

DEBATES
OF THE
CONVENTION

TO AMEND THE
CONSTITUTION OF PENNSYLVANIA:

CONVENED AT
HARRISBURG, NOVEMBER 12, 1872;

ADJOURNED NOVEMBER 27,

TO MEET AT
PHILADELPHIA, JANUARY 7, 1873.

VOL. II.

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1873.

DEBATES

OF THE

Convention to Amend the Constitution.

FORTY-SIXTH DAY.

TUESDAY, *February 18, 1873.*

The Convention was called to order at seven minutes after ten o'clock A. M. by the President.

Prayer was offered by the Rev. J. W. Curry.

The Journal of yesterday was read and approved.

THE CENTENNIAL EXPOSITION.

The PRESIDENT laid before the Convention the following communication :

INTERNATIONAL EXHIBITION PHILADELPHIA—1876.

OFFICE CENTENNIAL COMMISSION, }
No. 904 WALNUT STREET, }
PHILADELPHIA, *February 17, 1873.* }

Hon. WM. M. MEREDITH,

President Constitutional Convention :

SIR :—The joint committees having in charge the arrangements for Pennsylvania's grand mass convention to provide for the celebration of the Centennial Anniversary of American Independence, on the twenty-second inst., at the Academy of Music, respectfully ask your honorable body to be present on that occasion. Trusting that you will send us an early reply,

We are respectfully yours,

D. J. MORRELL,
ASA PACKER,

Commissioners for Pennsylvania.

Mr. J. PRICE WETHERILL. Mr. President: I move the invitation be accepted, which was agreed to.

THE SOCIAL SCIENCE ASSOCIATION.

The PRESIDENT also laid before the Convention the following communication :

No. 532 WALNUT STREET, }
February 17, 1873. }

Hon. WM. M. MEREDITH,

President Constitutional Convention :

DEAR SIR :—I am instructed by the executive committee of the Philadelphia Social Science association to invite the Constitutional Convention to attend the next stated meeting of the association, on Thursday evening, February 20, at eight o'clock, when Mr. Sydney Biddle will read a paper on the work of the Constitutional Convention, at the Mercantile Library hall, Tenth street, between Market and Chestnut.

Very respectfully, &c.,

J. G. ROSENGARTEN,
Secretary.

Mr. NEWLIN. Mr. President: I move that the invitation be accepted, which was agreed to.

WRITS OF ERROR.

The PRESIDENT laid before the Convention a communication from the prothonotary of Erie county, which was referred to the Committee on Judiciary.

PROHIBITION.

Mr. CARTER presented a petition from two hundred citizens of Lancaster county, in favor of a clause in the Constitution prohibiting the manufacture and sale of

intoxicating liquors, which was referred to the Committee on Legislation.

Mr. ANDREWS presented a similar petition, which, on motion of that gentleman, was referred to the Committee on Judiciary.

NEW COUNTIES.

Mr. PUGHE presented a memorial from certain citizens of Luzerne county, relative to the division of said county, which was referred to the Committee on Counties.

PROHIBITION.

Mr. LEAR presented a memorial from the monthly meeting of Friends, asking for a Constitutional provision against traffic in intoxicating liquors, which was referred to the Committee on Legislation.

MILITARY SERVICE.

Mr. LEAR also presented a petition from the same meeting, asking that its members be excluded from taxation for military purposes, which was referred to the Committee on the Militia.

Mr. NEWLIN offered the following resolution, which was referred to the Committee on the Executive:

Resolved, That the principal officer of in each of the Executive departments shall have the privilege of discussing in either House any measure pertaining to his department.

THE FORM OF THE BALLOT.

The Convention then resolved itself into committee of the whole, Mr. Lawrence in the chair, for the purpose of further considering the article reported from the Committee on Suffrage.

The CHAIRMAN. The question is upon the amendment to the second section, offered by the gentleman from Montgomery, (Mr. Boyd.) The amendment will be read.

The CLERK read: "Strike out all after 'section' and insert as follows: 'All elections shall be by ballot, except those by persons in their representative capacity, who shall vote *viva voce*, but in any city, borough, or town containing a population of at least fifty thousand inhabitants, the ballots shall be numbered by the election officers, when received, and each shall have endorsed upon it the name of the elector, written either by himself or by another citizen of the district, who shall not be an election officer.'"

Mr. BOYD. Mr. Chairman: I desire to withdraw that amendment, and substitute the following:

The CLERK read: "All elections shall be by ballot, which shall be numbered by the election officers, when received, but in any city, borough, or town containing a population of at least fifty thousand inhabitants, the ballots shall be numbered by the election officers, when received, and each shall have endorsed upon it the name of the elector, written either by himself, or by another citizen of the district, who shall not be an election officer; and all persons voting in a representative capacity shall vote *viva voce*."

Mr. BOYD. Mr. Chairman: The substitute that I have offered is the same as the original one that I offered, except that the ballots throughout the State shall be numbered. The reason that I have so modified it is because that arrangement will, in no wise, interfere with the convenience or inconvenience of the voter. The duty of numbering is imposed upon the election officers. I can see no objection to that, because, throughout the State, it may be the means of preventing fraud, and if fraud is perpetrated, it will enable an investigation into the regularity of the election, to ascertain by these numbers what otherwise might not be ascertained. Therefore I see no objection to it throughout the State. As I said before, inasmuch as election officers are to perform a duty, but when you come to the cities of a population of fifty thousand and upwards, it is provided that the ballots shall also have the names of the voters endorsed upon them.

Mr. LANDIS. Mr. Chairman: I propose to amend the amendment of the gentleman from Montgomery (Mr. Boyd.)

The CLERK read: "Strike out the words 'containing a population of at least fifty thousand inhabitants.'"

Mr. LANDIS. Mr. Chairman: I have only a word to say, and I will preface what I have to say with the statement that I entirely sympathize with every effort to inaugurate reform in the matter of conducting our elections. I believe, sir, that I am prepared to go as far as the farthest. There can be scarcely any one upon the floor of this House who would give his entire acquiescence to the proposition as submitted originally by the Committee on Suffrage and Elections as cheerfully as myself, if I did not deem that, in many respects, in certain portions of the State, it would be entirely impracticable. I believe the proposition is a good one, but I believe it is one that would be better adapted to the large cities and the large

towns of the State than the rural districts. Hence it is that I submit the amendment to strike out the population qualification, and make the proposition of the committee to apply entirely to the incorporated boroughs and cities of the Commonwealth, and leave the election laws of the State, as regards the rural districts, to stand in future as they have stood in the past.

Now, sir, I very well understand that these gentlemen who represent large towns and cities have felt the necessity for reform. There can be no doubt that they have felt it, but in the rural districts we have not felt it. Where the elections are conducted in the rural districts, they are generally held in school houses.—These school houses are isolated, and the voters come there, perhaps, from widely separated farm houses, and other places of abode. They come there alone, and they will find no facilities for complying with the requirements of the section. They may find no person there, if they are unable to write themselves, who can place their names and numbers upon the tickets, and whether any one may be able to write or not, no elector may be found to attest his vote. Election officers are forbidden to do so, and they will be thrown upon their own resources, and may not be able to comply with the requirements of the section.

In addition to that a majority of the people who live in the rural districts are the laboring and toiling population. Their days are spent in labor, and they do not go to the polls until after dark, and, in many cases, they will find it difficult to comply with the provisions of this proposed section. There will be no facilities furnished, and perhaps no adjacent houses or offices, and they will be utterly unable, in many cases, to vote; so that I fear that the effect of this proposition, instead of tending to effectuate reform, will operate to the defeat of the Constitution, for, by reason of its insertion, it may make it unpopular with the masses.

In view, therefore, of these difficulties, I have proposed this amendment. The gentleman upon the other side may reply that there may be a want of symmetry and uniformity in the Constitution if this amendment is adopted. They may say that it is adapted to the large cities, and should adapt itself to the country. I might pursue the same line of argument, and say that the present Constitution is adapted to the State at large, and therefore it ought to be adapted to the cities.

If they say it would largely prevent fraudulent votes in the cities, then I might urge it would tend greatly to prevent legal votes in the country districts. With a desire, therefore, of obviating the difficulties, as well as providing for the necessities of the case, and with the hope that conflicting views may be reconciled, I offer this amendment, believing that we ought to embody such a provision in the Constitution as will adapt itself to all portions of the State, although I am opposed, upon general principles, to the enactment or embodiment of special provisions in our Constitution.

I am very well aware that the tendency of this Convention is to adopt this clause, and they may do it, but I desire, before that is done, to make a stand here in behalf of the people who live in the rural districts, who do not like this provision, and who do not, I believe, so far as they are concerned, wish to have it embodied in the Constitution. I will therefore call upon those who are its special advocates to be careful before they conclude to adopt it, without making any effort to adapt it to the country districts. They may defeat the very object for which they are laboring—the accomplishment of reform.

MR. HOPKINS. Mr. Chairman: I have, in common, with many others of this committee, been a quiet listener during the two weeks that this subject has been under consideration. I will not now propose to enter into anything like an elaborate argument, but simply to refer, very briefly, to what has been said by one or two gentlemen during the progress of the discussion. The gentleman from Erie, (Mr. Walker,) for whom, personally, I have great respect, asked, yesterday, whether "our present Constitution regulating elections had proved a failure?" And he repeated the question, and, as it seemed, in rather a defiant tone, as much as to say, who dare assert that it has? I will take the affirmative of this proposition and say here, and now, that, so far as securing an honest expression of the the popular will is concerned, in some locations it has proved not only an utter "failure," but a miserable farce. Within the past few years it is notorious that the most wicked and stupendous frauds have been perpetrated in open day; the voice of the people has been ignored, and men "counted in" who had been repudiated by the honest voters of the Commonwealth, and others "counted out" who had received a clear majority of their suffrages.

These frauds have become so infamous that they are a stench in the nostrils of all decent men, without regard to party affinities. This committee need not be told that it is believed, by many of the best informed men of the State, if not, indeed, by a majority of the people, that more than one Governor, to say nothing of minor officers, has been inaugurated who did not receive a majority of the honest votes cast, but whose claim to the office was based on the doings of the infamous "ballot-box stuffer," perjured "repeater" and forged certificates of election officers. And, in the face of this deep-seated conviction on the minds of hundreds of thousands of the honest people of this Commonwealth, we are asked, with an air of triumph: "Has our present Constitution proved a failure?" It is true, the estimable gentleman from Philadelphia (Mr. Knight) admitted that there had "been some slight irregularities in a few of the precincts in the city."

It may seem, to some gentlemen, a very small matter to have these irregularities practiced, notwithstanding they may be and have been the means of setting at naught the expressed will of six or seven hundred thousand honest voters, by taking from one candidate for Governor a few thousand votes and giving them to his opponent, and thus defeat the will of the people in the balance of the State. But those of us who come from the rural districts regard it as a very important matter, and one which calls loudly for redress; and, for one, I am inclined to apply an adequate remedy, if that be possible. The section before us may not accomplish all that is desirable, but seems to be a step in the right direction. I would prefer that the proposed change should be confined to cities, as I believe there is not much necessity for it in the country; and it must be confessed that the writing of the name of the voter on his ticket would be attended with considerable inconvenience. But rather than not have it required in the cities I would be willing to vote for its general application. I will go further; I would say, in full view of my responsibility as a delegate of this Convention, if I must choose between having the elections conducted as they have been for the past few years, especially in Philadelphia, or abolishing them altogether, I would prefer the latter; and whenever I become convinced that nothing can be done here for the protection of the people against those

Heaven-daring frauds, then I will vote for a final adjournment any hour; for the idea of a candidate for a high office, Governor, for example, receiving a majority of the legal votes cast, and then, by sheer chicanery, the office be awarded to another, renders the election a most solemn mockery.

To my mind, the worst feature in this deplorable state of affairs is the apparent indifference with which men of high position in society, socially, morally and religiously, seem to look upon these enormities.

When I reflect upon this demoralized state of public sentiment I tremble for my country, and sometimes mentally exclaim: "How long! Oh, Lord! how long shall we be compelled to endure this system of fraud and corruption?"

Mr. CHARLES A. BLACK. Mr. Chairman: I was willing to wait until the gentleman who had the matter especially in charge, should be heard, and then, perhaps, cast a silent vote upon this section. And even now I shall do little more than give such vote, without indicating what shall be my course in Convention upon second reading. I shall say now, however, that I am willing for the friends of this proposition to get it out of committee of the whole, as reported by the Committee on Suffrage, Election and Representation. I think this much, at least, is due to them. They have advocated the proposition so gallantly, and ably, that so far as my vote is concerned, I am willing to assist them in getting the section on second reading. Nor can I see how this concession will at all affect the ultimate fate of the proposition. If we vote it down now, it will of course be submitted again, upon second reading. We cannot, if we so desired, escape a direct vote upon it, and by suffering it to pass, we get it through one reading, which may be regarded as doing a good deal towards substantial progress. Gentlemen who regard the defeat of the section in committee of the whole as a matter of such great importance should bear in mind the length of time we have been occupied upon its consideration. Doubtless the debate, or a greater portion of it, will be duplicated on second reading, and if this is to be the case, it certainly will be a matter of economy of time, at least, to suffer the section to pass as it is. I shall so vote, without regarding myself as bound to vote the same way upon the second or final reading. As to the amendment of the gentleman from

Montgomery, (Mr. Boyd,) I do not regard it with much favor. It proposes to confine the operation of the section to cities containing a certain amount of population. I am opposed to the principle of the amendment. If the report of the committee is right, and contains a new and valuable improvement upon the present Constitution, it should be adopted and made applicable to the entire State. It is a species of sectional legislation, to which I am opposed. One purpose of this Convention will be to provide for general laws in all cases possible, and it really seems to me that we set a bad example by proposing to incorporate in the fundamental law the very thing we so much reprobate. I think the plan proposed by the committee should be general or not at all. I can boast that there is, in my opinion, but little fraudulent voting in Fayette and Greene counties—the district I in part represent. Certainly not as much, if the charges on this floor be true, as other sections of the State complain of. But whether there be or not, the rule—if a sound one—should be as applicable to these counties as to other parts of the State. I shall, therefore, vote against this amendment, for the reasons I have given.

It contains in my judgment a false principle, and should not be adopted. Then upon the section itself, as reported by the committee, I shall do more than this. I shall vote for it, for the reasons already stated, that is, to get the report on second reading, without any indication whatever, as to what shall be my course upon second reading in Convention. This much, I repeat, is due to the gentlemen who have so well and so thoughtfully considered this matter, I must say this much, however, that notwithstanding they have so well maintained their position, and so ably defended this important proposition, my judgment has not yet been convinced as to the propriety of the measure. I am not by any means sure that this plan is the cure for the evils complained of. I apprehend that they tell us what is true about the frauds in this city. Now, without being an apologist of fraud at all, but wishing to extirpate it by all practicable means, I will say this, that if we read history aright, fraud has always existed, especially after such great civil convulsions as we have had in this country. Whoever reads, for instance, the history of England, especially after the restoration and settlement, will be startled at the great frauds that

existed in that country, always, in my opinion, the inevitable result of the convulsion and disturbance of a great civil war. It would be a curious, if not very profitable, inquiry to trace the parallel between the developments of fraud and corruption in that country at that period, and in ours at this time. We would find the same enormous abuses in high places, but with the striking difference, however, that in England, even so long ago as the great settlement, public officers were punished sharply and promptly for corruption. Members of Parliament, and even a speaker, were expelled for bribery, and government officials in high places were impeached and punished for the same offence. Here, under a more advanced civilization, fraud and corruption exist as extensively and notoriously as there; but we do not punish.

But, Mr. Chairman, I did not rise to debate this question. I do not wish to anticipate my position, nor the arguments I may be constrained to use hereafter. I only desire to say now that however deeply I may be impressed with the necessity of some remedy for the evils that doubtless exist, I cannot, just now, see how this proposed one will answer the purpose. It is admitted upon all sides, and without distinction of party, that the most enormous frauds have been perpetrated in the elections in this city; that repeating and personating are openly and systematically pursued; that the tickets of honest voters are destroyed before they pass from the hands of the officer to the ballot-boxes; that the boxes themselves are stuffed with spurious ballots; that they are clandestinely opened after the close of the elections and the tickets destroyed; that the lists and tally papers have been taken from the boxes and destroyed, or so emasculated as to change the result of the poll; indeed it is charged and believed that the result of a great election was entirely changed by the frauds in this city. Now it may not be surprising that this fraud exists, but it is certainly matter of astonishment that it exists in such a city as Philadelphia. Can it be that this state of things can long continue in community famed for its refinement, its wealth, its culture, its admitted high character for religion and morality? Surely a people like this can, by a spontaneous effort, correct this evil, great as it is, without asking us to impose upon the other portions of the State a remedy of very doubtful efficacy or expediency. In-

stead of standing back, as if afraid of these desperadoes, let the press, the great organ of the people, the pulpit and every public official speak out, independent of party or party influences, and most surely the trouble can be remedied. To my mind it is with the people themselves, or at least with the aid of such remedies as we may prudently adopt, to cure these evils. If I thought it were not; if no other plan could be devised than this, to save the purity of the elective franchise; to arrest the tide of fraud and corruption which, if left unchecked, may, ere long, subvert the very principles of our republican form of government, then I would support the proposition, notwithstanding the formidable impediment it would, in my judgment, interpose against the free exercise of the right of suffrage. Upon such contingency I would not pause to inquire whether or not the measure would be popular, believing, as I do, that the people themselves would freely make the sacrifice if they believed it necessary to the preservation of our free institutions. We should not, I admit, look to the mere popularity of a proposition in framing an organic law for the people, but exercise the best of our own judgment under the responsibility we have assumed. Having done this, it will then be for the people themselves to ratify or reject the result of our labors; but, in view of such action on their part, it would, in my opinion, be prudent at least, if not a duty, to obtain some expression, either from the press or the people, as to the popular sentiment upon this matter. Unquestionably it would impose a great burden upon the voters in the counties where the population is scattered; indeed, it would be burdensome everywhere, but especially where we have least right to impose it—in counties where fraudulent voting has never been heard of, at least to any extent. It is a political axiom that "the country is best governed which is governed the least;" and if this be so it certainly would seem to follow that in providing a fundamental law it should be so adjusted as to produce the desired result with the least burden or inconvenience. The aim here is to prevent fraud and corruption in the exercise of the elective franchise; and, as already intimated, I am not at all convinced that some other plan cannot be devised which would be less burdensome to the people. And whilst consenting to assist in taking the section out of committee, I shall certainly reserve my right

to oppose and vote against it in Convention, unless I can be convinced that it presents the only adequate remedy, or receive such expression from the people as would indicate a willingness on their part to make the sacrifice. I have had no expression whatever from my own district. Gentlemen from adjoining districts seem to think such sacrifice would be freely made for the public good.

Gentlemen seem to regard the defeat of this proposition as a fatal blow at reform, and almost despair of these evils being ever cured. I have no such fears. I have an abiding, unalterable faith in the people. It was the creed of a great American statesman, that "their sober second thought is never wrong," and upon that belief I am willing to risk the future of this country. With such judicious and popular aids, as I feel assured this Convention will furnish, the people themselves will arrest the tide of corruption and hurl the plunderers from power. I will, then, Mr. Chairman, vote against the amendment of the gentleman from Montgomery (Mr. Boyd.) I think it asserts a false principle, and is withal a grain cowardly in its nature. I shall then vote for the section, for the purpose I have already indicated, without, however, compromising my purpose to oppose it in Convention, unless I am satisfied that the plan proposed is the only remedy the friends of reform can devise.

Mr. CORSON. Mr. Chairman: I do not exactly know who is entitled to the credit of the invention which the committee has given to us, but I do not find in any Constitution in the world any such proposition as this which we are now discussing. As an improvement upon the report of that committee, I would support, of course, the amendment proposed by my colleague (Mr. Boyd.) I do not think, however, that the amendment proposed by the gentleman from Blair (Mr. Landis) is any improvement on the amendment proposed by Mr. Boyd; but I understand my colleague prepared this amendment because the distinguished gentleman from Philadelphia (Mr. Gowen) asserted that its citizens looked to the people of the country to save the city, remembering, I suppose, that "God made the country and man made the town." We are prepared by this amendment to save the city, and also to save ourselves from all the disgrace of a defeat before the people, for I firmly believe if this proposition, as it comes from the hands of this

committee, should be adopted, that the Constitution will fall unless that proposition could be separately submitted to the people and separately voted upon. This can be done, of course, but I suppose every man who is a member of this Convention would like to see the whole Constitution, as it shall fall from our hands, go out before the people as a whole and be accepted as a whole. If we are wise in what we prepare to submit to the people, it will be adopted intact, but no such proposition as is now proposed to be incorporated in the Constitution will ever purge the city of Philadelphia from its corruption—nothing but fire and brimstone, rained down from Heaven, will ever do it, and its citizens will either have to submit or move out in the country. Let them go out to Montgomery county or some other pure spot where election corruptions are unknown.

I infinitely prefer the principle enunciated by the gentleman *most* at large from Philadelphia, (Mr. Woodward,) in regard to *viva voce* voting. It is infinitely preferable, and I remember well the words of the Senator from Missouri, (Colonel Benton,) delivered in the Senate of the United States, nearly forty years ago, and which I read when a mere boy, when he described the sublime spectacle of a Roman citizen advancing to the polls and proclaiming: "I vote for Cato to be Consul." The Athenian—"I vote for Aristides to be Archon." The Theban—"I vote for Pelopidas to be Beotrach," and the Lacedæmonian—"I vote for Leonidas to be first of the Ephori;" and why may not an American citizen go up to the polls and proclaim, "I vote for Thomas Jefferson to be President of the United States."

Are the aged men, the old Quakers of Montgomery county, who have been voting for the last fifty years, to be compelled to stand up at the polls, in the bleak winds and snows of February and write their names upon their tickets? I will never submit to such a proposition as that, and I know the people of Pennsylvania will never submit to it. Rather than establish such a provision as this, let us plant a school house on every hill and at all the polls in Pennsylvania. What is wanted in Philadelphia, and in the State, are Quaker meeting houses on every corner of the streets. It would be better to build these, and teach men that they must be pure in all their transactions. What does all this revelation about the poor misera-

ble rounders and repeaters amount to? Are they any worse in their rush for money than the men who jostle each other in the stock gambling rooms in this city, and who, in their mad frenzy, fight over stocks that have no real existence? They are not a bit worse, and they are only one set of scoundrels that ought to be rooted out in this country. I do not think any particular proposition like this is required to correct one particular evil. God Almighty has never descended to the earth every year to change his ten commandments to correct some new evil which has been discovered. We need some broad, fundamental process. I would have the Constitution concise and to the point, but I would leave general principles to the Legislature. Corruption after corruption has been charged upon the Legislature, but henceforth its sessions will be held every two years, and its members will come fresh from the people, and the people will have a better opportunity to correct the corruption if it should exist. We must have a Legislature. It is the means whereby the will of the people is expressed, and I will say that the two gentlemen who represent Montgomery county in the Pennsylvania Legislature are as pure and incorruptible as any two delegates in this Convention. I will say, further, that although one of these gentlemen represents the party to which I am attached and the other the opposite party, and our Senator from West Chester, yet representing, as they do, the counties of Delaware, Montgomery and Chester, they are as pure as any three men upon this floor. So much, then, for our Legislature, and so much for the proposition which is now pending. I hope that not only the amendments, but that the proposition, as it came from the committee, will be voted down, and that we shall have nothing but the good old secret ballot, by which a man can go and vote in secret just as he goes to his closet to pray in secret, that he may be rewarded openly.

Mr. MACCONNELL. Mr. Chairman: I only propose detaining the Convention a very few moments, and in rising I do not propose to say that I am not going to make a speech, and then make a lengthy one. It has seemed to be a very important matter with many of the members upon this floor, that they should define their position in regard to this question, in order that their constituents should understand the position that they hold. I do not think it is very important for me to do

this, because I am very certain my constituents know exactly where to find me on a question of this kind. Nevertheless, in order to make assurance doubly sure, I will say that I am opposed to this whole section, as reported by the committee. I shall vote against it in committee of the whole, and I shall vote against it in Convention. During this discussion the frauds which have been perpetrated in Philadelphia have constituted the principal topic. It has been Philadelphia all the time, and if the descriptions which have been made by some of the representatives from the city, concerning its political affairs and election matters, are true, I think its inhabitants are not only unfit to vote, but that the ballot should be taken away from them entirely. If the representations which have been made upon this floor are correct, the city must certainly be exceedingly corrupt, polluted and vile, and I think the only thing that it is fit for would be to make a penal settlement of it, where all the convicts in the State would be sent, and where they would be governed by officers appointed by the State. I would then build a stone wall around it, and I would not permit any Philadelphian to go outside of it, unless he was provided with a passport. Various representations have been made upon this floor in regard to the election that was held in this city on the second Tuesday of last October. It seems that a lot of officers were elected, part of whom settled on Chestnut street, and part came down here to Spruce street. It seems that the part that settled on Chestnut street are a miserable set of rogues, but the gentlemen who came down here to Spruce street are all pure, upright and honest. Now I understand that every district outside of the city of Philadelphia is to be considered in a rural sense. I know that we are very rude in my portion of the State, but we have got a notion that chickens of the same brood are very apt to be alike, and that twin brothers, especially, are apt to have a family resemblance. I do not believe—with all respect to some of the gentlemen in this Convention—that any necessity exists for all the excitement which has been created in the Convention about the dishonesty of the city of Philadelphia. I believe there are enough honest people in Philadelphia to put down all this dishonesty if it really exists. I believe the honesty of the people of Philadelphia is rated here entirely too low, but I think that they are indifferent in a great extent

to matters which certainly ought to occupy a large share of their attention. I believe there are more than seven-eighths of the people in Philadelphia who are honest, but that they are too much absorbed in the various pursuits of life to make an effort to put down this corruption. If the seven-eighths of the honest community cannot eradicate the corruptness of the remaining one-eighth, why I say God help them. Now, Mr. Chairman, if it would not be considered impertinent in a member from a rural district to make a suggestion to the representatives of the city of Philadelphia, I would suggest, very humbly, that we have heard just about enough of the corruptions in this city. In speaking for the district which I have the honor to represent, I know that our citizens do not require any such provision, and that it is not needed in any of the rural districts of the State.

We have been debating this thing for several days, and the echo of it has come back from my district to me, and that echo is this, sir: That if you will put it into the Constitution and send it to the people of Allegheny county to vote on it, they will vote against it in a mass. They will not divide on it at all. And more than that, the echo is, that if it is sent to them in the whole Constitution to be voted upon, that, good as the Constitution may be, they will vote it down, rather than have this saddled on them.

Now, sir, I am opposed to the whole thing. I will vote against it, as I said, here and every place where I may meet it.

Mr. M'ALLISTER. Mr. Chairman: I rise for the purpose of giving a very few brief reasons why I think neither of these amendments should be adopted. I shall not go into a general discussion. I had supposed that we had made some progress yesterday, and that this morning we had under consideration propositions to which the debate was to be confined.

I am opposed to the adoption of either of these amendments, because it is an inauguration in the Constitution itself of a species of local legislation—special legislation, if you please—against which the people of Pennsylvania have cried out, almost in mass. We have acted against the principle, so far, in this Convention.

Mr. NILES. Mr. Chairman: I desire to ask the gentleman a question. Have not the Committee on Suffrage, Election and Representation themselves introduced special legislation in this report, when, in the last section, they have directed that

cities having more than one hundred thousand inhabitants shall be divided by the courts of common pleas.

Mr. M'ALLISTER. Mr. Chairman: That is not special legislation, and if the gentleman will wait until we come to the discussion of that subject I will be pleased to answer his question. But, I say here, it is not, in my mind, included in the principle against which I now protest, and I think that the gentleman will be satisfied of that when we come to argue that question.

For the reason given, then, I am opposed to either of these amendments. I cannot appreciate at all the difficulties suggested by my friend from Blair (Mr. Landis.) I have never seen an election district in Pennsylvania in which there was not pen and ink and paper, or, rather, pen and ink, for that is all that is necessary. The paper is furnished on the ballot itself, and only pen and ink will be required. The difficulties are imaginary. I have never seen at any election poll a lack of political servants. Not one man, but twenty men can be found to aid every voter on either side in getting in his ballot, so that these objections are entirely unfounded. But there is another objection to the proposed amendment which has not yet been mentioned. It is this: These ballots will be prepared in view to such endorsement as the Legislature in their wisdom shall prescribe. The ballot will be printed with that view, so as to afford the necessary blanks at the proper places for the endorsement of the name and the attestation. Now these ballots are prepared often in Philadelphia or Harrisburg, and sent out through the State; or, if not, they are prepared in the county towns and sent out into the district. Now mark the confusion which would arise in having two classes of ballots, one for an endorsement and the other without an endorsement. It would lead to difficulty and confusion in the distribution of the ballots, and would result in evil, and only evil, with no corresponding beneficial result. I am therefore opposed to either of these amendments, and hope they will be voted down.

Mr. J. W. F. WHITE. Mr. Chairman: I should not have troubled the Convention with any further remarks, but for the amendment now before the committee. It is proposed now to exempt the greater portion of the State from requiring the electors to write their names on their ballots, and apply it only to the large cities, or boroughs and villages of

fifty thousand inhabitants. That embraces, sir, the city of Pittsburg, from which I come, and as one of the delegates from Allegheny county, I protest against this Convention, and I especially protest against the delegates from Philadelphia forcing such a provision upon the city of Pittsburg.

Mr. STANTON. Mr. Chairman: The amendment was moved by the gentleman from Montgomery (Mr. Boyd.)

Mr. J. W. F. WHITE. Mr. Chairman: I am aware that the amendment was offered by the gentleman from Montgomery, but although moved by him, yet it is known that this is advocated mainly for the city of Philadelphia.

Mr. STANTON. Mr. Chairman: I would like the gentleman to know that I am from Philadelphia, and I am utterly opposed to it.

Mr. J. W. F. WHITE. Mr. Chairman: I am glad to find many gentlemen coming from the city of Philadelphia opposed to this measure. But we have heard from other delegates from the city of Philadelphia that this is necessary for their salvation, and an appeal was made yesterday, if I understand the report in the newspapers, by a distinguished delegate from the city of Philadelphia, to the country members to come up and save them, for they could not save themselves. They were a little better than Sodom and Gomorrah. They have a few more good men here than those cities had, but I understand they cannot save themselves, and the country members are earnestly entreated to come forward and save Philadelphia.

Now, sir, coming from the western part of the State, from the second city of the State, I protest against such a thing being applied to Pittsburg; and I agree with my colleague, (Mr. MacConnell,) that if you force into your Constitution the amendments proposed and now before the committee, our county will not sustain such a Constitution. Why, sir, I venture this assertion, that not one man in the city of Philadelphia ever dreamed that such a proposition was to come before this Convention, until it was introduced here. Who ever heard tell before of a provision in the Constitution that the elector's name should be written on his ballot? It is a thing unheard of. It is new under the sun. Yet we are made believe here, or the effort is made to convince us, that this Convention was called for this very purpose; that the great

body of the pure men of Philadelphia, that have been at the mercy of repeaters and scoundrels for years, called this Convention in order to compel the voters to write their names upon their ballots. Why, sir, look at the vote in this city on calling this Convention. Not one out of six of the voters of Philadelphia voted on the question of calling a Constitutional Convention. Not one in six of the voters here voted on the question at all. Whether there should be a Convention to revise the Constitution or not, was not a subject of any interest in this city.

MR. D. W. PATTERSON. Only seventeen thousand out of one hundred thousand voters voted on the question.

MR. J. W. F. WHITE. Only seventeen thousand voters out of one hundred thousand and upwards, Mr. Chairman, that have the right to vote in this city, voted on the question of calling a Convention, and yet we are told here that this was the great thing in Philadelphia. I do not believe it, sir. I do not believe a voter in Philadelphia thought of such a thing. I do not believe they thought they were so woefully oppressed and injured, as has been represented here, or they would have turned out at the election and voted for the Convention. I doubt very much if some of the gentlemen from Philadelphia who have appealed to us to come forward and save their city, voted for this Convention themselves. I should like to know if that is not so. I should like to know how these very gentlemen voted on this question? Why, if Philadelphia is to be redeemed, disenthralled and regenerated, it must be a different plan. When these gentlemen will consent themselves to go to an election and stand there during election day, watch the polls, detect the scoundrels and the repeaters, and punish those who commit frauds, when they themselves consent to act as election officers, then, and not until then, will you purify your elections in Philadelphia. When you agree to do what we do in Pittsburg and Allegheny county, and in the rest of the State, when good men, pure men, true men, the best men in the community, will feel it to be their duty on election day to attend the polls, then you will have pure elections, and I repeat it, not until then in Philadelphia. But when these men that from their mothers' arms have been trained up to purity and everything else that is good, will go only once in a while to the election, and when they deposit their ballot run away and never

do anything to preserve the integrity of the ballot-box, what else can they expect but that the elections will be controlled by dishonest men? As they have said here, they know of these frauds, these immense frauds perpetrated, and yet they do nothing under the heavens to bring these men who commit them to punishment, and want to shuffle all of that responsibility from themselves on to some imaginary thing like this to save them.

Why, sir, this will not do it. I have found here that those gentlemen who are opposed to the ballot wholly and totally, are for this provision. Every gentleman who wants the *viva voce* system of voting goes for this. Why? Because they want to destroy the secret ballot, and, sir, if they could do so, will they purify their elections or make impossible the frauds of which they complain? Why this morning I read in the paper of immense frauds perpetrated in the town of Lexington, Kentucky, where this *viva voce* system is practiced. The election officers excluded from the ballot-box the votes of over one thousand qualified electors, although they have there this open ballot. And, sir, if you have that mode in Philadelphia, frauds will be perpetrated just as long as you let that class of men control your elections. This amendment will not save you.

MR. WORRELL. Mr. Chairman: If the gentleman will permit me to ask a question, will he please tell the Convention why these one thousand votes were excluded?

MR. J. W. F. WHITE. Well, sir, the gentleman wants to know the reason of the refusal of these votes in Lexington, Kentucky. I will answer him. They were "niggers;" that's the reason.

MR. NILES. A good reason!

MR. WORRELL. Mr. Chairman: Was it not on account of a tax qualification?

MR. J. W. F. WHITE. No, sir. Just because they were "niggers."

So it will be here. You may write your names upon your ballots. If you let rascally men have control of your elections, they will perpetrate frauds notwithstanding that. They can do it. How, sir? Why they can destroy the whole ballot-box. They can destroy the whole tally list and put in other names when it is necessary. They can make the returns of the election declare that certain men have received certain votes, and then somehow, mysteriously, the whole ballot-box, the whole tally list will disappear. They can

perpetrate frauds as well with this as without it.

Now there are thousands of men in Philadelphia, there are thousands of men in Pittsburg, and in every other city that has now or soon will have fifty thousand inhabitants, that cannot write their own names, and yet they would feel it a burden to be compelled every time they vote a ballot to write their names upon that ballot, apart from the fact that it is a destruction of the ballot. They would feel it a burden, sir, and many good men would be induced to stay away from the polls. But I object to it further, sir, and here it applies with peculiar force to cities and towns, with this plan of compelling every man to write his name upon his ballot what a power you give to the politicians of the city, these men that control elections, to control the voters. If you let them have the power of ascertaining how every man votes, by merely looking at his ballot, it will be one of the most powerful engines in the hands of politicians to make members of their party vote the party ticket. Both sides and all political parties attempt this thing of getting every man in the party to vote for the party candidates. I say both parties, because I do not discuss this on party grounds at all, but I appeal to the members of this convention to say whether on this plan the strong partisans, the party leaders, cannot most effectually whip in, and whether they will not whip in, all the members of their party and compel them to vote their ticket, or "spot" them.

[Here the hammer fell.]

Mr. NILES. Mr. Chairman: I move that the gentleman's time be extended.

The question being upon the motion of Mr. Niles, it was agreed to.

Mr. J. W. F. WHITE. I thank the Convention for this courtesy. I shall not trespass much longer upon its time. I wish merely to call attention to a few facts. It has been said that this vote by ballot has been a myth in this city. The gentleman from Philadelphia, on my left, (Mr. Gowen,) who is not now in his seat, said that in the city of Philadelphia they could always tell at the close of the polls how the vote was, that nine out of every ten men could tell how the vote stood; and the distinguished gentleman from Centre (Mr. Curtin) declared that in his town, where there were six election districts, they could at the close of the poll always tell precisely how the vote was. They therefore argue that the secret ballot is a myth.

I reply, sir, that if these are facts, and I take them to be true, what under the heavens do you need this mode of detecting frauds, for when you know how every man votes at the time the polls close? Why do you need this system to detect frauds? The very facts which the gentlemen adduced completely answer their own arguments and defeat their logic.

Mr. WORRELL. Mr. Chairman: The matter of the vote in Kentucky, at which a large number of voters were denied the exercise of the elective franchise, as referred to this morning by the gentleman from Allegheny, (Mr. J. W. F. White,) was one of the instances to which I referred the other day, in my remarks in opposition to the tax qualification, because in that place, as well as in other sections of the country, it was alleged that the provision of law, which required that the payment of tax should be a pre-requisite to the exercise of the elective franchise, had been so used as practically to disfranchise a large body of electors. And for the reason that such a provision of law might be used in that way I then opposed that provision as reported by the committee, or as inserted by the decision of the Convention.

Mr. HOWARD. Mr. Chairman: I have already spoken a few minutes upon this proposition. I do not know that I should have said anything more to the committee if it had not been for the remarks of my colleague from Allegheny (Mr. J. W. White.) I have listened to his arguments upon this section, as I always do, with very great respect, because I certainly have a very high regard for that gentleman, for his intelligence and ability. But I cannot let the statement pass upon this floor that I understand the gentleman to make, that Allegheny county is going *en masse* against this Constitution if we shall require the voter, as a means of detecting fraud, to endorse his ballot with his name.

Now I understand that our delegation upon this floor is just about evenly divided, and the gentleman therefore speaks, I suppose, for himself. I speak, sir, for myself. I know that the people of this Commonwealth did understand that great frauds have been perpetrated upon the ballot-box, and they did require of this Convention, and it was one of the main causes of the call of this Convention, that it should purify the ballot-box, and they expect this Convention to provide for the people a means of doing it. Of course we understand the means were not pointed out in

detail beforehand, but the great evil was pointed at very clearly. It was understood by every man in this Commonwealth. I understand the gentleman (Mr. J. W. F. White) to say that every man upon this floor who supports the report of the committee is in favor of *viva voce* voting and opposed to the secret ballot. Now I must, in view of this remark, say that I suppose the gentleman did not hear the remarks I made upon this subject, because I said distinctly that I should favor, and would, at the proper time, offer an amendment that the officers of the election board should be sworn to preserve the ballot a secret; that they should not make known the manner in which the voter had cast his vote, unless they should be called upon to disclose it in some proceeding to investigate the fairness or legality of that election; and I understand that to be the view of perhaps nearly every person who has spoken here, with the exception, possibly, of one delegate.

I believe, Mr. Chairman, that the people of this Commonwealth, and I believe the people of Allegheny county also, are just as much in favor of meeting this question of fraud and purifying the ballot-box as the people of Philadelphia: and when the people of Allegheny county are told: "Gentlemen, we come to you, as citizens of Allegheny county, and say that we have submitted this proposition to you, requiring you to endorse your name upon your ballot, because it will purify the ballot-box, so that each ballot can be identified, and so that the ballot-box stuffers and fraudulent election officers and others cannot substitute any other ballot for your ballot, and thus cheat you out of your rights;" when we tell the people that this practice of stuffing the ballot-boxes and repeating will be destroyed by this plan, they will acquiesce very heartily in the means we thus provide for the detection of fraud. What are these means? A man is registered in his right name; he votes on that name and goes away; he comes back to that poll and personates another voter, whom he finds has not been at the poll. Now by this plan, when this man comes to repeat, if he can do it at all, he has got to add the crime of forgery to repeating. He is obliged to write on the ballot the name of the person whom he attempts to personate.

I understand perfectly well why certain gentlemen are in favor of the secret ballot; I do not mean to apply the remark to any gentleman upon this floor. I believe

every man here has the courage to deposit the ballot openly, if it were necessary to the detection of fraud. But, sir, I know, and every man upon this floor knows, that, throughout this Commonwealth, there is not a single political division, or a single election district, where we have not got a race of politicians, from the meanest political rats up to the highest officers—men who make it a rule to promise every man that comes through the district that they will vote for him, and if they can get through with telling five hundred lies during one political campaign, they do very well. Then if they can hide all these lies under the secret ballot, it is a good thing for them. Many of them take money from these candidates for whom they promise to vote. This class of men all want the secret ballot. It will be a terrible thing for them if we shall take it away from them, that we might be enabled to detect frauds, and that honest voters might have their ballots counted for the purpose for which they put them into the ballot-box.

When this matter is considered thoroughly, what is it, this taking from a man the secret ballot? I would like to know whether that ballot is given to that voter as his right? It is given to him by a society. He is bound to cast it for the benefit of that society. He is interested in it only as a member of the community; and if society demands of him, in order to preserve the purity of the ballot, that he shall indorse his name upon it, so that he can identify it, so that he can swear to it, if it becomes necessary, in the investigation of fraud, then it is his duty as a good citizen to say: "I will do so."

I understand, sir, that, when you boil down this matter, fairly and squarely, it just comes to this: If you take away the secret ballot, you will destroy the great right of every one of this class of men that I have spoken of, who promise to vote for everybody that comes along, to hide, by the secret ballot, all their falsehoods.

Reasons have been given for adopting this change in the Constitution, and I believe the people of the Commonwealth, and the people of Allegheny county, are reasoning men, and honest men, and I say, unhesitatingly, what I believe for these people, as I believe for the entire Commonwealth, that when it is explained to them, and when they understand there is a sound reason for it, each man

will say at once: "If it is necessary to preserve the purity of the ballot-box I well endorse my name upon my ballot; it is no hardship at all." If frauds are perpetrated in Philadelphia, if in large cities repeating and ballot-box stuffing are perpetrated, why, sir, it contaminates the vote of the entire Commonwealth. The gentleman from Montgomery (Mr. Boyd) limits his proposition, as I understand it, to cities of fifty thousand. If he leaves the door open for the ballot-box stuffer and repeater in this manner they will be transferred from the cities, and will find their way into the country, and the same class of politicians that have manœvered and used these tools in the city, to defeat the honest vote of the people of the Commonwealth, will use them in the country and in the smaller towns. The reason it has not been practiced more extensively there already is only because they could do it better in the larger cities. I know, however, that it has been done in the country. I know perfectly well that one Senator lost his seat because in one of the townships, perhaps the most honest, in this State, in Somerset county, he was just "ballot-box stuffed" out of it. The voters voted right; they swore that they voted right, to the best of their knowledge and belief.

It was in a township composed of these long bearded men, men who would not even put buttons on their coats, but had them all hooked up with hooks and eyes, men who never thought of cheating in their lives. They voted right enough, but they could not identify their ballots, for they had not written their names on them, and the result was that the men for whom they cast their ballots did not get the benefit of them. They only knew that they cast the secret ballot. I know that these frauds are not confined to Philadelphia, but are, to some extent, practiced in the country also, and the instance mentioned I know well, for I happened to be appointed on a committee to judicially investigate it. I should not have spoken again on this section, only because my friend from Allegheny, (Mr. J. W. F. White,) in expressing what no doubt is his honest, and earnest, and sincere conviction, (because I believe him to be an honest and earnest man, and willing to do what is right,) has undertaken to say for Allegheny county what I do not believe; and, sir, I claim the same earnestness and honesty for myself, and I believe he speaks for himself only, and not the sentiments of our

people. I speak for myself. I do not know the individual opinion of every man, nor of one-quarter, nor of one-tenth of the men of Allegheny county on this subject. I only reason as a reasoning man, that they are reasonable people, and that they will believe this to be a good measure to detect frauds, and that they will be just as willing to accept it as any other people in the Commonwealth.

Mr. AINEY. Mr. Chairman: I have just returned, after spending a few days with my constituents, and I rise to say a few words on the subject now under consideration. I made it a point to converse as extensively as I could with the people of my section on this question. With scarcely an exception, sir, I found them opposed to any change which so effectually destroys the great right of the secret ballot. The allegation of those who favor this radical change from the present order of things is, that it will prevent fraud at the polls. Now, sir, I will go as far as the farthest in advocating and adopting any necessary measure that will insure the purity of the ballot without encroaching too far on established rights. But I regard this measure as unnecessary to prevent frauds upon the ballot, and a serious invasion of rights long established by successful and satisfactory usage. I cannot see from the arguments which have been presented here, and I have been an attentive listener this morning, as I was in the two days in which I was present last week when this subject was debated, which satisfy my mind that this change is either necessary or proper. I say, sir, that I have listened in vain to hear any sufficient reason why we should compel the voter to publish for his friends and neighbors how he votes. I will not travel over the ground which has been gone over by those who preceded me in this debate, the section as reported by the committee. But to my mind there is more than one sufficient reason why every man should be protected in the exercise of the secret ballot. My neighbor, my companion in business, my most intimate friend, it may be, is a candidate for some local office. I have reasons which satisfy me that I ought to vote against him. Is it necessary, is it desirable that I should be compelled by constitutional enactment to go to the polls and vote so that my neighbor, companion or friend, as the case might be, would know just how I voted, and thus disturb pleasant social and business relations? If such necessity exists, those who

style the secret ballot a failure ought to present some all sufficient reason for thus invading the social and business relations of friends and neighbors.

But I deny that the ballot is a failure under our present Constitution. It has been used by most of the great and minor societies with success and satisfaction. Composed as these societies are, of the intelligent, the thoughtful, the secret ballot is firmly adhered to by them because it is the safest and most successful mode yet tried, for expressing their preference in the election of their officers and managers in quiet harmony. Again, take religious conventions. They ought to be, and are, usually, composed of conscientious and intelligent men. How do they vote in selecting such of their number to fill positions in their gift? Usually by ballot. And why? Because it is a better method of maintaining harmony and friendly relations among those who compose such conventions. Take most of the secret societies, many of which are bound together by the closest ties of brotherhood. All of which I have any knowledge, when they come to express their preferences in the selection of the officers who shall govern them, without exception, use the secret ballot. In my judgment, if we embody this proposition in the instrument which we shall finally agree to submit to the people, it will greatly endanger its ratification by them at the polls, and I think we ought not, for the purpose of experiment in a matter involving so important a change, and one of such doubtful expediency, to run the great hazard of having essential reforms, upon which we all substantially agree, defeated. I, for one, will not consent to put them in jeopardy by incorporating either the section as it comes from the committee or as it would be if the amendment were adopted. I shall therefore vote against both the amendment and the section.

MR. LILLY. Mr. Chairman: I, too, have been home consulting my constituents, and I did not meet a man who was not in favor of this section as reported by committee. It depends entirely upon how you put it to the people. If you go to a man and say to him: "Now are you in favor of doing away with the secret ballot, and going up and showing everybody how you vote?" They will say "no," as some have to my colleague, (Mr. Ainey,) who just spoke. It all depends upon that. I think it is all nonsense and bosh to say that the people are going to reject

this Constitution on account of this provision being in it. I do not believe it at all. I believe that we are sent here by the seven hundred thousand people of the State of Pennsylvania to do this very thing of purifying the ballot-box, and to purify the Legislature. I believe that as sincerely as I believe that I am here. It is a very easy matter to get a public expression in one way or another from people that you meet upon these subjects, by putting the question in a certain way to them.

I did not tell the people that we are going to destroy the secret ballot, because I do not believe it; we are not going to destroy it at all; we are going to leave it as secret as it ever was; we only ask the man to write his name upon it, and we expect the election officers to be sworn to to keep that secret, as much as it is now. If you put it to the people in that way, they will be very ready to do anything to stop the corruption; ready to do anything to root out this sore that is eating us up.

Whilst I am upon my feet I desire to say one word in relation to the amendment to the amendment, offered by the gentleman from Blair, (Mr. Landis.) I like it very much better than I do the amendment offered by the gentleman from Montgomery, (Mr. Boyd,) because it comes nearer to the report of the committee, and the nearer you can get to that report the better I will like it. That is the reason why I like it better, but it is faulty, and I will show where it is faulty. This corruption is not all in the large cities and towns. By no means. I know of a case which happened in a rural district, in a county not more than a hundred miles from Philadelphia, where the whole ballot-box was changed, every vote in it, after the election was closed, and counted for another man, whom it elected to Congress. That was within the last six years. I say I know it. I know it in this way; the man who was elected by the fraud, told me so himself. Now I want to get rid of that sort of corruption. I think if we come to the report of the committee, and put to the people with the rest of the good things that we shall lay before them, I have no doubt they will accept it.

MR. LEAR. Mr. Chairman: When I came into this Convention I recognized the fact, which I have observed in all conventions of which I have been a member, that Pennsylvania consists of the city

of Philadelphia and the county of Allegheny; but I do object, as a neighbor of Philadelphia, though not a Philadelphian, that Allegheny county should set up for all the purity in political morals, and undertake to read to Philadelphia a lecture upon their mode of conducting business and upon their behavior. The gentleman from Allegheny (Mr. J. W. F. White) says that if this provision, as reported by the committee, be incorporated into the Constitution which we shall submit to the people, it will be voted against by the people of Allegheny county *en masse*. I do not believe that, although they proclaimed through one of the organs of the people of that county, after we adopted the provision in the Constitution as to when the election should be held, that our work would be repudiated by the people, and they commenced at that early day to set up for us the opinions of Allegheny county through that organ, which is controlled, it is said, by a hand inspired by the political purity of Robert Mackey and Russell Errett.

I repudiate them as the censors of the political morals of Pennsylvania, and when the gentleman talks about the corruptions of Philadelphia, let me say that the chairman of one of the parties in Pennsylvania, at the last election, who came from Pittsburg, told a member of that committee, when he was asked what would be the loss to a certain candidate in Pennsylvania with regard to his position before the people, and was informed that it would be from five to ten thousand, "we can make that up, here, in fifteen minutes!" That was the information communicated to our county by a gentleman who came from Pittsburg to conduct a political campaign, having his headquarters in this city.

Were those five or ten thousand votes that were to be made up in Philadelphia, to be made by an honest change of sentiment and opinions of the people of this city to the extent of five or ten thousand, or were the ballot-boxes to be stuffed, or the returns manipulated, and through frauds and corrupt practices, to be resorted to for the purpose of defeating the will of the honest people of this great city? Because I believe the honest people of this great city could not thus have been changed. When I refer to the city of Philadelphia, and to what the people here are, I refer to the merchants and manufacturers, and professional men engaged in their daily and lawful occupations as honest and up-

right citizens, not to those men who make politics a trade, and who have brought Pennsylvania to the condition that we are in to-day, that requires the radical action of this Convention, for the purpose of going down to the foundation of the corruptions and frauds which have been inaugurated in this Commonwealth, and which seem to have their principal seat in this city.

In passing through the streets of this city and looking at the palatial places of business, and upon the honest countenances of the people you meet when you go to their stores or dwellings, it is certainly a matter of surprise that there exists here somewhere out of sight, in the back slums or underground, a power which is capable of bringing disgrace not only upon the city of Philadelphia but the State of Pennsylvania. It seems, however, that this is so, and although this provision, if it is adopted, may subject the citizens of our country districts to many inconveniences, yet I believe they will be satisfied to put themselves to this inconvenience in order that their honest wishes by the ballot shall defeat the machinations of the politicians of Philadelphia who have taken possession of the politics of the State and destroyed the intentions of the people in the rural districts. Now, Mr. Chairman, with regard to this change which has been regarded as radical in its character. Gentleman upon this floor have asked: Has this republican experiment of ours been a failure? Shall we say that the Constitution under which we have been living for the last thirty years has been a failure? Gentlemen upon this floor have said that these old gentlemen in the rural districts who have been accustomed to going to the polls for years without registering, and without endorsing their names upon the ballot, will now be subjected to so many inconveniences that they will never vote. Why, let me ask the gentlemen of this Convention, how can it be known who will be the voters under this Constitution? When this Constitution that we are deliberating upon comes to be submitted to the people, about the year 1895, these old men of the rural districts will be dead, and their children, who will be educated under the common school system of Pennsylvania, will be able to write their names upon their ballots. I speak advisedly in regard to this question, for the gentleman to my left, (Mr. Mantor,) who is skilled in arithmetic, made a mathematical cal-

culation the other day by which he found, according to the progress the Convention has made in the number of sections passed upon in this article under consideration, that it will require a period of twenty years and six months before we have a Constitution framed to submit to the people of Pennsylvania. I say then, by that time the people of Pittsburg will be changed, and the people of Montgomery and the people of Bucks will also be changed, and fifteen or twenty years hence the members of this Convention will still be here discussing this article after it comes out of the committee of the whole. This being the prospect which is before us, I hope the members of the Convention, when they address their remarks to this committee, will reflect upon the condition of affairs that will exist, and that unless more rapid progress is made, that it will be a considerable length of time before the Constitution is submitted for the ratification of the people.

I am in favor of every improvement that will make voting practicable, and that will correct fraud in our elections. I know that we shall not be entirely successful in the end, but we may be able to check these corruptions and defeat the plans of designing politicians for a few years. This same principle has found an illustration in the criminal history of our country. It has not been many years since the Frankinite or chilled iron was invented for the purpose of protecting valuables against the skilful operations of the burglar. This protection, which has been considered impregnable, will only answer the purpose until the energy and skill of the depredator devises some new plan to overcome this protection and secure the business man's books, papers and money. This will be the case with regard to the measures that we may devise to protect the community against that class of corrupt men who make it their business to prey upon the State; and the people of this State will discover that whatever plans may be originated to defeat the accomplishment of fraud upon the ballot-box, skilful politicians, who hold their midnight caucuses in grog-shops, will contrive a plan to overturn and circumvent the wisest provisions of the best statesmen in this or any other Convention.

It is impossible to cure the evil heart. We cannot make men honest, but we can make the accomplishment of these frauds exceedingly difficult. It is the duty of this Convention to devise the most practi-

cal plan to ensure the protection of the ballot. I think it is a sacred right, and is of sufficient importance to require men to protect their ballots, either by writing their own names upon them or having their names written upon them by an elector of the district and attested by him, in order that it may be identified in the box as one of the means of preventing this fraud. I understand a great many objections have been urged against this provision. I confess I have not heard much of the debate on this subject, but I understand the principal objection which has been urged is: That it is one of the means by which a man will be controlled in the exercise of the elective franchise, and will be prevented from voting as a free and independent citizen, by reason of the powerful influence which will be exerted by the great corporations of the State. I deem the privilege of every man to vote just as he pleases, and without his neighbor knowing the nature of his vote, to be one of the most important elements in the exercise of the right of suffrage; but I find, in glancing over this provision, that it does not require an elector to unfold his ballot and exhibit it either to the boss or to the owner of any department of business. It does not require an elector to vote an open ballot. He may vote openly or secretly, just as he prefers; but when the ballot is deposited in the box, and fraud is alleged to have been committed, then his name may be referred to, in order to discover the manner in which he voted, and this is the only way in which it can be said an elector is required to vote an open ballot. There certainly can be nothing wrong in compelling a man to vote an open ballot. I say this principle has a tendency to make an elector independent in character, and that instead of the capitalists of Pennsylvania governing and controlling the laboring men in rendering their votes, that it will enable the employee to govern and control the capitalist. One of these branches of our community is as necessary as the other. The laboring man is as necessary to the capitalist as the capitalist is to the laboring man, but while scattered all over this State there are immense numbers of our laboring classes employed by large corporations in iron manufactories, railroads, and in mining operations, yet it will be found that these employees are not controlled by these corporations in the exercise of the elective franchise, but that they take pride in casting a ballot which

will, in its aggregate quantity, finally overbalance the power of those who control the purse and treasure of the Commonwealth of Pennsylvania. Everywhere you will find that these men assert their rights, and take pride in thus showing that they have the power by which to put their veto upon the vote of the men who would control their destinies.

Mr. WHERRY. Mr. Chairman: I would like to ask the gentleman a question, and it is if he had in his employ a man who persistently, and perhaps consistently, voted against his employer's interests, would he or would he not retain him in his employ?

Mr. LEAR. Mr. Chairman: Upon political grounds I would undoubtedly permit every man to act according to his own feeling and views, and I would permit him to vote for whom he pleased and for what he pleased. I believe this to be the general feeling which pervades the minds of those who have large numbers of men in their employ. I do not believe that the great corporations and monopolies, or the wealthy firms, or individuals in the State of Pennsylvania, make it a practice to control the ballots of the people that are employed by them. I do not hesitate to acknowledge that there may be exceptions, but I believe it to be the general rule in all these instances that every man's vote is controlled solely by his own volition, and he votes as he thinks best. In presenting these views I have endeavored to be as brief as possible, and in conclusion I can only add that I hope the amendments which have been offered to the report of committee will be voted down, and the article as reported adopted.

Mr. BOYD. Mr. Chairman: I shall vote against the report of the Committee on Suffrage, Election and Representation, for the reason that I believe that a majority of this Convention can never be secured for such a section. But I desire to say that I was induced, on my own responsibility, to offer the amendment that I have offered, with a view to assist Philadelphia and other large cities, where corruption is said to exist; and I beg to state to the gentleman from Allegheny (Mr. J. W. F. White) that no gentleman from this city had any consultation or hand in the getting up of the amendment that I have offered, and that if it is to damage Philadelphia in any way I will withdraw it most cheerfully. I believe that a remedy of that kind, applied to a great metropolis like this, might assist the good people of

this city to work out a reform, and cure the evil that is said to exist here. I do not mean by this that I wish it understood that I am one of those who believe that this great metropolis of the State, as much our city as it is the city of the citizens of Philadelphia, contains within itself as much of fraud and corruption as the gentleman (Mr. Simpson) would have us believe. I do not believe that that gentleman, who has undertaken upon this floor to represent all the integrity and morals of this city, is exactly the fit one to do it. I observe he is not in his seat, for which I am half thankful and half sorry. He seems to be speaking all the time for the city of Philadelphia, as if there was nobody from the city who could speak for it. If one-tenth of his experience with regard to the corruption and pollution of this city be true, then indeed she is defiled. But, as I said, I believe these statements to be highly colored. I think the gentleman puts considerably too much paint on his brush as he pictures up the rascalities of this city; and I am, although not a resident of this city, but as a citizen of this State, just as proud of Philadelphia as if I were one of her citizens. I feel as much humbled and humiliated when I hear her thus depreciated as the best of her citizens can possibly feel. I regret and deeply deplore that she should have a representative upon this floor who should take a special delight to make his city appear in the worst possible light, and even to magnify her corruptions.

So with regard to the city of Pittsburgh. I do not suppose for a single moment that even the eloquence and the popularity of the distinguished gentleman from that city (Mr. J. W. F. White) could ever get that city to do a wrong, or get it to vote against a Constitution that we shall submit to the people, simply because the action of this Convention did not entirely accord with the desire of that city in regard to the ballot. I cannot believe that of that great city. She, too, is a proud city, and a city that we, in this section of the State can well afford to be proud of. I do not think there is any corruption there to need any such provision about the ballot as is included in my amendment, yet, at the same time, even if there be nothing there to reform, if the provision will work a good for Philadelphia, that is working a good for the State. I would have no objection, if I thought there were frauds existing in the rural districts, to adopt the section re-

ported by the chairman of the Committee on Suffrage, Election and Representation; but I do aver here that, after thirty-five years of actual observation and experience in the county of Montgomery, there never has been a contested election, nor has there ever been any allegation of fraud, throughout the length and breadth of that county; and when the gentleman from Philadelphia (Mr. Simpson) stated upon this floor that frauds had been committed in Norristown, he was exceedingly unfortunate in fixing that locality. If he had put it in some remote corner of the county, where few of us seldom get, he might have had some hope of escape, for we would not have known whether he was correct or not. But to make that positive statement, in the face of a man who has lived there for thirty-five years, and who has known, from day to day, the acts of the voters of that community, was, to say the least of it, rash. If the gentleman stated it upon information he should give his author. If he said it upon his personal knowledge and responsibility, then I deny it; and if there is no more truth in his statement with regard to the frauds in Montgomery county than there is with regard to the frauds as he, I believe, magnifies them in this city, then I say that his testimony should be wholly and entirely rejected; because, while there has been fraud in this city, and must be, in the nature of things, because it is to be remembered that the very worst men from the country settle down here in the city, where they can have a greater field to carry on their nefarious practices, just as most all the best talent of the State comes to the city because it is better compensated in the city than in the country.

So that I say it is no argument to say, as has been urged here by the gentleman from Allegheny, that the citizens of Philadelphia were regardless of their duty and unpatriotic, when only seventeen thousand of them voted in favor of calling this Convention. I will declare and sustain here upon this floor that this was the strongest evidence of intelligence of this great city that possibly could be produced, because they were entirely sensible to the fact that there was no necessity for this Convention. Although I am here as a member of it, yet I voted against the calling of it. Although I have cried aloud for information to know what the Convention was called for, I have as yet been uninformed, because every reform that has

been proposed meets with a warfare which amounts to a defeat. The veterans, the most experienced men upon this floor, are against any material change in the organic law, and the few that are proposed as necessary, could have been just as easily obtained in the usual mode by a resolution of the Legislature, submitted to a vote of the people, just as we have been adding amendments ever since 1838. This would have answered every practical purpose in my humble judgment, and when the gentleman from Allegheny points his finger of scorn and ridicule at the city of Philadelphia, because out of its one hundred and twenty thousand voters only seventeen thousand voted in favor of calling this Constitutional Convention, I say Philadelphia was wise, as she always is, intelligent in everything that she does.

Mr. Chairman, I do not desire to longer take up the time of this Convention. I know that everybody is wearied with this debate, but I will remark that if any considerable number of gentlemen from the city of Philadelphia will say that they prefer that my proposition shall be withdrawn, I will withdraw it. If my friends here, Mr. Knight, Mr. Fell, Mr. Cuyler, Mr. Biddle, Mr. Dallas, or any of these gentlemen, will say that they prefer to take the chances on a vote upon the section as reported by the Committee on Suffrage, Election and Representation, I will withdraw my amendment, but I assure them at the same time that they may count upon the fact that this Convention will never adopt the section as reported by the committee, and if it does not, then, as a matter of course, Philadelphia will be left to conduct her elections in the future as she has done in the past.

As I said before, this amendment was a voluntary thing on my part, and I simply repeat, Mr. Chairman, that no member from the city of Philadelphia is to be held responsible for any odium or misapprehension or mistake that can arise from its presentation; the whole responsibility rests upon myself, and was intended for the good of Philadelphia, and any other city of the State where election frauds are known to exist habitually.

Mr. J. PRICE WETHERILL. Mr. Chairman: I could not help but think this morning, in listening to the course of debate on this subject, that we are certainly making haste slowly in the work committed to our charge. It seems to me that if we are desirous of coming up to the full line of our duty, which the voters who

sent us here expect, we should change our course. We certainly ought to take up the sections which have been reported to us in rather a different spirit, so as to arrive at a good result. Now, sir, we have taken an hour and a half to-day to discuss the frauds which may or may not have been committed in the city of Philadelphia, and I have been surprised as I heard all over the State the delegates of county after county, in their places, asserting that in their county fraud does not exist, that in their county the ballot-box is kept open, that in their county elections are the honest expression of the people, and that party tyranny is unknown. I confess I am somewhat astonished at the declaration. At the same time I look with some caution upon any section that claims for itself peculiar privileges in regard to honest elections, and fear that when a delegate claims for his section that "I am holier than thou," the language should be taken subject to some discount. The delegate from Allegheny has said a good deal about the election frauds in Philadelphia, and from his remarks I should judge that we in Philadelphia were in a deplorable condition, in that regard. I admit to the correctness of the charge, but deny the right of any section to make it unless their skirts are clear of fraud. I deny that the county of Allegheny is free from election frauds. I deny that the ballot-box is pure in that county, and therefore in reply say, "physician, cure thyself." A great deal has been said in regard to the want of interest which was shown by the people in regard to the calling of this Convention. Was this want of interest confined to Philadelphia alone? No, sir. The taxables of the State of Pennsylvania number nine hundred thousand; therefore about eight hundred thousand votes for or against this Convention should have been cast. How many votes were cast in the State of Pennsylvania upon this subject? Only about three hundred and fifty thousand. Therefore, if the voters of the city of Philadelphia did not take that interest in regard to the calling of the Convention which they should have done, is not the blame equally applicable to about four hundred thousand of the voters of the State of Pennsylvania who did not see fit to exercise that privilege? Take the county of Allegheny, for instance, about which we have heard so much. Why, according to the gentlemen who represent that county, I should suppose that every man in that county came up to the polls and voted against the calling

of the Convention, but the figures do not show it. The taxables of that county amount to about sixty thousand. Only twenty thousand votes were cast for or against the calling of the Convention; therefore about forty thousand votes of that county did not take sufficient interest in this Convention to vote in favor of calling it. About one-third of the electors of the county of Allegheny did not believe it to be necessary that this Convention should be convened. A great deal has been said in regard to the election frauds in Philadelphia. Is this not so, more or less, in all large cities? Is the city of Pittsburg free from it? We in Philadelphia number in population about one-fifth of the State. Concentrate in a given number of acres a like number of any part of the remaining four-fifths of our people, and would not that fact, alone, cause the existence of the same party tyranny that exists here? I therefore conceive it to be in extremely bad taste for any one to rise in his place and say that the people upon the given number of acres that he represents are purer, and more free from fraud, than the people upon any other given number of acres in the State.

I do not judge fraud by quantity. If fraud exists in any county in this State it is not right to judge of it by the quantity committed. The crime itself is just as bad, if committed by forty as by a few thousands, and the remedy should be applied. I therefore do not think that any man has a right, representing any county in the State, to say that his district is pure, because a very little amount of fraud exists in it. I feel it my duty to say, with regard to this matter, that holding up the city of Philadelphia, as it has been held up by this Convention, is not accomplishing the purpose for which we were sent here. The gentlemen from Allegheny county were not sent here to dictate to the delegates from Philadelphia, as to how this city should be governed. That is entirely outside of their province, and I say that there is no disposition upon the part of the Philadelphia delegates to do so either, for if the gentlemen will look over the list of members of the Committee on Suffrage and Election, they will find that out of fifteen but three are from the city of Philadelphia, and they do not favor this section as a measure they wish particularly to be adopted. I say to the gentleman from Montgomery, (Mr Boyd,) in my place, I am opposed to all special legisla-

tion, nor do I desire this special legislation for the city of Philadelphia. If it is not a suitable section for the State, then I do not want it adopted in Philadelphia. We can take care of ourselves. We neither ask or desire assistance in any quarter. We demand our fair and equal rights; nothing more. Neither is fraud confined to the boundaries of the city of Philadelphia; fraud exists throughout the length and breadth of the land. As we find it in our State, it is our bounden duty to strangle it, by a process confined to no section, or applicable to no locality, but broad enough and comprehensive enough to grasp and destroy it whenever and wherever found. Do not let us single out any district in specifying where fraud exists, and where it does not. In my opinion the Philadelphia delegates have been at fault in, upon every occasion, bringing into the Convention the disgusting details of party corruption here; I think that their dirty linen should be washed at home. We are here not to legislate for Philadelphia or for Allegheny county, not to correct fraud in either locality, but to correct it throughout the State; to frame an organic law applicable to the wants and requirements of the whole people, and in my opinion the delegate who takes a less comprehensive view of the duties which are incumbent upon him, is not coming up to the full line of his duty.

Mr. STRUTHERS. Mr. Chairman: It appears to me that the greater part of the debates which have been had here, have been wide of the mark. I believe it is the design of the members of this Convention to do what the people sent them here for, with regard to this matter of the fraud, and to pass such amendments as will purify the polls as much as possible. It appears to me, however, that there has been a great deal more time spent for the purpose of convincing us that frauds have occurred, and do occur, in various localities, than has been necessary. I think the delegates of this Convention have had experience enough to know that frauds occasionally do break out, and are experienced, and ascertained to exist, not only in Philadelphia, but throughout the State, more or less. The largest aggregate of people being here, it is natural enough that the greatest amount should be here. But that does not matter. The question is whether it does exist. That fraud does exist, we may all take for granted; and yet the time of this Convention has been

occupied, for several days, in discussing whether it does exist.

Now the proposition which is made in this report is to cure all this difficulty by attacking the ballot. I would like to know how it has ever been ascertained that the ballot was a failure in this State. The evil which is so much complained of is not traceable to the ballot at all, but to the perverse use made of it to the frauds practiced upon it; and these frauds are what we want to arrive at, not to destroy the ballot. The ballot is an ancient and honorable institution. It is one of the main columns of the temple of liberty. It has long been in existence here, and long been revered, not only in this State, but all over the Union. I think the *viva voce* vote existed in several States down south. We all know what that lead to. It brought about an aristocracy—a departure from this democratic system of government altogether. It resulted in that, and it resulted in the great war of the rebellion. Now, regenerated, we find that these States are adopting the very thing that we, of Pennsylvania, are to-day contemplating, and devising means and measures to destroy, to tear up by the roots; because it is nonsense to talk about a secret ballot when you require every man to put his name upon it. And it is contemplated by this section that, in certain cases, it shall be signed by a witness. How can that be a secret ballot? The very class who are imposed upon and made use of, for the purpose of effecting these frauds, are that class of persons who will have to go to somebody who can write their names, and get them written. In such a case it is exposed, and it is no longer a secret ballot. Gentlemen of purity, and of independence, care not so much, whether their ballot is open or secret. But the ballot itself, in the manner in which we have used it, is such that any person may make it secret if he chooses; but, on the contrary, if he chooses, he may proclaim it, or he may put it in open. He may vote openly if he chooses; but it allows the timid, and those who are under influences that they do not like to confront, to go and put their ballot in quietly, in such way as their judgments dictate to them as right.

In this connection, for fear I may be misunderstood, I will say that I do not think the ballot is intended so much to guard and protect laborers and the poor and weak from the oversight and the influence and power, brought to bear upon them by their landlords and employers,

generally. That is not it. There is no part of the people of Pennsylvania, I will venture to say, that will vote so directly against all such influences as the employees. Miners are not governed by their employers. The employees in the manufacturing establishments are not influenced in that way. The employees of almost all the manufacturing establishments of the country like to have it proclaimed that they vote right against the interests of their employers. They take a pride in doing it.

That is not what the ballot is for so much. It is not to protect them from the power of their employers. It is for the purpose of protecting them from the influence of the manipulators, and the ward politicians, who receive their hire for going about and imposing upon their men, and using them. The ballot should be secured to them to guard them from the foul influences that are attempted to be wrought upon them by that class of men whose business it is to go around and manipulate for a price. Such men as are thus bought up are generally employees.

How do these ballot-box stuffers and that class of men come to be so active? They are all paid for it, sir. And how are they paid for it? How do they get their compensation? They are not candidates themselves; they are not elected to office; yet they are the busy men. They are the busiest bees in the whole hive. The men who, apparently, have no interest in the result, no hopes to be attained. Why is it? The candidates for office furnish the means; they furnish the money; they send these manipulators out to buy up these men.

Now what does this proposition, to put the names of all these parties upon the ticket, lead to in the end? It enables them to go around in advance of the election, sometimes, and secure all these men without doing it in the hurly-burly of the election upon election day. They have months to go around to secure these men; and when they bring them their tickets, and have them put their names upon them, they promise them their pay or pay them. Then, instead of furnishing the means of reducing or in any way putting a stop to all that kind of thing, you are furnishing facilities for the purpose of committing these frauds. You are furnishing facilities to these very men who manipulate these voters.

Now, sir, I only want to say one word farther. I think we are brought here,

not for the purpose of tearing to pieces this old, venerable Constitution of ours, but for the purpose simply of revising and amending it? Whoever heard, in Pennsylvania, that we wanted a revision of the ballot? Nobody on earth ever heard of it, at least I never did, and I have looked through the newspapers and never seen it in print anywhere. Nobody ever heard of it until after we came in here. I never heard of it until I saw this report.

I think if a plan were being devised for the purpose of defeating the doings of this Convention, however good and beneficial it may be in other respects, this section would be enough. This very thing would kill it as dead as a nit. The people never would stand it. I do not speak of the people of my particular district or any place else. I have traveled across the State from one end to the other, and seen a great many gentlemen, and this thing has never been intimated to me. I never heard of it. I do not think any man in the State ever did until it was conceived and brought out by this committee.

I hope we will move in a cautious, careful way, making amendments that are desirable, and submit to the people a Constitution worthy of their approval, one that we can hope for the approval of. How can we arrive at that? These frauds I would check as much as anybody; and I would put into the Constitution, as far as can possibly be put there, all the checks that can be put there in the strongest shape. There is a section or two in this same bill pointing to it. You want to reach frauds, not through the ballot, but by watching and protecting the ballot. You want to make it severely penal upon all men who will use money, in any shape or form, for the purpose of affecting elections. You want to make void the elections that they may secure by it, disfranchise the guilty parties from holding office and subject them to fine and imprisonment. The receiver of any such money should also be severely punished by fine and imprisonment. That is the way to get at that matter, in my opinion, and not by attempting to destroy the pure and simple ballot.

I am not in the habit of speaking, Mr. Chairman, but I have felt it my duty to myself and my constituents to state my position in regard to it. My ideas have gone a good deal further and varied very much from those of a large number of the gentlemen who have spoken on the subject upon either side. I shall fa-

vor an amendment proposing for the new Constitution the provision as existing in our present Constitution, *verbatim et literatim*. I see no reason whatever to change that, and to raise up, in that way, a weapon for the purpose of killing it before the people when we lay our report before them.

Mr. M'MURRAY. Mr. Chairman: I desire to make a few remarks on this subject. I notice that the members of the Convention are becoming somewhat impatient and doubtless weary of the subject, and therefore I will be brief. I have occupied, probably, five minutes of the time of this Convention since it convened and shall not occupy much more than that now.

I have observed this discussion as it has progressed from day to day, although I have been absent. One remark I noticed, that was made by the gentleman from Indiana (Mr. Harry White) some days ago. I believe it was this in substance—I saw it in the newspapers of the day—that could he control an earthquake he would hurl it at those persons who would take away or disturb the secrecy of the ballot. That was a grand sentiment; but, sir, I think I can conceive of a grander one. It is this: Could I control ten thousand thunderbolts, and had I the strength of Jove, I would hurl them, were it possible, with the power of Omnipotence itself, against every man, and every set of men, that would attempt in any way to pollute the ballot-box.

I think, Mr. Chairman, that the section, as it now stands, will go further to purify the ballot-box than anything else that has been offered in this Convention. When I saw the proposition of the gentleman from Bradford, (Mr. Patton,) relative to electors endorsing their names on their ballots, it challenged my judgment immediately as a thing that would go far to purify elections.

I have heard much about the election frauds in Philadelphia. I want to say this for the comfort of the gentlemen from Philadelphia: That election frauds are not confined to that city. I believe too much has been said about the city in that matter. I believe that my county, in honesty and intelligence, is equal to the average of the counties in the State; and I do know that election frauds are perpetrated in the rural districts of Jefferson county, among the simple inhabitants of the "pines and hemlocks," and we want such a provision as this to prevent them there. It will go

far to prevent them there, and to prevent them here, too.

The strong argument that has been made here against the section is that it destroys the secrecy of the ballot. There are several answers to that argument. The first is that the gentleman from Allegheny, (Mr. J. W. F. White,) a member of the Committee on Suffrage, is in favor of numbering the ballots with a number corresponding to that written opposite the elector's name on the tally list. If that provision is carried out honestly, it destroys the secrecy of the ballot just as effectively as writing the elector's name on the ballot would do. But it is open to this objection. That without this additional safeguard proposed, by writing the elector's name on his ballot, it would only make it easier for election officers to commit fraud than at present, because all they would have to do would be to throw out the genuine ballot and put in another, and write on it the corresponding number. Another answer to the argument is, that there are men here, and excellent men too, who are in favor of taking away the secrecy of the ballot entirely. Another answer is, that by writing the name on the back of the ticket, if there are frauds perpetrated we can ascertain exactly what frauds they are and who perpetrated them. I would say here that if it were necessary in order to prevent frauds on the ballot box, I would, without hesitation, take away altogether that secrecy. The argument, however, that this section would take away the secrecy of the ballot is an *ad captandum* argument; it is intended simply for the ear of a certain class of the public; there is nothing in it. It is the argument of the politician, and not the argument of the man who, in the honesty of his heart, would go down to the root of the disease and take away the cause itself.

I repeat, sir, that if it were necessary, in order to do away with these frauds, I would take away the secrecy of the ballot altogether. I would say further, that the very fact that we have voted by secret ballot has been the cause of more fraud, corruption, and injury to our government, than any other one thing that can be pointed to. It is not difficult to prove this. I will refer to an instance that has come under my own observation. A man is a candidate for a county office, for instance. Those political friends whom he has known for years he depends on for support. One of these—a man of influence in his locality—leads him, if not by prom-

ise, then by other means, to believe that he will support him, and vote for him. The candidate, therefore, depends upon him for support, for he has always been his friend. What is the result? The opposing candidate comes along, and with five, or ten, or fifty dollars—if he is a man to use money, and the other to take it—or with the promised future reward or support, buys the influence of that man against the man whom he had promised to vote for, and this entirely through the secret ballot. Because no one can ever know how the elector votes, he makes a promise to the candidate (or his friends) that he never means to fulfil, and never does fulfil. The secret ballot offers a premium for just such frauds and dishonesty as this. If you take away the possibility of that thing, you take away a powerful means of fraud. Sir, I have known these things to be, and I claim that the section reported by the committee will prevent this almost entirely. But why will it prevent it? Because it will induce men to vote honestly. They cannot pretend one thing to a candidate or community, and then go to the ballot-box and do an entirely different thing. Why? Because their names are written upon their ballots, and it is a guarantee that their votes, as deposited in the ballot-box, redeem the promises they made to the candidates and the community. I mention this because I have not observed that anybody else had mentioned it in the course of the discussion. There is another point that I will mention, which, to my mind, is in favor of the section. Secrecy is associated with the most offensive and revolting crimes. The murderer is in favor of secrecy. If anybody in the world favors it more strongly than another, it is the man who would take the life of his fellow man. The man who commits arson, and the burglar and the thief seek the cover of darkness and secrecy for the commission of their crimes, in the hope and belief that the secrecy and the darkness will give them immunity from detection and punishment. The honest man, on the contrary, will do what he thinks best for himself and others, and do it in the light of day. He is not afraid that people should see or know what he does. He needs no secrecy to protect him.

In making these remarks, however, I do not wish to be understood as favoring an entirely open ballot. I do not favor it, but I go so far as to say, that if I thought it were necessary, in order to prevent

fraud, I would favor an open ballot. I do not think that is necessary, however. The present section, requiring the names to be written on the ballots, does not necessarily constitute an "open" ballot. It is only in case of urgent necessity that it becomes known how men vote. The election officers can be sworn not to divulge how any elector votes; and I take it for granted that if this section is adopted, the Legislature will enact a law requiring that the election officers shall be sworn not to divulge how any elector votes at any election. Then the secrecy of the ballot will be observed, except in case of a proper and legal investigation.

In contested elections the value of the information to be gained from the writing of the names on the ballots cannot be over-estimated. We all know that the great difficulty in these cases is to find out which are the true ballots and which the false. It is apparent to the mind of every intelligent man how, with this help, you can arrive with almost unerring certainty at the conclusion, which votes are true and which false; and if the election officers should attempt to erase any name from a ticket, you can tell exactly which name has been erased, and which substituted for it. It is, therefore, a means of inestimable value in correcting frauds when they are perpetrated.

We have come here, sir, for the purpose of getting at these frauds and correcting them, if possible, for we know they exist, and not to make long speeches, or grand speeches, or to cover up or excuse wrong. Here is a practical prevention of fraud and wrong. Let us adopt it.

I have just returned from my home in the country. I have, on my visit to my district, conversed with a large number of persons in reference to this matter, and I have not met one man who was not in favor of this proposition. I have had people to say to me that it is just what they had desired for many years, and that this was the first time they had seen it in any practical form. They told me it would meet the evil and be of inestimable value.

Mr. PATTON. Mr. Chairman: I just rise to state that I have received letters from a number of my constituents, all of whom express themselves decidedly favorable to this section now under discussion, and I hope the section, as reported by the committee, will be adopted.

The question was then taken on the amendment offered by Mr. Landis, to strike out the words, "containing a popu-

lation of at least fifty thousand inhabitants," to the amendment offered by Mr. Boyd of Montgomery, and it was not agreed to.

The question then recurred on the amendment offered by Mr. Boyd of Montgomery.

MR. WHERRY. I call for the reading of the amendment.

The CLERK read as follows:

"All elections shall be by ballot, which shall be numbered by the election officers when received. But in any city, borough or town containing a population of at least fifty thousand inhabitants, the ballot shall be numbered by the election officers when received, and each shall have endorsed upon it the name of the elector, written either by himself or by another citizen of the district, who shall not be an election officer, and all persons voting in a representative capacity shall vote *viva voce*."

The question was taken upon the amendment, and it was not agreed to.

MR. JOHN M. BAILEY. Mr. Chairman: I offer the following substitute in place of the section, which I think will obviate all the difficulty which has been referred to by some of the gentlemen in the Convention. It is to strike out the section and insert the following: "All elections by the citizens shall be by ballot, and each elector shall write his name upon his ballot or ballots for officers elected by the State at large and for members of the General Assembly, or cause it to be written thereon and attested for him by another elector of the district, who shall not be an election officer; and the ballots for said officers shall not contain the name or names of candidates for any other office."

The CHAIRMAN. The question is upon the substitute.

MR. JOHN M. BAILEY. Mr. Chairman: It is not my desire to prolong the debate upon this question. When it was first reported by the Committee on Elections I was decidedly opposed to the whole principle of the open ballot, but I confess, from what I have heard already upon this floor, that I am personally a convert to it, so far at least, as the substitute which I offer commits me. It has been said in this Convention, and I can assert the same of the district which I represent here, that frauds in the rural districts are, to say the least of it, very rare. In fact I believe there are none at all. There may be mistakes on both sides by the election officers, but these mistakes do not affect

the result of the election one way or the other. We are told that frauds are of frequent occurrence in places where large populations exist, and that they cannot be avoided. I believe they are not confined strictly to the city of Philadelphia. I agree entirely with the gentleman from Somerset, (Mr. Baer,) who said if these large cities cannot prevent the commission of these election frauds that they ought to bear the yoke. I think, however, in the elections of State officers, in the election of officers at large, and in the election of members of the General Assembly, the yoke would be borne by all of us, but where municipal officers, prothonotaries, clerks of courts, registers and recorders are to be elected, the burden should be borne by those who permit these villains to bind it upon their shoulders. It has been said that seven-eighths of the people of Philadelphia are ruled by these villains who constitute the other one-eighth. This fact has been admitted in this Convention by gentlemen from that city, and as long as it does exist I would let the seven-eighths of the people bear the burden they have let the other one-eighth bind upon their shoulders; but whenever that burden has to be borne partially by my district, and partially by the whole State, I object to it, and say that the villains of Philadelphia shall not bind *their* burdens upon *our* shoulders. I am in favor therefore of applying this provision only to the election of officers affecting the State at large. We must take the people of the State as nature has made them. We cannot make them to suit the Constitution, and we must therefore make the Constitution to suit the people. Now then how are the people constituted? I knew some are strong and independent in feeling as well as in action, but there are others who are timid and weak, and who would not vote as they wished if their neighbors were aware of the manner in which they cast their votes. This feeling applies, perhaps, to only a particular class of officers elected. It has been within the observation of all of us in the districts which we represent that the people usually do not care who knows how they vote for Governor, for a judge of Supreme Court or any of the officers elected at large, but when it comes down to an election of a supervisor, clerk of court, register or recorder, the people do care, and they are particular that their neighbors shall not know how they vote. It strikes me that the substi-

tute I have offered obviates all these difficulties, and where a community allows itself to be ruled and controlled by a minority let them be controlled by it; but when that minority attempts to control the balance of the State, I say my district shall not be so controlled. Let us then adopt all the benefits which accrue from the section as it comes from the Committee, so far as it affects officers at large and members of the General Assembly. Frauds in elections are not so much attributable to the elector as they are to the election officers, and if these gentlemen in Philadelphia, these reformers, instead of sitting at home, in their velvet chairs and with kid gloves upon their hands, would go out and beard the lion in his den, at the proper time and at the proper place, and elect such officers as would carry out the wishes of the people, we would not hear so much about these frauds. Let them meet the danger where it occurs. Let them meet the difficulty where it exists, and not stay in their offices and pour out their paper bullets upon the fraudulent voters and upon the fraudulent election officers, which have no more effect upon them than they would have upon the hide of an alligator.

Let pure and upright election officers be appointed. It has been my observation in the county in which I reside, and in all the rural districts, that the election officers there would as soon think of picking your pocket as to commit a wilful fraud upon the ballot-box. These reform gentlemen in Philadelphia could carry out the same principle if they would take care that the proper men were selected for election officers, and we should not hear so much about these election frauds. The good citizens of Philadelphia are entirely to blame for this condition of affairs, and I would let them bear the burden themselves. I am in favor of the proposition of the committee, so far only as it applies to the officers of the State at large, and to the members of the General Assembly, but for the reasons which I have given, I shall feel compelled to vote against the proposition as it comes from the committee.

The question was then taken on the substitute offered by Mr. John M. Bailey, and it was rejected.

Mr. NILES. Mr. Chairman: I offer the following proviso, to come in at the end of the section: "*Provided*, That so much of this section as directs that the name of the

elector shall be endorsed upon his ballot shall only apply to cities having more than twenty thousand inhabitants."

The amendment was rejected.

Mr. HOWARD. Mr. Chairman: I offer the following amendment, to come in at the end of the section:

"And the election officers and clerks shall be sworn or affirmed before entering upon the discharge of their duties, that they, or either of them, will not, in any way, make known how or for whom any elector shall have voted, except when called as a witness in a lawful proceeding to investigate the validity or regularity, or the alleged frauds in such election, and the violation of such oath or affirmation shall be perjury, and punished as shall be provided by law."

The amendment was rejected.

Mr. HANNA. Mr. Chairman: I offer the following substitute for the section:

"All elections by the people shall be by ballot. The election officers shall enter and number the names of the electors on the list, in the order of their voting, and number each elector's ballot with his number on the list. All elections by persons in a representative capacity shall be *viva voce*."

The substitute was rejected.

Mr. BRODHEAD. Mr. Chairman: I offer the following amendment, to come in at the end of the section:

"*Provided*, That in elections for borough, city, township and ward officers the endorsement of his name upon his ballot shall be optional with the elector."

I wish to say, with reference to this section, that I am entirely in favor of the section as it stands; but it must be remembered that the people in the rural districts have no interest in the spring elections. We have an interest, however, in preserving the purity of the ballot-box at the fall elections, because members of the Legislature, Governors, &c., are elected; and in their election we have, of course, a common interest. In view of this fact, we are willing to submit to the inconvenience which will ensue by the creation of such a revolution in the manner of voting as is provided for by this section; but I can see no reason why this inconvenience should be inflicted upon us at the spring elections. In voting for our borough officers, it makes no difference to us how the people in Philadelphia vote,

and I can, therefore, see no good reason, as far as the rural districts are concerned, why this provision should be made to apply to all our elections. I have said that we have no common interest in the spring elections, and for this reason I have offered this amendment.

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

Mr. D. N. WHITE. Mr. Chairman: I offer the following amendment to the section: "To insert before the word "each," in the concluding sentence of the section, the words "at the November election."

The amendment was rejected.

Mr. HAZZARD. Mr. Chairman: I offer the following as a substitute for the section:

"All elections of the citizens shall be by ballot. The ballot voted may be open or folded, as the elector shall prefer, and they shall be numbered by the elector in the inside, and the same number shall be put on the tally list, and when the votes are counted the tally shall be sealed up. Voting in a representative capacity shall be *viva voce*."

The substitute was rejected.

Mr. HANNA. Mr. Chairman: I offer the following as an amendment, to come in at the end of the section:

"Persons in a representative capacity shall vote *viva voce*."

The amendment was rejected.

Mr. TURRELL. Mr. Chairman: I offer the following as an amendment, to come in at the end of the section:

"And that every elector shall be required to affix his photograph to his ballot before he deposits the same."

The amendment was rejected.

Mr. GILPIN. Mr. Chairman: I offer to amend the section, by inserting the words "the back of" between the words "upon" and "his," in the concluding sentence of the section.

The amendment was rejected.

Mr. HOWARD. Mr. Chairman: I offer the following as an amendment to come in at the end of the section:

"*Provided*, That before this provision shall go into effect the Legislature shall provide by law the form of oath to be administered to the election officers and clerks to keep and maintain the secrecy of the ballot, in all cases except in lawful

proceedings to enquire into the irregularity or alleged frauds in the elections."

Mr. HOWARD. Mr. Chairman: I have previously in this debate, Mr. Chairman, stated to the committee that I should support this proposition as it came from the Committee on Elections, provided, however, that at the end of the section there should be added a provision whereby the election officers and clerks should be sworn and that the vote of the elector should be kept secret except when it was otherwise necessary in the investigations of elections. Now this oath is perfectly right and proper, and with this addition which I have proposed to this section the ballot is rendered just as secret as it is now. I do not understand why the friends of this section are not willing to incorporate this oath in its provisions. It seems to me this oath is necessary to the completion of the section, and in order that the citizens of the Commonwealth may know that it will be beyond the power of the election officers and the clerks to divulge the manner in which they have voted, I take it that this oath is perfectly right and proper, and that we should put it in right here, for if we do that we can then say to our constituents: "We have given you the means of voting and have made the ballot as secret as it is now."

Mr. M'ALLISTER. Mr. Chairman: I desire to state, in explanation, that the committee in their discussions supposed that this question was one resting solely with the Legislature. The secrecy to be enjoined upon those officers having charge of the election is a proper subject for legislative action, and it is one which can be properly referred to that body.

Mr. BUCKALEW. Mr. Chairman: I am of the opinion that this amendment, if adopted, will preclude all action by the people, under the section, at the election to be held upon the adoption of the amendments to the Constitution, and that it will preclude voting under the section at the next general election, when, possibly, very important questions will be decided. If the amendment shall be adopted in its present form, no election under this section of the article can be held until the general election of 1874. For my part I have no objection to voting upon second reading in favor of an injunc-

tion to the Legislature to adopt such a provision, but I do not desire to take any step which shall interfere with the adoption of our amendments to the Constitution when they come to be voted upon by the people, or to lose the advantages of the section at the very important election to be held next fall. For the present, therefore, I shall vote against the amendment.

The question was then taken on the amendment offered by Mr. Howard, and it was rejected.

Mr. KNIGHT. Mr. Chairman: I offer the following substitute for the section:

"All elections shall be by ballot, except by persons in a representative capacity, who shall vote *viva voce*."

Mr. DALLAS. Mr. Chairman: I rise to a point of order. That amendment has already been voted upon, and has been rejected by the Convention.

The CHAIRMAN. The point of order is well taken, and the amendment cannot be considered.

Mr. RUNK. Mr. Chairman: I offer the following substitute for the section:

"All elections of the citizens shall be by ballot, open or secret, as the elector shall prefer. The ballot shall be numbered by the election officers when received, and the name of the elector endorsed thereon by the officer, in the presence of the elector, who shall furnish the elector with the number of his ballot."

The substitute was rejected.

Mr. HEMPHILL. Mr. Chairman: I offer the following substitute for the section:

"In all elections by the people, and also by the Senate and House of Representatives, jointly or separately, the vote shall be personal and publicly given *viva voce*: *Provided*, That dumb persons entitled to suffrage may vote by ballot."

The substitute was rejected.

The CHAIRMAN. The question now recurs upon the section.

Mr. DALLAS. Mr. Chairman: I call for the reading of the section.

The CLERK read as follows:

SECTION —. All elections of the citizens shall be by ballot. The ballots voted may be open or secret, as the elector shall prefer, and they shall be numbered by the election officers when received. Each elector shall write his name upon his ballot, or cause it to be written thereon, and at-

tested for him by another elector of the district, who shall not be an election officer.

Mr. TURRELL. I move to strike out all after the word "ballot."

The motion was not agreed to.

The question being then taken upon the second section, a division was called for which resulted: Affirmative, thirty-nine; negative, fifty-seven. So the section was rejected.

The CLERK read the third section, as follows:

SECTION 3. Electors shall in all cases, except treason or felony and breach or surety of the peace, be privileged from arrest during their attendance on elections, and in going to and returning therefrom.

Mr. M'ALLISTER. I move to amend, by striking out "or," in the first line. It is a typographical error.

The amendment was agreed to.

The question then being upon the adoption of the section, it was agreed to.

The CLERK read the fourth section, as follows:

SECTION 4. Whenever any of the qualified electors of this Commonwealth shall be in any actual military service, under a requisition from the President of the United States, or by the authority of this Commonwealth, such electors may exercise the right of suffrage in all elections by the citizens, under such regulations as are or shall be prescribed by law, as fully as if they were present at their usual place of election.

Mr. ROSS. Mr. Chairman: I offer the following amendment:

The CLERK read:

Strike out all after the word "election," in the fourth line, and insert, so that the section shall read:

"Whenever any of the qualified electors of this Commonwealth shall be in any actual military service, under a requisition of the President of the United States, or by authority of the Commonwealth, such elector shall exercise the right of suffrage, in all elections by the citizens, only when present at the respective places of election of which they are residents."

Mr. ROSS. Mr. Chairman: Before the vote is taken upon this amendment, I desire to say a word or two in explanation of the reasons that induced me to offer this

amendment, and why I think it should be adopted. After the very extensive debate which took place in regard to the question of female suffrage, I think it is pretty generally admitted here that there is no such thing as a right to vote; that it is a conferred privilege; that it is a grant, and not a right; and therefore, sir, I want to start out in what I have to say by assuming that position to be correct.

In the second place, it is well known to all of us that the law-making power has restricted and modified the exercise of this privilege of voting; and again, it is well known that arbitrary restrictions—restrictions which have had reasons for their passage existing only in the minds of the law-makers—have been passed. Why is it that no man can vote until he is twenty-one years of age? Why is it that a residence is required? These are arbitrary restrictions.

Now, sir, I am aware that the character of the amendment which I have offered will, perhaps, strike gentlemen in this Convention as being one which will not be popular throughout the State. I am aware, sir, in view of the recent war which took place in this country, that it was thought right then that the citizens who left their homes at the call of their country, and who went away and were fighting and were located in different places at the time that election took place, should not be deprived of their right to vote because they had been animated by a patriotic spirit, and had left their places of residence at the call of their country, to fight for it. I know that at the time a vote was taken in this State as to whether soldiers should have the right to vote when away from their places of residence, that it was thought to be an unpopular movement to oppose that right to vote; but I submit to this Convention, and I submit to the common sense and sound judgment of the people of this State, whether it is not an extraordinary provision to put into a Constitution, that a man not at the time a resident of the district in which he has to vote, or where his vote is to be counted, and the district which will be affected by that vote, who may perhaps have been absent from that district for a period of a year or more, who, perhaps, has been so situated that he is not familiar with the requirements or the wants of his district,

shall have the right to vote, perhaps a thousand miles away from his home, where there is no opportunity for his fellow electors to challenge his vote, to ascertain whether he has complied with the other requisites which the Constitution requires. Such a provision has always appeared to me to be of an extraordinary nature, and contrary to intelligence and sound judgment.

There is a well known maxim, which says *inter armis silent leges*, and I think it applicable to this very question. Who has pretended to say, who can pretend to say, that the votes that were cast, in a number of instances during the war, by soldiers away from their places of residence, were the free, untrammelled expressions of their sentiments upon the occasions upon which they were voting?

In my own Congressional district, composed of county of Bucks and a portion of Philadelphia, I recollect very well that in 1864, after the Philadelphia wards had voted, and after my own county had voted and after all the votes had been counted and the result was known, there came from the south a parcel of votes, which, when counted, completely and entirely changed the result of that election. It was never pretended; it was never even asserted by the gentlemen upon whose side those votes were counted, that they were the honest, the legitimate votes of the persons casting them. We all know, and can very readily appreciate the circumstances under which a private soldier, away from home, under control and discipline, would cast his vote.

I sincerely hope that this country may never again be plunged into a war such as we have lately gone through; but still, it is possible that it may occur again; it is possible that our citizens may be required to leave their homes as they did before, and then this provision in the Constitution will be called into exercise, and the sentiments of voters at home will be affected and changed by the action of voters at a distance, who may or may not have cast the ballots which are represented to have been cast by them.

I hope that this Convention will seriously consider this section before voting, to adopt it as reported by the committee. I hope that you will ponder well upon the effect and upon the consequences which

a provision of this kind may have upon the result of our various elections. A soldier stationed at Wyoming territory, who claims a residence in this city, or who claims a residence anywhere in the State of Pennsylvania, may, under this provision, cast his vote out there and have it counted here, and that vote may or may not materially affect the result of our election. I submit that it is unwise; I submit that it is contrary to the spirit of our Constitution; that it is contrary to the spirit of the enactment in relation to the right to vote, that a provision of this kind should be inserted into our Constitution.

Why, sir, the right to vote is an arbitrary right. The privilege of voting is a privilege which is exercised under arbitrary restrictions, and all this is simply doing nothing more than saying to the military man, who is away from his home, that he must come back to his home to vote with his other fellow-citizens, or he cannot vote at all. It is not hard upon him, no harder upon him than it is upon other persons who are regular electors, who have been compelled to move out of their districts, and who, by reason of moving away, have lost their votes.

I do not suppose any gentleman in this Convention will pretend that the sections of this Constitution which will be adopted will always work well, and will always be right and proper. We do not, certainly, arrogate to ourselves more power or comprehension than the Almighty himself has exercised in his laws, and no gentleman will pretend that the divine laws always, and in all instances, work properly and work correctly. The Almighty governs us by grand laws, and in the individual working of some of those grand laws great apparent personal injustice and harm is done. In the law of gravitation I submit there are individual instances where great individual harm and great individual injury result in consequence of the workings of that great law of gravitation. A little child, standing balancing itself at a window, without being conscious of the danger of its situation, without being old enough to recognize its peril, loses its balance, and in consequence of the law of gravitation, is thrown down upon the ground and its life destroyed; yet, who would say that, because in that individual instance, the law of gravitation worked an injury; therefore the law is wrong, and that it ought not to

exist? So I say that, even if this amendment, which I offer in an individual case, did harm and worked an injury to the individual, yet, for the sake of the general good, for the sake of the community, it is required, and it is necessary, and I think it should be made a part of this section, and the section should read as I have amended it.

Mr. HUNSICKER. Mr. Chairman: I trust that this committee will not act hastily upon this section. I would suggest that here is one of the widest doors that could be opened to fraud. The article which we are now considering is copied from the old Constitution, or rather from an amendment to that Constitution. It was passed in a period of great public excitement, and I know, as an individual instance, that when the question was voted upon by the people, there were stationed around the poll where I voted—not exactly *stationed*, but there were standing—soldiers wearing the United States uniform, one of whom declared that somehow or other if any voter saw fit to vote against the soldiers voting, he fell down. He could not account how it happened, but he said that was the result.

It was adopted, therefore, in a period of great excitement, and without proper consideration. We are now living in a time of profound peace. We have but very few soldiers wearing United States uniform in actual service, and these are stationed out at the frontiers, and different places, taking care of the government property; but we may have another war. Nations are not exempt from that calamity, and I would like the committee to consider. You have adopted provisions to prevent frauds. You have defined the qualifications of voters, and have prescribed a penalty against those who would pollute the ballot-box, either by fraudulently voting or by a fraudulent count, or by fraudulent returns. I ask how would you enforce these laws against the election officers who are holding the election within the confines of a military camp? I would like to see that constable who would go, armed with a warrant of this State, into the State of South Carolina, when that State is in a condition of actual war, to arrest the judge of elections and to bring him to Montgomery county for trial. Is it not well known, in this State, that in the contested election case of Ewing and Thompson, it was the fraudulent manipulation of the soldiers' vote that determined that election; and we all know—I

know it, and I presume every member on this floor knows it—that the ballots were cast for one party in the field, and were returned for the other party when they came home. I would ask, if you have a war, and you have five hundred thousand electors in the army—if you could get so many into it—and put them into actual service, and you were to have an election poll in each company, with as many officers of course as there are companies—and if these officers are to be bound by the election laws which we have passed, how are you going to punish either the soldier who illegally votes, or the officer who commits a fraud upon the election?

If the elective franchise is to be valuable, if it is to be a reflection of the public will, it must be pure, not only at home but everywhere; and it is utterly impossible for the private soldier, who will even black the boots of his captain (if ordered so to do)—although in violation of the articles of war—to vote against the wishes of his superior officer. He has not the moral courage to do it. Is not that true? Do we not all know that to be true? If even he has the moral courage and does cast his ballot, there are no guards that can secure that from being altered. I want the soldier to vote, but I want his vote counted for the party he voted for. We have had one election law allowing soldiers to send their ballots home and vote by proxy; and it is said that General Hancock voted in that way for General McClellan, and when it reached home it was voted the other way.

I have cited these individual instances to direct, if I can, the attention of the committee to what I conceive to be as important a question as this committee can have before it. I therefore trust the committee will ponder well the subject, because it is one well worth considering.

Mr. NILES. Mr. Chairman: If the committee desires to vote I will not take up time in discussing this question; but I must say I am surprised at the amendment offered by the gentleman on my left (Mr. Ross.) In effect it is simply this, that every man who has patriotism enough to volunteer in defence of his country is to be disfranchised. If his proposition was simply to strike out this section, which was the result of the great difficulties of 1863 and 1864, it would have been a more manly proposition, it seems to me.

We all understand the origin of that amendment. We know very well why

that was incorporated into the organic law in 1864. We remember, sir, that at that time a hundred thousand of the brave boys of Pennsylvania were absent from their homes, from their voting places, fighting in defence of your country and mine. We believed that the crisis had come, and that it was dishonorable for us to remain at home, around our peaceful firesides, to vote when these men who were upon the tented field were deprived of the privileges of voting; to say who should rule and reign over them.

Now comes the simple proposition to do away with what we did in 1864, because if the amendment is to prevail, and if the soldier is only to vote when he is at home, we may, it seems to me, just as well blot out this whole section, which simply means to annul the section of 1864. I am opposed to the amendment, and in favor of the report of the committee.

In reference to frauds, I believe, sir, that the experience of 1864 and 1865 shows that, as honest elections were held in the army, there was as fair an expression of the qualified voters there as there was in any of the rural districts of Pennsylvania, to say nothing of our great cities. The gentleman who has spoken in favor of this amendment, and against the provision of 1864, says that the soldier has not the moral courage to vote against his superior officer. Well, sir, in answer to that, I undertake to say that the man who will leave his home and his fireside, and leave everything but life, and fight in defence of his country, has the moral courage—if he has the physical courage to enter the battle field, he has certainly the moral courage to vote according to the dictates of his own conscience. If any man is deprived of the right to vote it ought to be the man who sits supinely at home, and not he who leaves everything and fights in defence of his country and flag.

The question being upon the amendment offered by Mr. —, it was rejected.

The question then recurring upon the section, it was agreed to.

The fifth section was then read, as follows:

“The Legislature shall enact a uniform law for the registration of electors, but no elector shall be deprived of the right to vote by reason of not being registered.”

Mr. NEWLIN. I move to strike out all after the word “electors,” so that it shall read: “The Legislature shall enact a

uniform law for the registration of electors," and let it stop there.

Mr. TEMPLE. Mr. Chairman: In view of the discussion likely to ensue upon this subject, I would ask that it go over for the present, because I consider that the amendment offered by the gentleman is a very important one, and I have no doubt many gentlemen will like to speak on it.

The question being upon the amendment offered by Mr. Newlin, it was rejected.

Mr. EDWARDS. Mr. Chairman: I move to amend, by inserting the word "qualified" before the word "electors," so as to read, "qualified electors;" and also to amend the latter clause, by adding at the end the words "in his district," so that it shall read, "by reason of not being registered in his district."

The question being upon the amendment offered by Mr. Edwards, it was rejected.

Mr. J. W. F. WHITE. Mr. Chairman: Since we have adopted the tax qualification as one of the qualifications of an elector, I feel very strongly inclined not to vote for this section. I concur in the report of the committee, and am in favor of requiring the Legislature to pass a registration law, after we had taken away the tax qualification. I believe, sir, that tax lists will answer all purposes of a registration law where that registration law is as null as could be, under this section.

What is the use of a registration law, when the omission of a voter's name from it does not prohibit him from voting? I apprehend the use of it will give an approximate list of the voters. If we have a tax list prepared by the tax collector, I think we will have a better list of voters than we can obtain under the registration law which is proposed by this article reported by the committee. I think, however, the registration of electors will be of very little use, and therefore, since the first section of the report of the committee has been modified, I shall vote against the section. Some of the members of the committee were opposed to any registration law, because it would be conclusive upon electors, and they therefore insisted upon the proviso being inserted that no man should be deprived of his right to vote, simply because his name was not on the registration list.

Mr. M'ALLISTER. Mr. Chairman: It was the decided opinion of the Committee on Suffrage that the registration law should

not deprive a person of the right of suffrage, who had that right by reason of being a resident of the district, and that the neglect of the officer in putting his name upon the list should not deprive him of the right of suffrage, when he should prove to the satisfaction of the election officer that he had the right independent of the registration. It was shown clearly to the committee that under our tax prerequisite instances had occurred in which the neglect of the officer to assess the citizen had deprived him of his vote, and this, although the voter had gone to the officer at the proper time, and desired to be assessed, and the officer had then and there promised to assess him; yet not having been returned by the assessor he was in consequence deprived of his right to vote. It was to prevent a recurrence of such injustice and wrong that this section was framed and reported to the Convention. It seems to me the mere retention of the tax prerequisite to the right to vote does not supersede the necessity of this registration of voters. The registration is desired to give notice to the electors of the district who claim the right to vote, in order that inquiry may be made into their character, how long they had resided in the district and where they resided before they came there. This is all necessary, whether the tax qualification be stricken out or retained. Tax-payers are not all voters, nor are all voters necessarily tax-payers.

Mr. GIBSON. Mr. Chairman: I think, as the section reads now, it is rather incomplete. I think the difficulty can be remedied by means of the proposition which was suggested by the gentleman from Allegheny (Mr. Howard.) His suggestion was that the words "otherwise qualified elector" will remove every possible objection which could be raised to the section. I move, therefore, to amend the section, by inserting the words "no elector otherwise qualified shall be deprived of the right to vote."

Mr. KAINE. Mr. Chairman: I think this proposition might as well be voted down. It is nothing but a mere matter of legislation, and I am opposed to putting anything of the kind in the Constitution. The Legislature can, if it sees proper, pass a law prescribing the form and manner by which voters may be registered, and I cannot see the necessity of placing any such provision in the Constitution.

Mr. HOWARD. Mr. Chairman: It is well known to many members of the Convention that the mere fact that a man

is a tax-payer does not entitle him to vote, and, in many instances, tax-payers are not electors.

Mr. Kaine. Will the gentleman allow me to ask him a question?

Mr. Howard. Certainly.

Mr. Kaine. I desire to ask the gentleman whether that will prevent the Legislature from passing a law upon the subject? The mere fact that some citizens are tax-payers would certainly not prevent the Legislature from passing a law upon the subject. I have no objection to a registration law, but I am opposed to placing in the Constitution a subject which is a proper one for legislative action.

Mr. Howard. Mr. Chairman: The remarks of the gentleman may be very true, but, if this provision is placed in the Constitution, this trouble can be remedied before the Legislature can act in the matter. I have risen, however, for a single purpose, and that is for the purpose of correcting the idea, if any such idea prevails at all, that the tax list would be a criterion by which the electors of our districts could be determined, because there may be tax-payers who are not electors at all. The word "elector" describes a qualified elector, and it embraces all the qualifications of a voter.

Mr. D. N. White. Although tax-payers, yet are not the names of all the electors found on our tax lists?

Mr. Howard. That may be, but the object of registration is for the purpose of giving notice to all other electors of the district, in order that they may ascertain who have been selected and placed upon the list as electors. If their names have been wrongly entered, it at once furnishes the information to the other electors.

Mr. Minor. I would like to inquire whether the registration of voters gives them any advantage which they would not otherwise possess.

Mr. M'Allister. Mr. Chairman: It is a duty imposed upon the Legislature to make this registration of voters. The gentleman from Crawford (Mr. Minor) asks the question whether any person can be a voter who is not a tax-payer. I answer, certainly. If the citizen has paid a tax within two years, and has resided in the district two months, he will be entitled to vote, although not a tax-payer of the district at all, so that the assessment of a tax in the election district is no criterion of the right to vote, or of a just claim to the right to vote. It is for the pur-

pose of giving notice of this claim of right to vote to persons who are interested that registration is rendered necessary, and it is, therefore, enjoined by the section under consideration, as a duty upon the Legislature to provide this means of preventing fraud and corruption.

Mr. Carter. Mr. Chairman: I cannot agree with the gentleman from Fayette (Mr. Kaine) and others, when they assume that the Convention, on a second reading, will decide to retain what I regard as a most odious feature—property representation—of which the tax qualification is the tail end, and which I hope will be cut off in this body.

In reference to the provision which is to be made by the State, in which all the voters of the various districts are to be placed upon record, I would only remark that I do not agree with the gentleman from Fayette, (Mr. Kaine,) that this is a matter which should necessarily be left to the Legislature. I regard this provision as one of those which the committee has reported for the purpose of establishing guards around the sacredness of the ballot-box; and I think it might be said, with just as much force, that the Legislature should provide for the purity of the ballot-box in other respects.

It has been remarked that there appears a sort of contradiction in the wording of the section, where it is provided that a citizen shall not be deprived of the right of suffrage in the event of not being registered. This is a question which was fully debated in the committee, and it was decided that this provision was necessary to protect the voter, in case the registering officer omitted some names from the registration record. I think it is eminently proper that there should be some such provision of this kind made between the State and the voters, and that there should be a proper registration law.

Mr. Newlin. Mr. Chairman: I move that the committee rise, report progress and ask leave to sit again.

The motion was agreed to, and the President resumed the chair.

IN CONVENTION.

The committee then rose, and the chairman, Mr. Lawrence, reported progress and asked leave for the committee to sit again, which was granted; and to-morrow was named and agreed upon.

Mr. Dallas. I move to adjourn.

The motion was agreed to.

So the Convention thereupon, at two o'clock P. M., adjourned.

FORTY-SEVENTH DAY.

WEDNESDAY, *February 19, 1873.*

The Convention met at ten A. M. Prayer was offered by Rev. James W. Curry.

JOURNAL.

The Journal of yesterday's proceedings was read and approved.

VISITING PENITENTIARY.

The PRESIDENT. The Chair will observe that a few days ago an invitation was received from the officers of the Eastern penitentiary, asking the Convention to visit that institution, which was accepted. Upon a subsequent day a motion was made to fix the time. Pending that motion the Convention adjourned. If any gentleman will now make a motion in reference to the subject it will be received.

Mr. HAY. I move that the time be fixed for Saturday next at two o'clock P. M.

Mr. TEMPLE. I move to amend by inserting "Friday" in place of "Saturday."

Mr. KNIGHT. I move to amend the amendment, so that it will read "Saturday week at two o'clock."

The amendment to the amendment was agreed to.

The question being taken upon the motion as amended, it was agreed to.

PRIVATE CORPORATIONS.

Mr. D. W. PATTERSON presented a memorial from citizens of Lancaster county, asking for a change in the Constitution respecting private corporations, which was referred to the Committee on Private Corporations.

PROTHONOTARY'S REPORT.

Mr. CLARK presented a report from the prothonotary of Indiana county, showing the number of cases outstanding and upon the docket, which was referred to the Committee on the Judiciary.

PROHIBITION.

Mr. CARTER presented a petition from citizens of Mar'etta, regarding the sub-

ject of liquor license, which was referred to the Committee on Legislation.

PRINTING CONSTITUTION.

Mr. KAINE offered the following resolution, which was read twice and agreed to :

Resolved, That the Clerk is hereby directed to have the Constitution of the State correctly printed, in bill form, and placed upon the files of members, so that its amendment may properly be considered by the Convention.

VIVA VOCE VOTING.

Mr. HEMPHILL offered the following resolution, which was read :

Resolved, That the Committee on Suffrage be instructed to report a section providing for *viva voce* voting at all federal, State and municipal elections.

The question being to proceed to a second reading of the resolution, it was not agreed to.

CITIES AND CITY CHARTERS.

Mr. WALKER, from the Committee on Cities and City Charters, presented the following report, which was laid on the table and ordered to be printed, namely :

SECTION 1. The Legislature shall pass general laws whereby a city may be established whenever a majority of the electors of any town or borough, voting at any general election, shall vote in favor of the same being established.

SECTION 2. Every city now existing or hereafter established shall be governed by a mayor and a select and common council, in whom the legislative power shall be vested.

SECTION 3. The mayor shall have a qualified veto on all the acts and ordinances passed by the councils, shall see that the duties of the several officers are faithfully performed, but shall exercise no judicial functions, civil or criminal.

SECTION 4. The Legislature shall pass no special law enacting any municipality or regulating its form of government, or the management of its internal affairs, or altering the charter of any city now

existing, or creating a public commission for any purpose, unless such law is specially asked for by a majority of each council for a definite object; nor shall such special law prove any force or effect unless accepted by a majority of each council, and by a majority of the legal voters voting at the next municipal election after the acceptance by the councils. Every municipality shall have power to pass laws for its own regulation not repugnant to the Constitution of the United States or of this Commonwealth.

SECTION 5. No city shall have the power to create hereafter a debt exceeding two and one-half per cent. upon the assessed valuation of the real and personal estate within its corporate limits, except to suppress rebellion or repel an invasion of the State.

SECTION 6. Every city shall create a sinking fund, which shall be inviolably pledged for the redemption of its permanent debt.

SECTION 7. No city shall, by a vote of its citizens, or otherwise, become a stockholder in any company, association or corporation, or obtain money for, or loan its credit to any corporation, association or party.

SECTION 8. A municipal officer who has not accounted for and paid over money officially in his hands shall be ineligible to any municipal office.

SECTION 9. The Legislature shall not except any property, real or personal, within any city, from municipal taxation, except such as is exempted throughout the State by general law.

SECTION 10. The select and common councils, or either of them, shall have power to appoint a committee of their bodies or body to investigate official misconduct, with power to subpoena witnesses, compel their attendance, examine them under oath, and require the production of books, papers, documents and vouchers, and in case of the neglect or refusal of a witness to appear, the court of common pleas of the county in which the city is, upon proof of the service of the subpoena, shall issue an attachment and compel the appearance.

In case a witness shall appear, but refuse to testify, upon the same being brought before the court, it shall commit the witness for contempt, and impose

such fine as in its discretion shall seem meet.

If the charge is established, and the finding is approved by the councils, or council appointed by the committee, then the office shall be declared vacated, and the officer shall be ineligible to any office of trust or profit under the municipality, and may be prosecuted in the criminal courts.

Wilful false swearing before such committee shall be deemed perjury.

PROHIBITION.

Mr. CORBETT presented five memorials from citizens of Pennsylvania, praying for the insertion of a provision in the Constitution prohibiting the manufacture and sale of intoxicating liquors, which were referred to the Committee on Legislation.

Mr. JOHN N. PURVIANCE presented two petitions from citizens of Butler county, praying for the insertion of a provision in the Constitution prohibiting the manufacture and sale of intoxicating liquors, which was referred to the Committee on Legislation.

The PRESIDENT. The next business in order is the consideration, in committee of the whole, of the article submitted by the Committee on Suffrage.

The Convention then, as in committee of the whole, Mr. Lawrence in the chair, proceeded to the further consideration of the article submitted by the Committee on Suffrage, Election and Representation.

The CHAIRMAN. The amendment now pending is that of the gentleman from York, (Mr. Gibson,) which will be read for the information of members.

The amendment was then read, as follows:

Insert after the word "elector," the words "otherwise qualified," so as to make it read:

The Legislature shall enact a uniform law for the registration of electors, but no elector otherwise qualified shall be deprived of the right to vote by reason of not being registered.

Mr. HAY. Mr. Chairman: Perhaps I did not hear the amendment correctly read, but it strikes me the language is not proper to put in here. It seems to indicate that registration is a qualification of an elector, which is not the case.

Mr. CARTER. Mr. Chairman: I am opposed to the amendment, because I think

the idea can be better effected otherwise. I think the registration law is needed, and I also think it is eminently proper that this Convention should do something about it.

It was said yesterday that this was not necessary, that it might be provided by legislation. I took occasion to look over the various State Constitutions, and I find no less than twelve of them in which there is a registry provision; those being mostly recently formed Constitutions.

I hope this amendment will be voted down, and one which I shall offer will be adopted, which will remove the chief objection that I have heard urged. Therefore I shall vote against this amendment, and hope it will not prevail.

Mr. M'ALLISTER. I want to say just one word in reference to this. We have defined, in what we have already done, what we mean by elector. If the word were "citizen," then it would be proper to say otherwise qualified; but it is clearly set forth that an elector is a person entitled to the right of suffrage, so that the words of the amendment would be superfluous.

The question being upon the amendment of the gentleman from York, (Mr. Gibson,) it was rejected.

Mr. CARTER. Mr. Chairman: I offer my amendment now, to strike out all after the word "of," where it occurs the last time in the section, and insert the words "neglect, intentional or otherwise, of the registering officer."

I will occupy but a very few minutes of the time of the committee. I consider this an important question. It is true that the citizens of this city, and perhaps of Pittsburg, have had a law which has not given satisfaction. I think that arises more from the defects of their law, defects that could be remedied, than the defects of a general registry law. I do consider that it is the true idea that a registry of voters is necessary, because it is the only means of connection between the voters of the State and the State. The tax list is for another purpose. That represents, as it were, the property of the State—the other the children of the State—the voters of the State. I think it is absolutely necessary. I am strenuously in favor of this, because I hope the Convention will remove the tax qualification, which I

think wrong in principle. I am a democrat dyed in the wool—not in the partisan sense of the term, but in its broader sense. I would remove all restrictions upon the right of a man to vote. This tax qualification is a relic of the old property qualification. It is only retained in four or five States. Now, it might be of interest and profit to examine those States who have retained that qualification, to see whether they are worthy of imitation or not. Delaware is one, with its whipping post; Rhode Island is another; Georgia is another.

The CHAIRMAN. Will the gentleman please explain what connection he proposes to establish between his remarks and the amendment under consideration.

Mr. CARTER. I would simply explain, sir, that the connection I will make is this: That the registry law is necessary, in default of a tax qualification. I do not think it is very far from the point under consideration, but bears somewhat on it.

The CHAIRMAN. When that question comes up, the gentleman will be able to get the floor and give these views at that time.

Mr. CARTER. I have then only to say that I hope the section, as recommended by the committee, with this amendment, will pass. I have this to say about the section, that as it reads, as reported, the section is somewhat contradictory in terms. As it reads now it is:

The Legislature shall enact a uniform law for the registration of electors, but no elector shall be deprived of the right to vote by reason of not being registered. Now this contingency may occur, and doubtless will, that designing men may refuse or decline to register, and, in that case, men otherwise "duly qualified" should not be deprived of this right.

Mr. TEMPLE. Mr. Chairman: I desire to ask whether it is in order to offer an amendment to the amendment.

The CHAIRMAN. It is in order.

Mr. TEMPLE. Mr. Chairman: I then offer the following as an amendment to the amendment. Add after the word "elector" the following words: "But no law shall hereafter be passed by the Legislature in relation to the registration of voters which shall not be applicable to all the counties of this Commonwealth."

The CHAIRMAN. The Chair would suggest that as the amendment of the gentleman does not appear to be an amendment to the pending amendment, it had better be withdrawn.

Mr. TEMPLE. I will then withdraw the amendment for the present.

Mr. McCLEAN. Mr. Chairman: I have listened attentively to all the arguments which have been offered in support of this section, but if I had the power to induce the Convention to coincide in my views, I would offer a provision prohibiting the Legislature from passing any registration law whatever. The only merit which the section possesses, as it has been presented by the Committee on Elections, consists in its saving clause, that no elector shall be deprived of the right to vote by reason of not being registered. If the pending amendment is not adopted, I shall move to amend the section by leaving it a discretionary matter with the Legislature, and not imperative, to pass a uniform law for the registration of electors. From all the observation I have had in the working of our registration laws, I have found them to be burdensome, as well as expensive, and a great nuisance to the voters, while they have produced no good results whatever. I have been unable to see how they can prevent the commission of election frauds. In connection with this matter I desire to take this occasion, as the first opportunity I have had, to deny the assertion of the gentleman from Philadelphia, (Mr. Gowen,) who asserted, on Monday last, that Adams county was included among other counties wherein election frauds had been committed. I deny this assertion entirely. The fact may be that there have been illegal votes cast there, as they are everywhere; the votes may have been cast by voters not fully qualified, but there has been nothing like deliberate and intentional fraud anywhere in our county. I cannot see how the adoption of registration laws is to prevent frauds in any portion of the State. What has been the history of our registration laws? Every member of the Convention knows the operation of the registry law in Philadelphia which was adopted in 1869. It has proved a stigma upon the city, and has been productive of the greatest mischief. It has provided for a board of aldermen and an apportionment which

has resulted in the greatest wrong, not only to the people of Philadelphia, but to the entire State. For this and other reasons, Mr. Chairman, I shall oppose the amendment now under consideration.

Mr. DALLAS. Mr. Chairman. I desire to call for the reading of the section by way of preface to what I have to say in connection with the proposed amendment.

The CLERK read as follows: "The Legislature shall enact a uniform law for the registration of electors, but no elector shall be deprived of the right to vote by reason of the neglect, intentional or otherwise, of the registering officer."

Mr. DALLAS. Mr. Chairman: It is by no means clear to my mind that this Convention should insert a provision upon this subject in the Constitution which would be mandatory to the Legislature and require the passage of a registry act. I do not doubt the power of the Convention to insert such a section, but I cannot see the wisdom of doing so. Whether or not a registration law may be required is a matter, in my judgment, which can be very safely left to the Legislature. It is not a subject which warrants a provision in the nature of a mandate in the Constitution of Pennsylvania; but, sir, if we are to act upon this subject, I conceive that there is one provision which might very wisely be made in this connection, and that is a provision—not in the nature of an absolute direction to the Legislature, requiring the passage of a uniform registration law, but simply a restriction upon the power of enacting a registration and election law, except such as shall be uniform in its operation throughout the entire State.

Mr. Chairman, I claim the distinction, if it is a distinction, of not having yet intruded upon the committee the peculiar claims of Philadelphia, in any respect, and I do not now propose to do so. I think that many of the attacks Philadelphia has received from gentlemen, who have held their position here, apparently, as missionaries from the west to teach us in the east how to perform our duties, are due to the statements which have been made by some Philadelphia members themselves, and we can hardly complain if we have been considered as heathens by these philanthropic gentle-

men from Pittsburg and Montgomery, when some of our own delegates have given some warrant for the suggestion. The gentleman from Venango (Mr. Corbett) in the course of his remarks upon another subject, said that Philadelphia had forced the registration act upon the State, and that the honest people of his borough complained that they were subjected to a registry law, because the election evils in Philadelphia made one necessary for this city. Now, sir, I was surprised at such a statement. It was certainly made without due consideration or examination, for if the gentleman had examined the registry law he would have found that the first twenty sections apply, exclusively, to Philadelphia, while the balance of the sections apply, exclusively, to the counties outside of Philadelphia, so that there could have been no possible necessity for the imposition of this registry law upon the entire State for the benefit of Philadelphia. Whilst this city is not entirely blameless in many matters, and has many sins to answer for, yet I hope she will not be charged with more sins than properly belong to her. I respectfully submit, sir, that all future election laws, and all registry acts, should be uniform, in their operation, through out the State; and then there will be a hope of its being impossible for a few men from any one section, and I care not from what section, in the State, to petition the Legislature, successfully, to enact provisions for their own purposes and for their own particular localities, in order to perpetuate their power and the power of their friends.

Now perhaps the best evidence of the correctness of the view I take is to illustrate by the present state of the law upon the subject. We have, as I have said, twenty sections of the registry act that apply to this city, and to no other part of the State whatever. They apply only to that section which the gentleman from Allegheny (Mr. MacConnell) would wall up as a penal settlement. Sir, if those gentlemen who have come amongst us as missionaries—these great Stanley's of the west, who have penetrated into this Africa of Philadelphia—wish to discover the Nile source of the corruptions that we suffer from will only glance at Harrisburg, and the Legislature who gave us this law,

they will find there the proper subject for their christian purposes, and a realization of their hopes of important discovery.

I say, sir, that the best argument upon this question is a review of the present special provisions of the registry act. In its application to Philadelphia it is simply this: The board of aldermen, consisting of all the aldermen of the city of Philadelphia, meet together under the provisions of this law, and appoint all the election officers for every division in the city of Philadelphia. The law provides that they shall appoint a certain portion of them from the party in the majority and a certain portion of them from the party in the minority. This seems perfectly fair, and it would be so if the practical operation of the provision were such as might be anticipated from its language; but the majority of the board of aldermen have assumed the power of designating both the majority and the minority election officers, and the result has been precisely what to all reasonable men must be obvious.

MR. HANNA. I would like to ask the gentleman if each political party did not select their own election officers, when the supplement to that act was passed. The law, without the supplement, was that under which several elections in the city of Philadelphia were held. That was the special election law for Philadelphia, applying nowhere else, and it was under that law, given to us, and to us only, of all the State of Pennsylvania, that many of the frauds, and the worst of them, have been committed. And if a proper title had been given to that act, it would have been "An act for the protection of corruption and the organization of fraud." It amounts to nothing else.

That was the act as to election officers; but it went further, and provided that the canvassers who make the registry lists of the city of Philadelphia should also be selected by the board of aldermen. It provides, it is true, that two of them shall be of the majority party and one of the minority party. But here again, sir, the majority of the board of aldermen claimed to and did exercise the power to say who should be not only the majority canvassers, but also who should be the minority canvassers, and the members of the minority party of that board were not allowed

to name who should be the officers to represent their own party, so that we had the majority in Philadelphia represented by a majority in the board of aldermen selecting the men to count our votes, and the sentinels to watch them. That we owed, sir, to a law of the State of Pennsylvania, and not to any pre-disposition to fraud on the part of the people of Philadelphia.

MR. LILLY. Mr. Chairman: I would like to ask the gentleman a question. Why was this registry law passed originally? Was it not because of frauds which had been committed in this city, because more majorities had been returned for certain candidates in certain districts than there were voters in those localities? Was it not found necessary to pass this law to prevent such a recurrence of fraud?

MR. DALLAS. Mr. Chairman: I answer that the reason that law was passed, in my opinion, was that certain men in Philadelphia, certain combinations of men, holding particular local offices, and seeking to control political power, wanted to fix their power indefeasibly by force of an act of Assembly, and they were able to secure its passage. That is the reason, in my judgment, which led to this registry law. It is not to be wondered at that these canvassers, appointed in the manner I have said, leave off numbers of legal voters of the city of Philadelphia, and having the power, eight days before the election, to erase names that had been already registered, should erase the names of many lawful voters! An effort was made through the courts to assert and maintain the rights of those who were so treated, and we received the answer from the judges, and I do not say it complainingly, for my education teaches me to accept, as legally right, whatever falls from the courts of my State; but we were there told that these canvassers—politicians confessedly—and appointed all by one party, in omitting, and in striking off and erasing names, were acting judicially, and that their acts were not to be reviewed, and that no man had any redress against them. But this act, as applicable to Philadelphia, provided, further, that when the elector steps to the polls, and offers his ballot, the shall be told, although otherwise qualified, that if his name is not on that registry (so miserably compiled!) he cannot vote; his right to vote is taken from him

by these irresponsible three men, appointed all by one party, who, as canvassers, are high judges on this question, from whose decree there is no appeal whatever.

Now, sir, such was the registry law. But, says the gentleman from Philadelphia, (Mr. Hanna,) it has been amended, and power has been given to the minority of the board of aldermen to name their own canvassers. I have no hesitation, now that I have come to that, in answering his question, and I am prepared to say that such an amendment was recently passed, but what does it amount to? "It keeps the word of promise to the ear to break it to the hope." For we have had it decided by our courts, that not only do these three canvassers act judicially, and that their decision is final, but that two of them absolutely control, and what is the use of saying to me that I can have one-third voice in a question if the two-third voice absolutely controls the decision of it? That is the answer to that gentleman from Philadelphia.

But, sir, there was such an outcry against this infamous act by the honest people of Philadelphia, and they made so strong and hearty effort to induce the Legislature to repeal it, that, at last, we secured—what? Why, sir, we thought we were getting a great deal when we were told that the Legislature had enacted that the acts of these canvassers should no longer remain beyond review by the courts, and we had great hopes that there would at least be some opportunity for the voice of justice to be heard, but when the act came we found again how deceitfully we had been used. The section upon which we hoped for everything gave us nothing. It was only this:

"SECTION 2. That it shall be lawful for the court of common pleas of the county of Philadelphia, upon the petition and personal application of any citizen whose name has been erased from the registry list of any election division of said city, to examine such citizen touching his right to vote at the election next ensuing, and if the said court shall be of opinion that said applicant is qualified to vote, the said court may order the name of said applicant to be restored to said registry list: *Provided*, That said applicant shall give twenty-four hours' notice to the can-

vassers of said division of his intended application, and no such action shall be taken by said court within three days immediately preceding said election.

Now, sir, so far from that giving us the free access to the courts of justice to which we thought we were entitled and for which we had been led to hope, if my name were left from the registry list I had no redress under that amendment any more than I had before, and we were startled to find it only applied to men whose names had been *erased*, and that all that was necessary was for the canvassers to leave men's names off the list, and for that there was no remedy whatever more than before. But in addition to that, this section is so trammelled with form and the mode of procedure as to be practically useless. It requires that twenty-four hours' notice should be given to the canvassers, and provides that the court shall not act under it within three days of the election. Now, the erasures are made upon the eighth day preceding the election, and consequently just four days is allowed for the assertion and maintenance of the rights of over one hundred thousand voters before a crowded and busy court of common pleas. It was found utterly impracticable to do anything under this amendment.

Mr. NEWLIN. Mr. Chairman: I rise to a point of order. Is it in order on the pending proposition that the gentleman should discuss the details of some statute which happens to be on our statute book at this time?

The CHAIRMAN. The Chair understands the gentleman to be discussing the section which refers to registration and so refers to the law upon this subject. The gentleman is in order.

Mr. DALLAS. I am sorry, sir, that the gentleman from this city finds the details of this act distasteful to him, and I am glad to say that I am entirely done with them. I proposed to make my argument upon this question in form of illustration, and I have done so. I have contended that we should have no election law, no registry act in this city that is not uniform and general in its application from the river to the lake, from our northern to our southern boundary, and I have endeavored to prove this by showing what injustice can be perpetrated

when a few bad men from any section can unite for their own evil purposes in fastening special laws upon their own districts. It will be for this committee to say whether this endeavor has been successful.

Mr. J. W. F. WHITE. Mr. Chairman: I rise simply for the purpose of making an explanation and putting myself right, for it seems I was misunderstood in what I said yesterday, by the gentleman from the city who has just taken his seat, (Mr. Dallas.) by another delegate from the city, on my right, (Mr. Wetherill,) as well as the gentleman from Bucks (Mr. Lear.) I do not come here as a "missionary from Pittsburg," to lecture Philadelphians upon these frauds and corruptions. I said explicitly, a few days ago, that I did not believe in the wholesale denunciations of fraud and corruption at the elections in Philadelphia. I do not believe the Philadelphians are one-tenth part as bad as some of the delegates here say they are. But there are gentlemen from the city who pronounce elections in Philadelphia utterly corrupt, who declare that all honest men are deprived of the right of suffrage, or so interfered with that only repeaters, and rounders, and scoundrels control the elections. Now I believe no such thing. I did not, therefore, lecture Philadelphia for her frauds. There are members from the city here who deny these sweeping allegations. I merely took these gentlemen who make such allegations at their word, and if things are as bad as they say they are, and both of the gentlemen from the city referred to, represent things in Philadelphia in that way, I say, if they are as bad as they represent, the remedy they wish us to adopt in the Constitution will not help them. This is not the mode to reach these evils. I was merely turning their own guns upon themselves; that is all.

I respect Philadelphia, sir. I do not believe these frauds and corruptions are as great in extent and magnitude as represented. No doubt there are frauds here, but I do not believe they are one-tenth part as bad as represented. Neither will these special regulations for the city remedy them. All our election laws ought to be general and uniform throughout the State. One of the evils, permit me to suggest, one of the evils in Philadelphia has

been her special legislation on every subject. She is not in accord with the State on any subject whatever, but has a distinct system in reference to taxes, election laws, election districts, schools, and almost everything else. Her true policy is to put herself in harmony and sympathy with the whole State, for the rural districts take pride in the city of Philadelphia and feel a deep interest in her prosperity.

MR. CORBETT. Mr. Chairman: It appears to me that, in committee of the whole, we had better adopt this section as it stands now, and the reason that leads me to that belief is this: We have adopted the first section of this report with a tax qualification. On second reading in Convention it may be, possibly, that that part of the section will be amended or stricken out. If it be stricken out, it appears to me that the Legislature should be required to pass a uniform registry law; but if that section stands as now amended in committee of the whole, and remains so on second reading in Convention, then I am in favor of leaving this matter of passing a uniform law to the discretion of the Legislature. That can be effected by a very simple amendment on second reading of the section, in Convention, by changing the word "shall" to "may." Therefore, I think it better that this section should pass in committee of the whole as it now stands, until the first section, as reported by the committee, is perfected on the second reading.

MR. TEMPLE. Mr. Chairman: When this section was first read, yesterday, I thought that I discovered the importance of it, and for that reason I invited discussion upon it when I believed it was likely to pass in great haste. My colleague from Philadelphia (Mr. Dallas) has stated many reasons why this section should not be adopted, which I would have stated had he not stated them. I desire to state to the committee that the reasons I would express for not supporting this section, or anything like it, I believe are the reasons of nine-tenths of the honest voting population of the city of Philadelphia. Before this Convention assembled in Philadelphia, and since its assembly here, every man we meet upon the street who is interested in honest elections, asks us whether we can get rid of the Philadel-

phia registry law. Now if there is any member of this Convention, particularly if there is any from Philadelphia, whose experience is different upon this subject, I challenge him to state it. I make the broad proposition to this committee that nine-tenths of the honest voters in Philadelphia are in favor of getting rid of the present registry law which applies to this city.

I am somewhat surprised that the delegate from Philadelphia, (Mr. Newlin,) who interrupted my friend, (Mr. Dallas,) should express himself as against hearing the details of this registry law in this discussion. I say that the attempt to place a clause like this into the Constitution which we are now making, invites the fullest and broadest discussion upon the laws which we now have, with regard to the registration of voters.

If in speaking upon this subject we are obliged to speak of a certain class of men who do not reflect any portion of the public sentiment of this great city, if we are obliged to give reasons in support of the arguments against this section which fall heavily upon some persons who are the authors of this measure, we cannot help it. I undertake to state, in answer to the inquiry of the gentleman from Carbon, (Mr. Lilly,) that the frauds that existed in the city of Philadelphia prior to the passage of this registry law were not the reasons which led to its passage. I undertake to state to him and to this committee, that prior to the passage of the registry law of 1869, the frauds that then existed did not give rise to the necessity for the passage of that law, and inasmuch as he is desirous of knowing the reasons which led to it, I will take the liberty of briefly stating them. I state that in 1869 there were certain politicians in the city of Philadelphia—and I am only stating what is the reflex of public opinion and the universal sentiment in this community—who were then out of office, and who had met the disfavor of their own political organization, and were unable to secure an election by means of an honest vote, rushed off to Harrisburg to secure the passage of a law in order to reinstate themselves and revive their fallen fortunes. I say that it is a notorious fact that one politician, above all others, in

the city of Philadelphia, was the author of this registry law, and other gentlemen, who believed their political fortunes depended upon its success, heartily and cheerfully embraced it and it has well nigh wrought the ruin and destruction of the tax payers of this city. Why, then, was the registry law of 1869 passed? Was it demanded by the honest citizens? Was it because of frauds which had been perpetrated here? I answer no. But it was for the only purpose of reinstating into power those who had been driven from power by the unanimous opinion of all honest men, and we are asked everywhere upon the streets why we do not get rid of that registry law.

Now if this registry law of which we are speaking has been so productive of good; if the officers who are appointed by the board of alderman to conduct our elections are good, honest and capable citizens, why, let me ask the advocates of this measure, is it necessary, upon the top of this, to compel the court of common pleas to appoint watchers to watch over the deliberations and the actions of these very men appointed to conduct our elections? It is a notorious fact that in the city of Philadelphia, for the last three or four years, we cannot hold an election without additional officers or watchers, to conduct our election and supervise the action of those men who are appointed to supervise and conduct elections by the board of aldermen. To the gentleman from Philadelphia, who calls attention to the amendment of that act, let me say that he dare not stand up in the face of the community and of the citizens of Philadelphia and advocate a continuance of that registry law by this body.

MR. CHARLES A. BLACK. I wish to ask my young friend one question.

MR. TEMPLE. Certainly.

MR. CHARLES A. BLACK. Admitting that the present registration law is all wrong, how can he remove that by voting the section down, because they passed the registration law under the old Constitution, and they can do so again.

MR. TEMPLE. I will state, in answer to that, that I am in favor (and I state it for the benefit, not only of the gentleman, but of the committee) of the passage of a uniform registry law for the registration of voters, and I am in favor of the passage

of such a law which shall apply to every county within this Commonwealth, and, as the chairman knows, such an amendment was offered by me prior to this discussion. I say that I am in favor of a proper registry law, but I am in favor of the passage of a registry law which shall apply to every county in this State. Now what has been the result of this? Some gentlemen say leave the result to the Legislature; and leave it for the Legislature to say, whether there shall be a necessity hereafter for the passage of a registry law at all; and then, if they do, it shall be uniform throughout the State. The gentleman from Montgomery (Mr. Corson) yesterday declared that their representatives were honest. I do not deny it, and I am not here to deny that all members of the Legislature are honest; but I state to him, as a question of fact, that when delegations go from the city of Philadelphia and demand the passage of a registry law, applicable only to this city, in which the people of Montgomery county have no special interest, and in which the legislators from other counties in the State have no particular interest, such legislators are ready and willing to accord to Philadelphia what certain delegations and politicians may require. If the legislators from other counties would see to it that they carried out their principles of legislation, as well as those of honesty, if they would mete out equal justice to all counties alike, this registry law never would have been a disgrace to the statute books and an insult to the intelligence of the people of this city.

What is the character of the people who have been appointed to select our election officers? There are some distinguished delegates in this Convention who are not in the habit of coming in contact with that class of people known as politicians. They rely, mainly, upon what they see in their own business transactions and every day life; but I say that when they are thrust into contact with these people, and see by means of an investigation into these frauds and corruptions that exist, they cannot, as honest men, undertake to advocate any such measure.

Again, in the passage of this section, is it right, says some gentlemen, to object to the insertion of a section in this Consti-

tution which says that the election laws shall be uniform? My answer to that is that it is no more specific than the old Constitution upon this subject. There could be nothing more specific than that; yet we find that when the first registry law was approved and passed by the Legislature of Pennsylvania, that it was declared unconstitutional and void by the Supreme Court of this State. Then it is a fact, asserted by hundreds and thousands of people, that the original drawer of the first registry law sought the counsels of persons high in authority, who were to pass upon this law, and drew another registry law which would come immediately within the ruling of the Supreme Court.

