINSON, Mr. (of Philadelphia) —Remarks of, on 1st article,	-	8, 47, 87, 193
On 2d article,	279,	
	357, 358, 359, 360, 361, 428	
On resolution of adjournment,	-	301, 302

I.

INGERSOLL, Mr. (of Philadelphia) —Remarks of, on 1st article,	-	126, 217
--	---	----------

INGERSOLL, Mr. (of Philadelphia)—On resolution of adjournment, -	144
On resolution concerning order of business, -	157
Motion by to amend 1st article, -	172
Remarks of, on resolution concerning slaves, -	202
Remarks of, on 2d article, 246, 382, 444, 445, 447, 448, 449, 450, 451	

J.

JENKS, Mr. (of Bucks)—Motion by, to amend 1st article, -	31
Remarks of, on 1st article, -	31, 41, 42
Motion by, to amend 3d article, -	476, 479
Remarks of, on 3d article, -	476, 479
JOURNALS—Resolution concerning printing of, -	56
Motion to correct, -	81
JURY, TRIAL BY—Memorial concerning, -	333

K.

KEIM, Mr. (of Berks)—Remarks of, on 1st article, -	72, 73, 74, 99
Resolution by, to amend minutes of committee of the whole, -	202
Remarks of on 2d article, -	250, 251, 256
Report by, -	404
KERR, Mr. (of Washington)—Remarks of, on 1st article, -	109, 110, 225
On 2d article, -	397, 461, 464
Motion by, to go into committee on the 5th article, -	470
KONIGMACHER, Mr. (of Lancaster)—Remarks of, on 1st article, -	12
Memorial presented by, from Seventh Day Baptists, -	230
KREBS, Mr. (of Schuylkill)—Motion by, to amend 1st article, -	44, 45
Remarks of, on motion to amend 1st article, -	44, 45

L.

LOTTERIES—Memorials against, -	3, 61
Report concerning, -	50

M.

MAGEE, Mr. (of Perry)—Motion by, to amend 1st article, -	35
Remarks of, concerning slaves, -	199, 200
Motion by, to amend 2d article, -	260
Memorial presented by, -	295
MANN, Mr. (of Montgomery)—Remarks of, on 1st article, -	17, 18
On motion to reconsider, -	36, 37
On motion concerning slaves, -	200
On 2d article, -	251, 252, 260, 278, 401

MANN, Mr. (of Montgomery)	—Resolution by to hold after-noon sessions,	259
	Remarks of, on holding af-ternoon sessions,	259
	On resolution of adjourn-ment,	296
	Motion by, to amend 3d article,	560, 561
MACLAY, Mr. (of Mifflin)	—Remarks of, on 2d article,	247
M'CAHEN, Mr. (of Philadelphia)	—Remarks of, on 1st ar-ticle,	7, 14, 16, 21, 22, 55
	On 2d article,	294, 434, 435, 453
	Previous question called by,	399
	Remarks of, on 3d article,	495, 496
M'DOWELL, Mr. (of Bucks)	—Remarks of, on order of busi-ness,	154, 155
	Motion by, to amend 2d article,	438
	Remarks of, on 2d article.	438, 444, 446
	On 3d article,	540, 541, 542, 543
MARTIN, Mr. (of Philadelphia)	—Remarks of, on 1st article,	45, 70, 71
	On 3d article,	477, 478, 479, 518, 519
		520
	Motion by, to amend 3d article,	561
	That committee rise,	561
MERREDITH, Mr. (of Philadelphia)	—Memorial presented by,	3
	Remarks of, on 1st ar-ticle, 76 to 80, 86,	
	100, to 109, 111,	
	118, 119, 173, 206, 221, 224	
	On resolution concern-ing previous ques-tion,	140, 141
	Motion by, to refer minutes of com-mittee of the whole,	174
	Remarks of, on motion to refer,	174
	On motion concerning slaves,	202
	On 2d article,	262, 263, 266, 333
MERRILL, Mr. (of Union)	—Remarks of, on 1st article,	87, 122, 123, 124
		164, 165, 186, 187
	Propositions by, to amend Constitution,	116
	Motion by, to amend 1st article,	171, 184, 216
	Motion by, that committee rise,	173
	Remarks of, on 2d article,	391, 392, 393, 401,
		420. 434

INDEX.

577

MERRILL, Mr. (of Union)—Motion by, to amend 2d article,	401, 420
Remarks of, on motion to postpone 5th article,	470
On 3d article,	478, 479, 550, 551
MILITIA FINES—Communication from Auditor General receiving,	227 to 230
MILLER, Mr. (of Fayette)—Resolution by,	498
M'SHERRY, Mr. (of Adams)—Remarks of, on amendment to 1st article,	34, 117, 118, 119
On motion to refer minutes of committee of the whole,	174, 175
On 2d article,	279
On motion to recommit report of committee of the whole,	499
MONTGOMERY, Mr. (of Mercer)—Motions by, to amend 2d article,	466
MYERS, Mr. (of Venango)—Proposition by, to amend Constitution,	498, 499

①.