Now, Mr. Chairman, we will see that unless there is some specific provision placed in our Constitution that there shall not be a special law passed for the city of Philadelphia, that we will have the same scenes, the same legislation, enacted over again that we did under the old Constitution. Therefore I am in favor of voting down this section as it now is, and the amendment thereto, which seems to me to be vague and uncertain, and placing at the end of the word "electors" the following: "But that no law shall hereafter be passed by the Legislature which shall not apply to all the counties in this Commonwealth." Let such a provision as this stare the Supreme Court in the face, let such a provision stare the trading politicians in the face, let them know that, when they go before the Supreme Court, the language is so indubitable, so positive in its character, that it would bring down upon that court universal opprobrium and disrespect if they were to undertake to gainsay it or set it aside. For these reasons, and for others which have been given by gentlemen more competent than myself, I am not in favor of this section unless it is amended as I have suggested.

Mr. MACCONNELL. I rise to say that I am in favor of this section, with the amendments which I propose to offer at a proper time, and which I hope will meet the views of the gentlemen from Philadelphia. I would add to the section, "and no law for the regulation of elections shall be passed, which shall not apply to the whole State." As it is here, it is confined merely to laws regulating

registration. I would make all laws in relation to elections uniform throughout the State. I am opposed to the singling out of any part of the State, either at Philadelphia, or Pittsburg, or Luzerne, or any other portion, and treating the people of that portion as sinners above all other sinners. We are all human; we are all liable to err; we are not only liable to err, but liable to sin. We are all alike. I would, therefore, treat all alike. I would put into the Constitution a prohibition of all these special laws which single out particular places, and treat them as particularly liable to perpetrate fraud.

Just here let me say, that some gentlemen appear to think I made an attack on Philadelphia yesterday; they are entirely mistaken. I certainly made no attack on Philadelphia. I did what I thought was vindicating Philadelphia against what seems to me as unworthy aspersions made against it, on this floor, by some of its own representatives. That is what I did, and all I did. I do not think Philadelphia is worse than other parts of the State. I think if you will gather together eight hundred thousand inhabitants of any other part of the State, and place them in such small bounds as the eight hundred thousand in Philadelphia are placed, you will probably find as many rogues among them as are crowded in Philadelphia.

As I have said, I dislike this singling out of places and charging them specially with fraud, particularly so when this charging is done by their own representatives. I think it is not in good taste, and we ought to eschew it if we can manage to do so.

I think, sir, that these registry laws are wholesome, and I think that strict and severe laws to regulate elections are good. But they should apply to the whole State. We should have them uniform throughout the State. Philadelphia, Pittsburg, and every other section of the State, should be all under the same laws, in this respect. We should cut up this matter of special legislation, not only in regard to matters generally, but in regard to matters relating to elections; and when it is in order, unless some gentleman will do it who can conceive the idea and present it better than I can, and I hope my

friend from Philadelphia (Mr. Dallas) will do it. I will offer this amendment.

Mr. GIBSON. Mr. Chairman: I have been informed that the Committee on Legislation have a provision relating to this subject under consideration. If such is the fact, of which we can be informed by some member of the committee, it will be as well to do in this matter as we have done in some other instances, vote this section down, so that this consideration may come up when the report of the Committee on Legislation is before us. The whole idea of the gentlemen who have spoken seems to be that the Legislature should enact a uniform registration law. The language of this section is objectionable in making it *imperative* on the Legislature. The language, perhaps, ought to be: "The Legislature *may* enact a law for the registration of voters, but shall not enact such a law unless it be uniform throughout the State. That would be subject to the provision that if a man could prove that he was otherwise qualified, he would have the right to vote, but I think that if the Committee on Legislation—and it is a matter within their province as much as within that of the Committee on Suffrage, it will be better not to adopt this section as presented now, but vote it down and take it up again when the report of the other committee is before the Convention.

Mr. DEFRANCE. Mr. Chairman: I have listened to the arguments of the gentleman about this section, and either I am exceedingly blind or exceedingly senseless, but it seems to me that the section just as it stands is what is wanted. "The Legislature shall enact a uniform law for the registration of electors." What does that mean? Does it mean that they can enact a special law for Philadelphia, and another special law for Pittsburg, and different laws for other sections? Why if it means anything at all, it means that the Legislature shall enact a uniform law throughout the whole State, applying, of course, equally to Philadelphia and every other place. If it does not mean *that* then there is no sense in plain language. It seems to me that the section as it stands, is just what we want exactly. "The Legislature shall enact a uniform law for the registration of electors," that is, *uniform* throughout the State; "but no

elector shall be deprived of the right to vote by reason of not being registered."

Mr. CHARLES A. BLACK. "If otherwise qualified."

Mr. DEFRANCE. Of course, "if otherwise qualified." That is what it means and that is what it says. I think it is just what we want.

Mr. MACVEAGH. Mr. Chairman: I am sorry to say I cannot see my way clear to vote for this question without, at least, some further explanation of it than I have yet heard. I would vote for a registration law with great cheerfulness, but I would make registration a precedent qualification to the casting of the ballot. I would see that I would gain thereby very great and material advantages. I would ascertain in advance of the date of the election by a public list open to everybody who were the qualified electors of that election precinct, and to put in the Constitution a mandate upon the Legislature that they *shall* enact a registration law and then qualify it with the provision that, notwithstanding such a law, no voter shall be obliged to register or see that he is registered, nor shall the fact that he is not registered impair in any manner his right to vote. It seems to me, sir, that the provision annuls itself in effect. If it is merely to prevent special legislation upon the subject, *that* belongs to the Committee on Legislation, and at the proper time, doubtless, some provision to require uniformity in this matter will be adopted by the Convention. I cannot see the advantage, however, of requiring a registration law and then declaring that it shall not be the duty of any voter to see that his name is upon it, nor that the fact of his name not being on it will impair his right to vote.

Mr. HUNSICKER. Mr. Chairman: I prefer having no registry law at all. The registry law is an innovation. It is only a few years old. Its practical result, instead of preventing frauds, has been to increase the facilities for perpetrating them.

In the consideration of this section, I know no safer rule than the old legal mode of constructing new laws, viz: By considering the old law, the mischief and the remedy.

Under the old Constitution of the State we have a few well defined qualifications necessary to constitute an elector. The

present registry law was passed, and it has been explained here by gentlemen who are more familiar with it and its practical workings than I am. It was objectionable, and was once pronounced unconstitutional by the Supreme Court of this State. Then it was revised, passed again, and again carried to the Supreme Court, and *then* pronounced constitutional.

It has ever since been a source of irritation and annoyance to the people, particularly of Philadelphia, and also to the people of the State, who were affected by the frauds made possible and practiced under it in the city of Philadelphia.

As an illustration of what was possible under the old registry law, before the last amendment referred to by the gentleman from Philadelphia (Mr. Hanna) was made, I cite a case that actually occurred in this city. The facts, as developed, were these:

Under the law there were three persons selected as canvassers by the board of alderman for each ward, two being of the majority party, and the third of the minority party. These three canvassers made up the list of voters, and unless a voter's name appeared on this list he was deprived of the right of suffrage. After the canvass was completed, it was made the duty of the canvassers to examine their work within a certain time and strike from the list all persons improperly registered. To do this, notice was by the law required to be left at the residence of the person whose right to vote was questioned to appear, in person, at a certain time and certain place before the board, to show cause why his name should not be erased. If any voter failed to appear, or did appear, in obedience to this notice, and the canvassers erased his name by drawing a red line across it, he was deprived of his vote, and had no remedy at law or otherwise. In one of these boards, notice of this kind was sent to a number of persons, regularly registered, to appear; whether the voters ever received the notice or not is not known. At any rate, a few minutes before the time for the final action of the board had expired, one of the majority of the board pulled out of his pocket a long list of names, say of one hundred persons, and said the names of these men must be erased. They were regularly qualified

electors, and never dreamed that they could or would be thus disfranchised. The minority member of the board said with horror, what would be done; in his despair seized the canvassers book, jumped out of the window and ran away with it. He was arrested for this, taken into court and tried before a judge of opposite politics in this city, who discharged him with the thanks of the court, the judge declaring that he had performed his duty, and had done the only thing possible under that law to prevent the wholesale disfranchisement of voters. Gentlemen, do you like this picture? Now there should not be, and I believe there is not, in this Convention any partisan feeling—because we are all animated with the single purpose of restoring the purity of the ballot-box, and if he would keep it pure by putting in a fundamental provision guarding and securing it—it does not and cannot make any difference what party has practiced frauds under the old system.

The majority party to-day may be the minority party to-morrow. It is not a party question, and it has been well said by the gentleman from Philadelphia (Mr. Gowen) that fraud, like everything else, is progressive, and each party improves in this line upon its predecessors.

I do not agree with the gentleman from Dauphin, (Mr. MacVeach,) that registration should be a pre-requisite to the right to vote. If a man can be deprived of his vote by the action of one man, or by two men who make out the registry list, then all that is necessary is to buy that man, or the two, and the red ink lines across the voters' names will do the business, as in the case I cited. It will not do at this day to say that men cannot be bought, for we have it to-day, from the highest authority, that men standing high in the councils of the nation have been guilty of selling the influence of their positions for money. I allude, of course, to the report of Judge Poland's committee to the House of Representatives at Washington.

No, gentlemen, either adopt a provision prohibiting the Legislature from passing any registry law at all or adopt this section, which provides for a uniform registry, and which prevents the registering officers from disfranchising the elector, and I do not agree with the learned and

distinguished gentleman from Dauphin (Mr. MacVeagh) that registration should be a pre-requisite to the right to a vote because that places the elector in the power of the canvasser as well as in the power of the registering officer, and if the registering officer sees proper to be corrupt the rights of voters, which are defined in the fundamental law, will be set aside. It is well known that men will sell themselves to the political party that pays the highest price, and we have only to look at the revelations which are now transpiring in Washington to be convinced that there can be no doubt of this fact. I say, therefore, if this subject can be considered in any other light—if it can be more properly considered when the report of the Committee on Legislation is made, or if a provision is inserted that the Legislature shall enact a registry law, I am ready to vote for the section, or I am ready to vote for the section as it stands, but I shall prefer the suggestion made by the gentleman from York, (Mr. Gibson,) that no electors otherwise qualified shall be deprived of the right of suffrage is adopted as a part of the section. In the event this amendment is rejected in committee of the whole, there will still be an opportunity to amend the section in Convention, and I trust that this committee will either vote for the section to prohibit the Legislature from enacting a registry law or else adopt the section as it stands.

The question was then taken on the amendment offered by Mr. Carter, and it was rejected.

Mr. DALLAS. Mr. Chairman: I offer the following substitute for the section: "All laws regulating elections by the people, or for the registry of electors, shall be uniform in their operation throughout the State, but no elector shall be deprived of the privilege of voting by reason of his name not being on the registry."

Mr. DALLAS. Mr. Chairman: I desire to say, in explanation of this substitute, that its purpose is to make it perfectly clear; that if a registry act be passed it shall be uniform in its operations, and not apply only to certain portions of the State, and that no different character of registry act shall be passed. The section, as reported, is mandatory, and a further purpose of this substitute is to leave the ques-

tion of whether *any* registry law shall be passed to legislative discretion. I desire to say a few words in reply to the delegate from Dauphin (Mr. MacVeagh.) He said he would make registration a pre-requisite to the right to vote, and unless a man's name should be found upon the registry list, that he would deprive him of the franchise. I desire to call attention to the practical results of such a suggestion. If, for instance, three canvassers made up the registry list, and the name of any citizen on that list was illegally stricken off, he would be practically without remedy. He could not hold these canvassers criminally responsible for the exercise of their judicial functions, however arbitrary or wrongfully they might have been exercised; and if he undertook to sue them, civilly, he would find, in ninety-nine cases out of a hundred, that a judgment against any one of these canvassers for five thousand dollars would not be worth five cents; so that you would, practically, have no remedy whatever. The gentleman from Dauphin (Mr. MacVeagh) has said, that unless you make the registration an absolute pre-requisite it will be of very little use or value. But I may remark that if you make a registration necessary to the elector, the franchise itself will become of very little use to a great many of us.

The question being taken on the substitute to the section, offered by Mr. Dallas, a division was called, which resulted as follows: Ayes, fifty-seven; noes, thirty.

So the amendment was agreed to.

The CHAIRMAN. The question is now upon the section.

Mr. NEWLIN. Mr. Chairman: I call for the reading of the section as amended.

The section was again read.

Mr. NEWLIN. Mr. Chairman: If it is in order I move to strike out all after and including the word "but."

The CHAIRMAN. The motion is not in order.

The question being taken on the section as amended, a division was called, which resulted as follows: Ayes, sixty; noes, thirty.

So the section was agreed to.

The CHAIRMAN. The next section will be read.

The CLERK read as follows:

Any person who shall give, or promise or offer to give, to an elector any money

or other valuable consideration for his vote at an election, or for withholding the same, or who shall give such consideration to any other person or party for such elector's vote, or for the withholding thereof; and any elector who shall receive or agree to receive for himself, or for another, any money or other valuable consideration for his vote, at an election, or for withholding the same, shall thereby forfeit the right to vote at such election; and any elector whose right to vote shall be challenged for such cause, before the election officers, shall be required to swear or affirm that the matter of the challenge is untrue before his vote shall be received.

Mr. STRUTHERS. Mr. Chairman: I offer the following as a substitute for the section:

"In all elections the use by a candidate, directly or indirectly, of money, valuables, or any promise of office, place of honor, profit or trust, to aid in his procuring the same, or securing legislative, judicial or any other immunity or favor, shall be deemed bribery, and shall render void his election, disqualify him for holding office, and subject him to indictment and imprisonment; and the receiver of any such bribe shall be punished by fine or imprisonment, or both, at the discretion of the court. Disqualification to hold office may only be ordered by an act of the General Assembly, two-thirds of each House consenting thereto."

Mr. STRUTHERS. Mr. Chairman: The great topic of discussion which has prevailed since the commencement of the sessions of the Convention up to this day has been the manner by which election frauds may be prevented, and a reasonable degree of purity attained in our elections. These frauds, I think, can be checked at least, if not wholly prevented, by the substitute which I have offered for the section. In the first place the fountain, it is believed, of all these frauds is the money or other valuable consideration which men are frequently ready to give to secure some high or profitable position. The difficulty in the prevention of these frauds lies in the presence of an incentive to commit them by the voters. If the incentive to commit fraud is removed, by placing it out of the power of men who desire to attain public office to commit bribery by

the use of money or promises of favor when they shall be elected, the voters of the community will always act independently and according to their own judgments when they vote; and when they do that you will always find that the will of the people is honestly expressed in the ballot-box. I say, then, that the citizens of every community will vote according to the dictates of their judgments and consciences if there are no inducements held out to them to vote wrong. I will illustrate my remarks by referring, for instance, to the office of sheriff of the city and county of Philadelphia. A salary of ten thousand dollars would be unquestionably a fair compensation for the general exercise of the duties of the office of sheriff. The candidates for this important position understand very well that if elected they can make at least one hundred thousand dollars a year out of that office, and they therefore can afford to pay to the runners and the manipulators of the elections at least twenty thousand dollars or more for the purpose of corrupting the ballots. I desire to make this offence as highly punishable as it possibly can be made, and I hope the Convention will adopt such a provision that the perpetration of offences of this kind shall meet with the most severe and peremptory punishment. I think when the proper time comes for the discussion of the question of fixing the salaries of office holders, that if, for instance, the salary of the sheriff of the city and county of Philadelphia should be placed at ten thousand dollars, the candidate for this position could not afford to scatter his money around for the purpose of buying the office and corrupting the voters; and if this plan is pursued, with reference to the other office holders in the city of Philadelphia alone, at least three hundred thousand dollars will be saved from corruption purposes during the election seasons. If the salaries of public officers are fixed at reasonable rates of compensation, I have no doubt that in Philadelphia, as in all parts of the State, the services of good and competent men can be procured to perform these great public duties. I think, therefore, that the amendment here will have a very salutary tendency in putting a stop to the buying up of votes and the scattering around of money for

the purpose of corrupting voters, and lead to purify the polls more than any measure that has been here suggested. This section, I discover, points in that direction. It is intended for that. But in reading the section it recites:

"Any person who shall give, or promise or offer to give to an elector, any money or other valuable consideration for his vote at an election, or for withholding the same, or who shall give such consideration to any other person or party for such elector's vote or for the withholding thereof."

Then, sir, it turns right from that idea, without providing for or specifying any penalty at all that will be visited upon them for doing so, and says: "And any elector who shall receive or agree to receive for himself or for another, any money or other valuable consideration for his vote at an election, or for withholding the same, shall thereby forfeit the right to vote at such election."

There is the penalty imposed upon the voter who is purchased. The denial of the privilege of the right to vote at that election is by this provision fixed, and visited upon the elector who offers to receive, or does receive the bribe, and yet there is no punishment whatever, not even the slightest, visited upon the man who bribes him, who pays him the money and hires him to do it. This section, to say the least of it, is very imperfectly drawn up, because for the greatest offence there is no penalty whatever, while for the least offence, the only penalty is that the offender shall lose his vote at one election. I think it is inefficient. It amounts to little or nothing and would be better left out of the Constitution than in it in that form.

Mr. M'ALLISTER. Mr. Chairman: I rise to make a correction. In the first section the printer has left out after the word "give," where it occurs the third time, the words "or promise to give." The sentence as it was written is: "Any person who shall give, or promise or offer to give to any elector, any money or other valuable consideration for his vote at an election, or for withholding the same, or who shall give, or promise to give, such consideration," &c.

The CHAIRMAN. The correction will

be made by the Clerk, unless objection be made.

No objection was made, and the correction was noted.

Mr. BUCKALEW. Mr. Chairman: The amendment offered by the gentleman from Warren (Mr. Struthers) is in a different part of the Constitution. The Committee on Suffrage, Election and Representation supposed that the subject properly came under consideration in a subsequent part of the Constitution from another committee. It relates to one of the qualifications for office, or rather disqualifications. Bribery, or an attempt to bribe electors, should disqualify a person from holding a public office in this State, and for that reason that it was a disqualification to hold office, the Committee on Suffrage, Election and Representation did not act upon the subject. The section before the committee of the whole relates to the elector and the conduct of elections, a subject different altogether from the qualification or disqualification for any public office.

If the amendment of the gentleman from Warren should be adopted, it will strike out all that has been reported by the Committee on Suffrage in this article, and will substitute for it a section which, if it is adopted at all, belongs to another part of the Constitution.

The amendment was not agreed to.

Mr. J. W. F. WHITE. Mr. Chairman: I propose the following substitute, and I refer to page two hundred and seventy-six of the Journal, where it will be found: To strike out all after the word "section" and insert:

"No person who shall have given, or offered to give, received or agreed to receive, directly or indirectly, in money or other valuable thing, for the purpose of corruptly influencing the vote of an elector, or shall have made any bet, or wager, or shall be interested in any bet or wager on the election or defeat of any candidate or the result of any election, shall vote at such election. *Provided however,* If any elector be challenged for such cause, his vote may be received on his taking an oath or affirmation that the matter of such challenge is not true."

Mr. J. W. F. WHITE. Mr. Chairman: I will just say that this embraces all that is embraced in the section reported by

the Committee on Suffrage, Election and Representation, and in addition thereto embraces betting, or making wagers on elections, or on the defeat or success of any candidate. It adds that feature to the section, and I think embraces all that is comprised in the section as it has been submitted by the Committee on Suffrage, Election and representation.

Mr. M'ALLISTER. Mr. Chairman: I only wish to say a word with reference to this. This section gave the committee great trouble. It was in a dozen or fifteen forms before it assumed the form in which it is now. It does not reach everything on the face of this earth. There might be a number of suggestions made in reference to the subject of betting, or other subjects not in this section, and if it be wise, in the judgment of this Convention, to exclude a man from the right of suffrage, who bets upon an election, no one will go farther than myself upon that subject. It may be introduced in an independent section by itself, but it is not a sufficient reason, assuredly, for changing the whole form of this section and throwing it into some other form. These are a set of principles designed as the organic law, and whatever is necessary afterward by legislation to carry it out can be enacted. But I submit that if every one is to have a section reported from a committee changed or excluded because its exact wording does not suit him, we shall never get to the end of our labors. If each individual in this assembly is to hold on tenaciously to the words in which ideas are to be expressed, and to throw a report from a committee away simply because he conceives that it might possibly be put in better language, it will be a long time before we arrive at any conclusion.

The amendment was not agreed to.

The CHAIRMAN. The question is on the section.

The section was agreed to.

The CHAIRMAN. The next section will be read.

The CLERK:

SECTION 7. Every person convicted of any fraudulent violation of the election laws shall be deprived of the right of suffrage, but such right in any particular case may be restored by an act of the Legislature, two-thirds of each House consenting thereto.

Mr. LEAR. Mr. Chairman: I propose this amendment: To insert after the word "of," in the first line, the following words: "And sentenced for any infamous crime or." This would make the clause read: "Every person convicted of *and sentenced for any infamous crime*, or any fraudulent violation of the election laws, shall be deprived of the right of suffrage," &c.

Mr. LEAR. Mr. Chairman: I propose that addition to this sentence, for the reason that when a man is convicted in the ordinary sense of the term, many things may follow which will reverse the judgment of the jury. Conviction is understood to be a verdict, but there may happen an arrest of judgment or there may be a new trial. This simply provides for such a case, and is important to the section with a view of making it effective, not as now, to disfranchise a man who has merely been convicted, but to disfranchise him who shall be convicted and afterward sentenced. I have, therefore, proposed that part of the amendment and with it another portion, to disfranchise a man not only for any violation of the election laws, but also when he has been convicted and sentenced for any infamous crime. It is to prevent our elections being held and conducted or voted at by men who have been convicted of felonies and the higher grades of misdemeanors. I would have said felonies, only felonies do not include perjury or forgery which are, however, considered infamous crimes. But it seems to me to be very proper that we should disfranchise the thieves and burglars and pickpockets and the infamous characters who have been convicted and sentenced for criminal conduct. Not that we should include in our sweeping prohibition all men who have been convicted in a criminal court at all, for instance, as to assault and battery, but that all these infamous characters who have been the pest of the community and who are, to a very considerable extent, part and parcel of an organized conspiracy against the purity of the ballot-box and against a fair and honest management of the affairs of the election. I hope that this section will be so amended as to disfranchise not only those who have fraudulently violated any of the election laws of the Commonwealth, but who have

been convicted of and sentenced for any infamous crime whatever.

Mr. WHERRY. Mr. Chairman: I am opposed to the amendment of the gentleman from Bucks, (Mr. Lear,) as well as to the entire section as it stands reported. Whether it is possible, Mr. Chairman, for a Constitution to embrace within its limits the sanctions by which its provisions are to be enforced, may be fairly questioned. Whether it would be a proper thing to do, to place such sanctions in the body of the fundamental law, to bejewel it with damnatory clauses, even if it were possible to do so, is a question which, in my judgment, admits of but one answer. I am entirely opposed to making a criminal code in the Constitution—entirely opposed to the brimstone settings.

But, sir, admitting both the possibility and the propriety of putting such sanctions in the Constitution, I desire to call the attention of the committee to the very remarkable terms in which this section is reported. If you will look you will see that it does not propose to provide a sanction for any article of the Constitution. It does not propose to provide a sanction for any particular section of any article of the Constitution. But it is a sanction for "election laws"—for laws which the Legislature may have made years ago, and which the Legislature may at any time repeal—if we are to have a Legislature at all under the amended Constitution; for laws which the Legislature may make in future, and which may not need the sanction here provided. The truth is, this is not a constitutional sanction at all, but simply and purely a common legislative or legal sanction. I submit, therefore, if this view be correct, that the section, as reported, finds no place in a body of fundamental law. It would belong rather to a criminal code.

But admitting the propriety of inserting legal sanctions such as this in the body of the fundamental law, this particular sanction now before us is open to two serious and grave objections. In the first place, it opens too wide a door of escape from its penalties. The punishment to be inflicted is indefinite and uncertain in its weight and duration. It carries with it to the mind of the man about to violate these laws no moral conviction of inevitable punishment. It wears on its very face

not only the bud but the full blossom of hope of escape. What is that punishment worth, I ask, either as a deterrent or as a reformatory power, which holds out to the mind of the criminal the promise of speedy release, by no virtue or by no atonement of the criminal.

You will observe that the terms of the section allow this penalty to be easily and readily removed.

But by far the most serious objection to this section lies in the clause which makes the Legislature, in case of infraction and conviction, a high court of appeal and pardon. I beg members to look closely at this point. Are we, whose chief business here, if the many gentlemen who have so asserted are to be believed, is to limit and restrain the power of the legislative branch of the government, are we prepared, here and now, to extend its powers and jurisdiction in a new direction, and endow it with high and solemn semi-judicial and executive functions? I hope not. I hope gentlemen will hesitate a long while before giving their votes to place so extraordinary a power, so unusual and inappropriate a power in the hands of that department of the government, where it is most liable to abuse. So much for the terms of the section. But if you do not deem it irrelevant, I would like to say a few words about disfranchisement as a punishment, whenever and wherever inflicted.

And I regret that I am obliged to name again those two words which have become quite as distasteful to this body as are the words "Credit Mobilier" to the National Congress. I mean "elective franchise." But I say, if the elective franchise is a natural, inherent and inalienable right, which I deny, then, on no principle of justice, and by no power short of tyranny, can that right be taken away from any citizen whose moral conduct or mental aberration is not such as to make his association with his fellow-men dangerous. In other words, if a man is justly entitled as a citizen to the pursuit of life, liberty and happiness, without restriction, he is certainly entitled to an unrestricted exercise of that other natural right, whereby those rights are secured. But if he be a criminal so dangerous to the peace of society as to make his bodily restraint necessary, if it be unsafe to give him the

right of enjoying life and liberty, of acquiring, and possessing, and protecting property and reputation, and pursuing his own happiness, then, sir, and then only, on this theory, can he be deprived justly of that other inalienable right by which all those are secured.

But sir, I hold that the elective franchise is not a natural right, not a privilege, merely, but an imposed duty, an office; that the State may give it, or withhold it, or having given it, may, for just cause, take it away again. From this standpoint, then, the very lowest ground upon which the elective franchise can be put, I propose to argue against the expediency of exercising the power of disfranchisement as a means of punishment. I say, in the first place, then, disfranchisement is not an equitable punishment. It lacks the element of variability. It admits no maximum and minimum expression. It is a fixed quantity, consequently it cannot be varied to suit the circumstances of the particular cases to which, under the law, it might be applied. In cases of aggravated character it might be entirely too light; in cases with alleviating or palliating circumstances it might be entirely too severe. I say, then, disfranchisement lacks the first essential element of a good punishment, to-wit: Variability. Not only so, but the same nominal punishment is not always for different individuals the same real punishment. Disfranchisement might and would fix an indelible stigma upon a man of wealth, influence and political aspirations; while to a man of lower rank, with no capital but his cunning, and with no aspirations of a political character but to serve the demagogue who will pay him best, it would not weigh in the balance of his estimation with one poor paltry dollar.

But as a punishment, disfranchisement lacks deterrent force. It will not, in my judgment, avail to prevent the violation of these laws by others, and for this reason, among others—because its weight as a punishment, its extent and force, cannot be exactly measured in the minds of men. It does not exhibit to the mind of the tempted man, or to the designing villain about to violate these laws, the full measure of the consequences of his crime, as does, for instance, the gallows. On the contrary, men are most likely to under-

rate it as a punishment, before it has been experienced. I repeat what I said before, that it is not the real weight of a punishment as it seems to the legislator who provides it, but the apparent weight as it stands out distinctly, vividly before the mind of an individual about to violate the law which influences his conduct. Punishment by disfranchisement will, in my judgment, utterly fail as a means of general prevention.

But, sir, to come down to the section as reported by the committee, it seems to me to be an entirely inefficacious punishment when applied to particular individuals, and for these reasons: It will not take away his physical power of again violating these election laws. The criminal, though suffering under the penalty at the very time, is as free, physically, to practice his illegal arts, as if he had never been convicted. This punishment will not deter him by making him afraid to offend, because it has already expended upon him its entire force. Nor will it take from him the desire or motive to offend. On the contrary, I affirm, taking man's nature as we know it to be, it is safe to predict, that he, of all men against whom the State has raised her hand, and upon whose forehead she has set an indelible mark of distrust, and driven out from the political fellowship of his kind—it is safe, I say, to predict that he, of all men, will be most open to malign influences against the peace and welfare of the Commonwealth.

But, sir, the weakness and inefficiency of disfranchisement as a punishment cannot be better told or better seen than when you come to consider how easily it may be evaded. A simple change of residence from one State to another—ten cents upon the ferry of yonder river—would give exemption from it.

Mr. HANNA. Five cents.

Mr. WHERRY. Five cents ferryage, then, would exempt a man entirely from this punishment. More than this, a simple change of residence from one election district to another, in nine hundred and ninety-nine cases out of a thousand, would work exemption. Who would make it his business to go around through a county or through the State to learn whether this man or that man had been disfranchised in this or that district?

The punishment entirely fails in its application.

Now, I ask the committee, is disfranchisement a good kind of punishment? Does it possess the qualities of a good punishment? Has it variability? Has it equability? Has it certainty? Has it applicability? Has it deterrent power? It does not possess a single one of these qualities. And what is left to it? Nothing but the miserable sham of analogy, and the wicked, absolutely wicked spirit of vengeance. That is all. Does it consist with American ideas? What do American institutions offer a citizen that is not intimately dependent upon his right of suffrage? Our watchword is liberty or death; but what does liberty mean without a ballot? Is it a safe punishment for the State to inflict? Can the Commonwealth of Pennsylvania, or any other free Commonwealth, afford to create in her midst a class of exiles not exiled? Can we afford to set apart an ostracised class in our very midst, who will be forever plotting against the peace of the State?

MR. CARTER. Mr. Chairman: This section, as reported by the committee, was adopted by that committee with the same intention which has actuated them from the first, to be as another guard around the ballot-box. So far from agreeing with the gentleman from Cumberland, (Mr. Wherry,) that it is not appropriate as a punishment, nor would it act as a deterrent, the committee, generally, believed that it was most eminently calculated to produce that end; that the character of a penalty and deterrent indicating so clearly the offence is precisely what is needed; not that we expect an entire purification from this, but that this is one of the adjuncts, one of the measures, all tending to the same end. The gentleman seems to think that this punishment is unsuited somewhat to the nature of the offence; that this sacred right of the ballot should not be taken lightly or heedlessly from any individual. In that I concur with the gentleman; but the State has a right to protect itself. I say, further, we have a right to put, and we do put by this act, if we adopt this section, the mark of Cain upon the man who has destroyed his brother's vote, my vote, and destroyed one of my manhood's dearest rights, so far as he can do it, by fraud at the ballot-

box. It is eminently fit that when his fellow-citizens assemble every year to exercise this high prerogative, that that man shall stand forth as the man who has committed this great sin against the State and his neighbors, and should be so punished for it. I think there is an eminent fitness in this punishment as a deterrent, because so appropriate to the offence. I am opposed to the amendment of the gentleman from Bucks, (Mr. Lear,) because it does not seem exactly as if this was the proper place to disfranchise, as in the case of criminals. We are considering a section looking to the protection of the ballot-box—especially in reference to that one thing.

I think, Mr. Chairman, that if we adopt this it will have a wholesome effect. I think it was considered in the committee as one of the ideas in which we mostly concurred. We did not expect any one measure to entirely prevent all fraud, but so far as it went, the idea was to put a mark upon the man for a longer or shorter time.

I am, however, opposed to the manner in which this man is to be relieved of his disability and have this mark removed. I propose, when I can do so, to offer an amendment. It would not be right for it to come in after the amendment of the gentleman from Columbia, (Mr. Buckalew,) which is to refer the matter of pardons to the Legislature. That would be inducing special legislation; but, instead of that, to limit it to five years, so that the man who has acted in that manner shall bear his brand for that time; and so that when we go to the polls this man cannot vote among his old friends and neighbors until his offence is atoned for. I doubt exceedingly if any single provision is to do more good and is more fit in its application than this one under consideration. If this is voted down I wish to offer an amendment, taking it away from the province of the Legislature and of special legislation, and fixing the time at five years.

MR. M'ALLISTER. Mr. Chairman: I wish to say a few words upon this question. The word "*convicted*" is a technical term. It means a conviction by a court of competent jurisdiction, and it expresses all that would be expressed by the amendment proposed. As to the proposed insertion of the clause, "*persons*

guilty of felonious offences," this section, as has been said by the gentleman from Lancaster, (Mr. Carter,) is a provision against frauds upon the elective franchise only. It has no relation to other frauds or other crimes, and for that reason the provision, though never so wise, should not be inserted here. If it is to come at all, let it be offered as a distinct section. It cannot be inserted here without marring the harmony of this section. The design was to take out of the power of the Governor—who may have secured his seat by the very fraud of which the elector had been convicted—the ability to restore him to the privileges of an elector which he had forfeited.

This matter gave the Committee on Suffrage much trouble. What power should relieve this man from the consequences of his conviction and of his guilt? In the very first section I think that was adopted. In reference to elections there was a provision that the time of the election might be changed by an act of the Legislature, two-thirds of each House assenting thereto. That was thought to be the best provision here, requiring an act of the Legislature, the concurrence of both Houses and of the Governor, in order to consummate the act. That, however, was not sufficient, for a majority of the members of the Legislature might procure their seats at some general election by the suffrages of the same party, and it was thought best, therefore, to require two-thirds of each House to assent thereto. The dispute was as to a larger number than two-thirds, the question being whether it were not better to make it three-fourths, or some larger proportion, but it was thought best, on the whole, to confine it to two-thirds.

Let me say a few words in reply to the gentleman from Cumberland (Mr. Wherry) in reference to the propriety of this disfranchisement. If there is any one act which is more injurious than another to the welfare of the community it is fraud at the elections. It strikes at the very foundation of our government; it destroys representation; it is a most heinous offence against republican government. It was, therefore, thought best to distinguish the crime as has been done here, by forfeiting the right of suffrage and placing the brand of infamy upon the guilty perpetrator. It was the design of the act to

take away this right of suffrage from the convict criminal, whether he esteem that right much or little. I cannot appreciate the force of the argument of the gentleman from Cumberland, (Mr. Wherry,) when he distinguishes between the rich man who attaches great importance to the right of suffrage, and the poor man who attaches little importance to it. High or low, rich or poor, they are guilty of a great offence, and both should be disfranchised. I hope, therefore, the amendment will be voted down and the section pass as submitted.

Mr. LEAR. Mr. Chairman: I desire, after hearing the explanation of the chairman of the committee, to withdraw that part of my amendment which refers to infamous crimes, because I see that it would destroy the symmetry of this section. The gentleman from Centre (Mr. M'Allister) has, no doubt, together with the other members of the Committee on Suffrage, taken great care to understand the section in all its provisions. I do hope, however, that this provision, somewhere, will go into the Constitution, and I will bide my time to effect it. It should be in there somewhere, that men who have been guilty of infamous crimes shall not be a part of the source from which we derive our political power. I hope, also, that this section will pass, notwithstanding the remarks that have been made in opposition to it by the gentleman from Cumberland, (Mr. Wherry,) because I do not regard it as a matter of punishment alone to those who violate the election laws of the State, because I presume that when they have been convicted, it means that they shall have been punished in accordance with the sanctions that are provided in the election laws themselves; but that this is simply a protection to the people of Pennsylvania against the further interference in the elections of the Commonwealth by people who have sought to corrupt this source of power at its fountain head.

Mr. WHERRY. Will the gentleman explain, if this is not a punishment, what possible protection it can give to the community?

Mr. LEAR. It gives this protection: It protects them from further interference on the part of those people, and it deters others from taking part in this sort of

business, because it will endanger their right to enjoy this privilege. To that extent it is a punishment; but I suppose it is not intended and designed that the punishment shall not follow their conviction by the court in which the individual is convicted. But when these people go to the election poll, and by fraudulent naturalization papers, by fraudulent personation of others, by any other device through which the election laws of the Commonwealth shall be circumvented and defeated, corrupt this source of power of the people, I say that they ought to be disfranchised. I would go further than the report of the committee, and put it beyond the power of the Legislature, by a two-thirds vote, or any other power in this government, to restore the man who has once violated the election laws of the Commonwealth knowingly; he should never afterwards have any voice in the affairs of the State as an elector. Why, sir, I consider it the worst and most dangerous kind of treason. It strikes at our rights, at the very source of political rights, where they should be sustained and supported.

It was said yesterday, in this Hall, that men have been inaugurated and inducted into high offices who have never been elected by the suffrages of the people of the State or district. I say, further than that, that it is scarcely known who is elected in this State. There has been some deprecation of the declamations of these wholesale frauds that have been perpetrated in Pennsylvania—particularly in this city. I say, however, that until we secure a full diagnosis of the disease to which we are going to administer our remedies, we are not capable of fairly understanding the magnitude of the difficulty, with all its ramifications. Do not let us, then, get squeamish, because one day we have said some harsh things about those election frauds, and another day go back upon our record, and apologize for what we have said, or ask others to apologize. I repeat that I do not confine it to Philadelphia. That there is a system of frauds in Pennsylvania that has become frightful; and that we do not know, to-day, whether a man who holds office in the Commonwealth is there by the legal expression of the will of the electors of his district or State, is an admitted and deplorable fact. While that is so, an elec-

tion is simply a scramble, surrounded by all the contrivances and all the trickery of those who are skilled in respect to stuffing ballot-boxes and manipulating returns, and in the hurly-burly some one is declared elected to the office, and then he takes it and holds it and exercises its functions, and performs the duties under it, and takes its emoluments, and all is settled; but that it is an expression of the voice of the people of the State or district we have no knowledge, except in those places where there are overwhelming majorities, majorities so great that no reasonable amount of fraud could defeat the people's will. Why, not only is it a matter of importance for the purpose of giving the people an opportunity to have their own rulers, their own law-makers, and those who administer their laws, but it is important to us as a matter of economy.

There are now, probably, four or five committees of the Legislature at great expense to the State, besides innumerable courts in different parts of the Commonwealth, examining and investigating into various election frauds alleged to have been committed by the members of that body. I say, then, let the Convention make it a terror to those who shall be convicted of having defeated the will of the people by a violation of the election laws of the State, and I consider it will be a dereliction of duty on the part of the members of this Convention if they fail to incorporate such a provision as this in the Constitution. We are not here as the advocates of those who violate the election laws of the State. We are not here as the defenders of their rights, and I say it is a proper consequence of his act that a man who has been once convicted and found guilty of this grave offence shall never again exercise the elective franchise, because the man who is not willing to be governed by law and to exercise this privilege of an elector according to the provisions of the law which the wisdom of the State may dictate is not fit to live under a government and enjoy its privileges. I am therefore in favor of passing this section, and I therefore withdraw the amendment which I have offered, because it will probably interfere with the peculiar symmetry of the provision as it stands in reference to the violation of the election laws. If the gentleman from

Centre, (Mr. McAllister,) who is the chairman of this committee, is confident that conviction covers the whole case without sentence, I will withdraw the amendment, but I do know that some laws have been enacted by the wisdom of our Pennsylvania Legislature whereby a man must be convicted and sentenced before he can be visited with the consequences of his crime. I think the same principle will apply with regard to this section, and that before a man can be removed from his office and punished he must be convicted and sentenced. It was with this idea in mind that I proposed this amendment, but if the members of the Convention who are learned in the criminal law are satisfied that conviction is all that is necessary, I will then withdraw that part of my amendment which relates to infamous crimes and let the remaining portion be voted upon.

The question being taken upon the amendment offered by Mr. Lear, a division was called, which resulted as follows: Ayes, thirty-eight; noes, forty-six.

So the amendment was not agreed to.

Mr. W. H. SMITH. Mr. Chairman: I move to amend the section, by striking out all after the words, "deprived of the right of suffrage." In offering this amendment I desire to express, in a brief manner, the views I entertain in regard to the proposition before the Convention. It has been said by an old proverb that "there is nothing that succeeds like success," and I think this principle is extremely applicable to the case of election frauds. If a man is elected to office by the most flagrant frauds imaginable he is quietly permitted to enjoy the fruits of his success. He does not lose many friends, and, in a measure, society does not avoid him. I think, therefore, that it is quite time that some action should be taken by the Convention which will put a stop to these frauds forever. In order to accomplish this result, I think if this section is shortened just one line and a half, if we even cannot wholly protect the purity of our elections, it becomes our duty here in this body to declare that we believe the violation of the election laws and the frauds against the right of suffrage are crimes that should be punished, and should not be entirely forgotten. I am not, therefore, in favor of placing the pardoning power, for such crimes as these, in the

hands of any court or body, but I am in favor of a law which shall be positive, even if it destroys the votes of a hundred thousand persons, that any person convicted of a fraudulent violation of the election laws shall be disqualified from exercising the right of suffrage.

Mr. COCHRAN. Mr. Chairman: I propose to vote for the amendment offered by the gentleman from Allegheny, (Mr. W. H. Smith,) but not exactly for the reasons which he has given. I agree with the views of the gentleman from Lancaster, (Mr. Carter,) and am willing to vote to insert a provision limiting the punishment, upon conviction of violation of the election laws, to a term of five years, and in order to make room for the introduction of that amendment I shall vote for the proposition to strike out the second clause of the pending section. I think, sir, it would be entirely wrong to place this offence beyond the reach of pardon or forgiveness under any circumstances; and if it is right that a man, either wilfully or through the persuasion of others, has been led into the offence of committing a fraud upon the elective franchise, he should have a *locus penitentie*, like other people, and that the power of pardon or forgiveness should not be withheld from him any more than from any other citizens of the State who have committed other offences of perhaps greater magnitude. I hope this body, before it adjourns, will place such a restriction upon the pardoning power, by making it judicial in its administration, that it will be in safe hands, and can be exercised in the interests of the poorest and humblest of our citizens without endangering the public welfare. With these views, briefly expressed, I shall vote for the pending amendment of the gentleman from Allegheny, (Mr. W. H. Smith,) and in the expectation that the gentleman from Lancaster (Mr. Carter) will introduce his amendment as an amendment to the remaining part of the section.

Mr. CARTER. Mr. Chairman: I offer to amend the amendment, by adding the words "for the term of five years" to the end thereof. The section will then read: "Every person convicted of any fraudulent violation of the election laws shall be deprived of the right of suffrage for the term of five years." Mr. Chairman, in offering this amendment, I desire to say but

a few words in regard to it. I agree entirely with the gentleman from Bucks (Mr. Lear) that we cannot estimate the enormity of this great crime—but, sir, there are certain considerations, well known to all of us, which should guide the Convention in the determination of this question. I am decidedly opposed, for reasons which I have heretofore indicated, and shall not reiterate now to intrust this pardoning power to the Legislature, inasmuch as the Convention designs taking from that body all the penal legislation which can be safely and properly done. I hope that the amendment will pass, and that the section will pass as amended. I do not claim or presume that the committee claims that this section affords a universal panacea for our troubles, or any sort of a cure-all, but it is a part of the system we are building up, looking towards that end, and in my mind it is eminently a proper one.

Mr. BUCKALEW. Mr. Chairman: The arguments which have been made in favor of the adoption of the pending amendment I think entirely misconceive the object of the section as it has been reported by the committee. The main intention of the section is not to provide a punishment for the fraudulent voter. His offence will be indictable under the statute laws of the State, and the courts will administer the punishment which the law has provided for the offence. If there should be mitigating circumstances in his case he will appeal to the ordinary tribunal. This section has been designed mainly for the protection of the ballot-boxes of the people against convicted rogues, who, by its provisions, shall be adjudged to be unfit for the exercise of the right of suffrage. I would not here attempt to measure the limit of the disfranchisement for offences of this kind, which shall be required for the protection of the ballot box, whether it shall be five years or twenty years. If it were simply a question of the punishment of the offender, as a matter of course, it would be proper to impose some limitation of time upon his sentence, or upon the extent of the punishment which should be inflicted upon him. This section, however, is a matter for the protection of the public, and I think the proposition is clear, that when a citizen of our

State has been adjudged, after all the forms of law have been gone through with, to be a fraudulent voter, the judgment of the people should go against him, and he should enjoy no more political privileges than minors, females, and other non-voting classes of our citizens.

Now, sir, we have provided, in the report of the committee, for extraordinary cases. It may happen, in very extraordinary and exceptional cases, that a man will be unjustly convicted; that afterward it may be possible for him to show that he was convicted upon false testimony. I can suppose, also, a case where it would be proper for the Legislature to interfere after some ten, or fifteen, or twenty years. A villain may repent and change his life. He may become an orderly member of society. He may join one of our christian churches, and by his walk and conversation he may demonstrate to all the people about him that he is a new man, and that if re-intrusted with this right of suffrage he will exercise it honestly and justly. Now, in any case where one of these disfranchised men shall be able to show that his heart and life have changed, and that he is a fit member of society, there will be no difficulty, upon an appeal to the Legislature showing these facts, to get a two-third or three-fourth vote restoring him to the full exercise of the right of suffrage. These cases will be rare, not common. They will not burden the Legislature with business.

For my part I would choose to change this number, and not allow a two-third vote to restore the right of voting. I would make it three-fourths, so that it should never be possible for a mere political majority in the Legislature to restore this right. When a man is to be re-clothed with the privilege which he has justly forfeited, let it be given to him by the judgment of the party opposed to him, or at least a portion of its members. The Legislature is better constituted than the Executive or the board of pardons, because, after all, your Executive is a partisan, and the board associated with him may be of the same party, and in attempting to exercise a pardoning power with those officials you have no check upon partisanism. But the Legislature of the State, springing from the popular action of our people, always divided into politi-

cal parties, will be so constituted that no restoration of this privilege can ever be done by a mere party vote, especially if you make it a three-fourth vote, and at the same time these few, exceptional, rare cases of restoration can be acted upon without difficulty.

If this amendment shall not be agreed to, Mr. Chairman, I shall move to make the vote required for the restoration of the right of suffrage three-fourths instead of two-thirds, as at present reported.

MR. BROOMALL. Mr. Chairman: I would like to ask the gentleman who has just taken his seat (Mr. Buckalew) whether his experience in legislative pardons, which I know has been considerable, has induced him to favor them; or whether he does not know that in all cases, or in the class of cases, at least, in which he and I have been familiar with legislative pardons, the action of the legislative body has not been wholly without definite information upon the subject, and that the plan served the purposes only of the few who are wealthy enough or important enough to bring themselves within the notice of the legislative body? Now I am entirely opposed to pardons as they are being granted at present, or as the pardoning power is now used, and I trust that this Convention will reform it to a very considerable extent. I have no definite idea on that point, but wherever the pardoning power is placed I want it to reach these offences, as well as other offences, in the same manner. I am, therefore, entirely in favor of the motion of the gentleman from Allegheny, (Mr. W. H. Smith,) and opposed to the motion of the gentleman from Lancaster (Mr. Carter.) I am in favor of the amendment, not because I think with the gentleman who offered it, that it constitutes the offence an unpardonable one, because I do not believe that we should have in this sublunary world of ours any unpardonable offences. I would not deprive any criminal of the right to apply for forgiveness, here or elsewhere, and obtain it. I believe in striking off that provision of the sentence, and leaving this offence like all other offences, within the reach of pardon.

I am opposed to the limit of five years, although at first inclined to favor it, because these offences are very unequal.

No single punishment can apply to all of them. There are violations of the election laws that should deprive a man of his right to vote probably for life. There are others that should deprive him of his right to vote only at the election where the offence is committed. I am not willing to take these two offences and apply the same punishment to each. Because it is a punishment, notwithstanding the ingenious argument of the gentleman from Columbia (Mr. Buckalew) that it is a mere protection to society. I would like to know what all punishments are but mere protections to society. I am, therefore, inclined to vote against the amendment of the gentleman from Lancaster, (Mr. Carter,) and in favor of the amendment of the gentleman from Allegheny, (Mr. W. H. Smith,) leaving the section stand:

"Every person convicted of any fraudulent violation of the election laws shall be deprived of the right of suffrage simply by a mere conviction."

MR. BIDDLE. Mr. Chairman: I desire to say a very few words on this subject. There is, undoubtedly, very great force in what has been said here by the gentleman from Columbia, (Mr. Buckalew,) but it strikes me it goes too far, and I think a few reflections will show that it does.

Undoubtedly it is a very great wrong upon the community when a man violates the election laws in any of the modes pointed out in the preceding section, but it is not the greatest of all crimes. We are a little excited now, and have been for the last week, in discussing this subject, and having our minds unduly heated in approaching the discussion of this subject, we are a little run away with. There is but one offence to which a penalty is affixed by the laws of this Commonwealth, which, when once executed, is irrevocable. There is but one; and will gentlemen, when they look at this question apart from the heat of the moment, seriously undertake to say that a youth barely twenty-one, who, under, I grant you, improper pressure, but still under the pressure of party, violates the election laws in any particular, commits an offence for which no atonement can be made? Surely this cannot properly be said. All punishment has but two objects, as was hinted by my friend from Delaware, who has

just taken his seat, (Mr. Broomall.) One is the protection of society. That is a part of every punishment. The other is the reformation of the offender. This is the object of all punishment, and punishment that has not these two objects in view is simply vengeance.

It seems, therefore, quite clear to my mind, and I hope it does to the minds of the members of the Convention, that there ought to be some mode of washing away the sin of an offence which is often committed in the heat of excitement, but which does not necessarily, wrong as it is, leave a man so coated with infamy that there can be no chance of his ever becoming better. Now how is this to be done? Is he to be disfranchised forever? Is he to have a punishment worse than Cain thought was inflicted upon him? Is he to go about the community forever branded? That is not the spirit of the laws of this Commonwealth. That was not the spirit of its great founder. That is not the spirit of our penal legislation, which has always partaken of the spirit of that great founder. There ought, therefore, to be an opportunity to reform given to these men. How shall it best be done? It is difficult to decide this, I admit. But it strikes me that of all the modes suggested, this mode of appealing to the Legislature is the worst. I do not know exactly to what the gentleman from Delaware (Mr. Broomall) alluded when he referred to some case of legislative pardon, but I can very well understand that an appeal to the Legislature will be very rarely efficacious in behalf of a humble member of the community. I would prefer myself some definite limit as to time; and I vibrate, therefore, between the proposition of the gentleman from Lancaster (Mr. Carter) and that of the gentleman from Allegheny, (Mr. Smith,) with a leaning in favor of that of the former. I do not believe a man who once commits a fraud at an election is forever to be condemned. I believe a period of time may come when he may be a better man. Whether five years is the period, or whether it would be better to leave it to Executive clemency, modified, as I think it undoubtedly will be to some extent by this Convention, is a question that is for this body to determine. I would rather myself make it a longer term of years.

Five years, perhaps, is not enough. It is said that we all change physically, perhaps mentally and morally, every seven years. I will adopt that theory. None of us hold the opinions to-day, precisely, that we held seven years ago. I am disposed to adopt some such limitation as this. A man who is twenty-one years of age, who commits, in the heat of party excitement, a breach of the election laws, may well be considered at the age of twenty-eight to have attoned by an abstinence from participation in all public business for the fault originally committed by him. If the gentleman who proposed the amendment of five years (Mr. Carter) will make it a little longer, I will vote for it, as I believe it to be right to hold out always, to every one who has done wrong, an inducement to become a better member of society. I think it is a mistake to leave in any community, men so branded, that in no future time, do what they may, they can ever recover the original position which, by a single offence, they have unfortunately lost.

Mr. CARTER. Mr. Chairman: I accept the modification of the gentleman from Philadelphia, (Mr. Biddle,) and so change my amendment to seven years instead of five.

Mr. KNIGHT. Is an amendment to the amendment now in order?

The CHAIRMAN. Not now.

Mr. MINOR. Mr. Chairman: It seems to me that we have overlooked one point, in leaving this power with the Legislature, and that is that it requires them to engage in one of the most unpleasant kinds of special legislation, and one that will subject them to more corrupt influences, perhaps, than anything else. It is open to any influence, good, indifferent, bad or positively wicked, that can be brought to bear upon any or all of the members for the purpose of obtaining pardon by those who may have committed this offence. It seems to me that if we are going to do away with special legislation, that we ought not to introduce it upon a subject like this, which, as I said, before, will open the way for opportunities of a greater number and strength of evil influences upon the Legislature than almost any other that can be named. Let the pardoning power on this subject rest where the pardoning power on all other

crimes does, and let the section, if adopted at all, stop at the word "suffrage," which I understand is the amendment of the gentleman from Allegheny (Mr. W. H. Smith.)

Mr. CASSIDY. Mr. Chairman: I offer to suggest to the gentleman from Lancaster (Mr. Carter) a proposition, which, perhaps, he will accept as an amendment. I think it will also meet with the desire of the gentleman from Philadelphia (Mr. Biddle.) It is to insert in this section, "may by the court, before which he was convicted, be deprived of," &c., so that the section will read, "every person convicted by a fraudulent violation of the election laws, may, by the court before which he was convicted, be deprived of the right of suffrage," &c., so that if it be a proper case, and not a mere case of a young man, twenty one years of age, having the first time violated the election law, in some way that is not, perhaps, very material, the court may exercise its judgment and make it a part of the sentence to deprive him of the right of suffrage, or not, as the case may warrant. Then, I have no objection to voting for the amendment of my friend from Lancaster, (Mr. Carter,) limiting the exclusion from the right of suffrage to five or seven years, though I would prefer it to be without limitation. I suggest that to him; if he thinks it ought to be accepted, very well; if not, I will move it as an amendment at the proper time.

The CHAIRMAN. The question is upon the amendment of the gentleman from Lancaster, (Mr. Carter,) to insert the words, "for the term of seven years;" this being an amendment to the amendment offered by the gentleman from Allegheny, (Mr. W. H. Smith,) to strike out all after the word "suffrage."

Upon this question a division was called, and being taken, resulted: Affirmative, thirty-eight; negative, forty-four.

So the amendment to the amendment was rejected.

Mr. KNIGHT. I move the following amendment:

The CLERK read: Insert after the word "suffrage," the words "for the term of five years," leaving the balance of the section as it stands.

The section would read as proposed to be amended:

"Every person convicted of any fraudulent violation of the election laws shall be deprived of the right of suffrage for a period of five years, but such right, in any particular case, may be restored by an act of Legislature, two-thirds of each House consenting thereto."

The amendment was rejected.

Mr. BUCKALEW. Mr. Chairman: I move to strike out "two-thirds," and insert "three-fourths."

The motion was not agreed to.

The question recurring upon the amendment of Mr. W. H. Smith, to strike out all after "suffrage," in the second line, it was not agreed to.

Mr. HOWARD. Mr. Chairman: I move to strike out all after the word "suffrage," in the second line, and insert "and be guilty of a misdemeanor, and shall be punished as shall be provided by law."

I have thought proper to offer this amendment, because I believe that simply depriving a man of the right of suffrage for a violation of this great right, which lies at the very foundation of our government, is not sufficient punishment. The crime of violation of the election laws I conceive to be a greater crime against society than almost any other that a man could commit, and I believe that simple disfranchisement is not a sufficient punishment. I do not agree with the position taken by some gentlemen that disfranchisement is not a penalty. The deprivation of the right of suffrage is a penalty, and can be viewed in no other light, and the amendment which I now offer proposes an additional penalty. Of course the judicial interpretation is, that the person violating has wilfully violated, and we make it a crime, we punish it by depriving the offender of the right of voting. The person then who has wilfully violated the election laws of the Commonwealth has undertaken to corrupt the very foundation of this government, without which there is no mode of administering a republican form of government. This is the mode adopted to record the will of the people, and to secure the permanency of a republican government, and the man who would undertake fraudulently to destroy that will, I would not only punish by depriving him of his right of suffrage, but I would go further, and I would say that

it should be a crime, to be further indicted and further punished. Many persons would take their chances, if they were simply to be stripped of the right of suffrage. Their citizenship remains.—They have all the rights in society left, except simply the right to go to the polls and cast a vote, and this can be restored when they can get a two-thirds vote of the Legislature to restore that right.

Now, Mr. Chairman, it is for these reasons, believing that this right of suffrage is the very highest right that a citizen can enjoy, and the violation of it is the greatest crime that he can commit, that I would make the punishment of it greater. I would make him feel the sting of a criminal prosecution and punishment in addition to depriving him of the right of suffrage.

Mr. DALLAS. Mr. Chairman: I think the amendment proposed by the gentleman from Allegheny (Mr. Howard) goes rather too far, in proposing that we should insert in this section that offences against the election laws shall be misdemeanors, and punishable, by indictment, as other crimes. I think that is a proper matter for legislation, and not for constitutional provision; we are not to provide, by this instrument, a penal code, either in full or in part. The crime proposed to be provided against, by this amendment, is a fraudulent violation of the election laws. Certainly we can trust to those laws for imposing their own sanctions, and it is not necessary for us to say that a violation of a law shall be a misdemeanor. The law itself will say that, and it will be punished under the provisions of the law; and it is bringing into this section, and this article, more minutiae than it should contain. This view, however, does not apply to the section as reported by the committee, for, as I understand it, while it is true that, in effect, a punishment is inflicted by this section upon the man who violates it, still the purpose of it is clearly within the proper limitation of constitutional enactment, for this reason, that its real purpose is to designate who shall exercise sovereign power in this State. It is properly said by the Constitution and the laws that men of unsound mind shall not vote.

It is intended simply to go one step further here, and say that a man who shall be guilty of fraudulently violating

the election laws is no more fit to exercise the privilege of franchise than a man mentally unsound. Such moral insanity as truly unfits him from exercising the privilege of a sovereign voter as unsoundness of mind, and therefore, whilst punishment results under the section that is proposed, the *purpose* is to declare that that class of men who can be guilty of this wrong are not fit to exercise the privilege of casting ballots, because they have shown themselves to be unqualified for the franchise. Therefore the amendment is objectionable, because it proposes to encroach upon the province of legislation. But I have tried to show that the section itself is not amenable to the same objection, because it proposes simply to designate where sovereign power shall reside and to what classes of people it shall be restricted.

Mr. MACVEAGH. Mr. Chairman: I trust the committee will vote intelligently on this matter—that is, that the members will consider what they are doing. They are asked, certainly, to compound two hitherto distinct departments of this government. Hereafter we will be asked to impose political, legislative and Executive functions upon the judges, which functions they are discharging in this city to-day to a very large extent. We are asked to make legislators Governors—distributors of Executive grace and Executive pardon. I care not how you constitute your Executive department; that is a matter for discussion; but I do beg this Convention to confine Executive matters to the Executive department. Give the Executive aids that you can trust; erect barriers about Executive duty that will be a protection to the people; but do not put upon legislators the discharge of Executive duties, and do not put upon judges the discharge of Executive duties.

Surely none of the evils of which we complain, have arisen from the old division of our government—the Executive, the legislative and the judicial divisions—and the matter of pardons belongs to the Executive department of the government. Let us confide in our Committee on the Executive, at least until we shall have had the honor of hearing their report. Doubtless they will give an Executive committee on pardons, or an Executive council of pardons, or some ma-

chinery of the Executive branch, in which we can trust. We cannot do well by confounding distinctions of this character. Surely you do not want your judges to exercise the pardoning power? Judges cannot be Governors and legislators, and at the same time continue to be judges. Neither can legislators become judges or Governors—cannot be a council of pardon—as I read political history—with any safety whatever. The gentleman from Columbia (Mr. Buckalew) and the gentleman from Delaware (Mr. Broomall) have had experience on this question in the National Congress. I should like to hear from either of them, how it is possible for a legislative body to hear and consider and decide the propriety of granting an individual pardon for an offence. The distribution of powers of government rests upon the gravest principles. It has been the theme of thinkers for many centuries, and we have reached, as it seems to me, a wise conclusion. It certainly is desirable that we should consider carefully what we are doing, even in making so slight a change, tending as this change seems to me, to lead to confound the distinctions which we have hitherto maintained in our Constitution.

Mr. COCHRAN. Mr. Chairman: I move to amend, by striking out all after the words "restored by," and insert in lieu thereof the words "the pardoning power, after the expiration of seven years, from the date of conviction."

The CHAIRMAN. The Chair would suggest to the gentleman from York (Mr. Cochran) to withhold that amendment until the question is taken on the amendment of the gentleman from Allegheny (Mr. W. H. Smith.)

Mr. COCHRAN. I have no objection to withholding it for the present.

Mr. GIBSON. Mr. Chairman: As has been remarked, by some of the gentleman who have recently spoken, it is well to vote upon this question intelligently. I cannot understand, however, how the different functions of the government are confounded by the provisions of this section, as reported by the committee. I cannot understand why the term "*pardon*" should be used in this connection at all. It seems to me, sir, that if gentlemen of the committee will reflect for a moment, and will read the language of the section, they will see it has

no connection whatever with the pardoning power. This section provides that every person convicted of any fraudulent violation of the election laws shall be deprived of the right of suffrage.

Conviction has been decided, technically, to mean not only the verdict of the jury, which finds the man guilty, but the passing of sentence or the judgment of the court pronounced upon him. Now, sir, the offence of violating the election laws of the Commonwealth does not differ from any other criminal offence. If no change is made in the Constitution now undergoing consideration, the pardoning power rests with the Executive; and if a man is tried, found guilty and sentenced of the crime of a fraudulent violation of the election laws, the Governor can pardon him of that offence; and if he is pardoned by the Executive, or by the pardoning power, of that offence, he stands exactly in the position of a man who has never committed any crime; and therefore it may be all the remaining portion of this section becomes null and void as regards that man, who has been convicted and pardoned.

Now, sir, if such is the case—if such is the law of the case—that the pardoning power can restore a man to all the rights of citizenship, as though the crime had never been committed, this section would apply only to persons who stand convicted and are not pardoned. But be that as it may, when the Legislature is called upon to act, they do not pardon the criminal, because he may have gone to jail, may have paid his fine and costs, or suffered his imprisonment; but they restore to him merely the right, which we say here in this Constitution he shall be deprived of. He is not restored; he is not cleaned from what has been put upon him by his crime; he is not an innocent man. It simply provides in this section that the right of suffrage shall again be restored to him; and I cannot understand how gentlemen can confound that, in any degree, with the pardoning power. The two things are entirely distinct. The Governor, or whoever will have the pardoning power, will still have, I think, the pardoning power, and this section will not interfere with that right in any particular.

Mr. NEWLIN. Mr. Chairman: I desire to say a word or two to the gentleman

from Allegheny, (Mr. Howard,) who proposes, as I understand, to legislate in this matter of fraudulent voting by making it a misdemeanor, and specifying the penalty. Now, sir, that is a matter which is proper to be taken cognizance of by the Legislature; and I will say to him that the Legislature has heretofore done that very thing, and I will refer him to the act. He will find it in *Pardon's Digest*, new edition, page 367. It says: "If any person not duly qualified shall fraudulently vote at any election within this Commonwealth, or, being otherwise qualified, shall vote out of his proper district; or if any person, knowing the want of any such qualification, shall aid or procure such person to vote, the person or persons so offending shall, on conviction, be fined in any sum not exceeding two hundred dollars, and be imprisoned for any term not exceeding three months." The Legislature has, therefore, provided for this very thing.

The question being upon the amendment of Mr. Howard, it was rejected.

MR. JOHN N. PURVIANCE. Mr. Chairman: I move to amend, by striking out the words, "two-thirds of each consenting thereto," and inserting instead the words, "for a period of seven years from the time of conviction."

The question being upon the amendment, it was rejected.

MR. COCHRAN. Mr. Chairman: I now offer my amendment, to strike out all after the words "restored by," and insert "the pardoning power, after the expiration of seven years from the date of conviction."

MR. LILLY. Mr. Chairman: I am opposed to this amendment, because it may sometime or another keep an innocent party—a man falsely convicted—out of his liberty for seven years. The idea of the committee in saying that he should be pardoned by the Legislature was to meet any cases where he could prove that he was illegally and wrongfully convicted—as by false evidence and false swearing. Now, by this amendment, you would keep such a man out of his liberty for seven years, with that dreadful stigma upon his character, even when he has been discovered to have been wrongfully convicted.

MR. COCHRAN. Mr. Chairman: I would simply remark, about this amendment,

without desiring to detain the committee, that it substantially embraces two propositions. In the first place it proposes to substitute the expression "the pardoning power" for "the Legislature." I am opposed, and I apprehend that to be right in principle, to having the Legislature exercising such special power as this, for reasons which it is unnecessary to reiterate, and because I believe it would be open to corruption and evil influences to which it ought not to be subverted. As to the limit of seven years, I am prepared to say that, in my opinion, this offence, which is a very grave one, should not be pardonable inside a term of seven years; but if there are gentlemen in this committee who think that the pardoning power should be allowed to act upon it within that term they can move to amend the amendment, by striking out that term and leaving it to "the pardoning power," of whatever constituents it may be composed, generally to act upon it at any time, and in that way the limitation or restriction for the seven years would be removed. I prefer, myself, to make the term seven years, or five, or some such definite term, before the pardoning power should interfere, but if the sense is to strike out that term I will vote to leave it to the pardoning power at any time.

MR. BROOMALL. Mr. Chairman: I move strike out all the gentleman has inserted, and to substitute in lieu thereof simply the word "pardon."

MR. MACVEAGH. If the gentleman will allow me to interrupt him for a moment, I would like to state that we shall certainly be better able to decide this question when we have heard how the court of pardons is to be decided. I hope, therefore, the further consideration of this section will be postponed for the present.

MR. CURTIN. Mr. Chairman: I also desire to interrupt the gentleman by a few words of explanation. The committee on the Executive department will make their report in a very short time, and we hope to so protect the Executive, as well as the people, in this great question of Executive pardon, as to commend our action to the good sense of the Convention. My impression is that we had better postpone the further consideration of this section, as is suggested by the gentleman from Dauphin, (Mr. MacVeagh,) until

the Committee on the Executive department has made its report.

The CHAIRMAN. A motion to postpone cannot be entertained. The section can be voted down, and its consideration resumed on a second reading.

Mr. BROOMALL. Mr. Chairman: My motion is based upon the conviction that the committee that has this matter in charge, will report a satisfactory pardoning provision, and that they will throw sufficient guards around it. I have no doubt about that, and I think the Convention may assume that as a fact; but I do not think it is necessary that we should await the action of that committee. I do hope, however, that the Convention will not entrust two-thirds, three-fourths, or a majority of the Legislature with any such power as that of pardoning offences. I do trust, before we mix up jurisdictions and functions in this manner, we shall consider the impropriety of conferring the power of granting pardons upon the Legislature.

I would remind the Convention further, that cases of an ordinary character would never be brought before the Legislature, and hence the provision, that the committee has reported will amount to an eternal deprivation of the right of suffrage in most cases. I trust the Convention is not going to make a discrimination between those who are wealthy, and therefore able to abuse the privilege of franchise, and repeat the mischief again, and those who are ignorant or are induced by undue influence to violate the election laws, leaving the latter without remedy. Do the members of the Convention remember what a vast scope is occupied by the grade of offences against the election laws? Are the advocates of this measure prepared to say, that a young man just of age and under the party drill, who shall be guilty of a fraudulent violation of the election laws if he happens to treat his companion in order to secure his vote, is thereby guilty of an unpardonable crime? Why murder is pardonable! They say the case supposed will not be a fraudulent violation of the election laws. I submit it would be an intentional violation of the law, and hence necessarily fraudulent; and should such a man be deprived of his right to vote for life, for committing such an offence? Certainly

not. Yet that would be the effect; for unless the offender should be a wealthy or influential man, he would never get his case before the legislative body. I contend that the legislative body is not the proper body in which these questions should be decided. I remind the gentleman who sits before me, (Mr. Buckalew,) who has had considerable experience in legislative pardons, that the last body to obtain exact information upon the subject matter will be the legislative body. These questions had better be submitted to a court in our own counties and cities, or anywhere else, than in the legislative body. I repeat again, that this section, in my judgment, contains in it more mischief than anything else that has come even from the Committee on Elections.

Mr. M'ALLISTER. Mr. Chairman: I rise to add a few remarks to the very sensible and pertinent argument of the gentleman from York, (Mr. Gibson,) and to answer the gentleman from Dauphin (Mr. MacVeagh.) The Convention seems to be getting into confusion. It was well said by the gentleman from York, (Mr. Gibson,) that there is no interference with the pardoning power by this section, whether that power be vested in the Governor or in the Governor and his counsel. The offender may be pardoned the next day after his conviction, but this does not relieve him of the loss of the right of suffrage. The right of suffrage is a mere incident of conviction; and when the provision is placed in the organic law, that the offender shall be deprived of the right of suffrage, it will be impossible for the pardoning power to restore that right, although it may restore him to liberty and all other rights. The organic law still deprives him of the exercise of the right of suffrage. Now it is alleged by the gentleman from Dauphin (Mr. MacVeagh) that this section confounds the Executive and the judicial and the legislative power, and that it is an innovation upon the principles of government. How can this be? It is proposed now, in the section under consideration, that instead of this deprivation being perpetual, or for life, the legislative body may restore it. Is it not right that the Legislature should restore it? Is not the Legislature the only power of government which, on principle, can restore it? Surely it is. It is a legislative act, and not an Executive act.

Mr. WHERRY. I desire to ask the gentleman from Centre a question. The gentleman from Centre maintains that the right of suffrage is an inalienable, inborn right. How can the Legislature restore an inalienable, inborn right?

Mr. M'ALLISTER. Mr. Chairman: It is true, the gentleman from Centre asserts that the right of suffrage is a natural social right, and he contends further, that being a natural social right, it belongs to the people, in whom all power is inherent. That people being here to-day, by their representatives, to establish their organic law, he also contends that by passing the section under consideration the people thus represented agree, each with the other, that any one convicted of a fraudulent violation of their election laws shall forfeit this great natural social right of suffrage. Are they not competent so to agree? And having so agreed, do they not thereby deprive the Governor of all power to restore the forfeited right by a pardon?

This is a principle which seems perfectly plain, and which no lawyer can dispute, much less a constitutional lawyer. If the right of suffrage is to be restored it should be by a legislative and not an Executive act.

Mr. ARMSTRONG. Mr. Chairman: It is very evident that this section is open to great difference of opinion upon its judicial construction. I apprehend that the work of this Convention ought to be so certain as to permit no room for any misapprehension among lawyers or judges as to what its true interpretation should be. I shall propose an amendment to the section, but inasmuch as I presume it is not in order at this time I shall merely read it for the information of the Convention. I propose to add at the end of the section the following words: "But nothing herein contained shall exclude the right of Executive pardon, which shall restore the right of suffrage." This amendment will very distinctly raise the question before the committee whether they intend to enact such a provision as shall wholly exclude the right of pardon. I could not myself assent to a proposition so entirely sweeping in its character. The violation of a law enacted to preserve the purity of the ballot is a crime of exceedingly great magnitude, but it is not mur-

der. It does not equal in its magnitude or its consequences a vast number of other crimes, and it is peculiarly a crime which may be committed by the inexperienced and under circumstances which strongly call for the immediate interposition of Executive clemency. My judgment cannot approve any system which proposes to fix upon the people a crime of such magnitude that it shall be wholly beyond the power of Executive clemency. The chairman of the Committee on the Executive Department has stated that that committee will report a provision which it is hoped will meet with the approval of the Convention, by which the pardoning power will be greatly circumscribed and limited, and no longer be left to the sole discretion of the Executive. He will be required to exercise that discretion in accordance with the recommendations of a competent court of pardons, whose recommendations shall be filed and recorded with the reasons at large upon which the recommendation is based. I trust I do not improperly disclose, in venturing to say this much, the proposed action of the Committee on the Executive Department, but I trust when their report is made that it will satisfy the Convention; there is no necessity for excluding this crime from the scope of Executive clemency any more than other crimes of even greater magnitude. With this view, and in order that the committee may vote intelligently upon this question, I have offered the amendment that if the Convention means to exclude the power of Executive pardon, we shall express that intention in such terms that neither the judges nor the people can misunderstand the provision.

With the views I have expressed, I repeat, I cannot approve a provision which, it is admitted by its friends, will lift this crime above the reach of Executive clemency, and place it by itself wholly above the power of pardon. I will therefore offer, if it be now in order, the amendment to which I have referred in the opening of my remarks.

The CHAIRMAN. The Chair would suggest that the gentleman had better withhold his amendment until the vote is taken upon the amendment of the gentleman from Delaware (Mr. Broomall.)

Mr. BROOMALL. Mr. Chairman: Would the amendment be in order if mine was withdrawn?

Mr. ARMSTRONG. Mr. Chairman: I will, with the permission of the House, again read my amendment for information. It is as follows:

To add to the end of the section the words: "But nothing herein contained shall exclude the right of Executive pardon, which shall restore the right of suffrage." It still leaves to the Legislature the right to remove the disability as expressed in the section. I have not proposed by the amendment to exclude the right of the Legislature, two-thirds concurring, to restore the right of suffrage. On the propriety of this I express no opinion at this time.

The CHAIRMAN. The Chair suggests to the gentleman from Lycoming (Mr. Armstrong) that if the amendment is adopted, and then the amendment of the gentleman from York, (Mr. Gibson,) it will not read well, and it would be better to take a vote on the separate proposition.

Mr. ARMSTRONG. I defer to the opinion of the Chair, and will wait until the amendment of the gentleman from York has been acted upon.

The CHAIRMAN. The question is upon the amendment of the gentleman from York.

Mr. HANNA. Mr. Chairman: I would like the amendment read for information.

The CLERK. "Any person convicted of any fraudulent violation of the election laws shall be deprived of the right of suffrage, but such right, in any particular case, may be restored by the pardoning power after the expiration of seven years from the date of conviction."

The amendment was not agreed to.

Mr. ARMSTRONG. Mr. Chairman: I now move my amendment:

To add to the end of the section the words: "But nothing herein contained shall exclude the right of Executive pardon which shall restore the right of suffrage."

Mr. MACVEAGH. Mr. Chairman: I renew, as an amendment to that, the amendment offered by the gentleman from Delaware, (Mr. Broomall,) which seems to me to keep the matter in the power of the Executive department of the government. I move to amend as follows:

To insert the word "pardon" after the word "by," in the third line.

Mr. ARMSTRONG. Mr. Chairman: I respectfully suggest to the gentleman from Dauphin that the amendment I have offered does not interfere with the general pardoning power of the Executive.

Mr. MACVEAGH. Mr. Chairman: At the suggestion of the gentleman from Lycoming I withdraw the amendment for the present.

Mr. D. N. WHITE. Mr. Chairman: Has the question been taken on the amendment of the gentleman from Allegheny to strike out?

The CHAIRMAN. Long ago, sir.

Mr. BUCKALEW. Mr. Chairman: The amendment of the gentleman from Lycoming (Mr. Armstrong) meets the question distinctly; in substance presents the question whether we are to put a clause upon this subject in the Constitution or not; because I take it for granted that most friends of the proposition reported by the committee will vote heartily against it in this changed form. The gentleman from Lycoming states very accurately that his amendment raises the direct question involved in this debate. I agree with him, and I say here distinctly, that a provision of this sort, a provision of disfranchisement, with an unlimited power in the Executive department to pardon, is more than worthless, because it is a power which will be exercised by political personages for political purposes, to assist their own party, and to discriminate against those opposed to it, and it would be monstrous to put such a provision into the fundamental law of the State.

Now, sir, the report of the Committee on Suffrage, Election and Representation did not exclude the Governor from action on this subject. The report of that committee is, that the Governor of the Commonwealth, with the assent of two-thirds of each House of the Legislature, may restore to a citizen the right of suffrage. The Governor is to participate in the enactment of the law. If in a particular case he has objection against restoration, he can veto the bill, and send it back to the Legislature, with the whole weight of his official influence and of his arguments, to reverse the first vote in each House.

Now the question is, whether the Governor, in assenting to the restoration of

this political privilege, shall have associated with him the two Houses of the Legislature, or, under some other proposed amendment, shall have associated with him his own Secretary of the Commonwealth, and one or two other political officials, agreeing with him in political sentiment, whose check upon him in these political cases will be comparatively worthless. Joining the Legislature with him means a check and a curb upon the Executive. It means that no one party of this State, through its Executive or otherwise, shall restore this right; that the reasons of its restoration shall appeal to political opponents as well as to political friends. If, therefore, this committee of the whole choose to reject the proposition of the Committee on Suffrage, by which this restoration is not to take place from political favoritism under any circumstances, and shall lodge this whole authority of restoration with a partisan power, lodge it with the Executive and the political officials he may have associated with him, why, sir, we had better leave the section out of the Constitution altogether. It is not worth putting it there.

At all events, Mr. Chairman, I feel obliged to the gentleman from Lycoming for piercing through the mists in which the debate had involved this subject, and bringing us to the direct question, whether it is worth while to put into the Constitution a provision of this kind.

One other topic and I will leave the debate. My construction of this clause is, that it excludes altogether the ordinary pardoning power from actions in cases arising under it. Here, when you provide in this section a special remedy for the disfranchisement; when you provide by special constitutional provision that this restoration shall be by two-thirds of the Legislature and the Governor in the enactment of a law, you exclude necessarily other modes of restoration and the ordinary pardoning power cannot apply. To be sure, in another part of the Constitution you will grant to the Governor a general power, with or without an assistant council, to grant reprieves and pardons, but that general power is to be construed in connection with other parts of the Constitution. It will receive its construction in connection with this very section, and here, where another remedy

is constitutionally provided for the restoration of this political right, the general power necessarily will not apply. So that without any amendment or change of the section as reported by the Committee on Suffrage, we will have the simple provision that men who pollute the ballot-box shall not vote, unless both of the great political parties of this State represented in the Legislature, in connection with the Governor, shall see such equity and justice in his case that they will restore to him the right of suffrage.

Mr. ARMSTRONG. Mr. Chairman: I am glad that the amendment which I had the honor to suggest has brought before this Convention very distinctly the question upon which we are about to vote. It no longer rests in doubt that the Committee on Suffrage Election and Representation in reporting this section intended to exclude all power of Executive pardon. This offence is thus to be lifted by the act of this Convention into a magnitude and gravity which overtops all other offences known to criminal law. I apprehend, however, that it is not accurate for the gentleman from Columbia, (Mr. Buckalew,) for whose opinions ordinarily I have the highest respect, to argue that this section does not propose a punishment. Why, sir, there is no right of which a citizen is deprived which is not a punishment. If he is limited in the exercise of a right which other citizens exercise it is, *pro tanto*, a punishment and it is no answer to say that in this particular case it is the people only who suffer. It is the people always who suffer by a crime in contemplation of law. In a criminal prosecution when we indict for the commonest misdemeanor, or for the highest crime known to the law, it is in the name of the Commonwealth of Pennsylvania, and against the peace and dignity of the same. And because this is an offence against the rights and liberties of the people, it is none the less the truth that the punishment lights upon the offender, and he experiences in his person the penalty of the offence which he has committed against the public welfare.

Now, sir, in this case, the person deprived of the elective franchise is punished severely. I know of but few punishments more severe than that a man should be singled out in a community and branded as unworthy of the exercise of the

right to vote. It is to a sensitive man, it is to all ordinary men, a punishment of the greatest severity. Why shall this crime alone be lifted beyond the reach of all power to correct the mistakes which are incident to all human proceedings? If the power of pardon were to be vested in the Executive alone, without limitation and with power to exercise it in a manner calculated and designed to promote merely partisan interests, or to reward or to gratify political partisans or favorites I should agree with my learned friend. But the proposition already intimated to this Convention is to vest the power of pardon in a board which shall be, as far as possible, without political prejudice, and which shall not exercise the right of pardon in aid of, or to advance the interests of, any political party or for any political purposes whatever. If we fail to create a board of pardon, which shall attain to this end, the Convention will, in that regard, most signally fail of its duties. If it does reach that end, and constitutes a board whose recommendation to pardon, and without which it shall not be granted, shall be upon grounds distinct from political influences, then why should this particular offence be taken wholly beyond its range? Many instances will occur when, from inexperience, or when, from being the dupe of others, the person by whom the particular offence which would bring him within the provisions of this section will be com-

mitted, would be by far the least guilty of the parties concerned, and in such an instance, or where conspiracy or false testimony might work conviction, there ought to be a power which can relieve instantly the great wrong which would be perpetrated by suffering such a person to lie under such great privation as that of the elective franchise. I do not believe that any evil can result from the adoption of this amendment. On the contrary I believe that it would at all times greatly advance its efficiency, and I therefore hope that this committee will not undertake to say that this offence, of all others known to the law, shall be excluded from the right of Executive clemency.

Mr. LAMBERION. Mr. Chairman: I move that the committee rise, report progress and ask leave to sit again.

The motion was agreed to. The committee rose, and the President resumed his chair.

Mr. LAWRENCE, chairman of the committee of the whole, reported that that committee had further discussed the article reported by the Committee on Suffrage, Election and Representation, and had instructed him to report progress and ask leave to sit again.

Permission was given the committee of the whole to sit again to-morrow.

The hour of two o'clock having arrived, the President declared the Convention adjourned until ten o'clock to-morrow morning.

FORTY-EIGHTH DAY.

THURSDAY, *February 20, 1873.*

The Convention met at ten A. M.

The PRESIDENT. There does not appear to be a quorum of members present.

Mr. LILLY. Mr. President: I move that the roll be called, to ascertain whether there is a quorum present.

The CLERK then called the roll.

PRESENT.—Messrs. Achenbach, Alricks, Andrews, Baily, (Perry,) Bailey, (Huntingdon,) Baker, Bartholomew, Beebe, Black, Charles A., Boyd, Broomall, Carter, Clark, Cochran, Craig, Darlington, Davis, De France, Edwards, Elliott, Ellis, Gibson, Gilpin, Gowen, Guthrie, Hanna, Hay, Hazzard, Hopkins, Horton, Howard, Hunsicker, Knight, Lamberton, Landis, Lawrence, Lear, Lilly, Long, M'Allister, M'Clean, MacConnell, M'Culloch, M'Murray, Mantor, Minor, Niles, Palmer, G. W., Patterson, D. W., Patterson, T. H. B., Patton, Pughe, Purman, Reed, Andrew, Rooke, Ross, Runk, Russell, Sharpe, Simpson, Smith, Henry W., Smith, W. H., Stewart, Temple, Van Reed, Walker, Wetherill, J. M., Wetherill, John Price, Wherry, White, David N., White, J. W. F., Wright and Meredith, *President*—74.

NOT PRESENT.—Messrs. Addicks, Ainey, Armstrong, Baer, Bannan, Barclay, Bardsley, Biddle, Black, J. S., Bowman, Brodhead, Brown, Buckalew, Campbell, Carey, Cassidy, Church, Collins, Corbett, Corson, Cronmiller, Curry, Curtin, Cuyler, Dallas, Dodd, Dunning, Ewing, Fell, Finney, Fulton, Funck, Hall, Harvey, Hemphill, Heverin, Kaine, Littleton, M'Camant, MacVeagh, Mann, Metzger, Mott, Newlin, Palmer, H. W., Parsons, Porter, Purviance, John N., Purviance, Samuel A., Reed, John R., Reynolds, James L., Reynolds, S. H., Smith, H. G., Stanton, Struthers, Turrell, White, Harry, Woodward and Worrell—58.

WOMAN SUFFRAGE.

The PRESIDENT laid before the Convention a communication from Mrs. Elizabeth S. Bladen, chairman of the executive committee of the Citizens' Suffrage association of Philadelphia, requesting the use of the Convention Hall, on Mon-

day evening next, for the purpose of listening to an address from Mrs. Elizabeth Cady Stanton.

Mr. BROOMALL. Mr. President: I move that the request be granted.

The question being taken, a division was called, and the motion was agreed to, a majority of a quorum voting in the affirmative.

REPORTS OF PROTHONOTARIES.

The PRESIDENT laid before the Convention the report of the prothonotary of Tioga county, relative to the number of civil cases pending upon the civil docket of that county, which was referred to the Committee on the Judiciary.

INTOXICATING LIQUORS.

Mr. DARLINGTON presented a memorial from the London Grove monthly meeting of Friends of Chester county, praying for a prohibitory clause in the Constitution against the sale of intoxicating liquors as a beverage, which was referred to the Committee on Legislation.

Mr. HAZZARD presented a memorial from the Monongahela Valley district convention, held at Pittsburg, praying that a separate clause in the Constitution, prohibitory of the sale of intoxicating liquors as a beverage, be submitted to the vote of the people, which was referred to the Committee on Legislation.

ADJOURNMENT.

Mr. LILLY offered the following resolution, which was twice read:

Resolved, That when this body adjourns to-morrow it will be until Monday next at ten o'clock A. M.

Mr. ALRICKS. I move to amend, by striking out "ten" and inserting "eleven." The motion was agreed to.

Mr. COCHRAN. Mr. President: I would like to say a word in regard to this resolution.

Mr. LILLY. The gentleman is out of order.

Mr. MANTOR. I would like to inquire whether next Saturday, being Washington's birthday, is not a legal holiday, and made so by an act of Congress.

Mr. COCHRAN. Mr. President: If it is the object of the resolution to adjourn over after to-morrow until Monday, for the purpose of commemorating the anniversary of the birthday of the Father of his Country —

Mr. BOYD. Mr. President: I rise to a point of order, and it is that debate is not in order upon the resolution, under a resolution which was adopted by the Convention a few days since.

The PRESIDENT. It is not a question of adjournment to-day. The motion is when the Convention adjourns to-morrow it will adjourn until Monday.

Mr. BOYD. I call for the reading of the resolution relative to debate upon questions of adjournment, which was adopted the other day.

The CLERK read as follows:

Resolved, That hereafter all questions as to the time of meeting and adjournment of the Convention shall be decided without debate.

The PRESIDENT. The point of order appears to be well taken. The Chair was not aware such a resolution had been passed in his absence.

Mr. COCHRAN. I merely wished to state —

The PRESIDENT. Debate is out of order.

The question being taken on the resolution, the yeas and nays were required by Mr. Hay and Mr. Cochran, and were as follow, viz:

Y E A S.

Messrs. Achenbach, Alricks, Andrews, Baker, Bartholomew, Beebe, Black, Charles A., Boyd, Brodhead, Broomall, Buckalew, Clark, Craig, Curry, Curtin, Dallas, Davis, De France, Edwards, Elliott, Ellis, Gibson, Gowen, Guthrie, Hanna, Horton, Hunsicker, Knight, Lambertson, Landis, Lawrence, Lear, Lilly, Long, M'Clean, MacConnell, Mantor, Minor, Mott, Newlin, Niles, Palmer, G. W., Patterson, D. W., Patton, Pughe, Purviance, John N., Ross, Runk, Sharpe, Simpson, Stanton, Stewart, Temple, Van Reed, Walker, Wetherill, J. M., Wetherill, Jno. Price, Wherry, Worrell, Wright and Meredith, President—61.

N A Y S.

Messrs. Bailey, (Huntingdon,) Bailey, (Perry,) Biddle, Campbell, Carter, Cochran, Corbett, Darlington, Fell, Gilpin, Hay, Hazzard, Hopkins, Howard M'Alister, M'Culloch, M'Murray, Patterson,

T. H. B., Purman, Reed, Andrew, Russell, Smith, Henry W., Smith, W. H., White, David N. and White, J. W. F.—25.

So the resolution was agreed to.

ABSENT OR NOT VOTING—Messrs. Adicks, Ainey, Armstrong, Baer, Bannan, Barclay, Bardsley, Black, J. S., Bowman, Brown, Carey, Cassidy, Church, Collins, Corson, Cronmiller, Cuyler, Dodd, Dunning, Ewing, Finney, Fulton, Funck, Hall, Harvey, Hemphill, Heverin, Kaine, Littleton, M'Camant, MacVeagh, Mann Metzger, Palmer, H. W., Parsons, Porter, Purviance, Sam'l A., Read, John R., Reynolds, James L., Reynolds, S. H., Rooke, Smith, H. G., Struthers, Turrell, White, Harry and Woodward—46.

THE COMMITTEE ON ACCOUNTS AND EXPENDITURES.

Mr. HAY. Mr. Chairman: I have been instructed by the Committee on Accounts and Expenditures to present the following report:

The Committee on Accounts and Expenditures respectfully reports:

That it has examined the following accounts for expenses of the Convention, viz:

1. John Smith, for cleaning ice and snow from the yard of the hall occupied by the Convention and carting away same.....	\$25 00
2. A number of accounts for printing and advertising proposals for the printing and binding of the Convention, done by direction of the Committee on Printing and Binding, as follows:	
Messrs. M'Laughlin Bro's., printing.....	36 00
Evening Herald, Philadelphia, advertising.....	10 00
Evening Bulletin, Philadelphia, advertising.....	17 60
Evening Star, Philadelphia, advertising.....	8 00
Evening City Item, Philadelphia, advertising.....	10 50
Evening Telegraph, Philadelphia, advertising.....	13 20
The Inquirer, Philadelphia, advertising.....	13 20
The Day, Philadelphia, advertising.....	8 00
The Ledger, Philadelphia, advertising.....	19 60
The Age, Philadelphia, advertising.....	8 80

The Press, Philadelphia, advertising.....	\$11 00
The Public Record, Philadelphia, advertising.....	8 80
State Journal, Harrisburg, advertising.....	5 50

Together amounting to..... 170 20

And that said accounts are for proper expenses of the Convention, and should therefore be paid.

The following resolution is accordingly submitted:

Resolved, That the Chief Clerk be directed to pay to the persons entitled to receive the same, the several amounts reported as proper to be paid in the above report of the Committee on Accounts and Expenditures.

The resolution was read a second time and agreed to.

COMMITTEE OF THE WHOLE.

The Convention then resolved itself into committee of the whole, on the report of the Committee on Suffrage, Election and Representation, Mr. Lawrence in the chair.

THE SUFFRAGE ARTICLE.

The CHAIRMAN. The question is on the amendment proposed by the gentleman from Lycoming (Mr. Armstrong) to the seventh section. The amendment will be read.

Mr. SIMPSON. Mr. Chairman: I rise at this time to make a personal explanation. On Saturday last I stated to the Convention that business would require my absence from the city on Tuesday and Wednesday. I asked and obtained leave of absence for those two days. The Journal was read on Monday, stating that fact in the presence and hearing of the members of the Convention. During the discussion that arose on the subject before the committee of the whole, on Monday, I had occasion to make some remarks on election frauds in different localities. I left the city early on Tuesday morning, and you may understand how surprised I was on reading the paper of yesterday I found the remarks that had been made about myself and my statement, in my absence, by a member of the Convention. In regard to a portion of those remarks I do not propose to say anything. I have lived in this community for more than forty years. I was elected to this Convention by the largest vote cast for any man in the district. I had one thousand more majority than the candidate

for Governor on the same ticket in that district. I am very well known amongst my constituents. With them I can leave my reputation for veracity. But the charge was made by the gentleman from Montgomery, (Mr. Boyd,) that, in speaking of election frauds, I had spoken of Norristown. I desire to say here that I have referred to the reporter's notes of the remarks that I made on Monday, and they agree precisely with my own recollection as to what I did say. I neither mentioned the borough of Norristown nor the county of Montgomery then or at any other time. I spoke of Bensalem township, in the county of Bucks, and the five counties in the Sixteenth Congressional district in this State, making in all six counties, one relating to the elections of 1868 and the other to the election of 1870. I also referred to the investigation now going on in Harrisburg. I repeat, I do not know of any fraud ever having been committed in the county of Montgomery, either in the borough of Norristown or in any of its townships. If I had, then was the time for the denial, not taking advantage of my absence to make the charge. When the gentleman from Montgomery (Mr. Boyd) stood up on this floor, and said that I had charged fraud in Norristown, he either spoke misunderstandingly of what I had said, or he wilfully misrepresented me.

Mr. BOYD. Mr. Chairman: I simply understood the gentleman directly to state, not only upon that occasion, but upon previous occasions, that there were frauds in Montgomery county, and it was because I knew that it was not true that I took the liberty of making the statement which I did. If the gentleman disclaims alluding to Montgomery county, it is all right. I do not take any offence at his remarks upon the subject, but I have no apology to make.

Mr. SIMPSON. Mr. Chairman: I read from the report of the gentleman's remarks: "When he stated upon this floor that frauds had been committed in Norristown, he was exceedingly unfortunate in fixing that locality. If he had put it in some remote quarter of the county, where few of us ever get, he might have had some chance to escape, for we would not have known whether it was correct or not."

I spoke of the counties of Bucks, Somerset, Bedford, Fulton, Adams, Franklin and Philadelphia.

The CHAIRMAN. The Chairman understands the gentleman from Montgomery (Mr. Boyd) to accept the explanation of the gentleman from Philadelphia (Mr. Simpson.)

Mr. BOYD. Yes, sir; I accept his apology. [Laughter.]

The CHAIRMAN. The question is upon the amendment of the gentleman from Lycoming (Mr. Armstrong.)

The CLERK read: "But nothing herein contained shall exclude the right of the Executive pardon which shall restore the right of suffrage."

Mr. HAZZARD. Mr. Chairman: We have been talking for two or three weeks upon this subject of fraud at elections, and most of the remarks have been in regard to the manipulation of votes after they had passed into the ballot-box, and the indignation of the members has been very properly and eloquently expressed; but nothing heretofore has been done in our constitutional deliberations with regard to that matter that may have a tendency to restrain electors themselves from committing frauds; but now we have come down to the bottom of the subject, and are dealing with the vote as cast by the individual, the ballot itself. It seems to me that here is where the whole mischief, or most of it at any rate, is done. I was somewhat astonished yesterday to hear the gentleman from Dauphin (Mr. MacVeagh.) His history has certainly been at fault if he knows of no matter which properly belongs to the Executive department that has been transferred to the legislative department. If I have read the newspapers properly, for the past eight years there has been plenty of such legislation by the general government. After the war a great many people were disfranchised in the south. It was a proper matter for Congress to remove the disability, and I have never heard that the President has grumbled any because the proper function of his office has been taken away from him. Here is a person who commits a fraud upon the election; he deposits an improper and illegal vote. It seems to me to be a proper matter for the Legislature. A precedent has been set us by the general government.

The gentleman from Columbia (Mr. Buckalew) stated yesterday that in case this subject was referred to the Executive alone, and his board of officers, that it would partake of party bias, and no doubt it would, for the Governor and his council would be very apt to find some excuse

for pardoning a partisan, and they would be likely to lean towards the party who cast a vote on their side of the question. That is certainly an objection to referring it to the Executive; but there are also objections even to referring it to the Legislature, because, as has been well stated here, a poor man cannot go to the Legislature to have his rights vindicated or corrected there. Many a man may be disfranchised forever without having the disability removed by legislative enactment. It seems to me that the provision should be in some such shape as was yesterday presented to the Convention, namely: To limit the disqualification to a certain time, and then when that time has expired the elector should be enfranchised.

Now it is said that this should not be put above and beyond Executive clemency. I think it should, because I believe it is one of the greatest crimes that may be committed against the country. I know that *quasi* these crimes are against the Commonwealth, but really they are against individuals. If a murder is committed it only affects the man that is guilty and his family, except in the outraged justice and sense of right, as it pervades the whole community; and if you steal my coat it is personal to me, but of course the criminal is prosecuted in the name of the great Commonwealth, although really it does not affect the rest of the people only as it outrages public justice; but how is it with regard to polluting the ballot-box? Mr. Chairman, that goes to the very foundation of our government, and you and I, and every other individual, are interested in such an outrage, and I say it ought to be put beyond Executive clemency, and the trouble of going to the Legislature should not be imposed upon the poor man or anybody else.

It is said that it will be a disgrace upon this man, that the mark of Cain is upon him. Well it ought to be. Is it not a disgrace for a man to go to the penitentiary if he steals ten dollars worth of property? Is it not a stigma upon him? It seems we have grown tender-footed when we approach the very thing we ought to be correcting. In this country gentlemen have said that this principle of suffrage is at the very foundation of government. Is not the abuse of that principle a crime greater than stealing a coat or a horse? Everything that strikes at the foundation of the government tends to the destruction of this glorious fabric that we have raised in this country, of which

We propose to celebrate at the next centennial, and should be rooted out if possible, and yet gentlemen are fearful that the punishment for such a crime inflicts a stigma upon the offender. I would put such a stigma upon him that would surprise him very much more than could be placed upon him in any way that I could devise. Let the stigma be upon him because he has committed an act worthy of stigma; but the punishment in the penitentiary is just as public. If the offender is kept away from the polls during his probation I think it would be much better to let his disability expire at a certain time. He will gradually grow out of it and out of notice, and into his rights, without much attention from the public. I say that this is a greater crime than almost any other, because it goes to the very foundation of our civil fabric, to the very foundation of sovereignty, and in that we are all interested.

I hope this amendment will not carry; it encumbers the matter too much. The criminal may go to the Legislature; he may be pardoned by the Governor after seven years probation. Let it be fixed at a less period; let it be five years, and let it expire of its own limitation. There will then be no party Governor to be consulted and no act of the Legislature to be required.

Mr. KNIGHT. Mr. Chairman: Is this an amendment to the amendment?

The CHAIRMAN. It is an amendment simply.

Mr. KNIGHT. I move an amendment to the amendment, to be inserted after the word "suffrage," "for the term of four years," so that the section will read: "Every person convicted of any fraudulent violation of the election laws shall be deprived of the right of suffrage for the term of four years, but such right, in any particular case, may be restored, by act of the Legislature, two-thirds of each House consenting thereto."

The CHAIRMAN. The Chair thinks that the gentleman had better withhold his amendment, as it will come in in another part of the section, until the vote is taken upon the amendment of the gentleman from Lycoming (Mr. Armstrong.)

Mr. STEWART. I offer the following amendment:

Strike out all after the word "section," and insert, "in addition to such other penalties as may be by law provided, fraudulent violation of the election laws may be punished with deprivation of

the right of suffrage for a period of not less than four nor more than ten years, at the discretion of the court before whom the offender shall have been convicted."

The CHAIRMAN. Does the gentleman move to strike out the section and insert this?

Mr. STEWART. That was my motion.

The CHAIRMAN. It is not in order.

Mr. BROOMALL. Mr. Chairman: I only desire to say, in the absence of the gentleman from Lycoming, (Mr. Armstrong,) that this is intended to provide for a class of cases that the Convention does not seem, from anything that I have heard, to have had in mind at all. We have been supposing that a man convicted upon the finding of a verdict of a jury is necessarily guilty. That is a great mistake. There are too many lawyers here who know better than that for it to be received as the opinion of the Convention. The most that can be said of the verdict of a jury is that it is sometimes right, and as long as that is the case we should have some means of remedying the mischief when the jury is wrong. When a jury convicts a man wrongfully, and that can be made known two weeks afterwards, I want to know whether anybody here will say that there should be no possibility of pardon, but that the poor individual wrongfully convicted must await the slow action of the Legislature, and that only after seven years, as some members of the Convention would like us to say.

Mr. CRAIG. Mr. Chairman: When I first considered this proposition I felt favorably inclined to it. It looked to me like that homoeopathic specific which declares that a little of the hair of the dog that bit you will cure the bite. But having slept upon it, I am of the opinion that we ought to throw aside the whole idea of the forfeiture of the right of suffrage. I think there are good reasons, sir, why that penalty should not be imposed for this act. Society lays before every voter now, and will continue to do so, the temptation to commit frauds upon the election laws. Scarcely any man who has attended the polls but has seen reputable men there who would not steal, who would not commit any other fraud, deliberately do things which, under this provision, would forfeit their right to suffrage. Now, sir, we place before men the temptation to commit this crime, and then having led them into temptation—contrary to all our teaching upon this subject—we turn around and we place the temptation be-

fore a jury to convict men wrongfully, who are honest men.

Men commit these frauds because they are excited. They are actually demented by passion, for the time being, and then, as criminals against these laws, are arraigned in the courts.

We shall have after a while, a majority of the jury determining the verdict—and you then lay before the jury the temptation to convict a man because he is of opposite politics, and to acquit him because he is of the same politics, and thus place before the jury the temptation to commit perjury. I say the whole business is a mere scheme of temptation, which can lead only to evil.

Then, sir, I think there is another good reason for not adopting it. In every country on earth where men are deprived of the rights of citizenship they become brigands, they become fungi upon society—preying upon its bitter interests. This law will erect in our country—in this community—a brigand class. Deprived of the right of suffrage, they will say to themselves: "We are outlaws in society; we have no part or lot in it," and will act accordingly.

It is vain to say that they may go to the Legislature, or to the Governor, or pardoning power, and there be restored. The pride of human nature will not permit them to do it. Men will not get down on their knees and humiliate themselves in the dust. Their very pride of nature will rebel against this humiliation. It is therefore to create a class of outlaws and brigands in the community.

For all these reasons, and I have stated them as briefly as I can, I have made up my mind that I will vote against this provision in all its parts.

Mr. WALKER. Mr. Chairman: For one, I am disposed to go a very great distance in punishing every one that is guilty of fraud in any direction upon the ballot. I can vote almost cheerfully for the section as it stands, although I could prefer an amendment. I would insert in the third line after the word "by," so as to make it read: "Every person convicted of any fraudulent violation of the election laws, shall be deprived of the right of suffrage, but such right, in any particular case, may be restored by the Executive on the recommendation provided in section ——— of article ———, of this Constitution;" that is the article that provides for the board of advisors for the Governor in granting pardons. If that would meet the

approbation of the committee, it strikes me, sir, that it is such punishment as those who are guilty of perpetrating a fraud on the election should receive. There is a way by which these men can be pardoned without the cumbersome way suggested by some gentlemen.

Mr. HOPKINS. I am opposed to this amendment, for I think that it nullifies the section itself. The section proposes that the fraudulent violation of the election laws shall be disfranchised. The amendment proposes that that man may be pardoned by the Governor, and restore to him his rights as a citizen of the Commonwealth.

I cannot add anything to the very forcible remarks made by my colleague, (Mr. Hazzard,) this morning, upon this subject, except that I will state, or remind the Convention, that we have an illustrious example of what this Executive clemency has done, and perhaps may do again. Why, sir, upon the records of one of your courts, in this city, a man was convicted—for what? Why, sir, for going from precinct to precinct, some say, as many as twenty odd times. However that may be, I do not know; but, certainly, he voted several times, and swore, before high Heaven, that he was a citizen, qualified to vote in the precinct where he was offering his ballot. This thing was brought to the notice of a court and jury, and it was regarded as a crime of such infamy that he was sentenced to undergo an imprisonment of, I believe, three months for his bad conduct. What then? Why, sir, the President of the United States extended his clemency to, and pardoned, this scoundrel, who was, I believe, the first that was convicted under the act of Congress, and turned him loose upon society again, to go on and perpetrate this repeating to his heart's content.

Now, sir, I am decidedly opposed to lodging this power in the Executive, even with counsellors, as it has been suggested it should be. I would not even give it to the Legislature. I would prefer modifying it, so as to confine it to, say five years, or four, or seven years; but I would make it unconditional and absolute, so far as this disqualification goes, without the intervention of even the Legislature or Executive. If, however, I must choose between the two evils, the Governor and his counsel or the Legislature, I prefer the latter.

Mr. LILLY. Mr. Chairman: I came to this Convention with my mind fully made

up to punish every violation of the ballot-box without respect to persons. I am in favor of making the punishment of persons who pollute the ballot-box as severe as it is possible to make it.

I do not agree at all with the gentleman from Lawrence, (Mr. Craig,) who spoke a few minutes ago, that a man is, perhaps, excited when he does this sort of thing, and ought to be treated leniently on account of that excitement. I want to put caution before every man's eyes, that he must not get excited in that direction.

As for the pardoning power, I do not believe that the best plan would be that recommended by the gentleman from Washington, who has just taken his seat, because a man may be convicted unlawfully or by false evidence, and if such a thing should happen there ought to be some place where he could show the fact and prove it, and get himself pardoned. Hence I believe the pardoning power ought to be lodged somewhere, and I believe the committee has reached just the place where it ought to be. As that power is now—in the hands of the Executive—it would be entirely useless, because politicians would go to the Executive and say, "why this fraud was committed to elect you," and that would be the strongest argument they could present for Executive clemency. In order to get rid of that difficulty I believe, with the gentleman from Columbia, (Mr. Buckalew,) who spoke so lucidly on this subject yesterday, that by placing it with three-fourths or two-thirds of the Legislature you must have the consent of both the great parties of the Commonwealth to pardon. I am quite willing to fix some reasonable limit, at the expiration of which the guilty man be pardoned, say five or seven years. I do not know that I should insist upon forever disfranchising him, but I want to leave the door open for him to be pardoned in that time. I want, however, that the evil-doer or the man contemplating the doing of an evil that will pollute the ballot-box to have before his eyes the fact that he must suffer, and suffer, too, in a way that he will most feel it, even to the extent of putting a brand on him, if you please, and letting him go through the world saying, "I am the man that attempted to destroy the nation by polluting the ballot-box."

MR. DARLINGTON. Mr. President: It seems to me we are endeavoring to prescribe penalties in the Constitution for the violation of laws which possibly may be passed. It strikes me it is wrong end

foremost in the Constitution, and is not rightly placed there. We must remember what the difficulty is now. It is that the Legislature has no right, under the existing Constitution, to prescribe as a part of the punishment of a fraudulent violation of the election laws, the deprivation of the right of suffrage. The right of suffrage is a constitutional right, and cannot be taken away by the Legislature as I understand it. Now do we need to do anything more therefore than to confer upon the Legislature the right to take away the right of suffrage as an additional penalty for a violation of the election laws? This is the manner in which I view this question, but I do not know how it may strike the minds of other gentlemen in the Convention. Instead, therefore, of favoring the section as it is reported by the committee, and as proposed to be amended, I will, if it is in order, and if not, I will, at the proper time, propose the following section as a substitute for this section for the consideration of the committee:

"The Legislature may prescribe such punishment for a fraudulent violation of the election laws as they may deem proper, including the deprivation of the right of suffrage, but such right may be restored by pardon."

Now I would give the right to the pardoning power to restore the right of suffrage, of which the Legislature shall have deprived a citizen, when the pardoning power shall deem it proper to exercise it. It must be remembered that we are in the early stages of the proceedings of this Convention. We have not yet decided what limitations we shall place upon the pardoning power of the Executive power, but I apprehend we will agree to fix some limit upon it, so that it cannot be exercised save by the advice and consent of some suitable council, who shall advise the Governor when it is proper to issue the pardon. To that council, however constituted, I am willing to confide the pardoning power. It must reside somewhere, and I consider there is no place so proper in which it shall reside as the Executive of the Commonwealth, around whom can be thrown all the necessary and proper guards.

I am not willing to confide this power to the Legislature, after what has been stated in the Convention in regard to that body, and which I am bound to believe, when gentlemen have spoken of the views which have been entertained by their own representatives. You could

not always secure a pardon from the Legislature, even if the proper means are taken, and I am unwilling to confer any power upon them in this line, not only for that reason, but because it is a matter of special legislation, of which we are so very anxious to deprive them. It is, therefore, better, I suggest to this committee, to confer upon the Legislature the additional power to that which they now have in the punishment of fraudulent violation of the election laws, by depriving the voter of the right of suffrage; but, at the same time, if it shall be shown that a person, subsequent to conviction for this crime, was not so guilty as to require a lengthened deprivation of the right of suffrage, the Executive, by the exercise of the pardoning power, with such guards as we shall throw around him, may relieve the voter innocently or ignorantly drawn into the commission of this crime. If it is in order I therefore move to strike out the section.

The PRESIDENT. The motion will not be in order.

Mr. HORTON. Mr. Chairman: I have not the least desire to occupy the time of the committee further than just simply to say that ever since the commencement of this discussion I thought I could cheerfully vote for the article as it came from the committee, and I had been firm in the belief that I could do so until I heard the arguments of various members upon the floor, and especially those of the gentleman from Columbia (Mr. Buckalew) and the gentleman from Lycoming, (Mr. Armstrong,) and then I felt a little uncertain as to what would be proper in regard to a vote upon the article. The gentleman from Chester, (Mr. Darlington,) I think, has just embraced, in a separate article, the points wherein so many members of the Convention differ in regard to this question. I have no objection to giving a person convicted of having fraudulently violated the election laws the opportunity of two modes of escape, and hence I was in favor of the amendment to the article offered by the gentleman from Lycoming (Mr. Armstrong.) Now it is true that a man may be convicted on very insufficient evidence. Our courts are not always perfect, and many bad decisions have been given by them, but if this question of the pardon of persons convicted of fraudulently violating the election laws is to be one resting wholly within the jurisdiction of the Legislature, it will be difficult to ascertain when the

pardon will be granted. There has been a great deal said in the Convention in regard to the sacredness of the ballot, but I think none too much, and hence the higher estimate we place upon the ballot, the greater will be the obligation resting upon us to punish very severely any violation which may be perpetrated against the laws regulating the exercise of the elective franchise.

Now in order that there may be fair dealing, I say there can be no possible harm in the adoption of the amendment of the gentleman from Lycoming, (Mr. Armstrong,) and I think it would be very proper that there should be the privilege given to the offending individual of having the right of suffrage restored to him by pardon, after he shall have been deprived of it by reason of having fraudulently violated the election laws, without having to undergo a deprivation of the right for years, which would be the inevitable necessity if the pardoning power was entrusted wholly to the Legislature. As I said in the beginning of my remarks, I do not wish to occupy the time of the Convention, but I do want to say that after we have had the views of a committee of fifteen members, which framed this article, that we certainly ought to pay some attention to them. I do not believe that there has been a single proposition presented here yesterday or to-day which has not been before that committee, time and again, and it was upon that ground I decided to vote for the report as it came from the committee, and I am of the opinion that if the question should come up plainly upon the section as reported by the committee, and even with the addition of the amendment of the gentleman from Lycoming, (Mr. Armstrong,) I shall vote for it.

Mr. LEAR. Mr. Chairman: This section proposed to the new Constitution, it seems to me, must be misunderstood by the gentleman from Chester, (Mr. Darlington,) or else I must misunderstand it, for I understand, from reading it, that every person must first be convicted in a court, and when convicted he is bound to be sentenced by that court, because when I proposed an amendment yesterday to this very article, by which the person fraudulently violating the election laws should be convicted and sentenced, the chairman of the Committee on Elections (Mr. McAllister) said that he was satisfied in his own mind, and the committee had also been satisfied, that the word "conviction" covers the whole

ground, having a technical meaning, and upon consideration I have no doubt that he is right, and for this reason: If a man who has been once convicted is again brought into court upon an indictment, and he pleads a former conviction, he must show, not only that there was a verdict of a jury, but that he was sentenced by the court in pursuance of that verdict, and that it was not a mere verdict subsequently arrested or set aside. Therefore it is in this section, *ex viceribus siris*, that you will find the whole explanation of what is intended to be done by the Convention in adopting it. The article provides, in the first place, that the offender shall be convicted and, of course, sentenced by a criminal court, and then it provides as to what shall be done with the convicted individual in case the Executive, or whatever branch of the government in which the pardoning power may be vested, decides to relieve the offender from the consequences of the sentence. So that under this section, as it is now proposed, we shall have, in the first place, a conviction, and that shall be a conviction under the election laws of the State, followed by a sentence, because it is for a violation of these election laws that the sentence shall be imposed. Then follows the disability, and there comes in the real question of discussion upon this amendment, and that is, whether this pardoning power, by which this disability from exercising the elective franchise is to be removed, shall be vested in two different branches of the government, or whether it shall be removed by the pardon of the offender from the penalty inflicted upon him by the sentence of the court of quarter sessions, and whether that pardon shall carry with it a relief from the disability the offender would be under by virtue of this constitutional provision.

Now I say that it is impossible to understand, by the very terms of the section itself, that when an offender against the election laws is pardoned from the penalty inflicted by the court, that he is by that restored to all the privileges of a citizen. The pardon does not carry with it a restoration of this privilege. The individual who shall have thus violated the election laws still remains under the disability, and I say, although the gentleman from Lycoming (Mr. Armstrong) has been complimented by the gentleman from Columbia (Mr. Buckalew) for having penetrated the fog with his amendment, he has taken the whole question

through the fog and left us on the other side of it, for this amendment, it seems to me, renders it more obscure than it was before, and the object, as the gentleman said himself, was to place a provision in the section as would relieve these unfortunate offenders from their disabilities, and in order that there might be no mistake as to the meaning of the section, I would like to inquire, however, if any delegate can inform the Convention, by the mere wording of the amendment, as it stands, what is meant by it.

Now, I think, we ought not to load down the section with such qualifying provisions, as to render it void of meaning. The evil resulting from thus encumbering a section was seen yesterday, when a section relating to the registry law was adopted, and then it was qualified in such a way as to render it a nullity. We ought either to have our provisions sufficiently clear and efficient, or else let them stand without being encumbered by limitations and qualifications. It is said that old Menenius took his wine hot, without a drop of allaying Tiber in it, but we have put so much Tiber into this section that it has become all water. And this section itself, if it becomes amended by such emendations as this, will, after a while, become so diluted as to be, if not all water, at least all milk and water. Now this section, if amended in this way, will read as follows:

"Any person convicted of any fraudulent violation of the elections shall be deprived of the right of suffrage, but such right, in any particular case, may be restored by a vote of the Legislature, two-thirds of each House consenting thereto, and nothing herein contained shall exclude the right to Executive pardon, which shall restore the right of suffrage."

What is meant by that right of Executive pardon which shall restore the right of suffrage? Does it mean that this right of Executive pardon which shall restore the right of suffrage shall apply to the relief of the offender from a penalty inflicted by the quarter sessions? Or does it mean that he shall be restored by virtue of the Executive pardon from all of the disabilities and penalties inflicted upon him, for a violation of the election laws? That is to say, as this stands at present, if a man convicted of a violation of the election laws comes before the Executive, and is pardoned there, according to the terms of this amendment—if he is pardoned by the Executive—it carries with it the restora-

tion of his right as an elector; but if he goes before the Legislature, what is he to obtain there? Certainly not the pardon of the offences of which he has been convicted in the court of quarter sessions, and the penalty which has been imposed upon him there. The Legislature, it is not intended by this provision, shall do that duty; neither is it intended—if he be convicted and sentenced in the court of quarter sessions—that the penalties of that sentence shall be relieved by the pardoning power. And I do not admit, with the gentleman from Dauphin, (Mr. MacVeagh,) that the pardoning power is necessary an Executive power. It may exist anywhere else. It may be lodged in a court of pardons, or in a council of pardons.

Now with regard to this argument, we were called upon very energetically, yesterday, by the gentleman from Dauphin, not to forget the three distinctive departments of government, and he asked this Convention to pause and see what they are doing, because they will be led into the error of giving Executive power to the Legislature. I am not partial at all that we should give this to the Legislature. I think that we should not. I would like the proposition made yesterday, by the gentleman from Lancaster, (Mr. Carter,) much better, "that the offender should be disqualified from voting for a limited term of years." I would say during the term of his natural life, but this Convention would not go with me, and I do not know, upon consideration, whether it would be right. But I like much better the proposition that "his disability to vote shall extend through a limited term of years—five, seven, ten, or any other number that the committee may in their wisdom determine," and not go to the Legislature at all to have this kind of special legislation, as it has been called in this debate, although it is not legislation. The gentleman from Dauphin (Mr. MacVeagh) said that this Convention did not seem to know what they are doing, if they are about to give this power to the legislative branch which belongs to the Executive; but it does not necessarily belong to the Executive.

This Convention or the Committee on Executive, I presume, will report some provision by which this power will be placed in some other hands than those of the Executive. There is no reason why there should not be a court of pardons, where the matter shall be judicially ex-

amined into and determined by a competent body, to understand the requirements of the applicant, and the safety of the other citizens in the Commonwealth when the pardon is applied for. I do not believe that these different departments have always been kept so distinct as the gentleman seems to think. Why, the Legislature of that country from which we derive, principally, our law is the last high court of errors and appeals, and the House of Lords determine these questions of law, of property, and of human rights, and is the last court for that purpose. That is a Legislature that exercises judicial functions, and the Senate of the State of New York used to do the same thing. The Senate of Pennsylvania to-day is competent to hear and decide questions of impeachment, which are judicial questions, as the Senate of the United States may do in proper cases of impeachment. Consequently these three branches of the government are not kept distinct entirely, and I say that this pardoning power is not necessarily a feature or an arm of the Executive department of the Commonwealth of Pennsylvania, although it has been lodged there for years past. It is not a part of the execution of the laws. If this is the Executive department, I have no doubt that the man Brown, who was pardoned by the President of the United States, or Robert Smith Lister, who was pardoned by the Governor of Pennsylvania, greatly admired that play of executing the law. It is not a part of the Executive duty or of the Executive department. It is rather an obstruction in the execution of the laws of the Commonwealth, and the carrying out of the sentence of the court, and therefore I do not admit that this is a duty necessarily imposed upon the Executive department, and I do not believe that this Convention are going so far as to say so.

As I said, I am opposed to everything that follows after the word "suffrage" in this section. I am opposed to every portion of it, as all these parts are included in the whole, and therefore I am opposed to this last amendment proposed by the gentleman from Lycoming, (Mr. Armstrong,) which is now the only thing before this committee.

Mr. MINOR. Mr. Chairman: I would not prolong this debate a single moment, but it seems clear to my mind that we are drifting into a mistake. We have been, for the last two weeks, talking about great criminals, in connection with

election laws, and we have confined ourselves almost entirely to persons of that grade. We talk as if we are legislating only for the chief class of offenders, and nobody else.

That leads me to the first objection I have to this section, and to all the amendments that are pending upon it; that is, that, in applying the worst part, and by worst I mean the severest part, of the result that can follow an infraction of the law, we make no distinction whatever between criminals. Let one man who is greatly guilty, and another who is slightly guilty, both be convicted before a court of an infraction of the election law, what is the result? Each undergoes his penalty of a fine, and perhaps of imprisonment. Each pays his fine, and each suffers his imprisonment of a longer or a shorter period. Then this is forgotten in the community; and from that time, although one is the greatest offender and the other is the slightest, are both, as they walk about the community, branded in precisely the same manner. They must go about, for some amendments, say four years, others five years, others seven years and others for life, until pardoned, with precisely the same brand, although their guilt is as wide in degree as the difference between the greatest and the smallest offence known to the election laws. I say that we would do a great wrong in putting all criminals, both large and small, on the same basis.

But another objection is this: We are fixing a severe penalty in advance, without even knowing what the law is to be. Who knows what even frivolous laws will yet be passed by the Legislature? They may pass laws so frivolous as to be absolutely unjust, yet if a man violates one of these laws, not intentionally, but by a mistake of judgment, or by a mistake in construction, yet if he is convicted, by partisan juries, or otherwise, or even by a justice of the peace, if he has final jurisdiction, you are visiting upon him this terrible result that will be entirely inadequate to the crime he has committed. How can we, at this time, and in this Constitution, define a penalty proper for all the offences that may be committed under any and all the laws that may be passed by any or all the Legislatures for the next thirty or forty years? Are we not overlooking our instructions and drifting into a mistake?

I close this brief statement, sir, by saying: Leave it with the Legislature to pass

the laws and prescribe the penalties upon this subject as future light shall guide the way. Give them full power, even extending to the right of suffrage, if you please, and then give the opportunity of adjusting these penalties, according to the degree of the crime, to that tribunal before which the case is tried, and which alone can have full knowledge of the facts. To these considerations I will not take time to add others, for, it seems to me, those already suggested are fatal to this section. I therefore repeat, we will, if we adopt it, do more evil than good, because of its terrible penalty, when the crime, in many cases, is slight; for, if it is adopted, jurors will violate their oaths, and acquit the lesser criminals, because of this fearful penalty; and then the law will often remain a dead letter in instances when it should be enforced. But I will not prolong. I am opposed to all these amendments. We are legislating in advance, and failing to make distinctions between the great and small degrees of guilt, and tying up the future, when we cannot possibly know what that future is.

Mr. ARMSTRONG. Mr. Chairman: This section, as it stands, together with the amendments that have been proposed, I think, does not entirely come up to what I believe ought to be the provision contained in the section. I propose to modify my amendment, so that it shall read thus:

"Every person convicted of any fraudulent violation of the election laws shall be deprived of the right of suffrage for the term of four years, but such right may be restored by Executive pardon."

The reason for that is this:—

Mr. MACVEAGH. Mr. Chairman: Will the gentleman read the proposed amendment once more?

Mr. ARMSTRONG. Mr. Chairman: I will read the amendment as I propose to amend it, or as it will be if my amendment is adopted. I have said that I propose to modify my amendment, so that the section, as amended, will read thus:

"Every person convicted of any fraudulent violation of the election laws shall be deprived of the right of suffrage for the term of four years, but such right may be restored by Executive pardon."

The reason is this: It is not well, as it strikes me, to confound these well settled distinctions which have grown up with the country, and have become a part of its settled legislative, judicial and Executive functions. The words which I would

propose to strike out are those which would invest the Legislature with the right to pardon, if not that, virtually nothing else. It is contrary to the established principles, and to all the analogy which have heretofore controlled questions of this kind. We recognize the distinction in judicial proceedings between civil and criminal cases.

This is a criminal proceeding; it has all the characteristics and features of a criminal proceeding. To say that it is a crime is simply to express what every man's intelligence tells him. We are attempting to punish crime, and one of great magnitude, and one which should require not only severe punishment, but *prompt* and *certain* punishment. Now my difficulty is this: If we undertake to say that the Legislature, even with a vote of two-thirds, may pardon, we invest the Legislature with power which is unusual, and bring a certain class of criminal proceeding within the scope of a power never before exercising it, and where it would be particularly liable to political influence. If we vest this power, however, in the Executive, and within the general scope of the pardoning power, then we bring it into close analogy with all other criminal proceedings. And to say that such a pardon would be granted upon merely political ground would be simply to say that this Convention is not able so to restrict the pardoning power; that it can be unjustly or unworthily exercised. I do not concede any such proposition. On the contrary, I believe that this Convention has the power, and will exercise it, to so hedge around the exercise of the pardoning power that it may be safely vested in the Executive and shall not be liable to the abuse which many gentlemen on the floor of great intelligence apprehend. Now I believe that it is wiser and better that we should recognize this crime against the elective franchise as a high crime to be adequately punished; but bring it within the scope of all other criminal jurisprudence, and vest the power to do away with the sentence where we vest the power of all other control in similar cases. For this reason, again, the very existence of the pardoning power pre-supposes judicial mistakes; it pre-supposes that a man may be convicted upon false testimony, or that he may be the victim of conspiracy, and convicted upon improper evidence, and in such event he ought not to be the subject of imprisonment for any length of time,

not even for one moment, beyond that which is necessary to interpose the Executive pardon where the facts are clearly established.

Under such circumstances the amendment, as it is now proposed, would meet all the exigencies of the case; it would punish crime as it ought to be punished, and it would vest in the Executive the power to arrest the course of a sentence which, under new developments of facts, ought never to have been imposed. This Convention will certainly adopt some provision by which this Executive clemency is to be exercised properly, and without the dangers which now surround it, for I am free to say if it were left to the exercise of Executive clemency, as it now is in the sole discretion of one man elected by a political party, and under the sole influence of that party—it would not be best. My idea, however, is this, that we vest it within the restrictions which this Convention will unquestionably place around it, as suggested in the amendment, and that we may thus reach the crime without subjecting it to that constant, continued and unalterable decision proposed, which might work the extremest injustice.

MR. M'ALLISTER. Mr. Chairman: It is not to be concealed that these offences, these frauds upon the ballot, have been considered very slight offences. We find men employed in that business who hold a respectable position in society, and it was the design of this section to place a stigma upon them and place them in the community as beacons, to warn all such of the danger they are in when they tamper with this right of the ballot. That was the design of the committee in reporting this section as it is. Now it is alleged that it is wrong to take away the right of franchise from a man simply because he has been guilty of fraud upon it. I reply that the forfeiture is a consequence of his own act, his own voluntary act, his own fraudulent and wicked act—an act which strikes directly at the foundation on which the structure of civil government is reared. Let us look at the formation of a republican government. The people come by their representatives only, because they cannot assemble in mass. Every citizen is potentially present. The majority cannot deprive the minority of the right of suffrage—that is the right to participate in the formation and administration of the government, because their hair is white, or because it is red, or because it is black.

If they do they violate the law of nature, the only law that governs the people in the formation of their government; but it is perfectly competent for the people, thus assembled, in the formation of their government to agree, each with the other, that any one of them who shall be guilty of frauds upon the right of suffrage shall forfeit his right of suffrage. That is the principle upon which this section is founded. It seems to be conceded that an offence that strikes at the life of a free republican government should cause a forfeiture of the right of suffrage, but how long and in what manner shall the forfeiture be removed is the difficulty. It is alleged by the gentleman from Lycoming (Mr. Armstrong) that the Executive department alone should have the right to remove the forfeiture. I utterly deny the correctness of the position. The Executive has power to pardon offences, and thus relieve the convict from prison and set him loose on the community, and that power properly belongs to the Executive department.

But when, as a Constitutional Convention, we put in the organic law a provision that the right of suffrage shall be forfeited, that right cannot be restored by an ordinary Executive pardon. Under the proposed amendment, when and how is this pardoning power to be exercised? Will the restoration of the right of suffrage result as an incident of the pardon of the offence of which the forfeiture was itself but an incident? Such construction would negative the section and render it absurd. The very design of the Constitutional provision is to take away the power of the Executive to pardon. Is the power now proposed to be given a distinct independent power, or is it an incident of the ordinary Executive pardon? I ask the gentleman that question. Are the Executive and his council to grant two pardons? One for the purpose of relieving the man from imprisonment, the other to restore the right of suffrage? The difficulty in reference to this forfeiture is, that it will be for the life of the man, unless provision be made for its removal. Several provisions have been suggested. The most reasonable amendment, if an amendment be thought necessary at all, would be to insert after the word "suffrage," in the second line, the words, "for the term of five years," four years or seven years. "But such right, in any case, may be restored by act of the Legislature," &c. Though the time be limited, still the Legislature

should have power to remove disability. Such cases may occur as will need a removal of the disability within the term of five years; and if five years should be inserted, I would still retain the clause giving the Legislature power to remove disability. There may possibly occur, in times of great political excitement, cases that would justify a removal of the disability within five years. I am utterly opposed to committing this power to the Executive, or to the Executive council, under any possible circumstances. That council must either be elected by the same people who elect the Governor, or must be appointed by the Governor, and to give a body who have secured their offices directly or indirectly through frauds upon the election, frauds which may have resulted in giving them their places, would be unwise. It would be a means of protecting fraud, and the power should not, therefore, be committed to the Executive or his council; but when we commit it to the Legislature, who have the powers of the government in their hands, and require a legislative act, and when we require two-thirds or three-fourths of each branch of the Legislature to concur, we may be assured that there will be no party prejudice in the exercise of the power necessary to remove the disability.

Mr. MANTOR. Mr. Chairman: I rise for the purpose of making only a few remarks on regard to this question on this section before this committee. I am aware that we are getting somewhat tired, and demand a speedy vote. We have had some fourteen or fifteen speeches this morning, and it seems to me that this section, as reported, is wrong, and the remedies which it seeks to make are entirely too severe, as might be applied to certain offenders against the peace and dignity of the Commonwealth. If we had some power whereby we could go behind the offending party, which this section suggests, and cause the arrest and carry punishment to another class of offenders—those who induce men to commit the frauds. Now, sir, in the precinct where I cast my vote—at our election last fall—a man was arrested for casting his vote, on the ground that he was a resident of another county, and of course another precinct. He was urged to cast this vote by men who knew—or ought to have known—that he had no such right to vote; yet he was over-persuaded, and all remonstrances to the contrary were in vain.

This man was accordingly arrested for casting his vote where he had no right to vote, and the result was, the day following he plead with those who caused his arrest to get him out of his difficulty, for he said he had been over-persuaded by others to commit this wrong. He was accordingly released. Now, sir, if he had committed this wrong with such a clause as this section proposes, he would have been disqualified for voting thereafter. I ask is this right, to inflict such penalty on every one who may commit a wrong in this way, or should we seek to punish according to the crime, giving due allowance to some who are dragged into the wrong and seek to find some way to punish one who makes himself an accomplice to this crime? For one, I am in favor of protecting the rights of every citizen, and dealing out punishment to the fearfully wrong doer, and show at the same time some mercy on the ignorant and those who may be easily enticed into sin. Therefore, taking this view of the matter, I cannot support this section as it stands.

Mr. DELFRANCE. Mr. Chairman: I am in favor of this section as it stands. If the section is read it will be found to read that "being deprived of the right of suffrage" is no part of the punishment of the crime that any person is convicted of. The gentleman from Lycoming (Mr. Armstrong) seems to think that it belongs to the pardon power to pardon him, and that this deprivation is in the nature of punishment. I do not consider it so at all. Pennsylvania has the right to say who shall be her voters, and she has the right to say on what conditions they shall be voters, and, I think, this is a proper case for us to do something, if possible, to purify the ballot-box. If there is any crime against republican government it is this question of destroying the consent of the people—of making the thing a farce. It is, in my judgment, equal to treason; it is, in fact, treason, because if the right of government belongs to the people, and criminals will destroy the ballot-box, and in that manner the very foundation upon which republics exist—the only foundation upon which they exist—that crime ought to be punished more severely than any other crime in the calendar. Some gentlemen have talked about this being a small matter, and about young men committing these crimes. If young men have been committing these crimes it only shows, sir, that we ought to teach our children better; we ought to teach young men that

there is no crime known to the law so great as that which destroys the right of the people to govern themselves. There is no crime so great in the catalogue of crimes, because it destroys the very foundation stone upon which republics rest. In any other government—a government of force—it is not so great a crime. In a republican government there is no crime known to the law so great as destroying the right of the people to govern, and that is what this is.

Mr. Chairman, I have been amused, I might say, at the talk here about purifying the ballot-box, purifying the right to vote. I have been amused at it. Men have told me, in reference to this other section, that each elector shall write his name upon the ballot; that it will not do; that it is all wrong; that it will be beaten fifty thousand in Philadelphia, for instance. Then the next thing is: How do you propose to purify the ballot-box? How is it proposed to purify the ballot-box? From my standpoint, viewing the matter as I do, it would seem to me a reasonable conclusion that the majority of this Convention intend to do nothing about the purity of the ballot-box. They intend to leave things as they are. They intend to talk long and loud about the ballot-box, but when it comes down to the question of how we shall remedy the evils there is nothing proposed as yet. If I am wrong that this is the greatest crime in a republic, and if I am right that the taking away of the right of suffrage is a sovereign right of the people of Pennsylvania, then it does not come under the power of pardon, and has nothing to do with the power of pardon. What nation in the world that has taken away the right of suffrage from its citizens holds that it belongs to the pardoning power to have anything to do with it? What nation in the world? Is it the American nation? Is it the English nation? Is it any nation under the heavens that claims that when their principal right is taken away that the pardoning power restores it? The pardoning power has nothing to do with that. It is the sovereign power of the State, wherever that lies, and in this case it lies in this Convention.

Mr. JOHN M. WETHERILL. Mr. Chairman: I move to further amend, by striking out the word "four," before the word "years," and insert "seven."

Mr. ARMSTRONG. I accept that amendment.

Mr. CORBETT. Mr. Chairman: I move to amend, by striking out all after the word "suffrage," and inserting "for the period of seven years from the time of conviction. In case of the afterdiscovered innocence of the party, a pardon may be granted to him in the manner provided for the granting of pardons by the Executive."

This proposition to amend the amendment has this feature in it: That it confines the power of the Executive to pardon to a case where the party has been convicted innocently. The pardoning power may possibly be abused in such a case, but the Executive will have to base his pardon on the grounds of innocence. Besides that, it fixes a limit at which the deprivation of this right will cease, and that period is seven years—the same period that is fixed in the amendment. I think that this will meet the general views of this Convention. We shall have a limit at which the time of the deprivation of the right of suffrage will cease. It will give to the Executive power of relieving this disability, provided the party be convicted when he is innocent, and I therefore hope that it will be adopted.

Mr. CLARK. Mr. Chairman: There seems to be a confusion of ideas as to the character of this section. Objection is made that the Constitution of the State should not contain a penal clause. I do not regard this as a penal clause any more than I should the clause in the article presented here by the Committee on the Legislature. The latter part of the eleventh section presented by that committee reads: "And every member who shall be convicted of having sworn falsely to, or having violated his said oath of office, shall forfeit his office and be disqualified thereafter from holding any office of profit or trust in the State."

I regard an elector, as I have said upon previous occasions, as holding an office under the people; the Constitution designates him to perform a certain function of the government. He is to all intents and purposes a representative man, representing not only himself, but all about him, and concerned with him in interest; and the penalty proposed is a deposition from office of that elector. He acquires his position as an elector under this Constitution. We say that he and many others, acting for all the citizens of the Commonwealth, shall perform the function of the electoral department of the State. If he does it well he shall be

continued in its possession; if he does it illy he shall be deposed, as the members of the Legislature are in a like case.

I do not regard the proposed amendment as a penal statute. I regard it as a protection set up by the people for their own protection, and not for the punishment of offenders. It seems to be admitted here by the gentlemen who advocate the amendment to this section that the pardon of the Governor would not pardon the offence, that is to say, it would not restore the disqualification which the section imposes. I admit that freely, and I admit it because it is not an offence.

The section under consideration is a constitutional provision, which deposes the elector from his high office as an elector. The pardoning power of the Governor will be sufficient to pardon the offence, but not sufficient to restore the forfeited right to vote. The pardon of the Governor does not remit the costs of a conviction, or order a restitution of stolen property, but it will remit the penalty to the State—the fine and imprisonment consequent upon the sentence. The forfeiture of the right of suffrage is a disqualification which the Governor has nothing to do with, and it does not properly belong to the pardoning power of the Governor. Why, Mr. Chairman, it is the province of the Governor to execute the law; in the event of a sentence it is his duty to remit that sentence if it becomes necessary; but by this section an elector is deposed from his position, and he is no longer an elector. He is deposed from his office for the unfaithful performance of his duty. It is the province of the Legislature to create a new order of things. If a citizen is to be made an elector after he has been deposed from his office, and if he is to be restored to all his rights and privileges, it is the proper province of the Legislature to act in the matter. The Governor's power is limited, and he is restricted to the enforcement of the law as it is, and is allowed in any given case to remit the penalty for an offence. He can create nothing. He simply executes the law already in existence. If an elector is to be restored to his privileges after his disqualification for the performance of the office of an elector, he must be restored to it by a positive act, which only a legislative body can perform with any safety to the government. That is the reason why I say the Legislature ought to restore this disqualification of the elector. Would the gentlemen who advocate the proposed

amendment intimate that if a member of the Legislature, under the particular section reported by the Committee on Legislature, was deposed from his office for false swearing, that the pardon of the Governor would return him to his seat in the Legislature? Will it be intimated that the pardon of the Governor is so wide in its scope as to restore a deposed member of the Legislature, not only to his rights as a citizen, but as a member of the Legislature?

Mr. WHERRY. I would like to ask the gentleman whether he regards the granting of a pardon an act of the Legislature, or simply a suspension of the law.

Mr. CLARK. Mr. Chairman: I have been endeavoring to explain that question. I say it is not a part of the pardoning power of the Executive. The pardoning power is utterly unable to reach the disqualification of an elector. The restoration of an elector to all his former privileges, involves the creation of a new right which has been lost by that elector.

Mr. MACVEAGH. I wish to understand the gentleman's view of the law. Under the provision, with reference to members of the Legislature, ineligibility is made a penalty for a certain offence; but apart from the constitutional provision that each House shall be the judge of the qualifications of its members, would not the Governor's pardon make the convicted person eligible? In other words, does it not remove the taint of ineligibility?

Mr. CLARK. Under no circumstances. The disqualification of a member of the Legislature is a forfeiture of his constitutional rights. He held his office under that instrument. He violated its provisions, and that instrument forfeits the rights which it conferred upon him; and no Governor can restore him to the rights of which the law has thus deprived him. It involves the creation of a new right—the legislator having lost the old; and no power of this State ought to be permitted to create a new right in any citizen of this Commonwealth, except that power which we establish and create for such purpose—the Legislature.

This is an important question, and I apprehend that under no circumstances could a member of the Legislature be restored to his position in that body by Executive clemency as a full member of the Legislature after he had been deposed by this provision of the Constitution. And I apprehend that the proposed disqualification of electors is no part whatever of

the sentence of the court. The court will impose a fine upon the elector. It is a part of the sentence of the court that he shall pay so much of a fine, or that he shall undergo such imprisonment. This is all the Governor can pardon, and beyond this sentence of the court, and incidental to the conviction, is the disqualification imposed by the Constitution for the commission of the offence. It is incidental to the conviction, and forms part of the results of the conviction under the Constitution of the State. It implies trial and sentence after the conviction, and it is only the result of that trial and conviction which the Governor's pardon can reach. The disqualification will still remain beyond all this, out of reach of the pardoning power of the Executive, and it properly belongs to the province of the Legislature.

Mr. DARLINGTON. Mr. Chairman: I have but a single word to say in reference to the remarks of the gentleman who has just taken his seat. I wish to ask the attention of the gentleman from Indiana (Mr. Clark) for a few moments. I do not know whether he has happened to advert to the fact that the Constitution, as it now stands, provides that "any person who shall fight a duel, or send a challenge, shall be deprived of the right of holding any office of honor or profit under this Constitution, and shall be punished otherwise as shall be prescribed by law, but the Executive may remit the offence and all of its disqualifications." Now where is the difference between disqualifying a man from holding office and disqualifying him from electing another to office? And is it not competent for this Convention to prescribe a disqualification by a provision in the Constitution, and at the same time provide that the Executive may remit the offence and all the disqualifications?

Mr. CLARK. Mr. Chairman: The reference which has been made to the Constitution by the gentleman from Chester (Mr. Darlington) only strengthens the more the position which I have taken. It requires a constitutional provision in order to enable the Governor to restore qualifications to a person violating the section of the Constitution to which the gentleman has referred. This is not a decision of our courts. It is a part of a section in the Constitution—"but the Executive may remit the offence and all of its disqualifications." The Executive can exercise this power, because the Constitu-

tion authorizes him, but if there was no constitutional sanction he could not, of course, exercise the power.

Mr. MACVEACH. Mr. Chairman: That is expressly prohibited in this section. In the division of the powers of the government, you look for the extent of the pardoning power under the Executive, and that gives him the right to grant pardon and to restore the offender the rights he possessed before the offence was committed.

If you create a provision of a constitutional character, of course you may limit the pardoning power, or you may divide it between the Executive department and the legislative department and judicial department; but if you make it by the Constitution a penalty for the offence that a person shall not vote, or shall not hold office, unless in some manner a limitation of the right of pardon and of the consequences of pardon is expressed. Whoever is pardoned of his offence is restored as he was as far as the public is concerned, and as far as punishment and penalty and forfeiture are concerned, before he committed the offence. Therefore it was that I insisted from the beginning that this discussion certainly was premature, and that the committee ought, at present at least, to vote down the section until we know how the council of pardon is to be constituted. You ask us now and here to say that the Legislature shall pass such a law. Do gentlemen hold that it is a matter coming within the scope of the Legislature to grant pardons, for, after all, it is giving a new right? It is taking away the old right from the Executive, leaving it for special legislation by the legislative department of the government. You make the Legislature simply a court of pardons for particular cases, and I trust the gentlemen of the committee will hesitate long before they vote that the Legislature of Pennsylvania shall be required to pass special laws for the relief of each offender against any of her statutes, or any of her constitutional provisions. Of course, the qualification of members is to be decided by each House, but this decides a different matter from The remission of fines, forfeitures or penalties. If this crime is to be taken out of the catalogue of crimes; if, as the gentleman from Philadelphia (Mr. Biddle) remarked, we are not getting a little wild upon this matter, if it is true you may leave with your Executive department the right to pardon those who murder voters, yet deny

the right to remove the penalty from those who take the life of the vote, then, I say, if that is the philosophical order of crime, then I can understand that you should say that this offence shall not be reviewed, shall not be pardoned; but if it is to be reviewed and pardoned at all, I do hope that we will not take the power from the Executive department, at least, until we hear from that committee having this department of the government in charge.

Mr. WHERRY. Mr. Chairman: This is a new and startling doctrine advanced by the gentleman from Indiana (Mr. Clark.) If carried to the ultimate and applied to to our institutions it will, in my opinion, subvert the very foundations of liberty and justice. He admits, and I agree with him, that the right of suffrage is a public office. Now Chief Justice Story says:

"The legislative power cannot justly reach the property or vested rights of the citizen, by providing for their forfeiture or transfer without trial and judgment in the courts." Again: "Any one claiming a public office has a constitutional right to a trial by jury, and the right cannot be taken away from him by any law. No statutory tribunal can be created for that purpose."

Now, then, I submit that if it is a right which cannot be taken away, except by trial by jury and judgment in a court of justice, it necessarily follows that this penalty of disfranchisement must be accounted part and parcel of the punishment inflicted upon conviction in such court. If not, why not?

Mr. NEWLIN. Mr. Chairman: I call for the reading of the amendment to the amendment.

The CLERK read as follows:

Strike out all after the word "suffrage," and insert "for the period of seven years from the time of conviction, and in case of the after discovery of the innocence of the party, a pardon may be granted to him in the manner provided for the granting of pardons by the Executive."

Mr. J. M. WETHERILL. Mr. Chairman: I call for a division of the question.

The CHAIRMAN. The question will be taken on the first division of the amendment. The Clerk will read the first division.

The CLERK read as follows:

The first division is "for the period of seven years from the time of conviction."

The question was then taken on the division, and the division was not agreed to.

The CHAIRMAN. The question is on the second division, which will be read.

The CLERK. "And in case of the after discovered innocence of the party, a pardon may be granted to him in the manner provided for the granting of pardons by the Executive."

The second division was rejected.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Lycoming, which will be read.

The CLERK. "To strike out all after the word 'suffrage,' in the second line, and insert, 'for the term of seven years, but such right may be restored by Executive pardon.'"

Mr. ARMSTRONG. Please read the section.

The CLERK. "Every person convicted of any fraudulent violation of the election laws shall be deprived of the right of suffrage for the term of seven years, but such right may be restored by Executive pardon."

Mr. GIBSON. Mr. Chairman: I ask for a division of that question, also, at the words "seven years."

The CHAIRMAN. The question will be upon the first division, which will be read:

The CLERK. "Every person convicted of any fraudulent violation of the election laws shall be deprived of the right of suffrage for the term of seven years."

Mr. KNIGHT. Mr. Chairman: I move to amend, as follows: To strike out "seven years" and insert "four years."

The CHAIRMAN. The gentleman cannot offer an amendment, the question having been called. He will have to offer it again.

On the question of agreeing to the first division, a division was called, which resulted in the division being rejected, not a quorum of a majority voting in the affirmative.

The CHAIRMAN. The question is upon the second division, which will be read:

The CLERK. "But such right may be restored by Executive pardon."

Which was rejected.

Mr. KNIGHT. Mr. Chairman: I now move to strike out "seven" and insert "four."

Which was rejected.

The CHAIRMAN. The question is on the section as amended.

Mr. LILLY. Mr. Chairman: Has it not been voted down by division?

The CHAIRMAN. The divisions of the

amendment being voted down, the amendment itself remains.

Mr. HOPKINS. Mr. Chairman: I will inquire whether the committee having negatived both the divisions that does not negative the amendment itself.

Mr. LILLY. Mr. Chairman: If I understand it aright, a division of a certain amendment was asked. After it was divided, the first division was voted down. The second division was voted down, and consequently the amendment must fail, and there can be no vote on it. The amendment is ended and the vote is on the section.

Mr. DARLINGTON. Mr. Chairman: I now move to insert the following as a substitute for the section:

"The Legislature may prescribe such punishment for fraudulent violation of the election laws as they may deem proper, including deprivation of the right of suffrage, but such right may be restored by pardon."

The CHAIRMAN. When the Chair made his decision on the amendment, being before the committee, it was so stated under a misapprehension. He thought it was only an amendment to the amendment, which fell and that the amendment remained.

Mr. ARMSTRONG. Mr. Chairman: I desire the decision of the Chair upon the question whether voting the separate divisions down is a conclusive disposition of the entire amendment. My impression is that it is not, for the reason that the committee may, if it see proper, retain one part of an amendment though it reject the other part.

The CHAIRMAN. The Chair is of opinion that the voting down of the separate propositions of the amendment killed the amendments, but I will leave it to the committee. The Chair is inclined to believe that the majority of the committee is in favor of the amendment.

The decision of the Chair is that the amendment falls. Shall that decision stand?

Which was determined in the affirmative.

The CHAIRMAN. The question is on the amendment of the gentleman from Chester (Mr. Darlington.)

Which was rejected.

Mr. STEWART. Mr. Chairman: I now renew my amendment, to come in as a new section.

To strike out all after the word "section," and insert: "In addition to such

other penalties as may by law be provided, fraudulent violation of the election laws may be punished with deprivation of the right of suffrage for a period of not less than five nor more than ten years, at the discretion of the court before which the offender may have been convicted."

Which was rejected.

The CHAIRMAN. The question is on the section.

On agreeing to the section a division was called, which resulted: Sixty in the affirmative and thirty-five in the negative.

So the section was agreed to.

THE SECOND SECTION RE-CONSIDERED.

Mr. HUNSICKER. Mr. Chairman: Before we proceed to the consideration of the next section, I having voted on Tuesday last with the majority that voted down section second, I now move that that vote be re-considered.

The CHAIRMAN. Is the motion seconded?

Mr. LONG. I second it.

The CHAIRMAN. How did the gentleman vote?

Mr. LONG. I voted in the affirmative.

Mr. MACVEAGH. Mr. Chairman: I call for the reading of the section.

The CLERK:

SECTION 2. All elections of the citizens shall be by ballot; the ballots voted may be open or secret, as the elector shall prefer, and they shall be numbered by the election officers when received. Each elector shall write his name upon his ballot, or cause it to be written thereon and attested for him by another elector of the district, who shall not be an election officer.

Mr. STANTON. Mr. Chairman: We have been occupied over a week on this section, and it was voted down by a decided majority. I hope that this motion to re-consider will not prevail.

On the motion to re-consider a division was called, which resulted: Fifty-eight in the affirmative, and forty-five in the negative. So the vote, by which the section was defeated, was re-considered.

The CHAIRMAN. The section will be read.

The CLERK again read the section.

Mr. M'ALLISTER. Mr. Chairman: I move to strike out the section, and substitute as follows. It is the substance of the section, drawn up to meet the views of some gentlemen who were simply opposed to its construction:

"All elections of the citizens shall be by ballot. Every ballot voted shall be numbered in the order in which it is received, and the number recorded by the election officers, opposite the name of the elector who presents the ballot. Each elector shall endorse his name upon his ballot, or cause it to be endorsed thereon, and attested by another elector of the district, who shall not be an election officer, and the oath required to be prescribed for the election officers shall require secrecy as to the contents of every ballot cast at the election."

Mr. WOODWARD. Mr. Chairman: I wish the gentleman from Centre would strike out the word "elector" where it occurs in the clause requiring the endorsement to be made by the elector. Let the man's name be endorsed by anybody, his wife, his daughter, his son, or by anybody else. If the gentleman will do that I will vote for the amendment cheerfully. I will vote for it any how, but I will vote for it much more cheerfully if he will do that.

Mr. M'ALLISTER. Mr. Chairman: That question was very much considered both in the Committee on Suffrage, Election and Representation and in the committee of the whole, and I think the general sentiment of this body is, that the elector is the better one to prevent the wife, and the daughter, and the minor from being called on. The design was to give some person within the election precinct who is well known—whose hand-writing is known. It is the more important in the event of his death. We want some person whose hand-writing can be proved—who is liable to summons—some person liable to attachment, if he does not come willingly, if required. I think the language is best as it is, and I cannot accept the word proposed by my friend from Philadelphia, (Mr. Woodward.)

Mr. WOODWARD. Mr. Chairman: Then I move to strike out the words "another elector," and substitute "by any person."

The CHAIRMAN. The amendment of the gentleman from Philadelphia will be read.

Mr. WOODWARD. Mr. Chairman: I am surrounded by so many friends that I am constrained to accept their advice. They desire me to withdraw my amendment, and I withdraw it for the present.

Mr. BARTHOLOMEW. Mr. Chairman: I move to amend the amendment offered by the chairman of the committee, (Mr. M'Allister,) to strike out the word "shall," wherever it occurs, and insert the word

"may," making it a mere provisional clause.

Mr. TEMPLE. I desire to ask the gentleman from Schuylkill (Mr. Bartholomew) whether he does not consider that such a change would virtually kill this section.

Mr. BARTHOLOMEW. I will answer no; that it will apply to the city of Philadelphia, where you expect frauds; but it will relieve the country from the burden which it is proposed to impose upon it by this section and defeat your Constitution.

Mr. HOWARD. Mr. Chairman: Before a vote is taken upon this question I want to say a word or two about this "country" that is going to have such a burden put upon it. Something was said, when this question was up before, about some portion of the country going *en masse* against it. Since that time this Convention has, no doubt, been somewhat enlightened upon this subject from the fact that the newspaper press in different parts of the country have spoken.

I do not think, as I said before, that this is going to impose any great hardship upon the voter in the country, any more than it imposes a hardship upon the voter in the city. *The man in the country* is affected by the fraudulent votes cast in cities as *much* as the *man in the city* in *all general elections*.

For the purpose of referring to something in regard to public opinion upon this subject, I propose to read a short paragraph from the *Pittsburg Gazette*. I cannot read it if there is so much noise in the Hall. I talk pretty loud, but I cannot talk as loud as forty or fifty gentlemen, when they undertake to do it all together.

Mr. DARLINGTON. Mr. Chairman: I rise to a point of order. We cannot hear the gentleman at all; everybody is talking.

The CHAIRMAN. The Chair has endeavored, for the last few days, to preserve order in the Hall, and if he were the regular presiding officer of the Convention he would compel it. As it is, he can only ask gentlemen to preserve order, and appeal to their sense of manhood. It is utterly impossible to hear what is going on.

Mr. HOWARD. Mr. Chairman: I propose to read from the *Pittsburg Gazette* of Tuesday, February 18. I am going to read it as a part of my speech. I desire to say, also, that we regard this as a good, sound paper; the oldest and one of the most influential in the west. It gives

good advice, and its advice is carefully considered and often accepted, by at least a portion, and quite a respectable portion, of the people of the country where it is published, and I have no doubt that it does speak, in a large measure, the public sentiment. The article to which I now refer, and from which I propose to read, is a long editorial article upon the second section of this report, and the discussion upon the subject when it was before the committee upon a previous occasion. In speaking upon that subject it uses this language:

"The proposition requiring the ballot to be numbered, and the corresponding number to appear on the poll list, with the voter's name, is a wise precaution against repeating and stuffing the ballot-box.

"Our friends in the country, who know nothing of election frauds save what they read in the papers, may think all these precautions tedious and unnecessary, but we submit to them that they will be the gainers by these restrictions, as well as the people of the great cities. If their ballots are over-stowed by false votes, cast in another portion of the State, the elective franchise is a barren privilege to them."

The trouble, also, of *writing* the name and number, &c., are all considered in this article; so that we see that, at any rate, this proposition is endorsed by a paper in the western part of the State that we know to have character and influence with the people.

It is some expression of the public sentiment that the people are not going *en masse* against this proposition. It is an endorsement of my course that I am grateful for, and I am glad this subject has been re-considered. I believe gentlemen of this Convention have received some information upon this subject since it was last before the committee, and I hope now that the Convention has the back-bone to stand up and say that we will submit a proposition to the people for their adoption, so that when a man has once cast a vote he may make his mark upon it, so that once more in this world he may know that it was *his* vote. If the ballot is the great right of the freeman then let us provide a mode so that after he has put the vote into the ballot-box he can mark it, so that if fraud is perpetrated he can say *that is the vote* I put into this box. Without this provision there is no means by which he can do it. Under the secret ballot, when the voter parts with it he

can never again recognize the vote, and the means of detecting fraud is taken away. Therefore I do sincerely hope that this Convention will adopt this provision or the amendment offered by the gentleman from Centre, (Mr. M'Allister,) which I consider better than the original provision, because that requires that the election officers shall be sworn to secrecy. Under such a provision the ballot is made just as *secret as it has been heretofore under the old Constitution*. Then, sir, we have these guarantees against fraud, and I believe the people of the Commonwealth will adopt it by an overwhelming majority.

Mr. MACVEAGH. Mr. Chairman: I do not know that it is worth while to even ask for the attention of the committee for a few minutes, but I would like them, at least, to consider the light in which some of us feel compelled to regard this section, certainly without the amendment of the gentleman from Schuylkill (Mr. Bartholomew.) You are endeavoring to correct frauds in your great cities. In that work, as I understand the means to be adapted to it, I purpose to go as far as any person here, in the first place, in ascertaining who the honest elector entitled to cast one vote is. I was in favor of a registry law for that purpose; not such a registry law as was adopted—a registry law not to register, but a registry law compelling registration as the price of franchise, and then to make your election district so small that with a list of two hundred voters, ascertained thirty days before an election, frauds will be almost impossible. Then I would also put all effective safeguards around the duty of the election officers, and I would impose severe penalties upon them. But between the honest elector, when he is clearly ascertained, and the dropping of his vote into the box, I have not yet seen any reason why we should put any impediment whatever, and I beg gentlemen to believe that whatever this Convention may do, in the vast regions of this State in which frauds never have occurred at elections, this is an exceedingly odious and exceedingly unpopular provision.

There is no question about it, as it seems to me. In that I may be in error, but from the intercourse I have had with people living in such districts, I believe there is an universal sentiment against it, and there will be sufficient interests arrayed against the Constitution to make its adoption very uncertain. Gentlemen, do not believe that the people are waiting eagerly

and anxiously to adopt our work when we are done. They will have arrayed against us enemies of great power, of great numbers, of great influence, and while they represent what is evil in our State we can afford to incur their hostility; but I beg of you not to make the honest voter in the country believe that you have put a new trouble in his way, or imposed a new duty upon him. How many men write their names legibly in the country districts? How many intelligent voters do not write their names with sufficient legibility to care to write them at all? In the most exciting political contest, what proportion of voters have to be brought to the polls by party agency and the expenditure of money? You talk as if this provision would tend to prevent fraud. Gentlemen, this provision will tend to make a larger sum of money necessary, in every election hereafter, in Pennsylvania, than has ever been spent before.

We were called together by only three hundred thousand voters. There are but three hundred thousand voters in Pennsylvania who ever said they wanted us to meet; and even to elect a President, even to elect a Governor, even to elect a Congress in the throes of a great civil war it has always cost a large expenditure of time, and effort and money to get out the average voter of Pennsylvania, and every impediment you place between him and the ballot he is entitled to cast, so much do you add to the difficulty of getting him to vote, so much do you add to the power of the politician and to the need of money to bring him to the polls. With this provision in your Constitution your election becomes a pure question of money. With the rural districts it becomes a question as to which party will spend the most money to have active electioneering agents going around to every house, seeing that each man writes his name upon the ticket, furnishing him with a witness, if he has not got one, and furnishing him with a carriage to bring him to the polls. It will then be discovered that you have simply multiplied the power of the professional politician, and multiplied the sum that is required for the ordinary expenditures of an election canvass. If you need it here, if you need it in Pittsburg, do not put it upon all the rest of the State. Trust them that they understand something of their own need, and when they want it they will apply for it, and when they need it they will get it, but do not burden the whole Constitution with this provision.

Mr. NILES. Mr. Chairman: Is there an amendment to the amendment pending?

The CHAIRMAN. Yes, sir; the proposition now is to strike out the word "*shall*," and insert the word "*may*," as proposed in the amendment of the gentleman from Centre, (Mr. M'Allister.)

Mr. NILES. Mr. Chairman: I do not at this time desire to detain this committee, because the vote upon the reconsideration seems to have determined the fact that this clause in the report of the committee is to be adopted.

During the many long days of this discussion I believe I have not troubled this committee with any remarks upon this subject; but representing, as I do, in part, a rural district—composed of four of the largest agricultural counties, as far as territory is concerned—in this Commonwealth, I feel that I would be derelict in my duty towards them were I not to rise in my place, and protest in their name, against the passage of this amendment.

I am willing, to-day, sir, to go as far as the farthest to protect the elective franchise in Philadelphia, or in any of the great cities of this Commonwealth. I am willing, as I said to the distinguished gentleman from Philadelphia, (Mr. Cassidy,) the other day, to vote affirmatively upon any proposition that proposes to purify the ballot-box in this or any other city; but, for the purpose of benefiting them—and of purifying the ballot-box in the great cities of the Commonwealth—I believe it would be an outrage and a wrong to the people of the rural districts, where no frauds are committed, to impose this great and unnecessary burden upon them.

I have here a resolution or proviso which I propose to introduce at the proper time, to limit the effect of this article to cities having more than thirty thousand inhabitants. If Philadelphia desires this measure, let Philadelphia have it.

What is it that is proposed to be done? Why, sir, look over the broad States of this Union, over which we heard so much eloquence last evening—are we not departing from the rule of conduct in every one of them? Is there a government to-day upon the face of God's green earth where men vote by ballot with such restrictions and limitations thrown around them, as those you propose to throw around the people of Pennsylvania by the section now before us? I appeal to the friends of this measure, those who propose to put this great and unnecessary hardship upon the voters of this Commonwealth, if you

are not departing from the common law of voting in every civilized government upon the face of this earth, where you put a restriction upon the voter, requiring him before he can deposit his ballot—the right of every man—to write his name or have it written upon that ballot, you compel him to do a thing unheard of before!

For the purpose of protecting the ballot-box in Philadelphia, you propose to-day to depart from the acknowledged rule of conduct in every State of this Union, because it has not been said by the earnest and eloquent advocates of this measure during the sixty-two speeches we have had upon it *pro* and *con*, that any government, either upon these shores or any other, have ever adopted such a provision—that any government has ever imposed those unnecessary restrictions upon the voter in the discharge of his duties as an elector.

My friend over the way (Mr. Howard) says he has heard from Allegheny. Well, sir, I have heard from the northern tier, and from my constituents above the Alleghenies, and I say, in my place, that the universal sentiment of my people is opposed to this.

In a township adjoining the borough in which I live there were five hundred votes cast at the last election. The people met—as people meet in the rural districts—at a school house at the "four-corners." Now, sir, I submit, is it not a hardship for these people to come, many of them, four or five miles to meet there, in an inclement season of the year—in November—and compel them to write their names upon their ballots, when they have no writing appliances or conveniences? Besides, sir, and by way of making the matter worse, at every one of our elections four or five ballots are required to complete the tickets. It may be convenient enough for clerks—men whose profession it is to use the pen—to write their names upon their ballots, especially when they meet here in your large cities, close by their homes, and surrounded with every proper appliance for writing. I submit, however, to this Convention, that it is a great hardship to the men that live in the rural districts—men that are not used to writing—men who follow the plow instead of the pen—to compel every one of them, when they get out there, away from their homes, and with no conveniences, to write their names, or cause them to be written, upon

four or five ballots, before they can discharge the right that they all possess.

I have now said, sir, all, and more than I intended to say when I rose. When the time comes for the purpose of showing my earnestness and conscientiousness on this subject, I propose to submit this amendment, giving to Philadelphia this great right that she says she desires; but I, for one, protest, in the name of the rural districts, against the enforcement of that provision.

Mr. DALLAS. Mr. Chairman: I confess, sir, that I am unable to state what the views of my constituents, or of any number of them may be on this subject. The gentleman from Dauphin (Mr. MacVeagh) and the gentleman from Tioga (Mr. Niles) may have superior means of discovering or divining what the sentiments of the people who sent them here may be. But, sir, that gentlemen may be mistaken in their suppositions on that subject has been fully evidenced to us morning. The distinguished delegate from Pittsburg, (Mr. Howard,) when this question was last before the committee, modestly stated that he was unable to say what views the citizens of Pittsburg would take of this subject. On the other hand delegates from the same city stated, with the greatest confidence, that if the Constitution should be made to embody the provision now under consideration, the citizens of Pittsburg would vote it down *en masse*. Still we find the gentleman from Pittsburg, who was too modest to assume any knowledge of the views of his constituents, establishing, this morning, that he is endorsed by the citizens of his district, in so far, at least, as a highly respected and influential portion of their press may be accepted as a representative of the people in that respect. We have also seen two gentlemen rise in their places this morning, one to move a reconsideration of this section, and the other to second that motion, who had previously voted upon this question in a manner differently from that upon which we are now led to hope for, and we have a right to presume that they may in the meantime have learned something from their districts to make them doubt the correctness of the course which they have hitherto pursued, and to confirm them in the good purpose they have now in mind.

I do not think this the way for this body to view any question; to haltingly and fearfully consider what their constituents are going to say about it. With all re-

spect for the gentlemen who have invoked such an influence, I must say I do not think it is a manly way. I, for one, will vote upon every question before this body upon my own conviction of what is right. I believe, however, that if the people of Pennsylvania desire anything at our hands; if there is anything that will secure their favor for our work, it is some provision in our Constitution looking to a radical reform in our elective system, and for the correction of election frauds.

The gentleman from Dauphin (Mr. MacVeagh) has told us that he is for a registry act, as a means of ascertaining, beyond question, the legally entitled voter; that, however, when the voter shall be ascertained he (Mr. MacVeagh) is opposed to anything that comes between him and the ballot-box—any unnecessary impediment; but, sir, it is not in the dropping of the ballots into the ballot-box by the honest voter that the wrong is done: it is in the manner in which they are taken out, the manner in which they are counted, and the manner also in which they are put in; but not by men even purporting to be honest voters, but by scoundrels and by the handful; and the provision that the standing committee has reported to us is recommended to us all by the fact that it proposes to enable honest voters to detect which of the votes in the box were put there by legal voters, and to distinguish them from those which were not. It would enable every honest voter to say, if necessary, "*this* was my ballot," and it would enable the people, if false votes were cast, to see that the purpose of the honest voters should not be thwarted by fictitious and fraudulent ballots.

This, sir, is not a Philadelphia question. The State of Pennsylvania is a unit. I am proud that I am a citizen of so great a Commonwealth; and the citizens of all this State, from one end to the other, should be proud that this great Commonwealth has so noble a metropolis as that in which we meet. No feeling of rivalry should exist between the rural districts and the city of Philadelphia. We are one State, and we should be brothers, and on on this question we should be a unit for the *general* good, because in every election for State officers the franchise of the voters of every portion of this State is exercised. It is idle for gentlemen to say: "We will give you this in Philadelphia. We do not require it in the pure atmosphere from whence we come."

Sir, unless the ballot-box shall be

equally protected throughout the State—unless we can guard it in every section of our Commonwealth—men who perpetrate frauds upon elections will go where they can make their calling effective. Deprive them of the power of exercising their nefarious trade here, and even the pure atmosphere of Tioga will shortly become polluted. But there can be no doubt that there are certain sections of the State that need it equally with us. The article that the gentleman from Pittsburg (Mr. Howard) read, from a Pittsburg paper, this morning, shows that Allegheny county, at least, is not so wholly freed from election frauds as some gentlemen have represented. If you do not protect every section, not only those sections in which fraud has existed, but into which it may come, you omit a measure of relief for the entire people of Pennsylvania. The frauds that have been committed in different sections do not affect merely local offices. Their perpetration involves State elections as well. You may cast as many legal votes as you please west of the Allegheny mountains, and they will avail nothing, if east of those mountains a sufficient number of illegal votes can be cast to overpower them.

I yield to no man in my reverence for the ballot. I look upon it as next only to trial by jury in its importance to us as freemen, and when I saw that this section proposed to interfere with it, I confess I hesitated long before I could feel that it would be right to adopt it; but the people of Pennsylvania are looking for something to be done for the *purification* of the ballot. This sacred right has been corrupted and polluted; and here is a committee of fifteen gentlemen, who have been for a long time considering the subject, and as a result of their best efforts to *purify* our elections, they have brought us this single proposition. No gentleman on this floor has suggested a better, and the united wisdom of this committee of the whole has been unable to present any other proposition to the end desired; and still gentlemen tell us that they are anxious to get rid of these frauds, but will vote down this only practical measure for relief whilst having no other to present.

MR. CARTER. Mr. Chairman: I think it would be presumptuous in any one to attempt now to add anything new to what has been said during the past four or five days we have devoted to the consideration of this subject; but I have something to say in reply to the gentleman from

Philadelphia (Mr. Dallas) and the gentleman from Pittsburg, (Mr. Howard,) who have last addressed the Convention. I thought there were some very weak points in both of their arguments, and I think the extract which the gentleman from Pittsburg (Mr. Howard) read from the Pittsburg paper only confirms the opinions which I, for one, and I trust a majority of this Convention, have held in regard to this question. I understood the tenor of the extract which the gentleman read that this was not a provision which would meet with the endorsement of the people in the rural districts. This is the point we take, and that brings me right square to the argument of the gentleman from Philadelphia, (Mr. Dallas,) who said that he was unable to state what his constituents may think in regard to this matter, and that he thought it was immaterial to know the opinions which they entertained. I desire to direct the few remarks I shall make against this great radical error. We are not assembled here, as I have remarked before, to determine upon questions likely to arise or a state of public opinion that may exist in the future, and to say this subject under discussion being right shall be the fundamental law of the land. We are legislating (for this is a species of incipient legislation) for things as they are and for men as they are. We are bound to consult the opinions and prejudices of our constituents, and we cannot go far in advance of the people and declare that such principles are correct, irrespective of the views our constituents may entertain, if we would have the work of this Convention meet with an endorsement at their hands when it shall have been completed.

I deem it would be extremely unwise if the sentiments entertained by the gentleman from Philadelphia find response in the minds of many members of this Convention, and the wishes of the people regarding questions coming before us for discussion were entirely disregarded and set aside. I firmly hold that the Convention has much important work to accomplish in many different directions, besides the purification of the ballot, if it would look to the interests of the whole people of the State. The gentleman from Philadelphia (Mr. Dallas) seems to have entirely forgotten, in his remarks, that the report of the Committee on Elections contains many features looking to that end, and that many of them have been adopted. I do not feel disposed to detain the Convention by enumerating them, but

we all know that many of these features contained in the report have been adopted, and there will be more suggested before this Convention adjourns. This question, which has been so lengthily discussed, is certainly an important one, and I entreat the earnest attention of the members of the Convention in its deliberation, for the people of the State feel a deep interest in its final decision. The amendment of the gentleman from Schuylkill (Mr. Bartholomew) seems to have created an apprehension among some of our members that if it is adopted it will kill the section under discussion. Better it should than the entire work of the Convention. I have conversed with many of the citizens of my own county, and with a member of the Legislature from the district I represent, and on all sides I learn that nothing can be more unpopular among the German masses residing in my district than the adoption of this measure. Will gentlemen assert that it is possible for us to educate the people up to this standard? I think the practical and most statesman-like manner this question can be viewed is to wait until the people are, to some extent, disposed to endorse such a provision.

I have received information and have conversed with gentlemen residing in Delaware, Chester and Berks counties, and from all I can learn I am fully and perfectly satisfied that this measure is exceedingly unpopular in those regions. If we cannot place sufficient guards around the ballot-box to protect it without necessitating this special measure which is so obnoxious, I think, to all portions of the State, why should we incorporate it in the Constitution, and imperil all the work of reform which I believe the Convention is destined to accomplish? I said I did not intend to enter into the argument, believing that it has been entirely exhausted, but there is one point upon which I feel it my duty to express my views. I am very familiar with the feelings and sentiments of the so called German classes of the voters in the county in which I reside. They are a class of people who are exceedingly tender and delicate about the exercise of this right of franchise. There already exists considerable difficulty in getting them to the polls at times, and most certainly the difficulty should be lessened instead of increased. I can well understand the discouragement which would ensue among them if this measure was adopted and they were not

permitted to vote in a conscientious and independent manner, and the reluctance they would have in being required to write their names on every ballot, thus destroying the secret ballot which they have always been permitted to use. I have now, Mr. Chairman, only one word to add in regard to the so called destruction of the secret ballot. I hold, whether it is right or wrong in itself, that the people of this country are not prepared to destroy the secret ballot, and to this remaining point I desire briefly to allude. I strongly believe, unless I can be otherwise convinced by the presentation of other arguments than I have already heard in this Convention, that this section, if it is adopted, will destroy the secret ballot. The people are not ready to have it destroyed, and this section does destroy it. This fact can be easily illustrated. An honest farmer or a citizen of a rural district does not want to vote for a man or neighbor, it may be with whom he may be, perhaps, on friendly and social terms, but he cannot conscientiously support him. He may desire to vote for a man whom he can conscientiously support, but he does not wish to have his vote known, and his vote will be known and thus to incur the enmity of old friends and neighbors.

Is a citizen of the State protected in cases similar to this, if this measure shall be carried into effect? It will be, I say, absolutely impossible to retain the secrecy of the voter's ballot, because when the box is opened to count the votes there is the voter's ballot and name. The judge of the election and the election officers, or anybody else in the room, can see at once the name of the voter and the manner in which the ballot was cast, and discord and dissension will be created to such an extent that voters will long hesitate before they encounter the animosity of their friends and neighbors. The timid, the shrinking and the cowardly voter, if you so choose to designate him, shields himself behind this secret ballot. The large class of our people who may wish to conscientiously cast their votes, but who would hesitate if they knew their ballots, and the manner in which they were cast, could be at any time exposed to the public gaze, and the result would be that in a majority of cases they would remain away from the polls, but will attend to vote against our work, when we need them most to vote to sustain the labors of this Convention. In conclusion, Mr. Chairman, inasmuch as I am convinced that

the adoption of this section will interfere with the harmony and the adoption of the work of reform which the Convention has been called especially to accomplish, I shall vote against this, as I hold, improper, if not iniquitous, measure.

Mr. RUSSELL. Mr. Chairman: I have thus far been as silent during the discussion of this question as any other member of the Convention, and I would remain silent if I did not consider the question now before the committee one of the most important that will come before the Convention. It must be confessed, Mr. Chairman, that the work of the Convention will be in vain, unless some protection is thrown around the ballot-box. This protection, be its form what it may, must be afforded by this Convention, if we would save our government and preserve our free institutions. I have listened attentively for days to the arguments that have been made upon this question, and I have yet heard none which have convinced me that the section reported by the Committee on Suffrage, Election and Representation ought not to be adopted, in the absence of a better or more satisfactory proposition. We have been told by the gentleman from Dauphin (Mr. MacVeagh) that he is in favor of a registration law, and that it will correct all the evils under which the country labors in consequence of the frauds committed at our elections. Mr. Chairman, a registration law has been tried, and has failed to accomplish the desired end. Besides, a registry law, to which I am not opposed, if it will do good, imposes as much trouble upon many voters as it would be to write their names upon their ballots. The gentleman also told us that if the section under consideration is incorporated in the Constitution, the people will reject the entire work of the Convention. We have heard this argument, if argument it can be called, over and over again, from all parts of this Hall. I do not, Mr. Chairman, apprehend any such result. The people are honest, and desire fair, honest elections, and will sustain any reasonable proposition that will keep the ballot-box pure and undefiled. If, however, they do not approve of what we do, we must abide by their decision; but, Mr. Chairman, my constituents have sent me here to do what is right, and I intend, regardless of all considerations, to do what is right as God enables me to see the right; and I intend, therefore, to vote for the incorporation of this section in the Constitution, because I

believe that it is right, and that it should be there, even if some of my constituents should differ from me, and manifest their disapproval in their vote upon the adoption of the Constitution which this Convention may submit to them. I have said, Mr. Chairman, that this is an important question. Nearly one hundred years ago, in a hall only a short distance from this hall, a body of illustrious men convened and framed the Declaration of Independence. The history of that day tells us that the adoption of that great measure depended upon a single vote. That grand old patriot, John Hancock, was, as we all know, the president of that Congress. When the vote was taken it resulted in a tie—a member was hourly expected, and history further informs us that Hancock delayed the announcement of the vote, awaiting the arrival of the absent member, and occupied the attention of the Congress in a speech in support of the declaration until that member made his appearance in the hall. The vote was then taken and the declaration was carried, and the old State house bell rang out to the anxious, waiting people the glad news that Congress had declared that the thirteen colonies were free and independent States.

Mr. Chairman, upon that day was laid the foundation of the most magnificent governmental structure which the world has ever seen. The thirteen colonies, occupying a narrow strip along the coast, with a population of only four millions, have become thirty-seven States, with a population of forty millions, stretching from the lakes to the gulf, and from the Atlantic to the Pacific, cemented now by the blood of half a million of the best men of our country. The corner stone of that structure is the elective franchise. Keep that pure, and all will be well. Allow it to be corrupted, permit the enormous frauds, the perpetration of which is not denied, to be continued, the labors of the men of 1776 will all have been in vain, and our free institutions must come to nought. Mr. Chairman, a Macedonian cry has come up from Philadelphia to the rural districts for help. She seems to be paralyzed, and asks the representatives from the other parts of the State for aid to correct the great evil under which she labors, and to help her to devise measures to insure purity in her elections. So far as I am concerned, I will do what I can to remedy this enormous wrong, not only in Philadelphia, but wherever it may exist

in our great State, and I am willing to rest the Constitution with the people, and with this section reported by the committee incorporated among its provisions. We ought to do all we can to bring about a reform upon this most momentous subject. Let us adopt the section, and if we find, before it is taken up for final action in the Convention, after it has passed the committee of whole, that it is so distasteful to the people that they will not approve it, we can retrace our steps and agree upon something else to meet the emergency which will be satisfactory to the people. I hope that the members of the Convention will meet the question like men, and that they will, at all events, be willing to try what can be done to prevent for all time to come the gross frauds under which our Commonwealth has suffered.

Mr. BUCKALEW. Mr. Chairman: I rise to make an appeal to the committee for greater despatch in the transaction of our business. Certainly this question has been sufficiently debated, and I hope the committee, without further indulgence in discussion, will dispose of it now, one way or the other. I hope that this afternoon, instead of entering into a general debate upon a section the subject matter of which has been already fully considered, that we will dispose of it, and then I hope that to-morrow we will take up the remaining part of this report from the Committee on Suffrage and finish it, so that this matter of the report of that committee shall be fully passed upon in committee of the whole and reported this week. We are certainly consuming time at a rate that will make the Convention sit much longer than we originally intended, and may prevent that full consideration which will be due to the very important business which other committees will present to the Convention. We are pretty near the end of February, and we have made no progress except upon a few points submitted by the Committee on the Legislature, and to some extent upon this report from the Committee on Suffrage. If we shall dispose of this question without further debate, one way or the other, I hope we will be able to get out of the committee of the whole upon this entire report to-morrow, and upon second reading, if any gentleman has remarks to make, which are deferred now, they may be heard then.

Mr. SIMPSON. Mr. Chairman: I do not desire to waste the patience of the House upon this subject, but at the risk of being

charged with taking too much time, I desire to tell a little story that was told: Speaking of the case of an election occurring in one of the boroughs of this Commonwealth, under very high political excitement, the judge, who was a whig, allowed everybody who came to the polls to vote. If challenged by his party friends, it made no difference. The votes were received at the window, and before the election was closed he received a great many curses from his party friends. To the astonishment of everybody the whig ticket, the next morning, was found to have received some three or four hundred more than the usual majority in that borough. When they began to apologize to the judge he said: "It don't make any difference, but how in the name of common sense could I get the majority if I did not have the votes?"

Now, sir, if we want to get substantial reform adopted here in the interest of this Commonwealth, the Convention will adopt this section as reported by the committee. If the Convention does not want that reform they will vote this section down.

Mr. J. W. F. WHITE. Mr. Chairman: I do not intend to inflict a speech upon this committee—

Mr. MACVEAGH. Mr. Chairman: I trust the gentleman from Allegheny will allow me to say one word. I appeal to the member from Columbia (Mr. Buckalew) not to interfere with the course of this debate. I do not say that it is true, but I heard on my way here this morning, that arrangements were made, mainly by one political party, to re-consider this vote, to prevent debate and to pass this section through the committee. I said then that I did not believe it, and I do not believe it now.

Mr. WORRELL. State your authority, sir.

Mr. GOWEN. Mr. Chairman: I ask the gentleman to give his authority for that statement.

Mr. MACVEAGH. Mr. Chairman: I beg to inform those gentlemen that I am not in the habit of giving the names of gentlemen who come to speak to me privately unless they request it. And now if anybody else has any more questions to ask, I will be glad to hear them.

I have already said that I did not believe it, but I appeal to the member from Columbia that it would be wise to allow unrestricted debate to-day to prevent any misunderstanding.

Mr. HOWARD. Mr. Chairman: I rise to a point of order. I ask if it is in order for gentlemen to rise upon this floor and charge that measures are started here as party measures?

The CHAIRMAN. The Chair will state that there is no occasion for this allusion to party. It is all out of order, but the Chair cannot tell what gentlemen are going to say until they utter their words.

Mr. BUCKALEW. Mr. Chairman: I desire to—

The CHAIRMAN. The Chair wishes to take this opportunity to say that he sees no need for this exhibition of party feeling.

Mr. BUCKALEW. Mr. Chairman:—

The CHAIRMAN. The gentleman from Allegheny has the floor.

Mr. J. W. F. WHITE. Mr. Chairman: I yield to the gentleman from Columbia.

Mr. BUCKALEW. Mr. Chairman: In consequence of the intimation made here by the member from Dauphin, (Mr. MacVeagh,) I have to reply that I did not know that this motion to re-consider was to be made at all, until a few minutes before it was proposed. As to this statement which the member has just made, in reference to an understanding between the members of one political party, as far as my knowledge and belief goes, it is utterly without foundation.

Mr. J. W. F. WHITE. I said, Mr. Chairman, that I did not design to occupy the time of this Convention.

Mr. HUNSICKER. Mr. Chairman: As the mover of this motion to re-consider, I hope that the gentleman from Allegheny will yield me the floor for a minute.

Mr. J. W. F. WHITE. I prefer, Mr. Chairman, saying what I have to say now.

Mr. BIDDLE. Mr. Chairman: I would like to make an explanation. I am sorry, very sorry, that any reference to party has been made.

The CHAIRMAN. The gentleman from Allegheny has the floor.

Mr. BIDDLE. I desire to make an explanation, Mr. Chairman.

The CHAIRMAN. Will the gentleman from Allegheny yield to the gentleman from Philadelphia?

Mr. J. W. F. WHITE. Mr. Chairman: I prefer to say what I have to say now. I do not intend to inflict a speech upon this committee, but I must say that I think the suggestion made on the other side is a little unkind at this time. This question was discussed very fully and very ably in the committee of the whole, and

a vote was taken upon it regularly, at the close of discussion, and the section as reported by the Committee on Suffrage, Election and Representation was voted down by a vote of fifty-one to thirty-nine. Those of us who are opposed to the section had no idea of the matter being sprung upon the committee of the whole to-day. A number of those who are opposed to the section and are opposed to this plan of writing names upon their ballots are not here to-day. It seemed very much as if there was a concerted movement on the part of the friends of this measure to bring it up to-day, and, without any discussion, force it through the committee. I say this seemed to be the plan, but I submit that it was taking advantage of those who are opposed to this plan. We all anticipated the question would come up again on the second reading of the section in Convention. That was the general understanding, because it will come up again then properly. But as a committee of the whole we had passed upon the question. We had disposed of it, so as to get through our work and return the same to the Convention. Now to bring it up again to-day, in the absence of some who are known to be opposed to it, seems unfair to those who expect it to come up at a different time and in a different way.

Now, sir, I do not intend to discuss the question again; but I beg to make one or two remarks, called forth by my colleague from Allegheny county. He quoted from the *Pittsburg Gazette*, but if the gentleman had noticed carefully what he read he would have found that the *Pittsburg Gazette* does not endorse the writing of the names upon the ballots. It favors the numbering of the ballots, and that these numbers shall correspond with the numbers upon the list, but it speaks doubtfully of the propriety of putting the names upon the ballots. The very manner in which it refers to it expresses doubt on that point, and speaks of it as being obnoxious and open to very serious objections. It says if that will be useful in the way of preserving the purity of elections, why not endure the inconvenience and trouble to which it will subject voters? I do not advocate or oppose any question here because of its party relation. I trust, Mr. Chairman, that while I am a partisan in one sense, and belong to one of the great political parties of the State,—

Mr. HOWARD. Mr. Chairman: Will the gentleman allow me to interrupt him?

Mr. J. W. F. WHITE. No, sir; I will not be interrupted. The gentleman can reply. He has his opportunity.

Mr. HOWARD. Mr. Chairman: I do not wish to respond, but I want to call the attention of my colleague to this article.

Mr. J. W. F. WHITE. Mr. Chairman: I read the article at the desk of the gentleman, and I say that it approves of the numbering of the ballots directly, and it speaks rather doubtfully of the other suggestion of writing the electors' names upon their ballots; but admitting that the gentleman is even right, that is the only paper in the city of Pittsburg that has said a word on the subject; but even if all the papers there had come out in favor of it, as an individual and as a member of this Convention, I should exercise my own judgment. I do not intend to advocate or oppose any measure here because of its relation to parties. I will do here in this Convention what I believe to be best; what will be best for the people of the State, without regard to whether it is advocated by republicans or advocated by democrats, or without regard to any possible influence upon political parties. I have opposed this measure of writing the names upon the ballots on that ground solely, and totally and entirely. I am in favor, Mr. Chairman, of the first part of the section now before the committee; and I shall move, when it comes in order, to strike out the last part of that section, and I ask the attention of the committee a very few moments now to this thought.

The first part of the section reported by the chairman of the Committee on Suffrage, (Mr. M'Allister,) now before us, provides that the ballots shall be numbered by the election officers, and the numbers correspond with the names of the electors, on the list. Now, sir, I am willing to go for that. I am willing to vote for that, because it will not subject the voter to any inconvenience whatever. It can be done very speedily by the election officers, and will not encumber the ballot-box, and will cause no annoyance to the elector; and because I believe we can still preserve the ballot in its secrecy by that mode. In this way, if the election officer wishes to find out how a man votes he cannot tell by the ballot when the ballot is simply numbered. He will have to see what number is on it and then turn to the list and see what number is on the list; and only by referring to the list and also to the number of the ballot can he tell whose ballot it is.

Now the Legislature might provide that before the election officers undertake to count the ballots, they shall seal up the list of voters; and if they did that, then it is impossible even for the election officers themselves to tell how any man voted. The Legislature may provide that. It may also provide that election officers shall be sworn not to tell how the elector voted, unless called as witnesses in court.

With these guards provided by the Legislature the ballot will be preserved, and its purity, as it has existed from the origin of our State down to the present time, and subject the voters to no inconvenience, no trouble and no vexation whatever. I object, therefore, to the latter part of that section which requires the names to be written, because I believe the numbering of the ballots will enable the parties in the case of a contest to tell whether frauds have been committed by the election officers. For example: If a controversy arises, I am called as a witness. The number of my name and ballot is fifty. The ballot marked fifty is shown me, and I am asked, "Mr. White is that your ballot?" I answer, no; I did not vote that ballot. In the same manner other voters are called as witnesses. The ballots marked as their ballots they testify are not the ballots they voted. And if the cases of this kind are numerous, we would have conclusive evidence of fraud on the part of the election officers, and the evidence would be just as conclusive as if the electors had written their names upon their ballots. With numbered ballots, election officers would feel that they cannot tamper with the ballots. If they should take out of the box the genuine ballots, and substitute others, they are liable to be detected. You would simply have to call the voter himself to prove it, and not have to call all the men that voted at any election, as you have to do under the present law, to establish the fact of fraud. Hence I am in favor of the first part of the section and opposed to the second part of it.

If you force this section into the Constitution you know that one-third of the Convention can demand a separate vote upon it. That, I apprehend, will be done. Had you not better put a clause into your Constitution that we can all agree to such as is suggested now, or the clause of the present Constitution, then submit this as a separate amendment to the vote of the people? I am willing to vote for it in that shape.

Mr. DUNNING. Mr. Chairman: I think

the gentleman from Allegheny (Mr. J. W. F. White) is mistaken when he says this measure was sprung upon this Convention. There is a much larger number of members here to-day than there was upon the day on which the vote was taken before.

I want to say simply this, as I have not said a word upon this subject at all, when I get an opportunity to vote upon this question, I want my vote to be so recorded that it shall go to the country that I have voted in favor of some reform upon this question that so materially affects the people of this entire Commonwealth. I have neither the time nor the disposition to enter into the discussion of what the troubles are in connection with this; they have been so fully elaborated here, but I want to put my name upon the record among those who vote in favor of such measures as shall reform and correct the evils that have crept into the ballot during the last few years, and I want to be found amongst those who will not vote as a partisan. I do not want to belong, nor to be recognized with those who vote upon this question who shall be called a partisan in voting upon it.

The people are demanding that we shall furnish to them such measures and such reforms as shall correct the abuses of the ballot box. I have failed to see anything which would lead to a reform that the people would not gladly endorse. They demand reform; and I believe the Committee on Suffrage have presented to us just such measures as the people all over this Commonwealth want, and I shall support, most cordially, the section as it comes from the committee with the amendment of the gentleman from Centre (Mr. M'Allister.)

Mr. HUNSICKER. Mr. Chairman: As I am the author of all this mischief, and have provoked all this discussion, I desire to state all that transpired between myself and other members of this Convention with regard to my action. When I came into this Hall this morning, I met the venerable chairman of the Committee on Suffrage, Election and Representation (Mr. M'Allister.) I also called upon the gentleman from Carbon, (Mr. Lilly,) and I said, to both of them, that I was convinced in my own mind that the vote I had cast the other day against this section was a mistake, and if they could name another gentleman who had voted in the same way, who would second my motion, that

I would, this morning, make a motion to re-consider, because I expected to be absent next week, and I desired to make this motion in committee, so that the committee could re-consider it, if my vote with the others was strong enough to do it. There was no party combination; there was no party question; I had no idea either of stifling or provoking debate, and I do say, with all deference to the gentleman from Dauphin, (Mr. MacVeagh,) that he must have had a very unreliable informant, or he must have been quick with his suspicions.

Mr. HOWARD. It must have been his imagination.

Mr. HUNSICKER. As my friend suggests, it may have been imagination; but I do think that this subject has been fully and thoroughly discussed. I have taken no part in the discussion of it whatever, nor do I mean now to go into the discussion of it; but, upon consultation with my constituents, at least with as many of them as I could see, and after reflecting, I have become entirely convinced that the substitute for the section, as offered by the gentleman from Centre, (Mr. M'Allister,) is a necessity imperatively demanded by the times, and that was the reason why I moved to re-consider. If gentlemen desire to discuss it, so far as I am concerned, they may discuss it from now until the end of the Convention.

Mr. HOWARD. Mr. Chairman: Just one moment's time of the Convention for the purpose of correcting the statement of my very respectable colleague, (Mr. J. W. F. White,) who seems to think I did not read the article from the *Pittsburg Gazette* aright, or that it was not exactly as I stated it.

In regard to the writing of the name upon the ticket, I am reading from the editorial now. I will read that part of it which I did not read when I spoke before upon this subject.

"In regard to requiring the signature of the voter on the ballot, and if he cannot write, his name written and attested by a resident of the district, it is open to the objection with many that it interferes with the secrecy of the ballot. Not any more than the numbering process, if the election officers are sworn, and the vote is only made known in an election contest."

"So far as this writing the name on the ballot is calculated to add a feeling of personal responsibility to the voter for his discharge of his duty, it seems to us a wise and thoughtful policy. It will tend to

elevate and make more impressive the elector's duty. This is precisely what is needed most."

If that does not squarely and fairly endorse all that is before the Convention I cannot understand the meaning of language. The writing of the name is "precisely what is needed most." I do not think that can be dodged.

Mr. MACVEAGH. Mr. Chairman: I was out in the ante-room and did not hear all of the remarks of the gentleman from Montgomery (Mr. Hunsicker.) It seemed to me that perhaps he did not fully understand what I had said. I did not say—because it would not have been true, and I knew it—that there were not gentlemen of both political parties upon both sides of this question, as ardent in their political faith the one as the other. Nor did I intimate that the gentleman from Montgomery, (Mr. Hunsicker,) so far as he was concerned—for I had no information upon the subject—had any knowledge of it; but I did say to the gentleman from Columbia, (Mr. Buckalew,) with his permission, that I thought it was exceedingly unwise and inopportune to close debate this morning summarily upon this proposition, because of alleged information had been brought to me, I stated then that I did not believe it. Other gentlemen around me said that they did believe it, and other gentlemen had heard the same thing. We do not make anything by failing to recognize matters just as they are. I was informed, as I said before, that gentlemen in political sympathy with the gentleman from Montgomery (Mr. Hunsicker)—nobody was named or I would name them here—would, this morning, move to re-consider this vote, and that they would endeavor to prevent debate upon it.

The CHAIRMAN. The Chair will state that gentlemen of both particular parties came to him, this morning, and asked him at what time this motion should be made. I did not understand that there

was any idea of party feeling connected with it all.

Mr. BROOMALL. Mr. Chairman: I move the committee now rise, report progress and ask leave to sit again.

Upon this motion a division was called, and resulted: Affirmative, fifty-one; negative, fifty-eight. So the motion was not agreed to.

Mr. BUCKALEW. Mr. Chairman: I will add a word more. The remarks I made this morning in favor of concluding the debate on this subject were made of my own motion, without consultation with any human being, and upon the reasons, therefore, as they presented themselves to me. In addition, in reply to the suggestions of the member from Dauphin, (Mr. MacVeagh), I must be permitted to say that I think that it is unnecessary for any member of this Convention to bring into this body and put into our debates a report which he says he does not himself believe.

Mr. BROOMALL moved that the committee do now rise, report progress and ask leave to sit again, which was agreed to.

So the committee rose.

IN CONVENTION.

Mr. LAWRENCE. Mr. President: The committee of the whole has had under consideration the article reported by the Committee on Suffrage, Election and Representation, and has instructed me, as its chairman, to report progress and ask leave to sit again.

Leave was granted.

LEAVES OF ABSENCE.

Mr. MACCONNELL asked leave of absence for Mr. Porter for a few days, which was granted.

Mr. WOODWARD asked leave of absence for Mr. Armstrong for a few days, which was granted.

The hour of two o'clock having arrived, the Convention adjourned until to-morrow morning at ten o'clock.

FORTY-NINTH DAY.

FRIDAY, *February 21, 1873.*

The Convention met at ten A. M.

The President, Hon. William M. Meredith, in the Chair.

Prayer was offered by Rev. James W. Curry.

The Journal of yesterday was then read and approved.

THE CENTENNIAL CELEBRATION.

The PRESIDENT laid before the Convention the following communication :

U. S. CENTENNIAL COMMISSION, }
PHILADELPHIA, *Feb. 21, 1873.* }

Hon. WM. M. MEREDITH,
President Constitutional Convention:

DEAR SIR:—I have the honor to enclose herewith stage tickets for all the members of the Convention for the centennial celebration at the Academy of Music, this evening.

Very respectfully,

D. L. MORRELL,

Chairman.

REPORTS OF PROTHONOTARIES.

The PRESIDENT laid before the Convention the report of the prothonotary of Franklin county, relative to the number of civil causes pending upon the docket of that county, which was referred to the Committee on Judiciary.

PROHIBITION.

Mr. HORTON presented a petition from the citizens of Bradford county, praying for a prohibitory clause in the Constitution against the sale of intoxicating liquors as a beverage, which was referred to the Committee on Legislation.

Mr. S. A. PURVANCE presented a petition from two hundred citizens of Allegheny county, praying for the same provision in the Constitution, which was referred to the same committee.

SUB-DIVISION OF COUNTIES.

Mr. WRIGHT presented a petition from the citizens of Luzerne county, praying that a clause be inserted in the Constitution that in all counties having a population exceeding one hundred thousand, the Legislature shall have power to make

sub-divisions thereof, establishing in each sub-division all the necessary courts pertaining to counties, which was referred to the Committee on the Judiciary.

APPOINTMENT OF HON. HENRY GREEN AS A DELEGATE.

Mr. FELL. Mr. President: In accordance with a recent resolution passed by the Convention, I desire to submit the following resolution on behalf of the delegates at large, to whom was referred the filling of the vacancy occasioned by the resignation of Hon. Samuel E. Dimmick.

The PRESIDENT. The resolution will be read.

The CLERK read as follows:

Resolved, That Henry Green, of Northampton county, be and hereby is appointed a member of this Convention, to fill the vacancy caused by the resignation of Samuel E. Dimmick, a delegate for the State at large."

The resolution was agreed to.

Mr. HENRY GREEN, at the request of the President, then came forward to the bar of the Convention and took the usual oath prescribed for members of the Convention.

THE ADJOURNMENT OF THE TWENTY- SECOND OF FEBRUARY.

Mr. HAY. Mr. Chairman: I desire to present the following reason for the vote given yesterday by various members of the Convention against adjourning over the twenty-second of February, and request that they be entered on the Journal.

Mr. BROOMALL. Mr. Chairman: I move the reading of the communication be dispensed with.

Mr. DARLINGTON. I would like to hear what the communication is.

The PRESIDENT. The communication will be read.

The CLERK read, as follows:

REASONS FOR VOTING AGAINST ADJOURNMENT.

No debate having been in order upon the resolution adopted yesterday for an adjournment over Saturday, the twenty-second inst., Mr. Hay, Mr. W. H. Smith,

Mr. W. L. Corbett, Mr. Russell, Mr. T. H. B. Patterson, Mr. Gilpin, Mr. Hopkins, Mr. J. M. Bailey, Mr. J. W. F. White and Mr. A. A. Purman present the following reasons for their vote, viz:

1. The example of the Constitutional Convention of 1837-38 is against unnecessary adjournments; that body having sat on the fourth day of July, on Christmas day, on New Year's day and on the twenty-second of February, when it adjourned.

2. That as Washington was distinguished for his steady, untiring devotion to the performance of every duty, public and private, it would seem that the fittest way for this Convention to honor his memory would be to remain in session on his birthday, as on other days, giving attention to the discharge of the public duties for which it is assembled.

3. That as the State is at considerable expense for every day during which the sessions of the Convention are prolonged, whether any business is transacted or not, this fact should induce the Convention to remain in actual working session on every day when there does not exist a public necessity for an adjournment.

MALCOLM HAY,
J. W. F. WHITE,
WM. HOPKINS,
WM. L. CORBETT,
JOHN GILPIN,
W. H. SMITH,
S. S. RUSSELL,
T. H. BAIRD PATTERSON,
A. A. PURMAN,
JOHN M. BAILEY.

Mr. DARLINGTON. Mr. President: I would like to add my name to that paper.

Mr. ELLIS. Mr. President: I move that the document be referred to the Committee on the Bill of Rights.

The PRESIDENT. The Chair would state that the reasons which have been submitted by the gentleman for their vote yesterday, in regard to the question of adjournment, are not referable to any committee. The rules of the Convention require them to be entered upon the Journal.

Mr. LILLY. Mr. President: I desire to say that the resolution to adjourn over until Monday—which was adopted by the Convention—assigned no reason for the adjournment, and I think that the reasons of members for voting against the adjournment are entirely unnecessary.

Mr. HAY. Mr. President: The rules which the Convention has adopted are

explicit in stating that any member of the Convention can submit, in writing, the reasons which have influenced his vote upon any particular question, and they can then be entered upon the Journal.

Mr. TEMPLE. Mr. President: I would like to inquire whether, as a matter of right, the reasons for the votes of these particular members upon this question of adjournment can be entered upon the Journal.

THE THIRTY-THIRD RULE.

The PRESIDENT. The thirty-third rule of the Convention will be read for the information of the members.

The CLERK read as follows:

"The yeas and nays of the delegates, on any question, shall, at the desire of any two of them, be entered on the Journals; and the delegates shall have a right to insert the reasons of their votes on the Journal."

Mr. T. H. B. PATTERSON. Mr. President: I rise for the purpose of asking permission to make an explanation in reference to the paper containing the reasons of certain gentlemen of this Convention for the vote which they gave yesterday, upon the question of the adjournment of the Convention until Monday. The Clerk read the name of Mr. Patterson as one of the signers. There are two Mr. Pattersons in the Convention, and I would like him to mention which Mr. Patterson it is, because I voted against adjourning over until Monday, on account of the twenty-second of February—Washington's birth-day.

The CLERK. The name is T. H. B. Patterson.

Mr. HEMPHILL. Mr. President: I move the subject be laid on the table.

The PRESIDENT. The Chair is of the opinion that there is really no proposition before the Convention. Rule thirty-three gives every member the right to enter the reasons for his vote upon the Journal. In the exercise of this right certain gentlemen of the Convention have presented their reasons for their vote upon the question of adjournment yesterday, and in the opinion of the Chair no other disposition can be made of the matter except to enter them upon the Journal unless the Convention absolutely refuse to permit this course to be taken.

Mr. MANTOR. Mr. President: I would like to inquire whether the reasons of a member for his vote upon a particular question can be given verbally.

The PRESIDENT. They must be in writing, in order to be entered upon the Journal.

Mr. HEMPHILL. Mr. President: How long after the vote is taken?

The PRESIDENT. The rule does not say.

Mr. DARLINGTON. Mr. President: I ask the unanimous consent of the Convention to sign that paper as containing my reasons for the vote I gave, along with the other signers.

["No." "No." "No." "No."]

RESTRICTING LEAVES OF ABSENCE.

Mr. DEFRANCE. Mr. President: I offer the following resolution:

Resolved, That this Convention will hereafter grant leave of absence from its sessions to none of its members, except in case of the sickness of members or their families.

On the question to proceed to a second reading and consideration of the resolution, it was not agreed to.

LEAVES OF ABSENCE.

Mr. BOYD asked and obtained leave of absence for Mr. Hunsicker until next Tuesday.

COMMITTEE ON SALARIES.

Mr. HEMPHILL. Mr. President: I move that the Convention proceed to the second reading and consideration of the resolution I offered on the 4th inst., respecting an alteration of the rules of the Convention by the appointment of another committee.

The PRESIDENT. The resolution will be read for information.

The CLERK read as follows:

Resolved, That the rules of the Convention be amended, by adding an additional committee, as follows: "No. 28. A Committee of seven on Salaries, Fees and Compensation of Officers, State and County."

On the question to proceed to a second reading and consideration of the resolution, a division was called, and it was determined in the negative, less than a majority of a quorum voting in the affirmative.

IN COMMITTEE OF THE WHOLE.

The CHAIRMAN. The question is upon the substitute for the section offered by the gentleman from Centre, (Mr. M'Allister,) which the Clerk will read.

The CLERK read:

"All elections of citizens shall be by ballot; every ballot voted shall be num-

bered in the order in which it is received, and the number recorded by the election officers opposite the name of the elector who presents the ballot; each elector shall endorse his name upon the ballot, or cause it to be endorsed thereon and attested by another elector of the district, who shall not be an election officer: *Provided*, The oath of the election officer shall require secrecy as to the contents of every ballot cast at the election."

Mr. M'ALLISTER. Mr. Chairman: I rise to suggest a verbal correction. I move to strike out "provided that," and insert "and" in the place thereof.

Mr. STANTON. Mr. Chairman: As there seems to be a very slim attendance I move that further consideration of this question be postponed.

The CHAIRMAN. That motion is not in order. The section may be voted down and taken up again at another time.

Mr. COCHRAN. Mr. Chairman: This committee will bear me witness that however much I may have been afflicted with *cacoethes loquendi* on other subjects I have not troubled them with any expression of views upon the question now pending, which has been largely discussed, and I do not know that I should do it now, if it were not presented to us in the peculiar form which seems to require and challenge from every member here a review and re-consideration of the opinions which he has formed upon this subject. This section was originally acted upon by this committee, and by a majority of the committee it was rejected. It has occurred, however, to one gentleman, after reflection, subsequent to that vote, although the discussion had been large and general, to move a re-consideration and recall the question to the attention of the committee, and ask them to adopt that which he, with a majority of the committee, had previously rejected.

Now, sir, with regard to this question, I have a clear, fixed and settled opinion. I am decidedly opposed to the change which is contemplated by this provision, yet I should not have intruded my opinions upon this committee had it not, as I said before, been for the peculiar form, and under the peculiar circumstances, in which it is presented. We are now about to depart from the practice and traditions of this Commonwealth which have existed from the day of its first foundation, aye, sir, from the time when its foundations as a province, were laid by Penn himself. We are now about to withdraw from the

citizens of this State the privilege which they have enjoyed, for many generations, of depositing their ballots and exercising the elective franchise, without question by any person, and without the right of any man to inquire into the manner in which they have discharged their duty. I am opposed to the innovation. I do not concede, sir, that there is sufficient reason given why this long practice of the people of this Commonwealth should be broken in upon and destroyed, and why we should introduce here a new practice, which, however it may be disguised, under the style and form of words in which it is couched, is nothing more or less than the destruction of the right of the private ballot. What is there which should induce us to depart from the practice of one hundred and fifty years? What call has come up to us from the people of this State asking us to make this change? What cause can be assigned for it that is inherent in or connected with the exercise, use or employment of the vote by ballot, as we have heretofore used and employed it? I have listened in vain for any sufficient reason. It is said that it is necessary to make this change in order to defeat frauds at elections; that it is necessary to impose upon the great mass of the honest electors of this Commonwealth a provision which is intended to protect a certain other portion from frauds, which they are perfectly competent to protect themselves from if they exercise the power and the rights which are vested in them by the Constitution and the laws; but you, for the sake of throwing a shield over them, will impose a burden upon the great mass of the honest electors of this Commonwealth, whose exercise of the right has not been and cannot be impeached.

Mr. Chairman, this matter of frauds at elections has been talked of here at such length as, to use a phrase with regard to it that was used with regard to another thing, and with a great deal more justice, I apprehend, that it has become "loathsome." Sir, the right of election should be guarded and protected, and we should have pure elections, but it is not necessary, in order to obtain these, that we should subvert all the foundations upon which this government rests. This right of election, by secret ballot, has been the guard of human liberty in every struggle to attain and secure the inalienable right of man to its possession. It has been the cry

of all those who are aspiring to the exercise of equal political rights in all nations, and the example of this country has been held up throughout the world as a proof that this right is necessary for, and runs parallel with, the enjoyment of human rights and human liberties everywhere. At this very time, sir, the men who are struggling to release themselves from the bondage which has been imposed upon them by ancient traditions and ancient institutions, are the men who are calling for the right of suffrage by secret ballot; and it is the unanimous demand of these men throughout the world that this right should be accorded to them, and the example of this country has been the example to which they have appealed for proof that they should be admitted to the exercise of this right, and that it was the sure guarantee of their welfare and of their freedom. Now, sir, we are called upon to take steps backwards; we are called upon to reverse all the precedents which have been set for us in our history, and we are called upon to say to these men, who are struggling for the attainment of their rights, that this has all been a mistake; that the right of the secret ballot is not a right but a wrong, and that to confer it upon them would not be a blessing but an injury. That is what we are about to decide by the vote which shall be taken on this section, if it is decided in the affirmative.

I cannot consent to admit that proposition. I do not believe that it is essential to the enjoyment of the power of franchise, that this right of voting by ballot should be taken away from the citizens of this State. I believe that it will be a great wrong done to the great body of the people by demanding that they should submit to the restrictions proposed to be imposed upon them by the provision now under consideration. Why, sir, it is a fact known to all who live in the rural districts of this State, that the great difficulty is to get a most valuable class of our citizens to exercise the right of suffrage. They are men who do not like to be put to the trouble of doing it; it requires an effort to get them to the polls; and now you are about to impose upon them a burden and a restriction additional to that which has hitherto been imposed upon them, and one which will have still more the effect of inducing them to decline to attend your elections and to withdraw the expression of their opinions through the

ballot-box, which is so important to the well ordering and good government of this Commonwealth.

This matter has been spoken of at length by the gentleman from Lancaster, (Mr. Carter,) and I shall not further dilate upon it; but it is a fact, in the experience of the country, that this is so. It will be held to be a burden upon these men, which they will reject, if it is attempted to be imposed upon them.

Mr. Chairman, if this matter were essential, in my judgment, to the enjoyment of a pure right of suffrage, I would vote for it, even under all these circumstances and conditions; but I do not think it is. There are provisions which have been proposed by this Committee on Suffrage, and there may be others, for all I know, yet to be proposed by them, which, I think, will be sufficient and adequate to attain the purpose which, I presume, we all have in view. These provisions consist of various matters of detail, some of which we have adopted already. We have adopted the tax restriction, which that committee rejected, and although there was great difference of opinion with regard to that, I stood by it because I believe it is a just and valuable restriction. We have imposed, also, a restriction which tends in the direction of purity, with regard to the time that shall elapse before papers of naturalization shall be used; and many resisted that wholesome restriction who are contending for this. There are other restrictions, among which is the proposal to reduce the number of voters in any election precinct. This I consider a valuable restriction, and one which ought to be supported. If it is adopted it will take away a great many, if not entirely remove all, the objections which are interposed here against the secret ballot, and are used as an argument for the passage of the pending proposition. In large precincts, in the thickly populated districts, like those in the city of Philadelphia, of course it is impossible to know all the men who come to vote, personally. One gentleman in this city told me that he lived in one of its best wards, and when a man was nominated by his own party for a member of the Legislature he did not know, and he could not find a friend who could inform him who the man was for whom they called upon him to vote. But it is not so in the country, by any means, and if this reduction of the number of persons entitled to vote in any election precinct is made, then the know-

ledge of the voters will be communicated to the election officers, and there will be no difficulty with regard to false personations, or with regard to the alteration of the ballots after they have been orderly deposited in the ballot-box.

I hold that the secret ballot is a protection to the voters. There is a class of voters in this State who ought to have protection. It is not enough to say here that in this State it is not necessary, although it may be necessary in Great Britain. It is just as necessary, and just as likely to become still more necessary, than it is in that kingdom. It will not do for gentlemen to say that the *employees* rule their employers in the State of Pennsylvania. The time has not yet come here, more than anywhere else, that labor has obtained the ascendancy over capital; nor is that time going to arrive, if the present policy of this Commonwealth is to be continued, and capital shall continue to be accumulated in great masses in the hands of artificial and irresponsible bodies. The power and weight of that influence is to be brought to bear upon the ballot-box. Nor is it sufficient that I should be told that there are rules in these artificial bodies which prohibit their ministering servants from interfering with the right of election. I do not care whether such rules exist now or not, but this I say: That when the time comes, when it shall be expedient that that power should be exercised, it will be brought to bear with unsparing force upon the employees of these corporations. The right of voting by ballot is the badge of republican freedom, and I will not consent, under the circumstances in which we stand, and under the circumstances which appear to be drawing near to us, that that protection which it has thrown around the right of suffrage by the citizen shall be withdrawn, at least so far as my vote goes.

There is a question of expediency here; the public sentiment of the interior of this State, I am satisfied in my mind, is and will be opposed to the introduction of this provision into the Constitution, and by doing it you jeopardize the success of your entire work and jeopardize it, sir, because the people will not sustain the provision, and not only will there be a *direct* opposition to it, but the parties who are opposed to certain other provisions which may be introduced into this instrument, will be sagacious enough to bring their strategic tactics to bear upon the rejection of the Constitution by the use of this provision

as a weapon by which to kill it. [Here the hammer fell.]

Mr. TURRELL. Mr. Chairman: I desire to offer an amendment to the amendment now pending.

The CLERK read: "Provided this article shall apply only to cities of thirty thousand inhabitants or upwards; but any county of a like number of inhabitants, by vote of the majority of its qualified electors in favor thereof, at any general election, may have the same applied to its locality, and the same notice is to be given of the taking of said vote by the sheriff of the county, on the written requisition of fifty electors of said county, as given of the general election."

Mr. TURRELL. Mr. Chairman: From the discussion that has been had upon this subject, it is evident that there is a great difference of opinion upon the question pending, and if we are to get a vote which shall be ratified by the people of this State there must be some concessions. If the gentlemen will notice the amendment I have offered, they will see that it contemplates a solution of the question to which all might agree. I propose to apply this writing of the names upon the ballot now to cities of thirty thousand and upwards; and the amendment *further provides*, that any county of a like number of inhabitants may subsequently require this article to be applied to their localities, by vote of the majority of its citizens in favor thereof, taken at any general election, of which vote the same notice is to be given as of the general election by the sheriff, upon the requisition of fifty electors of that district.

Now this leaves it in such a shape that every county in the State, if it chooses, may have this provision applied to itself by a vote upon this question. Then we shall avoid this difficulty that has been spoken of, and which I believe to exist, namely: That the rural and agricultural counties of the State do not need and will not accept this requisition. The cities may require it. I am not prepared to say that they do not. There is, however, a division of sentiment through the State. Why attempt to force public sentiment on the subject? Why attempt to force upon one locality or another a provision which they are not prepared to accept? Now, sir, I would not deprive the city of Philadelphia or any other city in the Commonwealth of the benefit of this provision, if they need it, and at the same time I do not want them to force it upon my

county or my district, because I know that the people are not in favor of it. Upon this point I concur most fully with the utterances of my friend from Tioga (Mr. Niles) yesterday. I am satisfied, from the expression of the people and of their press, although these I consider merely as an expression of the editors, that the agricultural portions of this State do not want and will not have this provision, compelling them to write their names upon their ballots. I concur very fully also with the remarks which have just been made by the gentleman from York (Mr. Cochran) upon this subject, and will not therefore repeat them. Now will not this proposition answer the difficulty in the minds of the gentlemen who are in favor of this proposition? Does it not afford a fair intermediate ground where we can meet upon this question and settle it fairly? The amendment was hastily drawn and may not be entirely perfect. If so it can be corrected; but it seems evident to me that there must be some concession on this subject. I consider the remarks of the gentleman from York, (Mr. Cochran,) expressive of the opinions and views of the agricultural districts of this State in relation to this matter, correct, and that we will hazard the results of our entire labor here by the adoption of a provision which shall force upon the rural districts the necessity of writing their names upon their ballots. I ask the gentlemen to look at this for a moment candidly. Let them not be led away by any excitement of feeling engendered by the discussion. Let us be fair to all portions of the State. Without multiplying words, Mr. Chairman, it seems to me that the proposition as I have submitted it—amended, perhaps, somewhat in detail—might meet the difficulty, and ought to be satisfactory.

Mr. PUGHE. Mr. Chairman: I do not intend to take up the time of this Convention with any remarks upon this question, as it has been so ably and so well discussed; but I have listened with a good deal of attention to the arguments from those gentlemen who urge this proviso: "That the elector, when he votes, shall place his name upon his ballot." I look upon it, sir, as an infringement upon the rights of the people, and for this reason—among others—that there has never been one single petition presented to this Convention asking for such a change. As the distinguished gentlemen from York (Mr. Cochran) remarked, this system of voting

by secret ballot has been carried on in this State for one hundred and fifty years, and it has worked well; and the only reason that gentlemen can give for the adoption of any other system is to prevent fraud. I tell you, sir, that the professional ballot-box stuffer, notwithstanding all the provisions that we can adopt, can commit fraud just as easily as now, by simply writing a name upon the ballot. Take, for instance, a ward in which all are of one party—the judge of election, the inspectors and the clerks—and I have seen it at home, in my own city. What difference does it make? Why, probably upon the registry list there are four hundred names, but, sir, there are twelve hundred votes cast. How is it done? Why, by writing upon the tally list such names as Daniel Archibald, Biddle M'Alpine, Seth Stoke, Timothy Barney, or any other name. Then the ballots are put into the box to correspond. Can they not do it? And can they not write these names upon the ballot, and deposit the ballot in the box and number it? This expedient will not prevent fraud. The great trouble, sir, with fraud in this city is the lavish use of money in elections, and that is the fault of those men who give their money so freely at such times—to debauch and demoralize the working men. I know of one Congressman in my district that spent seventeen thousand dollars—in the county of Luzerne—to be elected to Congress.

I know another gentleman that was nominated a delegate at large on one of the tickets; that was a gentleman who lives in our county, who was assessed, by the county committee, twenty-five hundred dollars, and by the State committee twenty-five hundred, making five thousand dollars, for the privilege of running as a delegate at large to this Convention. Where does this money go to? To debauch and demoralize the citizens of the State. Immediately after the Convention is held in the county, the county committees of both parties come to the city of Philadelphia, and want money, and why? To demoralize and buy up votes. That is what they want. It would be just as well as this written or open ballot to put in such a proviso as this: "That every voter should provide himself with a monogram, cut in brass or nickel, and stamp his ballot with said monogram, in green or red wax;" and then it would be known certainly that it is his ballot.

I believe, sir, that every corporation and capitalist in this State is desirous that

this should pass, because then they would hold over those that worked for them the very power to compel them to vote as they want them to. If you want an open ballot; if you want your name impressed upon the ballot, or written upon it, let it be the same as the English system. That is more noble, more manly. When a man steps up to the hustings there, and they ask his name and he gives it, they then ask him: "Who do you vote for?" He replies: "I vote for William E. Gladstone," or whoever he may prefer. The working classes of England, however, and of France, and of all other countries, have looked to America as a model, and have been struggling to get for their own countries the very thing—the secret ballot—that we want now to sweep away.

The CHAIRMAN. The Chair will state that the Clerk was in error as to the question to be voted on. The Chair will ask the gentleman from Susquehanna (Mr. Turrell) to withdraw his amendment for the present.

Mr. BROOMALL. Mr. Chairman: I have not said anything, thus far, upon this question, neither in its present shape nor in its former one. The reason I have not, is not because I have not a decided opinion, but because I could not see that there was any danger of this Convention passing anything that seems to me so monstrous as the destruction of the secret ballot—the right of every individual to vote wholly without regard to the intentions or power of other people. I do not yet think or believe that it will ever become part of the voting system of the State, and I am satisfied that the people will not permit it. We may pass it. We may put it into the Constitution, but if we do not submit it to a separate vote of the people it will carry down the whole work of the Convention, and if we do submit it to a separate vote, it will itself go down.

Now, Mr. Chairman, it is said that this provision, once placed in the Constitution, will cure all election frauds in the State. The gentleman who has just taken his seat has clearly shown that as a means of preventing frauds it will be wholly ineffectual. What, I would like to know, is to prevent a repeater from providing himself with fifty ballots, all of them attested in the same manner required by this provision in the Constitution, and voting every one of them? What is to hinder the repeater from committing the frauds in this manner, because it is only

by the connivance of some election officers that these frauds can be perpetrated at all, and they can connive at the counting of one hundred and fifty names or tickets, and all of them duly attested by the persons who present them. Where then does this provision provide a remedy for this evil? Instead of providing a means of detecting these frauds, I consider that it affords a better opportunity to bad men, both inside and outside the election board, to perpetrate the frauds in a systematic manner. The gentleman who last addressed the Convention (Mr. Pughe) pointed out a means whereby the provision will be rendered more effectual than it is now; but I have devised a plan which will make this a perfect voting machine, and I will submit it to the chairman of the Committee on Elections, and I know he will accept it, because it is so perfect. Now the committee do not mean to submit to the people a voting system that is even intended to be practically enforced. What they contemplate is a perfect one on paper, and one which can be pointed to as being absolutely perfect, but so perfect as to be wholly impracticable.

There was a dutchman once, Mr. Chairman, who was a watchmaker in the old country, and he proposed to make a watch that should be a piece of absolute perfection. So, after twenty years of constant work, he succeeded in making it, and every one who looked at it said it was perfect. All the mechanical and different societies before who it was exhibited pronounced the watch absolutely perfect, but when the old dutchman came to start it he found it would not go. And why? Because he had made it so perfect that it was not adapted to this world at all. And such will be the fate of this perfect voting machine which the Committee on Election have constructed. Now I desire to point out to the chairman of the committee, and I ask his attention for a moment, a provision which I have drawn up in order that this machine may be absolutely perfect. If I can obtain his attention for a moment I will read it, and I know he will accept it, for it will commend itself at once to his judgment, and it is entirely at his service. I shall not offer it myself, but he may and I am satisfied that he will. It reads as follows, Mr. Chairman:

"*Provided*, That before the ballot shall be cast it shall be acknowledged before a justice of the peace, or other officer authorized to acknowledge deeds, and shall be duly certified by such officer, and shall

be recorded in the office for recording deeds in the proper city and county, and certified by the recorder under his seal of office."

Now when that provision is placed in the Constitution it will prevent, at once, all this personation in election frauds, and will make this voting system absolutely perfect, unless, indeed, it shall become necessary, which I do not believe, to have each vote certified by the justice of the peace or the alderman before whom the acknowledgment shall be taken. Seriously, Mr. Chairman, the provision which has been suggested by the chairman of the Election Committee, in lieu of the section which was voted down, will not prevent election frauds, and if it would it will only impose upon the people, where the evil does not exist, a burden that they will not take upon their shoulders, and to which they should not be asked to submit. What is the cause of all this evil about which we have heard so much in the Convention? I tell you, as has been said upon several occasions, that this evil is entirely unknown in the country districts. Why in my district there have not been five illegal votes cast in five years. There may have been votes cast under a mistake, it is true, but there have been no illegal votes deliberately cast for the purpose of committing an election fraud. The election frauds are limited entirely to the large cities of the State, and the cause of all the evil seems to be this:

In the large cities of the State the majority of the people are wholly unorganized; the bad men invariably form the minority of the people in all communities, are organized, and as is well known, an organized hundred men can always rule and overpower a thousand unorganized men. This is the whole secret of the success which has attended the perpetration of these frauds, and the blame must rest solely with the majority of the people, who have permitted them to be committed unrestrained, if not unrebuked. If the people of Philadelphia will allow themselves to be governed by an organized minority of bad men, no laws can remedy the evil. If they permit these frauds to be perpetrated they must suffer the consequences until they are forced to take the power in their own hands. If the majority in this country will not undertake to govern, the minority will, and that is precisely the trouble in our cities now. What, then, is the remedy? The gentleman from Philadelphia, (Mr.

Temple,) who recently addressed the Convention, has most eloquently pointed out the remedy, and it is: To throw open the ballot to those whose mere glance will purify it. I wish I had the Debates up to this time, in which to read the glowing language of this gentleman when he pointed to this remedy for all your election evils. Sir, there is no pollution so foul or so corrupt but that the light of day and the eye of woman will render it pure.

Mr. RUNK. Mr. Chairman: I have already spoken twice upon the question now before this committee. Silently as I have voted upon every other question that has come before the Convention, and as I prefer to vote on every other question that shall come before the Convention, the extent and character of this debate has been such that I feel it my duty to express the sentiments I entertain in regard to the question now before the committee. I regret, exceedingly, that it seems to be the intention of a large portion of the Convention to insert in the Constitution which we propose to submit to the people of this State, a provision which shall interfere with and restrict the free exercise of the elective franchise. It is upon the freedom and extent of this right that the characteristic distinction of the American form of government depends, and it is upon the freedom with which this right of franchise is exercised, that depends the doctrine contained in the Declaration of Independence, that "all men are born free and equal." The humblest man in our country, when permitted to exercise the untrammelled freedom of the ballot, feels that he is the equal of the wealthiest citizen who holds the highest position in the nation's gift or who revels in all the luxuries of society. Whatever shall tend to diminish the right of the humblest citizen to exercise the privilege of the elective franchise, or in any other respect shall, at all times, receive my most cordial and determined disapprobation. I apprehend that it is not pretended by the distinguished gentlemen of this committee who advocate this provision of the Committee on Elections, that it does not hinder or restrict the freedom of the exercise of the elective franchise, and it is because, in my humble judgment, this will be the effect of its adoption that I have already voted twice in this Convention against the proposition; and I shall continue to raise my voice and cast my vote in disapprobation

of a provision, which, if submitted to the people, may imperil the whole work of the Convention. These frauds, about which we have heard so much complaint, are committed by the parasites of society, and not by the honest voters of our communities.

But they are perpetrated by those men who depend for their subsistence upon the contributions of gentlemen of medium wealth, and of extensive wealth in society. Why, sir, you know, and this Convention knows, that, but a few years ago, we had paraded before the people of this country the fact that one citizen of this government had contributed the sum of \$40,000 00 to carry an election in this country. Was that for the purpose of an honest election, or was it a contribution to sustain the parasites upon society who perpetrate the extensive frauds of which we have heard so much in this Convention? I happy to say, sir, that the gentleman, who is alleged to have contributed this large sum, now no longer revels in the wealth of which he then boasted. I believe that the remedy for the evils complained of in this Convention, and especially by the members from this city, lies not in the conversion of the gentlemen who perpetrate these frauds to be honest and upright citizens, but that it lies in an entirely different direction. We may legislate in vain. We may prepare Constitution after Constitution on the morals of the gentleman who prepared these frauds, and it will all be in vain. It is not by introducing into this Convention a provision that the honest voter shall write upon his ticket his name before he shall be allowed to deposit his vote in the ballot-box, that we shall remedy the frauds that are now complained of. But it is by placing in the room, and as members of the board, honest and upright citizens. I have been appealed to, Mr. Chairman, by a gentleman of this city, in whose ability, whose learning, and in whose integrity I have the highest confidence, and with whom, when he asked me to vote in a particular way, when it did not contravene my consciousness of right, I would most cheerfully and most cordially concur and comply. But when he asks me to vote for a restriction upon the freedom of the elective franchise I cannot comply with that, because I believe that, in doing so, I would disfranchise thousands of the honest voters of this State, simply to comply with his request, or to defeat the action of the few

who, in my own judgment, necessarily control the election districts of this city, and of this State, so far as the preparation of frauds are concerned.

Do you, Mr. Chairman, do you, gentlemen of this Convention, believe that the gigantic frauds that are perpetrated in this city are perpetrated by the thousands of honest voters here? Is it the laboring man; is it the poor man, whose only hope of private success and support is his family depend upon what he can earn to-day; is it they who perpetrate these gigantic frauds? No, sir, Mr. Chairman. No, sir, gentlemen of this committee, it is not they; it is not the poor man; it is not the mechanic, who makes the workshops of this city, and who makes the results of these workshops the glory of this city and of this State; it is not he, and it is not they who perpetrate the gigantic frauds of which we have heard *ad nauseam* in this Convention. It is the parasites, as I said, upon society. It is the man who depends, not upon his own exertions, but who lives upon the contributions of the medium class, and the wealthy of this city who contribute their thousands to an election fund to defraud the honest voters of this Commonwealth. It is there where the evil lies, and it will be only when we reach that point and strike at the contributions of these large election funds that we shall begin to attain a point where we shall begin to reform the disgrace of the ballot-box, and the corruption and the infamy of the dishonest men who are now alleged to control it. Why, sir, we have had here the statement by gentlemen who seem to entertain as their pet remedy for all the evils which inflict society a proposition that if we shall wipe out from the statutes of our State, the provisions by which the men who fill the row offices and who fill other positions in society, are compensated by a system of fees, we shall have attained the acme in the reformation of society, so far as the ballot-box is concerned.

I have no pet remedy. I have no proposition to lay before this Convention, which will act as a universal panacea to purify the morals of every gentleman that may appear at the ballot-box to deposit his vote. But I trust that this Convention will adopt as a part of its provisions that in this city, and in other large cities, the precincts shall be confined to the number of two hundred voters, or any other reasonable number that may be suggested in the judgment of this

Convention, wherein every honest voter who shall appear at the polls shall know and be able to tell to the honest voters and officers, who fill the board of election, whether a man who appears there and offers his vote is an honest voter and entitled to deposit the ballot which he offers. When you have arrived at that position, when you shall fill your offices of election with honest men, such as the distinguished gentleman who applied to me in strong tones to support the re-consideration of the vote by which this section was lost, and if he were in his seat, and it were proper, I would ask him the question whether he has ever filled an office on the election-board in his precinct. I say when you fill the boards of election with men of integrity, with such as fill almost every seat within the circle around me, it will then be that you will provide a remedy that shall remove from the city and from the State the corruptions that now inflict the ballot-box, as completely and as certainly as the morning sun dispels the dews of the morning. Until that period arrives—until you fill your election boards with honest men, with men of courage, such as sit before me—you will legislate in vain. You may pass Constitution after Constitution and you will not have attained the result that is desired by this Convention. When you adopt the principle that has been reported, "that in large cities the precincts shall be composed of not more than two hundred citizens," when every man who goes to the polls shall be known to the election officer, and when you shall fill that board with men of integrity, like those who sit at my right, and in my front, and at my left, then, sir, you will have taken a step in the right direction of reform. Then you will institute—you will have initiated—the reforms which are desirable and which are effective to sweep from your city and from your State the frauds and the corruptions that now threaten our free and our grand institutions. Until then, Mr. Chairman—until then, gentlemen of this Convention—you will not have attained the purpose that you desire. I care not, though you introduce into your Constitution all the plans that have been proposed in correction of this evil.

[Here the time of the gentleman from Lehigh expired. Being extended by a vote of the committee, Mr. Runck resumed.]

Mr. Chairman: This proposition which is under consideration would be a restric-

tion upon the right of the honest and the poor man, who is to vote according to his judgment. It will interfere with the freedom that he has enjoyed for the last two centuries, and yet it will not reach the evils that are now so prevalent, the evils of fraudulent elections and corruption at the ballot-box.

I am profoundly sensible, Mr. Chairman, of the honor shown me by this committee in extending my time. The best appreciation that I can give of the confidence of this House, is to yield the floor, because I am impatient, as is every other member of this Convention, to reach the end of this discussion, and to legislate wisely and well upon the subject pending before us.

Mr. BEEBE. Mr. Chairman: I do not desire to prolong the debate a single moment. But it seems to me that if there is a disposition on the part of the advocates of this measure to offer a legitimate legislation which shall be approved by the people of this State in the organic law, that they will vote for this amendment. The city of Philadelphia urges that the whole basis of this action is for the purification of elections in Philadelphia. This amendment proposes to give to Philadelphia, and to any other cities, all that they desire. It has been alleged here that this would be special legislation. I ask if we have not a committee raised in this House to report upon the necessities of cities in those things of which we know little in the country, so that we may incorporate into the organic law in relation to these matters such principles as are necessitated by the peculiar character of cities?

What can we of the rural districts say to our constituents if we shall vote down a proposition of this kind which gives to Philadelphia all that she asks, and which leaves us all that we desire? I certainly cannot see why any member upon this floor should fail to give his sanction to this amendment; and it strikes me, reasoning from my standpoint, that it would be a perverse inclination to thwart the will of what might now be called the minority of this Convention if we should fail to do so.

It has been well said by the gentleman last upon the floor (**Mr. Runck**) that the frauds that have been practiced do not come from the voter, but that they come from the leaders, from the ballot-boxes, and from the boards controlling your elections. As the gentlemen remarked, I wish to say again, as I said in substance

the other day, that we cannot place that in the organic law which will control this matter until the public sentiment of the community is aroused as it is now being aroused, and I wish, right here, to say that I have more hope for this nation, in reference to the purification of the ballot-box, and the body politic from the present condition of that body politic than from any legislation whatever. General Sherman, in issuing his celebrated notice to the inhabitants of the city of Atlanta, when they complained of it, said to them, "war is cruelty." He might have added, if the circumstances had required it, "war is demoralization." All over this country, from the largest gatherings of population down to every four-cross-roads, this demoralization grew up under the peculiar conditions which the war involved. These conditions led in a large measure, to the present condition of things; but, sir, the sun is rising upon us. Public sentiment is awakening, and is determined to purify the whole matter. Two years ago an investigation into the matter of the Credit Mobilier would have been laughed at by the parties interested in it. Is it so to-day?

Why, sir, even in the city of New York, when the first effort was put forth to purify the city of its corruptions, and to arouse public sentiment when every other means had failed, the men wielding this influence, the men having the money, and who had been guilty of the corruption, putting faith in what had been successful before, laughed to scorn the idea of investigation; but, sir, the uprising of that public sentiment has degraded, as a criminal, a man who thought he stood high in national power, and in controlling the national destinies of a national party. Recent instances occurring in this city of Philadelphia show that the same uprising is taking place here. Taking the view of this matter that I do, believing that it is of the people, and that the time has come, I do not see why this Convention, in its zeal, in the heat of debate and in the excitement of the occasion, should put upon the five or six hundred thousand honest voters of this district, for years to come, that which trammels their ability to exercise the elective franchise.

I trust, therefore, that both sides of this question will see the propriety of adopting, in substance, the amendment of the gentleman from Susquehanna, or, at least, that part of it which restricts this to cities of thirty thousand inhabitants.

Mr. GOWEN. Mr. Chairman: If the arguments advanced by a number of delegates on this floor in opposition to the amendment to the Constitution, that has been suggested by the Committee on Suffrage, Election and Representation, are to be believed, there was no necessity for calling this Convention—no necessity whatever.

We hear gentlemen very blandly tell us—gentlemen that are optionists—that everything is going on very well. One gentleman will roll his hands and say that there have been “slight irregularities” in the city of Philadelphia; and another one will say there has been “a little wrong,” and that the only difficulty is that the intelligent gentlemen of Philadelphia do not act as election officers.

Mr. Chairman, unless there is some reform in the elective system of this State, no intelligent or honest man in the city of Philadelphia will ever be permitted to exercise such an office. We are powerless. I beg the gentlemen to consider one moment how this city is governed. The election officers are appointed by the board of aldermen composed of but one political party. They control the election officers. The citizens do not appoint the election officers. The citizens of Philadelphia have no right to go to their polling places, as people do in the country, and determine who shall be their election officers. The election officers in this city are appointed by a class of men fraudulently elected and fraudulently returned for no other purpose under Heaven than to control the ballot-box fraudulently; and it is idle for gentlemen from the country to say that we should look to this, for there is a restriction upon our action that prevents us from either looking to it or from curing it in any manner whatever. This Convention was called for a great purpose. It was called to correct the tide of corruption now sweeping over the land. Nine out of every ten of the honest citizens of this State believed that this tide of corruption has risen to such a height that if something was not done to arrest it the whole fabric of the government would be involved in one common ruin. The greatest evil we have to contend with is open, glaring, notorious impurity of elections—consisting of stuffing ballot-boxes with hundreds of fraudulent ballots before the very eyes of the people, the perpetrators of the crime boasting of it afterwards as something to be proud of, not only boasting of it, but exhibiting to the public

gaze, and glorying in the shame that exhibits it, the checks drawn by prominent citizens of this city to pay for the fraud that arrested the rights of the freeman from the honest people of the Commonwealth.

Mr. RUNK. Mr. Chairman: I should like to ask the gentleman whether all that could not be corrected if the amendment referred to by me should be adopted—that the people of the respective election precincts shall choose their own election officers, and elect, say, such gentlemen as the gentleman (Mr. Gowen) himself?

Mr. GOWEN. My modesty prevents me from saying what would happen if I were myself to be a member of the election board. I cannot, therefore, answer that part of the gentleman's (Mr. Runk's) question; but I can answer the first part by saying that, no matter how you may require the people of the several election districts to choose their own election officers, unless you permit the people to put a mark on their ballots, so that they can identify them, the will of the people will be set aside by ballot-box stuffers. We are not in the same position as the gentlemen in the country. If we go to the polls, with the view of electing the purest and best men in this city to preside at the polls and conduct the election, when the election is over we shall find that our ballots have been thrown out, and fraudulent ballots put in their places, by the custodians of the ballot-box, for the avowed purpose of defeating the will of the people.

It will not do for gentlemen in the country to say that this is something which affects us only. It affects them equally. The elections of the honest people in the country districts have been, time and again, set aside, nullified and wiped out of existence, by the purchased certificate of an election return, paid for to a forger in the city of Philadelphia.

I believe, from my residence for a long time in the centre of the State of Pennsylvania, I have as thorough a knowledge of the country people of this State, and as high an appreciation of their integrity as any member on this floor. I believe when these gentlemen from the country districts say this amendment will be voted down they misunderstand the feeling of their own constituents. There is no better class of people under Heaven than the simple-minded, old-fashioned people of the rural districts of the State of Pennsylvania. If

you should come into the city with the wand of an angel and sweep away all the people here, and transplant six hundred thousand people from the centre of Pennsylvania to take their places, we would have purity of elections, until the corrupting influences that have heretofore destroyed that purity shall, in the course of two or three generations, have left their blighting marks upon the new population; for we cannot help admitting the bitter truth that—

“Where Wealth and Freedom reign, Contentment falls,
And Honor sinks where Commerce long prevails.”

The difficulty in this city is that we have no power to help ourselves, and if the gentlemen from the country will not help us, then our elections will be set aside and taken for naught by the very act of the people here who, they say, should help themselves.

I was very sorry, sir, to hear the gentleman from Dauphin, (Mr. MacVeagh,) yesterday, allude to this question as a party matter. For my part, until the gentleman from Montgomery (Mr. Hunsicker) made his motion yesterday, on the floor of this Convention, I did not know that this motion to re-consider the vote was to be made at all. I thank the gentleman, (Mr. MacVeagh,) from the bottom of my heart, for the compliment he pays my party by assuming that it is the party in favor of this amendment; but on behalf of very many honest, upright and intelligent members of this Convention who represent the same party with the gentleman from Dauphin, I have to deny his right to place them upon the other side. On behalf of many gentlemen who differ with me in politics, and who have the most earnest desire to bring about reform, I say to him that the party lash he cracks over their heads sounds harshly in their ears, and the excoiating mark that it leaves upon their shoulders will be resented whenever he attempts to apply it. The gentleman tells us that if we adopt this amendment we will raise against us enemies of great power throughout the State. “Enemies of great power!” I admit it. God knows it is true. Who are these enemies? Every ballot-box stuffer in the city of Philadelphia is its enemy. Every man who has derived a princely income from forging election returns will be its enemy. Every man who is a professed politician, and whose subsistence depends upon false election returns, is its open and avowed enemy. There are

also very many gentle, simple minded, good-hearted, wealthy citizens, who contribute large sums of money to carry the election, knowing, perhaps, little but certainly caring less how it is to be used—these will be the enemies of this reform; and monied mediocrity will issue its feeble wail against any innovation upon the established usages of election districts.

Who will be its friends? Every man who feels that when he casts his vote it should not be taken away from him by substituting in its place the vote of some one else, who had no right to deposit it, will be its friend. Every honest voter of the city of Philadelphia who desires his vote to be counted will be its friend. Every man who honestly desires purity of election, who wants the will of the people, as expressed at the ballot-box, to be the law of the land, will be its friend. And if there are parties, the party lines will be drawn between these two. If there are parties, one will be the party in favor of reform, and the other will be the party in favor of corruption. If there is any party in favor of this question, certainly the party in favor of it cannot be charged with being the party in favor of corruption.

We want purity of elections. How will this reform bring it about? Simply by placing upon the ballot the name of the person who casts it, signed either by himself or by some one who attests it, so that when the contest comes up in the court, the ballot can be followed into the ballot-box and identified. The gentleman (Mr. Pughe) who spoke this morning, and said that repeaters could put into the box fifty ballots, signed with other people's names, forgets that when names are forged in that manner, the forgery can readily be detected.

I have heard no argument on this floor against this, except these two. The first is that it will not suit the convenience of the public—that is, that it is better to have impurity of elections than to ask the public to take a little trouble. I do not believe in that argument. I do not believe that that argument can be sustained. I do not believe that the honest people of this State, whether they live in Philadelphia or in the country, will be averse to taking the little trouble that is necessary to identify their ballots. I believe they will do it cheerfully, gladly, eagerly and willingly, and that they will lend all their influence and assistance to stop this tide of corruption.

The second argument is this: That the

people of the State will reject the Constitution if we put this in. Now there are certainly enough delegates in this Convention opposed to this amendment to insist upon its being submitted as a separate article, and whether the people reject it or not, we shall have done our duty. Is there any harm, then, in permitting us to submit it to the people, with the request that they vote upon it separately? We must be bound by the will of the people. If they reject the new scheme we will not be to blame; but if we refuse to submit it to them, upon the ground that they would reject it, and it should afterwards appear that they would have adopted it, we will be blamed for not giving them the opportunity of rescuing themselves and their posterity from corruption.

MR. MACVEAGH. MR. Chairman: I did not suppose that anybody's memory was so very short as the unfortunate memory of my friend from Philadelphia (Mr. Gowen.) It is but a few hours since I stated twice, in order to avoid misunderstanding, that I had been informed that gentlemen sympathizing in political views with the gentleman from Philadelphia, had been urged to vote to re-consider this amendment, and that it was intended to do so without debate. I stated, also, most distinctly, that of course I did not mean, what everybody knew could not be the fact, that there were not gentlemen of equal earnestness of political views, belonging to each political party, who were upon both sides of this question. I stated it very distinctly, and supposed everybody had heard it. It is not the first time the gentleman from Philadelphia (Mr. Gowen) has trusted to a memory which is not reliable. I remember one day he forgot his own words over night. In the hearing of the entire Convention he arose and denied one day what he had said a few days before.

MR. GOWEN. Will the gentleman give me leave to explain?

THE CHAIRMAN. The Chair does not understand the gentleman to be making any personal reflections.

MR. MACVEAGH. It is unwise, I submit, for a person with such an unreliable memory as the gentleman from Philadelphia, to possess or attempt to repeat what any other gentleman said the day before. I am very glad if any republicans have empowered that gentleman to be their champion. It is not a quarter to which I would have gone for such advocacy; but it was their privilege to go, and I have

no objection to it, if any republican has really done so. I wish to say, further, that it is becoming difficult to know what lines of remark we are to be permitted to follow here. My friend from Schuylkill, (Mr. Bartholomew,) the other day, was so unfortunate as to use an illustration in his argument upon this very question. In speaking of the inadvisability of compelling every voter to write his name upon the ballot, he spoke of the possibility of a great corporation taking to itself the monopoly of one of the necessities of life, gathering to itself the ownership of vast estates, and suggested, especially, if it was mainly owned in a foreign country, that it might become the interest of that corporation to control an election of a township, or a county, of a municipality, or a Commonwealth.

I understood it to be objected, by the gentleman from Philadelphia, that it was not proper for any gentleman to allude to such a corporation. Now the same gentleman assumes to lecture me, because, yesterday, I told what I had heard, and appealed to the gentleman from Columbia (Mr. Buckalew) to desist, as he did desist, from stopping debate, to avoid misconstruction. Indeed, I disregarded the remarks of my friend behind me, (Mr. Walker,) and my friend to the left of me, (Mr. Knight,) who seemed to have heard the same suggestion, and to have believed it. I submit that I was, in no sense, assuming to crack a party whip over anybody. Indeed I expressly disavowed the idea of confounding the earnest gentlemen of one political party, who were divided, and come to be found upon both sides of this question, and the earnest gentlemen of the other political party, who were equally divided upon it.

I say now, however, that one of the great dangers of this movement is clearly indicated in the position of the gentleman from Philadelphia who has just spoken. He says that the party to which he belongs will gladly take upon itself the burden of the reform of our State affairs. I shall gladly join in that good work, and go as far as anybody else, but in no partisan sense. I certainly shall never say that every man who honestly desires reform will vote with me. I do not think such language becoming. I have never said in the presence of gentlemen here, certainly the peers of any gentlemen upon this floor—certainly in character, in experience, in position in the community, the peer of the gentleman himself. I

have not assumed to say, even by implication, that they were not honestly in favor of reform unless they believed with me. I have heard the repetition of the phrase three or four times from the gentleman who last addressed the committee, that whoever is honestly desirous of purifying the ballot-box, will vote for this proposition and will support it. I say that is utterly untrue. The gentlemen who are opposing this compulsion to write the name of the voter upon the ballot, resent with indignation that is akin to contempt, the imputation of the gentleman that they are not as honestly and as sincerely for reform as any other gentlemen in this Convention. The gentleman also says that I spoke of the great interests that would be arrayed against our new Constitution; but he ought to have known, and he would have known, if his memory had not failed in the interval, that I said we would array great corporate interests against our new Constitution, and great interests in many walks of our diversified industry, and, therefore, I said it was unwise, by this provision, to create antagonism amongst the voters of the rural districts. Did I not say so? Is there a gentleman within the sound of my voice but the gentleman from Philadelphia, (Mr. Gowen,) with the unfortunate memory, who does not remember that I distinctly discriminated between the opposition that might be created by other reforms, and that which this reform would array against our work in the rural districts where voters would understand that it was the imposition of a burden, and of a *quasi* disqualification upon the honest and ascertained elector?

I intended to make that distinction very clearly. I think I did make it very clearly; and now I will tell you the reason why I think the hostility will not be found in the quarter where the gentleman supposed. It will not be among the corrupt politicians, either of the Fourth ward of this city or elsewhere, as he imagines. They are in favor of this proposition. If I am not mistaken one of the evils they desire to correct by this proposition is that certain nominal adherents of the great political parties of Philadelphia do not vote the regular ticket. Certain gentlemen in this city, as I understand it, have been charged for years with having cheated both of the great political parties here, and it is determined to have the opportunity of making each man put his name upon his ballot, so that if

any member of either political party attempts to cheat his party leaders, he shall be singled out for vengeance, and possibly for violence. This is the reform which gentlemen from the country districts are asked to insert in the Constitution. This may account for a part, at least, of the eagerness outside of this Convention, which in certain portions of this city exists, for the passage of this provision. I can understand how it may be very important for certain politicians of this city or of any city to know how their henchmen vote. I can understand how a man who will now vote one way, if he is obliged to expose his ticket, will vote another; and while this provision does not go the entire length of the open vote, and does not gain the advantages that the open vote would gain, still it allows the politicians to know how each man votes; and, therefore, it will add to their power.

There is another ground of objection to it. The gentleman from Philadelphia (Mr. Gowen) has announced to this Convention that it has been necessary to issue a positive order to the employees of the corporation he represents that they shall not interfere with our elections, or attempt to control the votes of their fellow-men. I do not know the terms of the order. It has not been laid before this Convention, but it has been stated by the chief executive officer of that corporation that such an order has been issued. What are the terms of it? Does it limit the right of the American citizen to his franchise or to his privilege of influencing his fellow-men? The one is as much a right as the other. If it was issued it must have had some justification. It is at least only charitable to make that supposition. Its justification must be, I suppose, in the fact that a power of this kind is too great to be exercised as the political liberties of other citizens are exercised, without restriction of any kind. If it simply means that they shall not be intimidated, which perhaps it does, then the very necessity of the order shows the danger of this method of voting. You are asked now, in the face of the avowal of the chief executive officer of a great corporation, that an order, defining the political rights of her employees, is necessary; you are asked, in the face of that avowal, to compel each employee of that corporation to put his name upon his ballot. In the interest of a true reform, in the interest of the purification of the ballot-box, in the interest

of the independence of American citizens, I submit to you that the propositions are not compatible; either the order which the gentleman presented before this Convention was necessary, or the compulsion upon the voter to write his name upon his ballot is unwise. As my time has expired I leave the alternative I have mentioned to the judgment of the committee.

Mr. RUNK. Mr. Chairman: I think I stated, s'r, in my remarks that my action upon the section now pending before the Convention depended entirely upon my own conviction of right. I understood the gentleman from the city, at my left, (Mr. Gowen,) to state that a man who would vote for the report of a standing committee of the House was in favor of reform, and a man who would not vote for or support the proposition was not in favor of reform.

Mr. GOWEN. Mr. Chairman: May I interrupt the gentleman? If I said so I certainly did not intend it.

The CHAIRMAN. The Chair did not understand the gentleman from the city as making any personal reflections, but as speaking of the people outside of the Convention.

Mr. GOWEN. Mr. Chairman: I said nothing about the members of the Convention; and when I spoke about the ballot-box stuffer in the city of Philadelphia, I meant no member of this Convention.

Mr. RUNK. Mr. Chairman: I understood the gentleman to say—

The CHAIRMAN. The Chair will take this opportunity to say that he will not permit personalities, and he will be obliged to gentlemen if they will not introduce politics. It is unpleasant to the Chair and to every member on the floor.

Mr. RUNK. Mr. Chairman: What I understood the gentleman from Philadelphia to say was, that those who vote in favor of the report of a standing committee were those who are in favor of reform, and that those who do not vote in favor of the report of that standing committee were opposed to reform. If I misunderstood the gentleman I regret having alluded to the subject; but I claim, s'r, as did the gentleman the other day—when he claimed that he was the one hundred and thirty-third part of this Convention—I claim the right to exercise my own opinions and convictions in this, as in all other matters. I have voted and shall vote upon this proposition, and every other that shall come before the Convention, according to my own convictions of right.

Mr. GOWEN. Mr. Chairman: I am very reluctant to trespass longer upon this Convention, but if there is one little mental faculty among the paucity of intellectual endowments God has given me, which deserves greater credit than another, it is memory. I believe among my friends I have always been celebrated for that, and probably it is the only intellectual faculty that I possess, and therefore when my friend from Dauphin (Mr. Mac Veagh) charges me before this Convention with want of memory, and with uttering a denial of what I had previously stated, I am placed in such an unfortunate position before my fellow-members that I must deny it.

The first argument that I made on the floor of this Hall was in favor of having the time for the local elections fixed on one day throughout the State. I endeavored to show that some of the evils of our election system would be cured by such a provision. My friend from Dauphin got up and immediately referred to the great evils, the gigantic intelligence, and the corrupt influences of gigantic corporations. For the intellectual attainments which compelled him to answer an argument by a reflection intended to wound the feelings of a member of this Convention, I have the most profound respect. For the delicate courtesy of debate, which insinuates a reflection against a fellow-member, flimsily hidden under the whip-syllabub of that sophomorical eloquence with which my friend garnishes all his rhetorical efforts, I tender him my most heartfelt thanks.

The next argument I made before this Convention was upon some subject connected with purity of elections, in which I said that the great evil to be cured was, that the young men of this country were bred up to be professional politicians. My friend from Dauphin, a few moments afterward, got up and replied by saying that "Mr. Gowen proposes to cure this evil by preventing young men from going into stores." I denied that, because my friend's memory was at fault. I have, therefore, Mr. Chairman, hardly ever had accorded to me the opportunity of making an argument upon this floor without being replied to with something of a sneer, or something of a taunt from the gentleman from Dauphin, and when he says this morning that he and his friends regard me with an indignation akin to contempt, let me tell him that the opinion that he entertains of

me does not weigh one feather in the scale which records my self-respect.

The CHAIRMAN. The Chair did not understand the gentleman from Dauphin to say anything of the kind.

Mr. GOWEN. Mr. Chairman: I took the words down, and if the Chair will permit the reporter to read the words, I think they will be found "indignation akin to contempt."

The CHAIRMAN. The gentleman did use that term, but not as the gentleman from Philadelphia understood it. It had no personal application.

Mr. MACVEAGH. Mr. Chairman: I said that the aspersion for the insinuation that a gentleman who voted against this section, the insinuation or the aspersion that a gentleman who opposed this section was not necessarily in favor of reform, was repelled by us with an indignation that was akin to contempt. The gentleman from York (Mr. Cochran) has just come over to remind me that it was the way in which he understood me, and other members understood it in the same way.

Mr. GOWEN. Mr. Chairman: I was fully aware that the gentleman had a great contempt for what I said, and I was led to suppose that the contempt extended to me personally. I am very glad to know it does not.

I came into this Convention as a private citizen. My right on this floor is as good and held by as sacred an authority as that of the gentleman from Dauphin. I am not here as the representative of any corporation, and any taunts or insinuations the gentleman may make will not affect my conduct or influence my vote in any way whatever. If the time shall ever come, that because a man happens to be the president of a large corporation, he is unfitted to come into a Convention to amend the Constitution of Pennsylvania, I will willingly resign the presidency of that corporation, aye one thousand times, rather than I would resign the position which I now hold here. It may be my misfortune that I have adopted a line of life which does not meet the approval of the gentleman from Dauphin. It may be, but I care little. I simply ask the right which every member of this Convention has, that his profession, or occupation, or business, outside of the Convention, shall not be made use of as a taunt and a slur upon him, when he gets up in his place and makes a legitimate argument upon a subject under consideration. That is all

I ask, and this is what I accord to every one else.

In answer to the gentleman from Lehigh, (Mr. Runk,) I have to say that he misunderstood my remarks. When I spoke of voting for this section I meant the people who would vote for the adoption or rejection of the Constitution when it came before them. I trust that I know my duty too well, and that my own feelings are such that I would not, willingly or knowingly, cast any imputation upon any member of this Convention, and I merely ask that the same courtesy shall be accorded to me.

Mr. M'ALLISTER. Mr. Chairman: I had supposed the proposition under discussion admitted of doubt; I had supposed there might be honest differences of opinion as to whether it should or should not be adopted as a part of the organic law, but I did not believe, Mr. Chairman, that the ridicule and the contempt of any member of this Convention would have been bestowed upon it so lavishly as it has been. The gentleman from Delaware (Mr. Broomall) undertakes to ridicule it out of the Convention. He suggests that he has no doubt the committee who reported it would take his proposition and have the ballot acknowledged before and certified to by a justice of the peace, that it might be recorded. Another gentleman proposes that a photograph of the voter shall be attached to his ballot when presented at the poll. Are such suggestions intended to have weight in this Convention against a proposition reported by the Committee on Suffrage, Election and Representation?

Now, sir, I will refer to what the gentleman from Delaware intended as argument. He asks whether this section as reported will accomplish the end proposed, and he suggests that one man may repeat fifty times, notwithstanding this section should be adopted, whether at the same poll or at fifty different polls he did not condescend to tell us. But how, let me ask the gentlemen, would one man repeat fifty times at the same poll, or at any number of polls, without affording the evidence which would lead certainly and inevitably to his conviction? If he writes his own name then he writes that name fifty times in the same hand-writing. Would not that afford evidence against him? If he gets another to write his name then he would have fifty separate witnesses, and who are these witnesses? Not one individual in fifty election districts or pre-

cincts, because the witness is to be an elector of the election district in which the vote is cast. Thus there must be fifty different men, fifty different witnesses, to aid in his conviction and to assist in visiting him with the penalty of his crime. I therefore answer, no such inference can be justly drawn as that drawn by the gentleman from Delaware. But the gentleman from Delaware did not condescend to tell us how ballot-box stuffing and ballot-box changing could be effectually guarded against in any other possible way than that provided by the committee in this section. He told us of repeaters, and he failed to make out his case. But what provision does he suggest against ballot-box changes, against the crimes of those individuals who bribe the officers of an election to allow the box to be taken from their custody, and the entire contents of the box changed and the box returned? How does he provide against that, or how does he provide against the dropping of the ballot on the way to the box and the substitution, by manipulation, of another ticket in place of that deposited by the elector? Neither the gentleman from Delaware, nor any other gentleman in this Convention, has suggested any possible mode by which these frauds can be prevented, except that provided in this section.

Now are these frauds such as should be guarded against? Have they not been repeated, time and again, in this city, and out of this city? Have they not told upon our general elections? Have they not been the means of palming upon us officers that were not elected? Surely they have; and if so, the simple question arises whether the elector will allow himself to be subjected to the little inconvenience that arises out of writing his name himself, or procuring a friend, an elector of the district, to write it for him, and to attest it, in order to prevent the evil? Certainly the trouble is nothing compared with the good consequences that will follow the adoption of the section. The confidence that will be given the community in the result of their ballots will, alone, far more than compensate for the burden. This want of confidence is keeping away from the polls in Pennsylvania, this day, ten votes for every one that will be kept away by this restriction. There are men in this community, by the hundreds and thousands, who do not go to the polls, because, they say, though we do vote, we shall be defrauded out of our rights, and

the minority will palm upon us a man against our choice. The poll will be increased instead of being diminished by this restriction.

These frauds must be guarded against, and I appeal to every man here who has spoken, or is to speak, to inform the committee in what way, except that provided, can the admitted evil be prevented. The old argument that we had when this subject was first under discussion, was that it removed secrecy from the ballot; and that leads me to speak of this amendment, and I call the attention of the committee specially to the changes it proposes.

Three objections were made against the proposition as reported by the committee. The first was that the ballots, although required to be numbered, were not to be numbered consecutively, and that there was not a consecutive record required to be made of that numbering. It was answered, when that subject was before the committee, that it was for the Legislature to prescribe how the ballots shall be numbered and where they should be numbered. It was contended that should not be left to the Legislature, and to remove that objection the first change was made.

Then it was said that the section as reported did not specify where the name was to be written, whether in the inside or the outside. It was thought best, in order to remove that objection, to require it to be endorsed. That is the second change. Now this endorsement of the name or the attestation upon the back discloses nothing. It does not enable the officer, when the ballot is put in, or any one standing at the window, to discover how the elector casts his vote or for whom, and yet it affords the means of securing compliance with the law, because if the endorsement is not upon the ticket, the election officer can say to the elector, "your ticket is not endorsed," and hand it back to him to be endorsed before it is deposited.

Again, it was objected that there was no obligation of secrecy imposed upon the election officers. It was replied, "that is a subject matter for the Legislature. They can prescribe the oath." But that did not seem to be satisfactory to some gentlemen, and therefore it is put in this section, as a part of our organic law, that an oath of secrecy shall be required. How, I ask, Mr. Chairman, is this secrecy of the ballot invaded by these provisions? It is true that the officers, in counting the votes, looking at the endorsement on the

ballot, will know for whom the elector voted. But when the oath of secrecy is enjoined, is not the elector protected? Surely he is completely protected. Who complains of the publicity of dispatches by the electric telegraph? No one; and yet it is only the oath of secrecy that prevents their publication. Who complains of the want of secrecy in what transpires in the grand jury room? And yet it is only the oath of secrecy that prevents what transpires there from being known to everybody. We have then the ballot protected in its secrecy, until there is an allegation of fraud in the district; until the ballot-boxes are opened by the judicial officers, or by those authorized to make an investigation. And under what system on the face of this earth will you detect fraud unless there be publicity at some time. When you come to this point, how every man voted must be made public, or the crime committed by the election officers remains covered, and it is impossible to convict anybody of any crime upon the ballot-box. But if at this time, under some other system that the gentlemen would devise, publicity is given, is this any worse? Both plans stand upon the same footing, and the secrecy of the right of suffrage is necessarily invaded to the same extent by the investigation. The exposure is but an incident of investigation, so that this argument of innovation upon the secrecy of the ballot falls to the ground. There is less than nothing in it.

But it has been insinuated that there has been a scheme, a plan, concocted here, by which one political party in this House is to carry this section against the will of the House. It struck me as a most remarkable insinuation. I would like to see the party in this country that would identify itself with frauds upon the ballot-box, that would throw itself, as a party, against a proposition designed to protect the sacredness of the ballot. I pray to God that the party with which I have the honor to be connected—the party with which I have esteemed it a privilege in all the glorious past to be connected—will never identify itself with any such iniquity. But as to the truth of the insinuation made by the gentleman from Dauphin (Mr. MacVeagh) against the democratic members of this House, that gentleman says he did not know it, and he did not believe that it was true, but that somebody, he did not name, told him that it was true. I ask,

was that a justification for so grave an insinuation?

I may say, Mr. Chairman, that somebody told me that there was an effort being made in this Convention, by politicians, to sweep in the republican party, as a party, in opposition to this measure, that it was going on all the forenoon, in which the gentleman made the insinuation, but I scout it. I could not believe it. I could not believe that anybody would attempt to get up a partisan feeling to defeat a measure reported by a committee on any such ground. Conscious of the fact that there was no partisan division in the committee of fifteen, that democrat and republican stood side by side, and shoulder to shoulder, in committee, and that it was carried by a large majority without any partisan division whatever, I felt sure that the insinuation of the gentleman from Dauphin could not be true. It was most remarkable, Mr. Chairman, that the insinuation should come from, and the tocsin of alarm sounded by, the same individual who inaugurated the only partisan vote that ever has taken place in this Convention.

The CHAIRMAN. The Chair would observe that he desires the gentleman from Centre to confine himself to the subject before the Convention.

Mr. M'ALLISTER. With pleasure, sir. I then hope that having answered these insinuations, as I felt bound to do as a member of the republican party, and to denounce it as far as myself was concerned; for I had, probably, more to do with the subject, certainly had more to do with the proposition that is now under consideration, than any other member, for I wrote that without consultation with any gentleman outside of the committee, and submitted to no one. I do not know that a single democrat in this House knew of the proposition I proposed to make when the re-consideration was moved and carried. I hope, then, that this Convention will decide upon the amendment on its merits, that neither now nor at any other time will partisan prejudices be allowed to influence any member in his vote. We have come here as the representatives of the sovereign people of this Commonwealth, without respect to party. Let us maintain that position and go forward to the ascertainment of truth, and when we ascertain that let us act in accordance therewith.

The CHAIRMAN. The question is on the amendment proposed by the gentleman from Schuylkill, (Mr. Bartholomew,) to strike out the word "shall," and insert instead the word "may."

Mr. DARLINGTON. Mr. Chairman: Was the motion made by the gentleman from Susquehanna withdrawn?

The CHAIRMAN. Yes, sir; it was not in order when offered.

The question being upon the amendment offered by Mr. Bartholomew, a division was called for, and resulted: In the affirmative, fifty-one; in the negative, forty-one.

So the amendment to the amendment was rejected.

Mr. TURRELL. Mr. Chairman: I offer now the following amendment, to come in at the end of the section:

"*Provided*, That this article shall apply only to cities of thirty thousand inhabitants and upwards, but any county of a like number of inhabitants, by vote of a majority of its electors in favor thereof, taken at any general election, may have the same applied to its locality; the same notice to be given of such vote by the sheriff of the county, on the written request of fifty electors of said county, as given of the general election."

Mr. HANNA. Mr. Chairman: I move to amend the amendment, by striking out "*thirty*" and inserting "*twenty*."

Mr. TURRELL. Mr. Chairman: I hope that will be voted down. Let us adhere to the "*thirty*;" that is a fair proposition.

Mr. BROOMALL. Mr. Chairman: Are there not two amendments pending?

The CHAIRMAN. This is an amendment to the amendment.

Mr. BROOMALL. I think, sir, it is an amendment to an amendment to another amendment.

The CHAIRMAN. The gentleman (Mr. Broomall) is right. The gentleman from Centre offered yesterday a substitute for the section, which is an amendment to the amendment.

The question being upon the amendment offered by Mr. Turrell, a division was called for, and resulted: In the affirmative, thirty-nine; in the negative, fifty-one.

So the amendment to the amendment was rejected.

Mr. NILES. Mr. Chairman: I offer the following amendment, to come in as a proviso at the end of the section:

"*Provided*, That so much of this section as provides that the name of the elector

shall be endorsed upon his ballot, shall only apply to cities having more than twenty thousand inhabitants."

Mr. DARLINGTON. Mr. Chairman: I move to strike out the first line of the amendment—the substitute offered by the gentleman from Centre (Mr. M'Allister): "All elections of the citizens shall be by ballot," merely because the language is not very good; and I propose to substitute, so as to make it read: "All elections by ballot, except those by persons in their representative capacities, who shall vote *viva voce*: *Provided*, That cities containing more than thirty thousand population," &c.

Mr. DALLAS. Mr. Chairman: I rise to a point of order: That so much of the amendment as proposes to limit the proposition to thirty thousand inhabitants to a county has been voted down.

Mr. DARLINGTON. Mr. Chairman: The proposition in this form has not been voted down; it is a distinct and separate proposition. This presents the distinct question, whether we can or cannot retain the provision of the old Constitution, with the amendment which the gentleman from Centre (Mr. M'Allister) has engrafted upon it; that is to say, shall we, or shall we not, have for all of this State, except those cities, the provision of the Constitution as it now stands—that all elections shall be by ballot, except those in a representative capacity, and can we not, and will we not apply this proposed remedy to cities, where the mischief is avowed to be? I am willing, for one, that we should adopt for the cities a plan which will correct the mischief of which they complain, and I am unwilling that we should, in order to accomplish that purpose for eight hundred thousand people, impose this provision upon the other two and a half millions of the people of this State, a provision that they do not want.

I am willing to vote for the proposition as a whole, and I think my friend from Centre (Mr. M'Allister) will, upon reflection, see the propriety of accepting this as an amendment to his proposition. Let us retain the proposition of the old Constitution for all the rest of the State, including the county of Centre, and others outside of Philadelphia and Allegheny, and at the same time give the cities where trouble is found to exist, the remedy for that trouble. We have had from the gentleman from Philadelphia, who sits in the north-east corner of this Hall, (Mr. Simpson,) and from another gentleman who

sits next the aisle, (Mr. Dallas,) and from another gentleman who sits upon my right, (Mr. Gowen,) and another who sits in the south-east corner, (Mr. Jno. Price Wetherill,) gentlemen representing both political parties, the open avowal here, that these frauds in Philadelphia are most serious. But these frauds do not afflict the rest of the State. I am willing to give this city what it wants, if it will act as a remedy for the trouble complained of; but why impose it upon the rest of the State? What argument can be given to the people of the country districts to satisfy them —

Mr. ELLIS. Mr. Chairman: I would like to ask the gentleman a question. Has the gentleman from Chester not heard of the sweeping frauds that have been perpetrated during the last few years in Schuylkill, and Lawrence, and Luzerne counties?

Mr. DARLINGTON. Yes; and I will apply it to them, if they want it. Let them have it, if they choose; but do not put Chester, and York, and other counties that do not need it, to the trouble which it will entail, if they do not want it. Show me where the disease is; show me, where you desire, the sore is, and I will cauterize it; but it is not necessary to cauterize the sound part.

Mr. LILLY. Mr. Chairman: I want to ask the gentleman a question —

Mr. DARLINGTON. I would let even Carbon have it if it wants it. [Laughter.]

Mr. LILLY. I wish to ask the gentleman a question. Was not the secretary or the chairman of a standing committee of this State from Chester county?

Mr. DARLINGTON. Who is he?

Mr. LILLY. It is not necessary to name him.

Mr. DARLINGTON. I do not know. I never was secretary of a standing committee. I want this question simplified. I want my friends from Allegheny, who are not satisfied with it, —

The CHAIRMAN. The gentleman will please suspend his remarks until the members come to order. The Convention must keep order.

Mr. DARLINGTON. I believe I have said all I desire to say on the subject.

Mr. SIMPSON. Mr. Chairman: I want to call the attention of the committee to a single fact. The first township, borough, county or precinct vote that was thrown entirely out of the count by reason of illegal votes, occurred in Cambria county, about 1857. That is the first case to be found re-

ported in any of the books on elections in this State; so you will see these frauds began somewhat earlier, and not in the city of Philadelphia.

Mr. WM. H. SMITH. The first fraud that I ever heard of was in Youngstown, Adams county, where there was a majority of twelve hundred for a candidate, when there were only two hundred voters in the town.

The PRESIDENT. If no more gentlemen wish to give their historical recollections, the question will be taken upon the amendment of the gentleman from Chester (Mr. Darlington.) The amendment will be read.

The CLERK read: Strike out the words, "all elections of the citizens shall be by ballot," and insert, "all elections shall be by ballot, except by persons in their representative capacity, who shall vote *viva voce*."

"Provided, That in cities containing more than thirty thousand population, every ballot voted shall be numbered in the order in which it is received, and the number recorded, by the election officers, opposite the name of the elector who presents the ballot. Each elector shall endorse his name upon the ballot, or cause it to be endorsed there and attested by another elector of the district, who shall not be an election officer; and the oath of the election officer shall require secrecy as to the contents of every ballot cast at the election."

Mr. D. N. WHITE. Mr. Chairman: I move to divide the question, if it is proper. My object is to allow members to say, by their votes, whether they are willing to have the tickets numbered. I wish to divide, so that we can have a separate vote upon the proposition to number, and strike out that part that has reference to putting the names on.

Mr. GOWEN. Will the gentleman please state how he would divide the question, so that we can vote intelligently?

Mr. BROOMALL. I call for a division into thirds.

Mr. HOPKINS. I would inquire whether that can be done.

The CHAIRMAN. Gentlemen cannot call for but one division at a time.

Mr. BROOMALL. Then my division comes first. I call for a division of the first sentence.

Mr. D. N. WHITE. Mr. Chairman: I have not yet relinquished the floor. If

the Clerk will read the section, I will indicate the division.

The CLERK read:

"All elections of the citizens shall be by ballot. Every ballot voted shall be numbered in the order in which it is received and the number recorded, by the election officer, opposite the name of the elector who presented the ballot."

Mr. D. N. WHITE. That is the part that I wish to have presented separately to the Convention.

Mr. BROOMALL. I ask a division of that.

The CHAIRMAN. The gentleman from Allegheny (Mr. D. N. White) has the floor.

Mr. D. N. WHITE. Mr. Chairman: I have not said a word upon this matter during the whole debate of it. I think that is as far as this Convention ought to go. It will impose as many burdens upon voters as ought to be imposed. I am perfectly willing, if that will meet the views of the Convention, that the tickets shall be numbered, and that will identify every ballot put into the box. His name has a number to it, his ballot has a number to it, and in case of any contested election or any examination you will have nothing to do but open the box and trace the votes.

Mr. LILLY. And allow the election officers to stuff the ballot-boxes.

The CHAIRMAN. The gentleman from Carbon (Mr. Lilly) will not interrupt the gentleman from Allegheny (Mr. D. N. White.)

Mr. LILLY. I thought he was through.

Mr. D. N. WHITE. I am satisfied that by putting the names on the tickets you will open up greater opportunities for fraud than you correct. Gentlemen who have attended the polls have observed a crowd of men coming up to vote, with their buckets in their hands, coming from the factories and from their work on their way to their homes and stopping to vote. They will decline, in nine cases out of ten, to put their names on the ballots. They will say "you do it," or "you do it." How easy it will be for scheming men to slip in the wrong ticket and put the voter's name on it, and it will be frequently done by those who wish to defraud. It will give a greater opportunity to defraud than any other way that I can think of. A great many men are not in the habit of writing their names. The great mass of farmers do not often write. Many of them come there after riding four or five miles. It may be that there will

be no opportunity for writing. They will ask some one to write their names. They will esteem it a hardship, and many a good man will not vote at all. We know how difficult it is now to get good men to go to the polls; how we exert ourselves, and go around and urge this man and that to go and vote, and they will say: "Well, if I have to write my name upon four or five tickets, and be put to so much trouble, I think I will not go." I believe the people will look upon it as a hardship, and not esteem it as a reform. Therefore I am opposed to it.

I deny in toto that the gentlemen, either in this House or out of it, who are opposing this matter of writing their names upon the tickets, are opposed to a reform of the ballot-box. No man has a right to say that. The present plan which we have pursued for long years, as far as we in the country know any thing about it, have found it honest and upright. If it is not so in the city, here, we cannot help it.

I hope this Convention, in its sober "second thought," will consent to adopt this intermediate method of allowing the numbers to be placed upon the tickets, which I think will answer all purposes, and let this method of writing the names thereon go by.

Mr. BIDDLE. Mr. Chairman: I do not propose, as I have already spoken upon this question in committee of the whole, to go over what I have already said, but I rise to say that I agree with the gentleman from Allegheny, (Mr. D. N. White,) and I am willing to go that far; and I trust gentlemen who favor this identification, as they call it, of the ballot, will stop at this point. I feel convinced from all I have heard on this floor, and from all the knowledge I believe I brought with me into the Convention, that this is an experiment which will disappoint those who introduced it. I am willing to go to this limited degree, and I merely rise to say that, and to throw it out to gentlemen who are very much attached to this new plan, I ask them to receive it in the spirit of concession, in which it is offered, because I believe in this modified way they will get it, but I think if they persist in asking for more they will lose it altogether.

Mr. RUNK. Mr. Chairman: I wish to offer an amendment.

The CHAIRMAN. An amendment to the amendment is now pending, and no

further amendment will be in order until that is disposed of.

Mr. HAZZARD. Mr. Chairman: I think we had better pause a little while just here. We are voting down all these propositions, it seems to me, just because we can. The pending proposition, divided at the instance of the gentleman from Allegheny, (Mr. D. N. White,) will serve every purpose, and will disencumber the provision from the process of writing the name upon the ballot, and it is well known that in the country it is a very inconvenient thing to do, and will not accomplish, I presume, what its friends anticipate. So far as it is necessary to recognize that vote upon contested elections, the number which will be placed upon the ticket by the election officers, relieving the voter from the trouble of putting his name upon it, and preventing the inconvenience which will ensue to many who cannot write, for all practical purposes, it seems to me, will be entirely sufficient. In cases of contested elections the investigators can trace the votes, and it will disencumber it from unnecessary trouble and annoyances.

It seems to me that we ought to pause here, and pass this as a general provision, not for Philadelphia, but for the whole country, and thus avoid the introduction into the Constitution of special provisions, when we propose to insert in the Constitution such provisions as will prohibit the Legislature from doing that very thing. It will not be objected to, I presume, in the country, and will serve all practical purposes.

Mr. RUNK. Mr. Chairman: I presented an amendment which I have now sent to the Chair to be read, if in order, for information.

The CHAIRMAN. It can be read as a part of the gentleman's remarks.

The CLERK read: "All elections by citizens shall be by ballot, open or secret, as the elector shall prefer. The ballot shall be numbered by the election officer when received, and the name of the elector endorsed either by him or in his presence, and the number of his ballot given to him by the officer."

Mr. RUNK. Mr. Chairman: I present this amendment, not because I favor the report of the standing committee, but because I believe if any provision is to be adopted by this committee and this Convention, by which the ballot deposited by any particular voter shall be identified, that this is as far as this committee and

this Convention should go. It will be observed that this will answer all the purposes, contemplated by the standing committee, with the exception of the single fact that when the ballot has been handed in at the window the officers of the election may manipulate it and substitute in lieu of the ballot deposited by the voter, a ballot in his own possession, and I think this Convention should adopt a provision prohibiting the election officers from taking into the room in which the officers of the election sit any ballot whatever; and if that is the case the amendment which I propose to this Convention now will answer all the purposes of a ballot deposited with the name thereon, be written by the party by whom it is deposited.

It will be perceived that this provision does not interfere with, hinder or restrict the right of a party who offers to vote, but that it provides that the election officer, when he receives the ballot, shall endorse thereon the number of the ballot and the name of the party who deposits it. All these services are to be performed by the election officers, and the only possible event in which fraud could be possibly perpetrated would be the substitution of another ballot by the election officer for the one handed into the window by the voter. It will thus be observed that all restriction in the free exercise of the elective franchise is at once removed, and as a complete mode of identification of the ballot of the voter is furnished in the event of the perpetration of fraud. The provision I shall offer constitutes as acceptable a system of voting as can possibly be provided. I do not agree with the argument which has been advanced during the discussion of this question—that the endorsement of the number and the name of the voter upon the ballot will interfere with the secrecy—because the persons who sit inside the election board know at once, by the difference of type, almost invariably the character of the vote that is deposited—excepting in cases where there may be names crossed out and other names inserted thereon, either by printed slips or otherwise. It seems to me if the amendment I shall offer is adopted, it will afford all the necessary means for the detection of fraud; and hence I shall vote for it in preference to the report of the standing committee.

The CHAIRMAN. The question is now upon the first division of the section as amended by the substitute offered by the

gentleman from Centre (Mr. M'Allister.) The substitute will be read for the information of the committee.

The CLERK read as follows:

"All elections of the citizens shall be by ballot. Every ballot voted shall be numbered in the order in which it is received, and the number recorded by the election officers opposite the name of the elector who presents the ballot. Each elector shall endorse his name upon his ballot, or cause it to be endorsed thereon, and attested by another elector of the district, who shall not be an election officer; and the oath prescribed for the election officers shall require secrecy as to the contents of every ballot cast at the election."

Mr. HUNSICKER. Mr. Chairman: I desire to ask, for information, if the separate divisions of the amendment are voted down will that defeat the amendment itself?

The CHAIRMAN. Such is the ruling of the Chair.

ELECTIONS BY BALLOT.

The question was then taken on the first division of the amendment, viz: "All elections shall be by ballot," and the division was agreed to.

NUMBERING THE BALLOTS.

The second division of the amendment, viz: "Every ballot shall be numbered in the order in which it is received, and the number recorded by the election officers opposite the name of the elector who presents the ballot" was then read, and upon a division being called it was agreed to, a majority of a quorum voting in the affirmative.

ENDORSEMENT AND SECRECY OF THE BALLOT.

The third division of the amendment was then read, viz: "Each elector shall endorse his name upon his ballot, or cause it to be endorsed thereon, and attested by another elector of the district, who shall not be an election officer, and the oath prescribed by the election officers, shall require secrecy as to the contents of every ballot cast at the election."

Mr. GOWEN. Mr. Chairman: Is it proper to say one word? I simply wish to say this—

The CHAIRMAN. The gentleman has spoken twice on the question. Shall he have leave to speak again?

Mr. MACVEAGH. Will the Convention pause one moment? The gentleman from Philadelphia (Mr. Gowen) is chairman

of the Committee on Revision and Adjustment, but surely independent of this fact we certainly ought to treat with deference a member who rises perhaps at the last moment before a vote is taken upon a question, to suggest something that may be very important. I trust that leave will be extended to the gentleman.

Mr. BUCKALEW. Mr. Chairman: I rise to a point of order, and it is: That after a vote upon a pending question has been ordered, and the Convention has proceeded to take the vote, debate is out of order pending the division of the Convention.

The CHAIRMAN. Shall the gentleman have leave to proceed?

["Aye." "Aye." "Aye."]

Mr. GOWEN. Mr. Chairman: I simply desire to say, if the pending division of the question is adopted, there can be no possible identification of the ballot, except by the election officer, who in nine cases out of ten—

["Question." "Question." "Question."]

The question being then taken on the third and last division of the amendment, a division was called which resulted as follows: Ayes, fifty-seven; noes, fifty-five.

So the third division of the amendment was agreed to.

The CHAIRMAN. The question is upon the section as amended.

THE VOTE OF DUMB PERSONS.

Mr. HEMPHILL. Mr. Chairman: I offer the following amendment:

"In all elections by the people, and also by the Senate and House of Representatives, jointly or separately, the vote shall be personally and publicly given *viva voce*: *Provided*, That dumb persons entitled to suffrage may vote by ballot."

Mr. RUNK. Mr. Chairman: I offer the amendment I submitted as a substitute for the pending amendment.

Mr. BUCKALEW. Mr. Chairman: I rise to a point of order, and it is: That nothing is now in order, by way of an amendment, except something additional to the section as amended.

The CHAIRMAN. The point of order is sustained. The amendment of the gentleman from Lehigh (Mr. Runk) is not in order, as it contemplates a change in the section as amended.

The question was then taken on the amendment offered by Mr. Hemphill, and it was not agreed to.

Mr. STRUTHERS. Mr. Chairman: I offer the following amendment, to come in at the end of the section.

"*Provided*, That if this section shall not be approved by the vote of the people, when separately submitted for that purpose, the second section, third article, of the present Constitution shall remain in force."

Mr. STRUTHERS. Mr. Chairman: I desire to state the reasons I have in view in presenting this amendment. There seems to be a very strong disposition to oppose the adoption of the section reported by the committee, as it has been amended, and the report of the committee itself.

Now, sir, this is a new proposition before the people of Pennsylvania, altogether. This is a proposition. I venture to say, no gentleman heard talked of before he came here. It has been brought forward here and discussed earnestly and ably, and seems to strike the judgment of very many gentlemen favorably. They seem to be interested in it and to regard it as a great improvement to be introduced into the Constitution. But it is an attempt to introduce, as an experiment, what has not been discussed before the people of the State; and my own opinion is that the people of the State will not approve of it; that this section, even if adopted here in this form, would be disallowed, would not be agreed to by the people. In that case we would be without any provision on the subject, and that is why I have offered this proviso, that in case, when submitted upon a separate vote to the people, this proposed plan shall fail, we will still have a provision in the Constitution on the subject. We will then have the old provision itself still in force if this proposition shall come before the people and be disapproved. But without this proviso we will, in such case, be without any provision on the subject in the Constitution. It appears to me, therefore, that it is highly important that such a proviso should be adopted.

The CHAIRMAN. The question is on the proviso.

Mr. BAKER. Mr. Chairman: Can it be read for information?

The CLERK. "*Provided*, That if the foregoing section shall not be approved by the votes of the people, when separately submitted for that purpose, the second section of the third article in the present Constitution shall remain in force."

Mr. STRUTHERS. Mr. Chairman: I

will make one verbal correction before the vote is taken, to change the word "foregoing," in the first line, to the word "this."

The CHAIRMAN. The proviso will be so amended.

The proviso was rejected.

The CHAIRMAN. The question is on the section as amended.

On the question of agreeing to the section, a division was called which resulted: Fifty-three in the affirmative and forty-seven in the negative. So the section was agreed to.

The CHAIRMAN. The question is on the next section, which will be read.

The CLERK: SECTION 8. In cases of contested elections no person shall be permitted to withhold his testimony upon the ground that it may criminate himself or subject him to public infamy, but such testimony shall not afterwards be used against him in any judicial proceedings.

Mr. M'ALLISTER. Mr. Chairman: I desire to correct a mere typographical error, to strike out the "s" in the last word, and make it "proceeding" instead of "proceedings."

Mr. HEMPHILL. Mr. Chairman: I move the committee rise, report progress and ask leave to sit again.

On agreeing to this proposition, a division was called. A majority of a quorum not voting in the affirmative, the motion was declared rejected.

Mr. RUNK. Mr. Chairman: I wish to know if it is proper to propose an amendment to this section or not. The section provides that the holders of shares in a corporation shall be entitled—

The CHAIRMAN. That is not this section. We are considering the eighth section.

Mr. RUNK. Mr. Chairman: I ask for information. What is the section now under consideration?

The CHAIRMAN. The section under consideration is the eighth.

Mr. M'CLEAN. Mr. Chairman: I agree with the minority report of the Committee on Suffrage, Election and Representation, adverse to this section. I am one of a small minority of this body that is opposed to interference with the Bill of Rights, in the present Constitution of the State. The minority report of the Committee on Suffrage, Election and Representation characterizes this section as an innovation, a dangerous, mischievous innovation upon our American jurispru-

dence. The ninth article which is in our Bill of Rights contains a provision that, in all prosecutions, no one can be compelled to give evidence against himself. It is not a sufficient answer to this to say that this section provides that such testimony shall not be afterward used against him in any judicial proceeding. I am satisfied with the Bill of Rights as we have it. The liberties of the people of this Commonwealth have been preserved in the fullest manner under it, and I am willing that it should go down to my children, and to others, as their sufficient safeguard and protection against wrong. I am opposed to any innovation upon the protection which every man enjoys, in not being compelled to testify against himself, or compelled to criminate himself; and for that reason I shall vote against the section now under consideration.

Mr. BUCKALEW. Mr. Chairman: I desire to make but few remarks upon this subject. The ninth article of our present Constitution, as the Committee on Suffrage, Election and Representation understand it, prohibits the extorting of evidence from any party in a criminal proceeding. Yet it has been considered by some that this prohibition was universal; at all events the law has been made or so construed in this State. Now in the particular cases provided for in this section, a different rule is necessary and proper. Take the instance of an election agent who has corrupted fifty or a hundred votes in a district. The fact may be notorious. Many of those to whom money has been paid, may have stated that fact, and yet when you proceed to investigate the case, you may call the whole list, one after another, and they can defy you to obtain from them the slightest information upon which to base a decision. Your object may not be to pursue the recipients of the money. You may desire and ordinarily would desire, only to punish the principal offender, the man who has corrupted the votes. You may desire to obtain their testimony against him, and they would be perfectly willing to testify, at least many of them would, if it were not for the existing provision of law that there shall be no compulsion upon them. If you have this rule by which they cannot be permitted to withhold their testimony, a great many of these persons would willingly testify under the conditions that their testimony given in the interest of public justice should not be used after-

ward against them. At present you are often powerless to discover the truth. With your witnesses standing before your tribunals, you are powerless to procure a word from him. It rests in the discretion of the witness whether he will tell you anything at all about the transaction of which he has knowledge. Necessarily you have to allow him to be the judge himself, whether the testimony will criminate himself or not. Nay, the law is, that if his testimony will *tend* to his own criminalization he may withhold it from you.