ORDER—decisions of President, on points of,	56, 142
Decisions of Chairman of Committee of the Whole, on do. of, 8, 32, 33, 37, 41, 42, 49, 50, 51, 158, 168, 219, 220, 222, 223, 256, 280, 331, 387, 397, 402, 454, 469, 484, 560, 561	
Of business, Remarks of Chairman of Committee of the Whole concerning,	39, 40, 41, 43, 81
Resolution concerning,	154
Debate on resolution concerning	154 to 157

P.

PARDONS—Statement of,	56
PORTER, Mr. (of Northampton)—Report presented by	56
Remarks of, on resolution of adjournment,	146
Previous question called by,	153
Remarks of, on motion to refer minutes of Committee of the Whole,	174
Resolution by, to grant use of Hall to Rev. Mr. Abbott,	216
Remarks of, on 2d article,	243, 244, 245, 246
PRESIDENT—Petitions presented by,	81
PREVIOUS QUESTION—Proposition concerning,	116, 138 to 143, 256
Called,	153, 399

PURVIANCE Mr. (of Butler) —Remarks of on 1st article, 14,	
15, 16, 43, 44, 120, 133,	
134, 135, 169, 184, 185, 186	
Motion by, to amend 1st article,	
- - - 14, 16, 31, 43, 196	
to postpone 1st article, -	157, 158
that Committee rise, -	158
Remarks of, on 2d article,	
234, 235, 268, 269, 270, 399, 462	
On 3d article, 533, 534, 535, 536, 537	

R.

READ, Mr. (of Susquehanna) —Demand by, of division of question, -	16, 34
Appeal of, from decision of CHAIR, -	33
Remarks of, on appeal from decision of CHAIR, -	33
Appeal of, withdrawn by, -	34
Remarks of, on motion to reconsider, -	38, 40
Motion by, to amend 1st article, 42, 133, 157, 161, 166, 168	
Proposition by, to amend rules, 116, 138 to 143; withdrawn, -	143
Remarks of, on 1st article, 120, 121, 124, 125, 126, 129, 130, 133, 134, 136, 137, 138, 160, 161, 167	
On motion to amend rules, -	189
Resolution of, concerning previous question, agreed to, -	259
Remarks of, on 2d article, 282, 285, 286, 361, 362, 363, 364, 365, 366, 368, 383, 384, 386, 387, 390, 394, 398, 399, 469	
Motion by, to amend 2d article, -	382, 383
To indefinitely postpone motion to recommit report of committee of the whole, -	490
Remarks of, on same motion, -	600
RECORD —Resolution concerning, -	175
REICART, Mr. (of Lancaster) —Remarks of, on 1st article, -	44, 222
Resolution by, concerning adjournment, -	100

REIGART, Mr. (of Lancaster) —Remarks of, on 2d article,	
233, 234, 270, 271, 420, 421	
Motion by, to amend 2d article,	268
Remarks of, on resolution of adjournment,	296
On 3d article,	471, 485, 486, 487, 488
RITER, Mr. (of Philadelphia) —Petition presented by,	81
Proposition of, to amend Constitution,	230
Motion by, that committee rise,	374
Report by,	404, 460
ROGERS, Mr. (of Allegheny) —Remarks of, on 3d article,	473, 474, 475, 476
RUSSELL, Mr. (of Bedford) —Remarks of, concerning slaves,	200
Motion by, to amend 3d article,	470, 471, 495
Remarks of, on 3d article,	471, 472, 475
RULES —Propositions to amend,	116, 138, 139, 140, 141, 142, 143
S.	
SAEGER, Mr. (of Crawford) —Remarks of, on 1st article,	6, 7
SCOTT, Mr. (of Philadelphia) —Petition presented by,	81
Remarks of, on 1st article,	180, 181
On 2d article,	249, 250, 451, 452, 453
On 3d article,	531, 532, 533
SELLERS, Mr. (of Montgomery) —Memorial presented by,	56
SESSIONS, Afternoon —Resolution to hold,	259
Proceeding relating to,	259
SERGEANT, Mr. (of Philadelphia) —Remarks of, on 1st article, 18, 19, 20, 39, 51, 52, 53, 54, 66, 67, 127, 128, 129, 137, 138, 189 to 193	
On 2d article, 251, 253, 271, 272, 273, 274, 275, 276, 314 to 319, 371, 372, 373, 374, 422, 423	
On 3d article, 513, 514, 515, 516, 517, 518	
SHELLITO, Mr. (of Crawford) —Remarks of, on order of business,	154
On 1st article,	39, 49
On 2d article,	237, 238, 333, 402, 438
On resolution of adjournment,	296
On 3d article,	496
SILL, Mr. (of Erie) —Remarks of, on 1st article,	22, 126
On 2d article,	351, 352, 353, 354, 364, 455
Motion by, to amend 2d article,	455
SLAVES —Resolution concerning immigration of,	199
Debate, concerning,	199, 200, 201, 202
ut	