Now, Mr. Chairman, I am not impugning this rule of the law in cases of private transactions which are investigated in courts of justice, or the constitutional prohibition in criminal cases, that when you put a man into a prisoner's dock for trial you shall not extort from him any confession. I am not impugning that rule of law, or that provision of the Constitution, applicable, as it is, almost invariably to questions of a private character—to questions concerning the relations of individuals in the ordinary transactions of society. But, in this business of electing the officers of the government, a public duty charged upon the citizen, not relating to the affairs of private life, but business in which everybody in the State is interested, in which the public interests overwhelmingly prevail, and transcend any private interest which may be involved. I would not permit any person who knows a single fact, interesting to the public and necessary to the administration of public justice, to withhold it. Under the limitation that what he shall say shall not be used against himself in any subsequent judicial proceeding, I cannot see that any abuse or any hardship will follow from the adoption of the section.

Mr. DARLINGTON. Mr. Chairman: I cordially agree with the objections of the gentleman from Adams (Mr. McClear.) I do not see the propriety of any distinction being made by our Constitution and laws between the offence of stuffing the ballot-box or fraudulent voting, and any other crime or charge that may be made against a citizen. If there be any propriety in compelling a man to testify in a manner which may criminate himself, or fix upon him a stigma of any kind, you might as well include all offences as one. Can any one give me a reason for the distinction between a crime against the ballot-box and a crime against property, or the individual has not been pointed out by anybody. I submit to this committee

that no distinction beside the punishment of the principal can be made between one offence and another. If that portion of the Bill of Rights which prohibits you from compelling a man to criminate himself is right to be retained as to any offence, it is practically right to be retained as to all. You should not retain one kind of crime as to which the criminal's, or alleged criminal's, mouth should be secret, and another to which he shall be compelled to testify, because it is not the conviction and the punishment alone that is to be guarded, but it is the social standing and position in society of the individual. He shall not be compelled to testify in anything which shall bring him into public scandal or disgrace any more than he should be brought into a criminal court and be punished for the offence. The question is, then, is it wise? The ninth section of article ninth of the old Constitution, known as the Declaration of Rights, says: "That in all criminal prosecutions the accused shall enjoy the right to be heard by himself and his counsel, to demand the nature and cause of the accusation against him, to meet the witnesses face to face, to have compulsory process for obtaining witnesses in his favor, and in prosecutions by indictment or information, a speedy trial by an impartial jury of the vicinage." He cannot be compelled to give evidence against himself, nor can he be deprived of life, liberty or property unless by the judgment of his peers or the law of the land.

That is the provision of our Constitution, as it has been for eighty years. The question is: Do we mean to retain that good provision or break it? If we mean to retain it, and say it is right, and agree that no man shall be compelled to give testimony against himself—that he shall wait until he has been proved to be guilty by witnesses—not himself. If it is wise, I say, to retain that provision, then it is certainly unwise to infringe upon it—even with regard to the purity of the ballot-box. It would be a very strange spectacle were we to present it, that as far as one crime, say murder, manslaughter or burglary—a man accused shall not be compelled to testify about himself, and that with regard to another crime he may be compelled—in other words, that English and American justice shall be administered in one case, and French justice in another. I believe that throughout the French territory—if not in other countries on the continent of Europe—the first thing they do is to put a

man to the torture to make him tell all he knows about the crime, and exculpate himself if he can. That, however, is not right, according to our way of thinking. Every man is believed to be innocent until he is proved to be guilty, and therefore the Constitution guarantees to him the right of silence until proved by other testimony that he is guilty. I say if that provision be retained, then this provision now before us is a clear violation of it. What is it? "In cases of contested election no person shall be permitted to withhold his testimony, upon the ground that it may criminate himself." He shall be compelled to testify, even if it criminate himself. Now is the security of the ballot-box of so much greater importance than the security of life, that if a man should be compelled, in one case, to testify against himself, he should not be compelled to do so in the other case? I have an idea that life, and liberty, and reputation are among the first things to be looked to, and neither of these should be taken from him by any criminal proceeding with his help. He should be sacred. His testimony—whatever he may know himself, he is at liberty to withhold and let it die with him, if he pleases. Society will not call upon him to say whether he is guilty or not, except to answer when he is on trial on the charge, and society will not call upon him to say whether he is guilty or not, by putting him to the book.

Now is it right to make an exception with regard to a crime, insignificant when compared with the destruction of life, and insignificant as compared with destruction by burning, or as compared with the violation of the person. A man who violates your wife or your daughter by force has the privilege of saying nothing until he is proved to be guilty, and a man who commits a murder has the same privilege; the man who fires your house and destroys all within it has the same privilege. These all have the privilege and immunity of saying nothing, as to whether they are guilty or not, even in these high crimes; aye, even in treason against the State. And are not these offences of higher import than the ballot-box purification? Why, surely, what signifies the ballot-box and all its contents against the life, and virtue, and purity of the people. I venture to say this Convention are not prepared and never will be prepared to modify or change the laws and abolish that provi-

sion of the Bill of Rights; and if we do not, and if that is retained, then this section, as it stands, must be voted down. They cannot stand together with any propriety. They could not, with decent respect for ourselves, be permitted to stand. Two principles so opposite to each other as these are, could not be permitted to stand, with self-respect on the part of this Convention. Our own character, as consistent men, would require that we should dispose of one or the other of these, and not adopt diametrically apposite principles. For these reasons I am opposed to the adoption of the amendment as it stands, as altogether unnecessary. Leave the criminal, if such he be, against the election laws, to stand upon the same rights and privileges as any other man; aye, and with perfect immunity, as far as regards testimony. Leave him the privilege of being silent until he is proven guilty.

Mr. SIMPSON. Mr. Chairman: With all due respect for the gentleman from Chester, (Mr. Darlington,) I cannot see that the proposition now before the committee can, in the slightest degree, affect or change the ninth section of the ninth article of the Constitution, commonly called the "Bill of Rights." As I read that section, it provides "that in all criminal prosecutions the effect of the section applies, and can apply to no other than a criminal prosecution." That raises the question: Then is a contested election case a criminal prosecution or not? It has never been so held in Pennsylvania, and is not so held now. It is not, in one sense, a private prosecution or a civil suit, but it is a prosecution in the nature of a great public investigation, a question in which the public are directly interested, no matter what the office may be that may be under consideration. It is not a criminal prosecution, and therefore the provision that is proposed to be inserted into the new Constitution cannot, in any way, affect, or change, or modify that section of the Bill of Rights as it now reads. If I thought it had such an effect I would not vote for it, but I hold that it has not. For more than thirty years we have had upon the statute book a section that requires that where a man was proved to have voted illegally, that he might be compelled to disclose for whom he voted, and no one suspected that that was a regulation against this section of the Bill of Rights. It was held by the courts that persons were compelled to disclose for

whom they cast their illegal votes, yet it was not held to be a violation of the ninth section of article ninth. Surely, if it had been, the court would not have compelled the disclosure.

For more than thirty years we have been practicing under it, and no one has suspected until now that a contested election case was a criminal prosecution. If the argument was based upon a good foundation, I should go with the gentleman from Chester (Mr. Darlington) upon it, but as I believe it to be upon a bad foundation, I cannot agree with him, and the Convention will be obliged to say, if they come to his conclusion, that a contested election case is a criminal prosecution, and therefore in violation of the Bill of Rights; but should they adopt the proposed section, as I believe they ought, for the reasons assigned by the gentleman from Columbia, (Mr. Buckalew,) this section will be needed to make the whole perfect in all its parts.

Mr. M'ALLISTER. Mr. Chairman: The question has been asked, should a man be compelled to testify against himself in election frauds, and not be compelled so to testify in other cases? This offence has been compared to offences against individuals. This, Mr. Chairman, is the mistake that gentlemen fall into. There is a clear and manifest distinction between the offences arising out of the formation and nature of government, and this is the distinction. We are here to form an organic law. Every citizen of this Commonwealth is represented in this body. We are here as representatives, and this representation is a necessity. The people are presumptively here in their sovereignty, individually and collectively. Representation is the corner-stone, the great foundation upon which the structure of our government is to rest. Now this section contains an agreement of every man with every other man in the community that the citizen who conspires with his fellow-man to undermine that foundation shall be compelled to testify to his own guilt and the guilt of his fellow. In the formation of government every man agrees to surrender certain of his rights, the better to secure other rights. The surrender of the right not to be compelled to criminate himself is a small sacrifice in order to secure and preserve intact the great foundation upon which all his civil rights depend.

We have had the testimony of several members of this Convention, that even in

country districts in the State men have a price for their votes, and that in close districts they have been bought by the fifties and hundreds; money is furnished by the candidates, or furnished by the emissaries or agents of the candidates to purchase votes. That is the evil which we propose by this section to remedy. We cannot remedy that evil without evidence, and how are we to obtain the evidence without the adoption of this section? The knowledge that the government must get in order to punish the criminals is in the exclusive possession of the parties to the fraud, either as purchasers or as purchased. Suppose twenty-five men come up to one poll and take the proffered consideration in a private way from the man who acts as a purchaser, and suppose it is noised about, you cannot make it out unless you have the testimony of at least of some one of the twenty-five who have been purchased; but the man who has purchased them, hearing of the suspicion cast upon him, comes to them and says: "Gentlemen if you say one word about your having taken money; if you agree to become a witness, or say anything about it, I will have you arrested for this fraud; I will have you imprisoned to-day; I will have you in the penitentiary just as soon as the courts can convict you. He does that either by himself or by his friends, and their mouths are closed and their evidence cut off. This section then requires them to testify, and relieves them from the penalties that may follow their testimony. They shall not be prosecuted for that crime, although they testify that they have been participants therein. "Their testimony shall not be used against them."

If this section is adopted we will have, not one, but the fifty men, who have been purchased, willing to testify to the guilt of the agent of the man who furnished the money to corrupt the ballot, and he will be punished and placed where he can do no further harm instead of misrepresenting his constituency. An example or two and we shall have no more election frauds of that kind. The evil will be thus reached and remedied without difficulty. Why then should we not have this provision? In this way we reach the author and thus prevent the fraud. This is a crime which, as the law now stands, it is the highest interest of all parties participating in it to conceal. Remove the terrors of the law which coerce concealment, and we shall have no more money used

by candidates nor their agents. The distinction is palpable between private offences which only affect one, or two, or a dozen, or twenty, individuals in the community, and the offence which strikes at the foundations of the government. We had better form no government at all than to allow the government we establish to be undermined by villains who cannot be detected, who cannot be convicted and punished, by reason of the very instrumentality we allow them to retain in their hands, to stop the mouths of everybody who knows anything about their crimes against the government.

The question being then taken upon the eighth section, it was agreed to.

Mr. LANDIS. Mr. Chairman: I move the committee do now rise, report progress and ask leave to sit again.

The motion was agreed to, and the committee rose.

IN CONVENTION.

Mr. LAWRENCE. Mr. President: The committee of the whole have again had under consideration the article reported from the Committee on Suffrage, Election and Representation, and has instructed its chairman to report progress and ask leave to sit again.

Leave was granted to the committee to sit again on next Monday.

THE EXECUTIVE DEPARTMENT.

Mr. CURTIN. Mr. President: I ask leave, at this time, to present a report from the Committee on the Executive Department.

Mr. WORRELL. Would it be in order to move to dispense with the reading of the report?

The PRESIDENT. It will not be out of order, but it is regular to read a bill or article when it is brought into the House.

The CLERK read the report.

DEBATE IN COMMITTEE OF THE WHOLE.

Leave being granted, Mr. Lilly offered the following resolution, which was read and laid upon the table, under the rule:

Resolved, That in committee of the whole, hereafter, speeches upon any proposition, or amendment to propositions, shall be restricted to one speech, of not more than ten minutes, without permission.

Mr. WORRELL. Mr. President: I move the Convention do now adjourn.

The motion was agreed to.

So the Convention, at two o'clock and five minutes, adjourned until Monday next at eleven o'clock A. M.

FIFTIETH DAY.

MONDAY, *February 24, 1873.*

The Convention met pursuant to adjournment, at eleven o'clock A. M., President Wm. M. Meredith in the chair.

Prayer was offered by Rev. J. W. Curry.

The Journal of Friday was read and approved.

NO PROHIBITION.

Mr. DE FRANCE presented a petition from Abner Applegate, of Mercer county, asking for the insertion of a clause in the Constitution against the prohibition of the sale or manufacture of intoxicating liquors, which was referred to the Committee on Legislation.

PROHIBITION.

Mr. MANTOR presented the petition of citizens of Crawford county, asking that a clause be inserted in the Constitution prohibiting the manufacture and sale of intoxicating liquors, which was referred to the Committee on Legislation.

Mr. CURRY presented a petition from the citizens of Duncansville, Blair county, to the same purport.

Mr. FULTON presented a petition from the citizens of Westmoreland county, to the same purport, both of which were referred to the Committee on Legislation.

LEAVE OF ABSENCE.

Mr. D. N. WHITE asked and obtained leave of absence for Mr. MacConnell, of Allegheny, for a few days from to-day.

Mr. CURRY asked and obtained leave of absence for Mr. Russell, of Bedford county, for a few days from to-day.

Mr. DALLAS asked and obtained leave of absence for Mr. Corson, of Montgomery, for a few days from to-day.

Mr. LILLY asked and obtained leave of absence for Mr. Davis, of Monroe county, for a few days from to-day.

Mr. HEMPHILL asked and obtained leave of absence for Mr. Broomall, of Delaware, for a few days from to-day.

Mr. HEMPHILL asked and obtained leave of absence for Mr. Boyd, of Montgomery, for a few days from to-day.

EXAMINING INMATES OF INSTITUTIONS.

Mr. BARDSLEY offered the following resolution, which was referred to the Committee on the Judiciary:

Resolved, That the Committee on Judiciary be requested to report a section in the Constitution to give to the judges of the courts of common pleas and quarter sessions of the several counties of the State, the power to enter or cause to be entered by the proper officers of the courts, any institution of any character whatever, for the purpose of examining the same or any of the inmates thereof.

LIMITING DEBATE IN COMMITTEE OF THE WHOLE.

Mr. LILLY. Mr. President: I call up the resolution offered by me on Friday last.

The PRESIDENT. The resolution will be read for information.

The CLERK. *Resolved*, That in committee of the whole hereafter, speeches upon any proposition or amendments to propositions shall be restricted to one speech of not more than ten minutes without permission.

On the question of proceeding to second reading, a division was called, which resulted: Forty-one in the affirmative and eighteen in the negative, so the resolution was read a second time.

On agreeing to the resolution, the yeas and nays were required by Mr. Cochran and Mr. De France, and were as follow, viz:

YEAS.

Messrs. Achenbach, Addicks, Baker, Black, Charles A., Carter, Corbett, De France, Dunning, Gilpin, Guthrie, Hanna, Hopkins, Horton, Knight, Landis, Lawrence, Lilly, M'Culloch, M'Murray, Mann, Mantor, Minor, Mott, Newlin, Palmer, G. W., Patterson, T. H. B. Patton, Purviance, John N., Purviance, Samuel A., Reed, Andrew, Ross, Simpson, Smith, H. G., Smith, Henry W., Stewart, Struthers, Turrell, Walker,

Wetherill, Jno. Price, White, David N., White, J. W. F., Woodward—43.

N A Y S.

Messrs. Alricks, Baily, (Perry,) Bardsley, Campbell, Cochran, Craig, Curry, Curtin, Cuyler, Dallas, Dodd, Elliott, Fulton, Hay, Hemphill, Heverin, Howard, Kaine, Lear, M'Allister, M'Clean, Niles, Wherry and Meredith, *President*—25.

So the resolution was agreed to.

ABSENT OR NOT VOTING.—Messrs. Ainey, Andrews, Armstrong, Baer, Bailey, (Huntingdon,) Bannan, Barclay, Bartholomew, Beebe, Biddle, Black, J. S., Bowman, Boyd, Brodhead, Broomall, Brown, Buckalew, Carey, Cassidy, Church, Clark, Collins, Corson, Cronmiller, Darlington, Davis, Edwards, Ellis, Ewing, Fell, Finney, Funck, Gibson, Gowen, Green, Hall, Harvey, Hazzard, Hunsicker, Lamber-ton, Littleton, Long, M'Camant, M'Connell, MacVeagh, Metzger, Palmer, H.W., Parsons, Patterson, D.W., Porter, Pughe, Reed, John R., Reynolds, James L., Reynolds, S. H., Rooke, Runk, Russell, Sharpe, Smith, W. H., Stanton, Temple, Van Reed, Wetherill, J. M., White, Harry and Wright—65.

Mr. WHERRY. Mr. President: I rise to a point of order. I think it requires a two-thirds vote to adopt the resolution. I call the attention of the President to Rule 25: "In committee of the whole a delegate may speak oftener than twice upon any subject." Rule 40th says: "No rule shall be altered or dispensed with, without a two-thirds vote of the members present."

The PRESIDENT: The Chair understands that to be to dispense with a rule upon a particular occasion, and he holds that it does not require a two-thirds vote to adopt a new rule of the House, which has now been done, the resolution having lain upon the table for one day, and having now been taken up and adopted. For that reason the Chair is of the opinion that a majority of two-thirds is not required.

IN COMMITTEE OF THE WHOLE.

The Convention then, as in committee of the whole, Mr. Lawrence in the chair, proceeded to the further consideration of the article reported by the Committee on Suffrage, Election and Representation.

The CHAIRMAN. The question is upon the ninth section.

The CLERK read: "No election or appointment to fill a casual vacancy in a public office shall extend beyond the unexpired term."

Mr. Kaine. Mr. Chairman: It strikes me that this section does not belong to this article, but, more properly, to the Committee on Offices. The Committee on Offices is preparing sections on various subjects of this kind, and this is one of them. The subject has no connection whatever with suffrage and election. I submit, therefore, that it does not belong to this article of the Constitution at all.

Mr. WHERRY. Mr. Chairman: I desire simply to add that my venerable friend from Fayette (Mr. Kaine) is chairman of the Committee on Commissions and Offices, and I trust that this section will be passed over.

Mr. M'ALLISTER. Mr. Chairman: I suppose there is no objection to the adoption of the section at present. We supposed that it belonged to this committee. There is an interloping, of course, in every case in which committees are appointed upon principles and not upon articles; but there is no objection to its being adopted here. If there is a similar provision to be reported by another committee, it will not interfere with this. I think it is well, in all such cases, to allow a subject to be passed upon, so as not to prejudice the report of the committee in any way.

Mr. HAY. Mr. Chairman: It seems to me that there are objections to the consideration, certainly to the adoption, of this clause at this time. Amongst other reasons for this, that it applies to the judiciary, and until the report of the Judiciary Committee has been made to the Convention and we know how many judges there are hereafter to be, and how they are to be elected—whether singly or in groups, and if in groups then in what manner—we cannot properly enter upon the consideration of the question whether the election of a judge to fill a vacancy shall be for the remainder of an unexpired term or for a full term. I am not prepared to vote upon this question now, and hope the consideration of the section will be postponed until the report of the Judiciary Committee is before the Convention.

The only way in which the consideration of the question can be postponed in this committee is to vote down the section now, and let it come up again when the report of the Judiciary Committee is before us.

The question being taken upon the section it was rejected.

Mr. LILLY. Mr. Chairman: I offer a new section, to come in at this point.

The CLERK read: "It being the duty of every elector to vote, the Legislature may pass such laws as it may deem necessary to secure the performance of that duty.

Mr. WHERRY. Mr. Chairman: I rise for information—whether it would be proper to introduce a new section at this stage.

The CHAIRMAN. It is in order.

Mr. WHERRY. After the motion to postpone the following section?

The CHAIRMAN. Yes, sir.

Mr. LILLY. Mr. Chairman: At the suggestion of a member of this Convention and of quite a number of citizens of the Commonwealth, I introduced a resolution at Harrisburg, during the early days of the Convention, upon the subject of compulsory voting. Since that time I have had quite a number of communications upon that subject, and have been approached by men of intelligence from all parts of the State, urging me to press the consideration of the question upon the Convention. I am fully convinced that it is proper and fully convinced that it should be adopted by the Convention. Whether we are far enough advanced in civilization to go so far as that, I am not ready to say. It is well known that there are from twenty-five to seventy-five thousand of the best citizens of the State of Pennsylvania who do not usually attend elections, and if these men did attend and exercised the elective franchise as they should do, it would probably change the complexion of many elections. I can see no objection to it. It may be said that it is contrary to the spirit of our institutions. I think not. We say that it is a man's duty to sit upon a jury, and the laws compel him so to do, we say it is the duty of a man to hold municipal and other offices, and if he refuses to do it we fine him for so refusing, and also the same is true with reference to a great many other things which we compel people to do and the re-

sult of which is no more beneficial to the institutions of the Commonwealth than their going to the polls and casting their votes. This proposition does not compel a man to vote any particular way, but compels him to show himself at the polls and vote in some way.

I am not in hopes of passing this measure through the committee or the Convention, but I feel under obligation to persons who have approached me, and for this reason I have brought it up at this time.

Mr. DALLAS. Mr. Chairman: I rise to ask a question whether the gentleman conceives it to be necessary to give this grant of power to the Legislature to enable them to pass such a law if they deem proper?

Mr. M'ALLISTER. Mr. Chairman: I will state as chairman of the committee, that this is a partial report. Subject matter which was referred to the Committee on Suffrage, Election and Representation, if still before it. The gentleman who offered this amendment is a member of that committee, and I suggest that it is improper for us to entertain new sections before that committee has completed its report. If, in their final report, anything is omitted that should be inserted, there will be ample opportunity to have it inserted, and if members are to get up here, and on this partial report, make all the suggestions that occur to their minds, we will not get through with this partial report for weeks to come.

Mr. HOPKINS. Mr. Chairman: I will simply suggest to the gentleman from Carbon (Mr. Lilly) that if he will make a slight modification of his amendment I shall vote for it; that is, if the Legislature take measures to compel them to vote the democratic ticket.

Mr. LILLY. Mr. Chairman: I desire to explain, as far as the chairman of the committee is concerned. I do not consider it proper to state the action of the committee. It has already dispensed with this subject, passed it over, and I think the remarks of the chairman are entirely uncalled for upon that ground.

Mr. TURRELL. Mr. Chairman: I wish to amend the amendment of the gentleman from Washington, (Mr. Hopkins,) by adding the words "or republican ticket, just as they are of a mind to; and if

they do not, they shall stay in jail until the next election."

The question being on the section as introduced by Mr. Lilly, it was rejected.

The CHAIRMAN. The question is upon the tenth section.

The CLERK read:

SECTION 10. The Legislature shall provide by law, that in all elections for directors or managers of incorporated companies, every stockholder shall have the right to vote in person or by proxy, for the number of shares of stock owned by him, for as many persons as there are directors or managers to be elected, or to cumulate said shares and give one candidate as many votes as the number of directors multiplied by the number of his shares of stock, equal, or to distribute them on the same principle among as many candidates as he shall think fit, and directors or managers shall not be elected in any other manner.

Mr. WOODWARD. Mr. Chairman: I wish to call the attention of the committee to the fact that the section belongs to the Committee on Corporations, and that committee is preparing a report that will cover this ground. Therefore I hope the section will not be considered at present.

Mr. M'ALLISTER. Mr. Chairman: I would like to inquire of the gentleman from Philadelphia, (Mr. Woodward,) to which committee on corporations this gentleman supposes this refers?

Mr. WOODWARD. The Committee on Private Corporations has the subject now under consideration.

Mr. M'ALLISTER. Mr. Chairman: Private corporations is divided into two classes—canals and railroads, and other private corporations.

Mr. WOODWARD. Our rules will answer the gentleman's question. We have a Committee on Railroads and Canals, and a committee on all private corporations, except railroads and canals and private and literary corporations. The Committee on Private Corporations and the Committee on Railroads are about to hold a joint meeting, and will probably make several reports covering this very subject. Obviously the subject belongs to one or the other of these committees. There will be no conflict between them, but it is quite out of order for the Committee on Elections to take the subject

away from those committees and legislate with reference to it, without regard to what they are doing.

Now, Mr. Chairman, this subject properly and naturally belongs to what we suppose to be the Committee on Private Corporations. I suggest, therefore, that the section shall not be passed upon at present, and when the report of the Committee on Private Corporations is made, the section can then be amended. In the meanwhile, I think it would be injudicious to take any action upon the section.

Mr. M'ALLISTER. Mr. Chairman: There is no disposition at all to press this section upon the committee; but it clearly belongs to the Committee on Suffrage and Election, from the simple and conceded fact that it was discussed in various other committees. The fact is, if the subject matter of this section belongs to the Committee on Private Corporations, it belongs as well to the Committee on Railroads and Canals, of which I am a member; and I know that that committee does not claim that it comes within their supervision or the line of their duty. I am of the opinion, however, that this section comes within the jurisdiction of the Committee on Railroads and Canals as much as it does the Committee on Private Corporations. The manner in which the sections of this article may be arranged is a matter for future consideration, and therefore the Committee on Suffrage, Election and Representation did not number them, but reported them without numbers for the convenience of the committee of the whole, and of the printer. Where this section shall go in the Constitution is a matter for future adjustment, but as a committee of conference has been suggested between the Committee on Private Corporations and the Committee on Elections, there is no disposition, whatever, to press the section.

The question was then taken on the section, and it was not agreed to.

The CHAIRMAN. The next section will be read.

The CLERK read as follows:

SECTION — Wards of cities, or boroughs and townships, shall form or be divided into election districts of compact and contiguous territory, in such manner as the court of common pleas of the city or county in which the same are located

may direct: *Provided*, All districts in cities of over one hundred thousand inhabitants shall be divided by the courts of common pleas of said cities, whenever the preceding election shows the polling of more than two hundred votes, and in other election districts whenever the court of the proper county shall be satisfied that the convenience of the electors and the public interests will be promoted thereby.

Mr. HANNA. Mr. Chairman: I offer to amend the section, by striking out all after the word "manner," preceding the proviso, and inserting the words, "as shall be prescribed by law." In offering this motion I would submit to the committee, in the first place, that I doubt very much whether this section properly belongs to this Committee on Suffrage. It seems to me it comes more properly within the line of duty of the Committee on Cities, City Charters, Counties, Townships and Boroughs; but still, as it has come before the committee for consideration, I have moved this amendment. In moving the amendment I have been influenced by several reasons which have convinced me that the section should not be adopted as reported by the committee. With due deference to the Committee on Suffrage, I must differ with its members in regard to the propriety of incorporating in the Constitution of the State a provision which, to my mind, embraces a subject of legislation. In the second place, not only does the matter contained in this section belong to the Legislature, but by the adoption of this provision in the Constitution the Convention will, in fact, legislate for the people of the wards, counties and boroughs of the State.

Now sir, this section, as reported by the committee, provides that the wards of cities or boroughs and townships shall be divided, but that all districts in cities of over one hundred thousand inhabitants shall be divided by the court of common pleas whenever the preceding election shows the polling of more than two hundred votes, and in other election districts whenever the court of the proper county shall be satisfied that the convenience of the electors and the public interests will be promoted thereby. It will be observed that this section is directly intended to apply to one city of the Commonwealth, perhaps two, the city of Philadelphia and

the city of Pittsburg. Now why should we specially legislate for two municipalities in the State? I submit that such a provision as this will take away from the people of the cities and counties the right to legislate upon their own internal affairs. Not only is it legislation, but it is special legislation. It is designed to legislate specially for the people of these two particular localities, and so the city of Philadelphia and the city of Pittsburg are to be divided by the Constitution into election districts which shall comprise only two hundred voters. I agree entirely with the intentions of this proposition of the Committee on Suffrage, and I believe that it is wise and proper to divide the election districts into small sections of two hundred or three hundred voters, but I submit that this is a matter which belongs entirely to the people of each section of the State. They should be the judges, and should know whether such a division of the wards or townships is necessary and warranted by the necessities of the case. The committee, however, in introducing this proposition, designs that the Convention shall legislate for the people of these different sections, and I contend that it is inconsistent with all precedent. The Committee on Cities and City Charters reported on Friday last a section, to which I call the special attention of the committee. It reads as follows:

"The Legislature shall pass no special law creating any municipality or regulating its form of government or management of its internal affairs."

How can we consistently, with the views of the people, or with the views which we have ourselves expressed upon this very subject, specially legislate in favor of such a section in the State Constitution as has been proposed? Why we propose to prevent the Legislature from legislating upon special matters, and upon taking away from the people of different localities the right to govern themselves in all internal affairs, and yet we propose, in this Constitution, to tie the hands of the people of two of the largest cities in the Commonwealth in regard to this very matter. I submit that the people of these sections, through their municipal legislators, are far better judges than the Convention whether such a division shall be made. I consider that the provision is entirely improper, for it not only designs

to legislate for the people of these sections, but it proposes a system of odious *special* legislation, and to give to the judges of our court of common pleas this power. Is this right? As was remarked by the gentleman from Dauphin (Mr. MacVeagh) the other day, are we to be governed by the judiciary? I submit not at all. Why, sir, I think I will surprise this committee when I inform them how, by special legislation, the judges of the city and county of Philadelphia regulate our internal police affairs. What are they doing now? By special acts of Assembly, the judges of our courts appoint members of the board of revision of taxes, controllers of the public schools, guardians of the poor, the board of health, prison inspectors, mercantile appraisers, commissioners of Fairmount park, inspectors of the Eastern penitentiary and board of city trusts. I would like to enquire where we are to stop. Is this Convention further to empower the judges of our courts to divide our election precincts? I find no fault with the appointments made by our judges, for they have uniformly appointed the most reputable and upright citizens of our community, but, sir, is it right in principle that this power of self-government should be taken away from the people of our different cities and counties and placed in the hands of our judiciary? It is not judicial, and I consider that this patronage of our judges is becoming entirely contrary to the spirit of our institutions, and I would add, it is not only undesired by them but is obnoxious to them. Are we then, by means of this special form of legislation, to compel our judges to sit upon the bench and attend to petitions respecting the division of our election districts into two hundred voters or more. I submit it is entirely wrong in principle, although I confess the object of the provision coincides with my views. If such a proposition was submitted in another form, I would gladly vote for it, for I believe in dividing our cities into small election districts. I think, however, this power should rest solely with the municipal legislature. The people, through their immediate representatives, can attend to all this matter. How would it be if we should provide in our State Constitution that every city of so many thousand inhabitants should be supplied with gas and water? Would not such a sug-

gestion be as wise as the provision which the Committee on Suffrage has reported? for it is, after all, a matter of mere police regulation. It is nothing more or less than a matter affecting the private internal affairs of the different municipalities of the State, and I do submit, while it may be necessary thus to divide the city, and while I would gladly vote for such a proposition in the proper place, yet I deem it exceedingly unwise and improper for the Convention to place such a trivial insignificant matter in the Constitution of the State. I therefore hope that it will be submitted, as a proposition, to the Legislature of the State, for representing, as they do, our citizens. I have no doubt that their wishes and intentions will be duly expressed.

Mr. DALLAS. Mr. Chairman: I move to amend the amendment by adding the following words: "All districts in cities of over one hundred thousand inhabitants shall be divided by the city councils of said cities, whenever the preceding election shows the polling of more than two hundred votes."

Mr. HANNA. I accept the modification of the amendment.

Mr. J. W. F. WHITE. Mr. Chairman: I shall oppose this section, because in the first place, I do not like those special provisions in our Constitution. I am in favor of making our Constitution applicable to the entire State, not putting special provisions in it with reference to special localities. I am further opposed to this amendment, because it applies to the city of Pittsburg, although intended primarily only for the city of Philadelphia. It would apply to the two cities, only, Philadelphia and Pittsburg.

Now, I am not prepared to say, positively, that our people do not want this provision, but I think I can say they do not want it, because I never heard such a desire expressed by any citizens of the city of Pittsburg. I know that our election districts in that city are a great deal larger than this section proposes, and I know, also, that they can be divided and they are divided as often as the people of our city desire them to be divided. I never heard complaint on this score. I believe that to multiply our election districts and limit them down to about one hundred voters, because that will be the practical operation of this. If, whenever

the vote exceeds two hundred, the district is to be divided, some districts will probably have, on the average, less than one hundred votes at each election. No district will have two hundred votes, because it will then have to be divided. To multiply election districts in that way, with all the section officers, seems to me an unnecessary expense and an unnecessary burden, and in the absence of any reason or any expression of opinion in favor of it, I shall oppose such a provision. I can see no use in it.

I am opposed to it further, because I do think that this is a matter that ought to be left to the discretion of the Legislature, or the discretion of the people. Why should we put this unyielding, unbending provision in our Constitution? There may be localities where it would be desirable to have small election districts, but there are other localities where they can have two or three hundred or even four hundred voters that will accommodate the people better than these very small districts. I know the fact, and perhaps every member of the Convention knows the fact, that there are districts throughout our State, many of them that have more than two hundred votes, and you could not get the voters in those districts to consent to a division. In all our rural districts the people vote in townships where they have three hundred, four hundred or sometimes five hundred voters. They get through the election in time and without any difficulty.

Mr. HOPKINS. Mr. Chairman: If the gentleman will allow me to interrupt him, I will state that there are three districts in Washington county where there are over five hundred voters.

Mr. J. W. F. WHITE. Mr. Chairman: I know that in Allegheny county we have a number of districts that contain from four hundred to five hundred voters.

Mr. HAY. Mr. Chairman: I desire to state to my colleague that one precinct in Allegheny county contains nearly two thousand voters.

Mr. J. W. F. WHITE. My colleague states that one district in Allegheny City contains very nearly two thousand voters. I think that is too many. I do not believe there ought to be so many; still, that is a matter for the people. I cannot see that we ought to put such an iron rule

in the Constitution, one that is unyielding and unbending, and without any exception, that in cities of one hundred thousand inhabitants election districts must be divided whenever the vote exceeds two hundred.

Mr. TURRELL. Mr. Chairman: It seems to me that this had better be postponed until we ascertained the construction of the courts. That would have a great deal of influence upon the minds of many gentlemen in relation to their votes upon this subject. It seems to me, therefore, that we had better postpone it until that point is ascertained. In my own mind, my own judgment would be to allow these divisions to be made in cities by the city councils, and in the other counties of the State, if we have courts constituted somewhat after the present form, composed of three judges, it seems to me that they should make that division. But in such cases I would let the people be heard from. It should be left to the people to determine when such a change was necessary, and it ought to be done only on petition. I would not, as my friend from Allegheny (Mr. J. W. F. White) says, put in an imperative provision like this. I would leave it so that the people of a particular locality, on petition, might have their district changed to suit their convenience.

Mr. GUTHRIE. Mr. Chairman: I am not entirely in favor of the section as reported by the Committee on Suffrage, Elections and Representation, although I agree with some of the ideas it embodies. I am opposed to inserting so much machinery in the Constitution. I would be in favor of passing a general article on this subject, and permit the Legislature to carry it into execution. I prefer offering an amendment, so as to make the whole section read in this way:

Wards of cities, or boroughs and townships, shall form or be divided into election districts of compact and contiguous territory, containing not over two hundred voters, in such manner as shall be defined by law.

Mr. WHERRY. Mr. Chairman: That is exactly Mr. Hanna's amendment.

Mr. S. A. PURVIANCE. Mr. Chairman: I would suggest to the gentleman from Allegheny that the Legislature has that power now.

Mr. GUTHRIE. I admit that the Legislature has this power.

Mr. J. PRICE WETHERILL. Mr. Chairman: It seems to me that the consideration of this section should not be discussed at the present time. The Committee on Cities and City Charters have presented a report, and if that report be adopted it will conflict with a part of this section. That committee have seen fit to give the cities full and supreme control over their own affairs, believing that inasmuch as power must be fixed somewhere, that power should be lodged in the mayor, the select and common councils of cities. To that view I believe the Convention will assent, and yet if we adopt this section we will say that this Convention does not agree to that principle. On the other hand, with regard to the regulations of elections in boroughs and townships, I suppose that that matter will be taken up and discussed by the Committee on Boroughs and Townships, and inasmuch as the Committee on Cities and City Charters have reported, and it is likely the Committee on Boroughs and Townships will report perhaps adversely to the proposition as presented by the Committee on Suffrage, Election and Representation, I think it would be well if we postponed the consideration of that section until that time. I would be extremely sorry if we would in this way prevent the full and complete control of cities in the management of their own affairs. I can see clearly how the select and common councils of the city of Philadelphia would know much more in regard to the regulation of election districts than any court, and if they do wrong, if they act improperly, there is a corrective principle behind, which, at the proper time, will present and enforce a proper corrective. And on reflection I am satisfied that no special legislation should be asked for in relation to the regulation of the internal affairs of any city. For that reason I shall vote against this section; and for the reason that both of the other committees I have named may at the proper time present reports which will be adverse to this section. I hope that the further consideration of the section will be postponed for the present.

The CHAIRMAN. The motion is not in order.

Mr. TEMPLE. Mr. Chairman: How

does the section, as it has been amended, read?

The CLERK. Wards of cities, or boroughs and townships, shall form or be divided into election districts of compact and contiguous territory, in such manner as shall be provided by law: *Provided*, all districts in cities of over 100,000 inhabitants shall be divided by the city council of said cities whenever the preceding election shows the polling of more than two hundred votes.

Mr. COCHRAN. Mr. Chairman: I should not have been able to vote for that section had the power of dividing districts been left in the hands of the courts. I most decidedly object to mixing up the courts with the exercise of those matters which are simply and purely political, and whose tendency is to degrade the courts and draw them away from the discharge of their proper judicial duties. But as this section has been amended, I am quite ready to support it, for the reason that I assigned the other day, that I believe it shows a wholesome provision tending to protect the proper exercise of the elective franchise, and calculated to advance the public interests in that direction. I am prepared, therefore, to vote for the amendment, and the section as it will stand when amended.

Mr. M'MURRAY. Mr. Chairman: The reason why the Committee on Suffrage, Election and Representation proposed this section was, to meet the objection that the election precincts of our large cities were entirely too large. Not only inconveniently large, but so large that the number of voters afforded an opportunity for illegal voting; and it was to get rid of this difficulty of illegal voting, or rather in order that the electors of a district might be better enabled to detect persons offering to vote illegally, that this section was presented.

I think the section an admirable one, and I really hope the Convention will approve it. Nay, from the tenor of the discussion that has taken place already on the report of the Committee on Suffrage, Election and Representation, I supposed it was taken for granted by the majority of the body that this section would be adopted without any opposition. Gentlemen, in their remarks uttered, during the course of the debate upon the pending report, have virtually pledged

themselves to vote for this section, and have referred to it as the specific remedy for those irregularities which it was proposed to cure by other sections. It was remarked the other day of one of our cities—I believe the remark referred specially to Pittsburg—that in some of the districts there, just before election, some of the hotels would be so full of voters that you could see their legs sticking out of the windows. I do not know whether that is literally true or not, but probably it was an approach to truth. Probably these hotels were overcrowded and the proprietors could not accommodate their guests properly, and I am perfectly willing to come to their relief.

But that is not the object of the section. As we have done before in nearly every discussion, so here we almost immediately come to the subject of frauds in elections, and it was for the purpose of preventing these that this section was proposed.—Whether the precincts shall be divided by the courts or the councils, is immaterial to me. I prefer the courts, because I believe them to be entirely non-partisan, and have an abiding confidence in our judiciary. Councils would, probably, be partisan. That might not be much of an objection, but if we must choose between two tribunals, we should choose the better, and I think the courts would be entirely the better tribunal. I really hope that this section will be adopted, and that no member will make any captious objection to it. The gentleman from Allegheny (Mr. J. W. F. White) objects seriously, and says the people of Allegheny and Pittsburg do not wish their precincts divided, as they are not too large. I think the people of that county, especially of Pittsburg, would do well to have their precincts divided. If I am credibly informed, a very large proportion of the voting of that city is done late in the evening, after twilight and darkness have gathered around the polls. That certainly affords great facility for fraud in polling votes. By this measure we desire to protect the ballot-box from receiving illegal votes; and by other provisions we seek to purge it from illegal votes that have crept in. If I had one object in view in coming to this Convention, it was that I might, by my voice and vote, purge the ballot-box of frauds and irregularities

that have surrounded, and even found their way into it.

I think this is a very wholesome provision, and I appeal to gentlemen here to allow it to pass. The precincts now are divided almost all over the State by the courts. This section only provides an arbitrary rule as to numbers for cities of over one hundred thousand inhabitants; the places where illegal votes are most likely to be cast. It leaves the matter, so far as it relates to the small towns and country districts, just as it has been heretofore. But it should not be left to the discretion of councils, courts or any other tribunal to say *where* the division should be made. But the precincts should be so small that each elector in a district might know every other elector, and that none but honest votes should go into the ballot-box, and I want the rule compulsory so that the division *must* be made whenever a precinct shows the polling of more than a certain number of votes, but I would prefer that that number should be two hundred and fifty or three hundred.

Mr. NEWLIN. Mr. Chairman: The people heretofore have had the most implicit confidence in the judiciary, and in order that they may continue to have the most implicit confidence in them, I hope this power will not be given to them. There is another objection which is one of detail. In the city of Philadelphia we have at each election division twelve officers, and if each division is to consist of not more than two hundred inhabitants, and inasmuch as a considerable portion of the inhabitants do no vote, the consequence would be that you would at every election have about seven per cent. of the voting population engaged as election officers.

Mr. DALLAS. Mr. Chairman: The proviso is not that the districts shall be reduced in size so as to contain only two hundred inhabitants, but two hundred who actually voted at the last preceding election, the presumption being that at least an equal number will vote at the next succeeding election. I trust that the principle of this section will be adopted. I hope the committee will make a provision to limit election districts so that no one will comprise more than two hundred voters, for I believe that nothing will

so aid in the suppression of fraud as the intimate personal knowledge which each man would then have of every other man offering to vote in the same district. But I desire to call the attention of the committee, for one moment only, to the effect of the amendment of the gentleman from Philadelphia, (Mr. Hanna,) as it has been modified by myself. Objection has been made, and I think well made, to the original proposition, because it intends to lodge in the courts the power to divide election districts. I do not propose to go over the argument upon that subject again. I concur in the objection, but I think it will be well removed by the adoption of the pending amendment, so as to make the section read that "election districts shall be composed of compact and contiguous territory in such manner as by law may be provided; but any and all districts in cities of over one hundred thousand inhabitants shall be divided by the city councils thereof, whenever at the preceding election more than two hundred votes shall have been cast in such district or in each of several such districts." This would meet the objection of the gentleman from Philadelphia on my right, (Mr. Wetherill,) and would vest the power to divide districts, where it ought to be, in the city councils to determine, and in the rural districts, as to which there seems to be a difference of opinion upon the subject, the proposed amendment leaves the whole matter to the Legislature. The purpose of this section is to restrict the number of voters to a district in the large cities, and that object is good, and the amendments which have been submitted make it possible to attain it without casting legislative duties upon judicial officers.

Mr. TEMPLE. Mr. Chairman: I think that the section as amended is a very wholesome one, and should be adopted, as modified at the suggestion of my colleague, (Mr. Dallas,) I agree with him and with my other colleague (Mr. Newlin) in suggesting to this committee that the courts of the city of Philadelphia should not have the right to re-district our election divisions. It is not necessary to state the reasons for lodging this power in some other hands. I prefer to leave it with the councils of large cities in preference to the Legislature, for the reason that the section which was read

by the chairman of the Committee on Cities and City Charters, which provides that the whole machinery of our city government shall be left in the hands of the city councils.

It is evident, from what has taken place in the elections in the city of Philadelphia, and in other large cities, that the substance of this section should be adopted; and the only question is as to whom the power shall be vested in. I believe it should be left with the legislative department of the particular locality to which it is adopted, and for this reason I am in favor of leaving it with the councils of Philadelphia, if this section is to be adopted at all. If it could be taken out of the committee of the whole I would be in favor of taking this subject up when we come to discuss and consider the result of the labors of the Committee on Cities and City Charters, but if we are to adopt it here, I am in favor of leaving it where my friend from the city (Mr. Dallas) desires it to be left by his amendment, to the city councils of the city of Philadelphia, and other large cities, to determine when and how the division shall be made, restricting it always to an election district not containing over two hundred voters.

Mr. BUCKALEW. Mr. Chairman: This section is one of a series reported by the Committee on Suffrage, intended to secure integrity in elections. That is its principal object, and, so far as that object is concerned, I desire to submit a few words to the committee before a vote is taken.

At present the power of establishing new election districts is vested, generally, throughout the State, in courts of quarter sessions. By legislation it is provided that the people living in districts proposed to be divided may vote upon this subject; at least, there is such a regulation of law upon the question of establishing new election districts. You will observe that this section says that these districts shall be made under the "direction" of the court. The power is not to be exercised by the court directly, but by commissioners appointed by the court. All that is required is that the authority of the court shall be appealed to, in order to establish. The court will have a supervisory power over reports which shall

be made to them by the persons whom they shall appoint for this purpose.

Now this section of the present report of the Committee on Suffrage establishes a uniform rule for the whole State, so far as the power of creating election districts is concerned, and therefore it is a proper and a judicious provision.

If gentlemen shall succeed in carrying their amendment, leaving this power, in certain cases, to the legislative bodies, the councils of cities, I see no reason why they should not extend their amendment, so that it shall vest the power in councils of boroughs and commissioners of counties. If they shall succeed in carrying their amendment, by which the courts in a part of the State shall be prevented from ever exercising this power, I think we had better drop the section. We had better let matters remain as they are now; for at present, in the case of the city of Philadelphia at least, the councils have a statute power upon this subject. It is a very peculiar provision, because, when they have acted, they must send the record of their proceeding to the court of quarter sessions of the city. You must have a place where you can find these records—not among the loose papers of a city or town council or a commissioners' office—you must have them in court.

Now what reason is there why the councils of a city should have this power ordinarily vested in the courts of quarter sessions? There is no reason in the world for this, unless there be some desire to gerrymander the wards or election divisions of a great city. No other reason for it can be presented.

The most convenient, the cheapest, the most efficient and the most unobjectionable mode of establishing new election districts, is by the appointment of commissioners, just as we make local divisions of townships and of school districts throughout the State. Prompt, competent men are always selected, and if there is anything wrong in their action and the citizens have the chance to appeal to the court, to object to the report of the commissioners and have it corrected. Ordinarily the courts do not interfere, except for strong reasons. The inconveniences of dancing attendance upon two chambers of councils, in case the citizens think that wrong has been done, and desire to appeal to the authorities, is ap-

parent, should the power be vested in the Legislature of a city. These gentlemen serve, I believe, without pay. The hearing is very different from what it would be in a court of justice.

I think, therefore, that we should place a provision in the Constitution, that the courts of quarter sessions, in both city and county, shall direct the manner in which all election districts should be made. This will also prevent vicious legislation at Harrisburg. If it is not so provided, this power may be vested in one city in the councils, in another in the courts; in one county it may be vested in the commissioners, and in another, a different rule may prevail.

It is a judicial proceeding, notwithstanding the criticisms which have been made here. It has been so regarded, practically, almost uniformly in our State, and it is properly vested in the courts of quarter sessions, which are charged with very nearly all the municipal judicial business of the State. Properly the changing of these election districts, and still should be with local authority, but it may be done by the Legislature. A provision of the Constitution of the State, prohibits the Legislature from acting where the courts can act, but the prohibition does not extend to municipalities; it applies only to corporations of a business character. Therefore, this power may still be exercised by the Legislature at the instance of individual interest.

The other provision here relates to the number of voters in an election precinct, where the voters in any precinct, in a city of one hundred thousand inhabitants, shall exceed two hundred, the precinct shall be divided. Now, I do not pretend to say what the number should be. The members of the Committee on Suffrage from this city seemed to acquiesce in that number; therefore, I favored it. If a higher number is desired I am willing to take it, even if it be three hundred; but there ought to be, in order to avoid difficulty hereafter, and to give an inflexible and binding rule to the court, some number fixed, so that citizens, when they come to the court can say to the court that it has jurisdiction, and not only jurisdiction, but that it is its duty, a duty charged upon it by the people, to do what they ask in the matter. What is the object of small election districts in

cities? Why, in the first place they are necessary in order that the election board shall know all the voters. If you poll, as you sometimes do now, in cities, six or eight hundred votes in one election precinct, it is impossible for the election officers to know all, or even one-half of them; and this is one of the principal reasons why there are fraudulent personations of voters at elections.

It is necessary, therefore, in this respect, that the election divisions of cities should be kept within small limits. But there is another reason for it now, because these election divisions are so large, and there is so much work thrown on the election officers, that you have to have special laws for cities in order to work the system. You provide here in Philadelphia for nine election officers to hold elections in every precinct of the city. You have, first, two window inspectors, and their two clerks; making four; the judge of the election, five; there are two return inspectors and their clerks, which make nine; and while the window inspectors are receiving the tickets during an hour, the return inspectors are counting the votes for the previous hour, so that you have a board of nine officers. When you come to the question of how the election officers shall be chosen and how many there shall be, I trust we shall go back to the old provision of the statute of '39 and provide that three election officers shall be chosen by the people in every district of the State and city directly by their own votes, and in such a manner that they will be divided between political parties, and then the inspectors will appoint their clerks, and if you have any additional persons officially present in the election room in a city let it be a watcher or somebody appointed by the local courts of the State or of the United States, charged with such power as may be necessary as a check upon the election board.

You observe, then, that if you reduce your electoral divisions in the city you can dispense with four election officers in every precinct, and I insist upon it that, instead of this provision accumulating expenses, it will leave the sum total of election outlay about what it is now; that the element of expense is out of the case, if, by such provision, you can re-

duce the number of officers; if you can keep the level of expenses of elections about what it is now; if you can secure a knowledge of all the voters by the election boards, because they live in the immediate neighborhood, and are but a small number, you will secure the purity of the ballot-box and a most valuable reform.

Why then should not this section be adopted? It is drawn for the whole State and is uniform, so far as the power of creating new districts from existing ones is concerned. Discretion, however, is properly allowed to the courts with reference to the size and population of interior election districts. We provide, as the section is drawn, that in the interior of the State, in agricultural regions, the courts shall not be compelled to divide districts unless public necessities and the convenience of the people require it. That is the only difference proposed between city and country in the section.

MR. GUTHRIE. Mr. Chairman: I offer the following amendment to the amendment: To insert in the third line before the word "in," the words, "containing not over two hundred voters," and strike out all after the word "law," in the amendment now pending.

MR. CASSIDY. Mr. Chairman: I think the report of the committee should be adopted. I earnestly protest against the Legislature of the State or the councils of the city having anything to do with the formation of election districts. It is not a legislative duty at all, and is no more a political matter than it is to pass upon any measure involving our rights of liberty or property. One of the necessary steps in the reform that we are called upon to carry out is to enable us have honest elections. One of the steps that is necessary to carry out this purpose we have already adopted. As another advance in the cause of reform, none has been presented more important than that now under consideration. It proposes that election districts hereafter shall be so formed as not to exceed two hundred votes. I should have preferred a much smaller district, mainly on the ground that where the smallest number of votes have to be polled there would be the least chance of fraud. If you have but one hundred votes to be polled, the persons

residing in the district would know every voter, and the same line of argument would apply to the district of two hundred votes, but of course not in the same degree. In a district where the votes are known to each other you can see at once there could be no such thing as importing or colonizing voters, and you would have the additional opportunity of permitting the whole of the election law to be considered and enforced by the election board.

I submit to the Convention that it is not physically possible for the election officers to do their whole duty, and take more than twenty votes an hour, or a vote in every three minutes, and at that rate you would take a working day of ten hours to poll two hundred votes. If a person comes up to vote, he is to announce to the election officers who he is, where he resides, how long he has resided there, whether naturalized or not, and the various claims that he has to present his vote and have it polled. That, to be calmly and carefully considered, as I trust we agree all election officers ought to treat the matter, will, at least, take the time I have indicated. To say that it would take less time, would be to say that the taking of the vote would be simply the physical discharge of the duty of taking the ticket from the voters hand and putting it into the box, without asking any question or testing him as to his qualifications. That is not the whole duty of the election officers, for, under the obligation of his oath, he is not only to take the vote of the person, but to see that the person who presents it has the legal right to vote. Therefore I submit to the Convention, that it is a physical impossibility for the election officers, who will do their duty, to take more than two hundred votes in one day. This being conceded, the necessity for small districts is established. Who are to form the districts? Surely not the Legislature, if you would have them formed without regard to political preference. The Legislature, past experience establishes, will form the election districts so as to give their political friends power; and this will be so no matter which party is in power. They have done so time out of mind in making senatorial and representative, and even in judicial districts, they have made these

districts to suit themselves and the political party they represent, and they will do so to-day. The same argument applies to the city councils. They will be called upon to carry out the views of the political parties which they represent, and if they are called upon to do that, will they not do what their predecessors have done time out of mind?

Is this state of affairs not an evil, and one of the very things that gave rise to this Convention? Are we not here to so form the organic law, that the system of "gerrymandering" shall not any longer be carried into effect throughout this State? It has been a discredit and a disgrace to the Commonwealth, and all agree that it ought to be changed. If so, where can this power be most safely vested? I submit in the courts of the Commonwealth. I do not care whether it shall be in the court of common pleas or other court. The court of common pleas was named, because it is a recognized court under the present Constitution. This power may be vested in the court of quarter sessions, or it may be placed in the hands of any other court. I am perfectly willing to trust the courts with the arbitration of this question, because whatever disputes may arise will be settled openly and judicially, and the people who have an interest in the proceedings will be entitled to be heard by counsel or by petition. The judges of these courts having been elected for long terms of office, are far removed from politics, and will decide these questions in court, not according to their political proclivities, as legislators do, but according to the wants and interests of the people.

I cannot agree with those in the Convention who have argued that such a provision as this will drag down the judiciary. This power which is proposed to be conferred upon the judges of our courts does not give them patronage. It simply devolves upon them the determination of a legal proposition, submitted to them for their decision, of the same character as the confirmation of an award of damages by a road jury, or to say whether or not a road shall run in a given direction, or whether a ward house shall be kept as a place for voting. These are all questions submitted to the courts of this county, and I have yet to hear any objection made

to the exercise of this power by the judges on account of their partisan proclivities. I therefore submit that this question of dividing the precincts is one which should rest wholly within the jurisdiction of the courts, where the power will be far removed from even a suspicion of being governed by politics or politicians. It is said make this provision for Philadelphia alone. I answer that I am opposed, as a matter of principle, to framing a system exceptional in its character. I am not willing to place upon the record that the people of the city of Philadelphia require an exceptional constitutional provision for their benefit. On the contrary, I desire the people of this city to stand upon the same footing as the people of the rest of the State, lest, however, some of our friends from other parts of the State should except to this arrangement, we have provided that outside of cities it shall not be compulsory upon the courts to divide the precincts. In the provision for the country we have said that the courts shall only be called upon whenever, in their judgment, the popular interest shall require them to interfere. It therefore seems to me that this is a fair proposition, and I submit to the consideration of the convention that the more thought that is given to it the more convinced we must become that it will be one step further towards purifying city elections, while at the same time, it will in no way interfere with the conduct of elections in the rural districts.

Mr. MANTON. Mr. Chairman: It was not until the amendment to the amendment was offered that I designed saying anything upon this question, but after hearing all the arguments of the different gentlemen that have spoken on this subject, I cannot hesitate in declaring that I am opposed to the pending amendment.

In speaking of this subject, I desire to call the attention of the Convention to the fact, that it would be exceedingly inconvenient to divide into election districts the territory of wards of cities, boroughs and townships. In the county in which I live, which is, perhaps, one of the largest in the State, there are sixty-six election precincts. There are two incorporated cities in the county, and about nine boroughs, and there is no inconvenience whatever in polling the votes in times of election. The borough in which I live,

contains about three to four hundred voters, and it would be certainly a great inconvenience if the borough was divided into two precincts, so that there would be only two hundred votes in each precinct. All the votes in that borough are cast without difficulty between morning and evening. No difficulty is experienced whatever, and I am, therefore, opposed to this section, because I think that it will trespass entirely upon the rights of a class of people who have heretofore been entirely satisfied with their election precincts. I feel confident that what I have said in regard to the county which I represent, will apply equally as well to all the counties of the rural districts. So far as the city of Philadelphia is concerned, or any of the other large cities in the State, I have little or nothing to say. I am rather of the opinion, however, that a division in the number of precincts would, perhaps, be beneficial in their elections, but it can certainly produce no good results in the rural districts, where the people are all acquainted with each other, and in my opinion, will only work great inconvenience, in dividing the townships, wards and boroughs in election precincts, so that each precinct shall not contain over two (200) hundred voters, as this amendment proposes. Therefore, I shall vote against this amendment to the amendment.

Mr. MINOR. Mr. Chairman: I am opposed to the amendment which has been offered by the gentleman from Allegheny, which proposes to divide districts any where in the State whenever more than two hundred votes are polled. In the rural districts it may be taken for granted that at least nine-tenths of the voters are known to the election officers, and that proportion can vote as fast as their votes can be taken and their names recorded. In the city in which I reside, containing about twelve thousand inhabitants, the different wards contain a voting population varying from a little below to a little over two hundred each, and if a division was made every time more than two hundred votes were cast, it would result in exceeding inconvenience. Besides, if a division was made it would have to be by ward and township lines, otherwise, when ward or other

local officers were elected, it would occasion great confusion, and if such lines are preserved the divisions would be unnecessarily small. Under the present system, in our towns and smaller cities, there is not the slightest difficulty in polling sometimes between three and four hundred votes in a ward, whereas, if these various sub-districts, which are proposed, are made in the large townships and small cities, it will become exceedingly burdensome. The provision which is contemplated may be applicable to the large cities of the State, but it certainly will not answer in the rural districts and smaller cities. It seems to me that this amendment will result in great inconvenience to them, without any corresponding benefit. I am therefore opposed to its adoption.

Mr. M'ALLISTER. Mr. Chairman: I desire to say a few words in reference to the object of this provision. It was designed mainly to protect the right of the voter, and to secure him justice—justice in the foundation of the district, as well as justice in the depositing of his ballot, and in that view, the same rule which now exists throughout the entire State, except Philadelphia, was applied to the State at large.

The Committee on Suffrage desired to secure uniform laws—laws governing the people throughout the State. The courts of quarter sessions now have the power that is proposed to be given by this section to the court of common pleas. If, however, the court of quarter session is preferred, by any delegate in this Convention, there is certainly no unwillingness to strike out the court of common pleas and insert the court of quarter sessions. Why, then, should not the same rule be applied to cities, in reference to the formation of these election districts throughout the entire State. It is said that the city councils in Philadelphia, have exercised this power, and it seems they feel disposed to hold on to it, which is but another evidence of the disposition of man never to surrender willingly any power he holds. Our inquiry, however, is, should the courts have this power? We say they should because the courts are not political bodies. They never have been, and I sincerely hope they never will become political bodies. It will be observed that the territory, out of which the dis-

tricts are to be formed, is not only to be contiguous, but compact. A political body, whether the Legislature or the city council, will give a different construction to these words, "contiguous and compact," from what a judicial tribunal will do. A judicial tribunal is governed by principle and precedent, and one decision is followed by another decision, because of the first, but political bodies are governed by no such rules. I might refer to our legislatures gerrymandering the State, who think of referring to the action of one legislation as a reliable precedent for the action of another legislation. No one so great a fool as to think of it. Not so, however, had the power been vested in the judiciary. Had that been done in the past, we should now have laws upon the subject arising from the precedents. I hope, Mr. Chairman, that this power will be conferred upon the courts, and that other powers in reference to the districting of the State will also be conferred upon the courts and not upon political bodies, who inquire, not what justice and law require them to do, nor what they can do for the benefit of the people at large, but what they can do for the benefit of their party. I would confer this power upon no such body, and it is therefore that I would have the city conform to the general law provided for the State.

Now this law is uniform, except in one particular. The power is the same and the only difference between city and country is that, in cities of over one hundred thousand inhabitants, the courts are compelled to divide a district when the voting population thereof exceeds two hundred. In the rural districts and throughout the entire residue of the State the courts are to exercise their judgment upon the petition of the citizens as to when districts should be made. It will not lead to any material changes of the present law in the country, but it was most earnestly contended by some of the city members of the Committee on Suffrage, Election and Representation, that unless the election districts were brought down to one hundred voters they could not protect the purity of the ballot. That number was thought too small and the two hundred was agreed upon as a compromise with great unanimity. That number will not create much incon-

venience to anybody, and yet it is a number so small that when the list of voters is placed up a reasonable time before the election, inquiry can be made as to the qualification of every man whose name was upon the list, and all the knowledge obtained necessary to prevent illegal voting. If this end can be thus easily accomplished, why not adopt the section as reported? The purity of the ballot-box is the leading object of this restriction. The rule is uniform with the single exception stated. No special legislation will be required. The number, two hundred, was agreed upon as the number best suited to secure convenience and preserve the purity of the ballot-box. I hope, therefore, that these amendments will all be voted down and that the proposition as it came from the committee will pass.

The CHAIRMAN. The question is on the amendment of the gentleman from Allegheny.

Mr. NEWLIN. Mr. Chairman: I ask that it be read.

The CLERK. The gentleman from Allegheny moved to amend the amendment by inserting after the word "territory" in the first sentence, the words "containing not over two hundred votes," and striking out the proviso in the amendment.

The CHAIRMAN. The section as amended will be read that it may be properly understood.

The CLERK. Wards of cities or boroughs and townships shall form or be divided into election districts of compact and contiguous territory containing not over two hundred votes in such manner as shall be prescribed by law.

The amendment to the amendment was rejected.

Mr. J. PRICE WETHERILL. Mr. Chairman: I desire to offer the following, to come in at the end of the pending amendment. To add the words, "such districts to be as nearly equal in numbers as practicable."

Which was agreed to.

The CHAIRMAN. The question is on the amendment of the gentleman from Philadelphia, (Mr. Hanna,) modified as it will be read by the Clerk.

The CLERK. To strike out after the word "manner," in the first line, and in-

sert, "as shall be prescribed by law: *Provided*, All districts in cities of over one hundred thousand inhabitants shall be divided by the councils of said cities whenever the preceding election shows the polling of over two hundred votes in any of said districts."

Mr. S. A. PURVIANCE. Mr. Chairman: I move to strike out from the fifth line the word "one," applying to one hundred thousand inhabitants, and insert the word "two."

The CHAIRMAN. Does the gentleman propose that as an amendment to the section, or to the amendment?

Mr. S. A. PURVIANCE. To the section.

The CHAIRMAN. The gentleman had better wait until the amendment is disposed of.

Mr. HAY. Mr. Chairman: If it is in order, I would ask for a division of the amendment, the division to be at the word "law."

Mr. LILLY. Mr. Chairman: I want to offer an amendment.

The CHAIRMAN. A division of the amendment has been and is in order. The first division will be read.

The CLERK. "Wards of cities, or boroughs and townships, shall form or be divided into election districts of compact and contiguous territory, in such manner as shall be prescribed by law"—

Mr. LILLY. Mr. Chairman: I want to offer an amendment before the division is made—to strike out "two hundred," in the proviso, and insert "three hundred."

The CHAIRMAN. The gentleman from Allegheny has called for a division of the amendment. The first division has been read, and the question is upon it. The gentleman from Carbon will have to wait until the division is taken.

Mr. HAY. Mr. Chairman: I will withdraw the call for a division, to allow the gentleman from Carbon to present his amendment.

Mr. LILLY. Then I offer my amendment, to strike out "two hundred," in the proviso, and insert "three hundred."

Mr. WHERRY. Mr. Chairman: I object. I renew the call for a division.

Mr. LILLY. Mr. Chairman: I have a right to amend, and after we get through amending, if the division is desired it can be called.

The CHAIRMAN. The gentleman from Carbon has a right to amend if he offers his amendment at the right time.

Mr. HOPKINS. Mr. Chairman: I suppose the simple question before the committee is the division called for.

The CHAIRMAN. The gentleman from Allegheny first rose and asked for a division of the question, and afterwards yielded the floor to the gentleman from Carbon to offer his amendment. The question is on that amendment.

Which was rejected.

The CHAIRMAN. The question is now on the first division.

On the question of agreeing to this, division was called. Thirty-three voting in the affirmative, it was decided rejected, less than a majority of a quorum voting.

The CHAIRMAN. The question is on the second division, which will be read.

The CLERK. "Provided, All districts in cities of over one hundred thousand inhabitants shall be divided by the council of said cities whenever the preceding election shows the polling of over two hundred votes in any of said districts."

Mr. LITTLETON. Mr. Chairman: I desire to amend, by striking out "two hundred" and inserting "four hundred."

Mr. LITTLETON. Mr. Chairman: I desire to suggest that it is perfectly practicable to conduct an election in a precinct where the number of voters in the precinct is four hundred. In this city we will have two elections each year, according to the provision adopted by this Convention in reference to that subject, and if, in addition to doubling the elections, you increase the number of precincts, practically to double their present number, you will so multiply the expenses of the elections that they will become a burden.

The CHAIRMAN. Does the gentleman from Philadelphia move to amend the proviso of the printed section or the proviso of the manuscript amendment?

Mr. LITTLETON. Mr. Chairman: I desire to make my amendment apply to the division of the amendment under consideration. I believe the proviso is in both the section and the amendment.

Mr. S. A. PURVIANCE. Mr. Chairman: I inquire whether my amendment is not now in order. I move to strike out "one

hundred thousand" and insert "two hundred thousand."

The CHAIRMAN. The gentleman from Allegheny refers to the printed section, does he not?

Mr. S. A. PURVIANCE. No, sir; I refer to the proviso of the amendment pending.

The CHAIRMAN. The Chair understood that the amendment of the gentlemen related to the original section and not to the amendment. The Chair should have given the floor to the gentleman from Allegheny, but the gentleman from Philadelphia took it. The question will be first taken upon the amendment of the gentleman from Philadelphia to strike out "two hundred" and "four hundred."

Which was rejected.

The CHAIRMAN. The amendment of the gentleman from Allegheny is now in order, and will be read.

The CLERK. "To strike out the words 'one hundred thousand,' and insert 'two hundred thousand.'"

Mr. S. A. PURVIANCE. Mr. Chairman: Before the vote is taken I will say that I offer this amendment for the purpose of carrying out the views expressed by my colleague on the other side of the House (Mr. J. W. F. White.) We do not regard this provision as necessary for the city of Pittsburg. It is a city of about one hundred and thirty-three thousand inhabitants, and so far we have discovered no inconvenience in taking our votes in the precincts as at present composed. In the city of Allegheny, in the precinct in which I reside, we poll usually about one thousand votes, and yet I have never discovered any inconvenience in taking these one thousand votes. Therefore I do not desire that the provision shall be applied to the city of Pittsburg.

The CHAIRMAN. The Chair suggests to the Convention that the adoption of the proviso now would, perhaps, not be proper, as the first division has been voted down. The proviso is a provision upon what has been voted down.

Mr. MANN. Mr. Chairman: I do not understand how the amendment of the gentleman from Allegheny (Mr. S. A. Purviance) can be voted on. We have agreed to vote on this second division of the original section.

The CHAIRMAN. It is not for the Chair to suggest to the committee, but if the

proviso is voted down, then the balance of the section can be amended as the gentleman desires.

Mr. MANN. Certainly.

The question being upon the amendment offered by Mr. Guthrie, it was rejected.

The question then being upon the proviso, it was rejected.

Mr. DARLINGTON. Mr. Chairman: If in order, I move to amend this by striking out the words, "common pleas," where they occur, and inserting the words, "quarter sessions."

The question being upon the amendment of Mr. Darlington, it was agreed to.

The CHAIRMAN. The question is now upon the section.

Mr. J. W. F. WHITE. Mr. Chairman: I do not know that I understand exactly what is before us, and what was done on the motion of my colleague (Mr. Guthrie.)

The CHAIRMAN. It was voted down; and the proviso was also voted down. Now, the question is on the section as amended by the motion of the gentleman from Chester (Mr. Darlington.)

Mr. J. W. F. WHITE. As I understand it then, the question is on the section as reported by the committee substituting "quarter sessions" for "common pleas."

The CHAIRMAN. That is it.

Mr. J. W. F. WHITE. I think, sir, there was a misunderstanding in the vote on the motion of my colleague (Mr. Guthrie.) I wish to present that to the committee properly and fairly. He moved, as I understand him, to strike out the word "one" in the fifth line and insert "two."

The CHAIRMAN. To strike out "two" and insert "three" according to the manuscript.

Mr. J. W. F. WHITE. Well, sir, I move to strike out the word "one" in the fifth line and insert "five;" and I have merely this remark to make, I hope that, as this section is designed mainly for Philadelphia, and is not wanted by the delegates from Pittsburg in this Convention, the members from Philadelphia will not force it on Pittsburg. If it works well here, it can be adopted by us afterwards, but I do not believe it is wanted there, and I trust that those in the city of

Philadelphia and elsewhere, who think this provision so important here will not force it upon the people of Pittsburg. The provision as it now stands, applies to these two cities, and my amendment is designed to except Pittsburg from it and leave it to apply to Philadelphia alone, and I trust that that will be agreed to.

Mr. LITTLETON. Mr. Chairman: It seems to me that if this principle is to be adopted it should be general. I have yet to learn that there is any great demand in Philadelphia for a decrease in the number of voters who shall vote at a precinct. It is really of importance to Philadelphia to have the number increased than otherwise, because, as I said before, it increases the expenses enormously, especially when we are to have elections twice a year. I do not think we will have the benefit from it that is expected; but I think we should all be in the same boat. I think the number ought to be increased to four hundred to a precinct, with the same precincts that we have now.

Mr. TEMPLE. Mr. Chairman: I have only this to say in answer to the remarks of my colleague, (Mr. Littleton,) that the cost of contested elections—so frequent have these contests become—is much more than the cost of the elections in the first place.

Mr. LITTLETON. I think the gentleman is mistaken on that point.

The question being on the amendment offered by Mr. J. W. F. White, it was not agreed to.

Mr. BUCKALEW. Mr. Chairman: I move to make this number two hundred and fifty. I think there is some force in the remark made, that after a precinct is divided there may not be over one hundred in either of the precincts into which it is divided. I think it would be as well not to make it imperative that it should be divided when it comes to have only just a little over two hundred.

Mr. LILLY. Mr. Chairman: For the very reasons that the gentleman from Columbia (Mr. Buckalew,) gives, I offered a motion to make the number three hundred. Now, under this proviso, if any district in Philadelphia or Pittsburg, shows a vote of two hundred and one persons at a precinct you have got to divide the precinct, and thus you multiply precincts very considerably.

The question being upon the amendment offered by Mr. Buckalew, it was agreed to.

The question then being upon the first section as amended, it was agreed to.

The proviso, as amended, was then read as follows :

Provided : All districts in cities of over one hundred thousand inhabitants, shall be divided by the courts of quarter sessions of said cities whenever the preceding election shows the polling of more than two hundred and fifty votes, and in other election districts, whenever the court of the proper county shall be satisfied that the convenience of the electors and the public interests will be promoted thereby.

Mr. MANN. Mr. Chairman: I apprehend there was a mistake on the part of members of the committee in voting down the motion of the gentleman from Allegheny (Mr. J. W. F. White.) I think they were voting on the number of voters in a district. I would therefore move to amend the fifth line by striking out "one" and inserting "two," so as to make the number two hundred thousand.

Mr. HOPKINS. Mr. Chairman: I rise to a point of order. That proposition has been voted down.

Mr. MANN. No, sir.

The CHAIRMAN. The Chair will state to the gentleman from Washington, that the amendment proposed by the gentleman from Allegheny (Mr. Guthrie) was a limit of the number of voters in a district.

Mr. HOPKINS. The gentleman from Allegheny (Mr. J. W. F. White) on my right, moved to strike out the word "one" and insert "two"—that is in reference to cities of a population of one hundred thousand.

Mr. MANN. Mr. Chairman: I think I have the floor. I desire to state my proposition. I move to strike out the words "one hundred" in the fifth line and insert "two hundred and fifty," so as to read "two hundred and fifty thousand." I submit that that proposition has not been voted on, and it is therefore in order. I feel very confident the committee will accept this proposition when the members reflect that as the section stands it excludes from its provisions all the cities of the Commonwealth, except Pittsburg

and Philadelphia. Why should Pittsburg be put in when Harrisburg, and Reading, and Lancaster are not in. If the proviso is intended to correct evils that are inherent in cities, why exclude these others? It is very clear there was a misapprehension as to the former motion.

The CHAIRMAN. Does the gentleman make a motion?

Mr. MANN. Certainly.

The question being upon the amendment offered by Mr. Mann, it was rejected.

The question then being upon the proviso, a division was called for, and resulted, in the affirmative, 47; in the negative, 22.

So the proviso was agreed to.

Mr. DARLINGTON. Mr. Chairman: There is a supplementary report of the committee, partly on this same subject, on the next page.

The CHAIRMAN. It has nothing to do with this, unless it is moved as an amendment to the section.

Mr. DARLINGTON. Mr. Chairman: I understood this to be a report from the same committee—the Committee on Suffrage—merely a supplementary report, and, of course, to be considered by the committee of the whole, precisely as the other has been. It will be for the chairman of the committee to say whether that is right or not.

Mr. NEWLIN. Mr. Chairman: I move that the committee do now rise, report progress and ask leave to sit again.

Mr. M'ALLISTER. Mr. Chairman: I would remark that the Committee on Suffrage and Elections have other sections under consideration which they will report in a few days. We submit to the Convention, itself, the propriety of proceeding with the consideration of the supplementary reports. There are two of them—numbers four and five—or to defer them until we further report.

The CHAIRMAN. The chair would state that he thinks the only way to get the supplementary report before this committee would be to move the section as a new section.

Mr. LILLY. Mr. Chairman: I move we proceed to the consideration of supplemental report No. 5.

Mr. M'ALLISTER. Mr. Chairman: It seems to me that as a further report will

be made in a few days that will show the entire plan of the committee, it will be better to defer these sections until that report is made. Therefore I do not, as chairman of the committee, move these as new sections.

Mr. LILLY. Mr. Chairman: I am in favor of the committee taking that section five up.

Mr. NEWLIN. Mr. Chairman: I ask what has become of my motion that the committee rise, report progress, and ask leave to sit again?

The CHAIRMAN. The Chair will state that he did not put the motion because the section was gone through with.

Mr. HOPKINS. That motion cannot be entertained for the simple reason that the section has been gone through with.

The CHAIRMAN. The gentleman from Carbon moves to proceed to the consideration of supplementary report, No. 5, of the Committee on Suffrage and Elections.

Mr. NEWLIN. Mr. Chairman: I ask leave to make my motion that the committee rise and report the bill, as the bill has been gone through with.

The CHAIRMAN. It does not require a motion to report a bill.

The question being upon the motion of Mr. Lilly, a division was called, and resulted: In the affirmative, forty-one; in the negative, twenty-nine.

So the motion was agreed to.

The CHAIRMAN. The Chair will state to the gentleman from Carbon (Mr. Lilly) that his understanding of the question is that the gentleman will have to move this supplement by sections.

Mr. LILLY. Yes, sir. My motion was to consider report No. 5.

Mr. M'ALLISTER. Mr. Chairman: Why not proceed in the order in which they were reported, if you take it up at all.

The CHAIRMAN. Will the gentleman from Centre (Mr. M'Allister) be good enough to state how many sections there are?

Mr. M'ALLISTER. Two on No. 4 and one on No. 5. I move, as an amendment to the proposition, that the committee now proceed to the consideration of section one of No. 4.

Mr. LILLY. Mr. Chairman: The only reason why I did not make that motion is that the gentleman who sits at my right (Mr. Brocmail) is absent to-day.

He made a special request of me that in case this matter of report No. 4 came up I would do what I could to postpone its consideration until he returns, as he wants to be heard upon it. I promised him I would do so.

Mr. MEREDITH. Mr. Chairman: May I be allowed to make a single remark? By order of the Convention these reports from the several committees were received as separate articles, and each has been printed as a separate article. The inconvenience of a committee cutting up its report into several distinct matters was obvious, I believe, to everybody from the beginning; but that course has been adopted. Now, the article referred to this committee of the whole is the article preceding No. 4. It is not competent for this committee to take up an article that has never been referred to it. It appears to me if any gentleman desires to go on with that article he has to make no reference to it as an article, but move the several words of that section as a new amendment.

The CHAIRMAN. That is what the Chair stated, substantially. The Chair now understands that the gentleman from Carbon (Mr. Lilly) moves as an amendment to add a new section to the bill. It will be read.

The Clerk then read the new section, as follows:

"All elections by persons in their representative capacities shall be *viva voce*."

The question being on the amendment, it was agreed to.

Mr. LILLY. Mr. Chairman: I now move to amend by adding the words of the second section, as follows:

Females of the age of twenty-one years, or upwards, shall be eligible for election or appointment to any office of control or management under the school laws of this State.

Mr. DARLINGTON. Mr. Chairman: As a question of grammar, I propose to strike out the words "for election or appointment."

The question being on the amendment offered by Mr. Darlington, it was agreed to.

Mr. LEAR. Mr. Chairman: I move to amend by striking out the first word, "females," and inserting in lieu thereof the word "woman."

The question being upon the amendment offered by Mr. Lear, it was agreed to.

Mr. SIMPSON. Mr. Chairman: I move to amend by striking out the words "twenty-one," and inserting instead, "twenty-five."—

["No!" "No!" "No!"]

You may say "no," but you will hear me.

Under the present law of the State no person can be eligible to the office of school director until he is of sufficient age to serve as senator, and that is twenty-five years. If that is the law for males, I do not think there should be any different law for females.

Mr. BUCKALEW. That is a matter of statute merely, and not a constitutional provision. The statute can be changed at any time.

Mr. M'MURRAY. Mr. Chairman: I wish to ask the exact meaning of these words, "control or management." I was not in the Committee on Suffrage when this section was agreed to, and I do not understand why these words are in there. I would like to know from the chairman of the committee, or somebody. I want to vote intelligently on the section. I should like to know whether these words would prevent a female from holding any office under the school laws of the State, whether she is to be limited to certain offices, or can hold any office whatever?

Mr. DARLINGTON. Mr. Chairman: I move to amend the section by striking out the words, "of control or management," so that the section shall read "females of the age of twenty-one years or upwards, shall be eligible for election or appointment to any office under the school laws of this State."

Mr. CARTER. Mr. Chairman: I apprehend that this is a step in the right direction as it will accord to women certain privileges which shall place her in a position of usefulness from which she has hitherto been debarred. I think it is not only a step in the right direction, but one that has been made at the right time. It has been demonstrated so clearly that women are the proper instructors of youth, so designed by nature, so designed by the Almighty Father who seems to have so fittingly constituted them as the guardians of the children of the Commonwealth, and who have proved themselves

so eminently successful as their teachers, that the time has now arrived when we can consistently make this concession to them, if concession it may be termed. I considered that it is eminently proper, and will be most useful, and that it will infuse a new life into the public school system in the rural districts of the State. This is by no means a new idea. I think it has been only about a year since that the British Parliament framed a new law embracing this very provision, and under it were elected two ladies renowned for intelligence and philanthropy, and perhaps as it so chanced added to their efficiency the possession of immense wealth. I think the names of these ladies are Miss Garrett and Miss Coutts. It is said that they have done a vast amount of good, having infused new life into the educational system of Great Britain, or more especially of the city of London. The efficiency of women in the school system of the State wherever they have been permitted to take an active part, has been so clearly demonstrated, that I think it is perfectly safe now to introduce this new educational element, and I have no doubt whatever that it will be attended with the most beneficial results. Why, sir, I remember some forty years ago, when it was said that women could never teach schools. I remember the agitation of this question well, when this system was first established in the State of Pennsylvania, for I was interested in such matters then as a school director, being one at the time. For a long time there was a lingering doubt in the minds of many, whether lady teachers would ever supplant the old masters that had been accustomed to teach our children. The experiment, however, was tried, and it was successful from the first, and it has been successful in its fuller development ever since. I think then that the amendment which has been offered is a step in the right direction, because it will tend to remove those restrictions that should be forever put out of sight under a new and liberal Constitution. I assert that every employment should be open to every person of the Commonwealth, man or woman, if they possess the necessary qualifications to fulfil the duties which may be assigned them. The whole tendency of modern civilization looks to the elevation of woman, and to the removal of all the re-

strictions which have been thrown around her, and will ultimately place her in a sphere of far greater usefulness; and while I cannot doubt this for one moment, I am yet unable to agree with those who have argued that it will destroy feminine purity. It has not been long since when, in conversing with a member of this Convention, he said that he would oppose everything that looked to the destruction of feminine purity. I replied that he would have to go back thirty years, when great objections were made to women teaching, and contemplate the results of it in the State, if he desired to be convinced of the ennobling effect it produced upon her character and her employment, as well as upon her pupils. I remember well the astonishment that the suggestion of female teachers created. Many at that time looked with abhorrence at the idea of a young lady going among and teaching the big boys of a school. The experiment, however, was tried, and it was found that moral force predominated over physical, and the superiority of their teachings was not long in becoming apparent and approved by all. The moral force of the true woman, combined with the gentleness of her character, restrained the unruly, and her influence was found to be more beneficial than the stern corrections of male teachers. I did not favor the granting of the suffrage to women, but it was not that I had any objection to it as a matter of principle. I thought the women themselves of this country had not yet demanded it, and I thought that there were enough indifferent voters in the State already who do not exercise this invaluable privilege, and that further, we had enough of uneducated voters. I opposed it for this ground, believing that it was a mere question of time; but I think the time has now come when we can, with safety, adopt this section as it has been reported by the committee.

The question was then taken on the amendment, striking out "twenty-one

years" and inserting "twenty-five years," and it was not agreed to.

The question then recurred on the amendment, striking out the words, "of control or management," and it was rejected.

Mr. MANN. Mr. Chairman: I move to amend the section, by adding the words, "and if otherwise legally qualified, shall have the right to vote for any committee or school officer."

The question being taken on the amendment, it was not agreed to.

Mr. FENCK. Mr. Chairman: I move to amend, by adding at the end of the section the words, "and to the office of recorder of deeds."

The question was then taken on the amendment, and it was not agreed to.

Mr. HAY. Mr. Chairman: I move that the committee rise and report progress. There are a number of gentlemen who desire to offer amendments, and, as they will lead to further discussion, I think it is unnecessary to continue the session any later in the day.

The motion was not agreed to.

The question being then taken on the section, a division was called, which resulted as follows: Ayes, fifty; noes, thirteen.

So the section was agreed to.

Mr. DALLAS. Mr. Chairman: I move that the committee rise, report progress and ask leave to sit again.

The motion was agreed to.

IN CONVENTION.

The committee then rose, and Mr. Lawrence, chairman of the committee of the whole, reported progress and asked leave for the committee to sit again.

Leave was granted, and to-morrow was named.

Mr. STANTON. Mr. Chairman: I move that the Convention do now adjourn.

The motion was agreed to.

So the Convention, thereupon, at two o'clock P. M., adjourned.

FIFTY-FIRST DAY.

TUESDAY, *February 25, 1873.*

The Convention met at ten o'clock A. M.

Prayer was offered by Rev. Jas. W. Curry.

JOURNAL.

The Journal of yesterday's proceeding was read and approved.

REFORM CLUB.

The PRESIDENT laid before the Convention a communication from the Reform club, of this city, tendering to the members of the Convention the use of the house of the club during the sessions of the Convention.

Mr. M'CLEAN. Mr. President: I move that the invitation be accepted, with the thanks of the Convention.

The motion was agreed to.

PROHIBITION.

Mr. DARLINGTON presented a petition from citizens of Chester county, in favor of the prohibition of the sale of liquor, which was referred to the Committee on Legislation.

THE DEATH PENALTY.

Mr. DARLINGTON presented a memorial from Fallowfield monthly meeting of Friends, praying for the abolition of the death penalty, which was referred to the Committee on Legislation.

PAY OF OFFICERS.

Mr. CORBETT offered the following resolution, which was twice read:

Resolved, That the Committee on Accounts be requested to report a resolution directing warrants to be drawn for thirty per cent. of the pay of the clerks and other officers of the Convention.

Mr. JOSEPH BAILY. Mr. Chairman: I move to strike out "thirty" and insert "twenty." If we draw warrants for thirty per cent. it will pay the officers one-half of their salary up to this time. They

have already had twenty per cent. of their pay, and we have not gone through one-half the period of the time this Convention will probably be in session; and it seems to me improper that the officers should be paid one-half of their salary for the time we have been in session.

The PRESIDENT. The question is upon the amendment of the gentleman from Perry (Mr. Joseph Baily.)

Mr. CORBETT. Mr. Chairman: I hope the amendment will not prevail. These clerks have only received twenty per cent. of their pay, and they are at considerable expense, and it is right that they should receive this additional thirty per cent. There will still be one-half of their pay remaining, and certainly we can vote them this amount without danger to the treasury.

The amendment was rejected.

The question recurring upon the adoption of the resolution, it was agreed to.

PROHIBITION.

Mr. JOSEPH BAILY presented a petition from citizens of Perry county, asking for the abolition of the manufacture and sale of intoxicating liquors, which was referred to the Committee on Legislation.

RAILROADS.

Mr. JOSEPH BAILY also presented the petition from citizens of Perry county, relative to the subject of railroads, which was referred, without reading, to the Committee on Railroads.

LEAVE OF ABSENCE.

Mr. PATTON asked and obtained leave of absence for Mr. Horton for a few days from to-morrow, on account of sickness.

Mr. HOPKINS asked and obtained leave of absence for Mr. Elliott for a few days from to-day.

Mr. ELLIS asked and obtained leave of absence for Mr. Bartholomew for a few days from to-day.

IN COMMITTEE OF THE WHOLE.

The Convention resolved itself into committee of the whole, Mr. Lawrence in the chair, for the purpose of further considering the report of the Committee on Suffrage, Election and Representation.

The CHAIRMAN. The question is upon the amendment proposed by the gentleman from Carbon (Mr. Lilly) to the supplementary report of the committee. The Clerk will read the section as proposed to be amended.

The CLERK read:

SECTION —. For the purpose of voting, no person shall be deemed to have gained a residence by reason of his presence, or lost it by reason of his absence, while employed in the service, either civil or military, of this State or of the United States; nor while engaged in the navigation of the waters of the State or of the United States, or on the high seas; nor while a student of any seminary of learning; nor while kept in any poor house, or other asylum, at public expense, nor while confined in any public prison. *Provided*, That when any student shall have wholly abandoned his former residence he may acquire a new residence as any other citizen.

Mr. McCLEAN. Mr. Chairman: I move to amend, by striking out the proviso. I understand that the section now under consideration is the printed copy of the section which we have upon our desks; and I desire to ask the attention of the committee for a moment to the consideration of the provisions of that section, with regard to voting, by students in any seminary of learning. I submit, sir, that the section, as we have it, is correct in principle; that for the purpose of voting, no person shall be deemed to have gained a residence while a student in a seminary of learning. That is the part of the section to which I wish to direct the attention of the committee.

I submit, sir, that the proviso makes that section wholly inoperative, whilst declaring that no students shall gain a residence by reason of his being a student, while he is a student, yet when he shall wholly abandon his former residence he may acquire a new residence, as any other citizen. I consider this proviso unnecessary, and as productive of a great

deal of mischief in its practical operations. We have recently had a decision of the Supreme Court of Pennsylvania affirming the decision of Judge Longaker, of the Lehigh district, that the residence of a student, while pursuing his studies, is merely temporary, and that he does not thereby acquire a residence.

I understand this to be a correct rule of law, and that it is a wise principle recognized by the United States government. When the conscription laws were put in operation, students were not enrolled at their schools, colleges or seminaries. They were enrolled and made subject to the draft at their homes, and their homes were considered their legal place of residence. The mischief, therefore, which this proviso, if put in operation, will produce, is just this: That students, when they are brought to the polls where their schools are situated, will be tempted to swear, when their votes are challenged, that they have wholly abandoned their former residence, when the fact and the law are both against such an assumption. I submit that the section in this regard is right, and that the proviso is inconsistent with it; and I trust the latter will be voted down. I have lived in a place where a very respectable and prominent college (Pennsylvania college) is situated, and I have seen year after year the mischief which just such a provision has created. Young men of both political parties have been brought to the polls, perhaps under the influence of political leaders, and induced, when sworn, to state that that locality was their place of residence, and in several cases of contested elections students have been brought forward as witnesses, and in their examinations have attempted to convey the impression of having acquired a residence at the place where the college is situated. I know that instances have occurred where they have been induced to testify that they have entirely abandoned their homes, and that they have had no intention of abandoning, as their residence, the place where the college was situated. This is exactly what necessarily leads to all the trouble. If, in case a student has really abandoned his former residence by becoming a married man, or under other circumstances, this section, as it has been reported by the committee, without the

proviso, would not exclude that person from voting; but I submit that the proviso, if put into operation, will bring almost the entire student vote into the ballot at the place where the college or seminary may be situated. I hope, therefore, for these reasons, that the proviso will be stricken out, and the section then adopted.

Mr. DARLINGTON. Mr. Chairman: I rise merely for the purpose of adding a single word to the remarks of the gentleman who has last addressed the Convention. There are a large number of students from all parts of the country, who are being educated in this State, and I think it is a wise provision that they should not lose their right to vote in the city, from which they come, nor acquire the right to vote in a county wherein they are receiving their education. I am in favor of striking out the proviso, as I believe it will accomplish all that can be desired.

Mr. TEMPLE. Mr. Chairman: I desire to add a few remarks in reference to this section, as it has been reported by the committee. If I understand it properly, it says that no person who is confined in any public prison shall lose his right to vote in the State of Pennsylvania. I apprehend that the people of Pennsylvania do not desire a provision to be incorporated in the organic law, which shall permit criminals from other States, who may be convicted of crime and confined in one of our jails or penitentiaries, to claim their residence and the right to vote in the particular counties where such jails may be located. If this is the meaning of this section I shall certainly vote against it. It is evident to my mind that this is the meaning of the section, but before the vote is taken, I should like to hear from the chairman of the committee.

Mr. M'ALLISTER. Mr. Chairman: The meaning of this section is: That every man has a residence at some place, and he can have but one residence. Residence is requisite to the exercise of the right of suffrage, and we can give no better definition of residence than that found in the books, which, for all the purposes of voting in all the Constitutions of the State, is synonymous with domicile and habitation. Residence is the best word that can be used, and it is an elementary

principle that a man does not lose one residence until he gains another, and that he always has a residence. Now it is provided that by none of these things mentioned in the section shall a man gain or lose a residence. That is the intention of the section, and this is the only explanation I have to make in regard to it.

Mr. TEMPLE. Mr. Chairman: I will then move to strike out that part of this section which refers to criminals being confined in public prisons. I think such a provision as this would be a disgrace to the State of Pennsylvania. I desire to call the attention of the committee to the words I propose to strike out in the section. They are: "Nor while confined in any public prison."

Mr. MANN. Mr. Chairman: I suppose that the motion of the gentleman from Philadelphia (Mr. Temple) is not in order until the pending amendment is disposed of. I rise for the purpose of speaking against the amendment of the gentleman from Adams (Mr. M'Clean.) I understand his amendment is to strike out the proviso from the section as reported by the committee.

The CHAIRMAN: The gentleman is correct. The question is upon the amendment offered by the gentleman from Adams (Mr. M'Clean.)

Mr. TEMPLE. Mr. Chairman: I withdraw my amendment for the present.

Mr. MANN. Mr. Chairman: In listening to the remarks made in favor of striking out the proviso from the section reported by the committee, I certainly gathered the idea that the young men who attend our colleges had committed some crime, and that they were to be punished by being deprived of the right of suffrage if they shall presume to aspire to any other position than that which they have heretofore occupied, and that the section without the proviso would imply that a student could not acquire a residence in any election district of the Commonwealth. If I understood the remarks of the gentleman, (Mr. M'Clean,) he said that students ought not to be able to acquire such a residence as would enable them to vote at elections while attending college. I have heard this sentiment expressed so often, and there seems to be such a disposition on the part of some men to place restrictions upon young men who desire to vote while at

college, that there must certainly be some meaning attached to it. The language of the section which immediately precedes the proviso seems to be so clear and explicit that there can be no possible danger in making a mistake. It is only where students abandoned entirely their former residences that they may acquire a residence at the place where they are attending college, which will enable them to vote. Without this proviso they would be entirely disfranchised, while the man working on our railroads could deposit his vote unchallenged if he lived in the district sixty days prior to the election, but a student, who may have attended college for years, shall not be permitted to vote. I cannot see the propriety of thus discriminating against intelligent young men attending college, and engaged in the pursuit of acquiring a liberal education. It certainly can have no other meaning if this proviso is stricken out than that the students in our colleges shall be disfranchised. It seems to me it is a creditable object in a young man to go to college, and in encouraging them to pursue this course they should be allowed to exercise all the rights of citizens while they are thus becoming liberally educated. If the proviso to this section is stricken out it will be beyond the power of a young student to acquire a residence that shall enable him to vote except at the home of his father. I can see no possible evil in retaining the proviso to the section, and I hope, therefore, the amendment will be defeated.

Mr. TURRELL. Mr. Chairman: I rise to correct the statement made by the gentleman from Centre, (Mr. M'Allister,) in respect to the meaning of the word "residence." He says that it is conceded that a man cannot lose his residence in one place until he has gained it in another. I think a little reflection will satisfy the gentleman that such a statement is entirely inaccurate, to say the least. Residence is mainly a question of intention, and partly of fact. The state of fact must correspond with the intention. Now it has been well settled, and I have no doubt it will recur to the gentleman's mind, upon reflection, that if a man leaves this State with the intention of making his permanent residence in another State, the moment he leaves the State with that intention his residence here is lost. If he

goes beyond the borders of the State, and though he may return the next day, still it would require a residence of six months before he could vote again. This very point was decided by Judge Parsons, upon full consideration, in M'Daniel's case, reported in Third Pennsylvania Law Journal, page 89, &c. Many other cases, equally pointed, might be referred to, but it is not necessary, and I will not take the time of the Convention in so doing.

There is another point in connection with this section, and it is in relation to the character of the voters—students, laborers, and the like, who are required to leave home temporarily. Now, sir, the act of Assembly which gave rise to the decision in the Allentown case has had different constructions in different parts of this State. In the northern part of the State, so far as my observation has extended, before the time of the decision referred to was made, mechanics, students and all persons temporarily absent from their homes were permitted to vote, if otherwise qualified, provided they were within the election district ten days prior to the election, and in pursuance of their lawful calling. I understood from a gentleman who assisted in passing that act, Hon. A. H. Read, now deceased, who is doubtless remembered by many of the older members of this Convention, that this was the express object of that act, which is exactly reverse to the decision made in regard to it in the Allentown case.

Why, sir, it is said that you place a hardship upon the laboring man—the carpenter, the mason, and men of that class, who labor away from their homes for a livelihood—to make them lose time, a day, or two days, perhaps, and the attendant expenses, to go home to vote, refusing them the privilege of voting in the district where they are at work, where they are well known, and where they have been pursuing their lawful occupation for the space of ten days. I, for one, believe that it is right that that class of men should be protected and encouraged in the exercise of the right of suffrage, and should not be put to expense for the purpose of exercising it at home. As to students, I admit, sir, that there might be a seeming hardship occur by a large body of students congregated in one place, as

there were at Allentown, who should come in and vote at municipal elections; but they should have the right, if otherwise qualified, if they have resided in the district the time required by law, to vote for national and State officers, and there could be, it seems to me, no objection to this. In all cases it would be easy for a man to establish his right to vote.

But I do not intend to make any extended remarks, but wish to express my dissent to the view expressed by the gentleman from Centre (Mr. McAllister) as to residence.

Mr. HOPKINS. Mr. Chairman: I do not know that I have much to say in regard to the immediate question before the committee, which I believe is the amendment offered by the gentleman from Adams (Mr. McClean.) I am not lawyer enough to know whether the striking out of the proviso is necessary to make more effective the requirements of the section itself. But I, for one, desire to say that I believe a provision of this kind ought to be engrafted on our organic law, prohibiting students at colleges from voting, and I will tell you why. You, sir, know, Mr. Chairman, and I know, that in Washington county it has occurred more than once, that this vote controlled the election in the county. I know it has occurred more than once that it controlled our municipal elections in the town of Washington. In the county of Washington the difference between the political parties does not sometimes amount to fifty votes, and it has often been that it did not amount to ten votes, and at that time we had two colleges in our county, and I suppose it would not be exaggeration to say that from forty to sixty students voted at the two colleges. Many of them were not even citizens of the State, except as they became so by being at college a year. They were foreign to our soil, and yet their votes controlled the election, not only for county and municipal officers, but for members of the Legislature and for Congress. It has occurred more than once, and it has been a source of very great annoyance. I have seen the question raised a score of times in my own town, as to whether they should vote or not. They have generally been allowed to vote upon swearing that they had been there one year, and these people from other

States, and from other counties or our own State, absolutely controlled the result of the election.

I am not sure whether it is necessary to strike out the proviso to give the proper effect to the section, but I am decidedly in favor of a provision which will prevent students from voting. If they desire to vote they ought to go home.

Mr. DODD. Mr. Chairman: Having been a student in Washington county for four years, and having voted there, I simply desire to state to the gentleman that if all the voters of Washington county were as intelligent as the students he ought not to be ashamed of them. I see no reason why students, if they are twenty-one years of age, should not vote as intelligently as any other class of voters. If they are living at the institutions where they are acquiring education, and they have no residence elsewhere, why should they be prohibited from voting in the county where they have a right to?

Mr. HOPKINS. Mr. Chairman: I did not intend to cast any reproach upon the intelligence of the students, and surely I would be the last man to cast reproach upon the intelligence of the gentleman from Venango (Mr. Dodd.)

Mr. McCLEAN. Mr. Chairman: I rise to explain. The gentleman from Potter (Mr. Mann) seems to impugn my views in making the proposition I have. I totally deny the justice of any charge of the kind. I have been a student myself, and I know that I would never attempt to exercise the right of suffrage at the seat of any institution which I have attended, literary or law. I have had no right to vote except at my home, which was my legal place of residence. That was the place for the exercise of my right of suffrage. I make no discriminations against students. I yield to no man in respect for the great body of students, and it is only to preserve the honor of that noble class of young men that I have offered this proviso, that they may not be led into the temptation which this provision offers them, that I ask that this proviso be stricken out.

Mr. METZGER. Mr. Chairman: It occurs to me that this section would be less confused, and more easily understood, if the proviso were stricken out. If I understand the section, if the proviso were stricken out, it would not disfranchise

the student, for it would leave his residence for the purpose of voting at the place where he resided at the time when he entered the college or the seminary. Consequently there will be no difficulty in ascertaining where his actual residence is, while if you leave in this proviso, it seems to me *you you will have difficulty*. At every place where there is a college or seminary, it will become a question as to what students have wholly abandoned their former residences, and who have not. In our city there is a seminary of learning, and a very respectable one, and to my knowledge, there has not been an election within the last ten years where we have not had trouble in ascertaining what students were entitled to vote. Sometimes they were wholly excluded. It depended upon the election board. At other times they were all permitted to vote. There have been occasions when I have seen the principal of the institution march down with the students and vote them *en masse*. Now if this provision were stricken out, such a scene as that could not be enacted, and these gentlemen, if they wished to exercise the elective franchise, could do it by going to their former residences. Certainly they should not ask any greater privilege, while connected with a seminary of learning, preparing themselves for future active life, than the man who is engaged in the service of the nation, doing duty for his country. If you strike out the proviso, it leaves the section simply to mean, that a man who enters a seminary of learning or a college, while there, neither gains nor loses a residence. It leaves it in such a position that the election officers will have no difficulty, and there will be none on the part of any one to know what the section means, whereas, if you leave the proviso in, I apprehend that wherever colleges and seminaries are located trouble will ensue.

MR. AINEY. Mr. Chairman: There are cases that may arise where it is impossible for a student to retain his residence with his father, or at the place where he resided prior to entering an institution of learning. If a student leaves or abandons the district where he has resided with his father, to go to an institution of learning in another county or district, and his father, during his residence at such institution, changes his residence to another

county, such student could not go to the home of his father from the school to vote. Where would be his residence then, in such case? How could he go home to vote? His father resides in another county or district. He has never resided there for a single hour. He has acquired no shadow or semblance of a residence there. There are many other cases which might be suggested. It is unnecessary here. This whole subject was well canvassed, and deliberately and maturely considered before the Committee on Suffrage, Election and Representation, of which I have the honor to be a member. If I correctly understood the feelings of the committee, it was a source of regret that this section must necessarily be limited in its character. We desired to make it more general, more comprehensive, and more precise. We desired to define more definitely and clearly what should constitute a residence, under the Constitution, for the purpose of voting. After a series of meetings, at which many propositions were brought forward, and after long and deliberate consideration, the committee came to the conclusion that this was about the best we could present to the Convention. I am clear, in my own mind, that this proviso is proper and necessary; without it the section would be imperfect, and be liable to result in injustice. It can do no harm. The student, by the simple act of attending college, neither gains nor loses a residence; but if he shall have wholly abandoned his former residence, and has no other residence, then he acquires a residence at the college, or at the institution of learning where he is, as another citizen. This is certainly right. It is necessary to protect, or at least to make clear, his rights in certain cases, and will serve as a guide to election officers, by making the purpose and scope of the section more clear and precise.

MR. WHERRY. Mr. Chairman: I am opposed to the proviso reported by the committee, and in favor of the amendment of the gentleman from Adams, (Mr. M'Clean.) I oppose the proviso, first, for the reason that the word "students" is too general. It is not specific enough.—Gentlemen have spoken upon this question as though it was confined to students in literary institutions. Now, I apprehend, that the word includes much more

than that, and if it does not, we will have to have a definition of what a "student" is. I hold that a young man leaving his father's residence, and going into another county to learn any trade, is a student. Does the chairman of the Committee on Suffrage, Election and Representation hold that he is not? Or does he admit that the word "student" will cover this class of citizens too?

Mr. M'ALLISTER. Certainly not!

Mr. WHERRY. Then, Mr. Chairman, I am opposed to this proviso on that ground. I shall oppose the proviso because it discriminates in favor of one class of students against another class. Moreover, the proviso reads "who shall have wholly abandoned." I want to know what "wholly abandoned" means. Does it mean that he has turned his back upon his father's house and taken a solemn vow that he will never return there again? Or does it merely mean that in the pursuit of his avocation, namely, the acquirement of an education, he has seen fit for a while to leave his father's residence and take up his residence in another county? If this last be the meaning, I would like to know what is the use in making this discrimination in favor of students over and above the favor bestowed on other citizens? If it only means that by going from his father's house and making his abode in the place in which he is pursuing his studies, he has thereby obtained a residence in that place; he is put precisely on the same footing with other citizens without this proviso. I hope, therefore, the proviso will be stricken out.

This is wholly lacking in specific statement. If it means what gentlemen claim, then it is a discrimination in favor of one class of citizens against all others. If it does not mean what the gentlemen claim, it is of no use whatever and ought to be stricken out.

Mr. M'ALLISTER. Mr. Chairman: This section was not intended to alter the legal construction of the preceding sections. It is simply explanatory of what we have enacted, not necessary for a lawyer, but presumed to be necessary for the guidance of election boards—the proviso as well as what precedes it.

Now, a word in reference to this proviso, "that when any student shall have wholly abandoned his former residence,

he may acquire a new residence as any other citizen." This is the law now—this will be the law after the adoption of the section even without the proviso; but to exclude the inference, that because a student, he could not acquire a residence, it was thought best to insert the proviso. Is it not right that doubt should be removed? Is it not right that a student who is turned aloof from his father's house, by force, it may be, and who makes his home at a college, seeking employment as a school teacher, and thus accumulating money sufficient to support him at college, but gaining no residence in the teaching of the school, because but a few months only in any one place should acquire a settlement? Most certainly it is right. During the time that he is acquiring his education, the only residence he has, or can have, is at the college, and he should not be deprived by any election ward of his right of suffrage by mistake or otherwise, and hence the proviso is inserted, that he may so acquire a residence, has been laid down as elementary law in "Cooley's Constitutional Limitations," page 600, in these words:

"A student in any seminary of learning, who has a residence there for purposes of instruction, may vote at such place, provided he is emancipated from his father's family, and, for the time, has no residence elsewhere." And the elementary writer himself, of standard authority, refers to *Lincoln vs. Hapgood*, 11 Massachusetts Reports, 350; and *Putnam vs. Johnston*, 10 Mass., 488. So much in relation to this proviso.

Now a word in reply to my friend from Susquehanna, (Mr. Turrell,) in reference to the error which he supposes the chairman of the committee has fallen into, in saying that every man must have a residence somewhere. He cites the case of a man leaving Pennsylvania with a view to seek a settlement in another State, and asserts that a citizen of Pennsylvania thus leaving with the mere intent to seek a residence in another State, loses his residence in Pennsylvania the moment he leaves the county in which he resides. I take issue with the gentleman. It is not the law; and the gentleman will find in no standard author authority to sustain his allegation. There is but one case in which that can occur, and it is

this: If a native of Ohio come to Pennsylvania with a view of making Pennsylvania his residence, and acquires a residence here, and after having so acquired a residence here, determines to return to his native State and make his former his future residence, he then loses his acquired residence in Pennsylvania the moment he leaves Pennsylvania for Ohio. But if a native of Pennsylvania having no residence elsewhere, leaves his State, his residence remains in Pennsylvania up to the moment when he acquires a residence elsewhere. Upon this subject I refer to "Story's Conflict of Law."

Mr. MANTON. Will the gentleman permit himself to be interrupted for a question?

Mr. M'ALLISTER. Certainly.

Mr. MANTON. If a man were to take his household furniture and move into the State of Ohio from the State of Pennsylvania, and was gone one single day, with the intention of leaving the State of Pennsylvania and then came back, could he vote in Pennsylvania?

Mr. M'ALLISTER. Mr. Chairman: I hold as an undoubted principle of law, that if a resident of Pennsylvania leaves his residence and goes to Ohio and travels all over it for six months, and does not find a residence there, and returns to Pennsylvania, he is a legal voter in the district he left; his residence remains all the time in Pennsylvania. That is the well settled law upon the subject of domicile and residence. It was upon that subject that I was about to refer to "Story's Conflict of Law," par. 47, p. 42, when interrupted: "A domicile once acquired remains until a new one is acquired." Again: "If a man has acquired a new domicile different from that of his birth and removes from it with an intention to resume his native domicile, the latter is re-acquired, even whilst he is on his way, for it reverts from the moment the other is given up." But in the other case it remains until he acquires a new domicile.

That has been the well considered rule in Pennsylvania. It was the rule on which votes were received at the last election in the borough in which I live, after full discussion and reference to authorities. A citizen had left the borough with a view to making his residence in Indiana if he could find a residence

there; but he did not find it and returned a few days before the election, and offered to vote in Bellefonte, and was permitted to vote on the ground that he had not lost his residence. Upon this principle, then, I contend that this whole section is explanatory of the sections that we have adopted and intended wholly for the guidance of the election board. I hope this amendment will therefore be voted down and the section pass as reported, with one exception, however, and that is in reference to those persons kept in poor-houses and asylums. I think, myself, that the words, "at the public expense," are in good place as applied to them.

Mr. LANDIS. Mr. Chairman: I do not want to trouble the Convention more than for a moment; and what I have to say is rather interrogatory than argumentative. I think there is some misapprehension about the construction of this section, and I think there is more claimed for it than the language would guarantee. We are told in the section that those in the service of the government, in seminaries of learning, and in certain other institutions, shall, for the purpose of voting, be deemed not to have gained a residence nor to have lost it. Now, sir, if they have not gained it, then they have not lost the old residence. If they have not lost the old residence then, surely, as a logical consequence, their place of election would be at the old residence. If it is proposed that they shall vote at the place where they temporarily sojourn, would it not then be best that it should be broadly, distinctly, and squarely stated? The committee have provided for that in the fourth section of their report in the case of those of our citizens who are absent in the army of the United States, in which they provided there should be some proper legislation to allow them to do so. If it is not then provided that they should vote away from home, so far as regards other persons provided for in this section—when they have done so in case of soldiers—then surely it cannot follow that any of these other classes of citizens have any right to vote away from their place of residence, that, then, being conceded—that being the reason of the section.

Mr. M'ALLISTER. Will the gentleman allow me to say that the fourth section did

not refer to soldiers in the army of the United States? It refers to those temporarily absent under call.

Mr. LANDIS. I understand it so, precisely. It speaks of citizens of the Commonwealth who are temporarily absent in the military service of the United States or of the State. I understand that to be so. If that requires a special section to allow them to vote while absent, would it not also follow that a special section would be required to allow the others to vote inasmuch as they are said not to gain a residence nor to lose it by reason of the circumstances stated? Now, as to the proviso, which I believe is the real question before the committee; suppose there was no proviso there. What is it? "When any student shall have wholly abandoned his residence, he may acquire a new residence as any other citizen." Would not that follow any way without the proviso being there? If it is held that the proviso is for the purpose of letting him vote whilst absent from home, it does not say so on its face. The proviso is entirely unnecessary, because in the absence of the proviso, the student or any other citizen, shall be permitted to acquire a new residence, when he has wholly abandoned his former residence. Therefore, that being a self-evident proposition, what is the use of embodying it in this section? Let us not encumber the section with any surplusage. Let us have nothing here that is certainly wholly useless.

Mr. STEWART. Mr. Chairman: The section, considered as a whole, presents a plain and simple proposition, open to no serious objection so far as I can see; but, regarded without the proviso, it is imperfect and defective, for the reason that it would virtually disfranchise a portion of our people.

It provides that no person shall be deemed to have gained a residence by reason of his presence, or lost it by reason of his absence, while a student in any seminary of learning.

Under this provision, if an individual voluntarily abandons his residence for the purpose of prosecuting his studies at an institution of learning, he puts it beyond his power to get a new residence while so engaged, no matter how long he continues in that particular place.

The proviso is required to relieve the section of this objectionable feature. And

it does it by declaring that the student, when he wholly abandons his residence, shall not be an exception to the general rule, but shall be allowed to acquire a new residence in the place to which he removes, just as other citizens may, without regard to his business or pursuits.

With the proviso I shall vote for the section; but if the amendment of the gentleman from Adams (Mr. M'Clean) prevails, I shall vote against it.

Mr. LILLY. Mr. Chairman: I do not rise to make a speech, but I desire to say that while this Convention sat at Harrisburg I submitted a proposition, which was referred to the Judiciary Committee, requiring that they should fix the matter of residence in some definite manner, so far as it relates to voting. However, some other person had a similar proposition, referred to the committee of which I have the honor to be a member, the Committee on Suffrage and Elections. In that committee we have discussed this matter very fully, and I am free to say that out of the whole fifteen members there are not two of us who think alike upon it. Each lawyer I meet in committee tells me that he understands it thoroughly, and that nobody ought to understand it in any other way than his; but when the committee get together, and get conversing on the subject, they soon get by the ears. I think that this is an important question. I have studied it up so much in committee that every one in the committee who refers to this subject refers to it as "Lilly's question." It is an important question, this question of residence, and should be so defined that the commonest mind can understand it. I do not attempt to say that it should be defined so that all lawyers would agree on the terms exactly, but it should be so defined that the election officers, that the common mind, should know what it means. We have a gentleman living in our county who has resided there for forty years, and has raised his family there, and had them married from his house there, and has never lived anywhere else, yet for the last ten years he has voted in this city, and he is upheld in that. That is one point that I think ought to be settled, so that that man, who is a man of high standing and respectability, should go home to vote, and not vote in Philadelphia. Again, we have another man in our county, a gen-

tleman that I know, and whom I have known for thirty-five years, and, in my opinion, he has never voted at his residence, and yet he has voted at every election. He resides at Beaver Meadow, with a sister; he goes there every Saturday night, stays there all Sunday; if he is sick, he goes there at once; every holiday that occurs he goes there; and if you ask him where he is going, he tells you he is going "home." This gentleman, however, will tell you that because the law reads, "In pursuance of his lawful calling," he can vote where he does business. The election officers let him vote; and we have, in every election contest in our county, and at every polling place, a difference of opinion on this subject, which causes more discussion and dissension there than any other one thing. It is due to this Commonwealth, the legal acquirements of this Convention owe it to the people of the Commonwealth, that the question of residence, in its relation to voting, shall be so stated that every man who holds an election office, and every man who approaches a ballot-box to vote, shall know what this word "residence" means. Under these different statements and decisions in our country, I meet men every day who say they have the right to vote at a half dozen places. That is unreasonable; there is no man in this Convention, I suppose, who will for a moment say that it is not unreasonable; yet it is the fact.

In our town, at the last election, a man came up to vote, and he was asked if this was his home. He says, "yes." Where do you work?" "At Tamaqua; but this is my home. I have worked there for six months, but I pay my taxes here, and here is where I want to vote." He voted. Three hours afterwards, another man came up to vote and he was challenged, and was asked, "where do you reside?" He says, "in St. Francis, in Columbia county?" "Have you your family there?" "I have." "You pay your taxes there?" "Yes." "Is that your home?" "Yes." "Then what under the sun brings you here to vote." "Why," he said, "I have worked on the Lehigh and Susquehanna Railroad for the last twenty days, and have been in the pursuance of my lawful calling there for that time. I am entitled to vote here." So they took his vote. I say to this Convention

that it owes to the people of the State of Pennsylvania, to themselves and to every duty which they came here to perform, to define, clearly and sharply, what residence means. Let it be arbitrary if you please; but set down some positive rule by which election officers can be governed, as well as the people, when they go to vote. That difficulty creates more strife, and heartburnings, and trouble at our election poll, and at every election poll throughout the Commonwealth, I have no doubt, than any other one question you can bring before it. It should be so fixed that a citizen in the position of the one whom I first mentioned would be obliged to go home to vote and not come to Philadelphia for that purpose. There is a great deal of ill-feeling created on this subject in its various bearings, and I think there is no member on this floor who will not concur with me that the question ought to be set at rest in such a manner that there should be no further trouble about it.

MR. LEAR. Mr. Chairman: I shall vote in favor of striking out this proviso. I shall also vote against the whole section, and I shall regard it as a very grave mistake if this section is put into our Constitution. If it is for any purpose, it is for the purpose of defining what kind of absence from home will lose a man his residence. If we confine it to these cases mentioned in this section, we shall have a limitation which, by its own force, will exclude every man from the right to vote who is absent from his home upon his particular business, whatever it may be. I avail myself of the privilege of discussion in committee of the whole, not so much to speak of this proviso as of the section itself, for it provides that: "For the purpose of voting, no person shall be deemed to have gained a residence by reason of his presence, or lost it by reason of his absence, while employed in the service, either civil or military, of this State or of the United States, nor while engaged in the navigation of the waters of the State or of the United States or on the high seas, nor while a student in any seminary of learning," &c. Now, sir, it seems to me that to take that section as it stands, is as much as to say that every person who is absent from his place of residence in any other department of business or calling than those mentioned here, will lose his

residence by that absence from home—which I suppose this committee does not intend should be done. Besides, nearly the whole of the provisions of this section are of such a character as have been well established, for instance, that a man should not lose his residence by reason of his being thus engaged away from home. Who ever supposed that a man should lose his residence by reason of his being away from his place of domicile, engaged in the civil or military service of this State or of the United States? If it has always been supposed that he did not thus lose his residence, why should we enact it into this clause of the Constitution, when it is already a very well settled principle of common law with regard to this question of residence? If we undertake to say that he “shall not lose his residence by reason of his being engaged in the civil or military service of this State or of the United States, or by reason of his being engaged in the navigation of the waters of this State, or upon the high seas,” do we not thereby indirectly and impliedly say that he will lose his residence if he is from home engaged in any other duty than those named? What becomes of the commercial travellers of this country? What will become of the residences of those men who are engaged as collecting agents, and who go out of this State and into other States, and domicile themselves for many months together in Chicago, St. Louis, Louisville or Cincinnati, for the purpose of collecting money for their principals, or of selling goods for those with whom they are engaged? They do not lose their residence in Pennsylvania, and yet there is no word said about them in this section. There is a well settled principle of law that “the expression of one thing is the exclusion of all others.” If we undertake to define by what means a man shall *not* lose his residence, it is supposed that we express *all* the classes of cases which will come under that exclusion.

By the provisions of this section, then, it will be held by election boards construing this law, that by that rule we establish a principle that all those who are away from home, and who are not within the definition of these classes of persons enumerated in this provision, will lose their residence by this absence. Therefore, it is a mistake to undertake to define,

by a single section or article in the Constitution, what classes of persons shall not lose their residence in consequence of being absent from their places of business or from their ordinary domiciles; and I think that we will commit a mistake if we incorporate this as one of the provisions of our new Constitution.

Let all these classes of cases be considered by the election officers under the common law principles as to what *shall* and what *shall not* lose a man his place of residence as a voter in the State of Pennsylvania. They have been determined, as was suggested by the gentleman from Adams, (Mr. M’Lean,) by the Supreme Court of the State in one case, and by other courts in this State with regard to other questions, and similar questions, and we have them well defined. When we undertake to define, then, a new class, and leave others out, it will be and properly may be understood by the election officers that we have undertaken to explain by this section *all* of the classes who should not lose their residence by their absence from home; and, therefore, all other men who are engaged, as, for instance, travelling for their leisure, or in any other occupation, who have gone from their homes without any intention of changing their places of residence—will lose their residence by reason of this absence. Hence I think we had better not adopt the section as it stands, because it is impossible to meet every possible case which might occur.

With regard to this very question of “students” who go from their homes and are temporarily away, although sometimes for three or four or more years, the gentleman from Cumberland has very well asked the question, whether that expression “student” means apprentices? It means here, according to the language actually used, “students in seminaries of learning.” It does not cover students of art who go, for instance, to Italy, for the purpose of studying the old masters, or of improving their knowledge of their profession, and yet when we put such a provision as this into the Constitution we say, that while students in all seminaries of learning shall not lose their residence by reason of absence from home, yet students of art, and students in other departments, men engaged in business, as upon railroads, lose theirs, and in this

shiftless and restless population of ours there is a great portion of the community that have occasion to go from home every year of their lives for some personal purpose or other, and it will, not unreasonably, be held by virtue of that principle—“*expressio unius est exclusio alterius*,” that we have undertaken to exclude all others from the provisions of this Constitution that we have not actually expressed within it, and therefore these people leave their difficulty with the election board, and it will add confusion and difficulty to the determination of the question as to whether a man should lose his residence by this effort to define it.

The question being taken on the amendment striking out the proviso, a division was called, which resulted as follows: Ayes, thirty-eight; noes, twenty-five.

So the amendment was agreed to.

Mr. TEMPLE. Mr. Chairman: I move to amend, by striking out all after the word “asylum.”

Mr. WHERRY. Mr. Chairman: I move to amend the amendment, by striking out all after the word “learning.”

Mr. TEMPLE. Mr. Chairman: It has been suggested by a number of gentlemen in the Convention that my amendment should include all after the word “learning.” I have no objection to accepting that as an amendment. I have, however, a few remarks to make in regard to the amendment. I cannot possibly conceive why the Committee on Suffrage should have reported such a section as this, or at least that part of it which my amendment is designed to strike out. I cannot understand why the committee should undertake to make a provision in the Constitution that shall guarantee to a class of persons who see proper to go into other cities or into other counties than those in which they properly live, and get into penitentiary or other prisons, and by doing that retain their residence in the place from which they went. I cannot understand why the committee should undertake to place such a provision in the Constitution, which accords to this class of people such a protection as this; and why they should be unwilling to leave the question to the ordinary decision of the courts. If such a provision as this is even introduced into the Constitution of the State, any

number of criminals who shall come over from the State of New Jersey, or the State of New York, and who may be incarcerated in the penitentiary, can thereby acquire a residence in the State of Pennsylvania. It seems to me, upon the ground of decency alone, such a provision should be excluded from the Constitution. The modesty of the Convention, if you please, should forbid us from placing such a provision in the Constitution. I therefore hope it will be voted down.

Mr. DARLINGTON. Mr. Chairman: Is it in order to offer an amendment?

The CHAIRMAN: There is an amendment to the amendment already pending.

Mr. ANDREW REED. Mr. Chairman: I do not think the gentleman who has last addressed the Convention (Mr. Temple) can have read this section very carefully, or he would not have made the speech he did. He states that the effect of this section will be that criminals, coming to this State from New Jersey or New York, who may be incarcerated in the penitentiary, will thereby, under this section, acquire a residence. Now if the gentleman will read the section attentively, he will find that a criminal incarcerated in a penitentiary of this State does not thereby acquire a residence in the county where the jail may be located. The whole section provides nothing further than what is now contained in the Constitution. A person may now be taken to a jail in another township or county and incarcerated therein, but he would not thereby acquire a residence in the county where the jail may happen to be located, because he has no intention of making that county his residence. A residence, in the meaning of the law, is a question of intention entirely, and the criminal is there in the jail of a county against his intention and against his will, and his residence refers to the place from whence he came before he was incarcerated in jail. I trust, Mr. Chairman, that part of the section in reference to the poor house will also be retained in the section. How often have we seen the degrading spectacle in each county, of the steward of the poor house bringing up the inmates of that institution in regular order and voting them like so many machines. It is evident to every candid mind that such proceedings are entirely wrong, and that they have an evil ten-

deney. The residence of paupers and criminals should always refer to the place from whence they come and where they voted, if they voted at all. I doubt, however, the propriety of allowing these classes of our society to exercise the right of elective franchise at all, I cannot perceive the evils to which the gentleman from Philadelphia (Mr. Temple) has referred, and I therefore shall vote against his amendment.

Mr. TEMPLE. I would like to ask the gentlemen whether he believes that the insertion of this clause in the Constitution will change the law as it now stands in any material.

Mr. ANDREW REED. Certainly not.

Mr. TEMPLE. Then why do you desire its insertion in the Constitution?

Mr. ANDREW REED. I presume the Committee on Suffrage inserted this section into their report for the purpose of furnishing an unvarying rule for the election boards, and in order that the law might not operate differently in one county than in the another. This is the only good that I can see will be accomplished by placing such a provision in the Constitution. This far it may be beneficial, but it certainly gives no residence to criminals from other States, who shall be incarcerated in the various jails of our counties.

Mr. MACVEAGH. Mr. Chairman: While I shall vote for this amendment, I confess I have yet to hear any satisfactory reasons given for the insertion of this section at all into the fundamental law of the State, and I trust the members of the Convention will take care to read it thoroughly and consider it, and then that we will vote the whole section down as suggested by the gentleman from Chester (Mr. Darlington.)

The question was then taken on the amendment, striking out all after the word "learning," and it was not agreed to.

Mr. DARLINGTON. Mr. Chairman. I now move to strike out all after the word "section," in order to bring the Convention to an affirmative vote on the question.

Mr. BUCKALEW. Mr. Chairman: I object to the motion upon a question of order. I contend that no amendment can be received which is equivalent to a

rejection of a proposition under consideration.

The CHAIRMAN. The Chair, although disposed to gratify the gentleman from Chester, (Mr. Darlington,) will so rule, and decides the motion out of order.

Mr. DALLAS. Mr. Chairman: I call for the reading of the section as amended.

The CLERK read as follows:

SECTION 14. For the purpose of voting, no person shall be deemed to have gained a residence by reason of his presence, or lost it by reason of his absence while employed in the service, either civil or military, of this State or of the United States, nor while engaged in the navigation of the waters of the State, or of the United States, or on the high seas, or while a student of any seminary of learning, nor while kept in any poor house or other asylum at public expense, nor while confined in any public prison.

The question being then taken on the section as amended, a division was called, which resulted as follows: Ayes forty; noes, thirty-six.

So the section was agreed to.

Mr. CORBETT. Mr. Chairman: I move the committee rises and report progress.

The CHAIRMAN. The motion is unnecessary.

IN CONVENTION.

The committee then rose, and the President resumed the chair.

Mr. LAWRENCE. Mr. President: The committee of the whole, having had under consideration the report of the Committee on Suffrage, Election and Representation, have instructed me to report the article, with sundry amendments.

The PRESIDENT. The amendments reported by the committee of the whole will be read.

Mr. MACVEAGH. Mr. President: Is it in order—

The PRESIDENT. It is not in order. The amendments will be read.

The CLERK read as follows:

THE SUFFRAGE ARTICLE AS AMENDED.

The report of the committee of the whole on the article on suffrage, election and representation, is as follows:

SECTION 1. Every person possessing the following qualifications shall be an elector, and be entitled to vote at all elections, viz:

1. A male person twenty-one years of age.

2. He shall have been a citizen of the United States at least one month.

3. He shall have resided in the State one year, or, if he had previously been a qualified elector of the State, removed therefrom and returned, six months immediately preceding the election.

4. He shall have resided in the election district where he offers to vote two months immediately preceding the election.

5. If twenty-two years of age or upwards, he shall have paid within two years a State or county tax, which had been assessed at least two months, and paid at least one month before the election.

SECTION 2. All elections of the citizens shall be by ballot. Every ballot voted shall be numbered in the order in which it is received, and the number recorded by the election officers, opposite the name of the elector who presents the ballot. Each elector shall endorse his name upon his ballot, or cause it to be endorsed thereon, and attested by another elector of the district, who shall not be an election officer, and the oath prescribed for the election officers shall require secrecy as to the contents of every ballot cast at the election.

SECTION 3. Electors shall in all cases, except treason, felony and breach or surety of the peace, be privileged from arrest during their attendance on elections, and in going to and returning therefrom.

SECTION 4. Whenever any of the qualified electors of this Commonwealth shall be in any actual military service under a requisition from the President of the United States, or by the authority of this Commonwealth, such electors may exercise the right of suffrage in all elections by the citizens under such regulations as are or shall be prescribed by law as fully as if they were present at their usual place of election.

SECTION 5. All laws regulating elections by the people, or for the registry of electors, shall be uniform in their operation throughout the State; but no elector shall be deprived of the privilege of voting by reason of his name not being on the registry.

SECTION 6. Any person who shall give or promise, or offer to give, to an elector any money or other valuable consideration for his vote at an election, or for withholding the same, or who shall give, or promise to give, such consideration to any other person or party, for such elector's vote, or for the withholding thereof, and any elector who shall receive, or agree to receive, for himself or for another, any money or other valuable consideration, for his vote at an election, or for withholding the same, shall thereby forfeit the right to vote at such election; and any elector whose right to vote shall be challenged for such cause before the election officers, shall be required to swear or affirm that the matter of the challenge is untrue before his vote shall be received.

SECTION 7. Every person convicted of any fraudulent violation of the election laws shall be deprived of the right of suffrage, but such right in any particular case may be restored by an act of the Legislature, two-thirds of each House consenting thereto.

SECTION 8. In cases of contested elections, no person shall be permitted to withhold his testimony upon the ground that it may criminate himself, or subject him to public infamy, but such testimony shall not afterwards be used against him in any judicial proceeding.

Sections 9 and 10 were stricken out.

SECTION 11. Wards of cities or boroughs and townships shall form or be divided into election districts of compact and contiguous territory, in such manner as the court of quarter sessions of the city or county in which the same are located may direct: *Provided*, All districts in cities of over one hundred thousand inhabitants shall be divided by the courts of quarter sessions of said cities whenever the preceding election shows the polling of more than two hundred and fifty votes, and in other election districts whenever the court of the proper county shall be satisfied that the convenience of the electors and the public interests will be promoted thereby.

SECTION 12. All elections by persons in a representative capacity shall be *viva voce*.

SECTION 13. Women of the age of twenty-one years or upwards shall be

eligible to any office of control or management under the school laws of this State.

SECTION 14. For the purpose of voting, no person shall be deemed to have gained a residence by reason of his presence or lost it by reason of his absence while employed in the service, either civil or military, of this State or of the United States, nor while engaged in the navigation of the waters of the State, or of the United States, or on the high seas, nor while a student of any seminary of learning, nor while kept in any poor house or other asylum at public expense, nor while confined in any public prison.

The PRESIDENT. The Chair will state that upon a former occasion the question of agreeing to the amendments made in committee of the whole was put to the Convention. This action is in conformity with parliamentary law, and the Chair pursued this course. It has never been the custom in Pennsylvania, and, as a number of gentlemen for whom the Chair entertains the highest respect have suggested that it would be best for the Convention to follow our own custom in this respect, the Chair will submit to the Convention whether the question of agreeing to the amendments shall be put to the Convention or not?

The question being taken, it was decided in the negative.

Mr. DARLINGTON. Mr. President: I move that the article as amended shall be printed.

The motion was agreed to.

The PRESIDENT. The Chair will observe, on this question, that the House may understand it, that this bill will be in order to-morrow morning, on second reading; and unless it be re-printed before that time, it will not be practicable for the House to go on with it understandingly.

Mr. DARLINGTON. Mr. President: It must be printed before the House can understand it.

The motion that the article, as reported by the committee of the whole, be printed was agreed to.

The PRESIDENT. The next business before the House would be article four of the report of the Committee on Suffrage, Election and Representation, but which has been incorporated in the article reported in committee of the whole. Is it

the pleasure of the House to proceed to the consideration of that article?

Which was decided in the negative.

The PRESIDENT. The next business in regular order would be article five of the report of the Committee on Suffrage, Election and Representation, which has also been included in the report made by the committee of the whole. Is it the pleasure of the House to proceed to the consideration of that article?

Which was decided in the negative.

Mr. MACVEAGH. Mr. President: If it is in order, I would move that the House go into committee of the whole, to consider the report of the Committee on Legislature.

The PRESIDENT. The article reported by the Committee on Legislature was before the committee of the whole, and the committee of the whole had leave to sit again. On the day that they had leave to so sit, it was not passed over but postponed. It is in order now to go into committee of the whole on the article on the Legislature.

IN COMMITTEE OF THE WHOLE.

The motion was agreed to, and the Convention resolved itself into committee of the whole, Mr. Hopkins in the chair.

THE LEGISLATURE ARTICLE.

The CHAIRMAN. The business before the committee of the whole is the consideration of the report of the Committee on Legislature. The section in order is section twenty, which will be read.

SENATORS FROM PHILADELPHIA.

The CLERK:

SECTION 20. The General Assembly shall apportion the State at its first session after the adoption of this Constitution, and once every ten years thereafter, by dividing the population of the State, as ascertained by the last preceding national census, by the number thirty-three, and the quotient shall be the ratio of representation in the Senate. Counties containing a population of four-fifths of said ratio shall be separate Senatorial districts, and each elect one Senator. Counties containing not less than the ratio, and three-fourths thereof, shall each elect two Senators, and one additional Senator for each number of inhabitants equal to the ratio contained by said counties in excess of twice the number of said ratio. All Senatorial districts shall be formed of contiguous and compact territory, and contain, as

nearly as possible, an equal number of inhabitants: *Provided*, That no city or county shall elect more than four Senators.

Mr. DARLINGTON. Mr. Chairman: When this committee of the whole was in session before, on this Legislature article, I moved this amendment: To strike out all that section, and insert:

SECTION 20. The General Assembly shall apportion the State, for the election of Senators and Representatives, according to population as ascertained by the last preceding census, every ten years, commencing at the first session after the adoption of this Constitution. Senators and Representatives shall be chosen by single districts, composed of contiguous, and as nearly as practicable, compact territory, of equal population. When a city or county shall be entitled to two or more Senators, it shall be divided by ward or township lines. No city or county shall be entitled to more than six Senators. Each county shall be entitled to at least one Representative. When any city or county shall be entitled to two or more Representatives, they shall be divided by ward or township lines.

The number of Representatives shall, at the several periods of their apportionment, be fixed by the Legislature, and shall never be less than one hundred and fifty, nor greater than three hundred. The number of Senators shall, at the same times, be fixed by the Legislature, and shall never be less than one-fourth, nor greater than one-third, of the number of Representatives.

I now desire to modify that amendment by the addition of another clause. After the word "Representative," at the end of the fifth sentence, I desire to interpolate the words:

"But no county hereafter erected shall be entitled to a separate representation until sufficient population shall be contained within it to entitle it to one Representative, agreeably to the ratio which shall then be established."

The CHAIRMAN. The gentleman from Chester has modified his amendment, and it is before the committee.

Mr. MACVEAGH. Mr. Chairman: How will the whole amendment read?

The CLERK:

SECTION 20. The General Assembly shall apportion the State for the election of Senators and Representatives, according to population as ascertained by the last preceding census, every ten years,

commencing at the first session after the adoption of this Constitution. Senators and Representatives shall be chosen by single districts, composed of contiguous, and as nearly as practicable, compact territory, of equal population. When a city or county shall be entitled to two or more Senators, it shall be divided by ward or township lines. No city or county shall be entitled to more than six Senators. Each county shall be entitled to at least one Representative. But no county hereafter erected shall be entitled to a separate Representative until sufficient population shall be contained within it to entitle it to one Representative, agreeably to the ratio which shall then be established. When any city or county shall be entitled to two or more Representatives, they shall be divided by ward or township lines.

The number of Representatives shall, at the several periods of their apportionment, be fixed by the Legislature, and shall never be less than one hundred and fifty, nor greater than three hundred. The number of Senators shall, at the same times, be fixed by the Legislature, and shall never be less than one-fourth, nor greater than one-third, of the number of Representatives.

Mr. WORRELL. Mr. Chairman: I move to further amend, by striking out the words, "no city or county shall be entitled to more than six Senators."

Mr. DARLINGTON. Mr. Chairman: In presenting for the consideration of this committee this amendment, it will be at once perceived that it proposes the establishment of single districts throughout the State, both for Senators and Representatives. That is the leading feature of this provision. The report of the Committee on Legislature proposes Senatorial districts, not all single, if I understand it right. Perhaps it does, but at all events representative districts may be established for two or more Representatives.

Now, sir, I urge the consideration of this committee to this important principle, as I conceive, in the representation of this State. This amendment proposes to establish single Senatorial, as well as single Representative, districts. It proposes, also, another very important provision, an increase in the number of Senators and Representatives, not so large, perhaps, as will be desired by some members, but sufficient to enable the members to express their opinions, also, upon that question and to propose a larger House of Representatives, and, if they choose, a

larger Senate. It proposes, also, to allow the city of Philadelphia six Senators, and this, it will be perceived, is precisely in conformity, so far as proportion is concerned, to the present Constitution, which, with a House of Representatives of one hundred members, allows the city of Philadelphia, or any other city, not exceeding four members of the Senate. If you increase the House, however, to one hundred and fifty, then the Senate would contain about fifty members, and the city of Philadelphia would have, by the same rule of proportion, at least six Senators, being fifty per cent., added to the number of the House, and that number added to the number of Senators in the city. If, however, it should be the wish of the committee, and subsequently of the Convention, to increase the number of the House, say to three hundred, the number of Senators to which the city shall be entitled, if the Senate bears the same proportion then to the House as it does now, say one-third, will be twelve, instead of six, and so in proportion, as you shall fix the number of Representatives.

But the main and leading feature, and the one which I have most at heart, is the establishing of single districts for the choice of Senators and Representatives. I think, sir, that it is a cardinal principle in the establishment of our government that the representative should be brought as nearly home to his constituents as it is possible to bring him. It is important that the circle of gentlemen who are to choose a representative, whether of the Senate or the House, should be limited in their choice to their own immediate representative, and that they should have no care beyond the general care which every one has in the character of the citizens of the whole Commonwealth in the choice of the representatives of other districts. I would, therefore, in thus bringing the member home to his constituents, make him the representative of his own district, whether in the Senate or the House; and I would have a particular district composed of a certain number of counties, or a single county, or a certain amount of population, whichever it might be. I would have no man elected along with another man, but the State should be so divided for the choice of Representatives, as well as of Senators, that each district should elect but one man.

What would be the advantages which would be derived from such a system, is the natural inquiry? They would be nu-

merous. I conceive, in the first instance, besides what I have stated, it would do away with all the evil which is generally understood to exist in the formation of districts for representation by the Legislature. It would do away with the necessity which either party, no matter which should be in power, would exert in forming districts to the advantageous of their own particular views. I take it, sir, that it would be impossible for any party, no matter what might be its complexion, that should chance to be in power, to form the State into one hundred or one hundred and fifty districts, each of contiguous and compact territory as nearly as may be practicable without making them very largely divided; so that we shall accomplish what is desirable in every well regulated government, a balance, as nearly as possible, of power between the two large over-ruling parties of the country.

I believe that all statesmen agree in one thing, that it is desirable under all circumstances, in all legislative bodies, that there should be majorities and minorities, but all insist that the majority should never be overpowering, but should always be controllable by a determined, energetic, intelligent minority, who are able to reason, who are able to vote, who are able to combine and prevent any unnecessary, imprudent and injudicious legislation.

It is important, therefore, in the construction of every government, that we should, if possible, as nearly as practical, balance the political parties in its legislative bodies. How can we more surely do it than by requiring every man to be elected in his own district; for it is well known in history, and every man understands it, that the State of Pennsylvania, as all other States, has been divided in sentiment by two or more political parties, and I take it such always will be the case. That being true, in one county you will find a large preponderance of the people of one party, and in another county you will find a large preponderance the other way. When you come to divide those counties into districts for Senators or Representatives, you will find it perfectly impossible, adhering to the principle of this amendment, to make your districts as nearly as practicable of compact and contiguous territory, to regulate them otherwise than that some should be of one political complexion and some of another.

Now, sir, if you accomplish that, and, at the same time, bring each representative home to his constituents—make him answerable to those who will send him—and allow those constituents to select their own man from among those whom they know, uninfluenced by any other consideration, you will accomplish the double good of bringing the representative home to his constituents, and making him immediately accountable to them, and, at the same time, of dividing your representatives, as nearly as practicable, into equal parties. The same thing would occur in the selection of Senators. Although you may have to combine two or more counties in a district, in some portions of a State, for the election of a Senator—depending, in this respect, upon the number, to be sure, of which that body should be composed—with the restriction upon the Legislature that they must be formed of contiguous and compact territory, you would necessarily bring together that portion of the population embracing one or more counties.

[Here the hammer fell.]

Mr. ALRICKS. Mr. Chairman: I move the gentleman have permission to proceed.

The motion was agreed to.

Mr. WORRELL. I rise to a point of order. The committee of the whole cannot change a rule of the Convention.

The CHAIRMAN. The rule is that no man can speak more than ten minutes, unless leave be given. That leave has been given. The gentleman will proceed.

Mr. DARLINGTON. I was about to say, sir—and I will not detain the committee long—that, in the formation of Senatorial districts, we may have to embrace two or more counties, in some instances; but we cannot take a county here and a county there, and another yonder, of a long and narrow shape, for it would not be conforming to the provision, which requires the districts to be of contiguous and compact territory, as nearly as practicable.

In carrying this out, it will be found, whether in the formation of Senatorial or Representative districts—adhering to the spirit and letter of this proposed amendment—we should necessarily bind the Legislature; in other words, must expect it to obey the constitutional injunction—to conform to the Constitution, if practicable, in every respect; and thus you would have the Senatorial districts formed, as you would have the Representative districts.

Now, sir, suppose that, in the county of Chester—a county which, for the last ten or twenty years, has been as decidedly one way in politics as the county of Berks has been decidedly another—suppose we are to be entitled to three or four members, if you choose, and that county is to be divided into districts for the election of Representatives, and the Legislature is confined to contiguous and compact territory, it would be utterly impossible to secure, in the county of Chester, all the districts of one political complexion; and, I presume, it would be equally impossible, in the county of Berks, to secure them of the same politics. My friend from Berks (Mr. H. W. Smith) says not. Well, if there is but one party there, be it so. Probably, in the county of Washington, we might have both parties represented; and in the county of Lancaster you would have some of one party and some of the other.

In the city of Philadelphia your Senatorial districts would necessarily result, if properly formed of contiguous and compact territory, in the selection of those, at all events, who would represent the people of the district in each case, whether there be a majority on one side or the other. In the General Assembly there would still be those who want to represent their districts respectively, whatever might be their politics.

I will tell you of another difficulty which now exists, which would be avoided. It is one that occurs in the gerrymandering of the State, so as to form districts for party purposes.

Again, it would avoid another difficulty which we have in both parties, and which occurs in nominations in counties entitled to more than one representative. It would do away with the system of log rolling to get upon the ticket. Men put their heads together and say, "You help me, and I will help you. My delegates will go for you, if your delegates go for me," and thus they manage to get upon the ticket. It would do away with that. Each man would stand upon his own just foundation; and if he was a proper person to be placed in nomination by his own party, in his own district, if he was the man who should succeed in getting the majority of votes and be fairly nominated, what then? The other party would put forward their best man, and thus you would have the best men that could be selected by this district, the best man upon the one side against the best man upon the other,

and a fair choice would be presented to the electors from which to choose. This would be an advantage, and a very great one.

Now, sir, this is no novel idea. It has been tried and is in successful operation throughout the whole country with regard to our members of Congress. I speak, now, irrespective of those cases in which, by reason of the non-apportionment of the State, the apportionment bill not having been passed by Congress early enough, two or three members at large have been elected, in some cases. The apportionment of the States of the Union for Congressional representation is by single districts of contiguous territory. We have had it in operation for a number of years, and I venture to say that it has been nowhere condemned. It produces the best results. It puts forward the best men for the representation of the single district which each party can venture to put into the field, and then the choice is fair between two good men, as to who shall represent it. It is, therefore, no untried scheme; but it is a scheme that has worked well throughout the nation. Nay, more; in the existing Constitution is contained the provision that by single districts shall the representatives from the city of Philadelphia be sent to Harrisburg. Has it not worked well? Some say it has not; some say it has; but whether they be good or bad representatives that are sent from the city of Philadelphia to Harrisburg, I suppose we are to assume that they are proper representatives of the people who sent them. If it does not secure proper representation in the city of Philadelphia, it would do so if the citizens of Philadelphia who do not go to the polls, would go. If those who do not go to the primary meetings for nominations, were to go, and thus secure the placing upon the ticket of the best men, then the best men would go to Harrisburg. If the good people neglect to do this, others will take it up. It is no argument against the system itself that in Philadelphia it may not have produced all the fruits which they expected from it.

This is the system which has been in operation in the State of New York ever since the year 1846, if I mistake not, as long as the present Constitution has existed. They have elected by single districts. Wherever a county is about the proper size for a single district, of course the county has a member; but single districts is the Constitutional provision of

the State of New York, and I had it from a very respectable citizen of that State, very soon after the first election under that Constitution, that that election had sent to Albany the strongest body of men that had ever been elected in the State. Whether it continues so to the present time, I do not know. That was the testimony then. If it does not continue to be the case now, I apprehend that it is not because they are elected in single districts, but because other principles and other interests are involved which have led to a different result. I have heard no objection to it. I know very well that in the formation of the recent Constitution, along with many other things, this was changed, but that Constitution was rejected by the people, whether for this or some other causes I know not. It has not been adopted by the people of New York. It stands then, sir, so far as my knowledge extends, upon the experience of the Congress of the United States, and the experience of the State of New York and the city of Philadelphia. No one will deny but that it is right in principle; that the true theory of our government is that every man should be elected by the district which he immediately represents. It is so with the Governor; it is so with every State officer; it is so with the judges of our Supreme Court; they are all elected by all the people because they hold offices and perform duties with which all the people charge them with. They represent, in that sense, all the people. So it should be with every man elected everywhere. The true theory is, so far as we can adopt it, local self-government for all offices which are not necessarily State or more extended. The county elects the officers that are to represent the people of that county in their municipal affairs; the judicial district elects the judge who is to preside in the courts in their district. So throughout the State; so everywhere; so in all things. What are the objections, then, to it? Of course it is not for me to anticipate them. Now is there any difficulty in carrying it out?

I do not contemplate by this amendment, it will be perceived, the entire destruction of county representation, by any means. I do not consider it important that this last provision in reference to equality of population is so essential that it may not be varied. It must necessarily be varied. Take a county that has population enough for one member, and a few hundred or a few thousand more, it must

have its one member of the Legislature; if enough for two, it must have two. Fractions I would disregard, in dividing a county that is entitled to two or more members, divided by township lines; a certain number of townships, say, form a district, although there may not be the precise amount of population in it that is necessary; while another district may contain more population than is necessary. I care not about a little variation in that respect. We still have as near as practicable the representation of the people by single districts, with population as nearly equal as possible. They will not be exactly equal, nor is it important that they should be. This I consider of minor importance.

We would then gain by the adoption of this amendment. Let the committee settle upon the number of Representatives and Senators. I name one hundred and fifty, and three hundred others may name five hundred, with a less number of the Senate. I do not know what we shall agree upon. Whatever number shall be agreed upon, the principle which I suggest in this amendment of representation by single districts will be the true theory, and it is the only true theory that ought to be adopted.

I do not mean to do more than to introduce this subject to the consideration of the Convention. It seems to me that it must necessarily commend itself to the good sense and sound judgment of every member of this body, and although it may be subject to modification as to form, I am satisfied that it is the principle which should be adopted.

MR. MACVEAGH. Mr. Chairman: I beg the gentlemen of the Convention will do the committee I represent the kindness of turning their attention now to the very great gravity of the question which is attracting the attention of this committee. Some of the most important considerations that will come before this Convention are now presented for the consideration and the action of the committee of the whole. In the first place there is opened by these two sections, the entire question of the numbers of the legislative bodies, how many Senators you intend to have, and how many Representatives you intend to have. In the second place the amendment of the gentleman from Chester (Mr. Darlington) introduces the question of whether you will have them in single districts; in other words, whether each Senatorial and each Representative

district shall elect one Senator and one Representative. Then I beg the attention of members to the fact that the proviso reported by the committee limits any city or county of this State to four members, which, as you will see, raises another very important question in the distribution of legislative power. A fourth consideration of great importance is presented, and that is, what method will be most likely to prevent unfair advantages being taken by one partisan organization which happens to have a majority in the Legislature in districting the State.

I have already had the honor to present to the committee the considerations which compel my own mind to the conclusion that we ought not to increase the number; but that question will be fairly presented by an amendment to strike out the numbers thirty-three and one hundred, and insert any other numbers. I had the honor of stating to the committee then that I thought it was an utter fallacy to suppose that, by increasing the numbers, you gained either increase of character or integrity of any representative bodies; and I now venture to add that the experience of the eastern States is not in favor of the increase, and it is the smaller legislative body in every American State which has most stoutly withstood the attempts at its corruption.

In the next place, as to single Representative districts, I cannot forbear thinking that the county is the unit of representation with reference to the State, and that the State Legislature ought not to be entitled to carve a county to suit the necessities of the majority of that body; and finally, I believe that this provision reported by the committee, the provision adopted by the late Constitutional Convention of Illinois, is more likely than any other to secure an equitable and just districting of the Commonwealth for legislative purposes, but at any rate I trust the committee will give to these grave questions the full, grave and earnest consideration which their magnitude and importance deserve, and then I am very sure every member of the committee which reported this article will be glad to join in the final judgment of the committee upon the subjects embraced in it.

MR. WORRELL. Mr. Chairman: I would not say one word upon this question, were it not that I represent in part the largest Senatorial district of this city, the largest district in point of population, and consequently the district in which there

is the greatest number of citizens unrepresented, and practically disfranchised.

I had hoped that the chairman of the Committee on Legislature would have favored us with the reason which induced his committee to propose this restriction upon the right of representation. But as no reason has been assigned for the proposed limitation, and as no just ground presents itself to my mind for a qualification of the principle that each elector shall have an equal voice in the selection of representatives, I am embarrassed in the discussion of the pending amendment.

The amendment of the gentleman from Chester (Mr. Darlington) provides that the House of Representatives shall consist of not less than one hundred and fifty members, and not more than three hundred members, and that the Senate shall consist of not less than one-fourth, and not more than one-third, of the number of the members of the House, with the *proviso* that no city nor county shall elect more than six Senators. This means that the Senate may consist either of fifty or one hundred members, and upon that basis, if the *present proportion* were preserved, the city of Philadelphia would be entitled to either *six* or *twelve* Senators, but if the number of taxable inhabitants were made the basis of apportionment, the city of Philadelphia could properly claim either *nine* or *eighteen* Senators accordingly, as the House of Representatives was made to consist of either the one or the other number of members which the gentleman proposes. The gentleman from Chester, it will be seen, asks us to adopt an amendment which may reduce Philadelphia's representation in the Senate lower, proportionally, than that which the city has under the present Constitution.

Now I submit, Mr. Chairman, that each city and county in this State should have of right that representation in each branch of the Legislature to which its population entitles it. Taxation and representation, under our form of government, should be reciprocal, and if any body of electors be denied participation in the legislation of the Commonwealth, they should, to the extent of the denial, be exempted from the burdens of government. It is proposed by this section to announce that taxation and representation are not reciprocal, and that the city of Philadelphia shall bear the burdens of government, but shall not enjoy govern-

mental rights, in proportion to her population. No tax can be properly assessed nor legally collected, unless those upon whom the taxation is imposed were represented in the body which laid the assessment, or at least had the opportunity of being represented.

I think, Mr. Chairman, no analogy exists between this proposed limitation and the article of the Constitution of the United States, which provides that each State shall have two Senators.

Mr. Chairman, the people living in sections of this State other than the city of Philadelphia, should feel no jealousy of the citizens of Philadelphia. Our interests are common. We should take a just pride in the welfare and the prosperity of each other. The rights of each are the rights of the other, and every citizen of this Commonwealth should assert and maintain the equality of these rights, whether of representation or otherwise. I trust, Mr. Chairman, that the Convention will not commit itself to the theory that a qualified elector, because he resides in a populous city or county, may be denied representation in that department of government which makes the laws to which he is to be amenable, and by which his rights are to be regulated.

Mr. J. PRICE WETHERILL. Mr. Chairman: I desire to call, in a brief manner, the attention of the committee to the exact character of the amendment offered by the gentleman from Chester (Mr. Darlington.) I will take it for granted, when he says the number of Representatives shall never be greater than three hundred, and the number of Senators not more than one-third of that number, that the House of Representatives will always consist of three hundred members, and the Senate of one hundred members; and I submit that the past legislation, not only of this but in other States, shows that the Legislature, wherever there has been legislation on this subject, has always adopted the largest number of members; and, where constitutional enactments have been enforced, the largest number has been fixed, both for the Senate and the House of Representatives. I think I am safe, then, in saying that the number of the members of the Senate, according to the amendment of the gentleman from Chester, (Mr. Darlington,) will be one hundred, and the number of the members of the House of Representatives will be three hundred. Taking this, therefore, as a

basis, the ratio of representation in the Senate will be thirty-five thousand, and the ratio of representation in the House will be in the neighborhood of eleven thousand.

I could not help thinking, Mr. Chairman, as I glanced over the population of the county of Chester, how beautifully this amendment fitted into that county. That county has a population of seventy-seven thousand; and, if the ratio of representation in the House of Representatives is eleven thousand, Chester county will be entitled to seven members, without the loss of a vote; and, if the ratio in the Senate should be thirty-five thousand, and the population of Chester county seventy-seven thousand, we see how easily it entitles that county to two Senators, with a loss of only seven thousand votes; and yet, in the face of the fact that this county obtains her full count, the gentleman who represents Chester county proposes to restrict the city of Philadelphia to six Senators.

Now, Mr. Chairman, how does this principle operate? Why, sir, we have a population in the city of Philadelphia of about six hundred and seventy thousand, and if this city is limited to six Senators, the ratio of representation to each Senator will be about one hundred and fifteen thousand. Now, as the ratio of representation for the Senators throughout the Commonwealth is thirty-five thousand, it will thus be perceived that the city of Philadelphia loses on every Senator at least eighty thousand in population, and, as a consequence, the Senatorial power of every voter in Chester county has three times the force of the Senatorial power of every voter in the city of Philadelphia. In view of these facts I think this is one of the most unfair propositions I have ever heard of, or I am very much mistaken in my calculations. Now look at Allegheny county, and see how this principle will work there. In that county you have a large city, and you find existing in that city quite as much of election irregularities, in proportion, as is charged against the city of Philadelphia. There can be no question about this; and if the members of this Convention desire any proof of this fact, I think it will not be very difficult to furnish; therefore all large cities of the State should be subjected to the same rule. The city of Pittsburg, in the county of Allegheny, contains a population of about two hundred and sixty-five thousand. In the city of Philadel-

phia there is a population of six hundred and seventy thousand, and in the name of justice and fairness I ask the gentlemen from Chester (Mr. Darlington) why he, in his wisdom, proposes to give the city of Pittsburg and the county of Allegheny the same number of Senators as the city of Philadelphia? What could be more unfair than such a proposition? Will the gentlemen of this Convention ignore the large cities of the State entirely? Why, the city of Philadelphia, together with the corporations connected with it, pays a State tax of \$2,500,000, in a State revenue of \$8,000,000. The city, in her vast mercantile and manufacturing interests, demands that her rights to which she is fairly entitled should be recognized. I cannot understand why such a proposition should come from a delegate who is the representative of so liberal a county as Chester.

I do hope the Convention, when it comes to look at this question in all its length and breadth, will carefully examine this ratio of representation. Even with a representation of eleven thousand inhabitants there will be some six or eight counties without a representative. I am clearly in favor of giving to every county in the State a representative in the House. I am decidedly in favor of enlarging the Senate and the House of Representatives, in order to bring the legislative body as near as possible to the people, but I want to see fair and honest representation therein. I desire that every county in this State shall have their representatives, but I want it distinctly understood that I do not stand here in my place and favor representation by the acre. If there is force in the argument which I have used, then when we come to increase the Senate and House of Representatives, so as to give a representative to nearly every county, in that enlargement I desire that the city of Philadelphia shall receive all the Senators her population would entitle her to, and I hope, and am satisfied, that the members of this Convention from the city of Philadelphia, who have her interest at heart, and from simple justice to her tax-payers, will not frustrate this true and liberal ratio of representation, and I earnestly hope that the city of Philadelphia will meet with the same liberality at the hands of the interior counties which her interests demand and her population justifies.

Mr. CAMPBELL. Mr. Chairman: I hope that the amendment of the gentleman

from Philadelphia (Mr. Worrell) will pass, for I consider that the proposition in reference to large cities, which the report of the Committee on the Legislature contains, is a relic of old times, when the population of the State was much smaller than it is now, and when the limitation of four Senators to Philadelphia was not considered unfair. Since this limitation has been in force the city of Philadelphia has greatly increased in population, and the growing necessities and interests of that population certainly demand a larger representation in the Senate. The limitation to such a small number of Senators for a city of the extent and population of Philadelphia is almost an anomaly in the provisions of State Constitutions, relating to Senatorial representation of large cities. In the Constitutional Convention which was held in Illinois in 1870, a special provision was not made for the city of Chicago. That great city was not limited to a smaller number of Senators than her population entitled her to.

The Illinois Convention provided that the State should be divided into fifty-one Senatorial districts, and gave to Chicago, the largest city of the State, its full and just representation. In the other recent State Constitutions we do not find the largest cities of the country deprived of their equal and just number of Senators and Representatives. In rising, Mr. Chairman, and in making these remarks, it is with the intention, not of making a long speech upon the subject, but of merely adding my voice to those of the gentlemen from this city who have already spoken in favor of striking out this proviso, and against the unfairness and injustice of limiting Philadelphia to such a small number of Senators.

Mr. LILLY. Mr. President: I only rise for the purpose of explaining the position I hold in regard to this question. I am in favor of basing representation upon population, and I cannot see why Philadelphia should be limited to a less number of representatives than according to her population she is fairly entitled to; and I claim for the little county of Carbon an equal representation according to her population, which is in the neighborhood of thirty thousand. We desire nothing more, and we will be satisfied with nothing less. I think if every gentleman of this Convention will consider this as a fair proposition, we shall have no difficulty in arriving at an equal and proper ratio of representation. I have only

a single word to add in connection with the report of the Committee on Suffrage, Election and Representation, and it is, that by to-morrow the committee will have a section ready to report to the Convention which will take the place of this entire section, and, as we believe, will dispose of this whole question. It is designed to go further than the section under consideration, and will be an appropriate section to insert in the Constitution. I am strongly in favor of the largest representation in our Legislature, for I believe the enlargement of both the Senate and the House will greatly tend to purify our elections.

Mr. KNIGHT. Mr. Chairman: I rise to state that I am also in favor of representation according to population in cities, towns and country, the State over. In the city of Philadelphia, in the year 1840, we had a population of 258,037. In 1838, when the other Convention met, the population probably was about 244,000. In 1870 we had a population of 674,022, and in 1873 the population would be about 700,000. Now at the same ratio of increase in thirty-five years, from 1838 to 1873, which would be about two and three-fourths, or nearly three for one, it would make our population, thirty-five years from this, 1,925,000. I ask the representatives on this floor whether it is fair, just, liberal and right that they should restrict the city of Philadelphia for thirty-five years in the future to four Senators, each Senator representing, probably, a population of nearly 500,000 citizens. I would like gentleman to consider this and see if there is any justice or equity in it.

Whilst I am up I will merely state that I am greatly in favor of largely increased numbers in both branches of the Legislature, one that would certainly give us a larger representation and a representation that we ought to have in proportion to our population.

Mr. WOODWARD. Mr. Chairman: I agree with my friend before me (Mr. Knight) in regard to increasing the number of both Senators and Representatives, and when we come to vote upon that question I shall vote with those who vote for the largest number. I believe that the Constitution will be greatly improved by increasing the numbers of both Houses. But the chairman of the Committee on Legislature, (Mr. MacVeagh,) who has brought this subject to our attention, limits the number of both Houses to what they now are—one hundred in the

House and thirty-three in the Senate, and what I rise to say is this: That if that is to be fixed in the new Constitution, then I am altogether opposed to the striking out of this proviso that limits any city to four Senators. I say that this proviso is most important to remain in our Constitution if we retain the numbers of our State Legislature as the chairman of the Committee on Legislature proposes, one hundred in the House and thirty-three in the Senate.

Let me allude to the history of this. In the reform Convention of 1837 the late Thaddeus Stevens brought forward this proposition to limit cities to not more than four Senators, and he made a speech of extraordinary power, founded upon the text of Thomas Jefferson, that great cities are great sores upon the body politic. Mr. Stevens illustrated it in his masterly manner, and, sir, that speech of Mr. Stevens woke up the President of this Convention, (Mr. Meredith,) who replied to him in one of the most remarkable speeches that has ever been made in Pennsylvania, in our day certainly, if not in all time. It was a glorious conflict, sir. Why I recollect it now with that sort of pleasure with which we remember reading some of the most powerful fairy tales of our youth. Nobody interfered between these giants. They had the field to themselves. What was the result of that debate which, in a mere forensic sense, was greatly in favor of our friend, the President of the Convention? The result was that Mr. Stevens' amendment was carried and sustained by a large majority of the Convention, and the people of Pennsylvania sustained the Constitution with that amendment in it. And my opinion is here, to-day, that they will never give it up while the world stands, and it never ought to be given up.

MR. DARLINGTON. Mr. Chairman; Will the gentleman allow me to ask him a question?

MR. WOODWARD. Certainly.

MR. DARLINGTON. Was it not in the Constitution of 1790 in precisely the same terms?

MR. WOODWARD. Mr. Chairman: Perhaps it was. The proposition may have been in the Convention of 1838, as it is here, to strike it out of the Constitution. Mr. Stevens made his speech upon that subject. So far as I can recollect, and if my memory is at fault my friend from Chester (Mr. Darlington) will correct me, this was the subject on which these gen-

tlemen debated so infinitely to our edification and amusement, and the result was, if it was in the old Constitution it was kept there; it has been kept there, and I trust it will always be kept there.

What my young friend from Philadelphia (Mr. Campbell) says here about representation from the city of Philadelphia, and from other counties, according to population, is all right in the abstract. Undoubtedly population is the true basis for representation. But these great cities are exceptional. They are an exception to that rule. And, sir, if you will recur to what you have heard upon the floor of this House since we have been here, you will find a sufficient justification of this limitation, for, from the evidence of every gentleman from this city, and from other parts of the country, we learn that the most vicious legislator at Harrisburg comes from the representatives of these large cities. I do not know how it is. I do not mean to say that populations in the rural districts are any better or purer than populations in urban districts; but such is the practical outworking of our system that our great cities send into the Legislature the men who give us the worst legislation of any class of representatives. They ought to send there the most intelligent and leading minds of the country, for they contain them. Intellect, like capital, centres in these great cities; but when have these great cities been duly represented in the Legislature of Pennsylvania? What gentleman will rise now in his place and say they are represented to-day as they ought to be? That the intellect, and culture, and enterprise of Philadelphia are represented to-day in the Legislature of Pennsylvania as they ought to be? No man will say it. When have they been so represented? Never in our day. When will they be so represented? Never in our day.

Now gentlemen may search for the reason of this down in the foundation of things as deep as they please, and one man will assign one reason and another man another; but there is a reason lying deep in the foundation of things, from this fact: It is only the effect that works out to the surface, and we may all feel it, and see it, and know it, that teaches us that this provision, which my friend says was in the Constitution of 1790, is a most salutary provision, provided you retain the present numbers for the two Houses. But if you increase the present numbers of the two Houses, which I hope will be

done, why, then I will vote for an increase of this limitation, still retaining the limitation; still retaining the principle; but, of course, increasing the limitation if we increase the numbers of the two Houses of the Legislature.

What I feel concerned about is, first, that we are not going to increase the two Houses. From what I hear from the chairman of the committee, whose report is now under consideration, and other influential gentlemen of the body, I anticipate that the disposition of the majority is to retain the present number. Very well. Then I insist upon retaining this amendment. If you increase the numbers of the two Houses, I will agree to enlarge the basis of this exception; but this exception I hold to be most salutary and conservative, and I shall be extremely sorry to see it stricken out of our Constitution. I say this as a Philadelphian, which I am in some sort. But I do not forget that I represent on this floor, not Philadelphia, but the State of Pennsylvania. I am a delegate at large. I represent the people of Pennsylvania, and I think I serve them faithfully when I say that it would be a great mistake to deprive them of this limitation upon these great overgrown communities which constitute our cities.

MR. SIMPSON. Mr. Chairman: I would like to know for my gratification, if I could ascertain it, upon what principle the proviso is based, and how it can be justified. I would like to know by what rule, by what theory, a man residing in one locality is to have, in the legislative branch of the State, a power three times as great as a man who happens to reside in another. Neither, perhaps, resides at his home from choice, but from compulsion. If we propose to have a democracy it ought never to exist. Even if we propose to have it in the form of a republic, of a representative government, it ought not to exist. It seems to me that a proposition to provide that a city or a county, no matter where located, what it may want, or how many people it may have, shall be restricted by an arbitrary principle in the proportion of the representation of the State, is to cut at the very foundation of the government, which is the right of the governed to be represented.

If the proposition be carried out, if this principle is to be carried out as it is now proposed, and as it is now applied under our present Constitution, it cannot be said, in the language of the Bill of Rights, that

all men are free and equal. I am not equal to a man residing outside of the city of Philadelphia so far as the Senate of the State is concerned. I have not that power. My voice is not so potent in the Senate of this State as a man who resides a quarter of a mile from me, because between him and me runs a little creek called Cohocksink, a little stream about four yards wide. He has a power in the Senate which I have not. He may be as intelligent as I am, as wealthy or as poor as I am, but his power in the legislative branch is far greater than I possess.

I can understand very well why such a limitation as this would be originally imposed in 1790, although I have not seen any such limitation in that instrument. But at that time, if delegates will recur back to the history of this State, it was believed that the city of Philadelphia would grow in a much larger ratio than all the rest of the State, and that in time it would probably contain one-half of the population of the entire State. Now I can imagine why such a proviso could have been placed in the old Constitution of 1790.

MR. DARLINGTON. Mr. Chairman: Allow me to suggest to the gentleman that it is explicitly set forth in that Constitution in the article beginning: "The Senators shall be chosen in districts."

MR. SIMPSON. Mr. Chairman: I was just about to read that section to show how our old Constitution did treat this subject.

"The Senators shall be chosen in districts, to be formed by the Legislature, containing each, as nearly as may be, such a number of taxable inhabitants as shall be entitled to elect one Senator; but where that cannot be done, then such number of adjoining counties shall be formed into one district as shall be entitled to elect not more than four Senators: *Provided*, That neither the city of Philadelphia, nor any county, shall be divided in forming a district."

I can understand very well the theory that existed then. It was feared that Philadelphia, from its aggregation, would come, in time, to absorb one-third, or one-half, or even, perhaps, more than one-half, of the entire population of this State, and when occurred, it was feared the city would, in both branches of the Legislature, grasp the power of the State, and therefore the limitation was necessary. Well, that limitation, as passed by the Convention of 1838, was designed to restrict the city, in its lawful representation,

upon the floor of the Senate; and yet, under that limitation, if now in force, Philadelphia would have, upon the floor of the Senate in Pennsylvania, this day, its eight members. She would have eight members to-day, but for the fact that, in 1854, the old county of Philadelphia was merged into the city; the city borders were enlarged, and it was all brought within one limit—the city of Philadelphia. But for that act of consolidation Philadelphia would, to-day, be entitled to its proportion of the Senate—not exceeding eight members; four from the old city and four from the districts surrounding it. The city and county would have been entitled to eight Senators.

But by the act of consolidation, merging the city and county into one city, it fell within that clause of the proviso that no city or county should be entitled to more than four members; and although we had, at the time of the passage of the act of 1854, five Senators, yet at the first apportionment thereafter we lost one of them, and from that time to the present we have had but four Senators. Now if the proviso that was in the Constitution of 1838, was carried out as it was intended to be, as applied to the city, limiting the proportion and not the number, as, for instance, that it should not have more than one-fourth of the Senators, or more than two-fifths, or some other definite proportion, I could understand the justice of the argument; but I cannot understand it when it is made an arbitrary number, which number may, in time, work great injustice, as in the instance cited by the gentleman from Philadelphia, (Mr. J. Price Wetherill,) that where a citizen residing in Chester county might have three times the power that a citizen residing in Philadelphia has. That ought not to be. We have, in that rule, departed from the foundation stone. As I have shown that the reason has passed away, there is no fear, and can be no fear now, that Philadelphia will ever, in relation to population, increase in an equal ratio with the rest of the State. There is no danger. The opening up of mines and of collieries, and the development of all the varied interests of the State, have gathered together populations and masses of people so great as to put it beyond peradventure that Philadelphia can ever, possibly, have one-third of the population of the State of Pennsylvania; and if Philadelphia cannot have more than a third, giving her her representation, she cannot control the State

government. She ought not to, if she could. In the proviso, if there should be substituted a proportion, say one-fourth, or two-fifths, I would vote for it; but I cannot, and will not, vote for the proviso in its present form, and I hope the Convention will vote this down as anti-democratic and anti-republican, and as against the spirit of free institutions, and in violation of the rule that all men are free and equal.

Mr. BUCKALEW. Mr. Chairman: It seems to be pretty well settled that this limit in the Constitution was placed there a generation before most of us were born. It has been in the Constitution of the State ever since 1790, and the simple question now for the Convention to determine is, whether it shall be struck out after this long period of time has elapsed, assuming that the total number of Senators shall be retained at thirty-three. Necessarily, if we change the total number of members in each House, this limitation will become inapplicable or improper. It must be changed or some other one substituted for it. Therefore this question involves the discussion of the other points, to wit: Of how large a number shall the Legislature consist; and also certain of the conditions upon which membership shall be assigned to the several divisions of the Commonwealth, whether counties or cities.

I am strongly, very strongly, opposed to the amendment of the gentleman from Chester, (Mr. Darlington,) and to all propositions of a similar character which may be proposed hereafter. One of the great evils at which, if it be possible, this Convention should strike, and strike unflinchingly, is "gerrymandering," as we have had it heretofore illustrated, in the Legislature of our State. And if we can reach that great evil and iniquity, and I hope, before we are done with this question, we shall reach it, we should apply a thorough and effectual remedy for the future. If you are to divide this State into single Representative and single Senatorial districts, and commit the work to the Legislature, as is proposed by the amendment of the gentleman from Chester, (Mr. Darlington,) the iniquity and evil of the "gerrymandering system," as it has been known heretofore, in this and other States, will receive an unexampled illustration. It will become so intolerable and offensive that you will be obliged promptly to again change the fundamental law of the State; at least that is my opinion.

Now, sir, I think that it is perfectly feasible to take this question of apportionment out of the Legislature entirely; and I will read the form of a proposition by which it may be accomplished.

"At the general election in the year 1881, and every tenth year thereafter, there shall be chosen by a vote of the electors of the State at large, ten commissioners of apportionment, whose duty it shall be to divide the State into Senatorial and Representative districts, and assign to each of such districts its appropriate representation. Any apportionment, or report thereof, so made, shall be concurred in by at least seven commissioners;" and then the proposition further provides that the commissioners shall be elected upon the plan of the "limited vote"—no voter voting for more than five—and that any vacancy in the number of said commissioners shall be filled in the manner in which vacancies are filled in the membership of this Convention.

So that by no accident shall the Constitution of that "board," if you choose to call it such, be changed or altered before the work is done, and by requiring the concurrence of seven of the ten members who shall constitute it, you have a guaranty—an effectual guaranty—that the apportionment will be justly made.

Now, sir, the last apportionment of this State by the Legislature cost the people no less than seventy-five thousand dollars. The session was protracted nearly two months beyond the ordinary time of adjournment, and compensation to members was voted for the additional time after one hundred days of session, at the same rate at which members are ordinarily paid, for that time, swelling up the expenditures for the session enormously. The figures were referred to by the gentleman from Philadelphia (Mr. Jno. Price Wetherill) some time since, in debate, as showing the profligacy, or, perhaps, I should use a softer term, the want of economy, in the Legislature of our State; yet, sir, that outlay was but reasonable, because the detention of the two Houses until nearly the first of June in the making of that apportionment. But that apportionment, as made, was stamped all over its face with wrong and injustice, and, in one part, with unconstitutionality also. The county of Luzerne had enough taxables for five Representatives, and a surplus, and she had also a surplus in her Senatorial district; yet, arbitrarily, she was given but four, in flat contempt of the Constitution of the

State. If you will cast your eye over the State, you will see here and there counties joined to each other, not for any just, proper and public reason, but to subserve some individual or partisan purpose, as, for instance, the junction of Perry county with Dauphin—and several other instances might be named.

Sir, I am in favor of enlarging the number of Senators and Representatives in the Legislature of our State, if we can secure along with it a reform in the manner of choosing them, by which all the people shall be represented. In case the two go together, in my judgment we will have a great reform; but I am not, as at present advised, in favor of disturbing this report of the Committee on Legislature as to the number of Senators and Representatives, if we are to have no reform or improvement in the manner of selecting them. I would rather leave things as they are, trusting to the increased experience of the people in future years.

If we shall increase the number of members of the Legislature in the two Houses, I think, instead of this arbitrary provision in the Constitution as to the number of Senators, I would agree to a proposition that no city or county shall have more than one-sixth part of the total representation in the Senate. That would give, upon a basis of sixty Senators, ten to this city. At present her representation is a little less than one-eighth. I think, sir, that the old idea that you should constitute the lower House of the Legislature upon the principle of numbers, absolutely representing the whole population of the State, and the other House upon a different basis—taking into account territory and the diversity of interests as they may exist in different parts of the State—is a sound one, or, at least, it is capable of being vindicated by argument. But, sir, I perceive that my time is up.

Mr. NEWLIN. Mr. Chairman: I move that the time be extended, so as to allow the gentleman (Mr. Buckalew) to proceed.

The motion was agreed to.

Mr. BUCKALEW. Mr. Chairman: I thank the committee, but I do not desire to speak further at this time.

Mr. M'ALLISTER. Mr. Chairman: Coming, as I do, from the interior of the State, I feel called upon, just here, to say a word or two in reference to the true basis of representation. I understand it to be conceded by the gentleman from Philadelphia (Mr. Woodward) that popula-

tion is the basis, and the only true basis, of representation; but that, as there are exceptions to all general rules, he thinks cities ought to be made exceptions to this general rule. The only reason he gives for thus depriving a portion of our citizens of their just representation is this: That his friend Thaddeus Stevens, in 1838, made a great speech, in which he denominated great cities great ulcers and sores on the body politic. The truth of the assertion he does not undertake himself to verify.

I will concede that in cities there are great vices, but I must also be permitted to assert that there are great virtues there also. The only city interested in the provision under discussion is great in commerce, great in her manufactories, great in the diversity of her interests, and great in everything that points to human weal. Why, then, should she be deprived of her just rights to representation? I will admit the power of this Convention to deprive her of her just rights, but the question presented to us is, should the majority of this Convention do it? Will they not violate the law of nature if they do it? It seems to me they will. I have been wholly unable to conceive any possible reason why Philadelphia should not be placed upon the same platform with every other portion of the State when she comes to ask her representation. On a former occasion I remarked that representation arose from necessity, and from necessity alone; and if we were not under that necessity, and the masses could assemble and deliberate for their welfare, who would undertake to deprive any portion of the citizens of Philadelphia of their right to deliberate, of their right to be heard in the democratic assembly? And if representation arises out of necessity, how can we be justified in depriving any portion of that population of being heard by their representatives? The representative body being but an epitome of the people at large, and, if an epitome, then, why should they not be fully represented in the Senate as in the House, and in both bodies alike? It may be placed upon the ground of contracted territory, and that territory should enter into the basis of representation. I do not think the argument is good. The diversities of interests of the inhabitants of a city are greater—far greater—in proportion to the number of inhabitants in a city, than in districts in the country of equal population. These different interests in a city

should be represented. The people of the entire State have a right to demand of us, in making a Constitution for their government, that they shall each and all be fairly represented, and how can you afford a just representation in the city of Philadelphia to these varied interests in commerce, in learning, and in everything that pertains to the good of man, unless you give them a just epitome of their population in the representative body?

For these reasons, Mr. Chairman, I am opposed to any restriction whatever. I was not surprised at the gentleman from Chester (Mr. Darlington) when he made his proposition. I have observed his course from our first meeting, and he seems to be wedded to the Constitutions of 1790 and 1838—joined to his idols. My friend from Philadelphia (Mr. Woodward) seems to sympathize with him in his adoration, probably from having participated in the erection of that fabric of human liberty. I cannot conceive any reason why we should not reform the errors of the past. With that view we are called here—to correct errors—not to bow submissively to what has been given to us in years that are past. We are here for the purpose of doing better than they did, in the light of the age in which we live, and therefore I do not sympathize with those gentlemen in adhering to error simply because it has the prestige of antiquity.

Mr. BIDDLE. Mr. Chairman: I desire to say a few words on this subject to-day, because I may, on account of engagements which I cannot control, be absent from the Convention to-morrow.

There are two great points involved in this twentieth section which deserve a separate discussion. I shall say but little about one of them at this time, because I desire to occupy my time in discussing what, to me, is of paramount importance.

I believe in the value of larger representation. I believe experience, especially to the east, has shown the advantage of that, in preventing improper combinations, to the disadvantage of the people, to be so easily formed, and in limiting and greatly impeding improper attempts at influencing the legislative bodies. I shall, therefore vote for the very largest number that I may have an opportunity of voting for; certainly up to four hundred for the lower House, if I may be so permitted. But I want to say something about a subject that is vastly more important. It is a matter of which justice itself lies at the root.

On what principle is this limitation of a city or county to a designated number based? I defy any gentleman on this floor to give a good reason for it. I can understand very well that where your principle of representation, in the smaller or upper body, is based upon a representation of *interests* and not of *population*, something may be said about it. That is not the theory of our government. It is not the theory of this section. It still comes to city and county representation, which is altogether diverse from a representation of political or economical interests. It has no analogy to any such system of representation as that. You therefore, in electing members to the upper House, per force, unless you change—unless, indeed, you tear to pieces—your present system, assume, as a basis, population. I want any gentleman that is prepared to vote for this grave act of injustice to pause. Let him search his heart and see if he can find any reason for this, and if he appeal only to mere selfish motives, let him dread, if he casts his suffrage in favor of such a limitation as this, whether, in some shape or other, poisoned chalice may not be returned to his own lips. Why should Philadelphia have a smaller representation in the Senate? Why should any city or county have a smaller representation in the Senate than any other portion of the community? Is it to be said that large cities do not pay their full ratio of the public burdens? The merest glance at the returns of the taxes paid, direct and indirect, will refute that. If you take taxation as a ratio, then, instead of asking, as we might, sixteen or eighteen members, we would be entitled to ask twenty-four. This, therefore, cannot be the reason. It is to be supposed that we are not equally alert to bear, according to the ratio of our population, an equal share of public burdens in other ways. Why, sir, Philadelphia—and this section, disguise it as you may, is aimed at Philadelphia—has always sprung to her feet at the call, real or suppose—too frequently the latter—of patriotic appeal, to do more than her full share in pouring out her blood and treasure, on every occasion, in which has been asked.

Are we to discuss here, at some future stage of the report of one of the leading standing committees, the question whether minorities shall have their just share in the voice of the public councils, when we say in advance that we are ready to deprive the citizen by any imaginary barrier, of his

fair share of representation? Why, sir, all these discussions, if this blot remains in this system, will be worse than idle. Why talk of the "rights of minorities?" Why talk of "proportional representation?" Why talk of modes of getting "a fairer expression of the will of the people," when you stamp indelibly upon your whole system a brand which proclaims that because a city or a county, in its struggles for the acquisition of material wealth, reaches a certain figure in population, you will by a barrier that cannot be passed, condemn her on that very ground of material advance, to a less share of justice than is meted out to her neighbors. Are gentlemen prepared to do that? I at first thought that the amendment offered by the gentleman from Chester possessed some little merit. I see it now, stripped of all such attempt at fairness; for, whilst this section gives four Senators, his gives six, with a ratio three times as great. He ought to give us twelve, to be consistent with the system as it now exists. I care not for any such amendment. I maintain, and I hope this Convention will in simple justice—that is all we want—no favors, justice, equality—assert the principle of having a representation, both in the Senate and the House, based upon county and city life, which means population and nothing else, according precisely the same to all. If you do not, your labors are in vain. Why talk of improvement? Why talk of advance? Why talk of the progressive spirit of the age, if the progress is to be in injustice and not towards fairness? Why cite the Constitution of 1790, which, by the bye, contains no such provision as the Constitution of 1838—

MR. WOODWARD. You are right about that, I find.

MR. BIDDLE. I know I am right, because I examined it before I came here. The Constitution of 1838 does, but is that a reason? We come here, or are supposed to be here, to correct something that heretofore has been wrong, else we had better have stayed at home. Now let us begin, not by doing that which is merely supposed to be more expedient, not by doing something the value of which is problematical, not by changing that which has heretofore worked well, but by going back to the very source at which justice is found to exist.

I do not know, Mr. Chairman, whether my time is up or not? I do not wish to

encroach upon the rule of the Convention.

["Go on!" "Go on!"]

The CHAIRMAN. You have two minutes yet.

Mr. BIDDLE. Well, sir, I merely wish to say, in closing, that I want this Convention, unless it can see some reason based upon some generically different rule which is not yet found in any of these sections, to conform to that principle which says that the citizens shall be heard through his representative, his selected mouth-piece. My friend from Philadelphia (Mr. J. Price Wetherill) has depicted fairly, not rhetorically, the gross injustice of treating a man living on one side of a creek with a certain proportion of representation in that body which is considered the higher and the more conservative, and giving to a man who lives immediately opposite to him, on the other side of the creek, possessing no more rights than he, and without any reason for the distinction, just three times as large a voice in that body.

Are cities such blots upon the body politic? Are the citizens of this State to be deprived of their natural right because they happen to live in a city? From whence do gentlemen draw this argument? I have always supposed that as the political heart became enriched with richer blood, the extremities also are benefited by the circulation through the different veins and arteries which course through our political system. Are our cities to be looked upon like fungus, or a festering sore that possesses no life or vitality. If so then proclaim it boldly, and you will do less injustice in depriving us of that to which we are fairly entitled. Large cities and large communities will not be willing to submit to such a provision. A majority may ride over the rights of a minority, but they can never do this with justice to themselves, or with honor and fairness, in dealing with the rights of the people. It would be just as difficult to change the primordial laws of our natures, as to expect that such an element of injustice as this can ever find a permanent and abiding place in the Constitution of this Commonwealth.

Mr. WOODWARD. Mr. Chairman: I only desire to occupy the time of the Convention a few moments, and, with the privilege of the Convention, I shall proceed to make a few explanatory remarks upon the position I held when I addressed the Convention upon this question. Since

that time I have consulted the record, and I find that I was absolutely correct, and that the gentleman from Chester, (Mr. Darlington,) in presuming to correct my statement, was himself in error. In the Constitution of 1790, it was provided in section seven, that "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." The Constitution of 1838 reads thus: "Section 7. The Senators shall be chosen in districts to be formed by the Legislature; but no district shall be so formed as to entitle more than two Senators, unless the number of taxable inhabitants in any city or county shall at any time be such as to entitle it to elect more than two; *but no city or county shall be entitled to elect more than four Senators.*" &c. This was the amendment which Mr. Stevens moved, and out of which the debate arose to which I have alluded. It was not in the Constitution of 1790, because the Constitution of that year has reference to districts, while the provisions of the Constitution of 1838 have reference to cities and counties.

Mr. DARLINGTON. I desire to ask the gentleman whether the Constitution of 1790 does not provide that no district shall elect more than four Senators, and that no city shall be divided in the form of districts. Placing these two clauses together, I would ask the gentleman if it did not restrict the city to four Senators?

Mr. WOODWARD. Mr. Chairman: The provision of 1838 was added to the Constitution, so far as my memory serves me. I have already stated that the people of Pennsylvania ratified the Constitution, and no complaint ever arose in regard to it. Mr. Chairman, as I said before, all this talk about the purity of the rural population, as compared with the other populations of the State, has a great deal in it that is not true, and yet it is a well known fact, that the 700,000 people that inhabit this city are the consumers of the products of the entire people of the State. We are all consumers, living upon the industry, more or less, of the other portions of the State, and what, then, would this great city be without the country which surrounds it and has made it? Why the State was originally a State of farmers. When William Penn found that his English colonists had become malcontents upon his hands, he went to Germany and established emigration societies in all

the German cities, and those societies sent a thrifty population to our shores, and it has been upon the labor of this class of our citizens that the whole prosperity of the State has been based. The German population of our interior counties, from whom we originally derived our government, farmed the lands of the State, and it was the transportation of the products of their farms to market that projected the railroads and canals throughout the State. Pennsylvania, whose Constitution we are now considering, was not then a State of cities; it was a State of solid, substantial German farmers, and when I hear gentlemen talk about the justice and injustice of disfranchising a portion of the people, I say that these political regulations rest at last upon the judgment of the real people of the State, and the people of the State have settled this distinction upon a reason which has been found to be a solid and substantial one. There is no injustice, therefore, it seems to me, in the people of such a State as Pennsylvania, in saying to the great cities of the Commonwealth, that their representation in the upper branch of the Legislature shall be limited. It is impossible to tell to what extent the city of Philadelphia may grow, for within its limits it already possesses one-fifth of the population of the State of Pennsylvania, and we do not know but that the city of Philadelphia may grow to such an extent as to possess the Legislature of the State. Man made the city and God made the country; and the farmers and the producers of the staples upon which the cities live do desire to retain this provision in our Constitution. The country has made the city and the city has not made the country. When gentlemen talk about the magnificence and importance of Philadelphia, and the injustice of imposing a limitation, in our fundamental law, upon the overgrown population of this great city, they talk as if they had never read the history of the State; they talk as if they were not Pennsylvanians. I do not desire to run a parallel between the urban and the rural populations, but I recognize the fact that there is a distinction between them away down in the foundations of society, and, in the very nature of things, that distinction must always exist between the producing and the consuming populations. That distinction is honored by this limitation in representation. Why, sir, if thirty-three Senators comprise the Senate of the State, certainly four Senators are enough to represent the city of Phila-

delphia. When, I would like to inquire, does the city of Philadelphia propose to send any of these delegates, these highly gifted and intelligent gentlemen who I see around me, to the Senate of the State. Why I should like to see one of these delegates, whom her citizens have sent to this Convention, run against the ring in this city. The gentleman from Columbia (Mr. Buckalew) narrated an instance that occurred in a recent election, in which Col. McClure was an opposing candidate, where three election officers and nine citizens voted in one precinct, between the hours of eleven and twelve o'clock, and not a single vote was announced during that entire hour for the candidate for whom the votes had been cast. Three election officers and nine citizens were thus cheated out of their votes in a single hour. An expensive contested election case followed, wherein all these facts were developed and McClure was awarded his seat in the Senate of the State, and now represents the city of Philadelphia. This instance of election fraud is by no means exceptional, for other developments have been brought to light by the reform organization of this city. If we can purify the ballot-box, if we can secure a representation for the substantial and worthy citizens of Philadelphia in the Legislature of the State, I submit that this limitation is too small, but in the existing state of affairs, I maintain it will be a great mistake if the Convention shall, by its action, exceed this limitation.

MR. LITTLETON. Mr. Chairman: I desire to say just one word. The argument of the gentleman from Philadelphia (Mr. Woodward) seems to be that because we do not elect good representatives, therefore, we should not have our full share. Now I do not think that that is logical. I think that the argument should be that population should be the basis of representation.

But I arose to make simply one remark. The gentleman from Philadelphia—I believe he is called from Philadelphia—suggests that the citizens of Philadelphia are simply a body of consumers. I desire, in answer, to state that the manufactured products of Philadelphia, two or three years ago, amounted to \$335,000,000 yearly, so that if he will look at that fact, he will see that we do produce something here, something besides illegal votes, and I do not believe that we produce half as many of them as has been stated here, but still we do produce something that adds to

the wealth of this community and of the State. The argument made by the gentleman from Philadelphia is, that we should endeavor to make this Constitution for the farming population of Pennsylvania. That upon this class should devolve entirely the duty of forming a Constitution which is to govern the whole State of Pennsylvania, including the city of Philadelphia, is a proposition to which I do not submit. His argument amounts to that, and nothing more. If you should take the varied interests of Philadelphia, and put them into comparison with any portion of this State, and base the representation upon that comparison, then we would be willing to put the question upon that basis. Take all the interests together of the different communities of the State, and if the apportionment is to be based upon these, and not upon population, Philadelphia certainly could be satisfied.

Mr. DALLAS obtained the floor, when Mr. Biddle requested that he yield to a motion that the committee rise.

Mr. DALLAS yielded; and

Mr. BIDDLE moved that the Convention rise, report progress and ask leave to sit again.

The motion was agreed to, the committee rose and the President resumed his seat.

IN CONVENTION.

Mr. HOPKINS, chairman of the committee of the whole, stated that the committee had considered the report of the Committee on Legislature, and had instructed him to report progress and request leave to sit again.

Leave was given the committee to sit to-morrow.

Mr. HARRY WHITE moved that the Convention adjourn, which was agreed to, and at 1.56 the Convention adjourned until ten A. M. to-morrow.

FIFTY-SECOND DAY.

WEDNESDAY, *February 26, 1873.*

The Convention met at ten o'clock A. M.

Prayer was offered by Rev. Mr. Curry.

JOURNAL.

The Journal of yesterday's proceedings was read and approved.

THE ELECTIONS IN PHILADELPHIA.

PHILADELPHIA, *Feb. 26, 1873.*

To the HON. WM. M. MEREDITH,

President Constitutional Convention:

DEAR SIR:—At the last October election, one hundred and eighteen thousand seven hundred and nineteen votes were polled for a municipal officer, the receiver of taxes. The Convention proposes to separate the election of the municipal officers of the city from the general election, and have fixed the third Monday of February as the day on which it is to take place. By the consolidation act of 1854, which had been framed with great care, and after an ample discussion by the General Executive consolidation committee of the citizens of the city and county of Philadelphia, the first Tuesday in May was appointed for the municipal election, being in a mild season of the year, and when a full vote could be brought out. The day selected by the Convention is in the most inclement season of the year—in mid-winter—with the streets filled with snow and ice, and with ice gorges in the Schuylkill and Susquehanna. Sunday, the sixteenth day of February, was a day on which no one ventured into the streets, except under the pressure of absolute necessity. How many votes would be polled on such a day, or on the succeeding Monday. If it is intended to have a real separate municipal election, some other day must be selected, and I know none more suitable than the first Tuesday in May.

The city of Philadelphia covers one hundred and thirty square miles, and has a larger number of houses, in proportion to its population, than any other large city in America, and the honest mechanic and operative can have his separate dwelling, with water and gas. It is the great-

est manufacturing city in the United States, and is commencing to re-gain its foreign commerce by establishing lines of iron steamships, built by American mechanics, on the shores of the Delaware.

She has within a fraction of one-fifth of the population of the State, and her list of taxables entitles her to six Senators out the thirty-three Senators, which I feel the justice of the Convention will give her.

By the census of 1870,—

The population of the State is... 3,521,791
The population of the city is..... 674,022

By the triennial assessment,—

The taxables of the State were... 861,498
The taxables of the city were... 158,622
For each Senator is required..... 26,106

Which would give the city of Philadelphia six Senators out of these thirty-three Senators.

In 1790 the population of the State was 434,373

In 1790 the population of the county, now city, of Philadelphia was 54,391

Showing the increase of the city to be much larger than the rest of the State.

I am, very respectfully,

JOHN M. READ.

PROHIBITION.

Mr. ANDREW REED presented a petition from the citizens of Juniata county, praying for a provision in the Constitution against the sale and manufacture of intoxicating liquors as a beverage, which was referred to the Committee on Legislation.

Mr. H. G. SMITH presented a petition from the citizens of Lancaster county, praying for the same provision in the Constitution, which was referred to the Committee on Legislation.

Mr. HAZZARD presented a petition from the citizens of Washington county, praying for the same provision in the Constitution, which was referred to the Committee on Legislation.

Mr. TURRELL presented petitions from the citizens of Wayne, Lycoming and Columbia counties, praying for the same provision in the Constitution, which was referred to the Committee on Legislation.

Mr. DUNNING presented a petition from the citizens of Luzerne county, praying for the same provision in the Constitution, which was referred to the Committee on Legislation.

Mr. LONG presented a petition of the citizens of Carbon county, praying for the same provision in the Constitution, which was referred to the Committee on Legislation.

Mr. CURRY presented a petition from the citizens of Blair county, praying for the same provision in the Constitution, which was referred to the Committee on Legislation.

Mr. H. W. PALMER presented a petition from the citizens of Luzerne county, praying for the same provision in the Constitution, which was referred to the Committee on Legislation.

DEBATE IN COMMITTEE OF THE WHOLE.

Mr. WRIGHT offered the following resolution, which was laid on the table under the rules:

Resolved, That when, in committee of the whole, a motion is made to extend the time of a member in debate the length of the time shall be fixed in the motion.

SMULL'S HAND-BOOK.

Mr. LILLY offered the following resolution, which was twice read:

Resolved, That the State Printer be and he is hereby required to furnish to the Convention one hundred and forty copies of Smull's Hand-Book for 1873: *Provided*, That the cost of the same shall be the same as is charged the State for those furnished the Legislature.

Mr. AINEY. Mr. President: I move to strike out the words "State Printer," and insert "Chief Clerk."

Mr. LILLY. Mr. President: I desire to state that the State Printer is the publisher of this very convenient Hand-Book, and that is edited by Mr. Smull. The State Printer is able to furnish this book at the manufacturer's prices, and I cannot see the advantage of inserting the name of the Chief Clerk in the resolution.

Mr. AINEY. Mr. President: I withdraw my amendment.

Mr. KAINE. I would like to know what the probable cost of this book will be.

Mr. CAMPBELL. Mr. President: I hope this resolution will not pass. It has been a great source of complaint with the citizens of this State that the Legislature is continually making appropriations to purchase

books of this character, and I think we had better not imitate the example of the Legislature in this respect. Therefore I do hope that we will not vote for any more books or publications to be furnished to this Convention at the cost of the State.

Mr. HARRY WHITE. Mr. President: I hope that this resolution will pass. I can conceive of no possible complaint that any tax-payer or any citizen of the Commonwealth can make against the passage of this resolution. It is not merely for the personal profit or benefit of the members of this Convention, but to assist them in the performance of their duty here.

Now what is Smull's Legislative Hand-Book? It is no job. It is matter that is contracted to be published annually by the State, by a solemn statute, at a fixed rate. It is a valuable publication. There is statistical information, items necessary to be known by the representatives of the people, aggregated there in a convenient and compendious form, not to be had in the same form elsewhere. Yesterday, when the question of apportioning the State, the question of the taxables and of the census returns were talked of, there was a singular want of the proper means of information upon these subjects in the Convention. Now Smull's Legislative Hand-Book has all these things aggregated in a convenient manner. The cost of it is a matter of small consequence. It will not amount to one dollar a volume.

Mr. CAMPBELL. Mr. President: Will the gentleman allow me to ask him a question?

Mr. HARRY WHITE. Certainly.

Mr. CAMPBELL. Is not the list of taxables already furnished in the Convention Manual that we have paid for.

Mr. HARRY WHITE. Mr. President: That may be so; but there are other items of information comprised in this Hand-Book. The present legislative districts of the State, as fixed by the last apportionment, the present Congressional districts, the present judicial districts, the numbers of the judges, the popular vote for several years past in the different counties, and much more, is contained in this compact volume; and all this information is valuable.

I am in favor of economy always. For one, I yield to no man in my record on this subject; but I conceive there is a propriety in securing proper information for the use of this Convention.

Mr. DARLINGTON. Mr. President: I am always opposed to this buying busi-

ness, but I would not object in this small way if the gentleman who offered the resolution would strike out "Smull's Hand-Book" and insert "Ginx's Baby," we would then have a more valuable book.

On the question of agreeing to the resolution, the yeas and nays were required by Mr. Cochran and Mr. Fell, and were as follow, viz :

Y E A S.

Messrs. Achenbach, Addicks, Ainey, Alricks, Andrews, Baer, Bailey, (Huntingdon,) Bardsley, Black, J. S., Brodhead, Buckalew, Carter, Clark, Curry, De France, Dunning, Edwards, Ellis, Ewing, Fell, Fulton, Gibson, Green, Guthrie, Hanna, Hemphill, Heverin, Howard, Knight, Lamberton, Landis, Lawrence, Lilly, Long, MacConnell, M'Allister, M'Camant, M'Clean, M'Murray, Mann, Mantor, Metzger, Minor, Niles, Palmer, H. W., Patton, Porter, Pughe, Purman, Purviance, John N., Purviance, Samuel A., Reynolds, S. H., Ross, Runk, Smith, H. G., Smith, W. H., Stanton, Stewart, Temple, Van Reed, Wherry, White, David N., White, Harry, White, J. W. F. and Wright—63.

N A Y S.

Messrs. Bailly, (Perry,) Campbell, Cochran, Corbett, Craig, Curtin, Cuyler, Darlington, Dodd, Funck, Hay, Hazzard, Hopkins, Kaine, Patterson, D. W., Patterson, T. H. B., Reed, Andrew, Rooke, Smith, Henry W., Struthers, Turrell, Walker, Wetherill, John Price and Meredith, *President*—24.

So the resolution was agreed to.

ABSENT OR NOT VOTING.—Messrs. Armstrong, Baker, Bannan, Barclay, Bartholomew, Beebe, Biddle, Black, Charles A., Bowman, Boyd, Broomall, Brown, Carey, Cassidy, Church, Collins, Corson, Cronmiller, Dallas, Davis, Elliott, Finney, Gilpin, Gowen, Hall, Harvey, Horton, Hunsicker, Lear, Littleton, M'Culloch, MacVeagh, Mott, Newlin, Palmer, G. W., Parsons, Read, John R., Reynolds, James L., Russell, Sharpe, Simpson, Wetherill, J. M., Woodward and Worrell—44.

LEAVE OF ABSENCE.

Mr. NILES. Mr. President : I ask leave of absence for a few days for Mr. Beebe, of Venango.

Leave was granted.

Mr. DARLINGTON asked and obtained leave of absence for to-day for Mr. Dallas, of Philadelphia, on account of sickness.

Mr. DUNNING asked and obtained leave of absence for a few days from to-day for Mr. G. W. Palmer, of Luzerne.

Mr. H. W. PALMER asked and obtained leave of absence for a few days from to-day for Mr. Mott, of Luzerne.

SKELETON MAPS OF PENNSYLVANIA.

Mr. ELLIS. Mr. President : I offer the following resolution :

Resolved, That the Clerk be instructed to procure from the State Printer, for the use of the members of the Convention, five hundred skeleton maps of the State, with the population and taxable inhabitants of each county throughout the State.

On the question of proceeding to the second reading, a division was called, which resulted : Forty in the affirmative and fifteen in the negative. So the resolution was read a second time.

Mr. KNIGHT. Mr. President : I move to amend, by striking out "five hundred," and inserting "one hundred and forty."

Mr. ELLIS. Mr. President : I would simply remark that the expense of these skeleton maps is very trifling, not more than from ten to fifteen cents each. They give outlines of the counties, and in our work on the Legislature, in reference to the grouping of the counties, they will be of great advantage to us. They will also be of advantage upon the question of grouping the judicial districts. The expense is so extremely trifling, and the convenience so great, that the resolution ought to be passed.

Mr. EDWARDS. Mr. President : I move to amend the amendment, by making the number two hundred, instead of one hundred and forty.

The PRESIDENT. The Chair would suggest to the gentleman from Schuylkill (Mr. Ellis) that he strike out the number in the resolution, and let the blank be filled.

Mr. ELLIS. I will accept the suggestion of the Chair.

The PRESIDENT. The numbers of five hundred, one hundred and forty, and two hundred, have been named. Does any gentleman suggest another number?

Mr. LAMBERTON. Three hundred.

The PRESIDENT. The question will first be taken upon the largest number.

The question being taken, shall the blank be filled with five hundred, it was agreed to.

The question being then taken upon the adoption of the resolution, it was agreed to.

PAY OF CLERKS AND OFFICERS.

Mr. HAY, from the Committee on Accounts and Expenditures, in obedience to a resolution of the Convention, adopted on the 25th of February, presented from said committee a resolution directing warrants to be drawn in favor of the clerks and officers of the Convention, for the payment of thirty per cent. of their salary, which was twice read and agreed to.

The PRESIDENT. The next business before the Convention is the second reading of the report of the Committee on Suffrage, reported from the committee of the whole yesterday. The Clerk will read the first section.

The CLERK read :

SECTION 1. Every person possessing the following qualifications shall be an elector, and be entitled to vote at all elections, viz:

1. A male person twenty-one years of age.
2. He shall have been a citizen of the United States at least one month.
3. He shall have resided in the State one year, or if he had previously been a qualified elector of the State, removed therefrom and returned, six months immediately preceding the election.
4. He shall have resided in the election district where he offers to vote two months immediately preceding the election.
5. If twenty-two years of age, or upwards, he shall have paid, within two years, a State or county tax, which had been assessed at least two months, and paid at least one month, before the election.

Mr. KAINE. Mr. President: I move that the further consideration of that article be postponed.

The motion was agreed to.

IN COMMITTEE OF THE WHOLE.

The Convention then resolved itself into committee of the whole, Mr. Hopkins in the chair, for the purpose of further considering the article reported by the Committee on the Legislature.

The CHAIRMAN. The pending question is upon the amendment offered by the gentleman from Philadelphia (Mr. Worrell) to the amendment offered by the gentleman from Chester, (Mr. Darlington,) to strike out "no city shall be entitled to more than six Senators."

The Chair desires to make a suggestion to the committee. Under a rule recently adopted by the Convention, members are limited to ten minutes, unless, upon leave granted, they may speak longer. If that

leave be granted, then there is no limit, and the delegate may speak for two hours if he thinks proper. The Chair would therefore suggest to the members—and they may adopt it or not as they choose—that in moving that the time be extended for the delegate, that the mover designate the time, say five, ten or twenty minutes, as he may deem proper.

Mr. STANTON. Mr. Chairman: The amendment offered to the twentieth section yesterday, by the gentleman from Chester, (Mr. Darlington,) was, as justly observed by my colleague, (Mr. Biddle,) a wrong aimed directly at Philadelphia. Philadelphia, with a population of nearly seven hundred thousand, represented by a taxation, an amount of property, and individual assessments, second to no other city in the Union, has but four Senators. As all such representations of the people are based upon population, Philadelphia is justly entitled to the highest number such population gives. Apart from the effect that this amendment would have upon our political status, would it not tend to affect our great commercial and mechanical interests? A proper and just representation, based upon population, is all that our city or county should ask, and it is that which our State Constitution grants, and the time has now arrived for us to secure all our political, commercial and mechanical rights by just and proper representation.

I agreed with my colleague (Mr. Jno. Price Wetherill) when he said that the proposal of the gentleman was the most unjust he had ever heard. It was shown that Chester would have two Senators and eleven Representatives, while Philadelphia would be restricted to four, and Allegheny county, composed of two hundred thousand or more, would have six Senators. Now if the Convention should agree to limit the number of Senators to four or six, for cities and counties, it would establish a precedent which would lead to the ultimate injury of all our large cities, and to ours more particularly, as we have at stake a representation more than any other city in the State of Pennsylvania. On mere politics I, for one, oppose all attempts to degrade our city by making it, even in a political point of view, seem a—village.

At the outset of this Convention, Mr. Chairman, it was proposed to do away with special legislation. Gentlemen that represented the western districts, especially Pittsburg, begged and pleaded

with us not to separate Pittsburg from Pennsylvania or Philadelphia, but to stand shoulder to shoulder, although some of their representatives have accused Philadelphians of being ready to sell out for a certain political consideration, which I, for one, deny. I have never heard that any of our representatives were even suspected of having tendencies in that direction.

This position is well taken if it is proposed to separate the city from the State. We have no idea of seceding. We have proved it to all the country that we are not in favor of secession; we want to be placed on the same footing as any other city in the State, and I trust the amendment offered by the gentleman from Chester (Mr. Darlington) will not prevail. All that we want is equality and our rights. It is in your hands to give them to us. We intend to stand by every large city in the State, Pittsburg, Williamsport, Lancaster, Scranton, and others. Now, let us all come in alike, and I am sure there will be no complaint by citizens of Philadelphia or citizens of Pennsylvania.

MR. HEVERIN. Mr. Chairman: I desire to add my endorsement to what has already been said in advocacy of the claims of Philadelphia to a representation based upon proportional population. While no member of the committee pretends to dispute the justice of our demands, under an abstract consideration of the question, as it relates to the fundamental principles of our government, yet surprising arguments have been adduced in favor of restricting, by constitutional provisions, our agency in the legislative department of the State. The distinguished gentleman from Philadelphia (Mr. Woodward) yesterday, under his rural predilections, attempted to vindicate his position by referring to the primitive condition of our State. He certainly is insensible to social and governmental progress, when he seeks to remind us of the primeval relations of our ancestors as a criterion for our conduct. When he refers to the "dutch farmers," who acquired their titles under the patents of Penn, he certainly forgets that nearly two hundred years have passed and gone since Charles II ceded the territory of Pennsylvania.

We are not here to represent the condition and the interests of the German husbandmen of 1681. We are not here to make organic law for the people of two

centuries ago, but for the people of the present, and, probably, of fifty years to come. If we are to retrograde, if we are to go back to the condition of the aborigines, then such arguments possess, probably, some plausibility; but if the products of our labors here are to be consistent with and appropriate to the natural course of events and the progress of civilization, then we want no reference to these antiquated and moss-grown theories of the by-gone. If we are to respect the wants of the agricultural emigrants under Penn, then we should have some regard to the claims of the Swedes and the Finns who settled here in 1627; if we are to preserve the crude institutions of the German agriculturalists of the seventeenth century, let us also perpetuate the tastes, habits and customs imported by the Swedes; if we are to adhere to the errors of the past, then let us continue the government of the Vasas of Sweden. Let us form a Constitution in conformity with the reign of Sigismund and the rule of Adolphus. Let us be faithful to barbarism and consistent in our actions; but, Mr. Chairman, I imagine no member of this Convention, who was born a little later than the eminent gentleman from Philadelphia, (Mr. Woodward,) and who has realized that the world moves, will be influenced by such frequent animadversions to the examples of a condemned antiquity. The gentleman says further that the city is simply a consumer; that she produces nothing. I have not yet heard of any theory in republican or democratic government which elevates the agricultural above the manufacturing interests. I know of no principle in our government which invests the humble husbandman with rights and prerogatives paramount to those which attach to the manufacturer; and I would like the learned gentleman to inform me what would become of the producers if there were no consumers, and whether this dependency is not mutual. Such arguments are unworthy of the ability and experience of the gentleman who utters them. But even admitting that the city is dependent upon the country, then, Mr. Chairman, I find in this the strongest argument in favor of municipal representation. The dependent is always loyal to his benefactor, the beneficiary is always faithful to the source of favor and sustenance, and if the city is entirely dependent upon the country, as asserted by the gentleman from Philadelphia, (Mr. Woodward,) then its repre-

sentatives have always an incentive and inducement to be true to the rural sections, which claim Providence as their architect, and they will never imperil the interests of the country by indulging in selfish and injudicious legislation. The dependency will conduce to identical ambitions, and will tend to promote their common welfare. Common interests induce sympathy of purpose and concert of action; therefore we see that the reasons urged to justify this unjust affliction upon Philadelphia are the best advocates in favor of unrestricted, urban representation.

Again, the gentleman argues upon the false and exploded theory that a legislator is bound by the will of the people of the particular locality which he represents, that he is exclusively the representative of a particular section—a mere mechanical exponent of the will of those whose votes confer the office. Why, Burke said long ago—and it has been since recognized as a cardinal truth—that “government is not a matter of will, but a matter of judgment and reason.” The Legislature is not an “assembly of ambassadors from different and hostile interests, which interests each must maintain, as an agent and an advocate, against other agents and advocates, but a deliberative body, with one interest, that of the whole—where not local purposes, not local interests ought to guide—but the general good resulting from the general reason of the whole.” And much more will this principal prevail if there exists this dependency which the gentleman referred to, for then, in such case, are all legislators particularly bound to respect the will of the entire State, by ties higher than those which bind them to their constituents, and they will support measures for the benefit of the whole State, even at the risk of prejudicing the immediate local interests of those who send them. Now so much for the arguments of the gentleman who came open yesterday like a suddenly aroused Rip Van Winkle, oblivious to the events of a half century.

But we are told that cities are ulcers and gangrene upon the body politic, therefore they must be deprived of this right of equal representation; that, because a man accidentally happens to be an inhabitant of a city, he should, therefore, have an unequal voice in the Legislature of the State.

I have been a silent listener to attacks upon the city of Philadelphia, and, whilst

I admit the truth of much that has been said, I must say that some of the information that I have received here from country members has induced me to consult the latest geographical authorities, in order to insure a correct knowledge of my own residency. And when I heard one gentleman proclaim, with sweeping emphasis, that the probable fate and deserved destiny of all those who enjoy the emoluments of office in the city of Philadelphia, another gentleman (Mr. Woodward) assert that we were all drones, I was almost inclined to ask a letter of introduction to my own constituents.

If the interests of the city are not identical with those of the country—if we are to declare war between the city and country—then the arguments which have been adduced on the other side might, with some degree of propriety, have weight here. But, sir, I am not only opposed to limiting our Senatorial representation here, by constitutional provisions, but I am in favor of increasing the membership of the whole General Assembly. I believe that, as in union there is strength, so in the multitude integrity and honesty always have an abiding place. The circumscribed pool is easily roiled, but it is a potent agency that disturbs the crystal purity of the deeper and broader waters. He who was surrounded by the good influences of eleven others could command thirty pieces of silver, while the solitary dealer in birth-rights brought but a mess of pottage to his coffers.

But, say the opponents of this measure, it offends the traditional significance of our institutions. Well, practice has established more general errors than general truths. Make age the badge of institutional virtues, and despotism is, by many thousand degrees, on the scale of antiquity, better than representative government. The laws of Draco are older than those of Solon, and idolatry antedates christianity.

But, if we are to regard the lessons of history, let us consider now what it teaches. The Amphictyonic Council was an improvement upon the Triumvirate. The former exerted a beneficial and civilizing influence, and knit together the twelve distracted tribes of Greece, in a bond of common interest and piety; while the latter, with its trio of rulers, bequeathed no cherished institutions or beneficent influences. The paucity of its members presented opportunities for successful corrupting approaches; and war, lawlessness

and ruin befel the government that enjoyed wealth and power when its management was confided to the *patres et conscripti* that formed the "Council of the Elders."

Again, the Roman Senate, with its three hundred members, exhibited its virtues in a protracted and meritorious existence; while the Decemviri lived but two short years. The Senate, with its numerical greatness, evinced a virtue and integrity which made it the superior of the ten law-makers who went out with the impious Claudius.

And now, Mr. Chairman, if we are to effect and perpetuate the grand objects of free government, and of our own official existence—honorable motives in the exercise of the elective franchise, honor and integrity in those who occupy the high seats of authority, and virtue and purity in the administration of all the departments of government—we must let sovereignty find expression through the many.

[Here the hammer fell.]

Mr. ALRICKS. Mr. Chairman: I have but a few remarks to make on this subject. A good deal may be said upon a subject of this nature, but gentlemen should not permit their zeal to outrun their discretion. We must not forget that the question actually before this committee—which is, how many Senators is it proper a city or county within this Commonwealth should be entitled to? That is the question. Philadelphia is not alone concerned. Every growing county in the Commonwealth, Luzerne, Allegheny, and every other county in the Commonwealth, are concerned. There is no war between the city and the county. We are not acting on a question of first impression. The case comes before us after it has received the judgment of a past generation. I may say that for generations our organic law has stood as it stands now. In 1838 the Convention thought proper to say that no city or county should have more than four Senators. Philadelphia might have had eight if she had not thought proper to extend her municipal territory, so as to embrace the whole county. She supposed that it was to her interest that she should have but four Senators, inasmuch as she consolidated the county, by embracing it within the limits of the city. That gave her but four Senators. Now the question we have to pass upon is, whether she is entitled to any more or not. I must confess I am in favor of the bill as it has been

reported by the committee. I apprehend that when we come to look at the matter, we will find that it is right; and unless we increase the number of Senators in other parts of the State, we should not increase the number in Philadelphia. Why, sir, we have been brought here for the purpose of reforming abuses. The complaint was that there was corruption at the ballot-box. We have been brought here to reform that. The allegation was that our Legislature was not pure. We have been brought here for the purpose, if possible, to take care that the Legislature should not be corrupted. The allegation was that certain officers were receiving immense fees. Those have been the evils. We are told that corporations have an overwhelming influence. These matters brought this Convention together—that they may be reformed. But, Mr. Chairman, what section of the State has ever raised a voice against the number of representatives that a county or city has had in the State Senate? In 1850 the Constitution was amended, and nothing was said about this then. In 1857 the Constitution was again amended, and this very article, in relation to the city of Philadelphia, was passed upon by the people, but there was no objection to its having but four Senators. In 1864, and in 1872, we again passed amendments to our Constitution, and this question never was mooted in all these amendments.

I apprehend, then, that the city of Philadelphia, and all other cities and counties in this Commonwealth, ought to be limited to a certain number of representatives in the Senate. You well know, Mr. Chairman, that our Senate is constructed upon the same principle upon which the United States Senate is constructed. It is constructed for the purpose of being a check upon the other power—upon the popular branch of the government—if choose you to put it so.

It is said that during the war of 1812, the State of Delaware did not pay as much direct taxes into the United States Treasury as a single township in the county of Lancaster; and yet the State of Delaware, during all that time and up to this day, had and has her two United States Senators, equal with New York and Pennsylvania, and that great State at that day, old Virginia.

Well, now, is it not consistent that we should remember that in the construction of our government we intended to limit the number of Senators in any city or

county? The gentleman from Centre, (Mr. M'Allister,) however, has informed the Convention that he is in favor of representation according to population. Why, sir, that is not the principle upon which the Senate of Pennsylvania has been constructed. The great theory of our government would be completely overturned if the Convention adopted the gentleman's crude notions upon this subject. It was never intended that taxation, population, nor territory should alone be taken into consideration in the construction of the Senate of the State; but the apportionment was made so that a limit should be placed upon the number of representatives that were sent from any particular city or any particular county to the Senate of Pennsylvania.

The gentleman from Philadelphia (Mr. Knight) says that in 1838 Philadelphia had a population of only about two hundred and fifty thousand, but the gentlemen of this Convention well know that the members of the Convention of 1838 understood as well as we do that the city of Philadelphia in 1873 would have a population treble what it was in 1838, and when that Convention formed the organic law of the State in that year, they intended it for all future time and not merely for ten, twenty or thirty years. When that Convention incorporated this limitation in the Constitution, they designed that it should remain there, not only for half a century or a century, but they intended, even when the city of Philadelphia had a population of a million and a half of inhabitants, that she should not have more than four Senators in the Senate of Pennsylvania, and therefore the arguments of gentlemen in this Convention against this limitation, do not weigh a feather in the consideration of this question.

The gentleman from Philadelphia, Mr. Chief Justice Read, in his letter, intimates that the city of Philadelphia pays about one-fifth of the entire amount of taxes collected in the State of Pennsylvania. I reply to this assertion of the gentleman, that if Philadelphia does pay one-fifth or one-fourth of the taxes, she gets nearly one-fourth of the money after it reaches the treasury of the State. It is no more than justice that the city of Philadelphia should be compelled to pay a large amount of taxes, because the debt of the State was almost entirely incurred for the benefit of this city, and in making her what she is—the metropolis of Pennsylvania. Look at the great arteries of com-

merce, the railroads and the canals, which have cost forty millions (\$40,000,000) of dollars, leading from this great city, and then contemplate what Philadelphia would be without them. Look at the manufacturing establishments which have been built up by these great commercial facilities, and then can any one doubt that Philadelphia should bear a portion of the burden which has been created in placing her where she is—among the first cities of the nation, and made her the metropolis of this Commonwealth?

She, perhaps, ranks among the greatest manufacturing cities of the world, and the rest of the State are proud of her commercial and manufacturing achievements. We are proud that she forms a centre around which the arts, sciences and literature cluster, and are advanced. We are proud of her immense and industrious population, for we acknowledge she is an honor to the State; but we are compelled to say to our sister city that she must remember when the Constitution of the State was formed it was thought wise and prudent that a provision should be inserted in the Constitution, so that no city or county should have more than four Senators in the Senate of Pennsylvania. The Scriptures tells us that Aaron's rod became a serpent, and when the sorcerers threw down their rods Aaron's rod devoured them all. I do not believe that Philadelphia will gobble up the rest of the State, but we believe that there is wisdom in this provision of our Constitution, and therefore I am disposed, for one, to adhere to it. I believe this provision should be retained in the Constitution, for while it will do no injustice to Philadelphia, it will, at the same time, be only just to the other sections of our large State.

Mr. J. S. BLACK. Mr. Chairman: When the proposition was first made to give to the city of Philadelphia a representation in the Senate of the State, less than what is accorded to other portions of the State in proportion to her population, I did not think it would have the support of a single member of this Convention—unless it were the mover of the amendment himself. I was not convinced that it was going to have very much support, until I heard the very plausible speech of my excellent friend and brother, who sits on my right, (Mr. Woodward.) Then I thought it would not go very far until I learned in conversation that divers gentleman—one

who has just spoken, (Mr. Alricks,) and one of whom I expected better things, who has not yet spoken—had received a very strong impression from the speech made by the gentleman from Walnut street (Mr. Woodward;) and it seems to me that we have reached the time in the latter days when teachers would come about who would be able “to deceive the very elect.” Now the theory of this government of ours is: “That it is a government of the people, for the people, and by the people; and that in every department, especially every department that has anything to do with the great functions of making our laws, the whole people are to be represented, and all the interests that belong to every part of the State are to be supported by all those who are engaged in it. It is proposed, in effect, to say that the city of Philadelphia shall have in the future about one-half as many members in the Senate in proportion to her population as the same population, residing anywhere else than in Philadelphia, would have and be entitled to. Now if a proposition of this kind were to be made by one of the other counties of the State to a third county—that is to say, suppose a war of roses should occur between the two counties of Lancaster and York, and one of those counties should deliberately propose to this Convention, or any Convention representing the people, that the other county should only have half of the representation in proportion to her population that she claims for herself, such a proposition would not be listened to for moment by any just or fair-minded man. The gentleman from Columbia (Mr. Buckalew) referred yesterday to the iniquitous apportionment, by law, which gave to the county of Luzerne only four Representatives in the lower House, while she was entitled to five, according to the ratio of representation, and he said what everybody admits to be true, that this thing had stamped upon its face, all over, the marks of wrong and injustice.

If the city of Philadelphia had the power to determine in what proportion the representation should be in the Senate, and she were to propose to us in the country that she would give us one-half of the representation which she claims for herself in proportion to the population, what would we say about it? Why we would thunder it into the ears of the world as the grossest and most outrageous wrong that could be perpetrated. Now why should we not do unto Philadelphia

what we would Philadelphia should do unto us if the cases were reversed; and here comes the curious part of my friend's argument. He gives certain facts which he calls reason for this. One of them is that the city of Philadelphia is vicious; they are wicked people that live here, and it may be, for aught I know, that it is filled with publicans and sinners. Very certain they are no better than they ought to be, and when the gentleman compliments the tillers of the soil, of whom I am one, and tells us that they are much better and more righteous than those who inhabit the city, I am willing to own the soft impeachment. Still I think it partakes a little too much of the spirit of the Pharisees, for those from the country to say to the inhabitant of the city: “Stand aside, I am holier than thou.”

I would punish every body who commits crime against society, but I must object to a punishment of this kind. I do not think you can ever safely or fairly administer purity of justice by way of making a bad government for the people that are guilty of it. This provision injects into the Constitution a bill of pains and penalties upon the city of Philadelphia for its peculiar wickedness that some people suppose exists in this city. Now we have a provision in the Constitution of the State that no bill of attainder shall be passed, and I hope we shall keep it there. The amendment which is proposed I consider altogether wrong, and besides, if you disfranchise the city of Philadelphia to such an extent you will not only let the punishment fall upon the heads of those whom you believe to be wicked people, but upon those who are known to be as good as we are. It does not only deprive a certain portion of the people of the right to vote for Senators, but it deprives every man in the city of half of his vote. You take away from him half the weight and power that his vote is entitled to after he had given it.

There is no mode of dealing with wicked people, except to take each one and punish him for his personal guilt, after he has been legally convicted, up to that time. I think, as a public body, my friend, with all his indignation at everything that is not good, which is perfectly natural to him and very proper, he ought to be willing to consider the unconvicted as standing upon a perfect level, in the eye of the law, with himself, and that is as high a level as anybody can get to; but they are entitled to it.

Now, then, there is another objection to allowing Philadelphia what I consider a fair chance, which is that they are a set of idlers and drones, and do not work; there is nobody in this whole city that is engaged in productive industry. I answer that by simply saying that the fact is not so. I do believe, on my conscience, from all the observation I have been able to make, and from the results of all the inquiry that I have instituted into this subject, that this is one of the most industrious communities on the face of the earth. When the gentleman said that they do not work, why somebody has been victimizing him. Somebody has taken the advantage of his youth and inexperience and imposed upon him most grossly. [Great laughter.]

MR. WOODWARD. MR. CHAIRMAN: I am very sorry to interrupt the fervor of the gentleman's imagination, but I observe he is drawing upon his imagination for his facts; but when he alleges, in the face of this body, that I alleged that the people of Philadelphia do not work, he either has no ears or his imagination has got the better of his judgment. I alleged no such thing, sir. What I alleged was that the original source of wealth was in the agricultural productions of the country, and that there was seven hundred thousand people of Philadelphia who could not produce a loaf of bread to save their souls. That is what I said. I did not say they did not manufacture all sorts of useful things.

THE CHAIRMAN. The time of the gentleman from York has expired.

MR. CHAS. A. BLACK. MR. CHAIRMAN: I move his time be extended twenty minutes.

The motion was unanimously agreed to, and Mr. Black resumed.

MR. J. S. BLACK. MR. CHAIRMAN: I have nothing further to say since my friend takes it back.

MR. WOODWARD. I do not take back anything.

MR. J. S. BLACK. The people of Philadelphia are not idle people. They are industrious people. Will the gentleman tell me or anybody else that a man who is engaged in manufacture, in trade, or in commerce is not engaged in as meritorious a business as the man who makes a loaf of bread? Every man that earns his bread is entitled to it, one just as well as another. So I think the gentleman has been imposed upon; perhaps not by anybody that took advantage of him, but his

own imagination, as he would call it, has imposed upon him when he supposes that people who work at one business were less entitled to protection, supposing their labor to be honest, and proper and lawful, than any other; so that at last the error is just as bad as I supposed it to be. However there is just one reason that I have heard suggested from him. He seems to think that between the city of Philadelphia and the people in the country there is some kind, or is to be some kind, of conflict of interest. Now that may be true for anything I know. They may have interests that, at some time or another, will come in conflict with our interests in the country. But for that very reason, when the conflict comes, they ought to have fair play, and we ought not to deprive them of one atom of the natural power they have to protect their interests. Whether the fight be between us and them, when it does come, let it be decided according to the old rules of wager in battle, where we will go out into the open lists, and make a fair division of sun and wind and fight on level green.

I might illustrate, perhaps, now, what I think would be a fair principle, by mentioning an occurrence that is said to have taken place at one time, a great while ago, on the coast of New Jersey. The navigation there was somewhat dangerous, and a good many wrecks were cast ashore, and which the people were in the habit of plundering. A clergyman preached against that particular sin from the text, "Thou shalt not steal," and he was in the very fervor of the most eloquent part of his sermon when somebody cried out, "there is a wreck on the coast." Every individual in the congregation rose up and rushed toward the door. The clergyman begged them to stop only for a minute while he would say but four words to them. He succeeded in getting them to stop, and in the meantime he was getting to the door and had his coat buttoned, and when they waited in expectation of hearing these four words, these were the words he said: "Let's all start fair." [Laughter.]

Now I think that would not be a bad rule to apply to this case. If we are going to have any future conflict, or if there is to be a race for our rights and our privileges, or any other advantages, let us start fair. For my part, I feel much more anxious to give to the city of Philadelphia fair play, than, perhaps, I would if I was exclusively a representative from the coun-

try. His Honor (Mr. Woodward) says that he is a delegate at large, though he lives in the country. That is exactly my case. I am a delegate at large, though I live in the country; and perhaps a larger number of the votes that he and I both got were received from the city of Philadelphia than from any other one portion of the State. I think, therefore, that we are both bound to do what we can to save Philadelphia from what I would consider most unjust and unequal distribution of the power of this government.

MR. MEREDITH. Mr. Chairman: I was a good deal struck yesterday, surprised I may say, to hear my friend from Chester (Mr. Darlington) state that there was a clause in the Constitution of 1790 similar in its effect to this which is now pending before the committee. I wish to vindicate that Constitution of 1790 from such an imputation. That Constitution, sir, is one to which, substantially, we shall some day have to go back. Our people were forced in that year, as we know by tradition, to tear themselves out of the anarchy which had succeeded the Constitution of 1776, in which everything was elective, as it is now. That Constitution was formed upon the sound political principles of republican representative government the first of which, and that which lies at the foundation of all of them, is, that the political power is to begin in communities, and then from that to grow into the general government of the State. It is an axiom in our political learning that where the local jurisdictions have been preserved most carefully, and most effectively, there have the principles of republican government thriven.

Now, sir, the Senatorial representation provided by that Constitution of 1790 was, first, that the Senators should consist of the city of Philadelphia, and the different counties in proportion to their respective taxable inhabitants. That was the basis. Then they provided that the Legislature, as soon as there might be a county that was not entitled to one Senator, or another county of different size, that the Legislature might form Senatorial districts from adjoining counties, provided that in forming these districts they should not form one with more than four Senators. Then they went on, inasmuch as it might happen that the Legislature would divide these communities, and thus destroy the community representation, and prohibited them from dividing the city of Philadelphia, or any other county, in making Sena-

torial districts. The result was, that if there had been at that time a city or any county in the State whose taxable population entitled them to more than four Senators they would have been entitled. This was the universal understanding. This rests upon the principle of representation in proportion to the number of taxable inhabitants, which is, or ought to be, familiar to all of us, although I am afraid some of us are, perhaps, losing sight of it a little. This was the universal understanding of the meaning of that clause in the Constitution of 1790, and therefore it was that in 1838, for causes or reasons which it is not necessary to go back to, and which I never could half understand, in regard to a great many of the members of that Convention, except that they were carried away with the rush of a particular party as it existed then, founded on one idea, and rushing with that in their teeth anywhere where their leaders drew them, put this iron clog on Philadelphia. It is not necessary to go back to that, sir, but it was necessary, in order to reach the present limitation, that there should be a distinct and positive proposition to that Convention, and no man, then or since, has ever signified that the Constitution of 1790 was, in any manner, responsible for that clause.

Perhaps I may make that a little clearer. The principle on which the revolution began was, that there should be no taxation without representation. Carrying out this principle the Constitution of 1790 apportioned the representatives according to the number of taxable inhabitants. This provision is to be found in article one, section four. The sixth section of the same article provides that the number of Senators shall be apportioned among districts "formed as hereinafter described, according to the number of taxable inhabitants in each." The seventh section provides that 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." The same section provides that neither this city or any county shall be divided in forming a district. If, therefore, any city or any county should have more than, or as many taxable inhabitants as would entitle it to four Senators, the Legislature could not interfere with it, either by adding to it or by dividing it. The consequence is that such city or county would form a separate district and be en-

titled to the number of its taxable inhabitants, under sections four, five and six. This was the construction which was always taken for granted under the Constitution of 1790, though the case for acting on it had never arisen. But the debates in the Convention of 1837-8 will show, it is believed, that it was never doubted. I do not remember to have ever heard it doubted till yesterday.

I have said this much in vindication of that Constitution, because I will say here that, speaking from tradition, from history, and in part from experience, that during the time when that Constitution was in full force, say from 1790 down to about the year 1835, there never was on the face of the globe a better government, on the whole, than that of Pennsylvania. To be sure, we had none of this election of monied officers. The people did not undertake to act as the Executive. We had responsibility. We had a Governor who dared not appoint a bad man to an office, and who never did; and we had a Governor who, if he made a mistake, and had appointed one, would have been compelled at once to remove him by the representations of his fellow-citizens. Now we have forgotten all responsibility. We elect officers. Who is responsible for them? Nobody. Who are they responsible to? Nobody. In that way our elections have mainly become tainted.

This, by the by. I now propose to say a word or two on the proposed amendment, the part of that offered by the gentleman from Chester, (Mr. Darlington,) which is now proposed to be stricken out, and I shall say what I have to say on this subject in a very few words, and without the slightest irritation myself or the least desire to irritate anybody else.

I am sorry the city of Philadelphia has been introduced here by name. I look upon this as a general provision, that no city or county having more taxable inhabitants than would entitle her to four Senators shall have her senatorial representation, but that it shall be taken away from her.

Upon what reason is that attempted to be founded? I have heard only one reason given for it; and I do not consider that a *reason* at all. I have heard, on a former occasion, a great deal of hard language offered to the inhabitants generally of large cities. I am happy to have heard nothing of that kind on the present occasion except what perhaps has been drawn upon us by some of our own members. The

reason given was that large communities—still having the idea of communities—might swell up and obtain more weight and influence than they ought to have in reference to the body of the people of the State. Now, sir, apart from the fact that that seems to rest upon no reason that is consistent with the principles of the Constitution and of the government, which are, that communities shall have exactly that weight in the government of the State which their ratio of taxable population entitles them to. Apart, I say, from that, what is the altered state of the question in regard to the city of Philadelphia? Is that a “community” for the purpose of representation? No, sir; you have destroyed it. In neither House of the General Assembly has the city of Philadelphia a representation at all. Other counties are there in a body. Every man in Lancaster county knows who his representatives are. They go as the representatives of the county. They speak for the body of the community to which they belong. They are a body of men who are responsible to their constituents. What have you done here? We ask to go to the House of Representatives. You do not pretend to deny us that. “No,” you say, “we do not deny it to you, but you shall not go as a community; we cut you up as little election districts,” numbered, I believe, from one to eighteen. Who do the members of these districts represent? The city of Philadelphia? By no means. They represent, in fact, nobody but the little knot of ward politicians to whom they look for protection, and from whom they receive it. We were a community before the wise men of 1854 resorted to the philosophical experiment which, for myself, I wish had been first tried upon some other subject—for instance, of suspecting a number of eggs to be not exactly in a true state, and conceiving that they could run them together into one large shell and produce a monstrous fowl that would astonish the world. [Laughter.] When they tried that experiment, sir, what did they do? Why they forgot that they were taking away our Senatorial representation.

Gentlemen have said that this provision in the Constitution of 1838 has stood unchallenged. Why? Simply because it was never anything but a proposition in the future. It never had a practical application. The city of Philadelphia never had more than two Senators; the county of Philadelphia never had more

than three; and when the consolidation came this number was reduced to four. This consolidation was done by act of the Legislature. You put it upon us, in fact, though, I am sorry to say, probably with the assent of most of our citizens. What did that do? It consolidated two communities, each of which, at that time, was entitled to four Senators, into one community; and that is entitled to but four. We have lost half our right, not by any intentional act upon the part of the Legislature, or anybody else, but simply by the fact that this consequence was overlooked when that act of consolidation was passed.

Now, sir, what have we? We have no community representation. Gentlemen complain that bad bills are passed at Harrisburg. I have no doubt they are. They complain they are passed by bad men. I do not know whether they are or not. But this I do know: That if there be a fault there, let not the gentlemen of the interior of the State attempt to throw it upon us. Why have we not our old representation there, of the city on one hand, and of the county on the other, which could be held responsible, and which were responsible, and which held to the resolution, at that time, that no man was ever taken up, on either ticket, who was not a man of good private character, and known to be such? Who has taken that away from us? Your Legislature. They have destroyed us. They have destroyed our community system; and then, when our members go there, representing nobody but a little district of inhabitants, half of whom do not know who their representatives are, and a little knot of ward politicians, to whom they can go for support in everything they do, they bring in bad bills. Who corrects them? Where is the large body of members of the interior who should stop that, and who should crush such bills, and take their proper part in the legislation of the Commonwealth?

Why, sir, they have established a rule of etiquette at Harrisburg, which is utterly inflexible, that if members desire a bill to pass that refers to their own localities or districts, all the members from the other districts keep "hands off" and vote for it, right or wrong. Blame us! Blame yourselves. Help us to do justice. What can be done? Give us back our representation on such a scale that we shall have some thing like a community representation. Take the old city, which was to

have six members; take the rest of the county, which had eight; give them that representation back again, and you will get a body of men who will soon set things right, if it has not got too far to be set right. You will then have a body to be represented that is of some importance, and who will expect to be represented as such; and you will have a body of Representatives who must either do their duty or fall under the censure of a responsible body like the inhabitants of the old city.

Instead of doing this, however, gentlemen seem inclined to cast all sorts of reflections upon us, and at the same time appear to think there is none to be cast upon themselves. A fault of omission, where it leads to such consequences, is as great as a fault of commission. I have been sorry to hear these discussions. I do not think they lead to any good result. We have been told that our elections are all badly and dishonestly held. Whose fault is that? Is that the fault of the city and county of Philadelphia? Did they vote for this amendment of 1838, out of which that has arisen? No; they did not. Did the people of the Commonwealth ever vote for it? No. There was a nominal majority for it of, I think, under three hundred. There are many counties in the upper part of the State where no tickets against the Constitution were printed; and upon a fair and full vote it would not have been adopted. We never voted for it. Yet what has it done? You have, by its means, compelled the people here to take into their hands Executive power. You compel them to appoint these monied officers. Of course they come into the nominating conventions. While these offices have grown to the importance which they have at present attained, their incumbents being responsible to nobody, and nobody being responsible for them, the amounts they receive as compensation for their duties are "fabulous." Certainly if you were to designate the sum you would use that phrase, and I hope it would be properly used. Why your legislators, your representatives—that class of public servitors, for they are not "officers" at all, though I find we have got to calling them such—are lost sight of in this contest for offices of one hundred, or more, thousand dollars a year, the holders of which can afford to spend almost unlimited sums, if they choose to do it. I do not know that they do; I hope they do not—in manipulating nominating conven-

tions, and securing their own re-election, or the election of their immediate friends and dependents.

You put them upon us; and then you follow that up by taking away our community rights, by denying us the right of having a set of representatives representing the whole community, by splitting us up into these little districts so easily manipulated. Then, some gentlemen seem to put all the blame upon us.

I will say this, that I believe the true basis is that which the Constitution of 1790 adopted. It has always been so regarded. It is an instinct of our race, and wherever that has been allowed to be followed it has led to good results; wherever it has been abandoned the consequences have been evil.

I believe the inhabitants of a large city, say of this city, are as much entitled, from their intelligence, from their industry, from their honesty and integrity, to be heard at the ballot-box as the inhabitants of any other part of the State, for these corruptions, great as they may seem, have not spread to the body of our people. As one professing to know, perhaps, something about this matter, I beg leave, sir, to say that there is not on the face of the earth, so far as I have been able to find, a working population approaching in purity and integrity of character the working population of Philadelphia; and I say this boldly.

What are we? The dangerous classes, as they are called, are reduced to a minimum, and why? Because our early system of ground-rents, a system which the "wise men" of modern times are breaking up, encouraged every workman to take up his lot of ground with the assurance that he would get the benefit of the profits that the ground would bring; and he knew that if he could build a small house upon it, his family would be provided for. The consequence is, that you have miles and miles of small houses, as comfortable and convenient as the largest, each inhabited by the separate family of a working man. That man, instead of being driven from his home of an evening to the saloon or the gaming table, as he would be likely to be if he lived in the uncomfortable, uninhabitable and miserable tenement house of other cities, goes promptly home when his day's work is done, to spend the evening in comfort with his wife and children.

I have seen these things, sir, all my life, and I cannot refrain, when I hear the

population of Philadelphia spoken of as unproductive, from testifying to what I know and have seen of them. No man has ever seen a mob in Philadelphia. We have seen what are called mobs, but by "mob" I mean a body of men let loose from all the obligations of society, such as the mob known to London and New York, which, whatever may be the pretext for its assemblage, begins immediately to be a thieves' mob, and proceeds, indiscriminately, to rob and plunder houses and persons, and which takes the strongest exercise of power to subdue. We have had some "insurrections," as they call them, here, and have even had a partial "civil war." We have seen the time when the native Americans and the Catholics were at open war in the lower districts of the city of Philadelphia. It continued, substantially, for some weeks, although nominally quelled. The fights continued at night, in the streets, and yet, during the whole of that period, the citizens who were not actively engaged as factionists on one side or the other, walked the streets among the combatants with just as much safety as they did at noon-day at any other time; and no one was heard of as having been robbed, or molested, or even had his pocket picked. Theft was not known. That will serve to show what I mean when I say you can not get up a mob in Philadelphia. It has never been done. I look upon it as a glory to this city that such is its condition, and that the dangerous classes are brought down to such a small proportion that they dare not show themselves. Especially when the people are out, are these parties, such of them as we have amongst us, careful to go to their hiding places; and if they come out, it is when the streets are not frequented by others.

I have one more remark to make. I do not doubt the intelligence of such a people. I have nothing to say against the inhabitants of other parts of the State. I owe them too much, so much, indeed, that even a feeling of gratitude would prevent it. I respect and honor them all. The German farmers, in particular, have been at times the anchorage of the State by their conservatism. If we have a fault in our population, is it that it is not homogeneous. We have the German and the Scotch-Irish, the New Englanders up in the "Seventeen townships" and in that neighborhood. We have the old English population here in Philadelphia, and in Chester, Delaware and the lower portions

of Bucks and Montgomery. They are not strung exactly on the same key; and it has, therefore, sometimes happened that when an excitement is just dying out among one class of the population it would be taken up when too late by another. We have seen the time, for instance, when some excitement which was dying out, say among the Scotch Presbyterians, would be eagerly caught up by the German population just in time to be too late for any good; and so it has sometimes been found among others, the excitement dying out in one place when taken up in another.

In conclusion, sir, let me say that our skilled workmen, our artisans, our mechanics, our thousands of honest laborers, skilled and unskilled, have as much intelligence to vote, and have as much a right to self-government as the population in other parts of the State. They claim no more. They do not set themselves up because they live, forsooth, in daylight, as entitled to govern the thousands who live in the darkness of the mines, under ground, and who are not, perhaps, able to see as clearly as we who are above. They pretend to nothing of that sort. They allow the equality of all who are competent voters, and they desire to have the rights of all secured.

Mr. Chairman, since the only plausible reason that ever was given for this clause has now been doubly removed, first, by the destruction of the principle which was the original foundation on which the clause was based, and, secondly, by the consolidation which has squeezed us here into one-half the number that the provision originally allowed, I trust, and I hope I may be pardoned if I say I expect, that this body will go back to the principles upon which our liberties depend, and declare that the right of representation, whether in the Senate or House, should be by communities, in proportion to the number of their taxable population. Do that, and you restore harmony. What are we laboring under now? We are entitled, under this clause, to four Senators. What Senators? Senators representing the "city and county." Have we got them? No, sir; we have no Senators. We have four Senatorial districts, carved out upon some principle or other. Each elects one Senator. Are other communities on the same footing? No, sir; they are represented as communities. Suppose these Senators in Philadelphia are elected, two of them in districts a majori-

ty of whose voters are of one political party, and two in districts a majority of whose voters are of another political party, what representation has this community? None at all. Their votes balance each other. Do not leave us in that position. Do not, on the other hand, grind us down in our right of representation. Put us upon an equality with other citizens; give us a fair chance; treat us as if we were men and citizens, and, because you happen to have a majority of this Convention coming from the interior of the State, do not use your power to screw a particular portion of the State, and deprive its citizens of their rights. [Applause.]

Mr. BUCKALEW. Mr. Chairman: I ask leave, at this time, to address the committee.

Unanimous consent was given.

Mr. BUCKALEW. Mr. Chairman: I have listened to the remarks of our respected President, with deep satisfaction, upon both the main points to which his remarks were directed. One of the main objects that I have desired to see secured by this Convention is the correction of one of the constitutional amendments of 1857, which was drawn by me, and was adopted by the Legislature by an almost unanimous vote. I mean the amendment under which this city is divided into single Senatorial and Representative districts. I think that amendment was a mistake, and that the results of it upon the character of our Legislature have been most disastrous.

Now, sir, when Mr. Eli K. Price came up to Harrisburg, backed by the voice of Philadelphia, and demanded that the city and county should be consolidated into a single municipality, those of us who represented other sections of the State could not refuse the demand. We passed the bill; we gave to this city enlarged boundaries, including within its limits large sections in its neighborhood which were really agricultural in character. But one certain result of that measure we all saw would be, if the Constitution remained unchanged, that control, absolute and constant control, of the political complexion of the Legislature would be assigned to this city. All the members from Philadelphia would be elected upon a general ticket, so that so many as eighteen votes in the House of Representatives would now be constantly polled by one political party. This political difficulty induced that amendment of

1857, requiring the Legislature, in future apportionments, to divide the city into single Representative as well as Senatorial districts. We resorted to this means of relief, or rather of protection against an impending political evil or mischief, because we did not know what else to do, how else to divide the representation of this city, so that it should not have absolute political control over the action of the State government. Our justification for what we did consists in the fact that we were ignorant how else to accomplish our object. But, sir, from the day that amendment was adopted the character of the representation of this city has gone down; gone down in ability, in character, in reputation; and we have, in all parts of the State, suffered the consequences of it.

We now have an opportunity to amend and correct that error, and the direction in which we are to correct it is exactly the one indicated by the President of this Convention. It is at once, without hesitation, to sweep away the whole system of breaking this city up into minute fragments and allowing the politicians, some of them armed with improper influences, in every little community to represent themselves in the government in defiance of the aggregate or general will of the honest and intelligent citizens of Philadelphia. There is, as matters now stand, no opportunity to the great mass of the people here to amend their representation in the Legislature, and, sir, we must give them that opportunity by so organizing electoral power in this city that they can secure it. Before we are done with this legislative article I hope that we will—and the committee of which I am a member will probably report to the Convention a proposition which will raise the question—provide that Representatives and Senators from this city shall be elected from large divisions not more than two or three for electing Senators, and not more, certainly, than five or six for electing Representatives. If you elected these Representatives now in districts with three members each, that, itself, would be a great measure of relief.

I repeat, then, that I was delighted that the President of this Convention, in his own inimitable and forcible manner, struck this subject, and portrayed to the Convention the great and abounding evils which result from the amendment of 1857 and gave to us that moral support, and I trust that general opinion in this Conven-

tion which will enable us hereafter to amend the Constitution in this particular.

A word upon the other point spoken of by the President of the Convention and I will close. He pointed out what was the main work of the Convention of 1838. It was to strip the Governor of the patronage and power which he had, before that time, held and exercised. Nearly all the offices of the State were cast into the popular elections. In my opinion that movement, which, to a certain extent, may have been justifiable, was carried to excess. We have loaded down our popular elections by accumulating upon them too great a mass of matter. I believe that we went too far, and, as the President has pointed out, the election of persons to these nominal or lucrative Executive offices is one of the main causes why our elections are now unsatisfactory, why they have to some extent become polluted; and I trust, sir, that we will not act in the direction which some gentlemen desire to go, to make the Secretary of the Commonwealth, the Attorney General and the Superintendent of Common Schools, and all other officers that still remain appointable, elected by the people. I do not even see any reason why the Surveyor General should be elected. The election system of the State then, we may suppose, requires too much to be passed upon by the people. They have been loaded down with matters that are not necessary for disposition at popular elections. I will, however, speak of this, if necessary, hereafter. My main purpose in rising was to give my views in regard to the representation of Philadelphia, and I have spoken upon this subject because the remarks of the President of this Convention re-called our attention to the action of the Legislature in 1857, in which I was a participant. When the pending question in relation to the limitation upon the representation of the city of Philadelphia shall have reached a proper stage in another form in the debate for consideration, I shall endeavor to submit some reasons in justification of what I stated yesterday; that I preferred a different arrangement in such a limitation, if the principle of a limitation is to be retained.

MR. D. W. PATTERSON. Mr. Chairman: I have not occupied much of the time of the Convention, and I hope I will be pardoned while I make a few remarks upon this question before the committee. I am decidedly opposed to any measure which shall increase the repre-

sentation of any city or county. I am in favor of the report of the committee if both the Houses of our Legislature are kept as they are now. I do not think that we are any wiser than our fathers, and the history of the Constitution of 1790 and of 1837-8 are doubtless better understood by many gentlemen on this floor than myself. I had the honor to know a great many of the members of the Convention of 1837-8 personally, and still a larger number by character and reputation, and I say that in my humble judgment there never was any Convention ever assembled in the Commonwealth of Pennsylvania that possessed more talent, more virtue, and more political and public experience than that Convention. Notwithstanding that fact, it has been intimated by the honorable President of this Convention that the question now before this committee, when acted upon by that Convention, was decided by a certain party under the influence of political excitement, and through the eloquence of probably one member. Far different from that statement is the fact. The political parties of that Convention were composed of sixty-six whigs and sixty-six democrats, and one so called independent whig, Hon. Walter Forward, from Pittsburg, and claimed to be elected as an independent candidate. There could have been no political partisanship, and no preference as to political views or predilections involved in the decision of this question, but, sir, it was the solemn and deliberate act of that Convention without respect to party.

The Journal of the proceedings attending the disposition of this question will show that the vote of a large majority decided that it was proper, under the circumstances, to limit the city of Philadelphia in her Senatorial apportionment. The arguments that were adduced in favor of that policy are hard to answer, if they have ever been answered. I have never heard them answered in this Convention, and in thus limiting the city of Philadelphia in her Senatorial representation, that Convention acted entirely consistently with the well known logical principle that no cardinal rules exist without exceptions. The exception proves the rule, and I hope this Convention, when the vote shall be cast upon this question, will follow the example of the Convention of 1837-38, and act in accordance with this well established principle, that all rules are proven by the exception, and that the

exception to the rule, in this instance, is the limitation in the Senatorial representation of the city of Philadelphia. If there were any necessity for an increase in the representation of Philadelphia at the time the last Convention was held, there is much more necessity for it now, because, in the mind's eye of that Convention, there was but one great and growing community subjected to all the corruption of city life; whereas, there has now sprung up on our western border a city, larger to-day than Philadelphia was on the day that the Convention of 1838 acted and voted upon this question. I have nothing to say against the city of Philadelphia, or the city of Pittsburg either. I glory in the prosperity and the greatness of the city of Philadelphia. I admire its public spirit in every department of humanity. I take pleasure in beholding its educational improvements, and enterprises of all kinds, and we all admit that it has vindicated itself by the regular march of its progress in all the great improvements that have assisted in making it the great city of the State. The city has, therefore, grown and prospered, notwithstanding the limitation upon its representation established by the Constitution of 1838. This is conceded; and even the gentlemen who take the opposite position upon this question must admit that the limitation to its representation, in this particular, has neither conflicted with the material progress of the city, nor thrown any obstacle in the way of its moral, educational and commercial advancement.

The large cities can always take care of themselves. This is clear and conclusive, when we see the number of champions which the city of Philadelphia has upon this floor without respect to political preferences or opinions. Their citizens are not likely to suffer by any provision we may insert in the Constitution. Now, while we must admit the general conclusion that great cities are great sores upon the body politic, we must all admit that Philadelphia is composed of as good, if not a much better, population than any of the other great cities of the country, and yet it is true, that being a city, there is more convenience and opportunity for combination of action, either by itself as a community or by representatives, and by which her power and influence is greatly increased in the legislative body. This fact is shown by the history of the legislation of this Commonwealth. The city of Philadelphia has always obtained,

not only what her citizens have demanded, but many measures have been originated by legislation in their behalf, and became laws through city influence, that they never should have had. Again, Mr. Chairman, while the Legislature has enough of its own sins to answer for, I regret that the honorable President of this Convention has placed upon it the additional sin of uniting the old county of Philadelphia with the old municipal government in one grand municipality. He did observe, however, that it was with the consent of a large portion of the inhabitants. Yes, sir; they asked it almost unanimously. Their own representatives asked it. Their own Senators, and their own great men of all parties asked it, and this sin should not be saddled upon the back of the Legislature and the country members of the legislative body blamed for it, as has just been strongly insinuated by the honorable President.

I am familiar with the history of the Legislature about that time, and I know there was no opposition to it. It was done at the request of the people, and Philadelphia, through their own representatives. And, sir, if we admit the principle of a representative system—a representative government—the Legislature of that day would have been faithful, and untrue to its character and its power if it had refused to comply with the request of the people of Philadelphia. Now, Mr. Chairman, in discussing this question, I hope we shall not forget that our fathers, who were wiser than we, thought it proper to incorporate this limitation in the Constitution. Let us not be led off by any feeling or by the allegation that this is a right which properly belongs to the city of Philadelphia, and that there must be no distinction or exception in this general rule of Senatorial representation. A general rule is worth nothing unless it is proved by exceptions, and I say if we do not restrain this representation, seeing the influences that combine in every great city, by reason of the representative and the people being in close contact, and seeing the controlling influence of city legislation—

[Here the hammer fell.]

Mr. DEFRANCE. Mr. Chairman: I move that the gentleman's time, be extended.

The motion was agreed to.

Mr. D. W. PATTERSON. Mr. Chairman: I thank the committee for the courtesy, but I was simply about adding that

while I agree with many things contained in the remarks of the honorable President of this Convention, and of those from the gentleman from Columbia, (Mr. Buckalew,) this morning, I do not concur in their argument that the Constitutional provision, dividing this city into separate districts, "was a mistake," "was a great mistake," was their language. Because the provision has proven not to operate well in the city proper, and since the legislative character of representatives has fallen in the scale of intelligence, and public integrity, to some degree, in the city representation, it certainly affords no proof that it is not a good rule. I need only point to Massachusetts with her very large representation in the lower House, to controvert this assumption, and to show the healthy working of the single district system. In that State where each town, equivalent to a township in the State of Pennsylvania, sends two and three representatives to the lower House of the Legislature, every voter in those small districts are, necessarily, conversant with the character, intelligence and honesty of their legislators. Their public fidelity and their private character are well known to every voter, and the consequence is they have, under the single district system, always secured honest representatives. There the man who seeks to be elevated to office by the people must be a fair and honest man, or he will not represent them in the public councils of the State; and we contend, and it is the opinion of many of the best minds among public men, that this is all the legitimate fruit of a large representation, and the single representative district system.

Yet, in the face of these examples, my friend from Columbia county says the district system "is a great mistake." I hope it will be adopted by this Convention and incorporated in our fundamental law, so that not only cities but every county that has more than one member will be required to be districted off, that voters may know who they are voting for by personal contact and individual knowledge. This is the safety of this State. This is the safety of all representative governments, in my humble judgment. It is because the good people of Philadelphia, the men of intelligence, of wealth and of morality have folded their arms and not gone to the primary elections, have taken no interest in either their city or State government, that all

these evils of which they speak has directly resulted. Sir, a few men may have committed wrongs in this city, for when you sift them out they are only a handful, compared to the intelligence, and honesty and purity represented in the general mass of the people of Philadelphia, only because these good people fold their arms and let these men rule by their absence. Let them go to the primary elections and select their officers and candidates; let them properly appreciate their citizenship; let them all faithfully perform their governmental functions, the only way to keep the ballot-box pure, and not come in here and make the complaint that they cannot get along; that there is so much corruption, so much fraud in the ballot-box and all that kind of thing. I say they ought to be ashamed of themselves. Why, sir, these complaints have been made on this floor by gentlemen who are among the leaders of the parties in Philadelphia who do these things.

I hope that we will consider well this subject; that we will not be like the thoughtless and inconsiderate young man in his teens, about budding into manhood, who thinks he knows everything; that he is wiser than his father, and that, although without experience, he knows everything about everything better than anybody else. Let us venerate the action of the Convention of 1838 and its predecessors, and be content to follow their wise example, and make this exception in the Senatorial representation of the city of Philadelphia, and thus prove the general rule, while we will, at the same time, secure a fair and equal voice in the legislation of the Commonwealth to the rural districts of the State.

Mr. JOHN M. BAILEY. Mr. Chairman: I shall ask the indulgence of this committee for a very few moments on this question. At the risk of disagreeing with the very distinguished gentleman from York, (Mr. J. S. Black,) and with the eminent President of this Convention, (Mr. Meredith,) I believe that the true foundation of apportionment does not rest wholly upon *number*, but rests fully as much, or more, upon *locality*. The interests of localities are as varied as the interests of citizens, and oftener come into conflict. There is always more danger of legislation to the prejudice of localities than to the prejudice of individuals. The interests of individuals are identical with their particular section, and whatever legislation is dangerous or prejudicial to a

certain locality, is prejudicial or dangerous to all the citizens of that locality, whether they be in number ten thousand or one hundred thousand. It is, therefore, in my view, a principle of location, rather than of numbers. The interests of *location* must be taken care of, at least, in one branch of the Legislature if we allow the people to be represented in the other according to numbers.

The first care, therefore, in my view, in making apportionments, is locality, for the greatest danger in legislation is to discriminate between localities, rather than between individuals. When the Constitution of 1838 was formed, the city and county of Philadelphia were entitled to four Senators, and in anticipation of this tremendous growth and enlargement of the city—in anticipation of the immense population that has centered here—the framers of that Constitution thought proper—and, I think, wisely—to limit their representation in the State Senate to what it was at that time. Now, sir, has the experience of the last thirty-four or thirty-five years demonstrated that that limitation was right or wrong? I take it that the observation of all of us has been, that these thirty-five years have demonstrated that it was a very wise provision, and I would ask my friends from Philadelphia on this floor where and when the interests of their magnificent and beautiful city have been prejudiced by this constitutional limitation? What legislation has ever this city asked that she did not receive? What has she ever opposed that has not been defeated? If the gentlemen from Philadelphia have any cause at all to complain, it is of their present strength in the halls of the Legislature, and not of their weakness. They should ask this Convention to save them from the power they now wield in the legislative halls at Harrisburg, rather than ask greater.

Why, sir, this obnoxious, iniquitous and fearful election law they have in the city of Philadelphia is due to the tremendous power that she now has in the Legislature. This election law that not only over-rides the will of the people of every other section of this Commonwealth, but is a blur and a blistering blot upon the statutes of this Commonwealth, only remains there a day because of the power of this city in the State Legislature. Let the delegation from this city to-day unite for the repeal of that statute, and does any man believe it would stand an hour in the

face of that delegation? If it was not for the power of this city at Harrisburg, this law would be repealed before the sun sets. I therefore repeat that these gentlemen from Philadelphia ought rather to ask to be saved from the numbers they have there now, than to ask us to increase them. Philadelphia has suffered nothing. Philadelphia has felt no wrong or injury from this constitutional limitation. What is the fact? When the act of Assembly was passed and submitted to the people whether or not this Convention should be called—whether or not the Constitution should be changed in any respect—whether or not it should be submitted to the investigation of the Convention—what was the vote in this city? Out of the one hundred and twenty thousand voters which this city contains, only a little over sixteen thousand voted for calling this Convention. They did not feel that they were wronged by that constitutional limitation, or they would have accepted this opportunity tendered to them to right that wrong. They were resting in a happy indifference to this terrible wrong (?) as gentleman would have us believe it is.

Now, sir, my view is that locality should be represented in the Senate, whether that locality is comprised of ten thousand people, or whether it is comprised of one hundred thousand people. That different localities have distinct interests, and that those interests often conflict, I beg to call the attention of the committee to a very noted example. The railroad corporations of this Commonwealth are permitted now by law to charge an exorbitant rate of transportation between intermediate stations, while they are allowed to ship the same class of freight two hundred or three hundred miles farther to get it to this city at a less rate of transportation; a discrimination in favor of the cities, a discrimination against the country. Now I ask you, sir, with that example upon our statute books, with that provision permitting railroad corporations, to so arrange their transportation rates, whether or not there are not varied interests, conflicting interests, between this city and other portions of the State? It is not a question of population entirely. It is a question as much of locality as it is of population, and I therefore shall vote, if the number of Senators is not increased, to preserve the present limitation as to the city of Philadelphia; and if the number of Senators be increased, to increase

their number just in the same proportion.

Mr. HOWARD. Mr. Chairman: I have but little to say upon this subject. But I shall support the report of the Committee on Legislature that recites, in the proviso that has raised so much controversy here: "*Provided*, That no city or county shall elect more than four Senators." In reading this I do not see that Philadelphia is named in it at all; and I read it because one delegate from Philadelphia stated that, under this proviso, Philadelphia would have but four Senators, and Allegheny county might, somehow, get six. It seems to read that "no city or county shall elect more than four Senators. No city or county. It includes both.

I presume, sir, the time will come, if it has not already, when gentlemen will get tired of hearing so much about Philadelphia. I confess that I have, although I concede to every gentleman on this floor the right to use his time just as he may think proper, provided he speaks to the subject matter before the Convention.

I rose, Mr. Chairman, for the purpose of entering my emphatic protest against the idea that the Senate of Pennsylvania is based upon the idea of population. The Senate is the conservative body. The Senate represents communities; and the question is, shall we surrender to one community, although that community may be large in numbers, packed upon a small territory, like the great city of Philadelphia—shall we surrender to her the power to govern a great and mighty Commonwealth like Pennsylvania? They talk about her want of influence, and say she is shorn of her political strength and her political rights; yet to-day she has one-eighth of the entire political power of this Commonwealth in the Senate, and one-sixth in the House of Representatives; and when you look over the broad acres of Pennsylvania, I would like to ask these gentlemen whether they do not think that, when they have one-eighth of the entire political power of this Commonwealth in the Senate, whether they have not been conceded, as a community, their full share of political right? It is true, Mr. Chairman, that we have said that communities shall be represented in the Senate, upon the basis of the number of taxable inhabitants. We have fixed upon that idea as a general one, but this general rule is always subject to exception. When we look upon the Senate of the United States, which has already been

alluded to here, and I will not discuss the subject again, there Pennsylvania stands by the side of Florida; but in the House of Representatives, in the popular branch, the representation of Pennsylvania is governed by her numbers, and has her full voice in proportion to her strength and her population.

There are reasons, great and grave reasons, why we should not agree in the organization of society, that a community—which may be supposed to act as a unit—should be represented in the conservative body by numbers that will surrender to it too great a power.

Gentlemen in Philadelphia seem to think that she is not only the Commonwealth, but that she has made all the balance of the State. They speak of her as though she was the heart, which furnishes the life-blood, and they suppose that the heart that furnishes the red blood that flowed out to the extremities should be recognized. Mr. Chairman, I never understood that cities were the heart of any Commonwealth or the heart of any State. I understand that it is the country, where the life-blood comes from. It is the country that flows *into* these cities that makes them what they are. Cities never made the country. It is the country that makes the cities. It is the country that supports them, and it is upon the country that all these interests rest.

When we look at Philadelphia the question is suggested, perhaps to some persons from my county: "What have we contributed to build this great city, a city that has used its power to discriminate against our people, trample upon and strike down our interests?" They have used it for that purpose at Harrisburg. For the great railroads of this Commonwealth we have contributed millions in Allegheny county, for which we have not a dollar to show, and every single pound of freight that comes to us comes with a discrimination upon it, and this city, being the end of the string, is the only city in the whole line that receives her freight and her passengers at the lowest rates.

I say there are reasons, good substantial reasons, why, in the organization of the Senate, we should say that one community should not have too great a voice.

In the House of Representatives the people are all represented. When we come to organizing the Senate, we organize a different body. Minorities are to be protected. It was intended to be a balance; it was intended to be a check; and

it was intended that the small communities might there have a voice equal to the larger ones. The small community has just as many rights in this Commonwealth as the greatest one, and the real principle of the organization of the Senate is, that it is organized upon the basis of communities. It is communities, and not the people, upon which we base the Senate, and the smallest community, that has a population of but fifty thousand, or a hundred thousand, has rights as great as the city of Philadelphia, and this is the plan upon which the Senate of the United States is organized. I say their rights are as great, and they should be protected; and the Senate was intended as a check upon the popular branch; and it was intended to protect minorities, and protect small communities against the oppressions of greater ones.

I do not wish to say anything by way of comparison between the country and the city; but if we come to a question of morals, I think there would be no great difficulty in striking the balance; but I desire, for one, here to enter my protest against the idea that the Senate is to stand upon population as the basis. Our honored President of this Convention, in the first part of his speech, stated the true principle, namely: That the Senate represented, properly, under our Constitution, "communities." That is the true idea, and we should adhere to it, so far, at least, as not to put it in the power of one great community to control the legislation of the State. [Here the hammer fell.]

MR. DARLINGTON. I move the gentleman be allowed to speak ten minutes more.

The motion was agreed to.

MR. HOWARD. I will not further occupy the time of the committee.

MR. CUYLER. Mr. Chairman: After the eloquent words which have fallen from the lips of the President of this Convention, and from the lips of the gentleman from York, (Mr. Black,) it seems to me scarcely necessary to say anything with reference to the proposition now under discussion. It would almost seem to me to state that proposition is to refute it. The thought that underlies our whole system of government is that of *equality of representation*, and yet this Convention sits here to-day, and sat here yesterday, gravely discussing the question whether nearly one half of the people of Philadelphia should be disfranchised, and wheth-

er that disfranchisement should continue in an increasing ratio for all time to come.

Now I would have thought, to state that proposition was to answer it. I would have listened with amazement to the statement that any gentleman should have been found upon this floor to urge reasons in support of such a doctrine; and I cannot but confess the surprise with which I listened to my learned brother from the city of Philadelphia (Mr. Woodward.) I felt that Philadelphia was stabbed in the house of her own friends. But I could not but feel, sir, that the remarks which were addressed to this Convention, by that gentleman, constituted the best argument which could be urged against the view he contended for; for, if a gentleman of his learning, his experience, his integrity, his standing in this Commonwealth, could urge no wiser reasons in support of the proposition of the committee than those he did urge, that it had little merit indeed, and could, by no possibility, command the approval of this intelligent Convention. But what were those reasons that were urged in support of this proposition?

First, they were that Thaddeus Stevens, in an eloquent speech, had been the father of this doctrine in the Convention of 1837. For the first time in my life, and with an amazement which passes expression, did I hear from the lips of that gentleman words of reverence for the memory of that departed statesman. But, Mr. Chairman, it is not by weight of names, however great, but by its merits, that this proposition is to be tried. Next, that the city of Philadelphia is a city of consumers and not of producers. What had that to do with the question, even if it were true in point of fact? Not a city of producers! a city that adds four hundred millions of dollars every year to the solid wealth of this Commonwealth; a city that employs two hundred millions of capital in manufacturing operations; a city that every year manufactures eighty millions of dollars more than the whole export trade of the city of New York, and thirty millions of dollars more than its entire import trade; a city that converts into ten dollars every one dollar that the country produces; are we to be told that such a city is not a city of producers, but a city of consumers? It matters not, even if it were true; I perceive no possible bearing that it can have upon the question now before the committee.

Now, Mr. Chairman, it is an undeniable fact that the city of Philadelphia, practically, is dwarfed in all the political relations of this Commonwealth. I believe that I am correct when I say that while the city of Philadelphia to-day has a fifth of the population, and a fourth, perhaps, of its wealth, that she has never had a Governor of the Commonwealth since the year 1808, and there has never been a United States Senator from Philadelphia with one solitary exception, I think, that of the late Mr. Geo. M. Dallas, since the year 1800.

But let us look, as we are invited to do, at the State Legislature. My friend from Huntingdon (Mr. John M. Bailey) has spoken to us of the power of the city in the Legislature, but I say to that gentleman that, except in questions which arise that are purely local in their character, and with regard to which the etiquette of the Legislature, alluded to by the President of the Convention in his remarks, is held to be controlling, the city of Philadelphia, is utterly powerless in the councils of the Commonwealth; and instead of his asking us to point to the measure of legislation which has failed to be passed, that the city of Philadelphia has asked for, I ask him to point me to a solitary measure of legislation which the city of Philadelphia, when interested in the general interests of this Commonwealth, has been able to have passed through the Legislature. I do not know where he can find it.

I am not going to say that the city of Philadelphia is not herself to blame for this thing. I have no doubt she is to blame for it. We can see how the representation of this city in the Legislature of the Commonwealth has steadily declined in the years that are past. When I see who have been sent there to represent this city, in each branch of the Legislature, I must feel, as a citizen of Philadelphia, that she is herself to blame for the whole result. I can express no wonder that the city is, practically, unrepresented in the Legislature, and, practically, possesses no real power there. But what is the reason for it? We have but to turn back twenty years, when the city of Philadelphia was represented in the Legislature by her foremost citizens. The best men of our city went there. That day has passed away. *The best men of our city cannot get there.*

It is not that the best men of the city of Philadelphia are not willing to go to the

Legislature, but it is that the best men of the city of Philadelphia cannot command a nomination for the Legislature. They cannot pull the wires, they cannot exert the arts, they cannot expend the money which must be expended to secure nominations for these places. That is the radical difficulty. What has caused it? The President of this Convention, with eloquent words and wise utterances, stated what the cause was. There is no longer any representation of the city of Philadelphia in the Legislature. It is a representation of little districts, small representative districts, that are manœuvered, and handled, and governed entirely by small factions of the smallest and the meanest of petty politicians. There is no representation of the city as an entirety. There is no representation of the wealth, and the power, and the intellect, and the intelligence of the city of Philadelphia to be found in its Legislature, and the reason is: That we have cut this city up into little representative districts, that are the property of the small politicians that control them and nominate and elect whom they will to office. That is the radical difficulty, and until we get rid of that we shall never have any proper representation of the city of Philadelphia in the Legislature. Is it not correct, as has been suggested by the last two gentlemen who have addressed this committee that there is a great corporate power—a great railroad power, which controls and administers the affairs of the city of Philadelphia, and does it to the disadvantage of the country, though I fail to perceive what that, even if it were true, has to do with the great question before us. I desire to speak, so far as I am concerned, with the utmost hesitation and prudence on this subject, but I have no relations here, and no relations elsewhere, that would control the freedom of my thought or the freedom of my action, did I for an instant believe that these gentlemen were correct in that which they have stated.

Why, sir, I listened with surprise to the gentleman from Allegheny, (Mr. Howard,) who gave us to understand that the city of Pittsburg had built the Pennsylvania railroad. I do not want—

Mr. HOWARD. Mr. Chairman: I believe I did not allude to the Pennsylvania railroad, at all. I stated that we had contributed over three millions of dollars to build the railroads of this Commonwealth—our county did—and the city, I believe,

two millions. We lost it all, and Philadelphia got the benefit of it.

Mr. CUYLER. Mr. Chairman: What I desired to state on that subject, and I did not misunderstand the gentleman, was, that it was true, indeed, in one sense, and utterly untrue in another. They contributed in their bonds, and they repudiated their bonds, and it was not until the county commissioners went to prison that they were compelled at last, not even then, to do their duty, but to compromise the obligations they had assumed. If that be building a railroad then the gentleman is entitled to the full force of what he has stated on that subject.

Nor is it true that these discriminations, to which the gentleman from Huntingdon (Mr. Jno. M. Bailey) referred, have existed any further than the natural laws of trade create these discriminations. I did not suppose that any law of trade or business requires that all customers are to be dealt with, from whatever locality they come, on precisely the same footing. I did not suppose that if a man has one store in the city of Philadelphia, and another store in the city of Pittsburg, that the price of any commodity which he has for sale is necessarily the same precisely in each of these two cities. I deny that there is any law of trade, or of morals, or of the State, which he is offending when he charges customers in the cities named prices which accord with the current market prices in these respective cities. I thought that the great laws of trade controlled these matters. I thought that competition, where it existed, always had a tendency to reduce prices, and where it did not exist prices were not so reduced. And I suppose these railroad corporations are governed by these great natural laws of trade and finance, that control other parties. I think, sir, that there is to be found a complete answer to anything expressed by the gentleman from Huntingdon, (Mr. Jno. M. Bailey,) or by the gentleman from Pittsburg (Mr. Howard.) This, however, is a digression from the main question before the committee.

The main, and the only, question existing before the committee, is this: "On what principle is it that one-half of the people of Philadelphia are to be disfranchised?" I listened, in vain, to hear an argument for it. The gentleman from Huntingdon says it is by reason of locality. Is there anything in this little piece of ground that we inhabit, here, that should take away from us political rights

we possess when we cross the boundary of the county and live in an adjacent township? On what principle is it? *Why is it* that the people of the city of Philadelphia are to be deprived of that great cardinal doctrine of republican institutions, that representation is to be equal in order that it may be fair and just?

[Here the hammer fell.]

Mr. CARTER. Mr. Chairman: I move that the gentleman's time be extended five minutes.

The question being upon the motion, it was agreed to.

The CHAIRMAN. The gentleman (Mr. Cuyler) will proceed.

Mr. CUYLER. Mr. Chairman: I am much obliged to the committee for the courtesy, but I have no desire to consume more of their time, except merely to say that I cannot agree to the thought that population is not the basis of representation. I cannot agree, even if locality is to be the basis, that different localities are to be placed upon a different footing. I cannot agree that we should discriminate against a particular locality or place, and not accord a fair and equal representation to each locality. I cannot agree to the propriety or justice of making that discrimination against the city of Philadelphia which the gentleman from Huntingdon (Mr. John M. Bailey) has attempted to show would be right and just.

Mr. MACVEAGH. Mr. Chairman: I would like to call the attention of the gentleman from Philadelphia and of the committee to one consideration that has been present to my mind from the beginning in this matter. I had not very settled convictions upon this proviso, and originally reported it simply because it stands in the present Constitution. I confess that one of the suggestions that fell from the gentleman from Philadelphia, behind me, (Mr. Woodward,) yesterday, had great weight with me, and that was the length of time this discrimination has existed. There is one other consideration, also, that has great weight in my mind. Either you must disfranchise the city to a certain extent or you must disfranchise the country. It is utterly impossible to allow the city of Philadelphia a representation according to population, and at the same time preserve the relative importance of the country representation. There never has been a time when eighteen men, representing a large territory and very diverse interests, could combine and act together as a unit as

eighteen men can do who represent a small section of territory. It is certain in the very nature of things, notwithstanding the opinion of the gentleman from Philadelphia, (Mr. Cuyler,) who last addressed the committee, that eighteen members in the House of Representatives of our State Legislature from this city are capable of three times as much force upon any question as any eighteen members from the country districts, simply because the diversity of interests does not exist among the former. A division does not exist; they work as a body; they move as a unit, and you cannot get a gentleman from Allegheny, a gentleman from Venango and a gentleman from Washington to work together as a unit. Political arrangements are arrangements of expediency; they are arrangements for public utility; and that is the best method of representation which tends to give the citizen of Philadelphia the same measure of weight in the representative body that the citizen of Chester, or of Dauphin, or of Washington possesses. And to-day each citizen of Philadelphia, if representation is restricted to population alone, has very much more share in representation of the State than any other citizen in any other portion of the State. I submit, also, that the gentleman from Huntingdon (Mr. John M. Bailey) presented a consideration of importance, a suggestion of very considerable weight, to this committee. Upon any matter of local consequence, these men are as one man, standing shoulder to shoulder and securing, by their united force, what they desire, and the representatives of the country districts are necessarily diversified in their duties of representation and incapable of acting *en masse*; and therefore, the eighteen representatives here have decidedly more weight, and more power in this Convention, than the same number of gentlemen from the country. So that in deciding this matter, the wisdom of the people has been heretofore persuaded that the best way was to put a limit upon the representation of the city. If you increase your number and do not insert any limit, the city of Philadelphia will absolutely control your State. No legislation, I venture to say, will be possible against her will, and no legislation can be resisted that she desires for the reasons that I have suggested to the committee.

Mr. MINOR. Mr. Chairman: If we at this question simply from the standpoint of Philadelphia, and the large coun-

ties, we would reason as these gentlemen do, and we would say, as they have said to us, that they are anxious to hear some reason why population should *not*, in every case, be made the basis of representation. If, however, sir, these gentlemen can step out of the influence that floats into their minds from their surroundings, they would find that there were great reasons for it; and I can suggest this idea in no better language than that of the poet, who was also a philosopher, when he said:—

"O, wad some power the giftie gie us,
To see oursels as ithers see us;
It wad frae many a blunder free us."

Now, sir, it is true, as a general rule, that the rights of one elector are equal to those of every other elector; and that the rights of any one amount of population are, as a general rule, equal to the rights of any other; and yet, it is also true, and an equally fundamental and necessary principle, that every right held by any citizen, by any elector, by any community, is subject to those modifications that are necessary for the public and general good. On that account, sir, it is that, in your apportionment, if there is a county that falls below the proper ratio for representation, you give it a representative notwithstanding, because it is necessary that it should be protected. You depart from the basis of population, because there is a special necessity for it, and make a special rule to govern it. By looking at the other end of the line, we will also see that, as the population exceeds a certain extent, there is reason why there should be a limit to its representation. I give that reason now. Part of what I intended to state has been given by the gentleman from Dauphin, who has just spoken, (Mr. MacVeagh,) and therefore I will omit most of that part. I now call the attention of every member to this proposition; that, as a rule, we know it to be true, from actual practice, and from everyday experience, that wherever in the world there is concentration—and I use the word in its strongest form—a concentration of wealth, a concentration of population, a concentration of commercial interests, a concentration of manufacturing interests, a concentration of railroad interests, and of other interests that might be enumerated, by virtue of that very concentration, they acquire a power and influence that the same interests precisely, capital and extent, the same population also, do not possess, and

cannot possess, when they are scattered over a large amount of territory.

Now, sir, we may theorize about population as we will, and about individual rights as we will, there is a consciousness in every man's heart, that concentration combination does produce influence. We have been told, from time immemorial, that in union there is strength, and I may add, that in concentration there is power.

It is well known, all over the world, that, for many purposes, Paris is France, Rome is Italy; that New York city is almost New York State; and that the cities of the world largely control the power of the world, by reason of their vast proportions, and concentrated population, and wealth.

These are, I apprehend, the main reasons which have exercised an influence upon the minds of our former law-makers in the discussion of this question of representation. Now, sir, apply it, and take, as an instance, the aggregated capital of the city of Philadelphia, or of any other great city or county, whether in the form of manufactures, or in other enterprises, and you will find that they exercise more power over the commercial interests of the State than the same number of manufacturing establishments or enterprises possessing an equal amount of capital would scattered over a wide extent of territory. This is obvious. If concentrated they can act as a unit, or exert their efforts in the same direction to preserve themselves, or build up the commercial prosperity of one particular locality. This same principle will apply to all the interests of this or any other State. Again, to take another illustration, if all the interests of the western part of the State were concentrated, their power and their influence would be vastly increased. Is it not evident to every thinking mind that if the greatest amount of power is desired to be obtained from a community of six hundred thousand people, that their interests must be concentrated, and not scattered over the country? This principle found an apt illustration during the late war. It was only when General Rosecrans massed his artillery that he was able to defeat the opposing enemy. When his guns were scattered, his army was driven from one point to another. In explaining this principle of political economy, I desire to call the attention of the Philadelphia and other members to the condition of affairs, as they exist in actual

everyday life. We have applied it to material interests, now apply it to men. Is it not true, and has it not been true in the past history of our State, that ten men from any one place holding their seats in our Legislature, or any deliberative body, have possessed more actual power and influence than any ten men representing different localities in the State? I care not whether Philadelphia has four or ten representatives in the Legislature. They are acquainted with each other, and representing, as they do, a community of common interests, they act in a solid body upon all questions connected with the interests of their county, and exercise far more influence than an equal number of men representing different interests or different portions of the State, and who may be entirely unacquainted and uninterested with each other.

Therefore if you place representation upon a basis of population, you give to the large cities and large counties an excessive amount of power and influence, instead of placing them on a level with the other counties of the State. Do the large counties and cities of the State deserve more influence and power than would be a fair proportion to the balance of the State? I think not; then the basis of representation must be different.

I think that this is the true view of this question, and I think the proportion of representation should give equalized results, no matter what ratio may be required to obtain it. I do not desire to enlarge upon this point. I rose simply to explain my objections to the arguments on the other side, on the ground of the disadvantage that would result from an undue Senatorial representation in the large cities and counties. Allow me to add that simply an arbitrary number I do not like, but would prefer an increase of representation, as large communities increase, yet on such an increased ratio as would result in equalized influence, and trust that such a basis will be proposed.

Mr. BAER. Mr. Chairman: I have no desire to inflict a long speech on this Convention; but, coming from the interior, I might say from the back woods, where it is supposed civilization does not reach, I cannot permit my vote to be cast on this question without making it possible for those who have an interest in me to know how I vote, because I consider it to be a question which vitally affects the very basis of our form of government. I shall,

therefore, with the greatest pleasure, vote against any proposition that is introduced in this Convention that shall tend to disfranchise any man in this Commonwealth. The citizens of Philadelphia are in every respect the equals of every citizen of the State of Pennsylvania, no matter from what quarter they come, and the people in the interior of the State are their equals, perhaps not in the extent of intelligence, but, at least, in good intentions. The people of the interior counties do not ask that Philadelphians shall be restricted in their representation because of their great city, and their vast and continual growing importance, for they are proud that they are Pennsylvanians, and they are equally proud that the city of Philadelphia is in the State of Pennsylvania. They are willing to concede that the greatness of Pennsylvania depends, in a large measure, upon the greatness of Philadelphia, and they will not consent for a single moment that its citizens shall be deprived of their representation because of the multiplied people assembled, and engaged within its limits in occupations that tend to the general interest and welfare of the State. The true doctrine is, that all men are equal. I desire to be consistent in all the votes I shall cast in this Convention, and therefore I shall vote to give to every man in Philadelphia the same right as every other man has anywhere else in the State; and I think it is high time that the Convention came to the conclusion that we are not here representing a Commonwealth of rascals and villains, and that all this sectional feeling and debate only tends to create the impression that the representatives of the interior counties have assembled here for the sole purpose of interfering with the future prosperity of the great city of Philadelphia, instead of representing an intelligent mass of beings who are honest in their intentions to promote the interests of all the sections of our State. It is only a miserable petty minority of the city of Philadelphia who are corrupt, and all that its citizens desire of this Convention is that we should give them wise and fundamental laws, with power to carry out their provisions, and they will take care of all these frauds and iniquities themselves.

I contend, therefore, that it is an act of injustice to base the representation of the city of Philadelphia upon the fact that every man she sends to the Legislature is a rascal, and that, in consequence, she is to be limited in her Senatorial rep-

resentation. The proper place to commence this duty of purifying the Legislature of the State is in this Convention, and if our work is performed in a thorough manner, no more rascals will go to the Pennsylvania Legislature, and no matter whether members are sent from the city of Philadelphia, or any other section, they will always have the interest of the entire State at heart. A man who has been elected a member of the Senate has no right to legislate solely for the interests of one particular locality, but as the representative of the interests of the entire State. It is a reflection upon the intelligence and the integrity of the people of the State, to say that they send representatives to our Legislature for the purpose of merely carrying out the wishes of a particular locality. The argument of the gentleman from Allegheny (Mr. Howard) may, perhaps, apply to the Senate of the United States, as its members represent the rights of sovereignties, and as they are not placed in that body by a popular vote, but it cannot apply to the Senate of Pennsylvania, for that body is as much a popular branch as is the House. The people vote directly for their Senators, as they do for members of the House. There can be no distinction, but it has always been held that it is a conservative body, and they should always take a wider and more liberal view of questions which come before them, than is expected of the members of the lower House.

Mr. MANN. Mr. Chairman : During the discussion of this question there has been a great deal said concerning the limitation of the Senatorial representation in the city of Philadelphia, and it is alleged that this restriction commenced in 1838. There is certainly some misapprehension in regard to this point. The honored President of this Convention has certainly not read the provision in the Constitution of 1790 very lately, or else his anxiety to serve the city of Philadelphia has blinded him in regard to the language of that instrument on this subject. For myself I am perfectly content to take the provision of 1790, on this question of the apportionment of Senators, for it provides that "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, and no city shall be divided in the formation of districts.* Now, Mr. Chairman, under the provisions of this section, if the Constitution had never been

changed, and if the city of Philadelphia contained five millions of people to-day, it could have but four Senators; for the provision distinctly says that no district shall elect more than four Senators, and that no city shall be divided in the formation of a district. There can be no mistake about this provision, and it has been the organic law of the State of Pennsylvania from 1790 to the present time. Members of this Convention, representing the city of Philadelphia, are now asking to have this wholesome provision set aside and a new one established; and that, Mr. Chairman, I may add, is a proposition which was not heard of during the pendency of the call for this Convention. It was not one of the evils that the people of Pennsylvania have asked this Convention to remedy, and I maintain, as I have on other occasions, that it is the sole duty of this Convention to remedy the evils which called it into being, and not to change those various constitutional enactments about which there is no complaint whatever.