SMYTH, Mr. (of Centre) —Remarks of, on 1st article,	82, 87, 123, 167
On 2d article,	240, 278, 292, 393, 394, 466
Demand by, of division of question,	- - 278
Motion by, to amend 2d article,	- 281
Remarks of, on resolution of adjournment,	- - 297, 298
On 3d article,	- - 550
STERIGERE, Mr. (of Montgomery) —Remarks of, on 1st article, 31, 61, 62, 63, 71, 111, 112, 113, 114, 115, 119, 123, 124, 167, 170, 171, 197, 198, 199, 212, 214, 217, 223, 224, 225	
On motion to reconsider,	- - 37, 38
An appeal from decision of CHAIR,	- 51
Resolution by,	- 56
Motion by, to amend 1st article, 62, 66, 116, 117, 166, 167, 168, 170, 171, 213, 214, 217, 218, 223, 224	
To correct Journal,	- 81
Amendment withdrawn by,	- - 81
Amendment by, negatived,	- - 132
Remarks of, on resolution concerning previous question,	- 141
On resolution concerning adjournment,	
Division of question demanded by,	- 157
Motion by, that committee rise,	- 173, 294
Remarks of, on motion to refer minutes of the committee of the whole,	- - 174
Remarks of, on 2d article, 264, 265, 282, 283, 294, 354, 355, 356, 357, 380, 381, 382, 390, 397, 425, 426, 435, 444, 461, 462	

STERIGERE, Mr. (of Montgomery)—Motion by, to amend 2d article, 281, 284, 295,	
	380, 390, 397, 456
To refer back the minority report on article 7,	404
Motion by, to amend 3d article,	472, 481, 484
Remarks of, on 3d article, 472, 473, 479,	
	480, 481, 495, 548, 549
On motion to recommit report of committee of the whole,	500
STEVENS, Mr. (of Adams)—Remarks of, on 1st article, 14,	
	32, 34, 35, 40, 45, 63, 64, 65,
	66, 82, 96, 97, 98, 99, 100,
	110, 160, 161, 169, 170, 173,
	216, 217, 218, 219, 222, 223
Resolution by,	32
Appeal by, from decision of CHAIR,	51
Motion of, to amend 1st article,	96, 162, 218, 223
Motion of, to postpone resolution of adjournment,	144, 145
Motion of, to reconsider,	173
Motions of, to amend motion concerning slaves,	199, 202
Remarks of, concerning slaves,	200, 202
Motion of, to consider 2d article,	230
Remarks of, on 2d article, 231,	
	233, 235, 239, 241, 242, 243,
	246, 252, 278, 279, 295, 307,
	308, 309, 310, 311, 327, 329,
	383, 384, 385, 386, 387, 389,
	398, 401, 456, 459-469
Motion by, to amend 2d article, 233, 240, 397	
Motion by, that committee rise,	295, 374
Remarks of, on resolution of adjournment,	399
On 3d article, 496, 497, 539,	
	544, 545, 546, 560

T.

TAGGART Mr. (of Lycoming)—Memorial presented by,	3
TAXABLE INHABITANTS—Statement of,	404, to 419

W.

WOODWARD Mr. (of Luzerne) —Remarks of, on 1st article,	27, 28, 47, 135, 136, 137, 157, 160, 220, 221
On motion to reconsider,	36
On resolution of adjournment,	147, 148, 149, 300
Motion of indefinite postponement by,	154, 256
Motion by, that committee rise,	172
Remarks of, on 2d article, 255, 256, 278, 288, 289,	338, to 344-360, 387, 388
Motion by, to amend resolution of adjournment,	295, 296
Remarks of, on motion to postpone 5th article,	470
On 3d article,	493

Y.

YEA and NAY —On motion by Mr. GAMBLE of Clearfield, to reconsider,	57
On the previous question, on resolution of adjournment,	153, 154
On motion by Mr. WOODWARD, of indefinite postponement,	154
On amendment of Mr. STEVENS to 1st article,	165, 166
On amendment of Mr. DORAN to 1st article,	166
On amendment of Mr. READ to 6th article,	168
On amendment of Mr. CLAKE to 1st article,	182
On motion by Mr. STEVENS of indefinite postponement of resolution, concerning slaves,	200
On motion by Mr. STERIGERE to amend 1st article,	214
On motion by Mr. MERRILL to amend 1st article,	216
On motion by Mr. STEVENS to amend 2d article,	258
On motion by Mr. BROWN to postpone indefinitely, resolution of adjournment,	302
On motion by Mr. CUNNINGHAM, to amend 2d article,	328
On motion by Mr. FORWARD, to amend 2d article,	328
On motion by Mr. AGNEW, to amend 2d article,	332, 333
On motion of Mr. STERIGERE, to amend 2d article,	382
On motion of Mr. READ, to amend 2d article,	389, 390
On motion of Mr. READ, to amend 2d article,	396
On motion of Mr. STEVENS, to amend 2d article,	397
On the previous question, on the 8th section of 2d article,	399, 400
On the report of the committee on section 8, article 2,	400
On motion by Mr. HIESTER, to amend 2d article,	440
On motion of Mr. DARLINGTON, to amend 2d article,	468
On motion of Mr. DARLINGTON, to amend 3d article,	605