There has never been any evil connected with this matter of representation. The people of Pennsylvania have felt no evil growing out of it, and when have the people of Philadelphia experienced any evil from it? For, as has been said here by other delegates this morning, Philadelphia has always exercised its due control of our legislation. Although it has never had, as was stated, a Governor of this Commonwealth, it has had something far more important than a Governor. It has had control of all the important committees of the Legislature from time immemorial, and it has secured this control by means of its consolidated vote in the Legislature in both branches. Its eighteen Representatives and its four Senators have been able to control every important committee. They have, therefore, no occasion to ask for anything more. There has not been a Committee on Railroads or upon Corporations formed for the last twenty years that has not been formed under the inspiration of Philadelphia. There has been no Speaker for twenty years that has not first had to ask the consent of Philadelphia for such position. There is, then, no evil felt by the people of Pennsylvania in consequence of this restriction, which we are called upon to remedy. Philadelphia itself has suffered nothing in consequence of it. If they have suffered at all, it is because of their own negligence in not sending such representatives to Har-

risburg as they desired; for the Philadelphia delegation in the Legislature of Pennsylvania practically controls it to-day, and has controlled it for twenty years upon every important question of legislation. There cannot be secured legislation of any kind for a country district unless the member from that district will get upon his knees to Philadelphia.

But it was not to speak upon that point that I rose. It was simply to refer to the fact that this proposition now pending is an effort to change what has been the organic law of Pennsylvania from 1790 to this time, and I repeat there was not a single demand before the meeting of this Convention, for such a change, not even in Philadelphia. That proposition, that method of representation, has been acquiesced in from the time of its adoption down to the present day.

And again, Mr. Chairman, it is not true that in Pennsylvania, or in any other State of this Union, is population the sole criterion of representation. This very Constitution of 1790 provides that *each county shall have at least one Representative*, no matter how few the inhabitants. It was communities, not numbers, that were to be represented in part. Every county, no matter how small its population, was entitled to a member of the House, and no city, however large its population, should have more than four Senators. The same principle is recognized in the Constitutions of nearly all the States, that communities and municipalities are represented as well as taxables. It is not true, it never was true, that United States population is the sole criterion of representation. The Senate of the United States is the pattern for Senates of States throughout the Union. That is the conservative body. It does not represent population. Its whole purpose and its mission is one of conservatism. It never was a principle in the organization of Senates upon this continent that population was to be the measure of representation.

We are not, therefore, those of us who are simply standing by the old law, striking at the old Constitution of 1790, which I venerate quite as much as the honored President of this Convention. We are standing by that document. It is they, who are seeking to carry this amendment, who are striking at it. I repeat, Mr. Chairman, that I am willing to take the Constitution of 1790, just as it stands, as our guide upon this question of representation. I prefer not to change it. I pre-

fer rather to take that document just as it stands than to take any Constitution which may be adopted with the amendment now pending. It was right in principle then, and it is right now; and the country districts of Pennsylvania are willing to take it, word for word, as it was adopted in 1790, for it nowhere contemplates —

[Here the hammer fell.]

Mr. PURMAN. Mr. Chairman: Representing, as I do, the State of Pennsylvania, —

Mr. MACVEAGH. If the gentleman from Greene will allow me, I desire to read an extract which has been placed in my hands by the gentleman from Columbia (Mr. Buckalew.) It is from the *Daily Legislative Record*, of 1856, and is an extract from the works of John C. Calhoun; and whatever opinions may have been entertained, by him, of the Constitution of the United States, certainly all students of political science regard him as one of the most profound thinkers upon that subject who has lived in recent years. I beg this committee to listen while I read a short extract that the gentleman from Columbia has put in my hand. He is speaking of the principle of the numerical majority, or of basing power upon population alone, and observes:

"It assumes that, by assigning to every part of the State a representation, in every department of its government, in proportion to its population, it secures, to each, a weight in the government, in exact proportion to its population, under all circumstances. But such is not the fact. The relative weight of population depends as much on circumstances as on numbers. The concentrated population of cities, for example, would ever have, under such a distribution, far more weight in the government than the same number in the scattered and sparse population of the country. One hundred thousand individuals concentrated in a city two miles square, would have much more influence than the same number scattered over two hundred miles square. Concert of action and combination of means would be easy in the one, and almost impossible in the other, not to take into the estimate the great control that cities have over the press, the great organ of public opinion. To distribute power, then, in proportion to population, would be, in fact, to give the control of government, in the end, to the cities, and to subject the rural and agricultural population to that description

of population which usually congregate in them, and, eventually, to the very dregs of their population. This can only be counteracted by such a distribution of power as would give to the rural and agricultural population, in some one of the two legislative bodies, or departments of the government, a decided preponderance. And this may be done, in some cases, by allotting an equal number of members in one of the legislative bodies to each election district, as a majority of the counties or election districts will usually have a decided majority of its population engaged in agricultural and other rural pursuits. If this should not be sufficient in itself to establish an equilibrium, a *maximum* of representation might be established, beyond which the number allotted to each election district or city should never extend." (Works, Vol. I, 398.)

Mr. MACVEAGH. I am thankful to the Convention, and to the gentleman from Greene, for allowing me to refer to this authority, the application of which is so direct to the subject now before us.

Mr. PURMAN. Mr. Chairman: As a representative of Philadelphia, as well as of the immediate section of the Commonwealth in which I reside, I should be very loath to cast my vote for, or to advocate any measure that would work injustice to, the city of Philadelphia, and I have no doubt, notwithstanding all that has been said here in regard to the bad character of the inhabitants of Philadelphia, that if the Almighty were to take it in his mind to deal with the city of Philadelphia as he did with the cities of Sodom and Gomorrah, that he could find the requisite number upon whom to serve the notice, as he did in those unfortunate cities. Therefore my views upon this subject are not formed by any opinion I have in regard to the peculiar character or condition of any portion of the city of Philadelphia, nor is it as a judgment or a punishment to the people of Philadelphia even to that higher and nobler and better class who have deemed it to be their duty, as we are told, to abstain from the polls, held away either by business engagements or reluctance to mingle with a class of persons who have seized upon the ballot-box and upon the control of the municipal affairs of this great city.

I would not, as has been said here, do justice to Philadelphia. I would do exact justice to Philadelphia, and at the same time take care of the rights and in-

terests of all the people, and all the interests of this great State. It is, as a general proposition, an undoubted principle underlying our institutions, that representation is based upon individuality, upon the individual man, and out of this principle has grown another, namely: The representation of municipalities or localities. Both of these principles underlie our government, both State and national. There is, therefore, something due to localities, as well as to the number of inhabitants within a particular locality. The general government is based upon this idea. The small sister State of Delaware has the same power in the United States Senate that the great State of Pennsylvania or the great State of New York has. This regulation of representation is founded upon the separate existence of the locality, or individual existence of the State, and therefore we cannot say, in fairness, that Pennsylvania is disfranchised in having only the same number of Senators in that branch of the government with the State of Delaware or the little State of Rhode Island.

Mr. Chairman, the general and fundamental principle of representation upon the individual man as a general maxim or principle is subject to exceptions and limitations. This principle is based upon the idea of equality of individuals, and equality of individuals in the government means equal power in the law-making of the State. And it is a maxim unquestionable that a compact population exercises a greater power than the same number of persons scattered over a vast amount of territory, and therefore representation upon the number of individuals, men would produce inequality of power in the individual man in the government. To avoid this, and to produce equality, and to do justice to all, we are compelled to declare that individuals hold the powers of government in a qualified sense. This, equally true of the several States, although the States are declared to be sovereign and independent, yet they are not strictly so in their individual character. Another general principle is that government is founded upon the consent of the governed. Now, as a general principle, this is true, and yet there are exceptions to it. In every State, although all persons are under the protection of this government, and obliged to conform their action to its laws, there are some who are altogether excluded from participation in the government, and are compelled to

submit to be ruled by an authority in the creation of which they have no choice. This patent fact suggests the inquiry who are the people in whom is vested the power of the State. When we talk about the people that constitute the government, we mean those who have the elective franchise, because only those who exercise the elective franchise are a part of the law-making, law-executing and law-determining power. The foreigners amongst us who have no votes are governed, and yet they have no voice in the government. All the minors in the Commonwealth are governed, yet they have no voice in the government. All the females are governed, and yet they have no voice in the government. Then when we come to talk about the people constituting the government, we come back to inquire whom the people are. Why, in the sense of that fundamental principle, they are the people that vote, the people who exercise the elective franchise. Hence it is evident that the whole population is not included in the maxim that government is founded upon the consent of the governed, and that in practice it is subject to exceptions and limitations. As founded upon individuals, it must be subject to necessary restrictions and qualifications such as sound public policy requires.

We come to another general principle that taxation and representation must go together. That, too, is subject to limitations. All the property of minors and the property of females, and of foreigners or aliens, persons who cannot vote, is taxed, and yet they have no voice in the representation. You cannot name a general principle which is not subject to exceptions, and must have exceptions. Sound policy always dictates exceptions to general rules. Thus we have the axioms of abstract rights of individuals and principles and practical injunctions and prohibitions, promulgated with a view to their safe administration, and intended as a guide and limitation to the government in the exercise of power; yet these rights and axioms are, in practice, subject to limitations in favor of the interests of the community. The good of the indi-

vidual must yield to the interest of the community. It is upon this maxim that we build all our railroads and other great public improvements. The limitation of general principles in practice from motive of public policy manifestly result. No maxim is more firmly established. Then all these general principles must be examined in the light of those necessary exceptions, and those exceptions are founded upon sound public policy.

When we come to great cities the same principle must be applied, not because of any particular wickedness, but because it is necessary that aggregated bodies of people should not have the *entire* control of the great affairs of the country; and in the application of this principle Philadelphia has never suffered. I have not heard from any gentleman that Philadelphia has suffered by reason of not getting any legislation that was necessary to the protection of the property, the lives and the liberties of the city of Philadelphia. Her representation in the lower House is equal to her population. In the Senate it is embraced in the idea of our federal government, which, it seems to me, is exactly just and proper.

[Here the hammer fell.]

Mr. WILLIAM H. SMITH. Mr. Chairman: —

Mr. KAINE. Mr. Chairman: If the gentleman will give way I will move that the committee rise, report progress and ask leave to sit again.

The motion was agreed to.

IN CONVENTION.

Mr. HOPKINS. Mr. President: The committee of the whole has had again under consideration the report of the Committee on the Legislature, and has instructed its chairman to report progress and ask leave to sit again.

Leave was granted to the committee to sit again to-morrow.

Mr. BARDSLEY. Mr. President: I move that the Convention do now adjourn.

The motion was agreed to.

So the Convention, at one o'clock and fifty minutes, adjourned.

FIFTY-THIRD DAY.

THURSDAY, *February 27, 1873.*

The Convention met at ten o'clock A. M., the President, Hon. Wm. M. Meredith, in the chair.

Prayer was offered by the Rev. James W. Curry.

The Journal of yesterday was then read and approved.

PROHIBITION.

Mr. DARLINGTON presented a petition of the citizens of Coatesville borough, Chester county, praying that the Constitution be so amended as to prohibit the sale of intoxicating liquors as a beverage, which was referred to the Committee on Legislation.

Mr. TURRELL presented petitions from the citizens of Great Bend and New Milford, Susquehanna county, praying for the same provision in the Constitution, which were referred to the Committee on Legislation.

Mr. LEAR presented a petition from the citizens of the Makefield meeting of Friends of Bucks county, praying for the same provision in the Constitution, which was referred to the Committee on Legislation.

Mr. PORTER presented two petitions from the women of Indiana county, praying for the same provision in the Constitution, which were referred to the Committee on Legislation.

Mr. CLARK presented a petition from the citizens of Indiana county, praying for the same provision in the Constitution, which was referred to the Committee on Legislation.

Mr. FULTON presented a petition from the citizens of Westmoreland county, praying for the same provision in the Constitution, which was referred to the Committee on Legislation.

CAPITAL PUNISHMENT.

Mr. LEAR presented a petition from the Makefield meeting of Friends of Bucks county, praying for a provision in the Constitution against the infliction of the

death penalty, which was referred to the Committee on Judiciary.

Mr. DARLINGTON presented a petition from the citizens of Chester county, praying for the same provision in the Constitution, which was referred to the Committee on the Judiciary.

TWO SESSIONS OF THE CONVENTION.

Mr. MANTOR offered the following resolution, which was twice read:

Resolved, That from and after Monday, March 3, this Convention hold two sessions each day. The first session from ten o'clock A. M. until two P. M.; the second session from four P. M. to six P. M.

The question being taken on the resolution, the yeas and nays were required by Mr. Hemphill and Mr. Temple, and were as follow, viz:

YEAS.

Messrs. Achenbach, Alricks, Andrews, Baer, Bailey, (Huntingdon,) Bartholomew, Boyd, Campbell, Carter, Corbett, De France, Edwards, Fulton, Funck, Green, Hay, Hopkins, Howard, Lawrence, Lear, Long, MacConnell, McCannant, McCulloch, McMurray, MacVeagh, Mann, Mantor, Metzger, Niles, Palmer, H. W., Patterson, T. H. B., Porter, Purman, Purviance, John N., Purviance, Samuel A., Rooke, Kunk, Smith, Wm. H., Stanton, Struthers, Van Reed, Walker, Wetherill, Jno. Price, Wherry, White, David N., White, J. W. F. and Wright—48.

NAYS.

Messrs. Baily, (Perry,) Bardsley, Black, Charles A., Brodhead, Clark, Cochran, Corson, Craig, Curry, Curtin, Cuyler, Darlington, Dunning, Ellis, Ewing, Gibson, Guthrie, Hanna, Hemphill, Kaine, Knight, Lamberton, Lilly, McClean, Minor, Mott, Patterson, D. W., Pughe, Read, John R., Reynolds, S. H., Ross, Simpson, Smith, H. G., Smith, Henry W., Temple, Turrell and Meredith, *President*—37.

So the resolution was agreed to.

ABSENT OR NOT VOTING.—Messrs. Adicks, Ainey, Armstrong, Bannan, Barclay, Beebe, Biddle, Black, J. S., Bowman, Broomall, Brown, Buckalew, Carey, Cassidy, Church, Collins, Cronmiller, Dallas, Davis, Dodd, Elliott, Fell, Finney, Gilpin, Gowen, Hall, Harvey, Hazard, Heverin, Horton, Hunsicker, Landis, Littleton, M'Allister, Newlin, Palmer, G. W., Parsons, Patton, Reed, Andrew, Reynolds, James L., Russell, Sharpe, Stewart, Wetherill, J. M., White, Harry, Woodward and Worrell—48.

ADJOURNMENT SINE DIE.

Mr. STANTON. Mr. President: I offer the following resolution:

Resolved, That this Convention adjourn the third day of June sine die.

The question being on proceeding to second reading of the resolution, it was not agreed to.

LIMITED DEBATE IN COMMITTEE OF THE WHOLE.

Mr. DARLINGTON. Mr. President: I move to proceed to the second reading of the resolution I offered yesterday.

The PRESIDENT. The resolution will be read.

The CLERK. *Resolved, That the resolution limiting debate in committee of the whole to one speech to each member without leave be rescinded.*

The Convention refused to read this resolution a second time.

DEFINING EXTENDED TIME IN DEBATE.

Mr. WRIGHT. Mr. President: I move to proceed to the consideration of the resolution I offered yesterday.

The PRESIDENT. The resolution will be read.

The CLERK. *Resolved, That when in committee of the whole a motion is made to extend the time of a member in debate the length of time shall be fixed in the motion.*

The resolution was read a second time and agreed to.

IN COMMITTEE OF THE WHOLE.

The Convention then resolved itself into committee of the whole, to further consider the report of the Committee on Legislature, Mr. Hopkins in the chair.

THE LEGISLATURE ARTICLE.

The CHAIRMAN. The committee of the whole have again referred to them the re-

port of the Committee on Legislature. When the committee rose yesterday the twentieth section was before the committee, and the question was upon the amendment to the amendment offered by the gentleman from Philadelphia, (Mr. Worrell,) which will be now read.

THE NUMBER OF SENATORS FROM PHILADELPHIA.

The CLERK. To strike out of the amendment offered by the gentleman from Chester (Mr. Darlington) the words:

"No city or county shall be entitled to more than six Senators."

Mr. W. H. SMITH. Mr. Chairman: To my mind the correct way to solve the question before us is to consider the broad principle of citizenship.

Mr. MACVEAGH. Mr. Chairman: If the gentleman will permit me I desire to make a suggestion. It has been stated by many gentlemen that it would, perhaps, be better to suspend debate on the proposition before the committee, postpone or vote down the section, and first discuss and decide how many members we will have in the State Senate and in the House of Representatives. Until that is decided, it is, perhaps, quite impossible to reach a satisfactory conclusion upon the pending proposition. I trust, therefore, unless there is some objection, unless the gentleman from Allegheny has some, or some other member of the committee, that by unanimous consent we will allow the portion of the report of the Committee on Legislature, now pending, to be postponed, and debate proceed on the question of the numbers of the legislative body. When that is determined we certainly will be able to vote much more intelligently upon the remaining propositions both of apportionment and whether any discrimination shall be made in one body or in both.

Mr. W. H. SMITH. Mr. Chairman: I have no objection to this course proposed by the chairman of the Committee on Legislature, but it hardly becomes me to anticipate what the action of the committee of the whole would be in that respect. Inasmuch as this debate has gone on for sometime, I do not feel like taking the responsibility of waiving the floor for such a purpose. The House will have to decide that matter.

["Go on!" "Goon!" "Proceed."]

Mr. W. H. SMITH. Mr. Chairman: I believe that the true way to settle this question is upon the broad principle that every citizen of Pennsylvania, or every fifty thousand citizens, have respectively an equal right to representation in the Legislature of the State, no matter where he or they may happen to reside. The attempt to limit the Senators from this city through all time, or through a single generation to four or to six, or to any number less than the census tables and the apportionment acts may from time to time indicate or prescribe, is a weak and temporary expedient that must fall, because it is invidious and unjust. We have had abundant reason to complain of the almost endless catalogue of "special laws" which have been made at Harrisburg, at the instance of Philadelphia, and which were intended to operate within her borders exclusively. But now you propose to offset this bad habit of the wise people of this town, who think they know exactly what they want, and every winter go to Harrisburg and help themselves, by cutting them off from the full share of legislators to which their numbers (if not their virtues) clearly entitle them.

Some gentlemen have not hesitated to say that because an uncertain portion of Philadelphia is very, very vile and sinful and corrupt, that therefore the fewer Senators she shall elect the better, for it is confidently presumed that bad men will elect bad Senators, and Philadelphia is to be punished for her manifold, repeated, atrocious and undeniable frauds upon the ballot, by refusing her a full and fair representation, or rather number of representatives. I confess I thought that Philadelphia's character for fair elections was materially damaged in the house of her friends. One of them, to be sure, characterized election outrages in that bland and gentle language that is so becoming in this charming city of brotherly love. He admitted that, perhaps, there had been slight irregularities at elections here. I will not be outdone by the gentleman in the generous frankness with which we all confess the sins of our neighbors. [Laughter.] And I will admit, with equal candor, that in our county very reprehensible things have been done in this regard and are yet unpun-

ished. But as I fully intended to do Philadelphia what justice I could, I now gravely make the tardy, but not the less truthful, acknowledgment that I really and truly believe there are other places in this blessed old Commonwealth where ballot-box stuffers are as bold, where repeaters are as expert, and where election officers are as purchasable as they are in Philadelphia. And sincerely believing, as I do, that there are as many frauds upon elections in Allegheny county, in proportion to the number of voters, as there are here, I cannot consent to depart from a broad principle and to punish Philadelphia for her fraudulent practices, and to give double reward to Allegheny, for perpetrating the same sort of political and moral iniquity—and this would be the case if things remain in this affair just as they are.

Mr. Chairman, this whole business of apportioning seems to be confused and ridiculous, and is not only marked by inconsistency and injustice, and this, give me leave to say, must always be the case as long as districting and apportioning the State are left to the miserable tricksters of both parties, who, for the last ten or fifteen years, have gerrymandered the State to make places for themselves. This Convention should itself apportion.

If you should divide the population of Pennsylvania in 1870 (3,521,791) by 33, the number of Senators, you will find that every Senator should represent nearly 107,000 of the people—no less, no more; and the districts should be adjusted to that number as nearly as may be.

Now let us examine, for a moment, how the districts are really apportioned, as things stand under the census of 1870.

Each Senator for Philadelphia represents 168,500 people; each Senator for Allegheny county represents about 87,400 people; the Senator from Montgomery represents 81,612 people; the Senator from Fayette and Greene represents 69,171 people; the Senator from Crawford represents 68,832 people; the Senator from York and Adams represents 106,444 people; and so the list goes on, without order or system, or common fairness. Gentlemen can examine for themselves.

Now why should it require nearly twice as many people to send a Senator from Philadelphia as it takes to send one from

Allegheny? I do not think that there is, on the whole, much difference between the average Senator that comes from Philadelphia and the one that comes from Pittsburg; surely they should not be counted as two for one, as is now the case. I may say that, for my own part, none of them are "officers of mine," for I have had nothing to do with electing Senators since William Wilkins was elected from Allegheny. My good and healthy ballot has been regularly sequestered, lost, or entirely overborne and outweighed by unscrupulous opponents or the dusky sons of Africa.

Therefore I am not desirous of increasing the Senators from this town, *because* the kind of Senators they send to Harrisburg are very superior. But it is manifest that the present allotment, and the one now proposed for the new Constitution, are alike unequal and unfair, and should not be made permanent.

But it has been said that Philadelphia has acquiesced in this number of four hitherto, and that she certainly ought to be satisfied with six hereafter. This argument is not sound. We are not starting now as they did when, in order to keep this city from an undue share of Senators, some adroit and sagacious person placed the limit of four upon the number of her Senators for all future time. When that limit was fixed, if it was done in 1838 or 1840, Philadelphia was probably not entitled to more than two Senators. Now if you keep the number of Senators at thirty-three, which it is now, and declare upon the census of 1870, it will give her, as before stated, one Senator for every 107,000 people, or about six Senators and a half for her 674,000 population. According to one of my respected colleagues, Philadelphia has always been a pet of our county, and it therefore seems to me that we of Allegheny should take care that she has fair play in this division of power, and this we should clearly do without permitting the cruel taunt of a member of Philadelphia, (Mr. Cuyler,) about the repudiation of our bonds some ten or twelve years ago, to influence our action. That was a shabby business, to be sure, and both political parties in Allegheny vied with each other in their zeal in the unworthy cause. There were only about three good men in the county who resisted

that attempt, and one of them, then the mayor of Pittsburg, and now within the scope of my vision, was one of the three. I will not now allude to any other of the three, because some might think allusion invidious, and comparisons odious; besides, modesty forbids. There was but one newspaper to help them.

But, Mr. Chairman, I find myself launching into irrelevant matters, and I will desist. I conclude as I began, that we must arrange this and all other questions here upon principles that must be just, permanent, fair, and to be comprehended by all men. If Senators are to be adjusted to populations, the count must be fair, and square, and uniform.

Let me add that if this manifestly proper plan is defeated, I shall then move a substitute to this effect: Leaving population and its increase or diminution out of the question, I shall propose that the Senate shall be composed for all time of four members from this city, two from Allegheny, and one from each and every other county in the State, now organized or to be erected hereafter, regardless of its population now or hereafter. Then Cameron and Forest, and Elk and Sullivan counties will hold equal power in the Senate with Philadelphia, as Delaware and Rhode Island counter-balance New York and Pennsylvania now in the Senate of the Union. In one of these two modes, as I conceive, it must be adjusted. But I suppose this restriction will be voted down, and that Philadelphia, reprobate and sinner as she has been, through her one-thirtieth, or one-eighth, or one-tenth of the wicked and worthless population (as variously estimated) cannot have a chance to send six or seven instead of four Senators to misrepresent her and sell out her rights and the rights of the State, at the seat of government, as I am sorry to believe too many of them have done.

Mr. Chairman, if you hold Philadelphia to her present quota of Senators, you must also, in fairness, restrain Allegheny and Luzerne—these are the most rapidly growing counties in the Commonwealth. But you cannot do this. If it could be so arranged that you could deduct from the sum of the voters all those who engineer the frauds at elections, and all the rich men who connive at their misdeeds and contribute large

amounts that are used in fraudulent operations, thereby sharing the crimes of the corruptionists without, perhaps, sharing in their plunder—if you punish them only, it would be right and proper. But this you cannot do. You must not punish the guilty and innocent indiscriminately by taking away a portion of their common rights in bulk. But you can, perhaps, make stringent election laws, and thereby save free government from the destruction that now seems to impend over it, even as a sword ready to fall.

Mr. DARLINGTON. Mr. Chairman: I ask, for a single moment, the indulgence of the committee to this fact. Unexpectedly to myself, and unexpectedly, I presume, to the chairman of the committee, the debate upon this whole proposition seems to have gone to the one point, that of the number of representatives to which Philadelphia shall be entitled. I agree with the gentleman from Dauphin, (Mr. MacVeagh,) that it would be wise if we could, by common consent, pass over this subject and go to the other point, leaving the number to which Philadelphia shall be entitled to be settled when we shall decide upon the number to which the Senate and House shall be entitled. I do not adopt the suggestion of the gentleman from Dauphin, (Mr. MacVeagh,) but if he, representing the committee, will propose to modify the report by striking out the number "four," I will modify my amendment by striking out the number "six," and let the blank be filled.

Mr. CUYLER. I trust the committee will not, for a moment, consent to postpone the discussion of this question. To do so will practically be to throw away the two days we have already spent in debate, for whenever the question shall present itself again, these arguments will all be heard, and will require to be heard to have their proper impression upon the minds of the members. I hope we will keep steadily on in the path in which we have been walking, and that there will be no postponement.

The CHAIRMAN. The gentleman has a right to withdraw the amendment if he sees fit to do so.

Mr. CUYLER. Mr. Chairman: Where that amendment is withdrawn for a purpose, and is not intended to dispose of the question finally before the committee, I

do not concede that right without the consent of the committee.

Mr. DARLINGTON. I have a right to modify it.

The CHAIRMAN. The gentleman has the right to modify or withdraw.

Mr. DARLINGTON. Mr. Chairman: I do not propose to withdraw, but to modify.

Mr. CAMPBELL. Is the amendment of the gentleman from Chester (Mr. Darlington) withdrawn?

Mr. DARLINGTON. Mr. Chairman: It is not and will not be, but it will be modified, if the gentleman from Dauphin (Mr. MacVeagh) will modify the report of the committee.

Mr. MACVEAGH. Mr. Chairman: I will do anything that it seems to the committee wise to do, and it does seem to me to be exceedingly wise, as I said, to proceed first and settle the numbers of the Senate and the House, and therefore, if that is the sense of the committee, I will, if the gentleman will withdraw his amendment, move to strike out the number "four" and leave it blank for the present, with an opportunity for the gentleman renewing his amendment after that is done.

Mr. DARLINGTON. The moment that the modification is made I will modify my amendment, by striking out six and leaving it blank.

Mr. LILLY. Mr. Chairman: Do I understand that the amendment to the amendment is withdrawn?

The CHAIRMAN. No, sir; it is not withdrawn.

Mr. LILLY. Is anything withdrawn?

The CHAIRMAN. No, sir.

Mr. LILLY. Then I presume the best way is to vote down the amendment.

Mr. WORRELL. I have an amendment pending, to the amendment, which I have not yet withdrawn.

The CHAIRMAN. Perhaps the Chair may be responsible to some extent for the discussion which has taken place. It occurred to the Chair, and he so intimated to the chairman of the committee, as well as to the President and several other gentlemen of the Convention, that it occurred to him that we were proceeding wrong end foremost, and that, as has been intimated by the gentleman from Dauphin, (Mr. MacVeagh,) the first question for this committee to settle ought to be what number of Senators and Representa-

tives will this committee and the Convention recommend? That being settled, then the question of the distribution of these numbers will come up as a legitimate consequence, and therefore the Chair intended to suggest to the gentleman from Philadelphia, (Mr. Worrell,) who offered an amendment to the amendment, and to the gentleman from Chester, (Mr. Darlington,) who offered the amendment, to withdraw their amendments and let the question of numbers be first settled, and then the pending question be disposed of.

Mr. MEREDITH. Mr. Chairman: As you have referred to what happened between ourselves upon this subject, I wish to state that I did think, and I do think, that it would be a much more logical mode of getting at the matter, to fix the number of Representatives and Senators separately, and, if the other subject of their distribution could be got rid of, to wait until we have fixed the number and then consider the distribution. If, therefore, this were a real withdrawing of the proposition, which is not palatable, I hope, to a large part of this House, to limit by arbitrary number a part of the representation from part of the State, I would be entirely satisfied with it; but this merely striking out "six," and striking out "four," leaves the proposition just as it was, and if it is to be left in that shape, I trust the question will be taken upon it, and we may decide finally whether we intend to adopt a course of that kind.

Mr. LAWRENCE. Mr. Chairman: I desire to make a suggestion to the gentleman from Dauphin (Mr. MacVeagh.) I agree with him in thinking that we ought first to understand what number of Representatives we will have in the Senate and House. That ought to be the first question to be decided. I suggest to the gentleman from Dauphin (Mr. MacVeagh) that the only way that I see of getting over this section, as the gentleman from Chester will not withdraw his amendment, is to vote down the amendment and the section, and take up the other section, and after we have done that, then re-consider.

Mr. CARTER. Mr. Chairman: It may be owing to my mental obtuseness, but I really cannot see any necessity, whatever, for postponing this debate. This is not a

question of numbers; nor do I consider it necessary, in my very humble opinion, with much deference to you, Mr. Chairman, and others, that we consider the question of numbers at all, at the present time. This is a question of proportion—a question of the *pro rata* share of representation which this city should have. It appears very plain to me that it is not necessary that we shall arrest the current of debate to take up a matter not absolutely connected therewith. We are now in the very current of this debate, and are prepared or being prepared to act intelligently upon it. It is not, as I have already said, a question of numbers, but of proportion; and hence I see no necessity for postponing the consideration of it and take up another, as suggested by the gentleman from Dauphin (Mr. MacVeagh.)

No man would propose to limit this great and growing city, which, in fifty years hence, will contain millions of people, to any specific number; but it might be quite proper to restrict it to a certain proportion of the entire representation of the State.

Mr. LILLY. Mr. Chairman: I desire to make a short explanation of my opinion of the position of this question. When this matter was before the committee—

The CHAIRMAN. Has the gentleman (Mr. Lilly) spoken already on this question?

Mr. LILLY. I do not know whether or not I have spoken on this particular amendment before. I have spoken on the general subject.

The CHAIRMAN. The gentleman from Carbon (Mr. Lilly) having spoken once on this question desires to speak again. The question is, shall he have leave?

["Aye!" "Aye!"]

The CHAIRMAN. The gentleman will proceed.

Mr. LILLY. Mr. Chairman: When this report of the Committee on the Legislature was under consideration, some two or three weeks since, it was laid aside, as I understand it, for the purpose of allowing the Committee on Suffrage, Election and Representation to report on this subject. That committee has had this matter under consideration, and have something to offer in the place of this very section, which the committee think will

cover the grounds a great deal better than any of the present amendments or the section itself. The chairman of that committee not being here, I presume the matter will be reported by one of the members of the committee when it is in order. I think it will meet all the difficulty that we have been talking about.

Mr. KAINE. Mr. Chairman: I do not know what may be the disposition of the committee upon the proposition or suggestion that has just been made by the gentleman from Washington, (Mr. Lawrence,) which was to vote down this entire section. The worthy President, I believe, has just proposed that this proviso be voted down, and that the section be proceeded with. Now, sir, I am opposed to this if it is to be any index of what is to be done hereafter by this Convention.

I am not willing, sir, to vote down this section in connection with the proviso, unless it be with the understanding that it will be taken up hereafter and acted upon in Convention or committee. All the arguments that I have heard upon this question of restriction and limitation in regard to the city of Philadelphia, and other cities and counties which may be larger than others in this Commonwealth, have failed to satisfy me that this section and proviso are not right. It was thought proper and right by the Convention of 1790, which, according to the opinion of our worthy President, made the best Constitution that has ever been enjoyed by any people. My friend on the right (Mr. Woodward) thinks that the Constitution of 1838 is perhaps the best, and I am not certain but what he is about right. The Constitution of 1790 contained, in principle, this restriction. The Constitution of 1838 contained it in plain, substantial English. It was put into that Constitution after a long, a learned and an elaborate debate by the ablest men, then, of this Commonwealth. I think that they were right, and I doubt very much the propriety of this Convention departing from the rules established by both of these former Conventions.

I find, sir, that the gentlemen from Philadelphia and the gentleman from Allegheny (Mr. Smith) have struck hands upon this question—that they are going against any restriction in the apportionment of Senators to large cities

and counties. The city of Pittsburg, in the county of Allegheny, which will soon absorb all that county as the county of Philadelphia was absorbed by the consolidation act of 1854, by the city of Philadelphia, they will rule this State. This thing of perfect fairness—of a government “of the people, for the people, and by the people”—which was proclaimed yesterday by the gentleman from York, (Mr. J. S. Black,) is all very liberal and patriotic, but, sir, I think it savors very much of an observation that was made by a distinguished gentleman of this Union, years ago, in regard to the Declaration of Independence, that it was a “string of glittering generalities.” Why, sir, power always concentrates itself where there is wealth. Look at the city of Philadelphia, with its immense corporations, immense wealth, immense power; and, more particularly, the power of the press of Philadelphia. Look at the same thing in Pittsburg, in the county of Allegheny. Why, sir, what is their position now in the Legislature of the State? Philadelphia has both the Speaker and Clerk of the House of Representatives, while Allegheny has the Speaker of the Senate and the Clerk of the Senate both. They have between them all the important offices of the Legislature at the present session. Let them have the power hereafter, with their increasing population, and the rest of this State will be nothing but hewers of wood and drawers of water for these immense cities.

I would like to know what, when that thing should be accomplished, would become of the “worthy German farmers of the interior of the State,” who are not so worthily represented by the gentleman from York, (Mr. J. S. Black,) who I am sorry to see is not now in his seat. He says he is a farmer, and belongs to that worthy class—the hard-fisted yeomanry of the State, and he is here to protect their interests. He, I am sorry to say, has gone over to the enemy. He has deserted his “German farmers of the interior.”

Philadelphia, according to the remarks of the President of the Convention, yesterday, is all honest; her people are all honest, all virtuous, all right, and I dare not gainsay that, in the face of his re-

marks. I take it for granted that it is true; but that has nothing to do with this question. It is a question of government. It is a question of power. Equality! "Equal and exact justice to all," says the gentleman from York, (Mr. J. S. Black;) and he related the story of the preacher in New Jersey, who asked his congregation for leave to say five words more before they should go: "Let us all start fair." But, applying that story as it was intended to be applied, I ask how long it would be, (even with a "fair" start,) before some one would be ahead of the others? If the worthy gentleman from York (Mr. J. S. Black) were upon this floor this morning, I would remind him of a remark of his own, made in an opinion which he delivered while Chief Justice of the Supreme Court of Pennsylvania, when two men, in my section of the State, had got into controversy about a land warrant, and one had got ahead of the other, and had succeeded in getting his warrant first laid, and took the land, though he had started a little behind the other. The judge concluded his opinion upon that occasion by saying, that "it was no imputation upon the fairness of the race that the winner was behind at the start." So he would say with these people in Philadelphia, although they might start equal, and even and fair, with the rest of the State, yet he would say, that if they got ahead, as they undoubtedly would in a very short time, that fact would be "no imputation upon the fairness of the race, because the winner was behind at the start."

This restriction has always existed in Pennsylvania. It was a distinction taken by William Penn, in the laws agreed upon in England, and preserved in the Constitution of 1776. "Representation, taxation," is all well enough, and we do not desire to take it way from Philadelphia.

[Here the hammer fell.]

Mr. WOODWARD. Mr. Chairman: I move that the gentleman's (Mr. Kaine's) time be extended ten minutes.

The question being upon the motion, it was agreed to.

Mr. KAINE. Mr. Chairman: I am very much obliged to the committee, but I was about through. I was about to make a remark or two upon the question

in the case, because upon the question, as I consider it, I have said nothing yet. [Laughter.]

Under the Constitution of 1776—the first one formed by the people of the State themselves, and for the State—they had no Senate. They had nothing but an Executive council, and the principle of this government and of all State governments, as well as the principle of the Government of the United States is, that the lower House represents the people, while the Senate is part of the Executive department. We had the Executive council under the Constitution of 1776, and under the Constitution of 1790 we first had the Senate; but it was never intended to represent the people in their aggregate capacity. The Constitutions have left representation to the lower Houses alone, and they are the representatives of the people. With them originate all bills for the appropriation of money. The Senate of our State grew out of the Executive council of 1776. It was created with the intention of being a conservative body and of being a check upon the action of the representatives. Now this is all we propose here, to give to the people of the State, their just representation in the lower House, and to place the conservative power of the Senate in the hands of the people of the interior counties, who are without the power held by the large cities. The people of the interior have always held this conservative power, and very justly and properly they have held the scales of justice between the cities and the country upon a level, and Philadelphia had better entrust this power in the future with these who have held it in the past. I am therefore opposed to voting down this section. I am opposed to striking out the word "four" or "six" either. I would prefer, however, that this apportionment could be so arranged as to settle the number of Representatives and the number of Senators, and then I would be willing to vote for giving to Philadelphia a fair proportion of the Senate according to the principles I have indicated.

Mr. WALKER. Mr. Chairman: Before the vote is taken upon this question, I desire to submit my views to the Convention. I shall endeavor to be as brief as possible. Mr. Chairman, my mind is con-

trolled by the character of our government in the consideration of this question. We have heard, all over this body, that this is a government of the people, by the people, and for the people. It is a government based upon the will of the people, and whenever we wander from this principle we wander away from the basis of our government, and from the only sound basis upon which our government can stand or ought to stand—the will of the people, expressed by representation. That is our government. It is not a pure democracy, where all come up and vote their votes and take part in the discussion, but it is where the elements of the people, by their representatives, come forward and speak, not their sentiments, but the sentiments of the people, the voice of the government. In accordance with the great teachings of our government, I feel that I must ever obey the principles upon which they are founded, and that is to be governed either by the decision of the representatives of the people, or according to the decision of the people. If we cut loose from this principle in our government, whither will we be drifting? There is, then, no restraint. It becomes the mere will, the mere opinion of the individual, and that is not our government. It is an eternal established institution, built upon the voice of the people, expressed through their representatives. That is our government, and if we are not controlled altogether by that principle, then we have no government, though we may think we have. Now, Mr. Chairman, I believe I am a democrat, and I believe the people should rule. I think I am a republican, and I believe the people should rule, through their representation; and representation must either be based upon taxation or upon population. Now take this representation either way, and dare we say that Philadelphia shall not have her fair proportion. I dare not go within myself and ask: "Is it right?" and get the answer that it is not, and then in this Convention vote for a provision which neither my heart nor my intelligence can approve. I dare not.

Other gentlemen upon this floor may, but I am so constituted that I dare not do what my conscience dare not approve. It has been said that an increase in the representation of cities will not work well,

because large cities are great ulcers in the body politic, and Philadelphia has been instanced as an example. Words are easily spoken. A man may say anything, and in the heat of excitement and discussion, denounce the representation of this city but if it were denounced a hundred times it would not enlist my sympathy. I know as well as I know anything, that Philadelphians are not any more corrupt than any of the other legislators of this State or any other State. It has been said that we are corrupt. Well, if we are, it is because we have made ourselves so. If I give loose to my passions, and allow them to rule and control me, I would become but a corrupt scoundrel, and what God intended I should not be; but if I leave the better feelings of my nature gain the ascendancy, I am just what I want to be, and just what God intended I should be. I am unwilling to say that God made a blunder when He made me. He made no blunder. If I commit a blunder I alone am responsible; and so it is with regard to cities. If men are aggregated together, and they will not restrain these evil causes, and will not rule themselves as they ought to be ruled, they will, of necessity, become corrupt. Will I be told that mind brought against mind will not work together for the good of society, but that it will, in its aggregate, result in corruption? This may be said to occur in our large cities, but I cannot believe that the aggregate characters of the men and women in our cities only result in corruption.

I know it is true that in our large cities there must be crime and corruption, and the good of society requires that they shall be restrained; but in looking over this Union, wherever you please to go, do any of our States wholly ignore our large cities on account of this crime and corruption? Read the Constitution of the State of Massachusetts, and then can it be said that any of its citizens are ignored in their representation? Go to Illinois—that State from which we are drawing, as it were, the very life-blood of their Constitution—and do they say there that a man in Chicago is not the equal of a man in Springfield? Go to Cincinnati, and tell me is there anything in the Constitution of the State of Ohio that says a man in Cincinnati is not the

equal of a man in Columbus or Cleveland? Go to Missouri, and tell me is there anything in the Constitution of that State which says that a man in St. Louis is not the equal of a man in Springfield, down there on their southern line? Why nothing of the kind can be found in their Constitutions. A man in St. Louis is a man; in Chicago he is a man; in Cincinnati he is a man, and in Boston he is a man; and now, in speaking of the corruption of our cities, we come to that place where, if corruption exists on the face of the earth it does there—the city of New York; but does the Constitution of that State say that a man in the city of New York has not the same voice in the government of that State as a man in the county of Ontario, Oswego, Cattaraugus, or any other place in the State of New York? The Constitution of that State contains no such provision; and shall we say in this State, of which we brag as the land of Penn., that a citizen of Philadelphia shall be deprived of the right of representation in the State government? Look for a moment at the population and representation of the various counties in the State. Go to the county of Crawford, with a population of sixty-three thousand, and there they say they are entitled to one Senator. Go to the Tioga district, with a population of fifty-nine thousand, and there you will find that they claim one Senator; but the city of Philadelphia, with an immense population, is to be entitled to one to one hundred and sixty thousand. Now is this republicanism? Is it democracy? And does it accord with the theory of our government? I say I spit upon such a doctrine

[Here the hammer fell.]

Mr. CORSON. Mr. Chairman: I move that the gentleman's time be extended.

The motion was agreed to.

Mr. WALKER. Mr. Chairman: I thank you and the committee. I want to speak out what inwardly I feel, and I do not speak out here, on this or any other subject, anything else. I believe our government is right, and believing that it is right I mean to carry it out philosophically. I do not mean, for the purpose of securing cumulative voting hereafter, to roll one way and look another. I do not mean to do anything of that kind; I mean

to say that a man is only one man, and I do not mean to say that he may transform himself into ten or twenty men and then call that democracy. It is not my character of democracy, whether applied to the city or to the country.

But that is foreign to what we are on now. When that comes up we will discuss it. Mr. Chairman, it was said that Philadelphia is an ulcer. My friend, the Senator from the city, did not say exactly that but something approximating to it, and he also said that Philadelphia cannot produce a loaf of bread. Well, I know she cannot, and I know that there is many a field and many a thousand acres in Erie county that cannot produce Philadelphia. I know that they produce what is manufactured here and what I mean is this: You have the New England States; I admire them. They have built themselves up in spite of their climate and in spite of their soil, to manufacture largely and make their mark in this nation, and to-day there is more manufactured in this city of Philadelphia than in all the State of Massachusetts. Yet it is said that Philadelphia is an ulcer. God send to Erie county just such an ulcer!

Mr. WHERRY. Mr. Chairman: I did not intend to say a word on this subject, nor would I do so now, did I not feel called upon by the remarks of the gentleman from Erie, (Mr. Walker,) who has just taken his seat. Whilst approaching the same conclusion to which he has reached, I entirely differ with him in his premises. When the gentleman asserts that the theory of this government, and necessarily of any republican government, is wholly based upon the doctrine of representation by population or taxables, which amounts to the same thing, he makes, in my humble judgment, a very grave mistake.

I ask the gentleman from Erie to recall the history of constitutional law in the United States. When the founders of this Republic met, and agreed upon a fundamental law for our federal national government, in their wisdom they determined to divide the legislative power between two separate, yet co-ordinate branches, a Senate and a House of Representatives. Evidently they did that for the purpose of securing a check upon

hasty, inconsiderate, unwise legislation. But, to accomplish this purpose, in order to make the one branch of the legislative department an effectual check upon the other, found it necessary to incorporate and agreed upon essential differences in the organization of these two branches. Four possible and practicable points of difference in organization suggested themselves, and I desire to call the attention of the committee to those four points of difference.

In the first place the two branches were made to differ essentially in the basis of representation, the very point to which the gentleman from Erie has referred. The two Houses of Congress differ upon the principle of the basis of representation. In the organization of the Senate representation rests upon geographical districts, territorial lines, States, and not upon population, as the gentleman from Erie has said. It rests upon States, upon simple, geographical division, and has nothing to do with the question of population whatever, and consequently equality of representation secured to each State. I challenge the gentleman to contradict this statement. The House, on the other hand, was organized on the basis of population and proportional, not equal, representation granted to the several States.

The second essential point of difference in the organization of the two branches of the legislative department of the national government lies in the qualifications of the elections. The same electors who send delegates to the House of Representatives at Washington do not elect the United States Senators. The qualifications of the electors of members to these two branches are entirely different. United States Senators are elected by the State Legislatures. Members of the House of Representatives, on the other hand, are elected by the people of the several States, by ratio of population. Now what is the result of this? That equality of representation is obtained in the Senate, whilst proportional representation is obtained in the House of Representatives. And this result is wholly inconsistent with the theory of the gentleman from Erie who is entirely in error in his preliminary statements.

There are two other points of difference between the organization of the United

States Senate and that of the House of Representatives. They are immaterial perhaps, or less material than the two already referred to. They are the length of term of office, and the difference in the numbers which constitute the two Houses. I therefore pass them by, and call the attention of the committee to a historical fact. When the Colony of Penn wheeled into the line of United States, by the adoption of the federal Constitution of 1787, the people of Pennsylvania, at the earliest practicable moment, determined and agreed to modify their organic law, (notably in the legislative department, for under the preceding Constitutions there was but one House of Assembly,) modified it, I say, so as to harmonize in structure and design, in form and principle, with that great model charter under which freedom was won and liberty secured. But right there the Constitutional Convention of 1790, in my humble judgment, made a most fearful mistake. They accepted the form of the Constitution of the United States, and dropped from it the substance—dropped out the two most material points of difference in the organization of these two legislative bodies. They organized their State Senate, not on the basis on which the United States Senate was organized. They left out the two material and essential points of difference, namely, the difference in the basis of representation, and the difference in the qualifications of the electors. They retained the minor, almost trivial points of difference, viz: The difference in mere numbers, and a difference in the length of terms—retained the form without the substance, the shadow without the material, and our Constitution, in this particular, has been but a hollow sham, even unto this day. We, sir, to-day see and know and feel the evils of a Legislature organized wholly on the uniform basis of population. We are without an efficient check.

I will re-call another historical fact which the gentleman from Erie has either overlooked or forgotten. Of the thirteen original States, eight did not fall into this same error. Maryland, in her Constitution, adopted precisely the same principle which was incorporated in the national Constitution. So did Delaware, New Jersey, Connecticut, Vermont, Georgia, North

Carolina and Virginia. They all based the representation of their State Senates, not upon population, but upon mere geographical divisions. I call attention to this historical fact, that these eight of the thirteen original States did follow the Constitution of the United States to the very ultimate, and based their Senatorial representation not upon population but upon communities.

And it is worthy of observation that six out of eight of the original States still retain that provision in their Constitutions. I assert that the States of Maryland, New Jersey, Connecticut, Vermont, Georgia and Delaware still base their Senatorial representation not upon population, but upon territorial lines without regard to population at all.

These, Mr. Chairman, are facts of history. They represent the true state of the case in regard to the history of constitutional law in the United States. Now, sir, I do not know how far the people of Pennsylvania are prepared to go in the way of reform; nor do I know how far this Convention—this reform Convention—is prepared to propose radical changes. For one, I unhesitatingly say that we have reached that stage in our history that demands a change in the basis of representation in the Senate of the State. I am firmly and clearly of the conviction that no remedy for the bad legislation of this State can ever be found until the basis of representation in the State Senate is modified and changed. I have no theory of my own to offer. I have no project to lay before the Convention; but I was struck with the practical suggestion of the gentleman from Columbia (Mr. Buckalew) to district the State by a board of commissioners of apportionment. I do not know but I would agree to such a proposition. It has much in it to commend itself to my judgment; but I do say and insist that the time has come when the basis of representation in the State Senate of Pennsylvania must be something else than population. It may be territory without regard to population. It may be based upon a sort of civil service regulation, in which I am free to confess I have but little faith; or it may be based upon the higher qualification of electors, a principle in which I have the greatest faith; or it may be based on two

or all three of these or upon something else than these. All I plead for is that the times demand a change of the basis of representation to the Senate of this Commonwealth.

But I want to say, finally, in plain words, not to be misunderstood, that so long as the ratio of population remains the basis of Senatorial representation in the organic law, I will never give my vote to any proposition which aims at restricting or limiting the Senatorial representation of any section of this State.

Let me say to the gentleman from Erie, I am as consistent as he is. So long as population remains the basis of representation in the State Senate, so long by my vote shall Philadelphia, and Pittsburgh, and Berks and every other populous district in this State have all the representation to which they are fairly and justly entitled. However, with this exception, I shall vote to take from Philadelphia and Allegheny and other large districts that fair equivalent of their representation which they ought to be deprived of in consequence of the fractional losses of representation in the districts throughout the country.

Mr. Chairman, my ten minutes are expended and I am done.

Mr. CORSON. Mr. Chairman: I agree with the gentleman from Cumberland (Mr. Wherry) except in this. He says he has no theory by which we can escape from the difficulties in which we seem to be placed by the report of the Committee on Legislature. I have a theory which I propose to offer, but inasmuch as I understand an amendment to the amendment is now pending and it will not be in order. I desire to hear it read merely as a part of my speech which will only occupy two minutes.

Resolved, That every county in the State shall be entitled to one Senator, and the whole population of all the counties divided by the number of counties shall be the basis of Senatorial representation for all cities containing a population exceeding one hundred thousand.

As soon as we can get at this thing, either by voting down the amendments or the whole section, I propose to offer that. And this is the whole scheme of our government. It is the theory that every county, every portion of Pennsyl-

vania which rises to the dignity of a county shall have a Senator at the Capitol of the State. Every State in this Union has two Senators in the National Congress. Rhode Island as well as Pennsylvania, Delaware as well as New York. We hear no complaint from this method, and if in Pennsylvania every county in the State should have one Senator, and all the counties should be summed up in their population and divided by the number of counties, it would give the same representation to every city in the Commonwealth of Pennsylvania. It would give Philadelphia to-day seven Senators. It would give Allegheny and Pittsburg what she now has, and it would be the fairest and the fullest method of representation which I have yet been able to discover from all the schemes proposed. I hope, therefore, that the report of the Committee on Legislature will be voted down, and that my substitute will be adopted when it comes to that.

This will give every community which rises to the dignity of a county, a community, or county, representative, as such; and by proper measures, to be hereafter proposed and adopted, the equilibrium can be kept up by representation in the House of Representatives according to population. This will give all counties and cities, in their aggregate capacity, and all people according to population, a full, equal and fair representation. It is the plan which was adopted in the formation of our government by our forefathers.

Mr. NEWLIN. Mr. Chairman: I do not desire, at this time, and after the question now before the committee has been so long and so ably and so fully debated, by other gentlemen, to go over the ground upon which the opinions of the friends and opponents of this measure are based. I rise simply, sir, to protest against what I consider to be a rank injustice, and I am indebted to the gentleman from Fayette (Mr. Kaine) for his very honest speech upon this topic. I believe that he is the first gentleman upon this floor who has called things by their right names. I believe in calling a spade a spade, and I believe in calling jealousy jealousy, and I believe in calling fear of a greater power fear of

that power; and the gentleman from Fayette (Mr. Kaine) is the first one who has openly, avowedly and unequivocally stated that he is not in favor of fair play as between the city of Philadelphia and the interior. Other gentlemen have endeavored in various ways to defend this manifest injustice and wrong.

It is, I suppose, an evidence of the weakness of human nature, but it is, perhaps, an amiable weakness which induces men, when they do a wrong, to endeavor to persuade themselves and others that they are actuated by some different motive from that which is the moving power within their minds. Now I confess that of all the different excuses that have been made for this manifestly unjust proposition, the one made by the gentleman from Philadelphia who sits behind us (Mr. Woodward) is, perhaps, the best of the bad reasons, that is to say it at least has the merit of some appearance of plausibility, and some philosophical idea in it, though, I say a wrong one, I will never acknowledge, or put myself upon the record as being of the opinion that a producer of raw material is any better than the man who makes it up into a manufactured state, or is any better than a man of intellect who is no material producer whatever. I will never say that a plow boy is entitled to two votes and a man of parts, refinement and education is entitled only to one. I would give to each exactly what he should have—one vote.

I do not, as I said before, intend to go over the arguments. I have no doubt that every one has made up his mind, and to speak further, it strikes me, would be like addressing a wooden idol, to speak to eyes that see not and to ears that hear not. I rose simply to protest against a measure, which is dictated solely by jealousy of the city and which can be defended on no other ground and not on that. If gentlemen would really look down into the bottom of their hearts and see why they propose to vote in favor of this proposition they would be forced to acknowledge the truth of my charge.

Mr. EWING. Mr. Chairman: I was interested in the historical narrative which the gentleman from Cumberland (Mr. Wherry) gave us, and his reasons for believing as he does, with regard to repre-

sentation in the Senate, and I may say that I am opposed to this amendment for the reasons which the gentleman gives for being in favor of it. This matter of representation in the Senate and House, I take it, is, to some extent, at least, a matter of expediency, and it is a matter and a measure on which we may well be guided by the experience and wisdom of those who have gone before us.

Now, I take it, that the Senate of this State, has never at any time been based wholly upon population. The experience of republican governments, and of every government, has shown that two Houses of the Legislature, one to be a check on the other, one to some extent representing a different interest or a different constituency from the other, is a safe and necessary provision. I believe that we have no instance on record of any large nation or people existing as a free government, without some such arrangement as that. And as stated by the gentleman from Fayette, (Mr. Kaine,) when William Penn formed this government, he did not base representation, (nor did his people,) upon population alone, but as he says, the charter gave a different basis. Then in another provision emanating from William Penn in 1701, the assembly was composed of equal representatives from each of the counties, Philadelphia having a larger population, but the other counties, having with her, four representatives each.

In 1776, the Executive Council was formed of one member from each county. In 1790 the Convention which assembled in that year, (and whose wisdom has been so highly spoken of here,) after repeated discussions, after a great many amendments offered, finally settled down to the provision which they adopted, which limits Philadelphia to four members. It could not mean anything else; it is what it did mean, it was the only thing that it did mean, and the Convention of 1837 but followed it. Now the complaint is that injustice is done, if we do not give Philadelphia and Allegheny the representation to which each would be entitled according to population. Well, I say, we never have had representation upon population even in the lower House—we have usually had one member for each county, and the representation has heretofore been based on taxables. I would prefer

it now, at least for one of the Houses, and hope that some other basis than mere population will be established by this Convention for the Senate. I look upon it as a safeguard.

We have no jealousy of Philadelphia, and I may say, here, that while this provision has been debated as though it referred to Philadelphia alone, we think that in Allegheny county it will affect us within the next twenty-five years. The man is perhaps present in this assembly who will see Pittsburg a fair rival of Philadelphia, without any jealousy, even if she does not surpass her in population and in wealth within the life of men now living. I hold, then, that this provision will affect Allegheny, and lessen its representation in the Senate. I believe it to be just and right. I believe it to be a safe provision, and therefore favor it. I need not go over the arguments which have been so well adduced here and so well set forth in the article read by the gentleman from Dauphin, (Mr. MacVeagh,) from the pen of John C. Calhoun, showing how power concentrates with the wealth and the large representation of a city. It was so in those days, it was so in 1790, it was so in 1837, it is still more so to-day. The relative power of the cities is rapidly growing with the multiplication of railroads, with the concentration of capital, with the increased power of the press, which locates in the great central cities. They control and rule far beyond their population, far beyond their representation, and, to-day, Allegheny and Philadelphia combined, can rule the State. I think this, then, is a safe precedent. I would prefer limiting the proportion, say a certain proportion, not more than one-sixth of the Senate shall be given to any one county. They say to us, and I think I have heard the question asked a dozen times, "what would you do if put in our place?" It is a fair question, and I will answer it.

Let us see what we do when we have power in our own communities, among our own people at home. The city of Pittsburg has its legislative power vested in two city councils. Now, how do we elect them? We elect the lower branch by taxable inhabitants; we elect the select council, not by population, not by taxables, but by wards, and a ward with two thousand inhabitants has the

same representation there that a ward with twenty thousand has.

Now let us come home to Philadelphia. I have, lying upon my table here, presented by the courtesy of a member of councils, and an honored member of this Convention, the manual of councils for 1872, and it sets forth the manner in which elections are held. I find by this book that select council in Philadelphia, according to laws passed in 1854 and finally down to 1872, no objection having been made to it, elect their common councilmen by representation of taxables. Each ward has a common councilman for every two thousand taxables, and several wards have as high as five members in common council and some of them have but one. Then we turn to select council. It has precisely the same power as common council, and we find, not population, not taxation, not wealth, not taxables, but wards as the basis of representation; and each of the twenty-nine wards has one representative in select council, and I have not heard of any man in Philadelphia complaining of that as unjust, nor have I heard any man complain that it has ever resulted injuriously. On the contrary, I believe that the experience of every city is that while occasionally there may have been some apparent inequalities, it has been a wise and just provision, and one that should be retained.

Another thing with regard to this particular system of representation. We have seen what the history of representation has been in this State. It never has been based upon population alone. Is it wise now, with the increase of the power of the cities, with their concentrated wealth, and with the press and all the powerful influences that it has to-day, that it did not possess fifty years ago, to change that system? Then another thing; it appears to be pretty well decided, and it is the evident sentiment of Philadelphia, and of Pittsburg I may say also, and probably of all the other cities, that there should be some constitutional provision in regard to cities, which will very largely take away the power of the Legislature to legislate for cities, and that a large portion of that legislative power which, for the balance of the State, is vested in the Legislature

shall be vested in the city, in its own local legislature for its citizens.

[Here the hammer fell.]

Mr. J. R. READ. Mr. Chairman: I move that the gentleman's time be extended ten minutes.

The question being upon the motion, it was agreed to.

Mr. EWING. Mr. Chairman: I thank the committee, and will occupy their attention for but a short time further.

I take it that the legislation that will hereafter be enacted by the State Legislature will be much less for the cities than heretofore—that there will be more legislation for the balance of the State and less for the cities. Is that a reason for changing the law that we have had in regard to the Senate? Is it not rather a reason for still further limiting the powers of great cities—of great money-centres? In answer to the gentleman from Erie, (Mr. Walker,) for whose opinion I have a profound respect, when he speaks of other States, how is it, and how has it been? In the State of New York, up to 1821, the class of men who voted for Senators was a different class from those who were entitled to vote for members of the lower House, and the qualifications were entirely different, and representation was not based on population; and it never was based on population there until long after that date. In 1846, when they framed their new Constitution, while New York city had about one-fourth of the population of the entire State, they gave it but four Senators, but they provided that at the next enumeration the Senators should be divided in accordance with the population, and since that date New York city has had a much larger proportion of representation than it had before; and if we were to draw conclusions, as some gentlemen do, from particular facts, I would say that from that date commenced the degradation of New York legislation, and the power of the city of New York over it. New York city is the Legislature of New York.

I see also by the Constitution of Massachusetts that they do not permit any district in that State to have more than six men, but there is no other State, except Louisiana, Maryland and New York, that is situated as this has been—no other in which a great city so controls the State.

Mr. NILES. Mr. Chairman: I desire to say a few words in behalf of the report of the committee, of which I am a member. I am in favor of restricting the Senatorial power of our great cities; and while I say this I have no feeling, and, I trust, no prejudice against the city of Philadelphia or any other city in the State.

We are here to-day, sir, to amend the organic law of the State, and it seems to me that unless defects are pointed out in the old law, we should make no change in regard to it. I have been not a little surprised at the position that has been taken by the friends of this amendment, the dictatorial manner with which we, who are in favor of this limitation, have been assailed. Why, sir, it has been intimated to us, here on this floor, and by distinguished gentlemen whose leadership I, in the past, have been but glad to follow, that we are committing a great outrage and wrong upon the great cities when we attempt to preserve this restriction that has lived ever since we have had a State organization. And I undertake to say, that when we follow in the line of the Constitution of 1790, which was re-adjudicated or re-considered by the framers of the present Constitution of 1837, and when we follow in the leadership of such lawyers as the gentleman from Philadelphia, (Mr. Woodward,) the gentleman from Columbia, (Mr. Buckalew,) and the gentleman from Fayette, (Mr. Kaine,) I feel that I am in good company in desiring to preserve a few of the old landmarks and restrictions that have been thrown around our organic law for the preservation of the people living in the rural districts.

As I understand it, sir, this is no new theory. This idea of ours, to retain in the organic law of the State this restriction, is not a new idea. I understand that in the mother country, the land from whence most of us have come, and from which we have fashioned our government and taken many of our laws, all of her great cities are restricted in relation to representation in Parliament. The great cities of Ireland and Scotland and of England are restricted. London, including the adjoining municipalities, contains one-seventh of the population of England, and has but one-twenty-ninth of the representation in the House of Commons.

It has long been understood by our best and wisest men, as was shown by the extract read yesterday, from the utterances of that great man, John C. Calhoun, that it has ever been found necessary to preserve the government, that the representation of the population of great cities should be restricted.

A distinguished delegate at large, from Philadelphia, (Mr. Campbell,) said yesterday, if he is correctly reported—I had not the pleasure of listening to his speech—"this limitation"—I read from the newspaper account of it—"this limitation upon the representation of a large city is an anomaly peculiar to our State Constitution, no similar provision being contained in the Constitution of other States, nor having been even suggested in recent Constitutional Conventions."

That position has not been denied by any delegate on this floor, excepting the one or two that have spoken recently.—My purpose, and the only purpose that I have, in obtruding my remarks upon this Convention is, to say that this remark from a very distinguished delegate of this city, who is not only a lawyer, but a law-maker and a law-writer, is at fault, for in six of the great States of the Union to-day, where they have great and over shadowing cities, the same limitations and safeguards have been thrown around them, to protect the more sparsely populated portions of the State. Why, sir, the very State of Missouri, to which my distinguished friend—and I am glad to call him a friend—the delegate from Erie, (Mr. Walker,) referred a few moments ago, when he said that a man in Saint Louis was equal to any man in Missouri, has a limit; and if the committee will take the trouble to refer to the first volume of Hough's "Constitutions," page 793, they will find these words:

"The ratio of representation shall be ascertained at each apportioning session of the General Assembly, by dividing the whole number of permanent inhabitants of the State by the number two hundred. Each county having one ratio or less shall be entitled to one Representative; each county having three times said ratio shall be entitled to two Representatives; each county having three times said ratio shall be entitled to three Representatives; and so on above that number, giving one ad-

ditional member for every three additional ratios."

So that a voter living upon the northern or western borders of Missouri, according to the organic law of that State, is equal to three living in St. Louis, Springfield or Jefferson City.

The same safeguard is thrown around the representation of the State of Maine, and I refer to these facts to correct the record made by the distinguished delegate from Philadelphia, (Mr. Campbell,) whose speech has gone all over the country. Here is the language of the Constitution of Maine, on this subject: (Same Vol., page 513.)

"Each town having 1,500 inhabitants may elect one Representative; each town having 3,750 may elect two; each town having 6,750 may elect three; each town having 10,500 may elect four; each town having 15,000 may elect five; each town having 20,250 may elect six; each town having 26,250 inhabitants may elect seven; but no town shall ever be entitled to more than seven Representatives."

Yet, sir, some gentlemen would have us believe that we are perpetrating an anomaly and an outrage and wrong upon the cities by the retention of the old constitutional limitation. Maine, in 1870, had a population of 626,000 people, of which Portland had 32,000. Each town of that State having 1,500 inhabitants has one Representative, "but no town shall ever elect more than seven" members, yet Portland, upon the basis of her population, would have at least seventeen members of the House of Representatives. So that Portland lacks, to-day, ten members to give her a full representation on the basis of population.

The delegate from Erie (Mr. Walker) said that a man in Boston was equal to any man in Massachusetts, and he cited this as one of the great States having a great city, where, notwithstanding, there is no constitutional prohibition of the nature referred to. What is the fact? By the Constitution of Massachusetts the Senators are limited to forty in number, and no district shall be entitled to more than six. Massachusetts, in 1870, had one million four hundred thousand inhabitants, of which Boston contained two hundred and fifty thousand. In Boston it takes forty-two thousand inhabitants

to be entitled to one Senator, while in the balance of the State it requires only thirty-four thousand.

Mr. WALKER. If the gentleman turn to the place where the Constitution of Massachusetts is shown to be amended, he will there find that Boston is represented just as any other portion of the State is.

Mr. NILES. Which section does the gentleman refer to?

Mr. WALKER. Whatever section it is that shows the amendment to the Constitution, referring to the districting of the State,

Mr. NILES. I have read from the body of the Constitution. If I find any conflicting paragraph I shall be glad to read it.

In the State of Maryland, where they have the large city of Baltimore, and Baltimore has overshadowed the State of Maryland, just as Philadelphia overshadows Pennsylvania.

[Here the hammer fell.]

Mr. H. W. PALMER. Mr. Chairman: I move that the gentleman's (Mr. Niles's) time be extended ten minutes.

The question being upon the motion, it was agreed to.

Mr. NILES. I thank the committee. I now read from the Constitution of Maryland: (Same vol. pages 569-570.) "Each county in the State, and each of the three Legislative districts of Baltimore city, as they are now or may hereafter be defined, shall be entitled to one Senator, who shall be elected by the qualified voters of the counties, and of the Legislative districts of Baltimore city, respectively, and shall serve for four years from the date of his election," &c.

Now, Maryland, in 1870, had a population of 780,000, of which Baltimore had 267,000. Each county in the State has one Senator, to an average of 15,000 persons, while Baltimore, with her 267,000, is restricted to three Senators, or one for every 89,000; so that 89,000 people in the city of Baltimore, so far as the Senate is concerned, is only equal to 15,000 in the rural districts. Had I time I should read further from the Constitution of Maryland, to show its provisions on this head, but I will content myself with a mere statement or summary of their operation. Every county in the State, having 18,000 inhab-

itants or less, has two members of the House of Representatives, being, say one for every 9,000, while Baltimore, with her 267,000, is restricted to eighteen delegates, (precisely what Philadelphia has to-day,) being one for every 15,000, or a little more than one-half her share if the representation were not restricted.

Rhode Island, in 1870, had a population of 217,000, of which Providence city had 69,000, being about one-third of the population of the State, yet Providence is, by the Constitution of the State, restricted to one-sixth the representation of the House of Representatives.

Providence is entitled to one Senator, and every town having a population of one thousand five hundred inhabitants has one Senator, and according to her population, upon this basis of fifteen hundred, Providence is entitled to thirty-seven Senators. The State of South Carolina has a population of six hundred and sixty-eight thousand, and Charleston, with a population, in the same year, of forty-nine thousand, is restricted to *two Senators*. That State gives to each one of her counties one member in her House of Representatives and one member in her *Senate*. Charleston is restricted to two Senators, and yet we have been told in this Convention, by the hour and by the day, that this provision of our fathers, restricting the Senatorial representation of the city of Philadelphia, which has existed ever since the State itself, is a thing unheard of. There is another subject I desire to refer to before I conclude, if the Convention will indulge me for one moment. Now it may seem unfair, Mr. Chairman, to limit the city of Philadelphia to four members of the Senate, when every county in the State obtains the precise number they are entitled to; but there is another consideration that I have not heard suggested in this Convention. Philadelphia, in the lower House, has no fractions. She loses nothing in the way of fractions, whereas some of the counties of the State lose fractions which almost entitles them to a member. Now the report of the committee, which we are considering to-day, gives a separate representation to every county of thirty-five thousand inhabitants, and a member to every county that has a ratio of three-fifths of the same, making fifty-six thousand. Now, upon the basis of the report which we are

considering to-day, the county of Armstrong, with a population of forty-three thousand, has an excess of eight thousand. Bradford county, which adjoins my own county on the east, having a population of fifty-three thousand, has an excess of eighteen thousand. Fayette county, represented by my friend, (Mr. Kaine,) has an excess of eight thousand. Lycoming county, lying upon the south, has an excess of twelve thousand. Venango county has an excess of twelve thousand. Mr. Chairman, your own county of Washington has an excess of thirteen thousand. So that in eighteen counties of this Commonwealth to-day, if we adopt this report of the committee, which has been represented as unjust and unfair to the city of Philadelphia, we have one hundred and seventy-five thousand of the people of this State who will not be represented in the lower House.

It will thus be observed that what we gain in the country by this constitutional restriction in the Senate, the city of Philadelphia re-gains by having no fractional losses in making up her representation in the lower House.

The national government recognizes this same principle in the organization of the United States Senate. Each State there has an equal representation without regard to population. Delaware and Rhode Island have the same vote as Pennsylvania and New York. The great States have suffered nothing from the equal representation of the smaller ones. Experience has demonstrated the wisdom of the men who devised our national Constitution. The Senate is the conservative, the House the popular branch of the government. One is a check and a balance upon the other. If the *basis* of representation is the same in the Senate and House of Representatives, why not dispense with one or the other? Why have both? One certainly is unnecessary.

I desire to retain this old time-honored restriction from no feeling of opposition to Philadelphia. For her I have nothing but respect. I remember that she is the great commercial centre of our great Commonwealth. I remember that she is the great manufacturing city upon this continent. I well remember that in all the great wars that have afflicted our land and our people, Philadelphia has been as true to freedom and the Union

as the needle to the pole. I admit that her wealth has done much to develop the great and hidden resources of the State, and the State in return has, by means of her iron, her coal, lumber, grain and oil, poured untold millions into the lap of this great city. I agree that there should be no antagonism between the city and country—that the true interest of the one is the best interest of the other.

I do not here and now make charges against the city of Philadelphia. During the many long weeks of our session here we have listened by the day, and almost by the week, to eloquent appeals of the very many distinguished delegates from Philadelphia in regard to the frauds perpetrated upon her ballot-box, to the intimidation of voters, to the almost total destruction of the elective franchise. Very many delegates have appealed to the country to save the city from her "rounders," "repeaters" and "ballot-box stuffers." We have attentively listened to the recital of the misuse of her representatives at the State Capitol. Our respected President (Mr. Meredith) told us yesterday, in his own inimitable language, that Philadelphia was *not* represented by her representatives. That for the last twenty years she had been *mis-represented* at Harrisburg. That the city was in the hands of irresponsible members "who represent nobody but the little knot of politicians to whom they look for protection."

If this be true (and upon this point I neither affirm or deny,) would Philadelphia be any better off with an increase of representation? If her true interests are sacrificed by her four Senators, would her condition, politically, be bettered by increasing her number to six? Would the condition of the patient be improved by increasing the character and extent of the disease?

Mr. Chairman, I do not admit that population *alone* is the *only basis* of representation. It may be the general rule. But there are exceptions. The population of our great cities, living in dense masses with a known and easily understood community of interest, controlled by a powerful and all pervading local press, have much greater strength and a larger degree of political influence than they would have if the same number

were scattered over a half dozen sparsely populated counties.

In my opinion no good reason has been shown for breaking down the barrier thrown around the people in 1790, and again re-affixed in 1837. Its repeal is not one of the reforms demanded by the people when this Convention was called. No one has called for its abrogation. No single petition has asked that it be annulled, and yet, without being asked, we propose to wantonly lay hands upon this old landmark of protection to the country. To-day Philadelphia has four Senators. In a few short years Pittsburg will have the same number, giving these two cities eight Senators or one-fourth of representation of the whole State. I submit, Mr. Chairman, ought a time ever come when these two cities shall have more than one-fourth of the representation of the whole State? Our city friends are not satisfied with the present ratio of representation. For all practical purposes the State to-day is absolutely under the control of Pittsburg and Philadelphia. One city organizes the Senate and takes the Speaker and Clerk. The other organizes the House, and takes the Speaker and controls a majority of the important committees. And if such be our condition to-day, I pray you, sir, what will be the situation of the people of the State when all limitations and restrictions are broken down and the country entirely in the hands and at the mercies of our great cities. In the name of the rural district that I have the honor, in part, to represent, I protest against the destruction of this *time honored protection* of the rural districts, and against the encroachments of the wealth and power of our great and growing cities.

Mr. BOYD. Mr. Chairman: I understand the proposition before the committee is the amendment which has been offered, inserting six Senators in place of four, as reported by the committee.

The CHAIRMAN. The amendment is to strike out the proviso.

Mr. BOYD. I was about to observe that if the city of Philadelphia claims only six Senators, she is, indeed, exceedingly modest in her demands, for I certainly shall vote for that number, and I think it quite likely that I shall vote to allow her the same representation as is accorded

to other portions of the State. It seems to me simply absurd to say, that the city of Philadelphia should be confined to the number accorded to her by the report of the committee. Why, sir, I understand that under the Constitution of 1790, and under the Constitution of 1837-38, she was allowed but four Senators. Now, if she were entitled to four Senators in 1790, it would seem to me that in 1837-38, she had grown up to a stature that entitled her to at least double that number, and surely if she were entitled to four Senators, and that was considered a just number in 1837-38, she has certainly grown, since that time, to proportions that would entitle her to a number vastly beyond that. I am not one of the members of this Convention ever to be governed by any jealousy of the city of Philadelphia. I have already indicated upon this floor that I can discover nothing in her greatness of which we need be jealous, because as she is great, so the State is great. She has contributed her material wealth and resources to make the State what she is, and so the State has helped to elevate the city of Philadelphia to the high position she now occupies. It has been a mutual benefit all around, and if it be said that because she has a larger number of representatives in the Legislature than come from other portions of the State, it seems to me that whatever mischief exists, is very much modified and corrected by the report of the Committee on Cities and City Charters, of which my friend, Judge Walker, is chairman. According to the report of that committee, and I presume it will be adopted by this Convention, the city of Philadelphia will be, so to speak, a law unto herself, because that committee have reported in favor of allowing her to enact her own local laws, and do her own local legislation for the government of the city.

Now that being the case, it seems to me that her Senators and Representatives are no longer in the condition or position they have been in the past, because it has been said that they have been obliged to trade around with members from the interior for the purpose of securing legislation necessary for the city of Philadelphia. I have no doubt that this has been true in the past, and now that this source of trouble is to be taken away from her legislators, and the city of Philadelphia is to

do her own legislation, as a matter of course it will not be necessary for her Senators, in the future, to descend to the means they have been compelled to resort for the purpose of securing that legislation for the city which was conceived to be wise and just; and if, therefore, she is to have the full representation she seems to be justly entitled to, her representatives can go in the Senate of the State and represent not only the city, but the State, because it is difficult to draw a distinction between the State of Pennsylvania and the city of Philadelphia. What is the interest of the one is undoubtedly the interest of the other, and hence if Philadelphia can send to the Legislature an equal number of Senators in proportion to the rest of the State, why she can take a broader and more comprehensive view of important questions that may arise, without being encumbered by this log-rolling system her representatives have been subjected to in obtaining for Philadelphia the legislation to which she was entitled. Therefore it is that I shall vote for the number six, or for whatever number she is fairly entitled to, and it does not make a particle of difference to me, one way or the other, as the gentleman from Fayette (Mr. Kaine) suggested, if she does elect both the Speaker of the House and the Clerk of the Senate. What of that? What a miserable little business it is for the members of this body, who are endeavoring to create a fundamental law for the State of Pennsylvania in the great future, to stand here and discuss questions which seem to involve the simple question whether the city of Philadelphia shall elect the Speaker of the House, and the city of Pittsburg the Clerk of the Senate. Why, sir, so far as I am concerned, I shall favor building up the city of Pittsburg, both by my vote and every act I perform while in this Convention. I would gladly make her the rival and the superior of this city; and, on the other hand, I would vote to build up the city of Philadelphia in all her greatness and in all her glory, so that she shall keep pace with the progress of her State. I shall never, so long as I have a seat in this Convention, ever belittle this city by depriving her of her just rights, and I will here observe that, so far as her Senators, at least, are concerned, she has maintained a respectability and character in those

representatives at least, that, considering all things, has been highly creditable to her citizens. The Senators with whom I have been personally acquainted, who have represented this city for the last twenty-five or thirty years, have been a credit to her, and they have been men that could be confided in for the most part. Now my friend from Allegheny (Mr. D. N. White) smiles at this.

Mr. D. N. WHITE. I was smiling "for the most part."

Mr. BOYD. It is to be expected in a city of this kind that the manner of managing their nominating conventions will sometimes produce a miscarriage in the kind of men they send to the Legislature; but the same thing happens in the interior of the State. I know men in the rural parts of the State to be set up by these conventions who have been wholly unfit for the position to which they have been nominated and elected; but it by no means follows as a rule that it is unsafe to resort to this mode of representation.

Now, Mr. Chairman, I am strongly inclined to favor the proposition of my colleague from Montgomery (Mr. Corson.) I shall spell it out a little more, and if I comprehend his idea correctly, and it is in substance to give to the city of Philadelphia her just proportion of representation, I shall support that proposition, or any other one that looks in that direction.

Mr. BARDSLEY. Mr. Chairman: The subject now under consideration is one that affects the people of the city of Philadelphia more particularly than those of any other part of our State, and as one of the representatives of this city I desire to impress upon this Convention the importance as well as the justice of meting out to the people of this city the same rights and the same privileges that they propose to take to themselves. I submit that equality of rights and equality before the law are the dearest privileges belonging to the American people, and that we are not carrying out the great principles upon which this government is founded, in preventing 800,000 people from exercising the rights that properly belong to them. When we propose to tax the people, and to prevent them from being represented in the legislative body of our State, we strike down the dearest principles which originated with the birth of the United

States; for the principal object that induced the United Colonies to sever their connection with England was taxation without representation. The city of Philadelphia pays into the Treasury over two-fifths of the entire yearly revenue of the State.

I submit it is right, or just, or proper, that Philadelphia shall be deprived of the right to have upon the floor of the Senate of this Commonwealth that full representation to which she is actually and legitimately entitled? This section now under consideration proposes that the Senate shall be composed of members in accordance with the population of the State, save only as one proviso, which applies only to Philadelphia, shall limit and restrain the representation of that city. If this Convention adopt any such system, Philadelphia, sir, will yield, but not entirely uncomplainingly. What other portion of the State would so patiently submit, in the face of the fact, that it is manifestly proper and right for both Houses of the Legislature to be composed of representatives according to taxables, as she has for the past sixteen years? This city claims only her just due when she asks, as her full and legal right, that she shall be represented like any other portion of the Commonwealth.

We are met here to form a new Constitution. The distinctions of the old Constitution, where they have operated in the past or operate now unequally upon any part of this State, are of no binding force or effect upon us. We are not to be guided by the existing organic law of this State, or of any other, save as the principles of those Constitutions have proved conservative of the public welfare and promotive of the general weal: The people of this Commonwealth, in calling us into convention, clothed us with their own sovereignty, and vesting in us that high privilege, called us into being to exercise a simple duty, to mete out justice to every citizen of the State.

We are not now, Mr. Chairman, in the possession of the proper representation that we at one time actually enjoyed under the present law on this subject. While to other communities the law afforded just representation, to us it has given less than we once enjoyed under its own restriction. In 1854 the city and county of Philadelphia were consolidated.

Prior to that time we were entitled to, and had on the floor of the Senate, five members. The next apportionment, after the passage of the act of consolidation, reduced that number to four, and to-day this great city, which has grown in wealth and in numbers every year with giant strides, has less representation in the Senate of this Commonwealth than it had sixteen years ago. And yet, during that time, we have steadily maintained our position as the second city in numbers in the Union, and have grown to be the first city of the country in the extent of our manufactures. In this city, annually, we produce \$400,000,000 of manufactures, we have 800,000 people, we have 160,000 voters, and I appeal to the justice of the committee, whether we ought to be ostracized because we have gathered within our borders all this immense wealth and this immense population. One thousand voters here ought to have the same right as a thousand voters in any other county of our State. By what right, sir, by what system of calculation can any gentleman say that we ought not to be represented as well as they, that the same number of population within the confines of Philadelphia should not have the same representation which that number would receive outside of this city?

It is only a question of justice; as such, and as such alone, we present it, and ask its decision. If Philadelphia claimed more than any other portion of the Commonwealth, no man here would vote against that claim more willingly than I. But she asks only for the same equality, that throughout this broad Commonwealth is questioned only when the application comes home to her. Is the representation to be equal everywhere else and here be unequal? I trust, sir, and I believe that the common fairness of the members of this Convention, and their innate sense of justice, will lead them to give to this city like privileges and like rights that they propose to give to themselves.

Mr. C. A. BLACK. Mr. Chairman: I did not intend to participate in the discussion of this really important proposition, but as two of the delegates who represent the district that I come from have indicated an intention to support the section as reported by the Committee on the Legislature, I desire to give, very

briefly, the reasons why I have come to a different conclusion. I regard this proposition as one of the most important that has been or will be presented to the Convention. So far, the advocates of this limitation have, in my judgment, made no serious effort to defend it on principle. The whole argument has been based upon expediency, or upon policy, and nothing else. Now, Mr. Chairman, I have been taught, and almost every man of both parties has been taught, that in a country like this, where the people are presumed at least to rule, where all power is supposed to come from them, the true democratic basis of representation is population, and population alone. It is not only the doctrine we have learned from our childhood, but all who have been here since the revolution have learned the doctrine, that the only true basis of representation in a democratic form of government is population. It is the doctrine that we have all learned from the books. From Bentham, from Mill, and others, who have felt and written upon the evils of a different system in England, and from Jefferson, and Madison, and Hamilton, who framed or expounded our admirable Constitution, and taught us to believe that the true basis of representation is population. I do not pretend to say, nor do I believe, that the doctrine of representation, based solely and exclusively upon population, can be carried out to its logical results. There may be, necessarily, some departure from the principle, for instance, where some arbitrary division or boundary of territory would interfere with its complete operation. But I do maintain, that wherever we can do so, we are bound to give every portion of the State a just and equal representation, independent of the accidents of wealth or density of population, or violate the principle upon which our republican institutions are founded. At least so it appears to me. I repeat, that the advocates of this invidious limitation have, in my judgment, failed to sustain it on principle. Indeed, so far, I think they have scarcely attempted to do so. The delegate from Fayette, (Mr. Kane,) and I refer to him the more willingly, though kindly, because we hail from the same district, grounds his argument in favor of the proposition upon the assumed fact that it has always been so. It is a bad argument,

even if the fact be so, for he and I have learned from the same authority that a vicious usage should be abolished. But has it always been so?

The accomplished President (Mr. Meredith) told us how it got into the Constitution of 1838, and as for that of 1790, I think it will require a very forced construction to find the limitation there. And as to the Provisional Constitution, if such it can be called, of 1776, it can scarcely be regarded as authority. The attempt to find any analogy in the Constitution of the United States, taken in connection with the history of its formation, is equally unfortunate. My friend, and the gentlemen who have spoken upon the proposition, seem to overlook the reasons which resulted in the incorporation in the federal Constitution of the principle which they regard as sustaining their position. The purpose of the framers was to establish an Union of separate States, of separate and independent sovereignties. Unlike our cities and counties, which are but parts of the whole, and separated, or rather divided, into communities for mere municipal purposes, the States were not only sovereign, but, as to each other, foreign sovereignties. The smaller States, such as Delaware, Rhode Island, New Jersey, and others, fearful of being absorbed or their independent sovereignty in some way abridged, refused to become members of the Union, unless they were, to some extent, made the peers of the greater States. This was effected by making them equal in the Senate, and it was done for that purpose alone. It was conceded, virtually, at least, by Mr. Madison, Mr. Mason, Mr. Wilson, and other leading members of the Convention, that in the absence of this reason, Senators would have been elected like members of the House of Representatives. If my recollection of this portion of the history of the formation and adoption of the federal Constitution be correct, and I think it is, it furnishes but little authority, I submit, for the position taken by the gentlemen.

MR. KATNE. Mr. Chairman: Will my colleague allow me to ask him a question?

MR. C. A. BLACK. Certainly!

MR. KATNE. Mr. Chairman: I want the gentlemen from Greene to say whether the old Continental Congress was not a merely representative body,

and whether there was any Executive authority during the existence of that body, and when the States came to form the Constitution of the United States, whether the Senate of the United States was not put in there simply as a check upon the representative branch?

MR. C. A. BLACK. No, sir! It was put in for the reason I have adverted to; to protect the smaller States, and nothing else. Mr. Madison expressly declared that if it had been a merely consolidated government, a homogenous government, if I may use such a term, then the representation would have been based upon population, and the members of the Senate would have been elected in the same way as the members of the lower House. He so expressly stated, on the floor of the Convention, and afterward in Virginia; and to my mind there could have been no other reason why the Senate was so constructed. If the government had been a consolidated one, I can readily see why the basis would have been population, and the upper branch of the national Congress not have been constituted in the manner in which it was done.

The Constitution of the Senate of the United States then, taken in connection with its history, should have but little weight, I think, in the solution of this question. It was a matter of policy, of sheer expediency, and did not contravene or affect the great principle of popular representation. The framers of the Constitution could not have so intended it. They were too fresh from the conflict of the revolution to forget that taxation without representation is tyranny; that all power emanating from the people, the right to be represented in the law-making body should be equally enjoyed by all. To my apprehension the weakest argument of all is the allegation that the Senate is necessary as a check upon the House of Representatives. Granting it to be the case, would the Senate be less a check, if all were elected from a single locality? The check, if necessary at all, arises from the existence of the body after election, not from the manner of the election or location of the members. Were it necessary, I think it could be shown that this idea of the upper House, being a check upon the lower, never had a legitimate existence, either here or in England, from whence the plan of two

Houses in Legislation was derived. In England the House of Lords existed centuries before the Commons were called into existence, and when it was done, it was for a very different purpose than to be subject to the check of the upper House. But this is of no consequence here.

It is urged in support of this limitation that cities, being non-producing, the preponderance of representation should be in favor of the rural or producing districts. But, sir, I have learned from writers upon political economy, if common sense did not teach me that much, that whoever contributes to the comfort and happiness of society is a producer; and that there are others besides those who produce grain and meat, and iron and coal that do this. The man who plans and builds a ship, a house, or a steam engine, is just as much a producer as he who furnished the crude material from the forest or the mine. Nay, the man who writes a valuable book, or the man who fashions a great invention, are just as much producers as he who by manual labor produces the food that sustains the life of the writer or inventor. I need not refer to what Philadelphia has done and is doing in these respects. Vast as her productions and creations are, the enumeration is not necessary to my purpose. Besides they have been already fully adverted to. Great cities, I know, have been regarded by many with apprehension. Mr. Jefferson likened them to great sores upon the body politic. I doubt, if living, he would apply the term to Philadelphia or any of our American cities. With our advanced civilization, I hardly think such a term can be justly applied; certainly not to such a city as Philadelphia. It need not be denied, if it could, that large cities naturally develop a large amount of crime, much more perhaps than the rural districts. The facility for concealment, and, perhaps, the increased incentives to crime resulting from the greater degree of luxury, and other causes, naturally induce such development. But then, they do a vast deal to prevent and punish crime; immeasurably more than is ever necessary in the country. They have much mendicity, vagrancy, and perhaps suffering, far more than could exist in a rural population; but how much more munificent and efficient are

they than any country population could be for the alleviation of human suffering, and comfort and protection of the weak and helpless. There can be no more magnificent or interesting spectacle than that exhibited by our great American cities in providing means for educational, charitable and reformatory purposes. And in the great productive and industrial enterprises the great bulk of the necessary capital has undoubtedly been furnished by the more opulent and liberal cities. It is unnecessary, perhaps it would be somewhat invidious, to refer to the amount of taxes they furnish for the support of government; and especially by the city of Philadelphia. We should bear in mind, however, in this connection, that taxation has always carried with it the right of representation. The chairman of the committee that reported this proposition read the opinion of Mr. Calhoun, deprecating the power of great cities, growing out of their great facility for concentration. But granting the existence of this power of concentration, what antagonism can naturally exist between the city and the country? The members of the Senate from the city would have but their numerical strength. They would have the weight of their own members and no more. Other members of the body would have the same power of concentration in case of any concerted movement against any other part of the State, or in support of an improper measure. I cannot understand how such attempt, if made, could ever prevail.

Then if we intend to give up true democratic principles you can impose this limitation on the city of Philadelphia. I hold that every citizen is entitled to representation in the law-making power, and if that be a just and a sound principle, how can you say, as this section proposes, that you will give all of the State its proper representation except Philadelphia, which shall have but a portion of what it is justly entitled to.

[Here the hammer fell.]

Unanimous consent was given the gentleman from Greene to proceed ten minutes more.

MR. C. A. BLACK. Mr. Chairman: I thank the committee for their kindness. But I do not desire to say any more. I wished only to vindicate the reasons why I must differ with my friend from Fay-

ette (Mr. Kaine) and my friend from my own county (Mr. Purman.) I think. *they are wrong in their conclusion.* They have not attempted, in my opinion, to defend their position on principle, nor can it, I think, be defended on any just grounds.

Mr. M'CLEAN. Mr. Chairman: I apprehend we have reached one of the most important and vital questions that has arisen in this Convention, and I am glad to see a disposition on the part of the committee of the whole to extend the debate. For my part I am decidedly, and have always been, in favor of the principles as I find them incorporated in the present Constitution of Pennsylvania. In referring to that Constitution we find that representatives are distributed in proportion to the number of taxable inhabitants in the several parts of the State; and when we examine the mode of constituting the Senate, we find it is provided that Senators are to be chosen by districts. I have watched the course of this debate with a great deal of interest, and I have listened in vain to the able gentlemen who have addressed the Convention upon this subject for any valid argument for abolishing the important distinction between the formation of the Senate and the formation of the House of Representatives of Pennsylvania. The arguments of all the delegates from the city of Philadelphia, including the honorable President of the Convention himself, I might say, have been based throughout wholly upon the one ground that there should be representation according to population. I say I have listened in vain to hear one of these gentlemen refer to the manifest distinction between the two branches of the Legislature. For my part I am opposed to any restriction so far as concerns the House of Representatives. Let the House of Representatives be formed strictly according to population, and let there be no limitation upon Philadelphia or any other part of the State in that branch of the Legislature. But I apprehend that gentlemen, out of their warmth of affection for their city, have forgotten not only the history of the adoption of the Constitution of the United States, but of the former Constitution of our own State. I was deeply impressed with the remarks of the gentleman from Cumberland (Mr. Wherry.) I believe much light was

thrown upon this question by those remarks, and that he reached the very core of the question when he said that the representation of the people in the Senate should be by districts or territory, and not according to population. Sir, if that is not so, why should there be a provision made for an upper branch of the Legislature, if the Legislature is simply to be a representation of the people according to population? Why not abolish your Senate then? It is intended, I submit, as a check upon legislation, and is one of the wisest provisions placed in the Constitution of the United States, and of all the States in this Union. I say that it has seemed remarkable to me that the able gentlemen from this city and from other parts of the State, who are opposing a restriction upon their representation as an innovation upon their rights, do not reach this argument as to the essentially different theories involved in vesting the legislative power in the two branches of the General Assembly. I hope this body is not about committing a fatal and terrible error, as I fear it will do, if they forget and abolish this distinction between the two branches of the Legislature.

Mr. C. A. BLACK. Mr. Chairman: I desire to ask the gentleman a question. Was the Constitution of the United States, in reference to Senators, adopted upon this principle of limitation?

Mr. M'CLEAN. I understand it so, just as I have stated during the course of my remarks, and the scheme is a beautiful one. We are fatally destroying its basis, and great and peculiar advantages, by the amendment which proposes to strike out the proviso reported by the committee. I would appeal to the gentlemen from this city, and from other parts of the State, who are in favor of wiping out this limitation, to pause and reflect before they commit this fatal mistake, as I apprehend it will be. Unless the Convention places all the sections of the State upon the original basis and principle of representation in the Senate, the interior counties of the State, with all their interests, will be ground to powder, as between the upper and the nether millstone. I do not say this out of any sectional jealousy of the cities, but because I believe a blow is aimed at the fabric of the government under which we have so long prospered, and I hope, therefore, gentlemen

will reflect before they commit this appalling error.

Mr. CASSIDY. Mr. Chairman: After the elaborate discussion of the question now before this body, I hesitate to occupy the time of the Convention, and only do so because I feel that I would be derelict in my duty to a city where I have lived all my life, if I did not say a word or two in behalf of her claim to be considered, so far as representation is concerned, upon the same footing as other parts of the State. I have listened, attentively, to the speeches of those who have addressed the Convention to hear something in the way of reason in favor of this amendment or of any proposition that limits the right of a city or county to representation, and I confess that I have listened in vain. I think I do not speak lightly of the views presented, and do not fail to appreciate their full force when I say that no word has been uttered or sentence pronounced in this Convention that invalidates the fundamental proposition, without which free government cannot exist, that representation ought to be based upon population and that taxation without representation is tyranny. In calling your attention to an axiom of government as old as this, it may be considered unnecessary, and yet if we have paid any attention to the course of the discussion in this Convention we find that nearly all that has been said has been in direct violation of that principle of republican government. The gentlemen who have advocated this amendment, not being able to furnish any sound reason in support of their views, have endeavored to place the question of representation upon some other basis than that of population, and I confess again that I have not been able to understand the course of their remarks. If representation is not to be based upon population what is it to be based upon? Is it to be based upon wealth? I should very much regret it if representation was so based, but I need hardly say that Philadelphia and Pittsburgh would find in it no cause for complaint, but it would be anti-democratic and wholly unrepubli- can. Is representation then to be based upon the question of territory? I cannot say that I would object to such a representation. If all the counties of the State are to have each an equal number of representatives, I

cannot say that I would object, but it would not be based upon any rule of reason I know of or any rule of government that I ever heard of. Therefore the question of representation comes back to the only other basis upon which it can be safely rested, and that is population.

As far back as the Constitution of 1776, of which some of our friends are so fond, and to which they have been accustomed to refer during the course of this debate, we find the very sentiment uttered and reiterated, and impressed upon the Convention then, and circulated throughout the land, that taxation without representation is tyrannical. For the purpose of calling the attention of the Convention to this sentiment, in turning to a volume of the Debates of the Convention of 1837-38, in a speech made in that body by the honored President of this Convention, reciting a section of the Constitution of 1776, we find that Convention starting with the proposition I am now advocating: "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 the majority of the people the law of the land." Nobody in this State ever hesitated to endorse this doctrine till now, and now it is to be determined that this sentiment of self-government shall not apply to people gathering together in large numbers in our cities. This proposition, I have stated, underlies the very existence of our form of government. The people have nowhere suffered from the adoption of this principle, and what is to be feared at this day from the inculcation of this doctrine in our State? I know it has been said, and will be said, perhaps, hereafter, that the rural districts of our State have much to fear from the concentration of large numbers of people in a given place. Why, sir, in the light of the advancing civilization of the hour there is, practically, no concentration of people or persons anywhere. The telegraph, the railroad facilities, and the various means of inter-communication have wiped out of existence everything like the organization of numbers of people akin to each other in habits, feelings or sentiments, and the interests of one section of the State of Pennsylvania have become identified with the interests of the people throughout the State. There is not a pulsation of the public heart the beat of which

is not felt by all the people. If the tide of prosperity or reverse flows through the metropolis of the State its influence is felt not only in the extreme south-western counties of Fayette and Greene, but upon the shores of Lake Erie and along the eastern slopes of our mountains, as much as it is on the shores of the Delaware. If disaster overwhelms the people of Allegheny, are not its effects immediately felt in the city of Philadelphia? We are legislating for the people; not for cities, not for counties, not for large numbers concentrated here and there, but for the entire people of the State; and I submit, therefore, that the only fair and just way to reach the desires of the people of the State is to regard the question of population the only basis upon which an equitable representation can be made.

But, sir, a gentleman in this Convention, (Mr. Woodward,) who has earned a distinguished position in the history of this Commonwealth for learning and statesmanship, rises in his place and states, upon this floor, that the city of Philadelphia ought not to be treated like the rest of the State, for among other reasons, the remarkable one that "we are non-producers." Non-producers! I would like to introduce that gentleman to some of his constituents, if he thinks they are non-producers. Let me tell that gentleman, if he has not already heard it, that in one ward of the city of Philadelphia—the Nineteenth—more ingrain carpets are made than all England produces.

There are more shoes manufactured and produced in this city than in the famous marts of Massachusetts. Let me tell him, if he does not know it, that one establishment in the city of Philadelphia makes and exports more saws than formerly were imported from, and that the fame of that one establishment goes throughout the land, as one of the best producers of the world. The gentleman has forgotten, for he knows too much of literature not to know, that the house of J. B. Lippincott & Co., of this city, is the largest book publishing and distributing house in the world. Non-producers a term to be addressed to us when our productions annually exceed four hundred millions of dollars, and exceeds, by fifty millions every year, the importations of the city of New York, and exceeds its imports by one hundred millions every

year? I could go over what must be familiar to him, and call his attention to the iron interests, the dry goods interests and the woolen interests, with its millions of money involved in them, but it is surely unnecessary. I trust we shall not again hear the term non-producers applied to the city of Philadelphia. My friend from the State at large (Mr. Woodward) also said, I think, "what would the city be without the country?" They have built it up. Let me ask him, in a better spirit, I trust, what would your rural districts be without the markets of the city? Of what earthly value to your farmers would be their grain, if there were no place to sell it, and no place to take it! Is not the capital and enterprise and energy of the city, every day, opening markets for the sale of your goods, thus adding to your wealth, and does not that all prove that there is nothing for the benefit of city that is not for the benefit of the country, and that their interests are entirely reciprocal. Surely it is so, and assuredly it is true, that every dollar we earn, and every sentiment we originate by which the love of popular government is diffused, and struggling humanity throughout the earth aided, adds not to our fame, but to the glory of our grand old Commonwealth.

I have heard, I regret to say, some denunciations of Philadelphia on this floor. We are not without fault, and some grievous ones, too, perhaps, as I take it for granted can be found in every city of eight hundred thousand or a million inhabitants; but I am here to say, in behalf of this city, that a better governed city, and one in which there is less crime, and I say it advisedly, does not exist upon the earth. As compared with London, or Paris, or New York, or Chicago, or even Boston, the city of Philadelphia shows a greater exemption from crime than any of them; while the assaults and batteries and petty crimes that will be found always in large cities, the terrible offences against society and the law are almost unknown.

Beyond, Mr. Chairman, the wealth of this city, for which I am not here to speak, I appeal in behalf of the rights of that large number of toiling men and women who compose a large part of my constituents, hard-working, earnest people, about whom our President spoke so well the other day. These people who oc-

cupy a greater part of the one hundred and thirty-seven thousand houses of this city, most of which they have earned and own, I am here to ask that those men—freemen—the equal of any people of the globe, shall have the freeman's right, that of representation according to their numbers. Is there any hardship in this, Mr. Chairman?

[Here the hammer fell.]

Mr. JOHN PRICE WETHERILL. Mr. Chairman: I move that the gentlemen have leave to proceed.

The motion was agreed to.

Mr. CASSIDY. Mr. Chairman: I am very much indebted to the committee for their courtesy, but I feel that I ought not, in view of how much has been said on this subject, and so much better than I can hope to say it, to consume more time. I know, Mr. Chairman, that the desire of this committee is to do all that is right to do, and I can therefore have no fear of the committee being governed by the jealousies and rivalries that one of my colleagues spoke of. Such sentiments belong to the past. We live in the age where man has been able to direct the lightning and has practically annihilated space. The iron bands of the Commonwealth bind together all parts of the State, and the telegraph makes us all neighbors.

No, Mr. Chairman, the city and country are rivals in nothing except in good works. The question for our consideration is far beyond personal or local rivalry. It is one of grave principle. We are asked to place in the fundamental law, under which we and those who come after us are to live, a principle that is anti-republican and anti-democratic. In the name, Mr. Chairman, of the toiling people of this city, in the name of the people who bear the burthen of at least one-fourth of the expenses of this Commonwealth, in the name of one-fifth of the population of the State, I protest against the adoption of any rule that seeks to establish the proposition that the residents of cities are not the equals of the residents of other portions of the State.

Mr. GIBSON. Mr. Chairman: I will not detain the committee long, but as this debate has taken a wide range, I feel it my duty to offer a reason or two for the vote that I shall give. I cannot say, sir, that I am in favor of the report of the committee, but I must say that I am in

favor of a restriction upon the representation in the Senate of the larger communities, and I have endeavored to condense what I have to say as much as possible, so as not to consume the time of the committee.

The reasons for a vote in favor of the proposed restriction, and the reasons against such restriction, have each claimed their support upon principles of government. The representatives from the city say that the restriction is unjust, because they do not have a fair representation according to population, and some of their supporters from the country say that a man in the city should be the equal of a man in the country. Principles of democracy have been appealed to, and facts of population and taxation have been invoked, to uphold a full representation according to population. But, sir, what is government, which in this country consists principally in the legislative power? It is a system of compromises. This apothegm was uttered by the great Edmund Burke, who has been referred to by one gentleman from Philadelphia. The whole of his observation is as follows: "All government, indeed every common benefit and enjoyment, every virtue and every prudent act, is founded on compromise and barter. We balance inconveniences. We give and take." The question, sir, of the rights of Philadelphia is therefore to be considered, not abstractly, but with reference to the rights and interests of other communities.

This question has been argued as though the only object of a representation in the Senate of the State was to take care of the interests of the particular community the member represents, while it is forgotten that the representative is a member of the legislative power of the State, elected to legislate for the whole State, and to pass general laws. If the system of local legislation, which, it is universally admitted, has been abused is to continue, then I can understand why the city of Philadelphia should be so jealous to have what they call a full representation in the Senate; but if that is to be restrained, the members elected are to legislate for the entire State. Philadelphia sends her representatives for that purpose. In one House she has full representation; but what is objected to,

on the part of the country, is an undue preponderance in the other House when there may come up questions of antagonism of interests.

Why two legislative bodies have been deemed necessary is no longer a question. It was thought by the founders of our national and State governments, for the preservation of constitutional liberty, that an upper House should be constituted in some select manner to be a check upon hasty legislation. The question before us then is, how shall this upper House be constituted. It is a subject of compromise, a subject of barter. There is no question of popular sovereignty connected with it, in my opinion; but only as to the proper means to provide for the best government and best legislative system to protect the interests of the entire State. If gentlemen would take that view of the subject, the view that all government is founded on compromise, and that it is the province of government, and the object of the legislative system to protect the interests of the entire State, I do not think there ought to be any hesitation in supporting limitations or restrictions of any kind which may be necessary, so that the interests of the entire Commonwealth may, through the legislative power, be protected, and proper laws be passed for the greatest good of the greatest number.

Mr. WOODWARD. Mr. Chairman: Am I at liberty to address the committee again?

Mr. NEWLIN. I move that the gentlemen have leave to speak twenty minutes upon this subject.

The motion was agreed to.

Mr. WOODWARD. Mr. Chairman: I do not propose to take up much of the time of the committee, but I am obliged to gentlemen for their disposition to listen to me. I rise to refer, sir, very briefly, to the course of debate that has taken place. When the report of the Committee on Legislature was brought in, I found in it, sir, a provision that has been in all our Constitutions from the beginning of our history, and I heard a disposition expressed and a motion made on this floor to strike it out. It seemed to me that the reasons were entirely inadequate, and I took the liberty of expressing my hope that this venerable provision of our Constitution

should be permitted to remain. Nobody had complained of it, either in Philadelphia or out of it. I saw no reason for expunging it from the Constitution. I restrained myself very carefully in the observations which I submitted to the committee at that time. I said, expressly, as any gentleman will find who refers either to the notes of the stenographer or to his own memory, that I would not discuss the grounds upon which great municipalities were generally restrained in representation in legislative bodies. I said I believed there were reasons lying down in the foundation of our social structure that would justify such limitations; but I would not go down to develop them. One gentleman might find one class of reasons; another another. It was so with those who have restrained this provision in our Constitution. Their reasons may have been various. I did not enter into any invidious comparison of the city with the country.

In 1837 when this subject was under discussion, Mr. Thaddeus Stevens, in a speech to which I have referred, and which I have now lying before me, did assail Philadelphia most unjustly, and was replied to triumphantly by the President of this Convention.

Mr. Stevens charged that Philadelphia had opposed the internal improvement of the State, and had withheld her votes whenever the people of Pennsylvania wanted canals and railroads, unless they led directly to this city. The record was against him, and it was shown so to be. I knew that that was not a proper line of remark, and I did not pursue it. I do not believe in it. I made no assault upon the city of Philadelphia. Not one word escaped me that could be construed into an assault upon the city. My observations were few, and they were submitted with great deference, as my observations always are.

Among the replies which these observations drew forth was one from the gentleman from Philadelphia, who sits behind me, (Mr. Biddle,) in which he discovered in his researches into the anatomy of the body politic, that Philadelphia was the heart of the Commonwealth, and that from this fountain all the currents of health and strength flowed through the arteries and veins down to the extremities. To that speech I replied in

another speech. In replying to that observation made by a Philadelphian, a gentleman whose sympathies are exceedingly intense in regard to everything, Philadelphian, I say that in replying to that argument—if indeed it could be called an argument—my eyes lighted upon the venerable figure of the founder of Pennsylvania, as it hangs over your head, sir, and I remembered that that founder did not plant the heart of Pennsylvania in the city of Philadelphia, and I told the Convention that when he tried his English colonists and found them malecontents on his hands, he went into the German States and formed German emigrant societies in the principal cities of the continent of Europe, and brought them into this State and placed them in the limestone valleys of Pennsylvania, and they formed the basis of the population of Pennsylvania as it is to-day.

In the course of my remarks on that point, in reply to the gentleman's anatomical argument, I did say—the observation escaped me somewhat as Mr. Wallace's observation escaped him when he addressed the Supreme Court as *gentlemen*, and apologized therefore by saying the word escaped him in the "heat of debate"—did say that the seven hundred thousand people who inhabited Philadelphia could not raise their bread. I might have said—what I did not—that every citizen of this great city is warmed with the coal that the industry of the country sends to us, and that every man, woman and child in the city is fed with the bread and milk and butter and beef which the country sends us. I say I might have enlarged on this, but, surrounded as I am, by so many gentlemen of intelligence, and knowing as I do that hints are all they need, I did not enlarge upon the subject. I did suggest that one passage in our history, in replying to my friend from Philadelphia, (Mr. Biddle,) not by way of assailing Philadelphia, but by way of saying that the people who manufacture in Philadelphia are an inferior race of beings to the people who raise bread in Lancaster and Berks and Chester counties; that was not my argument. But I did refer to this historical fact in order to vindicate the truth of history, in order to show these gentlemen that Pennsylvania was not originally a manufacturing State; that it was not

founded as such, and that it *was* founded as an agricultural State; and, sir, William Penn, if he could speak from that canvas, would tell us that he brought men here to cultivate the soil, and he brought the best people for that purpose that the world ever seen. They knew what good land was, and they knew how to use it. They spread themselves over Pennsylvania, and laid foundation of the all our prosperity, social, economical and political. Now, sir, for this, as I thought, very innocent reference to the history of my native State, I have been held up here for two days, a spectacle for men and angels. [Laughter.] I have been denounced in every phrase in which the politeness of Philadelphia could allow itself to express itself; and with that ineffable wit which that famous "farmer" from York county (Mr. J. S. Black) knows so well how to use, that famous farmer who will tell you that his wheat costs him twenty-one dollars a bushel and he gets two for it. [Laughter.] Why, Mr. Chairman, I do not wonder that these gentlemen—my friend here (Mr. Cuyler)—who serves a corporation that rules Philadelphia and Pennsylvania, and which, I believe, is going to rule the whole Union if not the whole world—and the other gentlemen. I do not wonder that these gentlemen improve the opportunity to make speeches that will tickle the ears of Philadelphians. I do not blame them. They say: "Here, sir, you are one of our colleagues, and yet you have ventured to allude to a historical fact, that does not tend to prove that Philadelphia is the heart of the republic."

Now on that text I do not blame these urbane gentlemen for discussing Philadelphia—the glory of Philadelphia and the greatness of its manufactures. It is their vocation. I honor them for it. But these volunteers from the country, [laughter,] this famous "farmer" from York, and my distinguished farmer friend from Centre county, (Mr. M'Allister,) and other gentlemen, rush in to the rescue of imperilled Philadelphia. I wish they were all in their seats to-day, sir; I should have something to say to my friend from York county (Mr. J. S. Black) if he were here, but he shot his Parthian arrow at me and fled, in which there was more of discretion than of courage. I will, therefore, let him escape as he has escaped;

but what business has any farmer in the interior to arraign me for having aspersed Philadelphia, and cause a newspaper of last evening to state that "he replied, triumphantly, to the aspersions of Mr. Woodward on Philadelphia." I deny, sir, that I ever aspersed Philadelphia; but, in justice to myself, I will say that, since I have lived in Philadelphia, and long before, there never has been a movement of this great community with which I have not strongly sympathized.

Recently we have a project of ocean steamers, we have a project of municipal reform, we have a project of Centennial celebration. I, sir, am booked for all these, and have been, and shall continue to be. If any man chooses to eulogize the manufacturing interests of Philadelphia, I listen to him with satisfaction and pleasure. I said nothing on that subject. My course of remarks did not lead me to discuss manufactures. I was discussing the fundamental principle of the prosperity of Pennsylvania, and I found it in the agriculture of Pennsylvania. The gentlemen, however, have paraded statistics, and have shown the uncounted millions of the manufactures of Philadelphia. All well. I rejoice in the prosperity of Philadelphia as much as any man. It is all right for these gentlemen to talk of the greatness of Philadelphia in this regard. What I say is, that it is no answer to the history to which I alluded. It is no answer to the proposition that the foundation of the prosperity of Pennsylvania is to be found in the hard working sons of toil who have inhabited our valleys and mountains, who have disembowled our iron ore and coal, and who have made Pennsylvania almost equal to Great Britain, because Pennsylvania abounds in those very resources of wealth which has made England what she is. These are the fountains and the sources of our prosperity. It is from this source the life blood of all our industries has flowed.

The manufactures of Philadelphia, developed, founded and built upon this foundation, is a subject upon which I have not uttered one word by way of aspersion, and that editor or that member who charges me with having done so charges me with that which is false. So, also, in regard to the assertion that I had said that the people of Philadelphia were an idle and thriftless race of people. I

appeal to every gentleman on this floor to bear me out when I say that no such word ever escaped my lips. No such thought was ever in my mind. I know the contrary. I know right well not only what the vast manufacturing operations of this city are, but I know also that in no city, in ancient or in modern times, has there been such a development of the christian charities of life as you will find in this city of Philadelphia; and I believe now, and say so with great pleasure, that there is no city to be found, either in our own country or in any other, where there is less vice or wrong, or outrage, than in this city of Philadelphia. And, sir, when all that is conceded and said, what then? Shall every man in Philadelphia be counted in the basis of representation in the Senate? Shall every man in this vast community be counted? Why, I suggested that while population was the general rule in regard to representation, like all other general rules, it had certain necessary practical exceptions; and this had been found to be one, that great compact communities should not be represented in the same proportion in which rural populations should, the reasons for which I forebore, I repeat, from stating, and left gentlemen to explore these reasons for themselves.

Conceding that Philadelphia deserves all the eulogies that have been pronounced upon it on this floor by her admirers, domestic and foreign, [laughter,] conceding all this, I nevertheless say that she is a vast aggregation of population. And I am not responsible for the thought that humanity, like manure, cannot bear packing. [Great laughter.] If you look at the weeds that grow around a heap of manure, you see how entirely worthless, though rank, they are. But you scatter that manure and you fertilize the whole land, and you produce fruits that are pleasant to the eye and good to the taste. It is not Philadelphia, but it is London, it is New York, it is Paris—it is any city in which you pack human beings. You bring there the refugees of all the penitentiaries. You bring all the fraudulent practices that the ingenuity of man has invented. You bring them there, not because it is the city of Philadelphia, or some other city, but because these great cities are the hiding places of just such rogues and cut-throats and

thieves. You find them in all cities. Philadelphia is not peculiar, or if she be peculiar, she is peculiar perhaps in the smallness of that kind of population: but she has that population in common with all the other cities of the earth. It is in consequence of the aggregation of individuals that you find such burglars, and thieves, and counterfeiters and gamblers—but I need not enumerate the whole catalogue of vicious men. You all know them as well as I do, and I say, sir, that their tendency to cities is as sure, by some law, as the law of gravitation.

Now, when my friend, the famous farmer from York, (Mr. J. S. Black,) insists that every man of these fellows shall be counted in the basis of representation, and other gentlemen enlarge upon the intelligence and culture and virtue of most of the population of Philadelphia, what do you say? Is there any force in that argument? You don't find that class of people in country and rural districts, simply because they cannot hide themselves there. Exchange the rural population and the urban population of virtuous people, and the case will be exactly the same. It is not a comparison, nor is it fair for gentlemen to institute a comparison between the culture and intelligence and the virtue of this city, and say that these things are untrue, when it is notorious that in fact they are true. No, sir! I will take the testimony of the Reform association of this city, as respectable a body of Philadelphians as can be found anywhere, and I say that if what they have told us and laid on our desks be half true, Philadelphia is, if not the most corrupt city in the world, at least within the same general rule which applies to cities at large all over the world.

[Here the hammer fell.]

Mr. CUYLER moved that the gentleman's time be extended ten minutes. This was unanimously agreed to, and Mr. Woodward resumed.

Mr. WOODWARD. Mr. Chairman: I do not intend to occupy much more of your time; but these foundations of government were laid by our fathers, and are being re-laid by us. And, sir, a large experience governed them and must govern us. It is not a question of right. Some gentlemen argue it as if every one of the lazaroni that are found in our cities has a right to be represented. Sir, the

right of representation is exactly according to the fundamental law that a community agree upon; and when that much often quoted and much misunderstood expression in the Declaration of Independence is cited, "that all just government is founded in the consent of the governed," that is what it means. That in the origin and foundation of our political institutions, a community consent and agree upon the principles that shall regulate the State. It is to such fundamental rules the "consent of the governed" is presumed. It does not mean that every law that is proposed shall have the consent of all the men, women and children in the State. That is not the meaning of that maxim. It does mean that in the laying of these foundations the people shall not be required to submit to some foreign power, or some despotism, or some rule of the sword; but shall be required simply to submit to a Constitution of their own formation and agreement.

Well, now. The people of Pennsylvania are here in this Convention, by us, their representatives, to re-lay these foundations; and I say that when we come to a question of whether municipalities, great municipalities, shall have a limitation imposed upon them, we come to a question of expediency. Is it expedient? Is it well for the Commonwealth that this limitation should be imposed? What says the voice of history? Why the history of our own State is that it is well. That it is well, and why should it not continue? Because Philadelphia is a great manufacturing town? Because Philadelphia is a town of great wealth and of great corporations? These are the kind of reasons that are rendered to us for expunging this limitation. I think, and I think as a Philadelphian, that the reason upon which this original provision rests is just as good to-day as it was in 1776, and again in 1790, and in 1838. It is a reason which in the nature of things must continue as long as great cities continue; and the tendency of the Anglo-Saxon race is to towns and cities, and therefore they will grow; they will continue to increase, and so far as they contribute to the prosperity of the country, I am glad to see them growing and increasing. I do not believe that there is any part of Pennsylvania which is growing at this moment as fast as the city of Philadelphia is growing. I believe it is in-

creasing in population faster than any other district of the State, and while that is true other great cities are springing up in Pennsylvania. Harrisburg has become an incorporated city. In Luzerne we have three incorporated cities, all of which are populous and growing rapidly. Pittsburg, at the other end of the State, is a great city and a prosperous city, and a city whose manufactures will compare advantageously with the manufactures of this city or any other great city.

In the face of these circumstances, then, is it wise for us to let go this restriction upon these large municipalities, or is it wise to retain it? Why, look at the Legislature. If Philadelphia grows as she is growing, and as she has grown for a few years, and these other cities expand and grow as they are likely to do, the legislation of Pennsylvania will be in the hands of these cities entirely and forever. A combination between Pittsburg and Philadelphia gives Pittsburg and Philadelphia the control of this Commonwealth, for all purposes. Well, let any of these eloquent defenders of Philadelphia, from aspersions which have not been made here, tell me whether that was according to the original plan of the founder of this State, that Pennsylvania should be ruled by a great city at each end of the Commonwealth. I tell you, sir, these cities will rule the Commonwealth; the corporations will rule the cities; and who will rule the corporations remains to be seen. We are having some experience in this city at this moment, in regard to corporate power applied to the business of a large body of respectable inhabitants. When this time comes that these cities are Pennsylvania, may God save the Commonwealth! We shall need His protecting arm then, if we never did before.

Now, sir, I believe this in my heart of hearts. It has been wrung out of me by this course of debate. Am I worthy of death or bonds for expressing such sentiments as these? Well, wait a few years, and you will see the necessity of bridling corporations, municipal as well as private. I am here, a delegate at large. I am representing the people of Pennsylvania as well as I know how, and I do not mean that this fundamental guarantee of the rights of the masses of the people of Pennsylvania shall be taken away with-

out my doing what I can to defend it. If gentlemen have got a majority in this Convention ready to do that great wrong, why then I am sorry this Convention ever came to Philadelphia. The sooner it gets away the better. for I know not what other popular guarantee it may take away if we remain here.

Mr. Chairman, I have said enough to indicate the ground upon which, I believe, this provision of our Constitution rests, and ought to be permitted to rest. I hope I have said enough to vindicate myself from the slanderous aspersions that have been made against me, who made no aspersions against Philadelphia. It is not to be tolerated, sir, that, in a Constitutional Convention, like this, when we are considering the fundamental law, we are not permitted to speak of cities, and of the peculiarities of cities, without having this whole covey of Philadelphia admirers light upon one as if he were a common thief. That is not to be tolerated. I am here, sir, representing the people of Pennsylvania, and I have a right to refer to what no gentleman will undertake to deny, that the cities of the world do contain an amount of population that is less worthy of representation than any other equal communities that are to be found in the world. Why, sir, the city of London, a vast city, that has overspread four counties, and whose greatness Philadelphia may equal, if she continues to grow, is not represented in the House of Commons according to her numbers, if I am correctly informed, whilst in the House of Lords the people of London are not represented at all; and I think my venerable friend from Erie (Mr. Walker) failed entirely to prove that the city of New York is. I examined what he showed me, in the Journal that we have here, and I find that the Senatorial districts of the State of New York are of as nearly equal population as possible; but I do not understand that the city of New York has a representation in either House of the Legislature equal to her numbers; and I do not believe, sir, that it will be found to be the case in any city in our country or in foreign countries. On the contrary, this exception has been recognized, in all time, as a sound and salutary exception; and those men who planted it in this Constitution did not make a mistake. They understood exactly what

they were doing. We shall make a mistake if we strike it out.

Mr. STANTON. Mr. Chairman: I move that the committee rise, report progress and ask leave to sit again.

The motion was not agreed to.

Mr. BIDDLE. Mr. Chairman:—

Mr. BARTHOLOMEW. Mr. Chairman: If the gentleman will give way, as it is about the hour of adjournment, I will move that the committee rise.

The CHAIRMAN. That motion has just been voted down, and the Chair will not entertain it at present.

Mr. BIDDLE. I will not occupy the attention of the committee very long. If it is the pleasure of the Convention to go out of the committee, it is my pleasure to yield at once.

["Go on!" "Go on!"]

Mr. BIDDLE. Mr. Chairman: There is one advantage, certainly, that has accrued to the House from the debate that has taken place upon this question. It has enabled us to review and re-consider some of our opinions on social and economic questions, and to get, perhaps, a more accurate understanding of some things which are supposed to be involved in this debate; and if, in what I am about to say, the distinguished gentleman, who has just taken his seat, supposes I have the least intention of referring unkindly to him, I beg to say, in advance, that no such thought is to be found in my heart, and therefore no such thought shall receive utterance in words. I have for him not only the highest but the most cordial admiration. But I must speak out that which is in me; and if I deal with arguments as I think they ought fairly to be dealt with, the man who utters them is not to be regarded in the discussion. I am dealing with the argument, and not with the individual, and I shall so endeavor to do throughout.

Mr. STRUTHERS. Mr. Chairman: I move the committee now rise, report progress and ask leave to sit again.

The motion was not agreed to.

Mr. BIDDLE. Now I undoubtedly understood the distinguished gentleman from Philadelphia (Mr. Woodward) to say the other day, that out of the vast population whose hearts pulsate in this community, there was not a single producer, that our industry was not productive but consumptive. I confess that I was

astounded to learn that the greatest manufacturing city, not only in the United States, but on this continent, soon I trust in her mighty progress to be the first manufacturing city in the world, contained within its body no productive industry. I was amazed to learn that the loaf of bread which is, metaphorically, and, perhaps, literally, the staff of life, was not as much produced by him who forms and fashions the plow, and by him who forms and fashions the garments with which the husbandman is clothed, as by him who drops the seed into the hole where it germinates and fructifies to the profit of man. I was amazed. I am still amazed to learn it. I had supposed that every one who raises his hand or exercises his brain in lessening the difficulties which surround humanity in their encounter with rugged nature, in utilizing the resources which nature pours out before us, was equally entitled to the name of producer, and I felt amazed that any gentleman with an experience so vast, with a knowledge so profound, as that possessed by my distinguished colleague, (Mr. Woodward,) if he will allow me to call him my colleague, should not view this matter as all, yea the most elementary writers upon this subject, regard it. I regard no man as a mere consumer, save him who deliberately wraps up his talent in a napkin and buries it within the body of the earth. We are all alike in this respect if we faithfully use the powers entrusted to us, and this attempt to antagonize and array one section of the Commonwealth against another, or the agricultural portion of the State against the cities, in my mind is out of place economically, is out of place politically, is out of place socially, is out of place in every other way, and should have no consideration at the hands of the members of this body. I challenge any gentleman here to point to a single vote, to a single expression of mine, in which I have for a moment narrowed within sectional limits my duty to Pennsylvania as a Pennsylvanian, to the Commonwealth in which I too—although it is attempted to keep me out—claim to feel a deep and abiding interest, and of which I claim to form a part.

I deny, Mr. Chairman, that there can ever be any such antagonism of interests or of sentiments, unless they are selfishly

arrayed, not to subserve any true purposes of State policy, but to advance the narrow views of the partisan who utters them.

Now permit me, very briefly, to run over some arguments which have been used here, why cities—I shall not use the word Philadelphia—why cities should not have their just share in Senatorial representation.

Mr. LANDIS. Mr. Chairman: It is very evident that the gentleman will not finish his argument; and I think this Convention will gladly hear all that he has to say.

Mr. BIDDLE. I will not be over ten minutes. I think the committee will save time by hearing me out.

Mr. LANDIS. Then I move that the gentleman's time be extended until he finish his argument.

["Go on!" "Go on!"]

Mr. BIDDLE. It is a total misapprehension to suppose that Philadelphia claims her rights to Senatorial representation by reason of her being a great manufacturing community, or by reason of her wealth, or by reason of the large amount which she pours into the common treasury, or by reason of any consideration peculiar to herself. Such a view exhibits a total misconception of the subject. We demand our right, just as you, and you, and you demand your right; we claim that, though we are a city, though we do contain one-fifth of the population of the State, a much higher ratio of its wealth, to be treated just as each one of you is, or as the body of constituents represented by each one of you. Starting from the point, as I did the other day, that you attempt to make no distinction in the manner of representation in the upper House from the lower House, that it is not intended to be a representation of class interests, but simply of population. I put the question then, as I put it now, why, with the fifth of the population of the State, are we not entitled to a fifth of the representation in the Senate, and instead of argument in answer to this demand, we are treated with a discussion in regard to the non-productiveness of the community and a lecture upon the sins of our constituents. Mr. Chairman, large cities need no commendation at my hands. Their history is the history of freedom, of successful resistance to oppression. He who has

the slightest information upon the subject knows that cities have always been the refuge of the oppressed against tyranny of the oppressor. He who has the slightest information upon the subject knows that it is from cities—I do not speak of this particular city—it is from cities that the first germs of liberal thought go, disseminating themselves broadcast throughout the land, alimanted and nourished by those who take them up, and fructifying to this advantage of all, even to the remotest extremities of the body politic.

Do gentlemen forget the early history of this Commonwealth? Was it not—just here—almost on the very spot where we are now assembled, that the great founder of this Commonwealth who has been referred to to-day, planted the nucleus of the civilization that he brought from the mother country, and which, from this point as from a centre, radiated in all directions throughout the province. I claim no credit for this. I should as well think of claiming credit for the operation of the ordinary laws of nature. I should as well think of claiming credit for the fact, that after the darkness of the night the sun rises again in the morning. It is the natural and inevitable progression of things political and things social. It never can be otherwise. But what I do protest against is, that after this course of things has continued to take place—when, as I repeat, you can do no good to the centre without its being vivifying to, and being felt advantageously at the extremities, an attempt to assault the centre and insulate it from the rest of the body politic, should be made and urged upon this floor as argument.

I am surprised at such a course of remark. Why, sir, one would suppose that because communities are gathered into cities they no longer continue to form part of the body politic; and the woe of woes is prophesied, when the cities of Pennsylvania shall, in time to come, attempt to use the influence which their population, their wealth and their intelligence may justly entitle them to exert throughout the length and breadth of the Commonwealth.

I feel that I am trespassing a little too long in speaking on this subject—

["Go on! Go on!!"]

But I desire, in conclusion, just to call the attention of the committee for a moment

to a single topic. You may call it a topic in which sentiment is somewhat involved—nevertheless it occurs to me, that it may be advantageously referred to here.

At this very moment, while we are now here deliberating, the city of Philadelphia, as it were, by the common claim of every human being in the length and breadth of this great country, is designated as the proper place to which, three years hence, every man who feels the spirit of patriotism beating in his heart, may come and renovate and re-kindle that sacred fire at the altar of his forefathers, in the simple, modest, venerable hall, where the existence of this country as a separate nation among the nations was first proclaimed. Is this a time—is this an occasion—when, as it were, by a common outburst of patriotic feeling, every American turns his eye and his heart hitherward, like the pilgrim to the "Sacred city," that we, Pennsylvanians, some of us dwelling in the very heart of this community, should turn with averted gaze and with outward step from this place, and attempt to bring it into discord with the rest of the State? I cannot but think if a little of that sentiment which seems just at this moment to be warming the whole great American heart is present at our deliberations, we shall hear no more of this supposed diversity of interests, this talk about city and country, and this allusion to the farmer and the citizen; and with one accord—with a common spirit of fairness, we will unite in saying that Philadelphia has just the same rights as the rest of the Common-

wealth. She asks no more. She will willingly be contented with no less. Treat her fairly—treat her justly—and you will find her always ready to more than respond to the claims that may be made upon her. Treat her with injustice, and while she will not retort—she will not strike back—she will, as every generous breast cannot fail to feel, be keenly alive to the sentiment, that deliberate injustice has been committed against her in this regard. While Philadelphia will not retaliate, she will continue to discuss—to try to change unsound opinion, to endeavor to have this unjust discrimination removed, until the whole community is brought into accord with what she thinks herself entitled to, and without receiving which she will never be content—*justice*.

The question being upon the amendment offered by Mr. Worrell, it was rejected.

Mr. LILLY moved that the committee do now rise, report progress, and ask leave to sit again, which was agreed to.

So the committee rose.

IN CONVENTION.

Mr. HOPKINS. Mr. President: The committee of the whole has had under consideration the report of the Committee on Legislature, and has instructed me, as its chairman, to report progress and ask leave to sit again.

Leave was granted.

The Convention then, at two o'clock and eight minutes, adjourned to to-morrow morning at ten o'clock.

FIFTY-FOURTH DAY.

FRIDAY, *February 28, 1873.*

The Convention met at ten o'clock A. M., the President, Hon. Wm. M. Meredith, in the Chair.

The Journal of yesterday was then read and approved.

PROHIBITION.

Mr. EWING presented two petitions from the citizens of Perryville, Allegheny county, praying for a prohibitory clause in the Constitution against the sale of intoxicating liquors as a beverage, which was referred to the Committee on Legislation.

Mr. JOHN M. BAILEY presented a petition from the citizens of Huntingdon county, praying for the same provision in the Constitution, which was referred to the Committee on Legislation.

SESSIONS OF THE CONVENTION.

Mr. LAMBERTON offered the following resolution, which was twice read:

Resolved, That on and after Monday next, the sessions of the Convention shall be held from ten o'clock A. M. until three o'clock P. M.

The yeas and nays were required by Mr. D. N. White and Mr. Temple, and were as follow, viz:

YEAS.

Messrs. Alricks, Andrews, Baer, Baily, (Perry,) Baker, Black, Chas. A., Brodhead, Carter, Corbett, Craig, Darlington, Ewing, Gilpin, Guthrie, Hay, Hemphill, Kaine, Knight, Lamberton, Landis, Lear, Lilly, Long, M'Clellan, Mann, Mantor, Minor, Patterson, D. W., Porter, Pughe, Purman, Purviance, John N., Reed, Andrew, Ross, Runk, Sharpe, Simpson, Smith, Henry W., Smith, Wm. H., Stanton, Stewart, Struthers, Temple, Van Reed, Wetherill, J. M., Wetherill, Jno. Price and Meredith, *President*—47.

NAYS.

Messrs. Achenbach, Bailey, (Huntingdon,) Campbell, Clark, Cochran, Corson, DeFrance, Dodd, Edwards, Fulton, Gibson, Green, Hazzard, Howard, Lawrence,

MacConnell, M'Camant, M'Culloch, M'Murray, Metzger, Newlin, Niles, Palmer, G. W., Palmer, H. W., Patterson, T. H. B., Purviance, Sam'l A., Rooke, Walker, Wherry, White, David N., White, J. W. F. and Wright—32.

So the motion was agreed to.

ABSENT OR NOT VOTING.—Messrs. Adicks, Ainey, Armstrong, Bannan, Barclay, Bardsley, Bartholomew, Beebe, Eiddle, Black, J. S., Bowman, Boyd, Broomall, Brown, Buckalew, Carey, Cassidy, Church, Collins, Cronmiller, Curry, Curtin, Cuyler, Dallas, Davis, Dunning, Elliott, Ellis, Fell, Finney, Funck, Gowen, Hall, Hanna, Harvey, Heverin, Hopkins, Horton, Hunsicker, Littleton, M'Allister, MacVeagh, Mott, Parsons, Patton, Read, John R., Reynolds, James L., Reynolds, S. H., Russell, Smith, H. G., Turrell, White, Harry, Woodward and Worrell—66.

LEAVE OF ABSENCE.

Mr. WHERRY asked and obtained leave of absence for Mr. Lamberton for a few days from to-morrow.

Mr. GUTHRIE asked and obtained leave of absence for a few days for Mr. Curry.

Mr. LAWRENCE asked and obtained leave of absence for Mr. Hopkins for a few days.

Mr. D. N. WHITE asked and obtained leave of absence for himself for a few days from to-morrow.

AUDITOR GENERAL'S REPORT.

Mr. LAMBERTON offered the following resolution, which was twice read and agreed to:

Resolved, That the Auditor General be requested to furnish, as soon as printed, for the use of the Convention, copies of his report for the fiscal year ending November 30, 1872.

PROHIBITION.

Mr. CORSON presented a petition from citizens of Montgomery county, praying for the insertion into the Constitution of a clause prohibiting the manufacture and sale of intoxicating beverages, which was referred to the Committee on Legislation.

LEAVE OF ABSENCE.

Mr. ALRICKS asked and obtained leave of absence for himself for a few days.

Mr. LILLY asked and obtained leave of absence for Mr. Gilpin for a few days from to-morrow.

Mr. ANDREW REED asked and obtained leave of absence for Mr. Wherry for a few days from to-day.

Mr. JOSEPH BAILY asked and obtained leave of absence for Mr. Stewart for a few days from to-morrow.

REPORT OF THE COMMITTEE ON EDUCATION.

Mr. DARLINGTON. Mr. President: I am instructed by the Committee on Education to present the following report, and, in doing so, I may say that it is as nearly harmonious as nine gentlemen can be expected to make it, although none of us pledge ourselves to absolute perfection.

The CLERK read:

SECTION 1. The Legislature shall provide for the maintenance and support of a thorough and efficient system of public schools, wherein all the children of this Commonwealth, above the age of six years, may be educated.

SECTION 2. They shall appropriate at least one million dollars for each year, to be annually distributed among the several school districts, according to law, and applied to public school purposes only.

SECTION 3. No money raised in any way whatever, for the support of public schools shall ever be appropriated to or used by any religious sect for the maintenance or support of schools exclusively under its own control.

SECTION 4. A Superintendent of Public Instruction shall be appointed by the Governor, by and with the advice and consent of the Senate. He shall hold his office for the term of four years, and his duties and compensation shall be prescribed by law.

SECTION 5. Neither the Legislature, nor any county, city, borough, school district, or other public or municipal corporation, shall ever make any appropriation, grant or donation of land, money or property of any kind to any church or religious society, or to any university, college, seminary, academy, or school, or any literary, scientific or charitable institution or society, controlled or managed by any church or sectarian denominations.

SECTION 6. The arts and sciences may be encouraged and promoted in colleges,

and other institutions of learning, under the exclusive control of the State.

SECTION 7. The Legislature may establish industrial schools, and require the attendance of vagrant, neglected and abandoned children.

SECTION 8. They may, by law, require that every child, of sufficient mental and physical ability, shall attend the public schools, unless educated by other means.

The PRESIDENT. The report will lie upon the table, and be printed for the use of the Convention.

THE LEGISLATURE.

The Convention then resolved itself into a committee of the whole, Mr. Chas. A. Black in the chair, for the purpose of further considering the article reported from the Committee on the Legislature.

The CHAIRMAN. When the committee last rose, the question under consideration was the amendment of the gentleman from Chester, (Mr. Darlingting,) to the twentieth section. The amendment will be read.

The CLERK then read the amendment as follows:

SECTION 20. The General Assembly shall apportion the State for the election of Senators and Representatives, according to population, as ascertained by the last preceding census, every ten years, commencing at the first session after the adoption of this Constitution. Senators and Representatives shall be chosen by single districts, composed of contiguous, and as nearly as practicable, compact territory, of equal population. When a city or county shall be entitled to two or more Senators, it shall be divided by ward or township lines. No city or county shall be entitled to more than six Senators. Each county shall be entitled to at least one Representative. But no county hereafter erected shall be entitled to a separate representation until sufficient population shall be contained within it to entitle it to one representative, agreeably to the ratio which shall then be established. When any city or county shall be entitled to two or more Representatives, they shall be divided by ward or township lines.

The number of Representatives shall, at the several periods of their apportionment, be fixed by the Legislature, and shall never be less than one hundred and fifty, nor greater than three hundred. The number of Senators shall at the same times be fixed by the Legislature, and shall never be less than one-fourth, nor

greater than one-third, of the number of Representatives.

Mr. NEWLIN. Mr. Chairman: I move to re-consider the vote taken yesterday upon the amendment offered by the gentleman from Philadelphia, (Mr. Worrell,) striking out the restriction in the amendment of the gentleman from Chester (Mr. Darlington.)

Mr. W. H. SMITH. Mr. Chairman: I second the motion. I voted in the minority. I was not here on Monday and did not hear the various amendments presented; and consequently did not fully understand the question.

The question being on the motion of Mr. Newlin, a division was called and resulted: In the affirmative, thirty-eight; in the negative, thirty-five.

So the motion was agreed to.

The CHAIRMAN. The amendment of the gentleman from Philadelphia (Mr. Worrell) will now be read.

The CLERK then read the amendment as follows:

Strike out the words, "no city or county shall be entitled to more than six Senators."

Mr. CRAIG. Mr. Chairman: There was a time when the citation of the great names of the past added great weight to an argument. But that time has passed away forever. If this age has any one feature which conspicuously distinguishes it from every other, it is its refusal to regard the utterances of great men as of binding authority. Every man stands now on his own pedestal of right or reason. His utterances must bear the test of re-examination, by the growing light of progressing events. The iconoclasm of the age invokes the spirit of truth in the words of the sacred poet, thus:

"The dearest idol I have known,
Whate'er that idol be,
Help me to tear it from its throne,
And worship only Thee."

It spares neither age nor sex, politics nor religion. It spares not John C. Calhoun. He was a great man, undoubtedly, but he was a man of one idea only, and that one idea was a Southern Confederacy. He was for a protective tariff, in 1816, but when he saw its effect, in building up the material wealth, and increasing the population of New England, much more rapidly than that of the cotton-growing and slave-breeding States, he became the champion of free trade. He poisoned the minds of the young men of the southern States with the political heresy of paramount

State allegiance, which, after his death, led them into the attempt, many of them against their better judgment, to separate from the northern States, and erect a separate government.

His views on the distribution of representation concentrate on the same point. He exhausted his great intellect in endeavoring to solve the problem of secession. Of all statesmen and political theorists that America has produced, he was the most dangerous. That he should find disciples and followers to-day, in this Convention, who have witnessed the disastrous results of his political teachings, is an unsolvable paradox.

If the limitation sought to be imposed on cities be a just and justifiable one, the same method of reasoning will compel us to apply it as between counties. We must put the severest bridle on Luzerne. We must handicap Schuylkill. We must shear the locks of Lancaster and Berks. But when so fine a mathematical point is put on the theory, all men exclaim against it. Placed in that strong light, its injustice is visible to all.

It is always safe to do right. Robt Philadelphia of a large share of her representation, and, smarting under a sense of wrong, she makes all things even, at last, by scrambling for and obtaining power and advantage in a hundred illegitimate ways.

Treat her honestly and justly, and she cannot afford to bear the blush of shame for an oppression of the remainder of the State. Treat her with justice, and she will respond, as she ever has done, in every cause ennobling to human nature. No man, however good, is wholly good. No man, however bad, is wholly bad. The same things are as true of communities as of individuals. Treat a man like a dog, and he will be *like* a dog. Treat him like a *man*, and he will be a man. The same things are as true of communities as of individual men.

But it is said that cities, by reason of their concentration, wield more power than the sparsely settled districts. That is true. But it is because it is the inexorable law of God; and whoever will not conform thereto only treasures up to himself wrath against the day of wrath; he fills his cup with many sorrows, and drinks it to the bitter dregs. The very statement of the complaint is its own best answer.

London is England; and England is proud of her. Paris is France; but France

is proud of Paris. Vienna is Austria; but Austria is proud of Vienna. Berlin is Prussia; but Prussia reverences Berlin. They may have their domestic jars; but let an outside enemy touch with hostile foot the most barren spot, or lay hostile hand on the humblest peasant of any of these realms, and he shall have grievous cause to complain *again* that London is England, Paris is France, Vienna is Austria and Berlin is Prussia. They may have the power to oppress; but they have, also, a proportionate power to resent and protect. So with the great cities of our own country. The equality of all men before the law is but another name for justice to all men. This equality of justice is founded in that faith which all men ought to have in one another; which communities must have in one another; that to do justice will produce a return in kind. If the city shall be provoked into injustice toward the country, it will be by the prior injustice of the country to the city. As sure as injustice provokes and breeds injustice, so surely will justice provoke and breed justice. Like begets like, morally as well as physically. But it is said the people have made no complaint against the old Constitution on this subject of apportionment, and, therefore, we should not alter its provisions.

Unfortunately, we are not without a witness on this subject—the last apportionment for Senators and Representatives.

The ratio for a Senator under that law was about 106,700 population. I use *population*, because its results are most astounding. Fifteen of the Senatorial districts have less than the ratio of population for the number of Senators apportioned to them. They elect nineteen Senators. The districts are, by numbers, the Sixth, Eleventh, Twelfth, Thirteenth, Fifteenth, Sixteenth, Seventeenth, Eighteenth, Nineteenth, Twenty-third, Twenty-fourth, Twenty-fifth, Twenty-seventh, Twenty-ninth and Thirtieth. They have a population of 1,463,185, electing nineteen Senators, while the remaining population of 2,058,606, elect only fourteen Senators. Leaving off the Thirteenth district, the fraud is still more palpable. The fourteen districts, with 1,275,632 population, being but a trifle over one-third of the population of the State, elect seventeen Senators, and the remaining two-thirds of the population (2,246,159) elect the remaining sixteen Senators.

Thus a majority of the Senate, a branch

of the legislative department of the government, without which no law can be enacted, is elected by about one-third of the population of the State, and yet we suppose this to be a government in which the majority rules! Such an infamous gerrymander, whereby nearly one-third of the population of the State are virtually disfranchised, ought to be impossible, under any Constitution worthy of the name of Constitution. Surely some amendment is necessary here, but if we depart from the inexorable republican law of equal representation we may tinker, and tinker, and mend, and patch, and all our shallow statesmanship will end in disappointment and trouble. We shall be compelled to return at last to the democratic rule of "equal and exact justice to all men."

Mr. TEMPLE. Mr. Chairman: I very much regret troubling the committee with any remarks at this time, after so long and interesting debate upon this important question.

And I desire to state in the outset that I claim for Philadelphia equal and exact justice in this discussion, as I shall in every other question which may hereafter arise. I do not, however, claim for her any special privileges or legislation. I do not believe that we should be actuated by any feelings of jealousy towards the rural districts of the State. I cannot believe that the remarks of some of the delegates from the city will be conducive to her interests. Why should there be a disposition upon the part of some gentlemen upon this floor to cast aspersions upon the Commonwealth? Do they forget that Philadelphia is a part of the State and that the interest of one is the interest of the other?

Are they unmindful of the fact that the greatness of Philadelphia—her immense manufacturing interest in particular—are dependent upon the vast resources of the rural districts of this grand old Commonwealth? Sir, no amount of argument can convince me that it is any part of the duty of delegates from the city to belittle the agricultural and mining products of the State. The people of this great metropolis are abundantly able to take care of themselves. They all recognize and appreciate that comity of interest which is necessary to the growth and greatness of both city and State. What would Philadelphia be without the great coal mines of Schuylkill, Lehigh, Carbon and Luzerne, without the oil regions of Venango and Tioga, without the hundreds of rol-

ling mills found in many of the counties of the interior, and the immense chains of railroads connecting her with every section of the State? Why, sir, withdraw all the products of the interior from us, cut off all the arteries which give us life, and substance and power, and you at once dwarf this great metropolis and make her a second class city. Mr. Chairman, I yield to none, here or elsewhere, in devotion to Philadelphia and all her interests. I am proud to be one of her citizens, and esteem it as a great honor to represent, in part, one of her districts in this body, but I also feel that I am a citizen of Pennsylvania.

Mr. Chairman, I have spoken thus for the purpose of showing to those gentlemen from the rural districts that the people of Philadelphia are not actuated by any feelings of jealousy towards the country, but, upon the contrary, we are willing to unite with them in so amending the Constitution that it will be adapted to the wants and interests of the people of the entire Commonwealth. Mr. Chairman, I am opposed to the amendment of the gentleman from Philadelphia (Mr. Worrell.) I do not believe that the number of Senators in our city should be limited for all time. Who can tell but that Philadelphia will, at a period not far distant, be entitled to more than six Senators. Suppose the number of Senators should be increased in other portions of the State, believing, therefore, it is the evident intention of the Convention to so apportion the State as to give to each district a limited number of Senators. I am in favor of dividing the whole State into districts, say ten, without regard to any of the large cities, and give to each district the number of Senators hereafter determined upon. I endorse every word of the speech of the distinguished President of this Convention (Mr. Meredith.) I believe that the sooner we get back to the old plan of dividing our State into communities the better it will be for the people. Why, sir, the eminent delegate from Columbia (Mr. Buckalew) openly admitted upon the floor yesterday, that the amendment of eighteen hundred and fifty-seven, of which he was the author, was a great and fatal error. He then spoke of the vicious effects it had had upon our legislation, and I agree with him that the question of apportionment is one of great difficulty; it is one about which men of learning and ability have differed. It is an easy thing to settle, so

far as relates to the House of Representatives, a body which is intended to represent the people directly.

It has been argued, by some of the most distinguished men of this and other countries, that the Senate is not, properly speaking, a legislative body, in the same sense that the House of Representatives is. They argue that it was established for the purpose of exercising, as it were, a supervisory influence over the other House—to act as a check upon its proceedings when the public good required.

Lord Brougham declared that “the House of Lords was the grand court by which the deliberations of the House of Commons were tried and judged.” I do not pretend to say that there is that similarity between the House of Lords of England and the Senate of our State as would warrant us in regarding it as a grand court of errors and review, but I contend that the Senate does not stand in the same relation to the people that the House of Representatives does—neither are their duties identical. Who doubts but that the Senate is intended as a check upon the actions of the other House? The Senators are differently chosen, and serve a different constituency, and for the purposes of legislation the voice of a Senator is three times as great as that of a Representative.

Mr. Chairman, I listened with a great deal of interest to the remarks of the gentleman from Pittsburg, (Mr. Ewing,) and I confess, I was somewhat undecided upon this question until I heard that gentleman's views, but I believe, in point of theory, he was right, and, in my humble opinion, he made one of the ablest arguments which has been delivered upon this question, and I do not say this in disparagement of other gentlemen who have spoken upon this subject.

I say that we cannot apportion the State into Senatorial districts with the same degree of preciseness and correctness that we can the House of Representatives. The apportionment must, of necessity, be different, and further from equality.

The idea which I suggest is demonstrated even in our city government—each ward has a common councilman for a certain number of inhabitants, or voters, thereby giving to some wards a much larger representation than others; while the select council is composed of one member from each ward, without regard to population. So we see there is a real difference in the formation and basis of representation, carried through all legis-

lative bodies; and the distinction is as great in the Legislature of the Commonwealth, as in any other body.

I shall not refer to the case of the Senate of the United States, which has been so often referred to in the course of this debate. Gentlemen have reminded us of the fact that each State has an equal representation in the Senate of the United States, without regard to either population or territory. I do not think such an argument is applicable to the question now under discussion. Each State is regarded in the light of an independent sovereignty; and entered into the compact forming the United States government, with the distinct understanding that each and every State should be entitled to an equal representation in that branch of the government. No such argument as this can be applied to the various counties of the Commonwealth; and I was surprised that any such a comparison should be made.

[Here the hammer fell.]

Mr. EWING. Mr. Chairman: I move that the gentleman's time be extended ten minutes.

The motion was agreed to.

Mr. TEMPLE. Mr. Chairman: I thank the committee, but I do not desire to occupy any great length of time. I see that my distinguished colleague (Mr. Littleton) does not seem disposed to listen to my remarks. I desire to say to him that neither he nor any other gentleman on this floor will take more pride in incorporating into the organic law of this State a provision which will protect the citizens of the city of Philadelphia, than myself; but I am not here—and I say it boldly—to take part in any measure that savors of jealousy. True, I am here representing, in part, a district of the city of Philadelphia, but I do not forget, sir, that my duty requires me to act in behalf of all the people of this whole Commonwealth, and not in the interest of any particular locality.

If my friend, Mr. Littleton, thinks it to be his duty to advocate such measures as are adapted to the particular district which he immediately represents, to the disparagement and disadvantage of the rest of the State, I suppose he will do so. I, for one, do not forget that I am a Pennsylvanian, and while I will be vigilant in behalf of our own city, I will do no act, knowingly, which will excite the prejudices and passions of the delegates from the other part of the State. I do not believe that the

action of certain gentlemen in this Convention, who have felt it to be a part of their duty to slur at the importance of the rural districts, is productive of any good. Already we see the effect of such a course. Some gentlemen who were disposed at the beginning of this debate to act with us, have arrayed themselves upon the other side, and say that Philadelphia wants everything. My object has been to harmonize all the interests of the Commonwealth if possible.

Mr. Chairman, I sincerely and honestly believe that the most practical and just basis upon which this vexed question can be settled is the one I have already suggested or something similar to it.

Why, it has been argued that if Philadelphia, Pittsburg, Scranton and other large cities were represented in the Senate according to population, they would soon control the legislation of the State. This seems to be the great fear of gentlemen representing the farming and mineral districts. They declare that they will never agree to a proposition which is likely to result in danger to them and their constituents. From the vote taken yesterday upon this question it is evident that there is a disposition upon the part of these gentlemen to limit our representation in the Senate. Therefore I suggest the plan spoken of a moment ago, so that we may all agree upon an apportionment which will secure to every section of the State substantial justice. I believe that the number of Senators ought to have been first settled, and then we could have discussed this subject more understandingly. I have heard a number of gentlemen upon the floor declare that they were against the whole of this section, as well as all the amendments, and that it was thought that another report would be agreed upon by the Committee on Suffrage and Election, favoring minority representation. If such a proposition is to be made I can see no good to be derived from this discussion, because that would involve an entirely different method of districting the State.

Mr. Chairman, I consider this one of the most important questions to be discussed by this body. The alarm which has grown up in the interior of the State, in regard to what our friends seem to think an encroachment upon their rights, is without the least foundation in fact. We ask nothing of them but an equal representation. We ask nothing but what we are willing to give. We beg of you, gen-

flemen, to give Philadelphia, which belongs equally to you, and of which you should be proud, the same voice in the Legislature as you claim for the rural districts. Is there a delegate upon this floor who would underestimate the magnitude and importance of the old Quaker city? Is she not the great custom seat of all your products? Is she not one of the component parts of the very first States in the Union? New York, with all her importations, relies to a large extent upon the factories of Philadelphia. Will you then attempt to cripple her; will you curtail her strength and power in the halls of legislation, or will you join hands with us and permit your great metropolis to continue to increase in population; to grow in wealth? In one sense of the word we are consumers, and so are you. You can no more live without us than we can live without you. What special privileges do you require?

Mr. Chairman, the different delegates upon this floor have, with a singular unanimity, opposed everything like special legislation; and they cannot now, without being inconsistent, support a proposition which makes such an invidious distinction against the large cities of the Commonwealth. I contend that in apportioning there will necessarily be some districts larger than others, but it should be our duty to arrive at a conclusion which will do as near substantial justice as possible. I will vote for a proposition which will apportion this State in such a manner as will give to Philadelphia, at all times, all that she is now or hereafter will be entitled to.

Mr. SHARPE. Mr. Chairman: I desire to present at this time, with the indulgence of the committee, all the views that I shall, at any time, present upon this subject, and after I shall have said what I have to say, I shall hereafter content myself with voting upon the different propositions that will be presented to this Convention. It would be difficult to exaggerate the importance of the subject that is now before the committee. How one of the three co-ordinate branches of the government shall be made up, of what number it shall consist, how its membership shall be distributed throughout the State, is certainly a theme which well merits the calmest deliberation of every thoughtful mind. Within the limits of the Constitution the Legislature is absolute, and unless restrained by its own sense of expediency and justice, it may become des-

potic. The sweep of its power is co-extensive with the boundaries of our State. It can build up and cast down the material prosperity of the citizen. It can harmonize or render discordant all the domestic relations. It can invigorate or dwarf the growth among the people of art, science, wealth and education. If true to its high office, it can make this Commonwealth a prodigy of grandeur far outrivaling the vision of any Utopian dreamer. But if false, it can strangle the arteries which give health and vigor to the body politic until it will become paralyzed with the decrepitude of premature decay. The law-making power thus having centered in it the issues of grandeur and decay, of weal and woe, of life and death for the Commonwealth, will ever be held in popular estimation the supreme power of the State. Therefore to strengthen this branch of the government where it is likely to be too weak, and to weaken it where it is likely to be too strong, to make it, as near as may be, the true exponent of the interests of the people, to purify it and to perfect it, is the highest performance of statesmanship. Such is the duty that now presses upon us, and if in its discharge we suffer the mists of prejudice or the vapors of passion to cloud our judgment or pervert our consciousness of right, we will be unworthy of the occasion and the subject, and recreant to the high trust that devolves upon us.

Standing upon the threshold of this discussion, there are two questions for our determination. The first is, "of what number shall the Senate and House of Representatives consist?" and, secondly, "how shall that number be distributed throughout the State?" The able and intelligent Committee on Legislature has brought in a report in favor of adhering to the present numerical membership of the Legislature, and its eloquent chairman has laid before us the reasons which impelled him and his associates to the conclusion that a departure from the present practice of the government in this regard would be a change, but not an improvement. He has zealously insisted, on the contrary, that an increased membership would invigorate into ranker growth all the vices of the present system, because of the diminished individual responsibility which increased numbers would afford.

Now, sir, what are the vices of the present system of the Constitution of the law-making power of this State? The first

one lies upon the surface, and any man can read it or see it. It is the facility with which so small a body can be influenced by improper considerations. We have tried the experiment of a Legislature imposed of a Senate of thirty-three members, and a House of Representatives of one hundred members, and if we are to believe all that we have heard, that experiment has proved a signal failure. It has been said more than once in my hearing, by gentlemen on this floor, that the halls of both the State and the National Legislatures, are market places, where legislation is bought and sold; that money, offices, emoluments and stocks are the father confessors that purge the consciences of our public men; that the logic of truth is impotent and powerless before the logic of mammon; that our legislators gamble away the true interests of the people with a stoicism and indifference unsurpassed in all the annals of the past. I do not assert, sir, that this is true. But if it be true, if this great scandal rests upon our State and nation, then, sir, the Herculean task of cleansing the Augean stables may no longer be delayed with safety. There is a deep-seated conviction growing in the public mind that we must have reformation and purification in our governmental affairs, especially in the law-making power, if we would save our national character from disgrace, and our national institutions from decay. The gravest question for the solution of the statesman is, "how shall this great work be best accomplished?" Can we retain the present membership of the Legislature, and make it an incorruptible body? If we can, I am not sure that I would be so anxious about an increase in its number. But if we cannot, then I will vote for a large increase. To the question of the probability of this purification and reformation under the existing condition of our social affairs, I desire to devote a few remarks.

[Here the hammer fell.]

Mr. LANDIS moved that the time of the gentleman from Franklin be extended twenty minutes, which was unanimously agreed to.

Mr. SHARPE. Mr. Chairman and gentlemen: I thank you for the courtesy. If, sir, this can be done, as I have just stated, I am in favor of it. Now there is one way by which this consummation may be accomplished, and that is by an unflinching determination on the part of the people to entrust no man with legislative power who can be approached by im-

proper influences. To make this determination of any practical value, it must be backed up by decisive action. The people must be aroused to a sense of their duty, and alarmed by a sense of public danger. But have we any reason to hope that the people are going to waken up and act? I see no premonitions of such a revolution.

The excessive hungering after wealth is the peculiar madness that rules the present hour. Its attending evil spirit is an intense thirst for excitement and enjoyment. The man of business, and the man of pleasure, each intent upon his own pursuit, are both alike forgetful of the welfare of the State.

Now and then, it is true, the hurry of their eager foot-steps is arrested, for a moment, by some stupendous wrong—by some glaring betrayal of public trust—and they stop long enough to form a good resolution in behalf of the public weal, but to-morrow the wave of Lethe rolls over them, and they forget it before they have had a chance to execute it. But this is not the worst feature of the present aspect of public affairs. Whilst the best and most useful citizens have thus been turning their faces so exclusively to their private interests, and their backs towards the public interests, a dangerous enemy has stolen into the citadels of power. This enemy is the professional politician. He is the janissary of parties, whose sword is drawn for the cause that pays best, and who fights under the standard where victory is most likely to perch.

What stalwart arm shall strike off the shackles with which these men have bound us? What pillar of fire will appear in the political firmament to guide us out of this Egyptian bondage? Who will appear as a tribune for the people? Until the gross materialism of this age shall have become blended with greater humanitarianism; until the man of pleasure and the man of business come to realize the fact that the State is entitled to a part of their allegiance; until the honest masses of the people rise in their majesty and power, and drive these pirates out of the ship of State, and seizing the helm, direct her away from the rocks upon which she is now running, no effectual purification and reformation can reasonably be expected.

We will, therefore have to look in a different direction for relief. The project proposed, may, indeed, prove as abortive and deceptive as the system which our

past experience has condemned. That a largely increased membership in the Senate and House may not accomplish all that its sanguine advocates hope from it is quite probable.

But I propose to try the experiment for several reasons. If the hypothesis be true, which has been assumed very generally during the progress of this discussion, that Legislatures can be bribed, and legislation can be bought, then, I think, the argument in favor of a large legislative body is capable of a mathematical demonstration. If legislative jobbery cannot be entirely prevented, then, manifestly, the next best thing is to make it so expensive that it will become unprofitable. I hold it to be an axiomatic truth, that the price of legislation will go up—other things being equal—in the same ratio in which the number of dividends increases. It is simply a question of figures to say (which any one can understand) that if a majority of a Senate containing thirty-three members is venal, it will cost less than a majority of a Senate containing one hundred members.

But I leave this consideration of the advantages of a large legislative body, at this point, without further elaboration, because the subject is an exceedingly unpalatable one, and will proceed to allude, briefly, to some other reasons that seem to favor the experiment.

It cannot have escaped the observation of any intelligent member of this Convention that small bodies of men, assembled together for deliberative purposes, are peculiarly susceptible to the influence of improper combinations and rings. The facilities with which such confederacies can be formed, and the power which they do wield in such bodies, are notorious, and within the experience of all of us. These combinations are not necessarily corrupt, but may be created for the purpose of procuring special legislation to answer special localities, or general legislation to further some individual aim. But multiply the numbers of your legislators, and the conflicts of interest, the variety of temper, the disparity of intellect, the bickerings and jealousies, and the want of homogeneousness will make cabals and rings practically an impossibility.

But, sir, there is still another reason why the membership of the Legislature should be enlarged. Under the present infamous system of *gerrymandering*, which finds its chief vitality in the power of the Legislature, to link counties together in

the formation of legislative and Senatorial districts, the smaller counties have generally been practically without any representation at all at Harrisburg. Usually they are united in unhallowed political wedlock with some large and populous county, and if, by some lucky chance, they get a candidate on the ticket, the opposing candidates in the other county, by a combination among their friends and supporters, are almost uniformly elected.

Now, sir, the Constitution of 1790 guaranteed to every county of the Commonwealth, then existing, at least one member in the lower House. This was a just and wise shield for the protection of the populations of small counties. I trust this salutary provision, which has been lost sight of in our present Constitution, will be by us again restored to the organic law. No scheme, therefore, that does not contain a provision giving each county in our State at least one member in the lower House will meet with my approval. Let this be the foundation stone in defining the membership of the House of Representatives, and upon it erect such a superstructure as will give in that body to every city and county such further representation as their population will justify.

These reflections now bring me, finally, to the question, what shall be the basis of representation in the Senate? This subject is beset with much graver difficulties. We all admit that, theoretically, at least, the fundamental idea of all governments, whose law-making power is vested in two Houses, is that the lower House is the people's House, where they are represented according to their numbers. We assert that it is equally true that neither in theory nor in practice has any constitutional government recognized and adopted the principle that the upper House is also solely the representative of populations, and that its membership ought to be based upon populations alone.

He who asserts the contrary has not only the burden of proof upon him; but also the weight of the argument to show that such a basis of representation would be safe. The history of the formation of our national government, and all the analogies it furnishes, are against such an assumption.

The Senate of the United States does not represent populations, but States. In that august body the smallest has as much political importance and influence as the largest. This was one of the compromises of the Constitution, without which the

formation of the Federal Union would have been impossible.

Now, sir, the idea incorporated into the Constitution of the United States that the Senate is the representative of territorial districts and political communities, underlies all that is valuable in such a body. This principle I would have introduced, in some proper shape, into the organic law of this great Commonwealth. It is urged that, hitherto, such a basis of representation has been repudiated in our State Constitutions, and that Senatorial representation has been distinctly based upon population. A vicious practice, if, in fact, it does exist, ought never to be permitted to destroy a valuable theory. If such a practice has prevailed, let us, without delay, abandon it, whilst it is still in our power to do so.

Why have two legislative bodies at all, if they are to be made up exclusively as the representatives of populations? The value of the Senate is chiefly in its conservatism; in its being a check upon the crude and hasty legislation which the surging passions of the populace so often force through the lower House, upon which they are supposed to have a most direct and special influence. But, if you will insist that the people must be represented in the mass in the Senate, what will become of its conservatism, and how shall it be able to check the *gusty passions* of the popular branch?

Again there are certain other considerations which sharply define the distinction between the two bodies. The qualifications of Senators, the period of their terms and the peculiar functions imposed upon them, mark a strong contrast and difference, which have always existed, and, perhaps, always will exist in all constitutional governments.

The Senate is the advisory council of Governor in the matter of official appointments, and on occasion may sit as a high court of impeachment. These functions, it seems to me, conclusively detach and separate that body from the notion that it is, or ought to be, the representative of the masses of the people. Indeed, partly to prevent it from running too strongly in that direction, limits have been imposed in this State, upon the number of Senators which any city or county shall have. This was done in positive terms by the Constitution of 1838, and by necessary implication in that of 1790. Now, sir, we are asked to reverse this venerable practice, to surrender this conservative prin-

ciple in the construction of the Senate, and to throw its doors wide open that the populace may walk in. It is argued that all such restrictions are arbitrary, and cannot be supported by either reason or justice. The same charge can just as easily be brought against all constitutional restraints. Did time permit, it would be no difficult matter to enumerate many others, quite as arbitrary as this one, which is so eloquently denounced by distinguished gentlemen on this floor.

All governmental restraint is, in a certain sense, an arbitrary invasion of natural right. But if every man were suffered to do just as he pleased, no human government could exist. The safety the whole, therefore, becomes the supreme law of every State, and whatever restraint is necessary for that safety cannot, in any proper sense, be arbitrary or unjust, even though it may create gross inequalities. If, therefore, a limitation of the representation of any city or county in the Senate becomes a prudent or necessary shield against some danger, that may probably become imminent to and threaten the destruction of the prosperity and liberties of the people, it is fully vindicated by the maxim "*salus populi supreme lex.*" But to be fully justified, it must not be an unreasonable limitation beyond what the exigencies of the public safety require. Outside of this limit it would be tyranny; inside of it it is simply salutary restraint.

Doubtless the framers of our organic law, when they placed restrictions upon the Senatorial representation of cities, were influenced by sufficient reasons. They had prescience enough to foresee the immense growth to which this city was to come. They had read history, and had learned from it the stupendous and despotic power which lodges in concentrated numbers. The French revolution had taught them what Paris had done, and what she could again do, for France. They had read what London had done, and what she could again do, for England. They knew what the combined energies of city populations, moving as one body and inspired by one spirit, had done and what they could again do. With this knowledge came fear, and from fear arose the stern determination to interpose a constitutional barrier against this power, which, like the Alpine avalanche, grows as it rolls on.

Surely, if we take the lamp of experience as a guide for our feet, we will

walk in their foot-prints. The wisdom of those who have gone before us has been triumphantly vindicated by the events of the past. It is quite a notorious fact that Philadelphia, with her four Senators and nineteen members, has a predominating power already at Harrisburg.

With her present limited Senatorial representation, and her full popular representation in the lower House, she has, to our bitter grief, more than once dictated the legislation of this Commonwealth.

MR. COYLER. Mr. Chairman: If the gentleman will pardon me for an interruption, I will state that he is in error in his statement of fact. The Constitution of 1837-8 did not limit the representation in the manner in which he supposes.

Philadelphia in 1854 had three Senators from the county, and two from the city, making five. She lost one Senator by consolidation, because the representation of cities was limited to four, and this city, then, became both the city and the county. We had then five Senators with four hundred thousand population; now we have four Senators with seven hundred thousand population.

MR. SHARPE. Mr. Chairman: My recollection of the reading of the Constitution of 1793 is that it created the city of Philadelphia a Senatorial district and the county of Philadelphia a Senatorial district. Then came the Constitution of 1838, which restricted the Senatorial representation of any city or county to four Senators. It is now insisted by the earnest, able and eloquent delegates from Philadelphia that this is unfair, and that she ought to have no shackles put upon her Senatorial influence and importance. I, for one, cannot consent to this. I am not moved to this determination by any insane jealousy or distrust of this great city.

She sits here like a stately queen, with her sceptre stretched over the waters of the Delaware and the Schuylkill. Her manufactories, like great arteries, carry wealth and prosperity throughout the nation. Her public and her private buildings are the noblest triumphs of architecture; her benevolent and charitable institutions shine like jewels upon her brow; her devotion to art and science consecrate her; her merchant princes, her professional men, her accomplished and elegant gentlemen and scholars, and her honest, thrifty and industrious artisans are among the noblest of Pennsylvania's sons. About her grand old Hall cluster the hallowed

associations of the birthday of our national independence. The spirits of that devoted band of patriots still linger among these scenes. He would be an unworthy son of this Commonwealth who would be jealous of its metropolis. I claim my full share of her heritage of glory and grandeur. Reverencing her thus I will not needlessly oppress her; but I will not suffer my reverence to make me unmindful of my duty. I will not agree to tie her down to any arbitrary number of Senators. I am content to give her a liberal ratio of representation. I will give her one-sixth of the Senate at any time her territorial growth will justify it; but never shall my vote, in favor of unlimited Senatorial representation, lead her into temptation, or give to her the power to subvert, under the forms of law, the liberties of the noble yeomanry of Pennsylvania.

Again I thank the committee for its kind indulgence.

MR. LEAR. Mr. Chairman: If the committee will pardon me for a few moments I will speak upon this branch of the subject which is now before the committee, and put myself upon the record as explanatory of the vote which I shall give upon the question of the amendment to the amendment offered by the gentleman from Philadelphia (Mr. Worrell.)

The gentleman from Franklin, (Mr. Sharpe,) who has just taken his seat, has referred to this limitation of the number of Senators in Philadelphia, which was in the Constitution of 1790 by implication, and which was in the Constitution of 1838 by positive provision, and seems to think that because this was a limitation by the Constitution under which we have lived, that is the reason why it should be under the Constitution that we propose to adopt or submit to the people.

There has been an idea prevailing throughout the State of Pennsylvania that her Legislature has not been one of the most perfect bodies that can be organized, and that there was room for improvement and reformation, and that this is part of the reason why this Convention is in session here to-day. We are supposed to have been called together for the purpose of reforming some abuses and imposing certain limitations and restraints upon the abuse of power, and the changes which have been heretofore made are not all that can be made for the improvement of the fundamental law of this State.

Of late we have heard a great deal said

about the representation of minorities, and minority representation will be one of the darling theories that will be ably handled and conveyed to this Convention during its session, as I have no doubt; but shall it be said that while the world moves forward, gentlemen talk about providing for the representation of minorities, that majorities, such as are concealed in great cities, have no rights, and that they shall not be represented.

That seems to be the foundation of the theory by which this proposition of limitation of the number of members of the Senate is set up and supported upon this floor. Why, Mr. Chairman, it is said that if we are simply to be represented in the Senate by a representation based upon population, then it is of no use to have a Legislature consisting of two Houses, and it is asked why not, in that case, have a Legislature consisting of a single body, like the Convention that is now revising the organic law of the State? Why should we have a Senate and House of Representatives, instead of having a single body constituting the Legislature, and embodying in it the legislative power which is now found in the General Assembly composed of *two* Houses?

Why, sir, it is simply, as Dr. Lieber says, because the bicameral system has been found to work better than the unicameral system. It is for that reason that we have two Houses; it is for that reason, also, that he have, in this body, committees, for the purpose of gathering up and arranging the work—the whole Convention consisting of twenty-seven standing committees, that are first to prepare the work before it is submitted to this committee of the whole, and the results of whose labors are discussed in committee of the whole before being submitted to the Convention for its final action. Why, sir, that system, as it has been well said, has traveled with the anglo-saxon race. Wherever they have tried the unicameral system it has been found a failure, and the illustration that has been presented here, of the Senate of the United States, which represents territory alone, is not a fair illustration as applied to the legislative body of the State of Pennsylvania. The Congress of the United States represents vast and conflicting interests, interests existing under all the different latitudes and climates of the world. While our nation does not exactly extend to the north pole, nor quite to the equator, yet all the products of all the climates of the

earth are produced upon territory comprised within the Union of these States. With an idea that there should be a preservation of all these varied interests and rights, was it, that every State came to be represented in the Congress of the United States by two Senators, that they should represent the peculiar and the particular, and the conflicting interests of the several States of the country, while the lower House should be based upon population. When an illustration is drawn from that source, it fails to be applicable to the condition of the State of Pennsylvania, which is a State bearing undoubtedly large and varied interests, but these so compact and so nearly allied, and one depending so much upon the other, that there is, as it were, but a single interest that is to be represented upon the floor of the Senate by a representation of the population of the State.

This was made part of the Constitution of the State, as we are told by its chief advocate here, by reason of the superior eloquence of the great commoner, Thaddeus Stevens, who made a remarkable speech in the Convention of that year in support of this idea. If provisions are to be advocated and supported here, and put into the Constitution which we adopt, by appeals of that kind—and probably appeals to the prejudices of the people of the country against those of the city—I say it is unworthy of this Convention to follow such a lead. We ought to act understandingly, and impartially, and not listen to that sort of argument. Why should the country be placed in contention against the city? Let me say to every member of this Convention, who represents a rural community, that he dwarfs himself and he dwarfs his constituency when he says that one Philadelphia member is superior to five country members in the Senate of Pennsylvania. If Philadelphia has a population of one-fifth or one-fourth of the people of this State, Philadelphia should have a Senator out of every five or every four of the Representatives of the State; and if members from the country cannot compete with members from the city, let them go down in the conflict. I am not afraid of it; and when we find exhibitions like that we saw here this morning, after having discussed this very question for three days—of gentlemen who made speeches in favor of it, showing that in the conclusion arrived at yesterday, they either forgot, or did not understand, how

they should vote, and voted against the measure which they had been supporting during the discussion, and when we allowed them to get out of their difficulty by re-considering their vote, this morning—it shows that after all they are not so stupid, but have all the wisdom and capacity to conduct a deliberative or legislative body like this, or the Senate of Pennsylvania.

I say, sir, that this bicameral principle lies at the foundation of republican and democratic institutions.

Here in Pennsylvania, and particularly in Philadelphia, which has been abused, perhaps to some extent beyond its deserts, and perhaps to some extent, according to its merits, there is no doubt of the fact that there is a class of the population devoted to politics, who make that their occupation and trade, and subsist by it, and who are not a very desirable class of the community; but, sir, even in this city, they are no more to the great ocean of the city's population than are the dregs that lie at the bottom of your Delaware river, to the great body of the clear water that flows in an unbroken tide to the sea. Here in Philadelphia, where we first put forth that grand principle upon which we now live, as a nation, the principle which gave us our existence and our birth, that "taxation without representation is tyranny;" where the protest went up in the name of this Commonwealth, that the people of these colonies were not represented in the Parliament of Great Britain; where we put forth that immortal document by which we now exist as a nation. Here in Philadelphia, where freedom first from her fairfeet shook off the old world's dust, shall we say that the scholars, and merchants, and manufacturers and business men of Philadelphia, who have intelligence, and power, and strength, and wealth, if you please, shall not have the same representation, according to its numbers, that the people of the other portions of the State have? Shall we, of the county, be afraid to compete with gentlemen from the city on the floor of the Senate—

"Where mind shall close with mind,
Free as the sunshine or the chainless wind."

[Here the hammer fell.]

Mr. TEMPLE. Mr. Chairman: I move that the gentleman's time be extended ten minutes.

The question being upon the motion, it was agreed to.

Mr. LEAR. Mr. Chairman I thank the

gentleman (Mr. Temple) and I thank the committee; but the Convention having made a Procrustean bed upon which the average member is compelled to lie, I am unwilling to be stretched out or lopped off to suit its dimensions.

Mr. GILPIN. Mr. Chairman: I chance to be a member of the Committee on Legislature, and from the various remarks that I have heard during the past few days I was at first inclined to think that that committee, by reporting the provision limiting the number of State Senators to be chosen by the great cities, had committed a grave error, or been guilty of tyranny, injustice, &c., as has been so eloquently charged by the gentleman from Philadelphia. Upon a little reflection, however, sir, and after having listened attentively to the arguments against the restriction for the past two or three days, I find that, in my judgment at least, the committee, by reporting this restriction, which is so much opposed, have been guilty of no such great tyranny or injustice after all, and that these very eloquent arguments which we have heard do not apply to the question in issue. They would have applied had there been any restraint put upon the city of Philadelphia, or upon any portion of the State, in the selection of members for lower House, that is, if that report had attempted to have limited the representation of the city of Philadelphia in the lower House, then the people of Philadelphia would not have been fully represented. But representation there has been given fully, and indeed it has been given more fully than to any other part of the State, because Philadelphia loses nothing at all in fractions. But it is asserted that because a full representation, according to population, is not given in the Senate, therefore comes injustice, tyranny, &c.; and this argument that would, as I say, have applied to the House, is sought to be applied to the Senate.

Now let us look for a few minutes, and see whether it does apply. What is the Senate? Is it a representative body of the people? Not at all. It is the council of the State, not of the people. The people are one thing, for some purposes, and the State is another. The people have their chamber or body for a council, and the State has its body for another. That is the theory, at least, upon which the Senate is organized. It is the theory upon which every Senate has been organized; it is the deliberative council of the State,

whether we take it in the United States, in Venice or in our own State.

Now, then, the question: "How shall those Senators be elected," is no question of right. It is but a question of expediency. It would have been the same kind of a body, if, instead of electing Senators by districts, here and there, we had elected them upon a general ticket by the whole State, the same as presidential electors are now chosen, but, as a matter of prudence, it was, by our predecessors, deemed best to give minorities in the whole State, who might be majorities in some parts, some representations, because, if Senators were elected, say thirty-three Senators, upon the general ticket all over the State, a small majority would then be able to place this council of the Commonwealth wholly in the hands of but one political party, and hence that council might become the council of the party rather than of the State. Therefore it was, by the framers of our present and former Constitutions, deemed expedient to divide up the area in which the elections were to take place into several small districts, not necessarily as to population, but for the mere purpose of forming more limited districts. When Senators are thus chosen they are not Senators of the district, but Senators of the Commonwealth of Pennsylvania; and a Senator elected from one district, say in the east, represents as much the district in the west as he does that from which he comes, or at least he should do so. He is there to counsel for the interests of the State, and not for the interest of any particular citizen or of a particular locality in the State. They are only scattered in order that the council might have the benefit of the views of persons from various parts of the State. As it was doubtless anticipated that in so large and varied a State, subjects would require action which would not be properly, by a person, who coming from and who had always resided in an entirely different section of the State.

That in theory there is supposed to be a conflict between the interests of the State, and the interests of the people is manifest, because the Senators who represent the State are subject to a restraint that is not placed upon the members of the lower House, for we know very well that in the upper House there can originate no revenue bills and nothing that touches the taxes of the people. I have remarked before that the councils of the State may

differ from the councils of the people—the interests of the State may differ from the interests of the people, and therefore, in theory, as I have intimated, the decision of questions of State is to rest with the councils of the State and not with the people as citizens of the State. To illustrate: Suppose, for instance, our Supreme Court was composed, say of nine judges, and that instead of electing them, as we do now, by a vote of the people through the whole State, we should divide the State into three districts, and declare that one district shall elect three judges, another district three judges, and the third district three judges, and when elected they should constitute the Supreme bench of Pennsylvania. If this were so, would any person pretend that of all these judges thus elected, some of their number would be compelled to decide in favor of or represent the people of the particular district from which they came? Not at all; and in applying the same principle to the Senate of the State, we conclude at a glance that its members are elected, not for the purpose of representing any particular class or section of people, but in order to form a council wherein the interests of the entire people of the State as a State shall be considered. The construction or rather the Constitution of the Senate is only for the purpose of having a deliberative body for the State, and whether it is formed one way or the other, whether by allowing all the parts of the State to select members proportionate to population or by restraining in some places the number to be selected in either event, there is no tyranny or injustice over or to the people; and our determination of the present pending question is nothing more nor less than the determination of a question of political economy, and is whether in the State council the densely populated communities should have power proportioned to their population merely without regard to their territory or any other requisite.

If this question is decided in the affirmative, then no restriction should be imposed upon the large cities of the State; but would this be prudent and would the best State council be obtained by such a decision? Let us glance for a moment at two notable examples which history affords us. We have, in the first place, the English system, where we find that London does not by any means have what would be considered a just and fair representation in Parliament according to her population. The power of the represen-

tation in England remains in the country districts, and we find as the beneficial result that the government is stable and conservative, because it is well known that faction and corruption work more rapidly, and easily, in densely populated communities. In France we find a notable contrary example. There the great cities are entitled to and have their full power and representation in their legislative body in proportion to their population. It was not, however, always the case there, but was so designed and brought about by Mazarin and Richelieu, about the reign of Louis XIV, who sought thereby to concentrate the power of the country, and thus make Paris France. What has been the result of this policy? Paris may be France, but how unstable did France become, and how feeble has her government been amidst the scenes of fraud and corruption which always prevail in densely populated communities, and which, if unrestrained, destroy the State and produce revolution?

[Here the hammer fell.]

Mr. NILES. I move the gentleman's time be extended ten minutes.

The motion was agreed to.

Mr. GILPIN. Therefore, Mr. Chairman, judging from these examples, and from what we know and have experienced of the actions of mobs, can we not fairly conclude that in our own State, also, the densely populated cities and districts are more hasty and radical than the country, and that among the crowded masses of their people, passion possesses more and reason less power than in districts where numbers are not so thickly concentrated? It was, doubtless, with some such view that our predecessors sought to restrain the representation, and the power, of the cities in the Senate of our State, because they did not deem it wise to permit the councils of the State to be as easily influenced as the members of the lower House. In the determination of this question now before the committee, I think the examples that history afford, and the conclusions which I have attempted to deduce, should have some weight with us in our determination of this question.

The gentleman from Tioga (Mr. Niles) has cited a number of Constitutions of other States that have determined this question by adhering to the exception to the general rule of representation, just as it has been determined by the report of the Committee on the Legislature. This question of representation was deter-

mined by our predecessors in the same way, and therefore, in the absence of any particular proof, bearing either one way or the other, it is fair to presume, and we must presume, that their determination was wise and correct. In conclusion, Mr. Chairman, I only desire to add, that the burden of proof rests with those who oppose the limitation contained in the report of the committee, because the same limitation is imposed in our present Constitution, and they must show, to the satisfaction of the Convention, that the true basis upon which our State Council should be constructed should rest, is to allow the citizens of densely populated communities to have full *per capita* representation therein; or, in other words, that the present Constitution, in this respect, is wrong, and is prejudicial to the interests and prosperity of our great State. Doubtless the wisdom of our State Council, *i. e.* Senate, has contributed to her past prosperity, and we should be well assured that we improve, ere we make any change in the organization of that body.

Mr. SIMPSON. Mr. Chairman; I would feel that I was derelict in the duty I owe to the district I represent if I did not express the views I entertain in regard to this question of representation before the vote is taken. I desire, however, to examine this question in the light of some remarks that have been made this morning upon the floor of this Convention. It has been asked that if population alone is the basis of representation in both branches of the Legislature, why is it that there should be two Houses of the Legislature? I propose to review that argument, and to give the reason why there are two Houses of the Legislature, rather than one, and why population should be made the basis of representation in both these branches.

If we turn to England, the country from which we derive all our institutions, we find two Houses of Parliament governing that country. One is called the popular branch, and yet, strange to say, it is not popular, as exhibited in its results, because it is a well known fact, that under the old borough system, which, to some extent, still prevails in parts of England, small localities have a larger representation than very large ones, and population is not really the basis of representation in the lower branch of Parliament. The upper House of Parliament represents, not the people, but the nobility of the land—the peers of the realm, and those who are

akin to them, the clergy and others.—Hence that body is separated and removed entirely away from the people, who have no choice whatever in the selection of a single member of the upper branch.

France, under the old regime, was in the same condition. There the nobility alone were represented in the upper House, and the people were not included in the representation at all.

In looking at the Legislature, as established in England and in France, we have no precedent to guide us, because we have no privileged classes here.

It has been argued that the composition of the Senate of the United States presents a reason for the establishment of two branches of the State Legislature. I deny the conclusion. I aver that it does not; that the two Houses of Congress cannot properly be compared with the two Houses of the Legislature of a State, for they were brought into being for very different reasons and for totally different ends; it follows, then, in the nature of things, that the basis of representation in the two bodies cannot be compared with each other.

Let us see if this is not so: The several States of the Union are in themselves, as to all those powers not delegated to the national government, supreme—foreign to each other as States. When, therefore, in the formation of the federal government, the limitation was agreed upon as to representation in the Senate of the United States, it was to preserve the rights of the smaller States; while population was made the basis of representation in the lower House of Congress, it was not made the basis in the formation of the Senate. In the latter body a totally different rule was adopted; to protect the smaller states, or rather to give them the power to protect themselves, an equal representation was given to each State; they could thereby prevent coalitions among the larger States to oppress the smaller by unequal and unjust laws, and it will be remembered that these Senators are not elected by the people at all; they have no direct voice in choosing Senators in the National Legislature, because they represent States and not people. Who pretends to say that any county in the State of Pennsylvania stands in the same attitude to the State at large as Delaware or Rhode Island, or any of the smaller States, stands to the general government? Counties always formed a part of the State itself as a unit; the territory com-

posing it was always within the lines of the State; for the sake of convenience or for political effect that territory has, from time to time, been sub-divided and new counties have been formed. How then can they be compared to the several States included in the Federal Union? It will be perceived at a glance that they cannot be said to stand in the same relation to the State of which they form a part, as the several States do to the government.

They do not, in any sense, present the same phase of affairs, and the rule that is applied in the one case ought not to be applied in the other, because they are very different in their public relations. I have already shown that there is no comparison between them.

Now when our forefathers established this Commonwealth and adopted the double system of two Houses of the Legislature, they had another view than that presented by the English or French Legislature, or that of the United States.

They made one branch changeable annually, so as to reflect the immediate will of the people, susceptible of change each year at the annual election, but in the event of a flood-tide sweeping over the State, as occasionally it does, in favor of some idea, before that should be stamped upon the legislation of the State by the first thought of the people, and to operate as a check, the other House stands as a barrier until the people can have time to think again. If one House should be swayed by such an idea, the other elected for a different term comes in as a check, and may prevent a possible wrong from being carried out, and affords the people an opportunity for their sober second thought before their will could have full effect. The upper branch of our Legislature was made changeable only by the elections of two years. One-third of the Senate being elected each year, it takes two elections in every three years to bring that body into accord with that tide of public opinion, which might operate injuriously, an opportunity was given to the people in the meantime for reflection. One election is insufficient to carry both Houses, and by our system the people may think twice before an evil is suffered that may be irreparable. It was for that reason, and for that reason alone, under the Constitution of 1790, as well as in the agreement of 1786, that it was determined to have two Houses in the Legislature, one elected annually, the

other changing but one-third each year, and taxable population was the basis of representation.

The intention, certainly, was up to 1838 that all parts of the State should have their equal representation upon the floor of the Senate as well as upon the floor of the House. In 1838 the taxable inhabitants was still continued as the basis in the Senate, with the limitation, however, "that no city or county should have more than four Senators."

Why, sir, just look at the anomaly of such a principle, as it stands to-day, in the light of the civilized world. Under the present apportionment of the members of the lower House of Congress, twenty-seven members are assigned to the State of Pennsylvania, and Philadelphia is entitled to elect, and will elect, five members, exclusively within its limits; and yet, when we come to our own State, in our own Senate, we are entitled to only four members out of thirty-three, while in the National Congress we obtain five members out of twenty-seven. Surely this is an important element in the discussion of this question. The immediate proposition, however, before the Convention is even more infamous than the present existing rule. The proposition is, as I understand it, that the Senate of the State of Pennsylvania shall be composed of not less than sixty members, nor more than one hundred; but that no city or county shall ever be entitled to more than six Senators. I believe it may always be conceded that in the division which may be made, the maximum number of representatives will be invariably adopted, and so, if the State is allowed to be divided into one hundred Senatorial districts, there will be one hundred Senators, and out of this number of Senators Philadelphia is to be allowed only six, one in sixteen, while now she has nearly one-eighth—four out of thirty-three. That is the present proviso before this House. That is the proviso that this committee is called to pass upon. Our friends upon this floor are not only asked to permit the injustice that was made in 1837 to stand as the law of the land, but whether they will intensify it by reducing our proportion of Senators even less than it was made by that organic law, making it just half of what it was then, and making the injustice double; increasing it two-fold. If it was wrong then, and I contend that it was, I have not heard any argument to the contrary; if it was wrong then, the

adoption of this proviso making the number not less than sixty, or exceeding one hundred, and allowing Philadelphia only six, will increase the evil, and make it double what it is now.

Another thought that I think has just been answered by the gentleman who has just taken his seat, (Mr. Gilpin,) is that the burthen of proof in this case does not rest upon Philadelphia. It does not rest with us to show that it ought not to be so. Either the Senate of Pennsylvania is the representative of the people of Pennsylvania or it is not. What is it, then? If, in the organization of our State government, they had adopted the system in vogue in New Jersey, declaring that each county should have but a single Senator, and if we had retained that as a part of the organic law, it would then be territory that was represented. But they did not do that. They made population the basis of representation, and kept it up until 1837, and even then and now, under the present limit, restricting, as it does, to a certain extent, the representation of one county, population was and is still the basis of representation. Even though there was a limitation in the organic law after 1837, that no city or county should have more than four Senators, I say that in the main population has been really the basis of representation in the State Senate from the foundation of the government to the present hour, with the single limitation of 1837, that there shall not be more than four Senators to any one city or county.

When I spoke the other day on this subject, I think I showed the reason why this limitation was imposed, and I think I showed that the reason upon which it was founded had long since ceased. Therefore I urge, in the language of the old law-makers, that when the reason of a rule ceases the rule ought to cease with it. I trust, sir, that under this view at least, this injustice will not be perpetuated, and I protest that we should have the same justice meted out to us as to any other portion of this Commonwealth, as will be meted out to Allegheny county, where Pittsburg is growing to be one of the first cities in the Union; to Dauphin, where Harrisburg is located, and may become a city with a large population; to Berks, with her Reading; to Lancaster, with her improving city; to Luzerne, with her thriving cities of Wilkesbarre, Scranton and Pittston; or to any other portion of

the State where there are no populous cities and only a sparse population.

On the question of agreeing to the amendment to the amendment, to strike out the proviso, a division was called, which resulted: Thirty-seven in the affirmative, and forty-nine in the negative. So the amendment to the amendment was rejected.

A STATE BOARD OF DIVISION.

Mr. LILLY. Mr. Chairman: I offer the following amendment, to strike out the pending amendment, and insert as follows:

"SECTION —. At the general election in the year 1881, and every tenth year thereafter, there shall be chosen, by a vote of the electors of the State at large, ten commissioners of apportionment, whose duty it shall be to divide the State into Senatorial and Representative districts, and assign to each thereof its proper representation, but any such apportionment, or report thereof, shall be concurred in by at least seven commissioners. In the election of said commissioners each voter shall vote for not more than five persons, and the ten persons highest in vote shall be declared elected. Any vacancy in the number of said commissioners shall be filled by an apportionment, to be made by such of the remaining commissioners as shall have been voted for by a majority of the same electors who shall have voted for the commissioner whose place is to be filled. The commissioners shall severally possess all the qualifications for office required of members of the State Senate, shall be sworn or affirmed, and shall be ineligible to an election to either House of the Legislature, under an apportionment made by them, for a period of five years.

SECTION —. In the formation of Senatorial and Representative districts, regard shall be had to compactness of territory, and to the convenience of intercourse and similarity of interests among the people proposed to be united in a district. But the general basis of every apportionment (except so far as the application thereof shall be controlled by this Constitution) shall be the returns of population contained in the most recent decennial census of the United States; and every apportionment shall be made to secure, as nearly as may be, the proportional full and present representation of each division of the electors of the State at large and of the several sections thereof, as exhibited in

the returns of popular elections. No city or county shall be divided in the formation of a Senatorial district, unless its population shall entitle it to two or more Senators.

SECTION —. The number of Senators and Representatives under any apportionment of the State shall not exceed sixty Senators and one hundred and eighty Representatives, nor be less than fifty-five Senators and one hundred and sixty-five Representatives.

SECTION —. As soon as conveniently may be after each decennial census of the population of the United States, an apportionment of Senators and Representatives to the several parts of the State shall be made by districts, and such districts shall remain unchanged until after the next decennial census, but no former apportionment shall in any event authorize the election of Senators or Representatives after the third year in any decennial period.

FOR SCHEDULE.

SECTION —. All terms of Senatorial service shall expire in the year 1875, and in that year Senators shall be chosen under the amendment to the Constitution, those from districts with even numbers to hold their seats for two year terms, and those from districts with uneven numbers for four year terms, and thereafter all Senators shall be chosen for four year terms; until 1875 Senators shall be chosen under the existing apportionment of the State, but for terms to expire in that year.

Representatives chosen in the year 1873, and afterward, shall be chosen under the amendments to the Constitution.

Mr. LILLY. Mr. Chairman: This amendment, although offered by me, is substantially a report from the Committee on Suffrage, Election and Representation, and I present it on account of the absence of the chairman of that committee. It embodies the action of that committee upon this subject, and was agreed to by that committee almost unanimously. We desire it to take the place of the present section under consideration, reported by the Committee on Legislature. We recommend a plan of apportioning the State which will take the great subject entirely out of the hands of the Legislature. And is not this necessary? Those of us who have had experience in Harrisburg know very well that the apportionment of the State into districts, whether Representative districts from which to select our State Legislature, or

into districts from which to choose our Representatives to the National House of Representatives, is a subject of degeneration and of contention. It has for years caused more corruption and log-rolling than any other matter which has required the action of legislation. Particular districts have been carefully framed to suit the ambition and the convenience of particular persons, and the ingenuity of the Assembly has been exerted as carefully to form other districts to exclude other members from returning to their seats under the new apportionment, while always the entire districting of the State has been designed to increase the interests and preserve the power of the political party which happened, at the time, to be in the majority at Harrisburg. The State knows, as a matter of record, how, when the last apportionment was made, the Legislature stood blocked for weeks, and important legislation was neglected, while the apportionment bill engrossed the attention of the Assembly.

By this proposition, which is intended to hereafter prevent any such legislation at Harrisburg, the entire subject of dividing the State into districts, from which the members of the Legislature shall be chosen, is left to a board of ten commissioners, into whose deliberations partisan influence cannot enter. They are proposed to be elected just as the members to this Convention were elected. We tried to divest the board of any party character, and so provided that while five shall be elected on one general ticket and five on another, dividing them equally between the great political parties, the concurrence of seven must be necessary to determine their decision. I am not pertinacious as to this number. If the Convention choose to make it eight, I will be entirely satisfied to say that the board shall not act officially unless eight out of the ten concur. The consequence of this will be that both parties must agree to the apportionment, and then when the districting is done it will be fair and not partisan.

We then, sir, presumed to fix the number of Senators and Representatives, but we did not fix it absolutely. We did not place it at an arbitrary number, because we wanted it to be flexible—

MR. DARLINGTON. Mr. Chairman: I rise to a point of order. The amendment of the gentleman from Carbon is not germane to the proposition before it.

The CHAIRMAN. The Chair cannot rule the amendment out of order, but it would, perhaps, be better if it were withdrawn, and the vote taken on the amendment of the gentleman from Chester, when, if it be voted down, the gentleman from Carbon can renew his proposition.

MR. LILLY. Mr. Chairman: I think it is entirely germane. It is a second amendment. It takes the place of the other exactly in case it is adopted.

The CHAIRMAN. While it may not be out of order, the Chair does not regard it as germane to the amendment already under consideration, and would suggest that it be withdrawn until a vote is had on the other.

MR. LILLY. Mr. Chairman: I do not know but the committee may vote in the proposition of the gentleman from Chester, and if it does we would have no control over it. So I shall insist on it.

We have then, Mr. Chairman, to resume my remarks, fixed the Senate in numbers at not more than sixty or less than fifty-five, and the House of Representatives at not more than one hundred and eighty or less than one hundred and sixty-five. We have named a limit of numbers and yet not an arbitrary limit. And for this reason: We want to give this board of commissioners, this board of apportionment, a little room to fix up the fractions that always occur in districting, and that under an inflexible number create unavoidable difficulty in determining an apportionment. The Senate may be sixty in number, or it may be fifty-five. The House of Representatives may be one hundred and eighty, or it may be one hundred and sixty-five. These numbers may not suit the committee. In fact some of the members of the Committee on Suffrage, Election and Representation desired larger numbers, and some of us are pledged to vote for the highest number that any one will propose in the Convention. But, without going into a discussion at this time upon that subject, I will simply state that the Committee on Suffrage, Election and Representation deem this is a better section than that reported by the Committee on Legislature. As I said before, in the commencement of my remarks, I have made this statement in the absence of the chairman of the committee who have drafted this amendment. It was placed into my hands by him with a request that I offer it as an opportunity occurred, and I make this explanation in his behalf.

Mr. Dobb. Mr. Chairman: Those who advocate an increase of Representatives expect to accomplish thereby certain objects which all will admit are desirable. If by increasing the number of the legislative body it will thereby become more elevated in character, more learned, more difficult to corrupt, better acquainted with the local wants of the people, and at the same time better able to comprehend the character of legislation required for the general well-being of the State, more earnest to do right, and with better knowledge of the right, by all means let the members be increased. Considerations of economy or conscience are of no consequence compared with results like these.

But those who assert that such results will spring from this measure are called upon to prove the fact. It will not do merely to say that the Legislature of some State is composed of a greater number of members than the Legislature of Pennsylvania, and is more honest. Admitting the fact, it yet remains to be proven that the honesty is on account of the great number. There are many States having Legislatures composed of fewer members than the Legislature of Pennsylvania, and yet more honest. The argument works both ways, and the mere number of members has as much to do with the honesty of the body in one case as the other. The advocates of this measure must establish their claim by better argument than this.

If in a body of one hundred men selected by the people there is found twenty per cent. of rogues who may be corrupted, and thirty per cent. of imbeciles who may be deceived, if the number is increased to two hundred, will the percentage of rogues and imbeciles be any less? No one pretends that it will. But it is said the actual number of capable and honest men will be greater in the larger body than in the smaller. Perhaps so; but remember that a legislative body, like a rope, takes its character from its weakest and worst parts. The absolute number of honest men in a body is of little consequence, unless they are in the majority. Ten are as powerful in a body of twenty as fifty are in a body of one hundred.

But by increasing the number you lower the dignity and importance of the body, and, as a consequence, men of less importance and character will gain admission to it and compose it. Office is sought

for by honorable men from motives of laudable ambition. Just in proportion as such office is exclusive and to be obtained by few will be the character of the men who seek after it. Make it so common that everybody can obtain it, and nobody of any consequence will have it. Hundreds of the best men in our State would not to-day accept a seat in the Legislature. Is it because the salary is so low that it does not pay? By no means. We have, in this body, evidence sufficient that public positions are not rejected by the best talent of the State because not remunerative. We have all over the State men in judicial positions on inadequate salaries, who might be winning fortunes with less labor at the bar. The best legal talent of the State seeks the position. And why? Because the office is still an honorable one. It has not yet, by small districts and short terms, been made altogether common and unclean. Increase the number of judges to such an extent that almost any lawyer can become a judge, and no lawyer of standing will accept the position. Make the office as common as that of justice of the peace, and it will be filled by men about as competent, as wise and astute as that class which Dogberry so well represented. But why dwell on this? It is evident from experience, observation, and the character of men, that the dignity and importance of any position is estimated in direct proportion to the number who may attain to it, due regard being had to the intrinsic importance of the position. Double the number of members of the Legislature, and the honor of being a member of that body will be considered about one-half as great as before. As a natural and inevitable consequence the dignity and character of its members will be lowered. It is a consequence you cannot escape. I do not say that necessarily the moral character of the members would be lowered. That would not follow, as a matter of course, because, unfortunately, as this country is now learning, to its sorrow, exalted morals is not a necessary attendant of exalted station or exalted ability. But I do say that the moral character would probably be lowered with the dignity and importance of the office. That would be the natural tendency. It would become a place for a lower grade of politicians, if in this lowest deep there is a lower depth.

But, it is said, that admitting the proportion of corrupt men is greater in a

large body, there is, nevertheless, a larger number to be corrupted, and the process becomes a more difficult and expensive one. This argument is extremely fallacious. The legislative market, like any other, depends upon the supply and the demand. When the supply is scarce each one may command his own price. When the supply is great, purchasers set their prices. I don't know what the price of a man is, now, at Harrisburg, but I know that if you throw another hundred on the market, competition will be wonderfully increased, the bears will rule the day, and legislators will become *dog cheap*.

But who supposes that a Legislature is corrupted by simply buying up a majority of its members. Every one knows this is not the process. When the Credit Mobilier undertook to corrupt the federal Congress, it did not propose to distribute its stock among a majority of the members. On the other hand a few of the most important, most influential men were chosen to be made recipients of the stock, the company trusting wisely to their commanding abilities and good influence to control other members. And so it is in all cases. Corrupt Legislatures are so common as to excite no surprise, yet I do not believe there was ever a legislative body assembled of which a majority of the members were corrupt men. I do not believe the majority of the members of the Pennsylvania Legislature ever was or ever could be bought. How, then, are corrupt measures forced through? Who does not understand the process? The weak are by these, and by a corrupt lobby, cajoled, flattered, deceived and driven into support of the proposed measures. Every man in a public body, worth buying, is able to control more votes than his own. His price is in proportion to the number he may control. Now the facility with which a Legislature may be corrupted depends not so much upon the number of men who may be bought as upon the number of weak, dependent and gullible men who may be controlled by shrewd, powerful and designing members of the House or lobby, and who blindly follow their leaders like a flock of silly sheep. The proportionate number of such men will depend upon the dignity and importance of the body. Double the number of members, and the number of such men will be more than quadrupled.

Vice, too, is contagious. A few scoundrels corrupt the whole body. Members

are sent to Harrisburg every winter who have borne good reputations, but, exposed to temptation and surrounded by an atmosphere impure and tainted, they soon become infested. Will increasing the number of members cure this disease? You might as well talk of driving the infection from a small-pox hospital by adding the patients of another small-pox hospital to it.

Now take into consideration another well known fact. By increasing the number of members you not only increase the number of scoundrels and imbeciles, the number of corrupt and corrupting men, the number of weak and credulous men, you not only lower the dignity and character of the body, by stopping the better class of men from accepting the position and rendering it more easily accessible to dirty ward politicians and political bummers, you not only increase temptation and add pollution to the already plainly polluted atmosphere—you also decrease in each member his sense of individual responsibility. Each man's sense of individual responsibility is weakened in direct proportion as the number is increased who share that responsibility with him. The idea of a double Executive, once strongly advocated, was rejected in this country, because the office was of too much importance to risk a divided responsibility. Two heads might be better than one, but one alone must bear the responsibilities of the position. In a Legislature, absolute individual responsibility is impossible, but the numbers should be so regulated as to preserve this to as great an extent as may be. It was said in the Federalist, and it may be said to be an axiom in government, "the smaller the number, and the more conspicuous the station of men in power, the stronger must be the interest which they will, individually, feel in whatever concerns the government." Just in proportion as this individual responsibility is diminished, the facility for corrupting the body is increased.

From this cause, combined with others, perhaps, it is a well known fact that a large body of men, no matter what their knowledge, virtues and character, more easily become the dupes of a few leaders than a smaller body. "In all numerous assemblies, of whatever character composed, passion never fails to wrest the scepter from reason." The famous saying of Cardinal DeRet, "that every public assembly consisting of more than one hundred

members is a mere mob," may not be absolutely true, but contains the germ of a great truth. But there is absolute truth in the saying of another wise man, that "had every Athenian citizen been a Socrates, every man assembly would still have been a mob."

Is it not true, then, that a large body of men is more difficult to corrupt than a smaller one? Within certain limits it may be true. But if a Legislature of one hundred and thirty-three men are corrupt, one of two hundred and sixty-six men, less in dignity and importance, with a greater proportion of designing knaves and weak fools, with less sense of individual responsibility, less care for the interest of the State, and less study of the public welfare, would certainly be no better.

Nor is it true that a larger representation than we now have is necessary to understand the interests of the people. One member from every county, or one from every township, might understand better some minor local and special interests. But I thought we had enough of local and special legislation. I thought we considered it time for members of the Legislature to cease to regard their own locality alone, and rise to the higher duty of making laws for the State. The very devotion to local views, and feelings and interests, naturally tends to a narrow and selfish policy, and has almost destroyed all consideration for the broader, greater and more important interests of the whole Commonwealth. It has long been a reproach, and why is it held up in this argument as a virtue. Give us men with liberal and enlightened views, with a broad and general knowledge of the wants of the whole people in all their political, social and business relations, and such men will comprehend our local and special needs much better than one who knows only that and nothing more.

I am satisfied we can do something towards securing purer Legislatures; but enlarging the representation is certainly a step in the wrong direction. If there is a change in the number at all, I would prefer to see it the other way. Destroy special legislation, and let it be understood the duty of the Legislature is to make laws for a vast Commonwealth, not for wards, townships and boroughs. Destroy the corrupt outside influence, take away temptation, punish fraud, increase the character and responsibility of the body by decreasing its numbers and increasing

its salary—in this direction true reform lies.

But after we have done all we can do, the responsibility for the character of their representatives rests with the people. Scoundrels must be kept out of office. Fools must be retained in the position for which nature destined them.

The people must cultivate a higher moral sentiment in political matters. When bribery and corruption in office sends a thrill of indignation through the whole community, as they should always do, bribery and corruption will be checked. No man can stand in public position against the moral sentiment of an outraged people. Party bondage must be broken. What can we expect of our representatives, so long as the people go blindly to the polls and vote for their party nominee, no matter what his character or attainments. How do we propose to keep scoundrels out of public positions so long as acts of villainy in office are hushed up for fear the party will suffer injury. How can we hope for wise and honest rulers so long as their choice is directed by a spirit of intolerance, that forgets everything but its own creed, or a spirit of party, that remembers everything but its own duty?

If the people will surrender to faction what belongs to the country, and allow "patronage and party, the triumph of a leader and the discontents of a day, to outweigh all the solid principles and institutions of government," a Constitution, however carefully prepared, can do little towards creating a just and pure Commonwealth. Who can preserve the rights of the people when they themselves abandon them? Who will keep watch in the temple when the watchmen sleep at their posts? "Republics," says a statesman, "fall when the wise are banished from the public councils, because they dare to be honest, and the profligate are rewarded because they flatter the people in order to betray them." We have reached this point in Pennsylvania, and, as a consequence, our legislation is "wise by accident and bad by system." Let not the people trust to this Convention to remedy the evil which they alone can cure.

MR. BUCKALEW. Mr. Chairman: In the absence of the chairman of the Committee on Suffrage, I desire to interpose a motion at this stage of the debate. The amendment which has been submitted by the gentleman from Carbon (Mr. Lilly) raises two important questions, which

will be debatable, to wit: The number of members of which the two Houses of the Legislature shall respectively consist, and the very important question of how, and by what authority, appointments shall be made. Should that function or duty be continued in the Legislature itself, or should it be vested in some other independent authority?

The amendment raises, also, a third proposition, and that is, that a constitutional rule should be established by which apportionments shall be made. In order to the proper consideration of this amendment, and of the other amendments which may be offered, I suppose it would be proper for us to have them printed. I submit that it will be, therefore, a proper thing for the committee now to rise and report progress, and, in Convention, order the two pending amendments, both of which are of some length, and any other amendments which the members of the committee may informally desire to offer to this section of the report of the Committee on Legislature, to be printed. It will only take a few minutes. We can then go into committee of the whole again, and go through with the debate already begun upon the question of the number of Senators and Representatives that should hereafter be chosen. I suppose the discussion of that question will occupy a day or two, at least, and, in the meantime, this matter of printing can proceed, so that before we are called upon to vote we will have before us, in print, everything that has been proposed on this subject.

I move, therefore, sir, with the object of ordering the printing of this amendment, that the committee do now rise, report progress, and ask leave to sit again.

MR. J. PRICE WETHERILL. Mr. Chairman: It seems to me hardly worth our while to do that. I suggest that the Committee on Suffrage have power to order the printing of these amendments, and that it is not necessary for this committee to rise now in order to have these amendments printed. Let the committee have them printed, and let them be laid on the desks of members to-morrow. I do not see any necessity for dissolving this committee, at this time, for the mere purpose of printing the amendments, and fear that there may be some doubt as to the permission to be given to sit again. Let us go on and discuss that part of the amendment relating to the number of

Representatives and Senators, which I believe it is proposed to make sixty for the Senate, and one hundred and eighty for the House.

MR. BUCKALEW. Mr. Chairman: The Committee on Suffrage cannot order amendments to be printed; it cannot order the amendment of the gentleman from Chester (Mr. Darlington) to be printed, nor can it order the printing of any other amendment, and I have proposed, therefore, that the committee rise, in order that these may be ordered printed. It will not occupy more than five minutes, and then we can go on with the debate as to the number.

MR. J. P. WETHERILL. Mr. Chairman: The amendment of the gentleman from Chester (Mr. Darlington) seems to have been printed, and I suppose the Committee on Suffrage could do the same for the other amendments.

MR. STANTON. Mr. Chairman: I suppose by unanimous consent that could be withdrawn for the present, and when we get out of the committee of the whole it could be then ordered printed.

THE CHAIRMAN. The amendment to the amendment could be withdrawn.

MR. DARLINGTON. Mr. Chairman: I suggest that as the debate has commenced upon the number of members in the respective Houses, if the gentlemen will confine themselves by common consent to that, and debate it for to-day, I think it can be profitably discussed. Let us discuss that question, whether the House shall consist of one hundred and fifty or one hundred and eighty, or otherwise, and then have the printing done by to-morrow.

MR. SIMPSON. Mr. President: I ask the unanimous consent of the Convention to offer a resolution at this time.

THE PRESIDENT. The unanimous consent of the Convention can not be permitted to interfere with the regular order of business, or else it would be impossible to make any progress in the work now before the Convention.

MR. HANNA. Mr. President: If it is in order I move that the Convention resolve itself into committee of the whole, for the consideration of the report presented by the Committee on Cities and City Characters.

The question being taken, a division was called, which resulted as follows: Ayes, thirty-six; noes, forty-two.

So the motion was not agreed to.

The PRESIDENT. The next business in order is the report of the Committee on the Executive Department.

Mr. SIMPSON. Mr. President: I ask leave to offer a resolution.

The PRESIDENT. The resolution is not in order at this time, and especially while the Chair is putting a question. Is it the pleasure of the Convention to proceed to the consideration of the article reported by the Committee on the Executive Department?

The question being taken, a division was called, and it was not agreed to; ayes, thirty-eight; noes, forty-six.

Mr. SIMPSON. Mr. President: I now ask leave at this time to offer a resolution.

Leave was granted.

Mr. SIMPSON. Mr. President: I offer the following resolution:

Resolved, That the following proposition be printed for the use of the Convention:

TO DIVIDE PHILADELPHIA BY THE COURTS.

SECTION —. Until the apportionment be made under the next decennial census of the United States, the city of Philadelphia shall be divided into three Senatorial districts, each thereof to choose three Senators, and into Representative districts not exceeding — in number, each thereof to choose not less than three nor more than six Representatives, under the direction of the court of common pleas of the said city, in manner following, to wit: The said court, all the judges thereof concurring, shall appoint two commissioners of apportionment, who, after being duly sworn or affirmed to perform their duties justly and truly under this Constitution, shall divide the said city into Senatorial and Representative districts as aforesaid, and make report of their apportionment to the court, subject to its unanimous approval and confirmation, and upon the confirmation thereof the same shall be entered of record in said court, and a certified copy thereof shall be transmitted to the Governor of the Commonwealth, to be by him laid before the two Houses of Legislature to be entered on their Journals; each of the Senatorial and Representative districts as formed shall have a population proportioned as nearly as may be to the number of Senators or Representatives assigned to it, and shall be composed of connected, compact territory, but no ward shall be divided into the formation thereof; the said districts shall also be formed so as to secure the proportionate, full and just representation of each divi-

sion of the electors of said city, as exhibited in the returns of popular elections, and in choosing Senators and Representatives therefrom, each voter may distribute or concentrate his votes as he shall think fit, or bestow them in equal divisions upon candidates, and candidates highest in votes shall be declared elected.

SECTION —. Until the apportionment be made under the next decennial census of the United States, the city of Pittsburgh shall be entitled to choose one Senator and three Representatives, and the county of Allegheny three Senators and nine Representatives, and the Representatives from said city, and the Senators and Representatives from said county, shall be voted for and chosen in the same manner as the Representatives from the city of Philadelphia, under the preceding section.

The resolution was agreed to.

Mr. D. N. WHITE. Mr. President: I offer the following as an amendment, to be printed along with the resolution:

FIFTY SENATORIAL DISTRICTS.

"SECTION —. The State shall be divided into fifty Senatorial districts of compact and contiguous territory, and as of equal a number of taxables as possible, and each district shall be entitled to elect one Senator. No county shall be divided in the formation of a district unless such county is entitled to two or more members, and no city or county shall be entitled to more than one sixth of the number of members."

Mr. CORSON. Mr. President: I offer the following proposition as an amendment, to be printed along with the resolution:

EACH COUNTY TO HAVE A SENATOR.

"That every county in the State shall be entitled to one Senator, and the whole population of all the counties divided by the number of counties shall be the basis of Senatorial representation of all cities containing a population exceeding one hundred thousand."

Mr. S. A. PURVIANCE. Mr. President: I desire to offer the following proposition, mainly in connection with the amendment offered by the gentleman from Montgomery, (Mr. Corson,) and ask that it be printed along with the resolution:

ONE REPRESENTATIVE FOR FORTY THOUSAND INHABITANTS.

Every county shall be entitled to one Representative, and for every forty thou-

and inhabitants shall be entitled to an additional member in the lower House of Representatives.

The manner of ascertaining the population of counties shall be prescribed by law, and whenever it shall appear that any county has attained the requisite population for an additional member, the Governor shall make his proclamation of the same, and the additional member or members shall be elected at the next general election thereafter.

REPRESENTATIVE DISTRICTS.

MR. HEMPHILL. Mr. President: I offer the following amendment, and ask that it be printed:

"SECTION —. The Senate shall be composed of one Senator from each county.

"SECTION —. The House of Representatives shall be composed of three times as many members as there are members of the Senate; and the General Assembly shall ascertain the ratio of representation every ten years, beginning at its first session after the adoption of this Constitution, by dividing the population of the State according to the last preceding federal census, by the number of members required, and the quotient, excluding fractions, shall be the ratio of representation. The General Assembly shall, at the same time, apportion the State as follows:

"Every county having the ratio shall have one Representative; if double the ratio, two Representatives, and so on. Counties not having the ratio shall be formed into Representative districts by being united with a contiguous county or counties, and shall be entitled to representation in the same manner as is provided for single counties. But no Representative district shall be composed of more than three counties; nor shall any county be divided; nor shall any two counties, each of which shall have the ratio required to entitle it to one Representative, but united in one district. And those counties and districts having one or more Representatives, and the largest fraction of the ratio remaining, shall be entitled each to an additional Representative until the whole number required shall be obtained."

THIRTY THOUSAND INHABITANTS A BASIS.

MR. MANN. Mr. President: I desire to offer the following amendment, to be printed along with the resolution:

"Representatives shall be distributed throughout the State as follows: The

qualified electors of each county shall elect one Representative, and one additional for each thirty thousand inhabitants, as determined by the preceding census of the United States; and in counties entitled to three or more Representatives, each voter may cast as many votes for each candidate as there are Representatives to be elected, or may distribute the same among the candidates as he shall see fit, and the candidates receiving a majority of said vote shall be declared elected."

MR. CORBETT. Mr. President: I move that the Convention do now adjourn.

THE PRESIDENT. I hope the gentleman will withdraw that motion for one moment, while the Chair makes an explanation.

MR. CORBETT. I withdraw the motion.

THE PRESIDENT. The Chair desires to correct a decision made a few moments ago, that the Convention could not name a time for the committee of the whole to sit again to-day after it had risen. The Chair has evidently fallen into an error, and with the consent of the Convention, this decision will be withdrawn. At what time shall the committee of the whole, having under consideration the article reported by the Committee on the Legislature, have leave to sit again?

MR. STANTON. Mr. President: I move that the committee have leave to sit again to-morrow.

The motion was not agreed to.

THE PRESIDENT. Shall the committee have leave to sit forthwith?

The question being taken, it was agreed to.

THE COMMITTEE OF THE WHOLE.

The Committee then resolved itself into committee of the whole to further consider the report of the Committee on Legislature, Mr. C. A. Black in the chair.

THE LEGISLATURE ARTICLE.

THE CHAIRMAN. The committee of the whole have again referred to it the report of the Committee on Legislature, and the question before the committee is the amendment of the gentleman from Carbon (Mr. Lilly) to the amendment of the gentleman from Chester (Mr. Darlington.) The amendment to the amendment will be read.

THE CLERK:

SECTION —. At the general election in the year 1881, and every tenth year thereafter, there shall be chosen by a vote of the electors of the State at large, ten commissioners of apportionment, whose duty it

shall be to divide the State into Senatorial and Representative districts and assign to each thereof its proper representation, but any such apportionment or report thereof shall be concurred in by at least seven commissioners. In the election of said commissioners each voter shall vote for not more than five persons, and the ten persons highest in vote shall be declared elected. Any vacancy in the number of said commissioners shall be filled by an appointment, to be made by such of the remaining commissioners as shall have been voted for by a majority of the same electors who shall have voted for the commissioner whose place is to be filled. The commissioners shall severally possess all the qualifications for office required of members of the State Senate; shall be sworn or affirmed, and shall be ineligible to an election to either House of Legislature, under an apportionment made by them for a period of five years.

SECTION —. In the formation of Senatorial and Representative districts regard shall be had to compactness of territory, and to the convenience of intercourse and similarity of interests among the people proposed to be united in a district. But the general basis of every apportionment (except so far as the application thereof shall be controlled by this Constitution) shall be the returns of population contained in the most recent decennial census of the United States; and every apportionment shall be made to secure, as nearly as may be, the proportional, full and just representation of each division of the electors of the State at large, and of the several sections thereof, as exhibited in the returns of popular elections. No city or county shall be divided in the formation of a Senatorial district unless its population shall entitle it to two or more Senators.

SECTION —. The number of Senators and Representatives, under any apportionment of the State, shall not exceed sixty Senators, and one hundred and eighty Representatives, nor be less than fifty-five Senators, and one hundred and sixty-five Representatives.

SECTION —. As soon as conveniently may be after each decennial census of the population of the United States, an apportionment of Senators and Representatives to the several parts of the State shall be made by districts, and such districts shall remain unchanged until after the next decennial census, but no former apportionment shall in any event authorize the

election of Senators or Representatives after the third year in any decennial period.

FOR SCHEDULE.

SECTION —. All terms of Senatorial services shall expire in the year 1875, and in that year Senators shall be chosen under the amendments to the Constitution; those from districts with even numbers, to hold their seats for two-year terms, and those from districts with uneven numbers, for four-year terms, and thereafter all Senators shall be chosen for four-year terms. Until 1875 Senators shall be chosen under the existing apportionment of the State, but for terms to expire in that year.

Representatives chosen in the year 1873 and afterwards shall be chosen under the amendments to the Constitution.

MR. DARLINGTON. Mr. Chairman: In presenting, for the consideration of this Convention, the amendment to which the gentleman from Carbon has offered another amendment in the nature of a substitute, I purposely avoided saying anything on the subject of the number of the Senators and Representatives that should compose the Legislature of this State, except that in framing the amendment which I offered, conceding that an addition would probably be made to the number of each House, I put in a number which would preserve a proper proportion if the present number should be increased.

I think it expedient that this committee should now, if they will, by common consent, agree to do it, turn their attention to that subject, and discuss and settle this one question first: Of what number shall the two Houses, respectively, consist? I do not feel solicitous about it, myself, but for the sake of the preservation of order in the consideration of the questions which come before us as a committee, I suggest that we had better dispose of that question now, confining our observations to that particular subject alone until it shall be disposed of.

I do not mean to enter into that discussion further than to say that in forming my amendment I had in view what I knew to be a favorite idea of a large number of members upon this floor, which was to give to each county of the State, no matter of what size it may be, at least one Representative. And you cannot do that with justice to the larger counties, unless you increase the number so as to enable you to accomplish that object. It

was this that I had in view, and it was a strong reason with me in voting for an increase of Representatives. An increase of Representatives in the lower House properly and naturally calls for an increase in the Senate, also, and this was the main reason why I made provision for an increase in that branch.

This is all I have to say on that subject. I leave it, without further comment, for the members of this committee to say whether they will or will not confine their attention to that one question, and dispose of it first.

The CHAIRMAN. The question is upon the amendment to the amendment. Is the committee ready for the question?

[Calls for question from all parts of the House.]

Mr. DARLINGTON. In one sense, Mr. Chairman, I do not think that this committee is ready for a vote upon the amendment of the gentleman from Columbia (Mr. Buckalew.)

Mr. DE FRANCE. Mr. Chairman: I wish to correct the gentleman. The pending amendment was offered by the gentleman from Carbon (Mr. Lilly.)

Mr. DARLINGTON. Mr. Chairman: I know the amendment was offered by the gentleman from Carbon; but, for all that, I understood it to be the amendment of the gentleman from Columbia.

If it is the intention of the committee to act upon this question now, for the purpose of taking a vote upon that amendment as a substitute for the one I offered, then I do not think we are ready for that question. I would ask the indulgence of the committee, either now or at some other time, to say something on the general subject.

Mr. LILLY. Mr. Chairman: I desire to explain. The amendment under consideration is not my proposition, individually, and I so stated distinctly when I presented it. It is, substantially, a report from the Committee on Suffrage, Election and Representation, although it is not actually presented in that form. It was the result of the action of that committee, and was agreed upon almost unanimously. The Committee on Election, Suffrage and Representation was very desirous that when opportunity offered, this amendment should be presented to take the place of these two sections reported by the Committee on Legislature, and this being the only opportunity I had of submitting it, in the absence of the chairman

of the Committee on Suffrage, I forwarded it to the desk.

I may add one word to what has been said, by the gentleman from Chester, in reference to voting upon this question now. I agree with him that the committee is not ready for the question. The Committee on Suffrage, Election and Representation do not desire a premature vote taken upon this proposition. They desire to have it discussed, and a proper conclusion reached with reference to it. I have had no consultation with my colleagues of that committee, but if they thought proper to defer action upon it until it is printed and in more intelligent form for debate, I would be willing to withdraw it for the purpose of allowing the vote to be taken on the amendment of the gentleman from Chester.

The CHAIRMAN. The Chair would suggest either to have a vote or that the committee rise.

Mr. KNIGHT. Mr. Chairman: —

The CHAIRMAN. The gentleman from Chester has the floor, having only yielded it to the gentleman from Carbon, who desired to make an explanation.

Mr. KNIGHT. Will the gentleman allow me to make a suggestion, and have it read for information?

The CHAIRMAN. It is not in order. The question is upon the amendment to the amendment, and if there is no further discussion we must have a vote upon that or the committee must rise.

Mr. MANN. Mr. Chairman: The amendment of the gentleman from Carbon, now pending, raises, very properly, the whole question of the number of members that ought to compose the Legislature of this State. Believing that to be one of the most important questions which this Convention is called upon to decide, it seems to me that we ought to proceed with this discussion until that question is settled, before any other question is raised with regard to the Legislature.

How many members shall compose the Legislature? Various propositions have been made by different gentlemen, among whom there is a wide diversity of opinion. The gentleman from Venango, (Mr. Dodd,) who made a very able argument this morning against any increase of the members of that body, has evidently given this subject more attention than many of the rest of us. But it is a question that ought to receive the very earnest attention of every member of this Convention. While I entirely dissent from the conclu-

sions to which he came, I may not be able at this time to convince him or any other delegate that I am correct. I have, however, some reasons which convince my own judgment that the number of members of the Legislature ought to be increased.

The first is that it was deemed wise by our fathers, in laying the foundations of our organic law, when the States of this Union were mere colonies; when neither the numbers nor the wealth, nor the business of Pennsylvania was scarcely more than a drop in the bucket compared with the proportions which it now assumes.

If the present number was necessary at the time when it was fixed clearly a far greater number is necessary now. The measures, the questions which came before the Legislature at that time, were then simple, compared with those that come before it now; and if it required one hundred members at that time to represent intelligently and properly the interests of this Commonwealth, it requires a very great increase in that number now.

That is the judgment of all our sister Commonwealths. There is no State in this Union with so small a number of Representatives compared with her population. Not a single one. Now can this uniform action of our sister States be mistaken? Are they all mistaken in supposing that it does require a larger number of Representatives properly to take care of the interests of their people? I submit that this fact is an argument in favor of increasing the membership of our Legislature. This is the uniform testimony of our sister Commonwealths and ought to have weight with us.

I utterly dissent from the position assumed by the gentleman from Venango, that an increase in number will decrease the dignity of the Legislature. I affirm, on the contrary, that it will improve it. It will bring the Legislature nearer to the people, and enable it to reflect their wishes better than a smaller number possibly can. The truth is that the various counties of this Commonwealth have grown to such large proportions, have so increased in numbers, in wealth, and in the interests, that the Representatives are practically far removed from the people, very far removed from them. To bring them closer together is the way to increase the dignity of the office of legislator.

I again dissent entirely from the gentleman from Venango, when he asserts that as you increase the numbers in the Legislature you will thereby increase the power of its corrupt influences. I maintain, on the contrary, that the power of integrity and of honesty will be increased in a far greater proportion; that it will hold good in the Legislature as it holds good everywhere, that one honest man can chase one thousand rogues if he will but have the energy to do it, and that the combined influence of honest men will be effective in the same proportion. If we elect a Legislature for Pennsylvania with one hundred members, and you can elect but one-third of them honest men, who will stand up to their duty under any and all circumstances, the power they can exert for good cannot be questioned. But if you increase the number of Representatives to three hundred, and elect only the same proportion of honest men, you will increase the power and dignity of the House by a much greater proportion. One hundred men, standing together upon principle and honesty in the Legislature, will have greater power over a Legislature of three hundred men than thirty-three honest men would have in a Legislature of one hundred; a far greater power. Men, when they come together, as has been argued here on this question of limitation, are strengthened by a concentration of force, but in a small representative body there is little chance for such concentration. Take the case as it stands, and you have in the present Legislature but twenty-five or thirty such men, and they do not feel their strength. They do not feel that they have the power to move with that strength that they would feel if there were one hundred of them. It follows naturally that this class of men will be increased in the same proportion. If you make it three hundred men instead of one hundred, it follows naturally and logically that you will increase the representative intelligent men of integrity in the same proportion. I believe it would be greater, because you would bring these men home to the knowledge of the people more. The people do not re-elect dishonest men when they know it, and, besides, I do not believe what has been so often asserted here about the dishonesty and the corruption of the Legislature. I was sorry to hear again, this morning, the same old story that we heard in the early assembling of this Convention. I thought we had heard

the last of that kind of talk. There is no necessity of lugging it into any discussion coming before this body, and I do not believe in it. What I do believe, with regard to this matter, is that it is necessary for the proper representation of the people of Pennsylvania that the representatives should come home nearer to the people than they can come with a membership of one hundred men. They are too far removed. It needs more of the infusion of the people into that body, and that is to be obtained only by the increase in the number of the Representatives.

There are not to-day, in the Legislature of Pennsylvania, and there has never been at any time, as I firmly believe, any considerable number of Representatives who do not intend to reflect the will of the people, but they are surrounded with subtle influences, they are persuaded by men of great ability that certain measures will not be objectionable to the people, and they are so far removed from them that they do not feel the impulse of their constituents behind them, and they do feel the influence, and the advice, and the persuasion of these men around them, and they are led to vote for measures they would never have thought of voting for if they had felt the inspiration of an honest constituency constantly near them. I think it is a lesson worth reflecting upon and worth considering in this connection, that when the New England system of representation provides of one member to about four thousand inhabitants there has been less complaint of improper influences being brought to bear successfully upon members than in Pennsylvania under our plan of one Representative to thirty-five thousand inhabitants.

In Vermont, I believe, there is the purest democracy that has ever been established. The numbers are very much larger than ours—as it is in all the New England States; and in Massachusetts, with a population of less than one-half of Pennsylvania, there is a Legislature more than twice as large as ours, and we do not find that the dignity of the Legislature of Massachusetts is at all belittled by it. Nor do the people find any difficulty in calling to their aid, in the Legislature of that State, the very best talent that it has. They have had in their Legislature the historic names of the country—Cushing, and Adams, and Hoar, and Butler, and Phillips, and Boutwell—to represent them. There is no force, therefore, in the argu-

ment of the gentlemen from Venango on this point.

[Here the hammer fell.]

Mr. ALRICKS. Mr. Chairman: I move that the gentleman's time be extended.

The motion was agreed to.

Mr. MANN. I voted for the resolution restricting debate. I thank the committee for its kindness, but I believe the resolution ought to be enforced or rescinded, and therefore I close my remarks.

Mr. KNIGHT. Mr. Chairman: I rise with the view of making a suggestion, and finding no other way of getting it before the committee, I embrace this opportunity to make a few remarks. We have evidently been "swinging around the circle," and it seems that it is difficult for any gentleman in this Convention to determine exactly what we are driving at. We have three or four reports before the Convention, one on distribution, another on the number of members that shall be fixed for the two branches of the Legislature, and various amendments and suggestions have come before us, but it does seem to me that we are getting along very slowly. Now I think we are here for the purpose of improving rather than condemning what has been done in the past.

While I am not going to say a word against the members of the Legislature, or against the corporations of the State of Pennsylvania, and while I have no other purpose than to do them justice, I believe there is a very great reform required, and it is my opinion that the only way of getting at it is largely to increase the numbers in both branches of the Legislature, and I shall give you a few reasons why I have come to this conclusion.

In the first place we know very well when promoters of corporations go to the Legislature to obtain corporate privileges they ask them for a purpose which they suppose is to benefit themselves. The Legislature is the father of that institution, or corporation, and we know very well that the child scarcely becomes able to creep before its head is turned towards Harrisburg, and it goes there for an object. When it begins to walk and run you find it there, influencing legislation in some shape or other.

Now I contend that with a largely increased number in each branch of the Legislature, coming more directly from the people, we would have a better class of members, and it would be a great deal more difficult to pass bills through the Legislature, except upon their merits. Now we all know

very well the difficulties of the corporations of this Commonwealth keeping themselves from being controlled by the Legislature. If you had a larger number, this state of things, in my opinion, would not exist. The Legislature, to a certain extent, would be independent of the corporations, and the corporations independent of the Legislature. We all know that the railroad companies—I might as well speak out plainly—of the Commonwealth of Pennsylvania are constantly called upon by the members of the Legislature and the members of other public bodies, for passes, not only for themselves and their families, but for many of their friends. You cannot go into a railroad office in this city without finding a constant flow of applications, personally and by letter, for passes for everybody of any supposed influence, for trip and annual tickets all over the State. If you had some three hundred members in the lower House, and one hundred in the Senate, the railroad companies would come to the conclusion—if the Legislature itself did not pass a law prohibiting free tickets—that they could not afford it, and therefore they would do away with the system, and thus remedy a great and growing evil. Gentlemen of this Convention may not know it, but I have been credibly informed by a party who ought to know, and does know, that the free passes over the roads of one of the incorporated companies of this State cost the stockholders five hundred thousand dollars a year. Now this is a great evil, and you cannot extend this evil without it having other injurious effects. There have been cases, not in our own State, but in one of the neighboring States that I know of, where the Legislature has been positively tampered with, where but one vote was required to make a majority for a certain purpose. I am credibly informed of a case where twenty-five hundred dollars was paid for a vote. The opposing party heard of it, and said that they would do better, and agreed to give five thousand dollars. The party bribed returned the money he had received to the first party, but before he had time to see the second party, they compromised the matter, and he lost both sums. It served him exactly right, but the parties who heard of it took it as a very great joke, that this man should not have received either the twenty-five hundred or the five thousand. Now if you have a large representation the Legislature would not continue in session so long, and I am satisfied

that the State will be greatly benefited by the change. Before another Convention to revise our Constitution assembles, we will have a population in this State of at least ten millions of people, and then we will require a larger representation; and I think we had better commence the change at once.

I have drawn up my suggestion in the form of a resolution, but it not now being in order, I will simply read it for information:

Resolved, That the whole number of Senators and Representatives shall be determined by the Convention before considering the number of members that any city or district shall be entitled to.

If we confine ourselves to that one point we will be accomplishing something, and can progress with our business more rapidly.

Mr. SIMPSON. Mr. Chairman: Upon the subject of the number of members in the two branches of the Legislature, I confess that my thoughts have not run in the same channel with those of the gentleman from Venango (Mr. Dodd.) I took the trouble to examine the various Constitutions of the several States of this Union, and the Journals of the several Houses of the Legislature, as far as they were attainable, and I have made a table which I hold in my hand, showing the disparity of numbers as represented in the various Legislatures of the different States of this Union, and I propose to read them for the information of this Committee, that they may determine, perhaps, to some extent, upon the propriety of the proposed increase, or whether it would be better to retain the present number.

Alabama has a population of 996,992; she cannot have more than thirty-three Senators nor less than twenty-five. The thirty-three would give a ratio of one Senator to 30,213 of the population. The twenty-five would give a ratio of 39,876. Her Representatives number 103, which gives a ratio of one to 9,969.

Arkansas has a population of 484,471; she has 26 Senators, giving a ratio of one to 18,633. Her Representatives are 82 in number, giving a ratio of one to 5,908.

California has a population of 560,247; has 36 Senators, giving a ratio of one to 15,562. In her House of Representatives the minimum number is fixed at 30, which would give a ratio of 18,674, the maximum is 80, which would give a ratio of 7,003.

Connecticut has a population of 537,454; 12 Senators, ratio 44,789; Representatives 240, ratio 2,239.

Delaware has a population of 125,015; 9 Senators, ratio 13,981; 21 Representatives, ratio 5,953.

Florida: Population, 187,748; 24 Senators, ratio 7,823; 51 Representatives, ratio 3,681.

Georgia: Population, 1,184,100; 44 Senators, ratio 26,912; 175 Representatives, ratio 6,766.

Illinois: Population, 2,539,891; 51 Senators, ratio 49,802; 153 Representatives, ratio 16,601.

Indiana: Population, 1,680,637; 50 Senators, ratio 33,612; 100 Representatives, ratio 16,806.

Iowa: Population 1,191,792; 50 Senators; ratio 23,836; 100 Representatives, ratio 11,918.

Kansas: Population 364,399; 25 Senators, ratio 14,576; 75 Representatives, ratio 4,859.

Now, Mr. Chairman, I desire to call attention to the ratios for the House of Representatives in each State, prefacing with the remark that the Senators usually number about from one-fourth to one-third the Representatives, and will add this table as a part of my remarks.

There is one Representative allowed in each of the following named States for the number of inhabitants stated:

Kentucky	13,210
Louisiana	7,197
Maine	4,179
Maryland	9,080
Massachusetts	6,072
Michigan, not more than	18,501
“ not less than	11,840
Minnesota	5,496
Mississippi, not more than	8,279
“ not less than	6,899
Missouri	8,607
Nebraska	3,152
Nevada	1,180
New Hampshire, about	1,050
(One for every 150 registered voters, and one for every 300 additional.)	
New Jersey	15,102
New York	34,240
North Carolina	8,928
Ohio	26,653
Oregon	2,968
Pennsylvania	35,218
Rhode Island	3,019
South Carolina	5,690
Tennessee	12,712
Texas	9,095

Vermont, each town of 80 taxable inhabitants is entitled to *two* members; all others to *one*.

Virginia	8,814
West Virginia	9,404
Wisconsin, not more than	19,531
“ not less than	10,547

In the case of Vermont, if a town has 80 taxable inhabitants, its population cannot well exceed 800; that number is entitled two Representatives, so that in some of the larger towns the ratio for one Representative may be called 400, but in others it is much greater; the average for the State may, however, be set down as about 1 to 1,100 persons.

We see by this table that Pennsylvania has about one thousand more ratio than the State of New York; and those two States—leaving Ohio out—are rather more than double Indiana and Illinois, which are the next highest after these other three States.

Now, sir, my experience of the history of this country is, as was well stated by the gentleman from Potter, (Mr. Mann,) that the New England States have given less cause of complaint than any other of the States of this Union, in regard to the character of their legislation, as supposed to be swayed by corrupt motives, and we find that Connecticut is represented upon the floor of the House of Representatives to the extent of one member to 2,239 persons, and in the Senate one to 44,789; Maine is represented in the House of Representatives to the extent of one to 4,179 persons, and in the Senate one to 31,789; Massachusetts in its House of Representatives has one member to every 6,072 inhabitants, and one Senator to 36,544; New Hampshire has a Representative to about 1,050 of population, and a Senator to 26,525; Rhode Island has a Representative to 3,019 of population, and a Senator for each city and county; Vermont has a Senator to 11,018 of population, and a member in the House for an average of about 1,100.

I think the gentleman from Venango (Mr. Dodd) was mistaken in the conclusions he drew from his researches. I think an examination of the acts of Assembly of the various States of this Union will show that purer legislation will be found in those States that are represented by the largest number in proportion to population. I think no one can avoid coming to that conclusion from the very nature of the case. It will be still more curious to observe that the sessions of the Legislatures having the most numerous bodies

are the shortest in point of duration; while those that are the lesser in numbers, proportionately to population, are the longest in session. If the length of time occupied in making the laws, together, with the number of the laws, can be said to be an evil, as it has been said to be, then, I think, that upon the policy of having larger Houses and shorter sessions

we can get less evils than we have now. I am therefore prepared to vote for the largest number of Senators and Representatives that will be named on this floor.

For the purpose of reference, I now read and add the following table as part of my remarks:

NAMES.	Population.	No. of Senators.	Ratio.	No. of Represent ^s .	Ratio.
Alabama	996,992	25 to 33	{ 30,213 39,876 }	{ 100 82 }	{ 9,969 5,908 }
Arkansas	484,471	26	18,633	82	{ 18,674 7,003 }
California	560,247	36	15,562	30 to 80	{ 6,766 2,230 }
Connecticut	537,454	12	44,789	240	5,953
Delaware	125,015	9	13,891	21	3,681
Florida	187,748	24	7,823	51	6,766
Georgia	1,184,109	44	26,912	175	16,601
Illinois	2,539,891	51	49,802	153	16,806
Indiana	1,680,637	50	33,612	100	11,918
Iowa	1,191,792	50	23,836	100	4,859
Kansas	364,399	25	14,576	75	13,210
Kentucky	1,321,011	38	34,763	100	7,197
Louisiana	726,915	36	20,192	101	4,179
Maine	626,915	20	31,346	150	9,080
Maryland	780,894	24	32,537	86	6,072
Massachusetts	1,457,351	40	36,434	240	{ 18,501 11,840 }
Michigan	1,184,059	32	37,002	64 to 100	{ 5,496 8,279 }
Minnesota	429,706	37†	11,884	80†	{ 6,899 8,607 }
Mississippi	827,922	33	25,089	100 to 120	{ 3,152 1,180 }
Missouri	1,721,295	34	50,626	200	15,102
Nebraska	122,993	13	9,456	39	34,240
Nevada	42,491	18	2,360	36	8,928
New Hampshire	318,300	12	26,525	§	26,653
New Jersey	906,096	*		60	2,968
New York	4,382,759	32	136,961	128	35,218
North Carolina	1,071,361	50	21,427	120	3,019
Ohio	2,665,260	35	76,150	100	5,690
Oregon	90,923	16	5,682	34	12,712
Pennsylvania	3,521,791	33	106,721	100	9,095
Rhode Island	217,353	†		72	
South Carolina	705,606	32	22,051	124	
Tennessee	1,258,520	33	38,137	99	
Texas	818,579	30	27,285	90	
Vermont	530,551	30	11,018		
Virginia	1,225,163	43	28,492	139	8,814
West Virginia	442,014	18	24,556	47	9,404
Wisconsin	1,054,670	19	55,509	54 to 100	{ 19,531 10,547 }

* One for each county.

† One for each city and county.

‡ First numbers under Constitution.

§ One member for one hundred and fifty registered voters, and one for every three hundred additional.

|| Each town of eighty taxable inhabitants two members; all other towns one.

Mr. DE FRANCE. Mr. Chairman: I desire to add a few words to what has been said as to the increase of the number of members of the Legislature, as I have had the matter under consideration for some time.

I think experience is the best guide in a matter of that sort. If we had had no experience to refer to, the argument of the gentleman from Venango (Mr. Dodd) would have great weight with me, for he is an intellectual and highly cultivated

gentleman. The experience of the different States of this Union has been entirely different to that which could have been expected according to the logic of that gentleman. The practical workings of large Houses for legislative bodies and of small ones has been directly the reverse of what he seems to think. I agree fully with the gentleman from Potter (Mr. Mann) and those who have spoken on that side of the question. In furtherance of that side of the argument, I wish to read a letter which I have received from the Governor of Vermont.

EXECUTIVE CHAMBER, }
STATE OF VERMONT. }
MONTPELIER, February 7, 1873. }

Hon. R. M. De France:

DEAR SIR:—Your favor of 24th ult. was received in my absence. I hasten to reply.

We have in this State two hundred and forty-one incorporated towns, each of which is entitled to a Representative. Generally there are some towns unrepresented. The House seldom falls below two hundred and thirty for actual business. Our Senate consists of thirty members, elected by fourteen counties. We have often attempted to reduce the number of Representatives, but we have always failed. The main ground of failure—and I think so, too—is the security it gives us against corruption. I think today the reason against lessening the number is stronger than at any prior period in the history of this State. The experience of some of the sister States, for a few years past, I think has irrevocably established the wisdom of our policy in the minds of the people. I most heartily concur in this opinion, that it prevents fraud and corruption.

I am, sir, very respectfully,
Your obedient servant,
JULIUS CONVERSE.

I have also, Mr. Chairman, received a letter from Governor E. A. Straw, of New Hampshire, on this subject. I inquired specially as to whether he thought a large number of Representatives gave security against corruption. He says:

"There has never been any corruption charged in our House of Representatives."

That body is very large, consisting of three hundred and sixty members.

I have also a letter from the Governor of Connecticut, Governor Jewell, in which he says:

"In my opinion a large number of Representatives is a certain guard against corruption;" and, he goes on to say, "I am proud to say that there has never been any corruption of the Legislature. What is true of this is equally true, I think, of all the New England States."

There is an old saying that "the proof of the pudding is in the eating." Now what are the facts in this matter? That the Legislatures of those States who have had the largest representation have always been the most honest. Some men pretend to ascribe this to the fact that there is nothing to steal in New England—that therefore there was no incentive to bribery. Well, sir, Massachusetts is rich and Boston is rich. They have United States Senators to elect there just as we have, or as they have in Kansas or any where else; and we find that when the New England men come out here they are not very much more scrupulous than we are. They believe in getting all they can, and keeping all of it as long as possible. They are about as avaricious as the Pennsylvanians.

I have thought about this a great deal, and I have particularly endeavored to inform myself concerning the operations of this subject in other States, and from all the information I have received, as well as from my own consideration of the question, I do believe that the representation in our Legislature ought to be increased to the largest extent. I shall, therefore, vote for the largest proportion of representation for this State, and then, if I can not obtain that, I will have to come down a little. Mr. Chairman, I believe I have nothing further to say in connection with this question, and all I have said has only been by way of confirmation of what has been so ably argued in this Convention.

Mr. DARLINGTON. Mr. President: I move that the committee rise and report progress.

The motion was agreed to.

IN CONVENTION.

The committee then rose, and the President resumed the chair. The chairman of the committee of the whole reported progress, and asked leave for the committee to sit again, which was agreed to, and to-morrow was named.

Mr. NEWLIN. Mr. President: I move that the Convention do now adjourn.

The motion was agreed to.

So the Convention thereupon, at one o'clock and forty-five minutes, adjourned.

FIFTY-FIFTH DAY.

SATURDAY, *March 1, 1873.*

At ten o'clock A. M. the President called the Convention to order, and announced that there was not a quorum of members present.

Mr. MANN. Mr. President: I would suggest that the roll of members be called, in order to ascertain whether there is a quorum present, or whether there will be likely to be a quorum.

The CLERK called the roll, and the following members answered to their names:

Messrs. Achenbach, Alricks, Andrews, Baer, Baily, (Perry,) Bailey, (Huntingdon,) Black, Charles A., Bowman, Boyd, Brown, Carter, Clark, Craig, Darlington, De France, Edwards, Ewing, Fulton, Guthrie, Hay, Howard, Knight, Lawrence, M'Allister, MacConnell, M'Culloch, M'Murray, Mann, Mantor, Metzger, Minor, Niles, Purviance, John N., Purviance, Samuel A., Sharpe, Simpson, Smith, Henry W., Smith, W. H., Stanton, Struthers, Turrell, Walker, Wetherill, Jno. Price, Wherry, White, Harry, White, J. W. F., Wright and Meredith, *President* —48.

NOT PRESENT. — Messrs. Addicks, Ainey, Armstrong, Baker, Bannan, Barclay, Bardsley, Bartholomew, Beebe, Bidle, Black, J. S., Brodhead, Broomall, Buckalew, Campbell, Carey, Cassidy, Church, Cochran, Collins, Corbett, Corson, Cronmiller, Curry, Curtin, Cuyler, Dallas, Davis, Dodd, Dunning, Elliott, Ellis, Fell, Finney, Funck, Gibson, Gilpin, Gowen, Green, Hall, Hanna, Harvey, Hazzard, Hemphill, Heverin, Hopkins, Horton, Hunsicker, Kaine, Lamberton, Landis, Leat, Lilly, Littleton, Long, M'Camant, M'Clean, MacVeagh, Mott, Newlin, Palmer, G. W., Palmer, H. W., Parsons, Patterson, D. W., Patterson, T. H. B., Patton, Porter, Pughe, Purman, Read, John R., Reed, Andrew, Reynolds, James L., Reynolds, S. H., Rooke, Ross, Runk, Russell, Smith, H. G., Stewart, Temple, Van Reed, Wetherill, J. M., White, David N., Woodward and Worrell —85.

Mr. EDWARDS. [After some minutes delay.] Mr. President: I move that we

do now adjourn, since we cannot get a quorum.

The motion was rejected.

Mr. DARLINGTON. Mr. President: I move that the Sergeant-at-Arms be directed to bring in the members.

The motion was agreed to.

LEAVE OF ABSENCE.

Mr. PURMAN asked and obtained leave of absence for Mr. Charles A. Black for a few days.

Mr. STANTON asked and obtained leave of absence for Mr. Brown for a few days.

Mr. NEWLIN asked and obtained leave of absence for Mr. Bardsley for a few days.

Mr. WORRELL asked and obtained leave of absence for Mr. Addicks for a few days.

Mr. DARLINGTON asked and obtained leave of absence for Mr. Boyd for a few days.

DEBATE IN COMMITTEE OF THE WHOLE.

Mr. MANN offered the following resolution, which was laid on the table under the rules:

Resolved, That hereafter in committee of the whole no delegate shall speak longer than fifteen minutes at one time, nor more than once on the same proposition.

SESSIONS OF THE CONVENTION.

Mr. HOWARD offered the following resolution:

Resolved, That on and after Monday next this Convention will meet at ten o'clock A. M., and adjourn at one o'clock P. M., and will meet at three o'clock P. M., and adjourn at six o'clock P. M.

On the question to proceed to a second reading and consideration of the resolution, a division was called and it was not agreed to. Ayes, twenty; noes, sixty-five.

Mr. BAER offered the following resolution, which was laid on the table under the rules:

WHEREAS, All resolutions adopted by this Convention which operate as a change, alteration or modification of rule XXV, have thus far only impeded the progress

of the business of the Convention, and, in effect, are a dead letter upon the record; therefore,

Resolved, That all resolutions violative of rule XXV be and are hereby rescinded and annulled, and the rule re-instated as originally adopted.

THE REVISION OF THE CONSTITUTION.

Mr. J. W. F. WHITE offered the following resolution, which was laid on the table under the rules:

Resolved, That the following method be adopted in revising the Constitution:

First. That the articles and titles of the Constitution be as follow:

PREAMBLE.

ART. 1. Declaration of Rights.

ART. 2. Distribution of Powers.

ART. 3. The Legislative Department.

ART. 4. The Executive Department.

ART. 5. The Judicial Department.

ART. 6. Elections and Suffrage.

ART. 7. Education and Labor.

ART. 8. Municipal Corporations.

ART. 9. Corporations other than Municipal.

ART. 10. Taxation, Finance, Public Debt.

ART. 11. Disqualification for Office.

ART. 12. Official Terms, Vacancies, Salaries.

ART. 13. Impeachment and Removal from Office.

ART. 14. Miscellaneous.

SCHEDULE.

Second. That the standing committees make their reports under one of the above articles; and when two or more have subjects which should be embraced in the same article, they unite in reporting a full article.

Third. That section four of rule VII be stricken out, and section six be changed as follows:

I. The articles and sections shall be considered in consecutive order first in committee of the whole.

II. After all the articles and sections shall have been considered in committee of the whole, they shall be considered in the same order in Convention on second reading.

III. They shall then be considered in the same order in Convention on third reading.

Mr. HARRY WHITE. Mr. President: I have the honor to submit the report of the Committee on Legislation, and ask that it be read.

The CLERK read the report.

The PRESIDENT. The remaining section is one which the committee requests shall be submitted to a separate vote of the people. The Chair does not think that such section can properly form part of the article.

Mr. HARRY WHITE. Mr. President: With all due deference to the Chair, I would state that the Committee on Legislation incorporated that section in their report in obedience to the petitions received here from thousands of the citizens of Pennsylvania, asking for the submission to the people of a separate article of that kind. The majority of the Committee on Legislation thought it would be wise to place that section in their report.

The PRESIDENT. The section will be received as part of the article if the Committee on Legislation think fit to take out the words relating to the separate vote. That is a subject which belongs primarily to the Committee on Schedule.

Mr. HARRY WHITE. Mr. President: The understanding of the committee was that on this question the committee to which it should be referred should exercise their judgment as to the manner in which it should be reported to the Convention. After having passed from the hands of the Committee on Legislation it is, of course, the property of the Convention, and the Convention can require that subject matter to be submitted to a separate vote of the people or not, just as they deem fit.

The PRESIDENT. The Chair feels bound not to receive this in its present shape. He regrets it very much, especially as the chairman of that committee seems to think that it is in order.

There are two distinct subjects involved in the proposition. The first is whether this Convention will agree to the section proposed, and the second is if they do agree to it whether it should be submitted as a separate question to the people. Now these two cannot go together. The first question would be whether it is to be submitted as a separate article, and when the Convention agreed to that the section might be negatived. If the chairman will withdraw that part of his report the section will be read.

Mr. HARRY WHITE. Mr. President: I do not feel myself authorized to withdraw any portion of the report, inasmuch as I have been instructed to present it just as it has been presented by the majority of the committee, after full discussion and understanding. It was apprehended by

the majority of the committee that all questions which have been passed upon by the committee should be submitted at this time, and that the report, therefore, would be incomplete if this clause had not been put into it.

The PRESIDENT. The Chair regrets very much that he cannot receive the report now. He cannot receive a report that mixes up an article with a recommendation of what should be done hereafter. This article has now been read the first time. It will be laid upon the table and printed.

COPIES OF THE NINTH CENSUS.

The PRESIDENT presented a communication from the Hon. John Scott, Senator of the United States from the State of Pennsylvania, transmitting a copy of the first volume of the ninth census of the United States, for the use and information of the members of the Convention, which was laid upon the table.

PROHIBITION.

The PRESIDENT presented a petition of numerous citizens of Pennsylvania, praying that an amendment to the Constitution may be adopted prohibiting the manufacture and sale of intoxicating liquors.

LEGISLATION.

Mr. HARRY WHITE. Mr. President: Do I understand that the Chair declined to receive the report of the Committee on Legislation?

The PRESIDENT. No; the section at the end of that report, not being part of the article, but merely a recommendation of the committee, was not received.

Mr. HARRY WHITE. I feel it my duty, in deference to the instructions of the Committee on Legislation, who directed me to make this report, to see that the section is entered upon the Journal. I would therefore ask that the section, as it appears in the report, be read by the Clerk and entered upon the Journal.

The PRESIDENT. The Clerk will read the section.

The CLERK read:

TO BE SUBMITTED FOR A SEPARATE VOTE.

SECTION —. No license shall be granted to sell vinous, spirituous or malt liquors, or any admixture thereof, or any other intoxicating drinks, and any sale of such liquors, except for mechanical, medicinal or sacramental purposes, shall be a misdemeanor, and punished as shall be provided by law.

The PRESIDENT. The next business in order is the further consideration, in committee of the whole, —

EASTERN PENITENTIARY.

Mr. SIMPSON. I desire to ask a question. The Convention accepted the invitation of the inspector of the Eastern penitentiary to visit that institution, and assigned this afternoon for that purpose —

The PRESIDENT. The gentleman is not in order. The next business before the Convention is the further consideration, in committee of the whole, of the article submitted by the Committee on the Legislature.

IN COMMITTEE OF THE WHOLE.

The Convention then, as in committee of the whole, Mr. Charles A. Black in the chair, proceeded to the further consideration of the article reported by the Committee on the Legislature.

Mr. JOHN N. PURVIANCE. Mr. Chairman: I do not intend to speak on the question as to the representation of cities, which has been so elaborately discussed by the able and learned gentlemen who have addressed the committee, but to confine my remarks mainly to one of the propositions contained in the amendment now before the committee. That is the amendment providing that each county shall have at least one Representative in the House of Representatives, although it may not contain the requisite ratio of representation.

I am in favor of this amendment, because I believe that no county of the State should be without a representation in the popular branch of the General Assembly.

Population is taken as the basis of representation, not because it is wholly right, but for the reason that some rule must be established in order, as far as practicable, to secure equality of representation. It is absolutely necessary, too, that a number be fixed so as to provide for additional members where the population of counties exceed the minimum fixed for a member. Whilst this mode is the one universally agreed upon in every State of the Union, it is no violation of it, as a general rule, to give to each county a member, though the population may be less; it is only in such case an exception to the rule. Each county should have a member because of its separate and independent existence as such, and the wants of the people which could be best made known by one of their own citizens. Territory, as well as popu-

lation, should be considered in determining upon the right and necessity of representation. Counties, as such, are taxed, and have to bear a portion of the expenses of State government, and therefore have a clear right to demand representation, and voice and vote in all questions of taxation, as well as the location of county seats, the fixing and maintaining boundary, the location of State and county roads, the division of townships for school and other purposes, the regulation of wharfs, bridges, &c., in navigable streams.

It is well known that district representation does not confer the advantages to a new and sparsely settled county which is necessary to its development and prosperity. The district member may represent a number of adjoining counties as large as the State of Delaware; he may be, and generally is, a stranger to his constituents and their wants, and resident one hundred miles distant from them. Take, for example, the counties of Forest, Elk, Cameron, McKean, Sullivan and Potter, extending from the waters of the Susquehanna to the waters of the Allegheny. What now would the Representative from any one of the counties named know of the wants and interests of the other counties of such a district? One county may be entirely agricultural, the others mining, manufacturing and lumber. In fact such representation, as experience has proved, is almost equal to no representation whatever. In city government, in all the cities of the State, every ward, whether small or large in population, is represented in at least one branch of the city councils. No ward would be asked to submit to taxation without representation, and each ward has its own immediate representative. The regulations as to water, gas, street railways, buildings, private and public, the assessment and collection of taxes, the control and management of schools, the regulation of markets, &c., all demand representation in the councils of the law-making power for the government of cities. The same principle is carried out in the representation of Territories in Congress, each Territory having a delegate, who is entitled to a seat in the councils of the nation to protect the rights and interests of the Territory, though the population may be but a few thousand.

The principle of representation should be carried out to every county, as it is to cities and territories, without reference to population. They have their organization as counties, their courts, their

county officers and their county pride, only humiliated by their want of representation in the enactment of laws which they are bound to obey.

By giving to each county a member you protect the rural districts against the ever increasing representation from the cities.

This amendment is but restoring in the new or amended Constitution the same provision which was a part of the Constitutions of 1776 and 1790, stricken out by the Convention that framed the amended Constitution of 1838. Let us get back to the old land marks from which, in this respect, we never should have departed, and thus preserve the rights, and promote the safety and welfare of the people.

From the days of the Continental Congress down to the present time, it has been a recognized fundamental principle of our system of government, that representation should be allowed to each separate community, State or county, without reference to the number of population, though the increase in numbers of Representatives was enlarged by the increase of population.

Numbers, therefore, was not a primary principle in determining the right of representation, but rather settled upon as the rule to regulate the enlargement of it.

We should make counties the basis of representation, and fix a ratio for their increase in population, so as to equalize representation, and provide such checks and balances as are necessary for a just equilibrium of legislative power.

Mr. Chairman, with a view of ascertaining how far other States have gone in recognizing the principle of county representation, I have examined the Constitutions of many of the States. I now refer to the Constitutions of twenty States, and will read the provisions contained in each as to county representation. I quote from American Constitutions:

Alabama. Vol. I, page 67: "Each county shall be entitled to at least one Representative."

Connecticut. Page 161: "The number of Representatives from each town shall be the same as at present practiced and allowed."

Florida. Page 231: "Each county one Representative at large."

Georgia. Page 260: "To each county at least one Representative."

Illinois. Page 293: "Every county or district shall be entitled to one Representative when its population is three-fifths

of the ratio." Although Illinois did not go the whole length of making counties the basis of representation, yet she manifested her faith in the principle by adopting the three-fifth rule.

Iowa. Page 379: "Every county and district which shall have a number of inhabitants equal to one-half of the ratio fixed by law, shall be entitled to one Representative."

Louisiana. Page 481: "Each parish in the State shall be entitled to at least one Representative."

Maine. Page 513: "Each town having one thousand five hundred may elect one Representative."

Maryland. Page 570: "Each county in the State shall be entitled to one Senator, and each county at least two delegates."

Massachusetts. Page 632: "Every corporate town containing one hundred and fifty ratable polls may elect one Representative."

Michigan. Page 670: "Each county hereafter organized shall be entitled to a corporate Representative when it has attained a population equal to a majority of the ratio of representation."

Missouri. Page 793: "Each county having the ratio of representation, or less, shall be entitled to one Representative."

North Carolina. Volume II, page 118: "Each county shall have at least one Representative in the House of Representatives, although it may not not contain the requisite ratio of representation."

New Hampshire. Page 13: "Every town, parish or place, entitled to town privileges, having one hundred and fifty ratable male polls, twenty-one years of age and upwards, may elect one Representative."

New Jersey. Page 42. "Each county shall at all times be entitled to one member."

New York. Page 77. "Every county heretofore established and separately organized, except the county of Hamilton, shall always be entitled to one member of the Assembly."

Rhode Island. Page 261: "Each town or city shall always be entitled to at least one member."

South Carolina. Page 285: "If in the apportionment of Representatives any county shall appear not to be entitled, from its population, to a Representative, such county shall, nevertheless, send one Representative."

Vermont. Page 406: "The House of Representatives shall be chosen by ballot by

the freemen of every town in the State respectively."

West Virginia. Page 891: "Every delegate, district and county, not included in a delegate district, shall be entitled to at least one delegate."

It thus appears that eighteen of the States referred to have, without qualification, adopted the principle of taking counties as the basis of representation, or in other words, of allowing each county a Representative in the popular branch of the Legislature.

Mr. DARLINGTON. What is the question up before the committee?

The CHAIRMAN. The proposition of the gentleman from Carbon (Mr. Lilly.)

Mr. DARLINGTON. Mr. Chairman: That question is rather broader than any yet discussed, and involves principles certainly of very great magnitude. I regret that it has been put before us in such a conglomerated form that it is difficult for the Convention, in the short time allotted for it in committee, to give any attention to the various departments of it, which are necessary to be discussed and understood by the body before any vote should be taken.

I did not suppose, sir, that we would be called upon at this early stage to go into the discussion of the general questions which the proposition of the gentleman from Carbon (Mr. Lilly) involves. It is nothing else, sir, than whether we shall adopt entirely a new principle in the history of this State—an unknown principle of minority representation—or whether we shall adhere, on the other hand, to the acknowledged, well-understood and long-tried principle of the representation of the majority.

True, each of these separate propositions, as now presented for the consideration of the committee, involves, necessarily, the consideration of the number of which each House shall consist. The proposition of the gentleman from Carbon (Mr. Lilly) proposes a Senate of sixty and a House of one hundred, with, perhaps, some modifications therefrom. The proposition which I suggest contemplates a Senate of fifty and a House of one hundred and fifty as a minimum, leaving it optional, however, with the Legislature to increase the Senate to one hundred, should they see fit, and the House to three hundred, thus leaving the proportions between the two precisely as they now are. In other words the Senate is never to be greater than one-third nor less than one-

fourth the number of the House of Representatives.

When we shall have arrived at the decision of the committee on this question, we shall only have advanced one step, and possibly we may not arrive at a satisfactory decision on this question as to how many the House shall consist of, or be able to vote intelligently upon it, without, at the same time, taking into view two plans which are now presented to us by the amendments which are pending.

Are we prepared to leave the landmarks which have been the guide of our ancestors down to this day, and which are recognized as the fundamental principles upon which all governments rest, and adopt a new and untried scheme, and experiment in government in the hope of gaining something better than we have before had?

Why, sir, all republican and all free governments necessarily rest upon the will of the majority. No other foundation can any man lay with safety for a free government, State or national, than the majority of the people. That was the principle which lay at the very foundation of our institutions, and it remains to-day. I trust it shall always remain so long as free governments shall exist. It is the only principle upon which liberty can rightfully rest.

MR. CUYLER. Will the gentleman pardon a question? How does the doctrine for which he now contends support the proposition in his own amendment, that no city or county shall be entitled to more than six Senators?

MR. DARLINGTON. That I have not discussed.

MR. CUYLER. Although not discussing it, the doctrines which the gentleman contends for lie at the root of his principle.

MR. DARLINGTON. That is precisely the principle of the debate, but with regard to its application to cities or counties, I say that is a question into which I have not gone. I have not done so because it has been so much better and ably discussed by others. It has received the sanction of this body. I do not, therefore, propose to re-open it.

However unjustly the principle may be found to work, as it may be thought by gentlemen living in the city of Philadelphia, or by those who advocate a principle which they do not believe, still it is the true principle upon which all forms of government must rest. How can we then best attain the sense of the majority? If

we could all be thrown into one universal Commonwealth for voting, and all vote one general ticket, undoubtedly we would in that way, having but two candidates, obtain the will of the majority, as we do in the selection of our municipal officers; but still we must bear in mind that representation must be by districts composed of communities or their divisions, as it may be thought best, and we are to so organize the government as to allow the majority in each of these communities, or divisions, to select those who are to make their laws. I said the other day what I believe is true, that in a republican government, such as ours, there will always be, and there always ought to be, minorities as well as majorities. The safety of the government requires it, while the duties of a community require that there should be no unbridled and uncontrolled majority. There should be both majorities and minorities, and the stronger, the more powerful and the more talented the minority the safer will be the government of the majority; but while I say that, I nevertheless am unwilling to yield a single jot of the principle that the majority must rule. It must be the majority of the people of the community who shall elect their Representatives, and that is the principle I advocate.

Now what is that other principle which has been proposed here by the gentleman from Carbon, (Mr. Lilly,) but which is more popularly and better known as emanating from the gentleman from Columbia (Mr. Buckalew?) It is that there shall be no representation if the district consists of two or more members of the majority, but there shall be representation of both parties in the district by a system of voting known as the minority system and the cumulative system. In either event the purpose is, that we shall elect, in districts composed of two or more parties, one from each political party. Now, sir, upon what is this idea based? It is based upon the idea that a gentleman, when elected to the Legislature in either branch, is no longer a representative of the people who sent him there, but of the party that elected him; and this evil, this mistake, lies at the very foundation of the whole system of minority representation. There is the wrong; there is the mistake committed by those who advocate the minority representation system; and I say it is a heresy in politics, and a heresy in government for any one to suppose that one who is elected to office, and bound by the duty he undertakes to

discharge the duties of that office, is, in any sense or in any extent the representative of that party who send him to a legislative body. He is the representative of the whole people. Was not the distinguished gentleman, who sits at my right, (Mr. Curtin,) the loyal and faithful war Governor of Pennsylvania, the representative of the whole people of the Commonwealth, and not of one particular party, when he held that office? Was my friend who sits near me, (Mr Woodward,) the representative of the party who elected him to that high position of a Supreme Justice, or was he not placed upon that bench to discharge his duty with "even-handed justice," amid all the interests of the people of this Commonwealth? Why the mere statement of the proposition refutes the notion that any man who enters a legislative body, judicial position, or assumes the gubernatorial chair, does so as the representative of his party. He holds these positions as the representative of the whole community, and it is rightly so. It could not be otherwise.

You may tell me that no man forgets his political antecedents; that no man who is elected to office as a republican ceases to be a republican, and no man elected as a democrat ceases to be a democrat. If true, and I admit that a man may form an opinion that the political principles which he advocates are the best for the welfare of the country, but he acts in accordance with his judgment and his convictions. I do not expect a man to forget that. I do not expect to be less a republican when I leave this Hall than when I came into it; but when I come here my duty is to assist in forming a Constitution that shall be equal in its benefits and its disadvantages upon all parties of the State. I say, therefore, that we must not forget the true theory is, that when elected, no matter by what party, the individual elected is the representative of the whole people who joined in his election, and not of the party who is successful in the election. Then, sir, what is gained by permitting the majority thus to rule? You have men chosen who are supposed to be the best qualified, though in point of fact, the choice of the people may not fall upon the best men, but they must be, at least, among the best men, because the majority have so decided, and hence, upon this principle was enunciated the old Roman maxim—*vox populi, vox Dei*—the voice of the people is the voice of God. In a republican form of govern-

ment this principle must be accepted, because it is the unalterable voice of the majority of the people upon which rests the responsibility of government. Are we about to attempt a new and untried scheme by which we shall not send into our legislative halls the men elected by the majority alone, but also the minority a proportionate representation? Is it safe to make such a radical change, and would it not be treading on untrodden ground, and inaugurating a perilous movement in government? When did this new notion originate, and where? It has been tried, I know, in England, to some extent; but as the British Parliament is composed of a large body of men, it is possible that the inconvenience of minority representation may not be perceived, and we know not what its operation may be there. In Illinois, I am aware, they have endeavored to put this system in operation, but with what success I know not, except that they have elected a body under its operations; but this I do know, that when the question of minority representation was submitted to the people of that State there was less than a majority of the whole people who voted in favor of the system. It was submitted, it is true, at a season of the year when the vote would necessarily be small, but there was a majority of between nineteen and twenty thousand in favor of it, while the whole vote cast upon the adoption or rejection of the amendments to the Constitution did not exceed, I think, one-half of the whole population of the State. There was less than one-half of the people of the whole State voting upon a question of changing the fundamental law of the State.

Where else has it been tried and with what success? It has been tried in the formation of this body. What has been the result? Not entirely in the formation of the whole of this body, but the principle has been adopted in the election of every member of the body. In the State at large a ticket was voted for by each party; in the city of Philadelphia the same; in the city of Pittsburg the same; in the various country districts the same, with what result we know. On the general tickets in the State and in the cities mentioned the delegates were divided equally between the two political parties, and in the Senatorial districts two of one party and one of the other were elected.

Now, in order to ascertain how nearly this answers to the popular will, let us inquire whether this House, situated as it

is, represents the popular will of the State? And just here I beg to be understood. I am here, Mr. Chairman, finding no fault with the election of anybody. I am here to act with friends and statesmen of all parties to do the best for the common good. But upon the distinct question, which I propose to consider, how does this Convention represent the will of the people who sent us here? It is well known that in the organization of this body there was a majority, I think, of five. I beg pardon for thus alluding to party; I do it in no invidious sense. There was a majority of five. Is that the majority which represents or should represent the great political party which is the controlling power in this Commonwealth, or should that majority be much larger? If I calculate aright there would have been in this body, had it been elected by majorities, as parties generally are, instead of a majority of five, a majority of eleven or as nearly eleven as possible—ten and a very large fraction. That would have been the result. I do not speak without the book, and if the committee will indulge me for a moment I will show what I mean. For instance, take the Senatorial districts alone, leaving out of consideration altogether the gentlemen who were elected upon the State ticket and in the city of Philadelphia and in the city of Pittsburg, all of whom received half the votes cast or thereabouts; take the Senatorial districts alone. You have of republican votes cast for the republican candidates elected to this Convention 554,753, and for the democratic candidates 302,532 in all the Senatorial districts of the State. The whole vote of the State, therefore, given for the members of this Convention, in all the Senatorial districts for the Senatorial candidates, was 657,285.

Now a moment's attention and a single moment only to this. The ratio of votes is $6,639\frac{1}{2}$ for each member, and this will give 53 republican members and 46 democratic out of the 99, a republican majority of 7. Or take the popular majority, which is 52,221 republican, and the same ratio will give 7 members and a large fraction, 7 and $57\text{-}63$, very nearly 8 members, as the republican majority. Now, sir, you may carry that out with the same result, but I will detain the committee with no further comments upon that subject. I take these figures from the official vote given at Harrisburg. Probably there may have been a few scattering votes not affecting the general result. Thus you will per-

ceive that even this body of as honorable men as ever were assembled, of both parties, leaving out myself—as my friend from Philadelphia (Mr. Woodward) would say. I am fond of speaking of this body as an honorable and very intelligent body, and leaving myself out, as honorable a body as ever were assembled, composed of the best members of both political parties—nevertheless even this body does not reflect the popular will by reason of this minority system of representation adopted by the Legislature in our election. Mind I am finding no fault whatever in the organization of this body. We are doing well enough. But what I do say is that it is no certain way of giving expression to the popular judgment, the public feeling of this Commonwealth. Had the true majority system been applied to the formation of this body, the republicans would have been, instead of in a majority of five, at least in a majority of seven, or eight or nine, the difference perhaps being of no consequence in the general result.

MR. DE FRANCE. Mr. Chairman: I desire to ask the gentleman from Chester if this Convention does not, in this way, represent more of the people of Pennsylvania than if it represented only the majority of the people.

MR. DARLINGTON. Mr. Chairman: I do not know how that can possibly be made out. How are you to ascertain the wishes of the people of Pennsylvania, but by taking the sentiment of the majority? I grant you it gives a larger representation to the minority, and therefore it is better for their wishes. But when you remember, and we must remember, that all republican governments rest on the will of the majority, we are not allowing to that will its scope and power, but we are giving to the minority a representation which does not belong to them. I do not know whether it is my friend from Mercer (Mr. De France) or my friend from Montgomery (Mr. Boyd) who is liable to this objection, but certain it is that a large number of republican votes have no votes here to represent them, and there are a number of democratic votes in this body who have no constituents. I am not objecting sir, to the composition of this body, but I am referring to the principle of whether it is right in organizing the government of this State, to provide any system which shall not reflect the will of the majority in the only way in which it can be reflected by giving the majority the right to choose the men that shall represent them.

One word further. What is the true purpose of the minority? What is the true object of a minority? What is the true business of a minority? Not to govern! Not to govern, because the government and responsibilities of the government must rest on the majority. The minority have no responsibility for the acts of the governed, nor should they have. It is upon the majority that this responsibility rests, and they cannot shrink from it. The good and the ill that flow from their acts must be fathered by them, and by them alone. What then is the office of the minority, admitting that a minority should always be represented? Represented! Yes, sir; and where? In the forum by public addresses. By the fire-side with argument. In the public press; in the Assembly that makes your laws. They must be represented in all of these, and they must watch and reason, and argue, to constrain and convince the majority. In the language of John T. Hoffman, while Governor of New York, in his veto message on the New York city charter bill, "their duty and their function is to watch the majority, to reason with them; to argue with them; to prevail with them to do no mischief, and by their power, by their talent, and by their combinations, prevent, so far as they can, any wrong." And when all this argument shall be exhausted; when the minority shall have been heard in every place in the land where they have a right to be heard; in private argument, in the forum, in the press, in public meetings, in the Assembly itself; and still they do not convince the majority. What then? Then the majority must rule and they must decide what measures of government are to be adopted and carried out. They must be responsible for it and the minority must not be.

That is the true doctrine as laid down by Governor Hoffman. Little as I may admire or follow him in other things, in this, allow me to say, he is sound. Then where are we? Shall we adopt an untried system beautiful in theory? Gentlemen in favor of it contend that the minority shall be represented. I grant you it is a very fine theory. It is a very pretty idea. It commends itself to all our bosoms and all our thoughts that the minority should be heard; that they should have the opportunity of submitting any views they may have to offer; that they shall not be crowded down; that they shall not be ignored, but that their arguments should

be listened to, and that they should be heard, weighed and judged with every regard to their full force and weight. But after all this is done, after they have used all persuasion, and all the talent, and all the reason they possess, if they cannot still convince the majority that their plans are wrong, then the majority must be allowed to carry out the government or their plan until the minority shall prevail with their arguments so as to create themselves a majority.

That is the correct way. Is there any danger that under our system a minority shall not be heard? Was there ever a case in the history of this government where the minority were not large enough to be heard, were not talented enough to be heard, and to use all the arguments that could be used in favor of their views? Did the time ever occur in the national or in the State government that there was not a minority to be heard? Was there ever a case where there was not a minority to watch the majority? There was never a time, and never will be a time, in which the minority cannot be heard. If, then, they can be heard, if they are able to perform all the proper functions and duties of the minority, to watch, to reason and to argue, to do everything except to take upon their shoulders the government, what complaint can they have?

Now, if that is the case, why should we devise any new scheme by which we should bring into power minorities in counties and cities where minorities are small? Take the case of my own county, for instance. Applying this doctrine to it, let us consider its effect. Suppose the county of Chester was entitled to three members in the House of Representatives of this Commonwealth, and one member in the Senate, and suppose some favorite principle upon which the people of that county were nearly all agreed was to be proposed, and the effort made to carry it out, what would be the effect of minority representation? Why, if you allow minorities where they are small to elect a member, in our case it would be to send a member into the legislative body to frustrate the will of nearly all the people of the county, to throw his force into the opposite scale, and thus prevent the will of the majority from being carried out.

Mr. WORRELL. Mr. Chairman: If the gentleman will permit the suggestion, under this system of proportional representation in any county, if the minority were as small as he indicates it would not

be able to secure any voice in the General Assembly. The system only gives representation to minorities sufficiently powerful to carry into effect the opportunity afforded by it. In a county, such as he supposes, having three members of the lower branch of the Legislature, the minority to secure one of those members would have to attain one-third of the voting population, or at least one-third of those who participate in the election.

Mr. DARLINGTON. Mr. Chairman: Probably that is correct, so far as regards the the minority representation alone. But still, that one-third of the people of Chester county should neither be allowed to frustrate a particular measure upon which the two-thirds of the people of the county were united, or yet in the Legislature, where the measure must be proposed to reduce her representative force by one. She ought to go to the Legislature with three united voices, instead of having these three neutralized by one of them being given to the opposite party, by any proportional system, as the gentleman terms it. And so all over the State. So everywhere. So in Berks county, which has been the bulwark of democracy from time immemorial. Why should we invade her and say to her, "you shall permit a minority representation of republicans when you are nearly united on your plan and system of government?" With what justice and what right shall we republicans claim that we ought to have a member in Berks, any more than my friend from Berks (Mr. H. W. Smith) should claim to have a member from Chester? The majority of the community, into what districts you shall divide the State, should still be the majority of the community, and as such represent and direct the State government. If they are democratic districts, they should be represented by democrats, and the republicans should have no voice in them.

Now, sir, passing from this, because I do not wish to detain the committee, I desire to say a word about another theory.

I understand from the gentleman who introduced the amendment (Mr. Lilly) that this is an amendment which is proposed to be introduced by the committee who have charge of the subject, the chairman of which is my friend from Centre (Mr. M'Allister.) They are not ready to report, and I understand that the gentleman from Columbia, (Mr. Buckalew,) who is not now in his seat, is not prepared altogether to agree with the com-

mittee. He is not prepared to stop where the amendment of the gentleman from Carbon (Mr. Lilly) would stop, but go further and take up the cumulative vote, and that that is the reason why the committee have not reported.

The subject of cumulative voting is to be the next project to be introduced. One idea is the representation of minorities, another idea is cumulative voting.

The cumulative voting system gives one man the privilege, where three men are to be elected, of concentrating his votes on one man, so that he can put all three of his votes on one candidate instead of giving one vote to each of the three. He may cumulate his votes. What is the argument? What is the reason? What is the ground on which this is to be done? It is that it enables the good men of the community to cumulate their votes upon good men on any special ticket, and thus force them on the community even against the majority of the people; but, sir, will it not at the same time enable bad men to cumulate their votes upon bad men who may get on the ticket, and thus force these bad men into office?

I am not disposed to make any invidious distinctions as to sections of country; but let us look, for a moment, at Philadelphia. I take it, as I have often heard it stated here, that Philadelphia is full of fraud. Now suppose a district to exist as districts did exist twenty or thirty years ago, and suppose there are three members to be elected to the Legislature, and one should be a horse-thief, or a gambler, or a robber, if you please, a representative of his class on the ticket. What is to prevent his class of people from cumulating their votes on him and sending him to the Legislature? You cannot keep out of the Legislature these bad men on such a system as that—these men who distribute the plunder obtained in legislation, if any plunder be obtained, to men of their own class. While, therefore, it is claimed on one hand that it will be a good thing to enable people to strike off bad men and put in good men, it will be productive on the other hand of more mischief, by far, by enabling bad men, who are the very men most likely to take advantage of the cumulative voting, to put their own friends in office. Neither minority representation nor cumulative voting belongs to republican government. Neither of these systems should receive the countenance of this body, where we are seeking to make such changes in the government

as will be to the advantage of the majority of the people, and will enable us to get at the true expression of the will of that majority.

What, on the other hand, have we proposed as the antipode of all these? It is the single district system, to divide the State into single districts for the choice of Senators and Representatives. What, then, will be the result? Each party, in a single district having but one man to put forward to office, will necessarily vote for that man, that each conceives to be best qualified to represent the district. If the parties do not do that they run the risk of having their opponents elected. In the single district system you can have but a single candidate on one side for office. All log-rolling and attempts to procure votes would be at an end. There would be no more interchanging of favors, getting your delegates to go for me and my delegates to go for you. There is still the choice presented to the elector of taking one or the other, whichever he deems best suited to the position. All the evils of "gerrymandering" in the State would be avoided, because it would be impossible for any, however disposed, to form these districts to suit of contiguous territory. If they carry out the amendment, as they say they will, as proposed this morning, it will be impossible to so "gerrymander" these districts as to destroy the will of the majority of the people. If Chester county should be formed into a district which should have a republican, and another district which should have a democrat, let it be so. If Bucks county should be divided up in the same way, let it be so. We have still a majority representation of the people of the district, and at the same time county or community representation, which is so great a favorite with our friend, the President, would be preserved.

One word with regard to the proposed plan of the gentleman from Carbon (Mr. Lilly.) He proposes to begin this system of minority representation by taking away all power from the Legislature to district the State. He would have a body of ten gentlemen elected, say every ten years, for this purpose; but how elected? By the minority system, each man voting for five. Thus you would have a number of men brought together who do not harmonize in political convictions, five being of one view and five of the other. Just imagine what sort of apportionment they would make? Do you suppose you would

have any agreement among these ten men? Five will be of one opinion and five of the other.

I object to the plan, because it is a putting into the hands of a few, selected for the purpose, and perhaps of different politics, all power to divide the State; and it is proposed to make these men a power superior to the Legislature itself. I do not believe you can get a body of that kind of ten men or of any other number that will have any superiority of intelligence or integrity to the Legislature of the State. Nothing is gained, therefore, by this anomalous, strange and complex proceeding that is proposed to be imposed upon the science of government.

MR. CURTIN. Mr. Chairman: I do not propose to occupy the time of the committee more than a few minutes; but I regard it as proper that some of the arguments that have fallen from the learned gentleman, who has just taken his seat, should not go without a reply.

I have not found, in any printed paper, or any written one, submitted to this Convention, nor in the report of any committee, anything whatever about cumulative voting; but it may be of some advantage to the members of this Convention, when that subject does come up for discussion, that they shall have had the benefit of some prior debate on the subject.

MR. EWING. Will the gentleman permit me to ask what this second section of the amendment of the gentleman from Carbon (Mr. Lilly) means? I have been at a loss to understand it, and it has not been explained. I want to know what "proportional representation" means.

MR. CURTIN. I do not know. I do not pretend to discuss it specially, nor to insist on this section as proposed. I have not the time in which to go at length into it, nor do I care about it.

The learned gentleman from Chester (Mr. Darlington) says, with emphasis, "are we here to break down the time-honored customs established by our ancestors—to break down the great landmarks of our form of government?" I say: "Yes, we are; that is just what we are here for." If there is any custom—any tradition which has been abused—if there are any principles in our government which can be abused—which are found to work for the good of the people, and which do not aid the development and prosperity of the nation, we are here to break them down. It is not upon the examples of antiquity that we built

our government, although they may have been used in its construction. It is presented to the world in all the beauty of novelty, by wise and great men, and yet there is scarcely a principle which lies at the foundation of our government, save only that of liberty itself, and the equality of manhood, that has not been changed to suit the advancing times and the expansion of this nation—the increase of its population, the development of its vast physical and material resources. That has been amply proven in this body. This Convention is called to reform abuses, to amend the Constitution, so that these abuses that still cling to us shall be obliterated forever, and that the fair fame of Pennsylvania may be no longer tarnished by them.

If we were as old as the christian era, and covered with the dust of time from all the ages, and should still have some provision of Constitution or law that operated to the disadvantage of the people, this Convention is here to remove it, and to substitute in its place forms of government better adapted to the growing wealth, and power, and convenience of this great people. That, sir, is the purpose for which we are here; and, with a reverence for everything that is old, everything that is antiquated, I must, at the same time, say that I am not afraid of that which is new, merely because it is modern. We are a modern nation, an enlightened people. We are a State made up of a population so mixed, and of blood so varied, as was graphically described the other day by the distinguished gentleman from Philadelphia, (Judge Woodward,) who referred to the fact that we are made up of German and Scotch Irish, and English and Welsh; that we are a people of large common sense. I take for granted that this Convention of one hundred and thirty-three members about reflect the common sense of the State; and the delegates to this Convention, enjoying, as they do, a large measure of the confidence of the people, may rest assured that whatever they do, honestly appealing to their common sense, will be accepted by the people, because, while this is a very learned and intelligent body of men, it is no better than the men outside. After a man has passed the grand clinax, say about the age of fifty, he will come to one sage conclusion, and that is that one man does not know a great deal more than another, and that there is about an average amount of common sense, which, by the

laws of nature, is fairly distributed. Hence, I take it that the one hundred and thirty-three members of this Convention have got just about their share. It is true that many of them are learned and gifted, and they gild their ideas with the forms of rhetoric, and eloquence, and poetry; but they will find, if they go down to the mass of the people, that the plowman and the mechanic have thought of precisely the same thing, and will express them in their homely way, with as much force as if uttered in the polished language of the learned gentlemen who enjoy this right to this body.

Gentlemen need not say that the people of this State will reject this or that amendment which may be made to the Constitution. If this Convention acts honestly and appeals to its common sense, and if members do what their own sense of right demands, there need be no fear that the people of the State will reject our work.

Philadelphia is no longer on trial. I sat in my seat here and listened, day after day, to a trial of Philadelphia. I sometimes thought I was on a jury; and it really did look like a jury when an official, judicial charge came in, and was read from the Clerk's desk. Then I thought we were about to be asked to make up a verdict; and sometimes, from the quarrels of gentlemen from the city themselves, I thought we had better change the *venue*, and try the city somewhere out in the country. At first all the vices were found in Philadelphia; all the "rounders," and "repeaters," and "ballot-box stuffers" were discovered to be here, and we were asked to inaugurate some reform to save the people of this city from themselves; and when an effort was made by the delegates to this Convention to make reforms in the ballot system, so that the honest and intelligent men of the State could vote properly, and providing for a check on the ballot-box stuffers, and repeaters, it immediately inflamed some of the delegates from the country, and they seemed to forget that the frauds, which are admitted to exist in Philadelphia, might extend into the country.

When an epidemic, such as the cholera or small-pox, appears in Philadelphia, I presume the people in Lancaster and in Tioga and in Dauphin, and even in Allegheny, and, in fact, all over the State prepare for it, and cleanse their cellars and alleys or vaccinate themselves. If, then,

it be true that these great festering sores exist in the city of Philadelphia, take care or the virus may extend into the country. It may disturb the stern virtue even of Lancaster county, and the sweet republican simplicity of Dauphin, so graphically and beautifully described by the delegate from that county, who, I regret to see, is not now in his seat, (Mr. MacVeagh.) Aye, and even disturb the purity of the ballot in Allegheny county, so strongly and forcibly insisted on by gentlemen here as still exempt from the calamity of unfair elections, may be reached by this virus. It is to protect the purity of the ballot that we are here, and to protect the beautiful republican simplicity which prevails, according to the accounts of gentlemen, in Lancaster and Tioga, and in York and in Dauphin. I am not prepared to believe that radiating from Harrisburg all over Dauphin county there is the purity and virtue claimed by the delegate.

He who has lived for five or six years in that county can appreciate and realize that we should protect the ballot even in Dauphin county. Our learned and distinguished President—and I have become accustomed to accept all he says as true and wise—suddenly gives us a view of the reverse of the medal, and we are assured that the virtues prevail in Philadelphia. And gentlemen from Philadelphia and from the country fall in the most savage and violent manner upon my friend from the city, (Mr. Woodward,) who dares to say that the city was not the producer of bread. There is one thing, at least, for which we must be thankful to the gentleman who sits in front of me (Mr. Cuyler) and the gentleman who sits behind me, (Mr. Cassidy,) that we have been informed of the beauties of Philadelphia, its power, and its magnitude, and received a good deal of statistical knowledge that we would not have had but for the introduction of the subject of largest interest to Philadelphia. Yet I cannot see what the productions of that city, in manufactures, had to do with the question before this Convention. It was a question of representation.

Now, sir, for my part I would not cut off the city of Philadelphia from a fair representation; and, if I had my way, of course I cannot have it, because there is not theory enough in it for some of the gentlemen of this Convention, I would divide the State into one hundred districts; I would elect three members of

the Legislature in each district, making three hundred members, and let each voter vote for two. That would be minority representation. I do not think the Senate need necessarily be one-third or one-fourth the number in the House. I would dignify and elevate the character of the Senate. With three hundred members of the House sitting there, with their seats based on population, I would make the Senate to consist of only thirty-two members, elect them for four years, and by general ticket throughout the State. The House would thus have a membership based on population, and one giving the minority a fair representation; the Senate would represent the whole State. This system would invite the best men of the State into your Senate. You would make them a balance to and constraint upon the other governmental powers. You would dignify and elevate the body, and give to your government a new and strong element which is not found in it at present.

The theory that the Senate must be one-third of the House, or one-fourth of it, I do not agree with, yet I am prepared to vote for such a provision, provided we increase the number in the House.

My learned friend from Chester (Mr. Darlington) has spoken at length against the representation of minorities. What does he mean? Does he mean that we would be better off by putting one side or the other on a general ticket? Then the minority would not be represented. Then, surely, the majority would not be responsible. Does he mean that no minority is to be represented in council anywhere? Surely not. Now we desire to represent minorities in the Legislature for the very reason that he gives against it: That we shall break down the political character of the body. It is true the majority is, and always must be, represented; but the design is, that not only shall the majority be represented, but that the minority of the place where the majority representative comes from, shall be represented—that, for instance, the 7,000 minority republicans in Berks county shall be represented as well as the 15,000 democrats; that the large minority of democrats in Lancaster shall be represented as well as the majority of republicans, and that the minority of democrats of Chester shall be represented as well as the majority of republicans.

By such a system you break down the force of political combinations, as is wit-

nessed in the composition of this Convention. The gentleman from Chester (Mr. Darlington) does not say that this Convention should have been produced differently. On the contrary he admits that it is composed of very enlightened gentlemen; nobody can say otherwise. We all speak of it as such, and we would be false to ourselves if we did not. I do not accept it as any compliment at all; for I take for granted that if we were to take a vote of the Convention on the subject, we would "resolve" that this is the most enlightened body of men that ever sat for a great purpose in Pennsylvania. [Laughter.] There is great consolation in that thought, and there is pleasure in hearing it from the gentleman from Chester (Mr. Darlington.)

We were sent here, Mr. Chairman, to give the minority a representation. I do not care how it is done, whether by cumulative vote, or as I have indicated or as proposed in this amendment. We are here to give the minority representation, and representation in the Legislature—in the popular branch of the government, and I cannot see what harm can come from it. Instead of a minority representation by sections of the State, you give to each county or locality in the State a proportionate and proper minority representation. That is better than giving it to the whole State at large. Besides, there has been no scheme proposed yet by this Convention which would deprive the majority of the people of the State of their proper majority in the Legislature. As in the composition of this Convention, the party majority is only five, so it could be in the Legislature, and a majority of five would be just as effective for party purposes as a majority of twenty-five. Fortunately, however, there has been no occasion in this body for the exercise of party discipline. There has never been a body in Pennsylvania so free from political bias as this Convention. There is no record yet found of a vote in this body with any taint of political partisanship on it. That comes from the fact that the delegates were selected independent of party management. And but for the ingenious and commendable device, provided by the Legislature for the election of the members of this body, the learned gentleman in my front (Mr. Meredith) could never be nominated or elected to the distinguished position he occupies among us, if one-half of what is said about corruption in Philadelphia be true.

Neither could the learned gentleman from York (Mr. J. S. Black) be here. When we have such a Convention resulting from such a plan, I cannot see what gentlemen have to complain of; nor can I see any proper basis for opposition to a plain, straightforward proposition to give an increased number of Representatives to the Legislature, and to give the minority a proper representation.

I have deemed it proper, sir, to say this much in reply to the remarks of the gentleman from Chester (Mr. Darlington.)

Mr. M'ALLISTER. Mr. Chairman: Some weeks ago, when the report of the Committee on Legislature was under consideration, this subject was passed by consent, in order to receive the report of other committees upon the same subject. I was rather surprised, therefore, Mr. Chairman, at the proposition of the chairman of the Committee on the Legislature to call up sections twenty and twenty-one of his report, now under consideration, prior to the report of the Committee on Suffrage, Election and Representation being made. It may have been that committee was somewhat derelict in duty, and I did not, therefore, then ask a further postponement, but the five sections contained in Mr. Lilly's amendment and the two sections contained in Mr. Simpson's proposition were got up with the view of being moved, when occasion should offer, as a substitute, in order to get before the Convention the sense of the Committee on Representation upon this great subject. Now I desire to say, just here by way of explanation, that for the last two days I have been confined to a sick bed, and left it reluctantly this morning from the report I had in the papers of the evening that this subject was to be under discussion to-day.

And you may imagine my surprise this morning to find the gentleman from Carbon (Mr. Lilly) and the gentleman from Columbia, (Mr. Buckalew,) my colleagues in a committee, both absent. I am told they are absent because they believed the chairman of the Committee on Suffrage, Election and Representation would also continue absent, and that discussion upon this subject would be postponed.

I make these prefatory remarks in order that my position here this morning may be understood. I feel anxious to embrace this opportunity, weak as I am, to answer some of the fallacious arguments of the gentleman from Chester (Mr. Darlington.) I agree with him, Mr. Chair-

man, that we have under consideration a momentous question; a question more deeply involving the welfare of this people than any question which can come before this committee or this Convention. Much as I abhor notes, never using them when I can avoid it, yet from the great interest I find in the subject, and the fear entertained that without them I may occupy, if by grace allowed, too much of the time of the committee, I have determined to subject myself to the restraint imposed by their use, and this simply with the view of economizing time; and of this I assure the Convention I will occupy no more of their time, under any circumstances, than did the gentleman from Chester.

The subject which he discussed, and the great subject before this committee is, how shall the right of suffrage be exercised by those to whom it is committed? Shall the voting—now mark—shall the voting be free, so as to allow the voter to cast every ballot he holds for whom he will and thus secure a just representation of all parties and all interests? Or shall it be restricted so as to compel all voters, less than a mere numerical majority, to cast their ballots for so many candidates that their party can elect none? That is the proposition before this Convention, and now, sir, before we proceed in this discussion, allow me to mark some diversities that we may have a right understanding upon this subject, for the most bitter disputes that have ever occurred in the world have arisen from the disputants not properly understanding each others positions. The gentleman from Chester asked whether the distinguished gentleman on his right, (Mr. Curtin,) who occupied the gubernatorial chair of this Commonwealth for six years, was not elected by the people. Who denies that? Who ever denied that the Executive of the Commonwealth, each one of the Executive officers, and every ministerial officer in the Commonwealth, should be elected by a majority vote? Nobody, so far as I know. There is no dispute upon that subject.

Where, then, does this dispute arise? It arises in that class of officers who meet not to perform ministerial duties; not to discharge Executive duties, but to deliberate with each other with a view of *acting* after deliberation, for the welfare of the whole. And when they come thus to deliberate, they must come as the people would come. They must be an epitome

of the people themselves, and as representatives, their constituents are entitled in them to the same rights they would have if personally present. Now, Mr. Chairman, in order to reason at all, we must have some premises; some truths must be admitted, and upon what, in this Convention, can we agree as the basis from which to start? I think I may assume, as the united sentiment of this Convention, that all power is inherent in the people of the State, and that sovereignty resides in them except in so far as they have restricted themselves by the National and State Constitutions. This being admitted—I take it for granted nobody here will deny it—there are a few sequents bearing on the subject before us, to which I call the attention of the Convention.

And first, this Convention being the representatives of this sovereign people, regularly called and qualified, to ascertain and determine not what the Constitution is but what the Constitution should be, is not restricted in the adoption and submission of amendments by the existing State Constitution; nor otherwise except by the law of nature and the Constitution of the United States. These are the only restrictions that rest upon this Convention.

Then again, representation arising out of the utter impossibility of the people acting in mass, and thus being solely of necessity, is of right. This is the second sequent—*representation is of right*.

It therefore follows that the right to choose a representative is every man's portion of the sovereign power residing in the people of the State. The right of each to exercise his individual portion of this sovereign power is denominated the right of suffrage. It is a delegation by one man to another man of that portion of this sovereign power which, as a representative, he may exercise under the organic law of the State.

[Here the hammer fell.]

MR. METZGER. Mr. Chairman: I move the gentleman's time be extended without limit.

This was unanimously agreed to, and Mr. M'Allister resumed.

MR. M'ALLISTER. Mr. Chairman: The more nearly, therefore, the representative body is made to resemble the body represented, the more exactly the representative body becomes an epitome of the mass, the more fairly, justly and satisfactorily will those to whom sovereign power pertains be represented, the will of the peo-

ple be maintained and their interests promoted. In the years that are past has the representation from Lancaster borne any likeness to the population of that county, said to be represented? Has the representation from Berks borne any likeness to the population of that county, said to be represented? Each sends three members to the lower House and one to the Senate; the one all republicans, the other all democrats. Is it not manifest that the democrats of Lancaster and the republicans of Berks have not been represented, nay, that they have been misrepresented? In the gubernatorial election of 1869 in Lancaster, thirteen thousand eight hundred and four republican, and eight thousand three hundred and sixteen democratic votes were cast, making the whole vote cast twenty-one thousand one hundred and twenty. In Berks, thirteen thousand three hundred and thirty-one democratic votes were cast, and six thousand nine hundred and seventy-one republican votes were cast, making the whole vote cast twenty thousand five hundred and two. I have made a statement showing exactly how the free vote would have given the democrats of Lancaster and the republicans of Berks, respectively one member, allowing to the majority in each county two representatives, still more than their just share. But time will not allow me to dwell upon these illustrations, and I pass, therefore, to Allegheny county, and, if time permit, to Chester county. To Allegheny and to Chester, because I understand their members are exceedingly hostile to the free vote.

The latest vote to which I have had access, for, unfortunately, the Hand-Book that we ordered the other day has not yet come to hand, and I had to refer to the Hand-Book of 1871, the latest vote to which I have had access is the vote of 1870, as follows:

The Hand-Book of 1871, page 310, shows that the republican vote of Allegheny was seventeen thousand four hundred and thirty-seven, and the democratic vote, eleven thousand one hundred and sixteen, making the total vote cast twenty-eight thousand five hundred and forty-three; which, inasmuch as Allegheny is entitled to six members, must be divided by six, giving four thousand seven hundred and fifty-seven votes as the number justly entitling to a Representative. Give the republicans, therefore, a representa-

tive, and take the four thousand seven hundred and fifty-seven votes which entitle them thereto from the seventeen thousand four hundred and thirty-seven, the whole number of votes cast by them, and they have their first Representative, and have left twelve thousand six hundred and eighty votes, still larger than the whole number of votes polled by the democrats. We must, therefore, deduct another ratio of four thousand seven hundred and fifty-seven votes from the twelve thousand six hundred and eighty republican votes remaining, and assign them the second Representative, which leaves seven thousand nine hundred and twenty-eight republican votes yet unrepresented, greatly less than the democratic votes. We must, therefore, take the third ratio of four thousand seven hundred and fifty-seven from the eleven thousand one hundred and six, the whole number of democratic votes, and assign them the third Representative, which leaves six thousand three hundred and fifty-four democratic votes yet unrepresented, less than the republican votes unrepresented. We must, therefore, take the fourth ratio, four thousand seven hundred and fifty-seven from the seven thousand nine hundred and twenty-eight republican votes yet unrepresented, and assign them the fourth Representative, which leaves, three thousand one hundred and seventy-six republican votes unrepresented. But as the democrats have six thousand three hundred and fifty-four votes yet unrepresented, the fifth ratio of four thousand seven hundred and fifty-seven must be taken from the six thousand three hundred and fifty-four, and the fifth Representative assigned to the democrats, leaving, one thousand six hundred and twenty-two democratic votes unrepresented, against three thousand one hundred and seventy-six republican votes unrepresented. Therefore, the sixth and last Representative must be assigned to the numerical majority, thus giving the republicans four and the democrats two members, and leaving but one thousand six hundred and twenty-two democrats, instead of eleven thousand one hundred and six democrats unrepresented. Now can this be done? Is this scheme practicable? Can this end be accomplished? If it can, every member of this Convention should feel the blush of shame mantle his cheek if he did not assist in doing it. Can it be done then? Most unhesitatingly we say it can, in every election at which two or

more officers of the same grade are to be elected, and that not by imposing restrictions upon the voter but by giving him the liberty which every voter should have, that perfect freedom from restraint to which he can justly lay claim in the exercise of the natural social right of suffrage. Now let me premise just here that the distinguishing characteristic between the amendment offered by the gentleman from Carbon, (Mr. Lilly,) taken in connection with the proposition of the gentleman from Philadelphia (Mr. Simpson) and the section reported by the Committee on Legislature, is this: That the one scheme affords the opportunity of carrying into operation the free system of voting and the other does not. And now, to return to the argument, we assert that the free vote is not only practicable, but that it can be easily carried into effect by simply giving every voter as many ballots as there are officers to be elected, and removing those unnatural and arbitrary restraints upon their use which now compel him to choose between the alternative of not voting at all or voting for so many candidates that his party can elect none. The inevitable consequence of which injustice is to render the representative body wholly unlike the body professedly represented. The candidates elected not only do not represent the body of the people but misrepresent a large and in some instances the larger portion of their constituency. That is unfair, unjust, dishonest, and is eminently calculated to engender distrust, discontent and rebellion. It is the enlargement and aggravation of this principle of wrong and injustice which is now disturbing the monarchies of Europe, but I have not time to dwell upon that thought.

Any body of citizens so respectable in point of numbers as to elect, by the concentration of their votes upon one candidate, are entitled to their representation on the soundest principles of a free republican government. They are a component part of the sovereign power in the State, and entitled to be heard through their own representatives, the right to choose whom, I have already shown, is their own portion of sovereign power. Let us apply the system of free voting to some of those bodies in which reform is needed and most loudly called for by the people; and first and above all to the Legislature.

It is said that we are entering upon an untried scheme. Not so. The scheme

which I would inaugurate by the election of the lower branch of the Legislature on the cumulative or free vote system, in Senatorial districts, three Representatives for every Senator, or in the proportion that this Convention may determine, is the plan adopted by the Convention of Illinois. The first election came off in Illinois last fall under that system, and resulted to the entire satisfaction of the entire people, except the court house politicians. The lower House of the Illinois Legislature, elected by the free vote, is an exact epitome of the body represented. So they stand now; but not so the Senate, elected upon the old plan. The necessity which inaugurated, I may say the sense of justice which brought about, the application of the free vote to the lower House in Illinois is the same sense of justice that ought, in this Convention, to bring about similar results, looking to Lancaster, to Berks, to Chester and to Allegheny, and other counties, democratic and republican. From the time the republican party was formed in Illinois until the election last fall, the whole southern part of the State, called Egypt, came up a solid phalanx of democrats; the entire northern portion of the State, denominated Goshen, came up a solid phalanx of republicans. Not a voice was heard from the south coming from a republican source; not a voice was heard from the north coming from a democratic source. And just so has it been with Berks, and Lancaster, and Chester, and Allegheny, and the other districts, although the gentleman from Allegheny, before me, (Mr. J. W. F. White,) the other day took the greatest credit to himself for having, on one occasion, scratched a ticket without the knowledge of his friends and defeated some republican. [Laughter.] These are great evils. They are ulcers upon the body politic, to be borne, I admit, if there is no remedy for them. In the past, the people have looked upon this evil as though it could not be remedied. But let me say, Mr. Chairman, that the true principles of representation in republican governments are but in their infancy. A set of false principles upon that subject came down to us from our ancestors, tainted by the source from which they came, tainted by the false basis upon which they were made to rest. It is in the march of progress, it is under the advancement of the age in which we live, that the system, now proposed to be adopted by this Convention, is offered for its consideration.

There are various objections started to this scheme. One, and that seems to be the one that impresses itself most deeply upon the mind of the gentleman from Chester, is that the scheme of just representation to which I have alluded is undemocratic and unrepresentative. Is it so? He infers that it is because he asserts that the majority must rule. I concede that the majority should and must rule; and under the free vote the majority are to rule. Under this scheme the majority are left to rule, and are now ruling in Illinois; but they allow their political opponents a voice in their deliberations. How else can you satisfy the people? How else can you have a deliberate assembly? The gentleman is content with his three members from Chester all giving the same republican utterances. That satisfies him. He won't allow the democrats to squeak. In his opinion they shall not be heard, but should be satisfied by what satisfies him. But is it a just representation? Not at all. It is an iniquitous principle that can only be justified in morals or politics from necessity. Remove the necessity, as I have shown it can easily be removed, by the free vote, and you have no further excuse for holding on to an error which deprives man of his rights. The gentleman from Pittsburg with six Representatives, all uttering republican sentiments, unites with Chester, and all learnedly argue that it is the theory of republican governments that the majority are to rule, and that the majority have the right on the principles of justice to place their heel upon the neck of their political opponents, and not allow them to be heard even in a deliberative assembly. Is it right? I trow not. If it be right that Allegheny should continue to come with her six Representatives all of one party, would it not be equally right that Philadelphia should elect by a uniform ticket and send her entire delegation of one stripe? Who would tolerate that?

It could be no more tolerated than the iniquity which resulted in a representation to our national Congress years ago, when the States elected by general ticket on the majority vote, and the voice of one party was entirely suppressed at the national Capitol. That injustice cried out for relief and received it, and it is time that the oppressed parties, democratic and republican, in the several counties of Pennsylvania should cry out for relief and receive it at the hands of this Convention.

Again, it is said it is an innovation. An innovation on what? It is an innovation on injustice and wrong; but, Mr. Chairman, in the sense in which the gentleman from Chester (Mr. Darlington) would use that word, the establishment of our government in 1776 was an innovation, the greatest innovation that has ever occurred in the world; an innovation upon the divine right of kings, an innovation upon that principle of representation which is still continued in Europe—that representation is not of right, but an emanation of grace from the king, the sovereign power. That is the distinguishing characteristic between representation in Europe and representation in America. The one is claimed by the people in their sovereignty as a right; the other is a gracious concession by the crown to the people allowing them to have a pseudo representation. God forbid that such erroneous principles should longer continue to influence our action and our deliberation in the formation of this Constitution.

There is another obstacle in the way of the introduction of the free vote. And what is that? It looms up in the person of the truckling and court-house politicians, found here and there and anywhere over the length and breadth of this land. They are opposed to the principle of the free vote, because it strikes at their occupation as directly and positively as the worship of the true God struck at the occupation of Demetrius, the silversmith, who called together the workmen of like occupation with himself, and said: "Sirs, ye know that by this craft we have our wealth." If you inaugurate the reformed system of voting, and allow parties to be represented in proportion to their relative strength, thus maintaining the ascendancy of the party that has the majority, but giving a minority representation to the minority party, you take away the occupation of these men. Should their hostility prevent us from discharging our duty here? I think not. It may be that I do not fully appreciate the importance of these men. I must confess that I have no love for them, that all my life I have rather had a detestation for them. That sentiment, impressed upon my mind in my boyhood, was greatly strengthened by an address delivered by a distinguished Pennsylvanian, long in public life, before a literary college society, of which I was a member, in which the speaker described the truck politician as a man without

moral or political principles swayed to and fro for the promotion of his own interests, "stooping his ear to the very earth to catch the first distant sound of shifting footsteps." That sentiment made an impression upon my mind which has never left it. That day I determined never to be one of that class of men, and, thank God, I never have been. All I ask of this Convention is that it will not be swayed to and fro, in the discharge of duty, by any of them. Let us come up to the discharge of duty fully, and when we have done that, I am sure we will adopt the principle contained in these amendments.

MR. CARTER. Mr. Chairman: Yesterday, at the suggestion of the eminently practical gentleman from Philadelphia, (Mr. Knight,) we confined ourselves to the question of the numbers in the representative bodies, believing that we would understand the matter better, and make more progress by taking up one principle, or one thought or suggestion at a time, but the gentleman from Chester (Mr. Darlington) saw, in the proposition, as set forth in the first section, in regard to the election of a board of commissioners for the purpose of apportionment, a supposed snake in the grass, which excited his ire, and he then proceeded to base his argument chiefly upon the supposed dangers of this cumulative or free system of voting. I do not propose to follow the gentleman in the argument, because the gentleman from Centre (Mr. McAllister) has replied to him, nor am I as yet committed to its support. I merely wish to make a few remarks with regard to this matter of apportionment, and I wish to commend it to the serious consideration of all the gentlemen in this house, who have not given it the same amount of thought, perhaps, that the Committee on Suffrage have done. I intend to confine myself entirely to that one subject.

The gentleman assumes as a fact that which, I think, has been disproved by all history, viz: That no partisanship accompanies men into the positions that they assume when elected to office by the people. In theory, said he, a representative ceases to be a partisan, but he represents the people. Well, he means that he should represent the people, and be influenced by party considerations. But is it so in fact? It is not. It has never been, nor will it ever be so. This proposes that this partisanship, which does enter into all the apportionments of the State, shall cease, by taking away the

power now vested with Legislature, and entrusting it to a body into which the spirit of partisanship shall not enter. That is the provision.

Now let us see if it is calculated to effect that end, but, before I proceed to that examination, I will answer, briefly, some of the views of the gentleman from Chester (Mr. Darlington.) He thinks that it is the introduction of a novel idea, or a novel principle. I do not so consider it. The subject of limited voting, I think, was referred to in the Convention that met in 1837.

MR. DARLINGTON. By whom?

MR. CARTER. I think by Mr. Charles Brown, sir. And two years afterwards it was again agitated, and the truth of the principle was admitted, and a law was enacted that in the election of inspectors of elections two should be chosen, but no man should vote but for one. There is the same principle. And after a trial of thirty-four years, I ask what fair minded man, in the State of Pennsylvania, would say that we should go back to the old system? Not one, sir. Again; in the selection of members of the Constitutional Convention in the State of New York the same principle was also adopted, i. e. that a certain number of the delegates, to secure a non-partisan body in the formation of their organic law, the delegates at large were so chosen, as I understand it. So also of this body; it was constituted on a similar ground. It is not a novel idea, and I think, sir, that it is eminently proper that that principle should be incorporated into the Constitution with reference to the selection of these apportionment commissioners.

Now, Mr. Chairman, is this reform needed? I hold that it is. If there has been a glaring evil, one that stinks in the nostrils of all honest men, it has been the "gerrymandering" process. There has scarcely been one fair apportionment, I apprehend, in the past, because of this very spirit of partisanship entering into this question, to subserve party ends, and so it will be to the end of all time. The gentleman would say, and has said, that these men forget, or rather should forget, their party feelings when they are elected to positions of this kind; but the fact is they do not; they possess as much partisan spirit as ever.

It is proposed that there shall be ten commissioners, but that no person shall vote but for five, and the action of seven

of them concurring determines this question.

Now, as a matter of economy alone, this is worthy of our serious consideration. It was said by some gentleman that the last apportionment bill, estimating, I suppose, the time spent upon it at Harrisburg, cost the State something like seventy thousand dollars.

It is incumbent upon this board to meet and *perform this duty*. The provision is so hedged around that it is secure from all possible danger, not merely of a partisan nature, to which I have referred, but so that these men can, in no way, be swayed from motives that ought to influence them in the performance of their duty. It renders them ineligible to any office for the term of five years; they must have the same qualifications as Senators, according to the Constitution of Pennsylvania, in reference to age, and so on, so that you see every guard is thrown around the performance of their duty; and it rests upon a fair principle, one in which party considerations cannot enter, and they will have no other motive but a just and fair proportionment.

Now I am not one of those who believe that party should rule in all things. I am a party man, but I still more firmly believe than I ever did, that there are great underlying truths and principles of justice which no party, no nation, nor no individual can violate with safety; that they must act with justice, and justice will not be found in a body constituted as partisans, who, notwithstanding their plain duty, act as partisans, and not in the interest of the whole State.

I would provide in the organic law that this injustice done by partisan Legislatures shall never again bring to shame the apportionment of this State. I think that this provides for it fully and clearly.

I merely want to direct attention to the importance of this, and I will say, in conclusion, that I hope gentlemen will consider this section on its own merits. If it be a remedy, as I think it appears to be to prevent this gerrymandering, this gross injustice, why not adopt it? What do you fear from it if it be right in itself, and if the principle secures the result that it necessarily must secure—

[Here the hammer fell.]

Mr. JOHN R. READ. Mr. Chairman: As this is the day on which the Convention decided to visit the Eastern penitentiary, and the hour having been fixed at three P. M., I move that the committee rise, report progress and ask leave to sit again.

The motion was agreed to.

IN CONVENTION.

Mr. CHARLES A. BLACK. Mr. President: The committee of the whole has again had under consideration the report of the Committee on the Legislature, and has instructed its chairman to report progress and ask leave to sit again.

Leave was granted to the committee to sit again on Monday next.

Mr. DUNNING. Mr. President: I move that the Convention do now adjourn.

The motion was agreed to.

So the Convention, at one o'clock and twenty minutes, adjourned until Monday next at ten o'clock A. M.

FIFTY-SIXTH DAY.

MONDAY, *March 3, 1873.*

The Convention met at ten o'clock A. M. The President announced that there was not a quorum present.

At half-past ten o'clock A. M. the Clerk proceeded to call the roll, and the following members answered to their names:

Messrs. Achenbach, Andrews, Baer, Bailly, (Perry,) Baker, Bartholomew, Bid-
dle, Bowman, Brown, Campbell, Carter,
Clark, Corbett, Craig, Curtin, Darlington,
De France, Dunning, Edwards, Elliott,
Ewing, Fell, Fulton, Guthrie, Hanna,
Hay, Hazzard, Hemphill, Heverin, How-
ard, Knight, Lilly, MacConnell, M'Mur-
ray, Mann, Mantor, Metzger, Minor, New-
lin, Niles, Palmer, G. W., Purviance,
John N., Purviance, Sam'l A., Reed, John
R., Sharpe, Smith, H. G., Smith, Henry W.,
Smith, Wm. H., Stanton, Struthers, Tur-
rell, Walker, Wetherill, John Price,
White, Harry, White, J. W. F., Wright
and Meredith, *President*—57.

NOT PRESENT.—Messrs. Addicks, Ai-
ney, Alricks, Armstrong, Bailey, (Hun-
tingdon,) Bannan, Barclay, Bardsley,
Beebe, Black, Charles A., Black, J. S.,
Boyd, Brodhead, Broomall, Buckalew,
Carey, Cassidy, Church, Cochran, Col-
lins, Corson, Cronmiller, Curry, Cuyler,
Dallas, Davis, Dodd, Ellis, Finney, Funck,
Gibson, Gilpin, Gowen, Green, Hall, Har-
vey, Hopkins, Horton, Hunsicker, Kaine,
Lamberton, Landis, Lawrence, Lear, Lit-
tleton, Long, M'Allister, M'Camant,
M'Clean, M'Culloch, MacVeagh, Mott,
Palmer, H. W., Parsons, Patterson, D.
W., Patterson, T. H. B., Patton, Por-
ter, Pughe, Purman, Reed, Andrew, Rey-
nolds, James L., Reynolds, S. H., Rooke,
Ross, Runk, Russell, Simpson, Stewart,
Temple, Van Reed, Wetherill, J. M.,
Wherry, White, David N., Woodward
and Worrell—76.

MR. HARRY WHITE. Mr. President: I move the Convention adjourn until three o'clock P. M. I submit that many of our delegates, who left the city on Sat-
urday for their homes in the country, will not be able to reach the city until about that time.

THE PRESIDENT. The Chair will state if a motion is made to adjourn it will have to be until the regular hour to-mor-
row.

MR. HARRY WHITE. Mr. President: I withdraw the motion to adjourn.

MR. JOHN R. READ. Mr. President: I move to adjourn until ten o'clock A. M. to-morrow.

The question being taken, the yeas and nays were required by Mr. Darlington and Mr. Corbett, and were as follow, viz:

YEAS.

Messrs. Baer, Bartholomew, Brown, Cor-
bett, Dunning, Edwards, Fell, Hanna,
Heverin, Newlin, Palmer, G. W., Purvi-
ance, Sam'l A., Read, John R., Sharpe,
Walker and White, Harry—16.

NAYS.

Messrs. Achenbach, Andrews, Bailly,
(Perry,) Baker, Biddle, Bowman, Camp-
bell, Carter, Cassidy, Clark, Craig, Dar-
lington, DeFrance, Elliott, Ewing, Fulton,
Guthrie, Hay, Hazzard, Howard, Knight,
Lilly, MacConnell, M'Culloch, M'Murray,
Mann, Mantor, Metzger, Minor, Niles,
Purviance, John N., Smith, Henry W.,
Smith, H. G., Smith, Wm. H., Stanton,
Struthers, Turrell, Wetherill, Jno. Price,
White, J. W. F., Wright and Meredith,
President—41.

So the motion was not agreed to.

ABSENT OR NOT VOTING.—Messrs. Ad-
dicks, Ainey, Alricks, Armstrong, Bailey,
(Huntingdon,) Bannan, Barclay, Bards-
ley, Beebe, Black, Chas. A., Black, J. S.
Boyd, Brodhead, Broomall, Buckalew,
Carey, Church, Cochran, Collins, Corson,
Cronmiller, Curry, Curtin, Cuyler, Dallas,
Davis, Dodd, Ellis, Finney, Funck, Gib-
son, Gilpin, Gowen, Green, Hall, Harvey,
Hemphill, Hopkins, Horton, Hunsicker,
Kaine, Lamberton, Landis, Lawrence,
Lear, Littleton, Long, M'Allister, M'Cam-
ant, M'Clean, MacVeagh, Mott, Palmer, H.
W., Parsons, Patterson, D. W., Patterson,
T. H. B., Patton, Porter, Pughe, Purman,
Reed, Andrew, Reynolds, James L., Rey-
nolds, S. H., Rooke, Ross, Runk, Russell,
Simpson, Stewart, Temple, Van Reed,

Wetherill, J. M., Wherry, White, David N., Woodward and Worrell—76.

Mr. DARLINGTON. Mr. President: I move that the Sergeant-at-Arms be directed to bring in the absent members.

The motion was agreed to.

The PRESIDENT. The Sergeant-at-Arms will proceed to execute his duty and bring in the absent members.

Mr. HARRY WHITE. Mr. President: I move the Convention do now adjourn, and I would like to state that I make this motion by request, and upon the motion I call the yeas and nays.

Mr. BOWMAN. Mr. President: I rise to a point of order, and it is that a motion to adjourn is not in order, there not having been any business transacted since the previous motion to adjourn was made.

The PRESIDENT. The Chair will state that the Sergeant-at-Arms has been despatched for the absentees since the previous motion to adjourn was made, and the question of order is not therefore sustained. The Chair also desires to observe that it is in the power of the Convention to adjourn at any time for a want of a quorum without business intervening between motions made for that purpose.

Mr. HARRY WHITE. I withdraw the call for the yeas and nays.

Mr. DARLINGTON. I renew the call for the yeas and nays.

The question being taken, the yeas and nays were required by Mr. Darlington and Mr. Howard, and were as follow, viz:

YEAS.

Messrs. Baer, Baker, Bartholomew, Bidle, Brown, Clark, Collins, Dunning, Fulton, Gowen, Heverin, Knight, Newlin, Palmer, G. W., Purviance, Sam'l A., Sharpe, Stanton, Walker and White, Harry—20.

NAYS.

Messrs. Achenbach, Andrews, Baily, (Perry,) Bowman, Campbell, Carter, Cassidy, Church, Craig, Cuyler, Darlington, De France, Edwards, Elliott, Ewing, Fell, Guthrie, Hay, Hazzard, Howard, Lilly, MacConnell, M'Murray, Mann, Mantor, Minor, Niles, Purviance, John N., Read, John R., Simpson, Smith, H. G., Smith, Henry W., Smith, Wm. H., Struthers, Turrell, Van Reed, Wetherill, J. M., Wetherill, John Price, White, J. W. F., Wright and Meredith, President—41.

So the motion was not agreed to.

ABSENT OR NOT VOTING.—Messrs. Adicks, Ainey, Alricks, Armstrong, Bailey,

(Huntingdon,) Bannan, Barclay, Bardsley, Beebe, Black, Charles A., Black, J. S., Boyd, Brodhead, Broomall, Buckalew, Carey, Cochran, Corbett, Corson, Cronmiller, Curry, Curtin, Dallas, Davis, Dodd, Ellis, Finney, Funck, Gibson, Gilpin, Green, Hall, Hanna, Harvey, Hemphill, Hopkins, Horton, Hunsicker, Kaine, Lamberton, Landis, Lawrence, Lear, Littleton, Long, M'Allister, M'Camant, M'Clean, M'Culloch, MacVeagh, Metzger, Mott, Palmer, H. W., Parsons, Patterson, D. W., Patterson, T. H. B., Patton, Porter, Pughe, Purman, Reed, Andrew, Reynolds, James L., Reynolds, S. H., Rooke, Ross, Runk, Russell, Stewart, Temple, Wherry, White, David N., Woodward and Worrell—73.

At eleven o'clock A. M. the President announced that there was a quorum present, the following members having taken their seats in the Convention:

Messrs. Woodward, Church, Brodhead, Broomall, Corbett, Curtin, Hanna and Lear.

JOURNAL.

The Journal of Saturday's proceedings was read and approved.

LEAVE OF ABSENCE.

Mr. NEWLIN asked and obtained leave of absence for Mr. Long for a few days from to-day, on account of sickness.

PROTHONOTARY'S REPORT.

The PRESIDENT presented a communication from the prothonotary of Chester county, which was referred to the Committee on the Judiciary.

LEAVE OF ABSENCE.

Mr. TURRELL asked and obtained leave of absence for Mr. M'Allister, on account of sickness.

Mr. CORBERT asked and obtained leave of absence for Mr. Purman, on account of sickness.

Mr. HOWARD offered the following resolution, which was laid on the table for one day, under the rule:

Resolved, That leave of absence shall not be granted in any case, unless the reasons shall be fully stated; and the Convention in every case shall decide upon the sufficiency of the reason, and in case of absence without leave the Sergeant-at-Arms shall be directed to bring in the absent members, and upon their appearing, they shall be reprimanded by the President, at the bar of the Convention.

DISCUSSION ON ADJOURNMENT.

Mr. LILLY offered the following resolution, which was read and laid upon the table under the rule :

Resolved, That hereafter all resolutions in relation to the time of adjournment and hours of the session of the Convention shall be open to amendment, and also the speeches on such resolutions shall be confined to three minutes, and no member shall speak more than once upon the same subject.

CAUCUSES.

Mr. CUYLER offered the following resolution, which was read and referred to the Committee on Legislature :

Resolved, That the Committee on Legislature be and they are hereby instructed to consider and report in what manner it is practicable to prevent the decisions of caucuses of members of the Legislature from controlling the judgment and action of members in the discharge of their duties.

ABSENT MEMBERS.

Mr. H. W. SMITH offered the following resolution, which was read and laid upon the table under the rule :

Resolved, That the names of delegates be called every morning at ten o'clock, and all who are not present and do not answer shall not be allowed to speak on that day.

SESSIONS OF THE CONVENTION.

Mr. NILES offered the following resolution :

Resolved, That from and after this date the Convention will meet at ten A. M. and adjourn at one P. M., and meet at three P. M. and adjourn at six P. M. of each day.

On the question of proceeding to the second reading of the resolution, a division was called for, and twenty-one members, not a majority of the quorum, voting in the affirmative, it was not agreed to.

REMOVAL TO HARRISBURG.

Mr. METZGER offered the following resolution :

Resolved, That after the adjournment of the Legislature *sine die* this Convention hold its sessions at Harrisburg.

On the question of proceeding to the second reading of the resolution, a division was called for, and twenty-two members, not a majority of the quorum, voting in the affirmative, it was not agreed to.

EXPENSES OF THE CONVENTION.

Mr. HAY, from the Committee on Accounts and Expenditures, submitted the following report :

The Committee on Accounts and Expenditures of the Convention respectfully reports :

That it has examined the account of J. M. Hafeigh & Co., for four dozen towels, purchased for the use of the Convention by direction of the Committee on House, and certified to be correct by the chairman of that committee, amounting to \$19.

Also, the account of Kay and Brother, for five copies of Purdon's Digest, purchased by order of the Convention, and certified by the Chief Clerk to have been actually furnished, \$67 50.

Also, two bills of the Philadelphia gas works for gas consumed at the Hall of the Convention, together amounting to \$204 29.

That said accounts are correct and are proper expenses of the Convention, and should, therefore, be paid.

The committee further reports that to enable the Chief Clerk to pay such expenses and accounts as he is or may be authorized to pay by the Convention, it is requisite that a warrant should be drawn in his favor for the sum of two thousand dollars.

The following resolutions are accordingly reported :

Resolved, That a warrant be drawn in favor of D. L. Imbrie, Chief Clerk of the Convention, for the sum of two thousand dollars, for the payment of such expenses and accounts as he may be authorized to pay by the Convention.

Resolved, That the accounts of Kay & Brother, J. M. Hafeigh & Co., and the Philadelphia gas works, mentioned in the foregoing report of the Committee on Accounts and Expenditures, be approved, and the Chief Clerk be directed to pay the same.

The resolutions annexed to the above report were severally twice read and agreed to.

DEBATE IN COMMITTEE OF THE WHOLE.

Mr. MANN. Mr. President: I move the Convention proceed to the second reading and consideration of the resolution offered by myself, on Saturday, in relation to restricting debate in committee of the whole to fifteen minutes.

The PRESIDENT. The Clerk will read the resolution for information.

The CLERK read :

Resolved, That hereafter, in committee of the whole, no delegate shall speak longer than fifteen minutes at one time, nor more than once on the same proposition.

The motion to proceed to the second reading of the resolution was agreed to, and the resolution was again read.

Mr. BAER. I move to amend, by striking out all after the word "resolved," and insert the resolution offered by myself on Saturday, in relation to rule twenty-five.

The PRESIDENT. The Clerk will read the resolution for information.

The CLERK read :

WHEREAS, The resolutions adopted by this Convention, which operate as a change, alteration or modification of rule twenty-five, be and they are hereby rescinded and annulled, and the rule reinstated as originally adopted.

The PRESIDENT. The Chair has some doubt of the relevancy of this amendment; he would prefer that the gentleman would withdraw it, and allow the question to be taken upon the resolution.

Mr. BAER. I withdraw the amendment.

Mr. DARLINGTON. I move, then, to strike out "fifteen," and insert "twenty," and add, "without leave of the Convention."

Mr. MANN. I call for a division on the amendment. So far as it restricts debate to twenty minutes, I have no objection to it.

The PRESIDENT. Does the gentleman modify the resolution accordingly?

Mr. MANN. Certainly.

The PRESIDENT. The question is upon the amendment to insert "without the permission of the committee."

Mr. MANN. Mr. President: I hope that amendment will not be adopted. Twenty minutes will certainly give any one opportunity to explain sufficiently on the provisions of an amendment which may have been pending before the committee, and the practical effect of it will be that any gentleman who feels constrained by rule to observe it, will be restricted to that length of time.

It operates awkwardly and very unpleasantly to have a rule restricting debate to twenty minutes, and then, when the time is up, having a motion made for an extension. If there should arise any such occasion as clearly calls for an extension of time, the Convention will give its unanimous consent. I hope the amendment will not be adopted.

The amendment was not agreed to.

The PRESIDENT. The question is upon the resolution of the gentleman from Potter (Mr. Mann.)

Mr. JOHN N. PURVIANCE. I move to strike out "twenty" and insert "fifteen."

Mr. HOWARD. I move to amend the amendment, by striking out "fifteen" and inserting "thirty."

The amendment to the amendment was not agreed to.

Mr. EWING. Mr. President: I confess to a very great ignorance to the parliamentary rules which will tend to facilitate business; but at the opening of the session of this Convention a committee was appointed by the Chair, consisting of fifteen gentlemen of large experience in parliamentary bodies. Several of them had been in the Convention of 1837; some of them were Congressmen, and some members of the Legislature and of other bodies. After mature deliberation they reported a series of rules, which the Convention adopted. We have spent, I think, on an average, one half hour every day undertaking to amend those rules. I do not know how many amendments have been adopted, all apparently intended to facilitate the business of the Convention. My observation is that instead of so doing they have lengthened our debates. I think there is no advantage in them, and the longer we have tried these amendments the better I am satisfied that the committee of fifteen gentlemen reported a good set of rules for the government of the Convention, and for that reason I shall vote against all these amendments; and if the gentleman from Somerset (Mr. Baer) brings up his resolution I shall vote for that. Let us restore the original rule, and stand by the committee of fifteen.

Mr. GOWEN. Mr. President: It seems to me that rule twenty-five, as adopted by the Convention, is a sufficient restriction upon the right of debate.

The PRESIDENT. It is no longer in force.

Mr. GOWEN. It is in force in a more restricted sense, by the amendments adopted by the Convention since. It was the understanding of the committee that reported these rules that there should be no previous question called in the committee of the whole. I do not think that we can adopt a Constitution to govern the State of Pennsylvania for the next fifty or one hundred years, an instrument the construction of which will be in the courts time and again, both as to its substance

and the meaning of the language, unless preparatory to its adoption we have a reasonable amount of time for debate allowed to us. If this amendment is adopted no one can speak more than once upon a subject. The chairman of the committee which reports the article may make an address in its favor, and may be prohibited from answering any arguments against it, although the time and reflection spent upon the subject in the committee room may make the members of that committee perfectly able, in a few minutes, to give abundant and cogent reasons why the article as reported should be adopted.

I do not believe in a matter of such importance as this, the adoption of the fundamental law of the State, we can properly discharge our duties unless members are allowed some latitude in debate. It may be said that there is too much speaking. That may be true; and sometimes in looking over the papers I am astonished to find how frequently I have been on the floor of the Convention, and I feel very much ashamed; but when I am convinced that the Convention is not disposed to listen to me I always sit down as quickly and as gracefully as possible. In the English Parliament they have a system of coughing members down, but I consider this very unparliamentary, not at all proper in this Convention, and I do not believe it will ever be adopted. I have heard that in the old Convention they had a wheel, and when a member grew tedious in debate it could be set in motion by means of a string, and the noise it would create drowned the voice of the orator. I think the adoption of some similar device would be better than to cut off debate. If it was clearly understood that the previous question should not be called in committee of the whole, and that there should be a thorough, complete and earnest debate in the consideration of every subject, when we return in Convention itself, the previous question can be called by eighteen members. While we are in committee of the whole we are frequently called upon suddenly to act upon an article we have never seen before, and which may have been in the committee for a week or two, and is thereby fully understood by every member of that committee, and I think the re-establishment of rule twenty-five will relieve us from the trouble. I believe it will really save us more time than all these new amendments are calculated to save, because we have taken more time every

morning or two in discussing this question, than would have been lost by adhering to the old rule.

Mr. J. W. F. WHITE. Mr. President: I trust that the Convention will adopt some rule that will be permanent—at least just for more than one day. I am in favor of limiting debate in committee of the whole to twenty minutes, and to fix that as the limit, with the understanding that a motion shall not be made to extend the time of the speaker. Our present rule is ten minutes, and if the gentleman who has just taken his seat (Mr. Gowen) had been in the Convention last week he would have found that almost every speaker had his time extended by motion after he had spoken ten minutes. That is our present rule. The proposition now is to extend the time to twenty minutes, and to limit the speakers to that time. The amendment to the amendment suggests fifteen minutes. I hope that amendment will not be adopted, but that we will extend the time to twenty minutes, with the understanding, distinct and explicit, that the time shall not be extended, and that a member shall speak but once on any question before the Convention. Now, sir, I am in favor of applying this rule to the chairmen of our different committees, as well as to every other member of the Convention. There is no necessity of a chairman of a committee taking up two hours of the time of the Convention in explanation when he presents an article to the consideration of the Convention. We have tried this plan, and we found that it did not meet the wishes of the Convention, and in consequence of that we adopted the rule limiting debate. Let the chairmen of the committees, when they present their reports for the action of the committee of the whole, explain the importance of the subject in a brief manner, for I apprehend that not a single proposition will come before the Convention but that the chairman of the committee can explain it fully and clearly in twenty minutes. In addition to this, the adoption of the resolution will give to other members of the Convention an opportunity of expressing their views. There can be no doubt but that there are members belonging to our various committees who are quite as competent to discuss the merits of a report of a committee as the chairman, and if we give an unlimited time to a few members to discuss the whole article, they will occupy so much time that the Convention will become

impatient, and those who desire to express their views will not have the opportunity to do so. I apprehend twenty minutes will be a reasonable limitation, and that every member of the Convention will be content if the resolution is adopted. I am in favor of adopting the resolution giving to each member twenty minutes in which to debate any proposition that may arise in committee of the whole.

The question being then taken on the amendment to the amendment, a division was called, which resulted as follows: Ayes, twenty-one; noes, seventy-six.

So the amendment to the amendment was not agreed to.

Mr. S. A. PURVIANCE. Mr. President: I move to amend the resolution, by striking out the word "fifteen," and inserting "twenty-five." In offering this amendment I desire to say a few words upon the subject. I am rather surprised to find gentlemen in the Convention who have occupied considerable time in the discussion of the various reports which have been presented to the consideration of this body, now making a proposition to limit those who have not yet intruded themselves upon the time of the Convention at all. I have abstemiously refrained from participating in the debates of the Convention, because I believed the most important question destined to come before us is the one now under consideration. It was my intention, if I should be so fortunate to obtain the floor, to submit some remarks, but if I am to be dealt with in the manner in which other gentlemen in the Convention have been dealt with, in the discussion of important questions, and if I am not allowed to explain the plan which I have in mind, I submit that the little explanation I can make in the limited time allowed to the members of the Convention, under this resolution, will be of but little avail. In introducing the suggestions which I shall have to make, I do not do it for the purpose of making a speech to go into the Debates, but I feel that the views I entertain in regard to this question would be trammelled if I considered myself confined to twenty minutes. I therefore ask that the debate in committee of the whole be extended to twenty-five minutes.

Mr. WORRELL. Mr. President: While this question is being discussed, I desire to read an article from the *Frankford Herald*, and it is this:

"The Convention was called to discuss and consider all proposed alterations of or additions to the Constitution, and we submit that that debate is not unnecessary which tends to demonstrate the propriety or impropriety of adopting the amendments suggested. * * * * * We say, therefore, to the Convention that the people are not uneasy and anxious to vote upon the amendments, and that they will not consider that time mis-spent or wasted which brings forth guarantees of official purity and the security of private rights."

Mr. HARRY WHITE. Mr. President: I do not desire to protract the discussion in regard to this question. I have always endeavored not to obtrude myself unnecessarily upon the time of the Convention; but it occurs to me there is unnecessary time consumed in taking up resolutions of this kind. I do not desire to repeat what has been so often said, that it is about time every member of the Convention should remember that we are making an organic law for the State of Pennsylvania to last, we hope, half a century. I certainly think that some scope in our deliberations should be allowed for discussion. I know I have profited by the discussions in this body, and that my mind has been changed during the debate upon the various questions which have been introduced in the Convention. I do not think the public will complain if, in the end, we submit to them a result achieved by due deliberation. I will therefore vote in favor of granting the longest time in committee of the whole for debate upon any question which may arise, trusting, of course, to the good sense and judgment of the members of the Convention in governing them in their discussions. I will vote, then, for the proposition of the gentleman from Allegheny (Mr. S. A. Purviance) to extend the time to twenty-five minutes. If I had it in my power, and if I could persuade this Convention, I would refuse to limit discussion at all in committee of the whole. I would leave it as it was reported originally from the Committee on Rules. The very object of the committee of the whole is to be relieved from that formality which obtains in the discussions in Convention.

The question being then taken on the amendment, striking out "twenty" and inserting "fifteen," a division was called, which resulted as follows: Ayes, sixteen; noes, fifty-six. So the amendment was not agreed to.

Mr. DARLINGTON. Mr. President: I move to strike out the word "twenty" and insert "thirty."

The question being taken, the motion was not agreed to.

The PRESIDENT. The question recurs on the resolution, which will be read for information.

The CLERK read as follows:

Resolved, That hereafter in committee of the whole no delegate shall speak longer than twenty minutes at one time, nor more than once on the same proposition.

The question being taken, the resolution was agreed to.

Mr. HARRY WHITE. Mr. President: I ask the unanimous consent of the Convention to offer a resolution at this time.

[Leave was granted.]

Mr. HARRY WHITE. Mr. President: I offer the following resolution:

Resolved, That sections twenty and twenty-one of the article reported by the Committee on the Legislature, together with the amendments proposed thereto in committee of the whole, be referred back to the Committee on the Legislature, with instructions to make a report thereon to the Convention at as early a day as is practicable.

The PRESIDENT. The Chair is of the opinion that the resolution of the gentleman is more properly a motion.

Mr. HARRY WHITE. Well, Mr. President, I do not persist in offering this resolution. I submit it merely for the consideration of the Convention. It is well known that when the President vacates the chair, the article reported by the Committee on the Legislature will then be considered by the committee of the whole. It must be manifest to every gentleman of the Convention that some confusion exists. The multifarious propositions submitted confuse a great many of our members, and I prefer very much to have all the various propositions which have been offered referred back to the appropriate committee, and have a formal report thereon. I desire to call attention to the fact that there is an arithmetical inaccuracy in the report of the committee, which I apprehend they can correct at once, and I apprehend the committee will not stand by the report. In deference to the committee, and in deference to what I believe is the interest of this very important subject, I hope that it will be re-committed back to the committee, and I apprehend that the whole article

will be reported to the Convention the day after to-morrow.

Mr. LILLY. Mr. President: If this report of the Committee on the Legislature is to be reported back to the committee, it is my desire that the sections indicated in the resolution of the gentleman should be referred to the proper committee, viz: The Committee on Suffrage Election and Representation. I therefore make the motion to strike out the words "Committee on the Legislature," and insert the words "Committee on Suffrage Election and Representation."

The question being taken, the motion was not agreed to.

Mr. DARLINGTON. Mr. President: I desire to ask for information whether the resolution which has been introduced purports to refer back to the Committee on the Legislature the article which was reported by that committee, and which has been under discussion for the past several days.

Mr. HARRY WHITE. That is the proposition, Mr. President.

Mr. DARLINGTON. Then I am opposed to it, for after spending several days in its consideration, and after the views of the members of the Convention have been obtained in regard to it, I must confess that I can see no propriety in referring it back to the committee from which it emanated.

The question being taken on the resolution, it was not agreed to.

THE LEGISLATURE.

The PRESIDENT. The next business in order is the further consideration of the article reported by the Committee on the Legislature. In the absence of Mr. Hopkins, Mr. Clark will please take the chair.

IN COMMITTEE OF THE WHOLE.

The Convention then resolved itself into committee of the whole, Mr. Clark in the chair.

The CHAIRMAN. The committee of the whole has again under consideration the article reported by the Committee on the Legislature. When the committee rose last they had under consideration the twentieth section, and the question is now upon the amendment offered by the gentleman from Carbon (Mr. Lilly) to the amendment offered by the gentleman from Chester (Mr. Darlington.) The Clerk will read the amendment and the amendment to the amendment.

The CLERK read the amendments.

Mr. SAMUEL A. PURVANCE. Mr. Chairman: I consider this the most important question that has yet been before the committee, and if the committee will give me their attention, although I am laboring somewhat from the effects of a cold, I will present what I believe to be a plan that has some merit, in reference to the structure of our Legislature.

In the first place, we should fix the character of our House; that is by far the most important body. It is a body which contains the reflex of the popular will, and if we *once* fix that body we will have no trouble whatever, in my judgment, in making the Senate correspond and bear to the House its proper relation, but first let us fix the House.

I have given this subject, I believe, considerable thought and reflection, and I have endeavored, sir, to bring within that thought and that reflection the elements which I consider would be essential in the structure of our Legislature. I have thought that if we could make the districts independent, if we could make them equal in representation—if we could equalize representation, if we could make the districts self-adjusting, and if we could put them beyond the reach of being gerrymandered, if, in other words, we could combine these four great elements or principles, it would be a structure such as would certainly possess merit. What I mean by *independent* is that a district shall not be overshadowed by having counties of diverse political sentiments connected so as to control it, and that this shameless gerrymandering of the State, that has hitherto been carried on, shall be stopped. What I mean by *equality of representation* is that there shall be no ground of complaint from one end of the Commonwealth to the other in reference to representation. What I mean by *self-adjusting* is that we can dispense with all apportionments, those apportionments that have been so disgraceful to the Commonwealth. What I mean by being free from gerrymandering is to place the districts beyond the reach of "apportionments" of any kind, to make a district adjust itself, and bring about its own independence.

Now, sir, when I say that my proposition is that each county shall have a member in the lower House, and that for every thirty or forty thousand the county shall have an additional member, and when I provide, as I do in that proposition, that the enumeration of the inhabitants shall

be taken as prescribed by law, I mean to set aside both State and federal enumeration, because that might require a county to delay too long before she would come into her rightful representation. I mean that the Legislature may pass a law providing that assessors, for instance, in taking taxables, may make an enumeration, also, of the inhabitants, and when that enumeration is certified by the commissioners to the Secretary of the Commonwealth, the Governor can issue his proclamation, and at the ensuing election an additional member can be elected. The working of that system would be this: Take a population of, say three million five hundred thousand, and divide it by forty thousand, and you get eighty-seven as the number of members, to which add the sixty-six members you give the counties, by concession, and it makes one hundred and fifty-three members in the lower House. In the first place, there will be some outstanding fractions, but these fractions will eventually come in and make the House one hundred and fifty-three. At first it will be about one hundred and thirty. If you reduce the ratio and make it thirty thousand, it would make the House one hundred and eighty-three. Whether that would be too many or not will be a matter for the consideration of this body.

Now I desire to say a word with regard to the concession to each county of one member each. I have in my eye the county of Forest, in the western part of Pennsylvania, through which the river Allegheny runs, and which is rich in pine and hemlock and cherry lumber, and rich in oil territory, owned by men residing in your city, and elsewhere, entitled to representation, and when I concede a member to that little county, I rob no larger county, because when I give a larger county a member upon the same principle, irrespective of population, that county has no right to complain of the concession to the county of Forest. Therefore this, as you see, would be what I say it would be, independent, equal in population, self-adjusting, and free from gerrymandering. These are the great elements which I wish to bring into this arrangement.

Then, if you choose to make your Senate correspond with your House, take the proposition of the gentleman from Montgomery (Mr. Corson.) That proposition concedes one Senator to each county, and the only objection that can be made to it is, that it might enlarge your Senate be-

yond its present limit too much. It provides that each city shall have also a Senator, and that with regard to cities having a population of one hundred thousand or over, the population shall be divided by the number of counties in the State, which would be sixty-six, and the result would give the proportion for the number of Senators to which she would be entitled. In a Senate thus constructed, that would give to a city like Philadelphia, in the Senate ten members; it would make the Senate, altogether, seventy-five. It is true the only objection that probably can be made to that is that it is too large; but when you consider that that makes the Senate remain stationary—it is made an inflexible rule by which it is not to be enlarged—it will have to remain seventy-five, and when your House grows, as it gradually would grow by the coming in of the fractions, on my proposition, to be about two hundred and twenty-five, the Senate would just bear the relation to the House that it does at present.

I submit to the committee whether, if we can adopt a plan of this kind, and dispense with the apportionments altogether, it would not be better to do so. I listened to the proposition submitted by the Committee on Suffrage, and it struck me as being a proposition that has not been well considered, and if well considered, and well analyzed, that this Convention will never consent to it. What is it? That the people of the Commonwealth shall elect a board of ten men, by what is called the "restricted suffrage" system. That would bring in five of one view and five of another; and, be it remembered, that a nomination there is an election. Suppose, now, that you bring into a board like that a few men like some of the representatives from Philadelphia, that have been described by our worthy friends from the city. Once elect such men, and although you may provide that a majority of seven shall be required before the apportionment can be made, yet if there are one or two men there who can be corrupted or purchased, would not they be bought over, or brought over, so as to make a majority? And may not an apportionment thus made prove a greater outrage upon the Commonwealth than ever has been made before? This is possible and even probable, under the condition of things to which I have referred. I admit, sir, that your Legislature have disgraced themselves, time and again, in reference to that matter. In the Congressional dis-

trict in which I reside, by a democratic apportionment, it once reached from within six miles of the Ohio to beyond the Susquehanna. The apportionments made more recently by the republicans in power are just as bad. They have selected democratic counties, and overshadowed them by republican counties, for the express purpose of repressing the voice of the people. In the first instance, if you examine the last gerrymandering of the State, you find Clarion county, which is represented on this floor by our friend, Mr. Corbett, overshadowed by Venango, and Mercer, and Crawford. Greene, which is represented by my learned friend on my left, (Mr. Purman,) with a majority of sixteen hundred, is overshadowed by Lawrence and Beaver. Luzerne, which has a population of one hundred and sixty thousand, has the will of its people repressed by attaching to it the county of Susquehanna. I refer to these facts, because it has been the practice of our Legislature, time and again, to produce this disgraceful state of things, and I want to put an end to it. If we can get a self-adjusting system, let us get it.

What is one of the other provisions made in this proposition of the Committee on Suffrage? It is that when this apportionment is made it so remains for ten years. It is in your organic law, and you cannot reach it by legislation, nor by judiciary process; and the most infamous frauds that we have ever had practiced in the Commonwealth may be practiced again, but must then remain there for a period of ten years. I submit to the committee whether it would not be best that this should be entirely rejected.

I desire to say a word or two in reference to another portion of this report, which now seems to be open to us, and I shall only refer to that which, I believe, has not been referred to by the committee before in reference to Senatorial restriction—city Senatorial restriction—and in that, sir, I beg leave to differ from my learned and esteemed friend from Philadelphia (Mr. Woodward.) I do not see why we should ever think of restricting the population of the State, unless we have some reasons for it other than any that I have yet heard on this floor. I was surprised to hear from the chairman of the Committee on Legislature the one and only reason—that combinations may be made by our Senators. Sir, Philadelphia or any other city has a right to make combinations in any matter that concerns her

interests. But what can result from this that would be injurious to the people of the Commonwealth? Take, for instance, a democrat elected in Lancaster county and two republicans; then take one republican and two democrats elected from Berks. They go to Harrisburg, and on a question of interest in relation to their county affairs they go together, but when it comes to a party question they adhere to their party. Hence it is that there is no combination that can be made that would be injurious.

There was another argument made to which I would briefly call the attention of the committee, and that is drawn from the supposed analogy of our State to the formation of our confederacy. Why, sir, it bears no analogy. Our confederacy was formed by sovereign States, standing out before that confederation was made as separate, sovereign and independent States; and when they made their bargain, they made a reservation that a small State should have the same power in the Senate that a large State should have. But a city, such as Pittsburg or Philadelphia, is an integral part of your Commonwealth; it has always been such, never less, never more, and, therefore, why make a step-child of one who was on the original platform of the organization of your State. It cannot and ought not to be done.

There is another argument which has not been adverted to, which I will now present to the committee. In the formation of our government, which is a republican government, as was clearly defined by the gentleman now in the chair, some short time ago, we have the right to select electors; we have a right to say from what portion of our citizens the electors shall come; but, sir, when we fix that, when we declare that a certain class of citizens shall be electors, it has been ruled by the Supreme Court of the State that we may regulate suffrage, but we cannot destroy it. I undertake to say, therefore, that when you say that this city, that a body of electors of say eighty thousand in number in this city, shall not vote for more than four Senators, whilst eighty thousand electors in another part of the Commonwealth shall vote for eight Senators, you are destroying suffrage; you are taking away the functions of an elector, a thing that you have no right to do. This is all I need to say on that subject. A word or two more and I have done.

It has been said in this Convention that much of the mischiefs which have resulted to the people of the Commonwealth have come from that Constitution in which my friend on my left (Mr. Woodward) took a very prominent part. I, sir, came to that Convention but a youth. I came there charged with a duty, and that was to strike down life-tenure on the judiciary, and to strike down Executive patronage. Up to that time this Commonwealth was rent asunder in all its social relations, father against son, brother against brother. The Governor possessed the patronage of ten or fifteen thousand appointees, and they increased, of course, in aspirants to probably one hundred thousand. I came there, sir, to stop that; but whilst I gave my votes in that way—votes that I never regretted, votes that I endorse to-day—I have here to say that I have no special attachment for that Constitution of 1838. I admit that thirty-five long years have rolled by. We fixed the House then at one hundred. I admit, and I am not insensible to the fact that our Commonwealth has, since that time, increased in population to a fraction beyond three and a half millions; that our hills and valleys are teeming with rich mineral treasure, demanding additional facilities for development, and that this development must come in the shape of corporations and companies, and combinations of capital and labor; and that there must come from this body authority for the exercise of additional checks and balances, to prevent encroachments upon the powers and liberties of the people, and these must come through your Legislature; and though you may strike down special legislation, and to a great extent I hope it will be done, yet, sir, these results will be effected by general laws, affecting the whole people. I care not, therefore, how conservative you make your Governor and Senate, but let your House, which is the reflex of the popular will, be made stronger, if possible, and be brought nearer to the people.

Mr. Ross. Mr. Chairman: From the remarks of my colleague, (Mr. Lear,) I learned that he and I differ in our views with reference to the question of Senatorial representation. Inasmuch as he thought it right that he should place himself upon record with regard to it, I have deemed it due to myself that I should express my own views upon the subject, that our mutual constituency may know just how we each stand in relation to this question. In the considera-

tion of the question of representation in our State Senate, we of this Convention approach the subject, bound by no organic law—bound to pay obedience to no fundamental rule, but we approach it as though it were a perfectly new subject; guided, it is true, by the light which the experience of the past organic rules, and of the Constitutions of seventeen hundred and ninety and eighteen hundred and thirty-eight may give us. But we approach it, as I have said, as a principle which we are to adopt for ourselves and which is, for the purposes of this discussion, bound by no organic rule.

It has been said that representation is the chain of communication between the people and those to whom they have delegated the governing power. Upon the constitution of each one of the links of that chain, upon the strength of that chain as a whole, depend the rights, depends the freedom, depends the welfare of the citizen, and depend also the limitations and the restrictions upon the governing power. It is therefore an all important question—it is a question in whose determination this Convention can do nothing which will more interest the people of this State or in which they are more deeply concerned. I am, sir, I confess, in a minority, so far as I can learn, in my views in regard to the matter of the Senatorial representation. I believe, sir, that the true theory upon which we should fill our Senate chamber—the true theory upon which the Council of the State—as that House was properly termed by a gentleman on this floor the other day—should be organized, is upon the basis of territorial representation, and upon that basis alone. I would, sir, if I had the power, elect but one State Senator from each county, whether it were Forest, or Cameron, or Elk, or the great city and county of Philadelphia, without regard to population. I would give a State Senator to each county, no more and no less; but as I have said, I am satisfied that that view will receive but little encouragement on the floor of this Convention, and as it is necessary in order that we should accomplish something, that we should all concede something, it will not do for each one of us to stand up inexorably rigid and erect in favor of his own peculiar views, yielding nothing and conceding nothing. As by such a persistence as that we never could arrive at any result. I am, therefore, prepared to modify my views on this subject to a limited extent. I am prepared to say that territory

and population *both* shall enter into the computation upon which the State Senator shall be elected throughout the State; and it has struck me that the proposition which was offered by the gentleman from Montgomery (Mr. Corson) best attains that object.

That proposition provides that each county in the State shall elect one State Senator, and that the cities containing a population of over one hundred thousand shall have a basis of representation, which will be arrived at by dividing the whole population of all the counties by the whole number of those counties. That proposition embraces within it the territorial idea, and also the idea of population, and *that* I am prepared to accede to. But here is where I differ from my colleague (Mr. Lear). I cannot, and will not, vote in favor of unlimited representation from the great cities. I believe that this concentration of power, which we have heard referred to frequently on the floor of this Convention within the last few days, exists in our large cities, is injurious to the best interests of the people of this State. I have lived, not within the limits, but within the shadow, of this great city for the greater part of my life. As a Pennsylvanian I am proud of her—I triumph in her triumph, and I mourn in her defeat—but knowing, as I do, her great importance, knowing, as I do, the inestimable advantages which not only her own citizens, but those of the Commonwealth, and, indeed, of the whole Union, derive from this city; knowing all this, I still know what her power, badly exercised, may be. I know that when she stretches out her sceptre of power—her representatives in the large number in which they now are—if the question be one in which the great city should be interested, as against the country, her representatives, standing shoulder to shoulder, will fight for that particular movement which the city is advocating, as against any other section, and standing together, as they do, in the large number in which they are, and may hereafter be, they will be able to put such a measure through, no matter how vigorously and bitterly it may be contested by the other parts of the State.

There is nothing, as I conceive, in the argument, that to limit the large cities in their representation is open to the objection that the cities are subject to taxation without representation. Why, sir, the lower House is based upon the idea of population. The lower House filled, as

has been suggested by the amendment of the gentleman from Allegheny, (Mr. S. A. Purviance,) will give to the large cities all the power and protection which they can need, or which they will be entitled to. The State Senate adopts no laws—enacts no laws—it is bound hand and foot, unless it has the concurrence of the lower House in its action. Therefore, I say, there is nothing in the argument that the citizens of our larger cities are liable to be taxed without having themselves fairly and duly represented. There is nothing, again, in the argument, which my colleague (Mr. Lear) used, that a delegate from the country is dwarfing his constituency, and dwarfing his own intellectual stature, when he is apprehensive of the two large cities having a full Senatorial representation based upon population, that the country might suffer. It is not the contest of man to man that we are afraid of, nor the intellectual strife of mind against mind that we dread. Coming from the country, as I do, I say that there are to be found throughout the length and breadth of this State men who are able, and amply able, to compete with those gentlemen who come from the cities, in our legislative halls.

Sir, it is this overpowering of the multitude against the few, it is the rush of the many against the few that I fear; it is the concentration in the cities against the divided few throughout the country. Why it will not be pretended that the country members stand shoulder to shoulder as do the members from our large cities. Such has never been the experience of the past, and I have but little doubt that it will never be the experience of the future.

Now, sir, I have not intended to make any extended remarks on this subject. I thought that it was due to my constituency that I should define my position, inasmuch as my colleague and I differed on that subject, and therefore, in conclusion, as I said before, I am in favor of a territorial representation in the State Senate, modified to the extent of population being taken into consideration also, so that when the large cities come to have their representation in the State Senate, given to them, that such representation shall be, to a certain extent, limited. That limit may be fixed hereafter, in accordance with the sound wisdom and the judgment of this committee.

Mr. METZGER. Mr. Chairman: It is not my purpose, in rising, to discuss the

question of cumulative voting, inasmuch as I do not understand that the amendment offered by the gentleman from Carbon, (Mr. Lilly,) which is now under consideration, necessarily introduces that method. The first section introduces what might be termed minority voting, or electing commissioners of apportionment on the plan of limited voting. I am opposed entirely to this plan. It appears to me that the object which the author of this amendment intended to accomplish cannot be attained by the adoption of this amendment. It is evidently the intention that the apportionment should be removed from a political body and placed into the hands of a body that would not be partisan or political. It does not accomplish this purpose. It only removes this business from the people, or from the Representatives elected directly by the people, and places it, in my opinion, in the hands of parties who are nominated and appointed by partisan conventions. It is well known that certain rings in each political party control, in a great measure, the nominations made by the party. If this section were adopted, these political rings who had particular objects to serve, or wished to accomplish certain ends, would make it a point to secure such men on the ticket as they knew would carry out their purpose. This they could, in my opinion, more easily accomplish in the nominating conventions, than they could if these commissioners are elected by the people at large, in the same manner as other officers are elected. But as I said before, or at least intimated, I sympathize with the object which the author had in view in proposing this amendment, and therefore I shall favor any proposition which, in my opinion, will remove this question of apportionment from the political arena, and will so regulate it that it will not hereafter be a bone of contention in the Legislature. I apprehend that this can be accomplished by this Convention, and I believe that this Convention is the proper body to do it. I am under the impression, from what I have seen in this body, that it is probably the least partisan body that has ever sat in this State. I think the apportionment can be made by this Convention so as to meet future demands. I shall therefore favor any proposition looking to the attainment of this object. I believe that amendments have been proposed by gentlemen here, which, if adopted, will remove all necessity for future apportionment.

There is a proposition here to give to each county a Senator. There is another proposition to give to each county a member, and as many more as the county shall be entitled to in proportion to its population. If you were to adopt these propositions it would end this question. Now, while I am not going to argue, Mr. Chairman, that we should give to each county a Senator, my view is that we should either do so, or so parcel out this State that each territory, composed of a certain number of square miles, shall be entitled to one Senator. If we do this, without regard to population, the apportionment is accomplished. Now I think if this Convention will reflect for a moment they will see no injustice in this. If we but re-call to our minds the objects we should have in view of obtaining the creation of the Senate, (and this matter has been fully and ably discussed before in the argument upon a previous question,) we will come to the conclusion that the Senate is formed to serve several purposes. It is not intended merely for the purpose of getting a second House to represent the people, but one of its functions is to form a check to the hasty and indiscreet action of the popular branch. This we suppose to be accomplished when we provide that in the Senate we will require members of more experience, and will also give them a longer term, so that by uniting experience with considerable independence we will make them a conservative body adapted to revising the action of the popular branch. But there is another object for which the Senate is constituted, which cannot be accomplished so well in this way. It is to form a check to the tyranny of majorities over minorities. At the present time we find that our popular cities are increasing much more rapidly in population than are our rural districts, and the day is not far distant when a combination of Representatives of the populous districts will entirely overshadow the representation from the rural districts. If you base representation in the Senate upon territory this can never take place. The thinly settled districts will have an equal voice in the Senate chamber with the more populous districts, and they will form a check to what the popular branch representing the populous districts may do. I apprehend that this is necessary to the perpetuity of our republican form of government. There never could be a worse tyranny than the tyranny of the popular branch of the Legislature representing the populous sections of the State

over those that are thinly settled, in case the Representatives of the populous cities combined to pass laws without regard to the interests of the less populous sections of the State, and had the power so to do, by reason of their numbers.

So much in regard to the construction of the Senate. Now, as for the House, I heartily agree to the proposition of my friend from Allegheny (Mr. S. A. Purviance.) His proposition based representation not only upon population, but likewise upon territory. You have, if you adopt his amendment, a member from each county, and you give to the larger counties as many more as their population shall show them to be entitled to have. I apprehend that this is necessary for the purpose of preserving to the people of these smaller counties their rights, and to promote their improvement and their welfare. Under the present system, and the system which is proposed by this amendment under discussion, many of the smaller counties are unrepresented. The injustice that has been done in the past to these small counties cannot be estimated, except by members who have been so unfortunate, if I may use the term, as to represent districts in which small are attached to larger counties. How often does it not happen that a member is elected to represent a district in which smaller counties are attached to larger ones, who, coming from the larger county, as he usually does, scarcely knows a man, much less the wants, of his constituents who reside in the adjoining smaller counties which he is representing? The large county has its peculiar interests, and for that purpose it selects its peculiar instrument, regardless of what the smaller ones may require, and thus the smaller are left at the mercy of the larger ones. In order, therefore, to fully protect the interests of the smaller counties, I maintain that they ought to have a member conceded to them.

Is there any injustice in this method of representation? Will the larger counties lose much by it? No! They are not only entitled to one member, which is conceded to the smaller counties, but they are entitled to be represented by as many more as their population shows they ought to have. The cities, likewise, ought not to complain. They, too, will be entitled to representation according to their population, and all that I would do is to provide a check to prevent the smaller counties from being over-borne, down-trodden and oppressed. Gentlemen may argue that

this would increase too largely the number of the House and the Senate. I apprehend, from what I have seen of this Convention, that it is the opinion of a large majority of its members, and I believe that I am justified in saying that it is the opinion of a large majority of the people of Pennsylvania, that a reform of this kind is needed, and we should, therefore, increase the number of our representatives. It has been said that if you make the Legislature a larger body it will be less pure, less honest, less capable and composed of less honorable members. Is this true? Why, sir, if this were true the Pennsylvania Legislature should be the purest in the United States, because, with the exception of one single State, its representatives represent the largest constituency of any representative body of any State in the Union. The gentleman's argument is unfounded. The present history of the times ought to have taught him better. By referring simply to the history of those States in which the representative represents but a small constituency, and in which the States, though much smaller than Pennsylvania, largely outnumber in their representative bodies the Legislature of Pennsylvania, he would have found that in the latter there is, to say the least, less suspicion of corruption than attaches to our Legislature. I am not here to affirm that this suspicion of corruption, by which our Legislature is attainted in this State, is well founded. I only assert there is a suspicion, and if an increase in the number of members will but remove that suspicion we will have accomplished a noble work.

I say the people demand such a reform, because they have, for some reason or other, lost confidence in the House as at present constituted. Although I cannot say that that loss of confidence is well founded, I here affirm that the people demand an increase of representatives, and if increasing the number will satisfy the wishes of the people, and will allay their suspicions and lead them to believe that purity and honesty again reign at Harrisburg, we will have accomplished sufficient to have justified the calling of this Convention. If it will do this, who will not be proud to honor and respect the Legislature of this great Commonwealth? Who would not be proud to speak with the highest degree of respect for the character of our law-making power?

"Oh!" said the gentleman the other day, "if you adopt any plan by which the

number is increased you will have a mob." Why, sir, the House of Commons is composed of at least five times the number that composes our Legislature. So, too, the Legislatures of the eastern States, though much smaller States as I have said, are composed of a much larger number than is the Legislature of Pennsylvania. Are they mobs? The reference which he made by way of illustration to the Athenian democracy in his remarks, is totally inapplicable. That was not a representative government at all, but every citizen possessing certain qualifications was a law-maker, and participated directly in the making of the laws. This, it is true, would convert such an assembly of legislators into a mob.

But then again, Mr. Chairman, it is necessary that these Representatives should be brought nearer to their constituency. They ought to be elected by their neighbors and their friends; by men who know them and know their qualifications not only as regards their honesty, but their ability to represent their several districts. But, as I said, under the present district system and under the system proposed here by the gentleman from Carbon, this cannot be accomplished. Many a Representative is representing a territory and a people with whom he is not acquainted, and in whose county probably he has never set his foot. If you bring these Representatives right home to the people, will they be less honorable? I affirm here that you will then see a class of men elected who will do honor to the position instead of hoping to be honored by it.

It is said by gentlemen that the purity of our judiciary is owing to their long term and their independence. This may be true of the judiciary. It is also true of much less important officials. To what is the purity of our school boards and our councils in our small towns owing? Do not the very best men of the State fill these positions, although they do it without receiving any emoluments? I tell you there are men representing you in the town councils to-day who would not accept a seat in the Legislature. And why? They know it is sufficient to destroy a man's character to be accused of being a member of the Legislature, and that honorable men will not aspire to that position. Were the representatives of our ancestors, who, a century ago, represented much smaller constituencies, less honorable because they represented fewer men? Did they act less honestly? Did they do

less for the interests of the community they represented? I appeal to the members of this body to answer. There is, therefore, nothing in the argument against an increase in the number of our legislators, and I repeat, again, in conclusion, if there is any reform more imperatively demanded by the people than another, it is a reform of this kind, as well as in the manner of constituting the legislative body.

MR. J. PRICE WETHERILL. Mr. Chairman: I shall occupy the time of the Convention but for a few moments, and shall confine my remarks entirely to the resolution and the amendments offered by the gentleman from Carbon (Mr. Lilly) and the gentleman from Philadelphia, (Mr. Simpson,) and I will say, at the outset, that we have before us a question which, to fairly and properly adjust, is almost a matter of impossibility, and that the best we can do will be to approach that perfection which, from the nature of things, we can never entirely secure.

Now, sir, I object, in the first place, to the manner of selecting the commissioners to make the apportionment, as offered by the gentleman from Carbon. It is true, also, that the method of apportionment by the House and Senate is open to objection, for the reason that the experience of 1871 is such as to show clearly that the House and the Senate did not fairly and did not properly apportion the State. Why, just look at it, sir. In the county of Mercer, with a population of fifty thousand, in a ratio of thirty-five thousand, they have but one Representative; and right adjoining, the county of Green, with a population of but twenty-five thousand, in a ratio of thirty-five thousand, has one Representative. Mercer but one Representative with a population of fifty thousand, and Green one Representative with a population of twenty-five thousand. What fairness is there in that?

Take Washington county, with a population of forty-eight thousand; that county has but one Representative; and Butler, with a population of thirty-six thousand, two Representatives. Now, sir, can anything be more unfair than this sort of apportionment.

Perry and Dauphin counties, with a joint population of eighty thousand, have three members, whilst the adjoining county, Lancaster, with a population of one hundred and twenty-five thousand, against eighty thousand in Perry and Dauphin district, has but three Representa-

tives. This is the gerrymandering complained of under the present system, political entirely, because I imagine men of greater influence or ability in one county, representing that county in their own interests, were superior in diplomacy to those who represented other counties with, perhaps, not the same diplomatic ability. All this proves that it would be unsafe for us to allow the House and the Senate to apportion the State.

The objection to the ten commissioners has been stated by the gentleman from Allegheny, (Mr. S. A. Purviance,) clearly and unmistakably proving that either of the two political parties will control the ten commissioners, for, from the character of the proposed amendment, ten to be chosen and only five voted for, as the political parties decide, so will the result follow. And then we will have five democrats and five republicans, each with their political maps in hand, contending for supremacy. With these interests paramount, a proper apportionment for different counties throughout the State can never be secured, for as the temptation will be great to secure the end, so will the efforts be great to attain it, and the gerrymandering so much complained of will be equal in the one case as in the other.

Now, Mr. Chairman, what is the remedy for this? In my opinion the remedy is that we should, ourselves, so carefully and prudently prepare an article in the Constitution that neither the House or Senate, or the ten commissioners, should we see fit to select them, be able to so gerrymander the State and improperly apportion it. To accomplish this all-important result, it seems to me that we could very properly adopt the plan as presented by the gentleman from Carbon, and first fix the House at one hundred and eighty members. To this I suppose that there would be no objection, for as far as I can judge, the members of this Convention agree that the House of Representatives should be a large one. If you fix the House at one hundred and eighty members, and adopt the system of ratios, and where necessary three-fourths of ratios, so that these excessive fractions, which have been so hard to dispose of shall be utilized, then I contend that this State would be by our own act independent of any commission; independent of either Senate or House, fairly and properly apportioned.

It will be observed that if you adopt the plan of one hundred and eighty members in the House of Representatives, that the full ratio of representation for each member will be twenty thousand; twenty thousand times one hundred and eighty being three millions six hundred thousand in round numbers, about the population of the Commonwealth. Now the ratio of twenty thousand would perhaps require some sub-division in order to use up these fractions which we find so difficult to handle, so as to give each county a Representative. But if we would adopt an amendment giving each county having three-fifths of this ratio of twenty thousand, say twelve thousand, one Representative, and giving each county having a full ratio of twenty thousand, and three-fifths of a ratio, twelve thousand, which together would amount to thirty-two thousand, two Representatives; that plan, worked throughout the State, would give us just as fair and just as honest an apportionment as could be made, and as we all acknowledge the basis of representation, as far as the House of Representatives is concerned, to be population, and not by the acre, every one would be satisfied.

I have taken some trouble to work out this plan of one hundred and eighty members for the House of Representatives. Twenty thousand would be a full ratio, and three-fifths of a ratio, or twelve thousand, would entitle a county to a member, and one full ratio and three-fifths of a ratio, or thirty-two thousand, would entitle a county to two members, and I find this to be the result:

Twenty counties, each entitled to one Representative.

Twenty-one counties, each entitled to two Representatives.

Eight counties, each entitled to three Representatives.

Four counties, each entitled to four Representatives.

Three counties, each entitled to six Representatives.

One county, entitled to eight Representatives.

One county, entitled to thirteen Representatives, and

One county, entitled to thirty-four Representatives.

In all, fifty-nine counties with a joint representation, on that basis, of one hundred and seventy-six members, leaving out of the calculation Sullivan, Pike, Fulton, Forest, Elk and Cameron, six coun-

ties and four Representatives over to divide among these small counties to make up the full number.

Now if we can apportion the State by this plan, and the calculation I have made is a correct one, what fairer method can we adopt? These six small counties have a joint population, I believe, of about thirty-five thousand, and to divide among that population we have four Representatives. Surely it would not be difficult to do that.

This proposition meets the idea of the gentleman from Allegheny, and will give every county in the State of Pennsylvania its full and fair representation; and will give these six smaller counties, of an average population of about six thousand each, four Representatives. And what more could they ask for?

By this plan, in a clear, distinct and unmistakable manner, we say to whatever commission we may see fit to make: "This you must do; by these directions you must be governed." And then I care not whether it be the House of Representatives or the Senate, or whatever body may be selected for that purpose, they cannot gerrymander, for they must obey the Constitution of the State. It matters not in that case if we have five commissioners from either party, all anxious and eager to contend for their own advantage; we give them an article which they must live up to; we give them an article to which they must subject themselves; we give them an article by which they must be governed, and if it is violated they subject themselves to open censure. Adopt this method, and every county in the State will be fairly and honestly represented.

I now propose to state my objections to the plan as offered by the gentleman from Allegheny (Mr. S. A. Purviance.) He desires to give every county, great and small, in the State a Representative, and for forty thousand population an additional Representative. How will this work? A county having a population of thirty-nine thousand would be, by his plan, entitled to but one Representative, and Forest county, a county with but seven hundred taxable inhabitants, a county with this spare population, containing three hundred thousand acres of land, thus having nearly five hundred acres of land to every taxable, a Representative. Surely, is this not the borough system? Surely, is this not voting by the acre, and not by the elector? Surely, is this not voting by

pinus and hemlocks? Surely, this is not either democratic or republican in its character.

That county pays a tax to the State based upon personal property, valued at the enormous sum of forty thousand dollars. Just look at it—a county with a taxable population of seven hundred! In one of its townships it polled the extraordinary vote of fifteen for one candidate, and two for the other, at the last election; and a personal wealth of forty thousand dollars exerting the same influence in the House of Representatives as a county with many millions of personal property, and thirty-nine thousand population. Now I ask, in the name of justice, in the name of fairness, in the name of everything that is right and proper, should this proposition be submitted to, where, by this plan of ratios as proposed, we can fairly and honestly give to every county a full and proper representation?

Again, sir, by this plan a population of thirty-two thousand would entitle a county to two Representatives. In the State about sixteen counties would come up to this ratio and would have two Representatives.

Now if you adopt the plan of the gentleman from Allegheny, (Mr. S. A. Purviance,) to give a county two Representatives, it must have a population of forty thousand. Therefore, if we adopt the plan of the gentleman from Allegheny, and reject the amendment of the gentleman from Carbon, we exclude these sixteen counties from their fair and just representation, and give them but one Representative, and placing them upon a footing with a county of four thousand population. Adopt the plan of the gentleman from Carbon, and these counties would be entitled to two Representatives, their full and proper share.

With regard to a plan for the Senate apportionment, that, of course, would be a more difficult matter to work out. Take, however, a Senate consisting of sixty members, and on the same plan of ratios thirty-six counties would have one Senator each, and over, leaving but thirty counties to be districted. The plan would be simple. More than one-half of the counties would be fairly represented by its one Senator, and the other counties it would be a very easy thing to form into proper Senatorial districts. I claim, sir, that no subject can come before us of more vital importance than the one under consideration. Every voter in the State feels a

deep interest in securing a fair and just representation. To deprive him of this is to do him an injury, which will, if carried on, imperil our republican institutions. Let it not be said that by our action the power of an elector upon a dividing line is three times as powerful as any other. Taxation without representation can never be sustained. To repel this evil British tea was thrown overboard in Boston Harbor, and Valley Forge, years ago, was the scene of suffering and death. Full, fair representation is demanded by the voters of the State. Equal, exact, even-handed justice to all, without special or sectional advantages to any, should be secured, and to do this effectually and fairly, it seems to me, will be to vote for and adopt the amendment of the gentleman from Carbon.

Mr. HOWARD. Mr. Chairman: The several amendments under consideration involve a large number of subjects. To-day the question which has principally been discussed is the apportionment of the State. Last Saturday gentlemen seemed more disposed to direct their arguments to the question of limited or cumulative voting. I shall confine the few remarks I shall make to the latter questions. That subject is raised by the first proposition of the amendment offered by the gentleman from Carbon, (Mr. Lilly,) and as I consider this a very important, and one involving legal questions, I have prepared my argument, and shall read it from my manuscript. I believe it conflicts with the Constitution of the United States, in at least three of its provisions.

In the first place, I hold that electing a man to participate in the sovereignty by a minority is no election at all, within the meaning of the Constitution of the United States.

In the next place, I hold that it is a violation of the fundamental principle of republican government; and in the next place, that it violates the fourteenth amendment, in that it both *denies and abridges the right of the voter*.

That amendment requires that the right of voting shall not be denied or in any way abridged, and that must be interpreted as we find the practice of the States to be in regard to that right at the time of the adoption of that amendment. I say it violates that provision of the Constitution which guarantees a republican form of government. Under the Constitution republican government is to be

guaranteed. This supposes a form of government already established, and the established form is what is guaranteed. Now in no State was there a form where the minority could elect its officers *against the will of the majority*, to participate in the exercise of the sovereign power.

I take it, sir, that that is a fact that cannot be controverted, that at the time of the adoption of the Constitution of the United States in no State in this Union could a minority of its voters, against the will of the majority, elect persons who could or did participate in the exercise of the sovereign power of the State.

I cannot see my way clear to support this plan of either limited or cumulative voting. The general rule, and that is fundamental, in our State and general government, is that in all matters submitted to the people for their votes the majority, plurality or highest vote shall decide and govern, and there has been no single notable exception to this rule.

In the case of choosing inspectors of election, where two are to be chosen, the voter is *limited* by law to one vote. These officers are mere clerks, without any powers of government whatever.

The friends and advocates of the limited vote and the cumulative vote start out upon a false theory, a political heresy, and they rear a structure that to some minds appears fair and reasonable, and that might be applied practically and with good effect to affairs of government. Their base of operation is that the *minority* is not only not represented in the government, but is practically disfranchised, and that society is the loser by the majority rule, and will be the gainer by throwing it overboard and accepting their new political plan whereby all will be represented. In the first place they propose to do what is impossible; by their own theory and plan *all* will never be *actually* represented, unless they can devise some plan of dividing society into just two divisions—one the majority and the other the minority. We know practically that is not the case now, never has been and very likely never will be.

Our voting population is now divided into numerous divisions. First, the republican majority; second, the democratic minority; third, advocates of female suffrage; fourth, of temperance; fifth, of anti-temperance; sixth, those who desire to compel the recognition of God in the Constitution; seventh, the Quaker, who is opposed to bearing

arms or paying taxes for the purpose of warfare; eighth, the labor reformers. And these are only a part of the strongly marked political divisions into which society is divided now, each one firmly believing they are right and anxious to have their several political opinions incorporated into the government. If it is true that the fundamental principle of our government is a *lie*, viz: That the majority duly chosen does represent all the people of the country, and are *bound* to look to the "general welfare" of all, then it is time to look for a remedy; but is the limited vote or cumulative vote a remedy? The evil complained of is that minorities are not represented. Will their plan secure *actual* representation to even a majority of the minorities? Where is the genius that can devise a plan whereby all factions, fragments and political divisions can be actually represented? In the first place, in nearly all the districts there would not be one-quarter enough offices to go around, and the only consistent plan will be to go on creating offices, so that all divisions can be supplied, because so long as there is a division not supplied there is a minority not represented; then, really, the plan to be at all practical must, in *truth* and *fact*, be nothing more or less than a scheme to divide the offices between the real majority and the strongest minority, and the weaker minorities are all left out in the cold. This must be so, because to carry it out to its legitimate results, of procuring representation to all minorities, it is wholly impracticable. But is it true that minorities are not represented in our representative government?

The first rule is that the majority shall administer the government for the benefit of all, and so far as society, in general, is concerned, this rule has, in practice, worked for the benefit of all, and the clear evidence of this lies in the growth and general prosperity of the whole country. The only real point of difference is that one party of men have the offices and the others do not, for the time being; but the "outs" live in hopes, and this makes them vigilant and watchful of the "ins," and this is one of the strongest securities the people have for honest and good government. The limited vote or the cumulative vote would take this away, because the majority and the strongest minority would have all in their own hands—there would not even be a struggle before the people except for the nomination, because the election would be a matter of course;

there would be no one to growl but the small minorities. But are minorities represented and protected now? I think they are as fully as it is possible and consistent with the responsibilities of good government. The majority party in power must be held responsible. This plan weakens this responsibility. State and national Constitutions are made to limit and control majorities, and by that limitation and control protect minorities; and the theory of government is, that the majority, administering the government under the limitations and restrictions imposed, cannot injure either the minority or majority of society. All power to do injury is supposed to be taken away from the majority by the Constitution, and the powers granted or permitted are supposed to be such, and such alone, as are for the good of society. To this end the greatest and best men the world has produced have labored. It is to be hoped that all their labors have not been in vain. Under the rule above stated, questions of policy will arise as endless and diversified as the wants and judgments of our people—and no plan of government, or voting or representation can prevent this or ever meet all the demands and caprices of faction or individuals in society.

If all men were honest, this cumulative plan of voting might practically work no great mischief, although it should violate the fundamental principle of government; but suppose we have a corrupt, ambitious and grasping minority, backed by corporate power and combinations of money, and in all States there has been and will be a corrupt minority, more or less strong, according to circumstances, and the weakness or incapacity of society to close up the places that lead men into temptation, that invite them to do wrong by putting it in their power, and this plan will put it in the power of that corrupt minority to secure seats in every department of the government. It will lead to corruption, to a certainty, in the city of Philadelphia for members of the Legislature, if the single district system is abolished, that has worked so badly, and the old system restored, it will give each voter the right to cumulate twenty or more votes on one candidate, and in Allegheny county at least eight; in Lancaster, five, and so on through the State, wherever more than one candidate shall be entitled to be elected in a legislative district. The voter will consider himself

worth selling, and candidates will consider him worth buying.

The people believe, and no doubt rightly, that a majority of the Legislature has always been honest, and a minority, more or less strong, always dishonest. This minority are generally smart and enterprising, working under the strong and exciting stimulus of personal interest, working by all manner of schemes and devices to overcome and deceive enough to gain a majority, and we all know that honest ignorance is too often overcome and outwitted. The truth is, the Legislature is a bad place for honest ignorance, because he not only appears to disadvantage himself, but unwittingly votes away the dearest rights of his constituents.

The first section of the amendment now under consideration provides for electing ten commissioners to apportion the State for Representatives, and prohibits the voter from voting for more than five.

Do the advocates of this plan intend to apply it to national as well as State officers? If so there are obstacles in several provisions of the Constitution of the United States.

First, the House of Representatives shall be composed of members chosen every second year by the people of the several States, and the elector shall in each State have the qualification for an elector of the most numerous branch of the State Legislature.

Under this clause the House of Representatives will have to decide what is meant by the words "chosen by the people," and the legal qualifications for an elector; and the first one will be whether an elector can duplicate himself. If he cannot then there is an end of cumulative voting for members of the lower House of Congress.

The Constitution of the United States requires that the United States shall guarantee to every State a republican form of government. A republic is defined by our best writers to be a "State in which the supreme power is vested in the people, in a well constituted republic as administered in the United States, by representatives chosen by the people."— *Worcester's Dictionary*.

State society in a republic like ours cannot lawfully vest the exercise of the sovereignty in a minority. It would be in direct conflict with the Constitution of the United States. If you cannot lawfully vest the whole State sovereignty in a mi-

nority of the people, you cannot lawfully vest the exercise of any part of it in an officer, notoriously and under the form of law, chosen by a minority of the electors. This is anti-republican, and so completely and thoroughly destructive of the fundamental principle of republican government that the United States would be bound to declare such pretended laws, whether in statutes or State Constitutions, null and void.

Then, again, by the fourteenth amendment, second section, the Constitution of the United States declares that, "When the right to vote at any election for choice of electors, * * * the Executive or judicial officers of the State, or the members of the Legislature is denied to citizens, *or in any way abridged*," representation shall be reduced in proportion, &c.

If you allow the minority voter to duplicate and multiply himself, you not only abridge but you deny the right of the elector belonging to the majority; you compel him to submit to a rule wholly unknown in the formation of the government; an anomaly so singular that it could never have been, in the remotest sense, contemplated. Worcester and Johnson define "abridge," "to make shorter, to contract, to diminish, to deprive of." Each of these definitions covers the case, as I claim it.

This provision must be applied as the *right of the voter stood when it was adopted*. How did the *right of the voter* stand then? He had a clear right to vote for as many candidates as there were offices to fill. If there were three or a dozen members of the Legislature to be elected in the voter's district, he had a clear constitutional right to vote for *all* of them, and to say he shall not, is to abridge his right. If you can lawfully declare that a minority can elect one-third of the Legislature, you can give that minority power to elect all. This is revolutionary and subverts the government. You can apply your plan to co-partnerships, and corporations organized for the private emolument of individuals—their acts all relate to the management of their own property—they do not in any sense touch acts of government—the sovereignty in which the whole of the society that composes the State are interested.

The minority are as fully and fairly represented now as the wisdom of men can provide, and yet support the principles of republican government.

By the old plan, representatives in Congress were chosen by the whole State;

this gave the entire delegation generally to the party having the majority in the State; but in order to give minorities, all that could be lawfully given, the State was divided into single districts, but still preserved the rule that only a majority of the votes cast in the district should elect.

And this plan of districting the State for legislative purposes, for the Senate and House, was to give minorities all the rights that could be conferred without violating the fundamental law of republican government, by allowing an elector to count two, three or more.

How would this plan work in practice? Suppose that instead of single Congressional districts, we had created double districts, and allowed the voter to not only cumulate, but also apply the limit, that but one candidate should be voted for. Suppose in the double district there were thirty-three thousand five hundred votes, and two members to be chosen, and the minority party had a fraction over one-third of this number, say twelve thousand votes, and should cumulate on one, they would poll twenty-four thousand votes. The majority, say have twenty-one thousand five hundred votes, and they cumulate on the other one, they would poll forty-three thousand. Under this plan the majority are practically disfranchised nineteen thousand votes. Is that an equal election? But the friends of this plan will say, we propose to cumulate where there are not less than three candidates, and then it will not work so much injustice to the majority. Would Congress ever say a member was *duly chosen* in that way? To be "elected" or "duly chosen by the people," within the meaning of the Constitution of the United States, the candidate must have the highest number of votes cast. No doubt the States have the right to prescribe the qualifications of their voters, but this plan *enlarges* and diminishes the capacity in rightful power of the voter. It is not conferring, or requiring an additional qualification, which the State may do, but it is *increasing* the political power of a minority, or a class of voters which the State cannot lawfully do. It exalts the minority from defeat to success, in devising a plan whereby a minority shall elect its candidates *against the will* of the majority.

And the advocates of this measure, in calling the minority a second majority, abuse well defined terms and subjects. Is it an election as understood in framing

the government? Is it republican? Or is it not in conflict with the several clauses of the Constitution of the United States referred to? What is an election by the qualified electors in the meaning of the Constitution of the United States? It is the choosing of public officers by a majority, or the largest number of votes, each voter being entitled to one vote, and no more, for each candidate to be chosen; and it never was understood that a minority could *elect*; but, on the contrary, that all minority candidates were defeated. The voter has a clear constitutional right to vote *one* vote for each and all the candidates to be chosen, and any limitation of that right, like saying that where three officers are to be chosen the voter is limited to two, is both "denying and abridging" the right. Or, suppose the voter is told: "You can vote for all three, but if you do it will be under the *penalty* of losing your choice, because your neighbor can duplicate himself, and vote twice for one, and once for another, or vote three times for one." Either plan forces the majority to yield to a minority.

The fundamental principle, well understood by all the people in regard to our government, is that in all elections by the people, or upon all questions submitted to the qualified electors, the majority, or the highest vote must elect or decide, but never the minority. As before stated, minorities are now represented by dividing the State into Congressional and Legislative districts, and by wards for the choice of city councilmen. It could be made lawful to elect members of Congress and the Legislature by the vote of the whole State, or city councils by the vote of the whole city. This was once the practice in the State, and the object of districting was to give minorities in localities a chance of representation.

There will always be parties in a free government, and the party "out" *should* watch the party "in." By this plan, practically, all contest before the people is taken away, the caucus or nominating convention will put their men in the field, and the voters will simply endorse what has been settled between the parties. Neither side will be in fear of the people—it will be a sure thing. The two strong parties, instead of acting *against* each other, will take what the law has assigned them. The struggle that cleanses, the contest that purifies, the watchfulness of a hungry minority, will all be taken away, because all hands will feed at the public

crib just in proportion to numbers, and then who can complain? Who will watch? Who will tell tales, when each party are sure of a suck at the public teats, just in proportion to numbers? The sentinel, that should be hungry and watchful, with full belly, will sleep at his post. The strifes, struggles and watchfulness of *minorities out of power* (and anxious to get in) are among the strongest safeguards of a free government.

And right here opened the door for corruption. In districts where every voter can be made to count from three to twenty-three votes, money and rascality will be pretty sure to elect, at least, some officers. The law will make the voter of such value that the corrupt candidate will be certain that he is worth buying.

Because the person voted for by the minority voter is not elected, the advocates of the limited or cumulative vote say he is not represented. This is not true, either in theory or practice, as applied to our governments, State or national. It is asserting false premises upon which to build their whole structure. When a majority of the people decide upon a certain line of public policy, permitted by the grants of power to the national government, or not withheld from the State Legislature by the Constitution, that majority has the right, and it is its duty to administer the government in accordance with that line of policy, being responsible to the people. This plan destroys responsibility by *partitioning* the power between the majority and the largest minority. Better stick to the old plan, that the majority shall rule. It is the only safe plan by which you can administer republican government.

Mr. W. H. SMITH. Mr. Chairman: I do not think the amendment of the gentleman from Carbon, (Mr. Lilly,) or the report of the committee he represents, begins exactly where it should in the matter of apportionment. It says that "at the general election of 1881," &c., commissioners to apportion shall be appointed, and now I would *prefix* to his amendment these words:

"The State shall be divided into Senatorial, Representative, Judicial and Congressional districts, and the first apportionment of members of the Senate, of the House, and for members of Congress shall be made by this body and continue in force

This is not my own idea. The proposition till 1881, and at the general election," &c., as it is written in the amendment. I am so fully persuaded that this body

should make the first apportionment that some weeks ago I offered a resolution that this body, by its Committee on Suffrage, should make the first apportionment of members of Assembly after the number of them shall have been fixed upon. That resolution is printed on page 142 of the Book of Amendments, on the desks of members. There is not only abundant reason why we should make this apportionment, but there is precedent for it, if that be essential. In the following States apportionments were made by Constitutional Conventions, some, as will be seen, for Senators alone, some for judicial purposes only, and some for members of both Houses:

- In Georgia, in 1868, for both Houses.
- In Louisiana, in 1868, for Senate.
- In Virginia, in 1870, for both Houses.
- In Texas, in 1869, for both Houses.
- In New York, in 1867, for Senate.
- In Illinois, in 1870, for Judicial.
- In Arkansas, in 1868, for both Houses.
- In California, in 1862, for Judicial.
- In Minnesota, in 1868, for both Houses.
- In Ohio, in 1850, for Senate and judges.
- In West Virginia, in 1872, for both Houses.
- In Nevada, in 1868, for Judicial.
- In Mississippi, 1868, for both Houses.

All these apportionments were made by the Conventions who authorized them, and who knew better than any Legislature could, the purposes such Convention had in view. It will be more necessary for this body to apportion the members if it shall increase their number. And here I may say that I do not approve the proposition of the gentleman from Indiana (Mr. Harry White) for the protection of our present State Senators in the remainder of the terms for which they were elected. But, happily, there is a way out of that dilemma. It is simple: As many of the Senators, who may have one or two years to serve, and are not re-elected under the new Constitution, can be paid for the term they would be entitled to have served under the present Constitution. This cannot cost the State over \$30,000, at the most. This is all they could possibly ask, and all that can be done for them, I think.

But, it may be asked, why should they be paid at all? The formation of a new Constitution is a great public event, an emergency which demands the cheerful aid, the forbearance, and even the self-sacrifice of any or all of the citizens of a State. Is it not a great matter, Mr. Chair-

man, if, to harmonize and effectually organize a great reform, some ten or twenty gentlemen should forego, for the general good, a small portion of the official honors to which they may be entitled? To them the fraction of a Senatorial term would seem, or ought to be, a very small matter indeed, compared to the importance of our presenting a completed edifice of organic government, instead of having to wait till 1875 before it can be entirely finished. Mr. Chairman, I do think that the Senators who can justly claim, if they demand the tenor of their bond, to serve one or two years longer, will offer any factious opposition to this Constitution if it shall ordain that their official terms shall end in 1873, instead of in 1874 or 1875. I think there is too much public spirit, too much lofty patriotism among these gentlemen to permit this. Many, perhaps most of them, if they desire it, may be re-elected under the new Constitution. And if they should not be they must even accept the fate of other citizens whose daily callings have been rendered useless to them—whose occupations may have been swept away from them by the skill of ingenious inventors and the almost limitless power of steam. Yet the coopers and the hatters, and the nailmakers, and the shoemakers received no sympathy from the inexorable army of purchasers when they were deprived of the means of making a livelihood by machinery which quadrupled products, and lessened their price one-half. And should law-makers ask any advantages over the brickmakers or any other division of the people whom they profess to love so dearly?

And why not, Mr. Chairman, insert "Congressional" before "Senatorial and Representative" in the second line of Mr. Lilly's amendment? The commissioners would be just as able and more competent to make Congressional districts than the Legislature. Why divide the duty with the Legislature?

I have shown, Mr. President, that in many of the Constitutional Conventions this most important and necessary duty of making the first apportionment has been performed by the Convention itself. We have been called together because abuses and corruption had become unendurable, and it would seem to me to be our duty, not only to check these abuses and corruptions, as far as we can, but to provide against their recurrence in the future. In other and plainer words, to "turn over a new leaf" in the management of our State

affairs—to reform things altogether—to organize a new departure. Let the adoption of the Constitution we are making mark the advent of a new era, an era of purer political habits and morals.

But, Mr. Chairman, our proceedings here have been marked by a sad want of coherence. We have talked on every possible subject, but to no effective purpose. Now, in order to try and settle *something*, I propose we take, as soon as possible, a vote on the question of how many members shall compose the Senate and the House. Let us fix that at one hundred and eighty in the House, and sixty-five in the Senate, as the amendment has it, or some other number. But let us do something definite. Let us get at some starting point, from whence we can proceed with some sort of order or certainty in the business of the Convention.

MR. FULTON. Mr. Chairman: I do not presume to take the place of the chairman of the Committee on Suffrage, Election and Representation, from which this amendment emanated; but, as a member of that committee, I desire to make a little explanation on the amendment that was presented by the gentleman from Carbon. I may say that this amendment, while it was recommended by the Committee on Suffrage, Election and Representation, was not fully digested by them. It was prepared in a hurried manner the evening before it was offered in the committee of the whole, for the purpose of having it ready to offer while section twenty of the report of the Committee on Legislature was under discussion; and if some gentleman will make the motion I will favor the reference of it either back to the committee from which it came or to the Committee on Legislature, who reported that twentieth section. I say this in defence of the Committee on Suffrage, Election and Representation, of which I have the honor to be a member, and because I believe that committee has now given this subject sufficient attention to be able to digest and report a section that will, perhaps, meet the approbation of the Convention. But I desire to say that I think several propositions in this section have sufficient merit to be put in proper shape for the Convention, and I will say but a few words in regard to the merits of the proposition.

The objection has been made to the first section in this amendment that it leaves the subject of apportionment in a politi-

cal body, and that that would be disastrous, and to prove it we are referred to the apportionment made by the Legislature of 1871. Now I desire to call the attention of this committee to the fact that that apportionment was a compromise apportionment, made by the Legislature when one of the Houses was republican and the other democratic, and was not a political apportionment at all. I do not know whether the individual interests of the members of those two bodies may not have entered largely into that apportionment, at least that was the conclusion reached by the members of the Committee on Suffrage, Election and Representation, and they proposed to remedy it. For the purpose of preventing any act of that kind they say, explicitly, in this amendment that none of the members of this board of commissioners shall be eligible to an election to either House of the Legislature, under an apportionment made by them, for a period of five years. I call the attention of the committee specially to that fact, that this provision will take away the inducement from the members of this board of commissioners to gerrymander the State in the apportionment which they may make.

And further, Mr. Chairman, there seems to be a disposition on the part of some of the gentlemen of this Convention to take this power away from the people. They show a want of confidence in the people of the Commonwealth. Now I confess, as a member of this Convention, that I, for one, do not feel the necessity of arrogating to ourselves that we are the only body in this great Commonwealth that can be entrusted with the apportionment of the State, and I do not think that the duty is imposed upon us of constructing such a machinery here as will apportion the State for all time to come, or during the time of this Constitution, independent of the people of the Commonwealth. If such be the fact, if it be true that the people cannot be trusted with this as well as with any other branch of our government, I then deplore the condition of our great State. But, sir, I have confidence in the people, and in their honesty, and I undertake to say here that if ten men are selected to apportion the State of Pennsylvania under the provisions of this section that it will secure a better apportionment than we can get in any other way. I will not undertake to argue the constitutional objection that has been raised to this section. I will leave that for others who take more interest

In this mode of voting than I do; but I desire to say this, that if there is any merit in this new system of voting, that seems to have so many friends in this Convention, this is one of the particular cases that it is adapted to, a case in which there is no great political question involved, a case that requires nothing but a simple calculation, and while I say that I do feel favorable to its adoption in a case of this kind, I do not mean to commit myself in favor of it generally.

I have only one remark further to make, and that is with regard to the proposition made here by the gentleman from Allegheny (Mr. S. A. Purviance) with regard to the third section of this amendment. Perhaps the most serious objection that was made to this section in the Committee on Suffrage, Election and Representation that reported it, was that it increased the Representatives to too great a number, and the amendment suggested by the gentleman from Allegheny makes a still greater increase, and that it does not seem to me would be wise.

Now, Mr. Chairman, I cannot understand the force of the argument that by an increase of our representation in the State Legislature we are to get greater purity than we have at the present time. It occurs to me that it is more a question of quality in our representation than of quantity; and how is this to be arrived at? The gentleman from Carbon proposed but a moment ago, that a select committee would be chosen out of this Convention to which this whole matter should be referred. What was his expressed object in making that suggestion? It was for the purpose of getting the very best talent in this Convention to work at this section. Does not the same rule hold good all through our whole political machinery? Is it not the rule that the fewer the number of men you select to fill any position, the more care is taken in their selection? Let me ask the members of this committee to go into one of our township conventions and look at the class of men that are found in those conventions. Not that I desire to say anything disparagingly of the people who make up these conventions, because they are the honest bone and sinew of the country on which we must rely.

But when they come to elect one of their number to represent them in a State Convention, what man do they select? They select the man with the clearest head and the most ability of any man of

their number. Then just compare the township convention, where you have, say fifty to one hundred men taken from a small district in some corner of the State, with the men who are selected, perhaps, one or two from each county, to assemble in State Convention, and from which of those bodies of men would you expect the most in making laws to govern our State? I say, sir, that we will gain nothing by increasing the number of our State Legislature.

Then here is another practical objection, that might seem to many gentlemen to be beneath the notice of the members of this Convention. Still I do not know but we had better pay attention to it as we go along. It is well known to every gentleman in this hall that our present legislative hall is about large enough to accommodate one hundred men. Now if we increase the Legislature above that number, it involves the expenditure by the State of Pennsylvania of several millions of dollars, for the purpose of erecting a new Capitol.

If nothing is to be gained by the increase, we are certainly not justifiable in imposing this large expense upon the people of the State.

The question then simply resolves itself to this: Will it justify us to involve the State in that expenditure if nothing is to be gained in the character of our representation.

But, sir, I did not intend to occupy the time of the committee more than a few minutes. I hope this matter will be referred to one or other of the committees from which these two sections come.

Mr. NILES. I move that the committee do now rise, report progress and ask leave to sit again.

The question being upon the motion, a division was called, which resulted: In the affirmative, thirty-six; in the negative, twenty-four.

So the motion was agreed to.

IN CONVENTION.

Mr. CLARK. Mr. President: The committee of the whole has had under consideration the article reported by the Committee on Legislature, and has instructed their chairman to report progress and ask leave sit again.

Leave was granted.

The PRESIDENT presented to the Convention a copy of the "Ninth census (Vol I,) statistics of the population of the United States," received from the Hon.

John Scott, United States Senator for Pennsylvania, which was laid on the table.

Mr. LILLY. Mr. President: I ask, if it is in order, to make a motion to refer the matter that the committee of the whole has had under consideration to the committees that it came from.

The PRESIDENT. The Convention having just granted the committee leave to sit again, it would not be in order now to discharge it. This article cannot be referred to any other committee until the committee of the whole shall have been discharged from its consideration.

Mr. HARRY WHITE. Mr. President: I move that the motion, by which the Convention gave consent to the committee of the whole to sit again to-morrow, be reconsidered for the purpose of making a motion to re-commit this to the Committee on Legislature again.

The question being upon the motion, a division was called for, and resulted: In the affirmative, thirty-four; in the negative, twenty-one.

So the motion was agreed to.

The PRESIDENT. The question now is upon granting the committee of the whole leave to sit again.

Mr. HARRY WHITE. Mr. President: I move that the article now under consideration, together with all the amendments reported by the committee of the whole, be referred to the Committee on Legislature, to be reported at as early a day as practicable.

The PRESIDENT. The question just now is upon giving the committee of the whole leave to sit again. The Chair would observe that the legitimate effect of the discharging of the committee will be to put the bill on the next stage of its consideration—second reading, when again reported by the committee. The Chair will also observe that, of course, all the amendments that have been made in committee of the whole fall, unless they should be reported again.

The question being, shall the committee of the whole have leave to sit again, it was agreed to.

Mr. DARLINGTON. Mr. President: I move that the Convention do now adjourn.

It was agreed to.

The Convention then, at two o'clock and seven minutes, adjourned.

FIFTY-SEVENTH DAY.

TUESDAY, *March 4, 1873.*

The Convention met at ten o'clock, A. M., the President, Hon. Wm. M. Meredith, in the chair.

The Journal of yesterday was then read and approved.

A QUESTION OF PRIVILEGE.

Mr. TEMPLE. Mr. President: I rise to a question of privilege, for the purpose of making a personal explanation.

On Friday last, when the committee of the whole had under consideration the subject of Senatorial apportionment, I took occasion to submit a few remarks. I see that some of the papers of this city have reported me as being opposed to allowing the city of Philadelphia the same representation in the Senate, according to her population, as was to be given to other portions of the State. I am reported as having said, "that if Philadelphia and other large cities were allowed an equal representation in the Senate with the other counties of the State, the large cities of the Commonwealth would soon control all the legislation of the State." Mr. President, I used no such language. I merely said that such had been the argument of some gentlemen upon the floor. I then stated that I was in favor of dividing the State into Senatorial districts, without regard to the large cities, and of giving to each district the number of Senators to which it was entitled according to population. This suggestion was made by me in order to harmonize the action of the entire delegation of the Convention. I was then, and I am now, in favor of giving to Philadelphia an equal voice in the legislation of the Commonwealth, and for that right I will always contend.

PROHIBITION.

Mr. BROOMALL presented petitions from the Radnor and Goshen monthly meeting of Friends of Delaware county, praying for a prohibitory clause in the Constitution against the sale of intoxica-

ting liquors as a beverage, which was referred to the Committee on Legislation.

THE DEATH PENALTY.

Mr. BROOMALL also presented petitions from the same societies, praying for the insertion in the Constitution of a clause erasing the death penalty from the statutes, which was referred to the Committee on the Judiciary.

EXEMPTION FROM MILITARY SERVICE.

Mr. BROOMALL also presented petitions from the same societies, praying for the insertion in the Constitution of a clause erasing the provision requiring Friends to bear arms, which was referred to the Committee on the Judiciary.

SESSIONS OF THE CONVENTION.

Mr. HOWARD offered the following resolution, which was twice read:

Resolved, That on and after Monday next this Convention will meet at ten o'clock A. M. and adjourn at one o'clock P. M., and meet at three P. M. and adjourn at five o'clock P. M.

Mr. LILLY. Mr. President: I move to amend, by striking out the word "three," and inserting "five," for the afternoon sessions.

Mr. DARLINGTON. Mr. President: Is the resolution debatable or amendable?

The PRESIDENT. Under the rule lately adopted by the Convention the resolution is neither debatable nor amendable.

Mr. EWING. Mr. President: If it is in order, I desire to move a suspension of the rules, in order that the resolution which has been offered can be debated and amended if it becomes necessary. I do not desire to debate the resolution myself, but it is very evident—

The PRESIDENT. The Convention has precluded all debate upon this question. The motion to suspend the rules will be taken.

The motion to suspend the rules was agreed to.

Mr. LILLY. Mr. President: I now renew my motion, to amend the resolution, by striking out the word "three," and inserting "five."

The amendment was not agreed to.

Mr. EWING. Mr. President: In making the motion to suspend the rules, for the purpose of considering this resolution, I stated I did not desire to debate it, but I desire to give my reasons for making the motion. There is evidently a very great diversity of opinion among the delegates as to the most convenient hours in which to hold our sessions. While I prefer a single continuous session of the Convention, I am willing to agree in any plan that may be suggested that will conform with the wishes of all our members, and I hope, by discussion, we shall ascertain the most convenient hours for holding our sessions. In order, therefore, to settle this question, and to avoid the repetitions of these motions day after day, I have made the motion to suspend the rules, so that a full discussion may be had upon the resolution.

Mr. DARLINGTON. Mr. President: I suppose it is the design of the resolution to obtain the utmost possible work out of the Convention. The resolution passed the other day provides for sessions of five hours, from ten A. M. to three P. M. The resolution now pending does not propose the holding of a longer session, but merely to divide the hours in order to enable some of our delegates to obtain their dinners at noon. Is it not the experience of every member in the Convention, that we can do more work in a continuous session from ten o'clock A. M. to three o'clock P. M., than we can possibly do by dividing the time into two sessions each day? With the facilities afforded in the ante-room for obtaining lunch, I think we will be able to obtain more work out of the Convention in a continuous session than by any other plan.

Mr. LITTLETON. Mr. President: I move to amend the resolution, by striking out the words "three" and "five," and inserting "four" and "seven."

Mr. KNIGHT. Mr. President: I offer the following amendment to the amendment:

"Resolved, That on and after Monday next the Convention will hold sessions from ten A. M. to two P. M., and on Mon-

days, Wednesdays and Fridays from four P. M. to eight P. M."

Mr. KNIGHT. Mr. President: At the suggestion of several members I withdraw my amendment.

Mr. COCHRAN. Mr. President: It seems to me it is very unadvisable to adopt such a course as the resolution contemplates. I think the members of the Convention should remember there are several committees that have not yet reported to this body, and I would like to know what time those committees will have to meet and act upon the business entrusted to them if this resolution is adopted. If the entire day is taken up in holding two sessions of the Convention, it will be impossible to arrange any time for the meeting of the committees. I desire merely to call the attention of the Convention to this fact.

The question was then taken on the amendment, and it was not agreed to.

The PRESIDENT. The question is on the resolution.

Mr. MANN. Mr. President: I hope this resolution will not be adopted. A majority of this Convention have expressed themselves on various occasions, on every occasion, in fact, when the proposition has been made, in favor of one session. I take it, therefore, to be the judgment of a majority of the delegates, that we can do more work in a continuous session of four hours, than by having two sessions a day of five hours. I believe that it is the judgment of every gentleman who has had any experience in legislative bodies, that we can do more work in the hour from two to three, if we will have the patience to remain here during that time, than we can do in a series of two hours in the afternoon, after we shall have adjourned, gone away, dined and returned. I believe that is within the experience of every gentleman who has had any experience on this subject. It is certainly more convenient. We are in much better condition to work intelligently and thoughtfully, coming here in the morning and continuing on at our work, than we shall be after having adjourned, and returned after dining. Every person feels the energy of his system relaxed after dinner, and we shall make a great mistake by adopting this resolution, for we shall prolong the sittings of this Convention far

beyond the time in which our work should be completed by doing so. If we will simply continue on with the hours as we have fixed them, we shall soon begin to make progress. I cannot understand this restlessness, this desire to change the hours, after we have fixed them deliberately. It seems to me it is not a healthy spirit. It shows a want of willingness to settle down to hard work. In my judgment, we shall not settle down to hard work until we are willing to sit here five hours, or, if necessary, six hours, in one session. When we have made up our minds to do that, we can begin to hope for the termination of the labors of this Convention and not before.

MR. MANTOR. Mr. President: I offered the first resolution that was offered in this hall for the purpose of commencing the sessions of this Convention at ten o'clock, to end at two o'clock, and commencing again at four o'clock, to end at six o'clock. I offered the resolution in good faith, and at the time was in favor of it, but I discovered immediately afterward that the sentiment of the Convention was in favor of a continuous session. The suggestions made upon that subject were so numerous from different gentlemen on the floor, that I was convinced one session was the more appropriate and convenient, and the next morning I voted with the majority of the Convention on the subject. The following morning the gentleman from Dauphin (Mr. Lamber-ton) offered a proposition that we should sit from ten o'clock A. M. to three o'clock P. M., and to that resolution the House agreed. From very good authority in this Convention it was supposed that the Convention would do more work in a continuous session than in these adjourned sessions. And so I believe. "If the Convention will consider this matter properly, we will do more work under one continued session than under two sessions, with a brief adjournment between them.

MR. CURTIN. Mr. President: I desire only to say a word in reply to the gentleman from Potter, who complains that there is a restlessness in this Convention on the subjects of adjournment and on the questions of how long we shall sit in our daily sessions, that have been constantly occupying our attention. The reason of that restlessness is, that we are

violating the laws of nature. Nature has provided that at stated times all men must rest. The laborer, the lawyer, and on the Sabbath day the minister of the gospel, rests at noon, and members of this Convention are subjects of the laws of habit. I do not believe that a continuous session of five hours is likely to accomplish more business in this body than two sessions making together an equal length of time.

If we adjourn at noon and go to our lodgings, and take the refreshment which nature demands, we will return here refreshed and ready to proceed with our work. Surely the session of yesterday must not be taken as an example for continuous sessions. We were an hour or two getting ready, because of the restlessness of gentlemen who dislocate the laws of nature by compelling the presence of members of the Convention at the very time when they ought to take the rest of noon-day. There are many of the members of this Convention who are in private lodgings in this city, and they are restless because you hold your sessions at the very hour when they ought to get their dinners; and those who are in that condition, if you persist in holding your sessions at three o'clock, will be driven back to the discomforts of a hotel. I cannot understand why you should debate and discuss this question so long. If you come down to the practical part, and adjourn at the very time that it is the habit of the members from the interior of the State for a time to cease their labors, and take natural rest and refreshment, I insist upon it we will do more business in a day with two sessions of the same number of hours than we will do if we sit that number of hours at once.

MR. STANTON. Mr. President: I call for the reading of the resolution.

THE CLERK. *Resolved*, That on and after Wednesday next this Convention will meet at ten A. M. and adjourn at one P. M., and meet at three P. M. and adjourn at five P. M.

MR. STANTON. Mr. President: For the purpose of getting to work, I move the indefinite postponement of the whole matter.

MR. HOWARD. Mr. President: A motion to indefinitely postpone is debatable?

THE PRESIDENT. Certainly.

Mr. HOWARD. Mr. President: I hope this motion will not prevail. While I concede, undoubtedly, that a majority of this Convention have a right to fix the hours for its sessions, and they have a right to determine how long we should remain in session, I submit it is not fair to exact unreasonable hours. There is a question of fairness, there is a question of what is reasonable, of what is right. Very many gentlemen in this Convention have been in the habit, for a long life, to take their dinner at a reasonable hour, and who do not consider four o'clock a reasonable or natural hour at all. If we are to sit here until three o'clock, it will be about four o'clock before the members of this body can get their dinners. The result is, that those who are in private boarding houses must get them in a hotel or in some saloon, or go without. I am perfectly willing to work all that I am able. I have been here at every meeting of this body since it commenced. I have never lost but one hour, and that was when we changed the hour of meeting from eleven o'clock to ten, and with many other gentlemen, on that occasion, I mistook the hour at which we were to meet.

For myself personally, it is not right for me to sit here after two o'clock, my dinner hour, because I feel it injuriously. It affects my health, and therefore if the Convention will adopt a rule, or will continue the present rule, requiring me to be in my place until three o'clock, it will impose upon me a rule that I cannot submit to without inconvenience. Another thing, the habits which men have acquired at their homes, they should continue here if they wish to preserve their health. Therefore, as a question of health, we ought to adjourn so that we can get our dinners at least by two o'clock.

As to this idea that we can do so much work in one session, allow me a word. We know that in the Legislature at Harrisburg, at the first of the session, when they have leisure, they meet only two or three hours a day; when they get down to the dead work, they meet in the morning, work and adjourn—meet in the afternoon, work and adjourn, and then meet and work at night. That is the way they do. Sir, when they find the work begins to press them, and they wish to accomplish the work that is before them, they

hold three sessions a day, and I am perfectly willing to meet at ten o'clock and adjourn at one, leaving a reasonable time for dinner; and then meet at three and sit until six—a reasonable time for supper.

For the reasons I have given, I hope the Convention will adopt some rule of that kind, so that we can adjourn to get our dinner at a reasonable hour, and have also a reasonable hour for supper.

Mr. DARLINGTON. Mr. President: The very reason given by the gentleman from Centre, (Mr. Curtin,) that it is necessary to get dinner before we can work, is the reason which was assigned in this Convention in the early sessions of this body, why we should begin at twelve o'clock, because no man after he got his dinner was fit to work. Therefore, it was urged that we should not meet until twelve o'clock noon, so as to allow the committees the entire morning. No man was ever fit to work after dinner, and I put the question to you, Mr. President, if you can answer it, whether more labor cannot be got out of such gentlemen as we are, in one continuous session of five hours, than in two sessions of five hours, even if we have to meet at nine o'clock and adjourn at two.

Mr. GOWEN. Mr. President: In reply to the delegate from Potter (Mr. Mann) that it is evidence of an unhealthy spirit, that many of us are in favor of this proposition, I desire to say that the spirit indeed is willing, but the flesh is weak. There are among us many gentlemen who have been accustomed to take a little refreshment in the middle of the day, and if the hour of two or half-past two arrives without that refreshment being taken, we have very decided premonitory symptoms of a dyspeptic attack. I have found that all the acerbity of debate, and the bitterness of spirit which have characterized some of our passages of arms, generally occur when we have empty stomachs, and I think that those gentlemen who are afraid that if they get their dinners in the middle of the day, they will be overcome by the lean and hungry Cassuses who have not taken their noon-day meal-time, will probably be satisfied with the fact that their temper will be in a better condition.

I really believe that we would do more work. I really believe that the trouble

which occurred yesterday about one or two o'clock, although the hour of adjournment was three o'clock, resulted from this cause. It was noticed that at two o'clock there was a decided majority in favor of the committee of the whole rising, and after the committee rose, the Convention adjourned, although it was not within three-quarters of an hour of the time of adjournment. Let us meet at ten o'clock and adjourn at one. Those of us who want to eat something at that time can do it, and we can all get back at three o'clock and sit until five, and do a great deal more work, I think, than we are doing now. Certainly that work will be done without the danger of ill-health to the members, that must be incurred if we violate the standing rule that many of us have adopted for a great many years to preserve our health.

The PRESIDENT. The question is on the indefinite postponement. On agreeing to this question a division was called, resulting thirty-six in the affirmative, and forty-four in the negative. So the motion to indefinitely postpone was rejected.

Mr. KNIGHT. I offer the following amendment:

"Resolved, That on and after Monday next the Convention will hold sessions from ten A. M. till two P. M., and on Mondays, Wednesdays and Friday afternoons, sessions from four to eight P. M."

This will give us four hours a day for three days of the week, and eight hours a day for the other three. We are now holding sessions from ten till three, which is five hours a day, and the proposition that I make will give us an average of six hours a day throughout the week.

The question being upon the amendment of Mr. Knight, it was rejected.

Mr. W. H. SMITH. Mr. President: I move to amend, by adding "for ten days from to-morrow," so that we will not be disturbed every day by motions to rescind resolutions already passed.

The amendment was rejected.

Mr. BRODHEAD. Mr. President: I move to amend, by adding the words "and there shall be no sessions on Saturdays."

The question being upon the amendment, the yeas and nays were required by Mr. Corbett and Mr. Darlington, and were as follow, viz:

YEAS.

Messrs. Andrews, Baer, Baker, Bannan, Bartholomew, Brodhead, Broomall, Buckalew, Corson, Curtin, Davis, Ewing, Funck, Gibson, Gowen, Green, Hanna, Harvey, Lilly, Mann, Rooke, Ross, Simpson, Smith, H. W., Stanton, Van Reed, Wetherill, J. M., Woodward and Meredith, *President*—30.

NAYS.

Messrs. Achenbach, Armstrong, Baily, (Perry,) Bailey, (Huntingdon,) Barclay, Biddle, Bowman, Brown, Campbell, Carter, Church, Clark, Cochran, Corbett, Craig, Cuyler, Darlington, De France, Dunning, Edwards, Elliott, Fell, Finney, Fulton, Guthrie, Hazzard, Howard, Knight, Lawrence, Lear, Littleton, MacConnell, M'Culloch, M'Murray, Mantor, Metzger, Minor, Newlin, Niles, Palmer, G. W., Palmer, H. W., Patterson, D. W., Patton, Purviance, John N., Purviance, Samuel A., Reed, Andrew, Reynolds, Jas. L., Sharpe, Smith, Wm. H., Struthers, Turrell, Walker, Wherry, White, Harry, White, J. W. F., and Wright—56.

So the amendment was rejected.

ABSENT OR NOT VOTING.—Messrs. Adicks, Ainey, Alricks, Bardsley, Beebe, Black, Charles A., Black, J. S., Boyd, Carey, Cassidy, Collins, Cronmiller, Curry, Dallas, Dodd, Ellis, Gilpin, Hall, Hay, Hemphill, Heverin, Hopkins, Horton, Hunsicker, Kaine, Lamberton, Landis, Long, M'Allister, M'Camant, M'Clean, MacVeagh, Mott, Parsons, Patterson, T. H. B., Porter, Pughe, Purman, Read, Jno. R., Reynolds, S. H., Runk, Russell, Smith, H. G., Stewart, Temple, Wetherill, Jno. Price, White, David N. and Worrell—47.

Mr. MANN. Mr. President: I move to amend so as to make the hour for meeting on Monday morning at eleven o'clock. I make this motion because we were unable to secure a quorum yesterday morning until eleven o'clock, and I apprehend there will be that difficulty every Monday morning.

The amendment was agreed to.

Mr. MANN. Mr. President: I move now to add, that there shall be no session on Saturday afternoon.

The amendment was agreed to.

The PRESIDENT. The question now is on the resolution as amended. It will be read for information.

The CLERK then read the resolution as follows:

Resolved, That on and after to-morrow this Convention will meet at ten A. M. and adjourn at one P. M., and meet at three P. M. and adjourn at five P. M., except on Monday, when the Convention shall meet at eleven o'clock A. M., and on Saturday afternoon there shall be no session."

Mr. BROOMALL. Mr. President: Before the vote is taken, I desire to say that that resolution shortens the work in a week by about four hours.

The question being on the resolution as amended, the yeas and nays were required by Mr. Corbett and Mr. Joseph Bailly, and were as follows, viz:

Y E A S.

Messrs. Achenbach, Andrews, Bailey, (Huntingdon,) Bannan, Bartholomew, Bowman, Brodhead, Buckalew, Carter, Craig, Curtin, Davis, De France, Dunning, Elliott, Ewing, Fell, Fulton, Funck, Gibson, Gowen, Green, Hanna, Harvey, Howard, Lawrence, Lear, M'Murray, Minor, Newlin, Niles, Palmer, G. W., Rooke, Sharpe, Smith, Henry W., Temple, Van Reed, Wherry, White, Harry, White, J. W. F., Worrell and Wright—42.

N A Y S.

Messrs. Armstrong, Baer, Bailly, (Perry,) Baker, Barclay, Biddle, Broomall, Brown, Campbell, Church, Clark, Cochran, Corbett, Corson, Cuyler, Darlington, Edwards, Finney, Guthrie, Hazard, Knight, Lilly, Littleton, MacConnell, M'Culloch, Mann, Mantor, Palmer, H. W., Patterson, D. W., Patton, Purviance, John N., Purviance, Samuel A., Reed, Andrew, Reynolds, James L., Ross, Simpson, Smith, H. G., Smith, Wm. H., Stanton, Struthers, Turrell, Walker, Wetherill, J. M., Woodward and Meredith, President—45.

So the resolution was rejected.

ABSENT OR NOT VOTING.—Messrs. Addicks, Ainey, Alricks, Bardsley, Beebe, Black, Charles A., Black, J. S., Boyd, Carey, Cassidy, Collins, Cronmiller, Curry, Dallas, Dodd, Ellis, Gilpin, Hall, Hay, Hemphill, Heverin, Hopkins, Horton, Hunsicker, Kaine, Lamberton, Landis, Long, M'Allister, M'Camant,

M'Clean, MacVeagh, Metzger, Mott, Parsons, Patterson, T. H. B., Porter, Pughe, Purman, Read, John R., Reynolds, S. H., Runk, Russell, Stewart, Wetherill, J. Price and White, David N—46.

THE ARTICLE ON LEGISLATION.

Mr. HARRY WHITE offered the following resolution:

Resolved, That the committee of the whole be and is hereby discharged from the consideration of the article reported from the Committee on Legislation, and the same, together with the amendment added and proposed thereto by the committee of the whole, be referred back to the Committee of Legislation, with instructions to report at as early a date as practicable.

The PRESIDENT. It is not necessary to introduce a resolution to that effect. The same end can be reached by a motion.

Mr. HARRY WHITE. I make that motion.

Mr. LILLY. I move to amend the motion, by referring the subject to the Committee on Suffrage, Election and Representation.

The PRESIDENT. The gentleman can attain his object by moving to amend the motion, by adding "and that the Committee on the Legislature be instructed to confer upon these subjects with the Committee on Suffrage."

Mr. HARRY WHITE. I accept that as a modification of my motion.

The motion, as modified, was agreed to.

DIVISION OF COUNTIES.

Mr. DUNNING offered the following resolution, which was read and referred to the Committee on Counties, Townships and Boroughs:

Resolved, That the Committee on Counties, Townships and Boroughs be requested to take into consideration the propriety of reporting a section providing that all counties having a population exceeding one hundred thousand the Legislature shall have the power to make sub-divisions thereof, establishing in each sub-division all the necessary courts pertaining to counties, with exclusive or concurrent jurisdiction, and offices for recording deeds, granting letters of administration and proving wills: *Provided*, That such sub-divisions shall not contain more than forty thousand inhabitants.

DEBATE ON ADJOURNMENT.

Mr. LILLY. Mr. President: I move to take up the resolution I offered yesterday.

The PRESIDENT. The resolution will be read for information.

The CLERK read:

Resolved, That hereafter all resolutions in relation to the time of adjournment and hours of session of the Convention shall be open to amendment, and all speeches on such resolutions shall be confined to three minutes, and that no member shall speak more than once on the same.

The motion to proceed to the second reading of the resolution it was not agreed to.

RULE TWENTY-FIVE.

Mr. BAER. Mr. President: I move that the resolution relating to rule twenty-five be taken from the table and considered.

The PRESIDENT. The resolution will be read for information.

The CLERK read:

WHEREAS, All resolutions adopted by this Convention which operate as a change, alteration or modification of rule twenty-five, have thus far only impeded the progress of the business of the Convention, and, in fact, are only a dead letter upon the record; therefore,

Resolved, That all resolutions violative to rule twenty-five are hereby rescinded and annulled, and the rule reinstated as originally adopted.

The motion to proceed to the second reading and consideration of the resolution was agreed to, and the resolution was again read.

The question recurring upon the original motion it was not agreed to.

LEAVE OF ABSENCE.

Mr. HOWARD. Mr. President: I desire to call up the following resolution I offered a few days ago, in relation to leave of absence:

Resolved, That leave of absence shall not be granted in any case, unless the reasons shall be fully stated to the Convention, which, in every case shall decide upon the sufficiency of the reasons; and in case of absence without leave, the Sergeant-at-arms shall be directed to bring in the absent member, and upon their ap-

pearance, they shall be reprimanded by the President at the bar of the Convention.

Mr. HOWARD. I move the Convention proceed to a second reading and consideration of the resolution.

The motion was not agreed to.

THE EXECUTIVE DEPARTMENT.

The PRESIDENT. The next business in order is the consideration of the article reported by the Committee on the Executive Department. Mr. Woodward will take the chair.

COMMITTEE OF THE WHOLE.

The Convention then resolved itself into committee of the whole, Mr. Woodward in the chair.

The CHAIRMAN. The first section of the report will be read.

THE OFFICERS OF THE COMMONWEALTH.

The CLERK read as follows:

SECTION 1. The Executive Department of this Commonwealth shall consist of a Governor, a Lieutenant Governor, a Secretary of State, Attorney General, Auditor General, a Secretary of Internal Affairs and a Superintendent of Public Instruction.

The question being taken, the first section was agreed to.

The CHAIRMAN. The second section of the report will be read.

THE EXECUTIVE POWER.

The CLERK read as follows:

SECTION 2. The supreme executive power shall be vested in a Governor, who shall take care that the laws be faithfully executed. He shall be chosen on the day of the general election, by the qualified electors 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 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. BOWMAN. Mr. Chairman: I move to amend, by striking out the word "Speaker," occurring just before the words "of the Senate," and inserting the word "President." The reason I offer this amendment is that it must be obvious to every one there is no such officer as Speaker of the Senate. The Senate is to be presided over by the Lieutenant Governor, and whenever he shall be called upon to exercise the duties of Governor then a President of the Senate shall be elected.

The amendment was agreed to.

Mr. HARRY WHITE. Mr. Chairman: I desire to say in connection with this amendment that—

The CHAIRMAN. The amendment was agreed to.

Mr. JOHN R. READ. Mr. Chairman: I move the vote to be re-considered by which the amendment was agreed to.

["No." "No." "No."]

The question being taken upon the motion to re-consider, a division was called which resulted as follows: Ayes, thirty-seven; noes, twenty.

So the motion was agreed to.

Mr. HARRY WHITE. Mr. Chairman: I understand the motion is to strike out the word "Speaker," and insert the word "President." I move to amend that motion, by striking out the word "President," and inserting "presiding officer of the Senate." My reasons for this motion are simply these: It has been said, among other things in this Convention, that all changes are not reforms, and I think there are some things that are and ought to be dear to Pennsylvanians, and among some of them I think is the practice which obtains in our Legislature by which the presiding officer is addressed as "Mr. Speaker." There is no reason why this practice should be changed. I do not think the sentiment of the subject requires that it should be changed. If it is the intention of the Convention to create the office of Lieutenant Governor, let it be so, but it is not necessary to change the style of addressing the presiding officer of the Senate while that body is in session transacting its business. If the presiding officer of the Senate is called the President in accordance with the Constitution, of course that will be beyond and far ahead of any rules which that body may adopt. If the

words "presiding officer" are inserted in the section the Legislative body can then regulate this matter in due season; and they can continue the style of addressing the Chair as "Mr. Speaker." It is for the purpose of preserving this peculiarity in the legislative system of Pennsylvania that I have offered the amendment striking out the word "President," and inserting the words "presiding officer."

Mr. BOWMAN. Mr. Chairman: I think a reference to the whole report of the committee will convince every delegate that this amendment will be improper. It will be observed that the word "President" occurs in the fourth section, and also in the fifteenth section, and of course they will have to be changed.

The question was then taken on the amendment to the amendment, and it was not agreed to.

The question was then taken upon the amendment, and the amendment was agreed to.

Mr. EWING. Mr. Chairman: I move to amend the section, by striking out all after the word "Houses," where it occurs the second time, and inserting the following: "Contested elections for Governor and Lieutenant Governor shall be determined by the Supreme Court in such a manner as shall be prescribed by law."

Mr. EWING. Mr. Chairman: The section reported by the committee leaves this matter to be determined by a committee selected from both Houses of the Legislature, and I suppose it is intended to constitute the committee something like the committees now chosen to determine contested elections of members of the Senate and House of Representatives are selected. When that plan was first adopted in the English Parliament, and at the time of its adoption in Pennsylvania, it was supposed to meet the objections that had arisen to the methods in which contested elections were formerly determined, and that it would be entirely fair. I believe the experience of the English Parliament and the experience of the two Houses of the Legislature in Pennsylvania has demonstrated that it is the worst possible method that can be followed in the determination of contested elections. Now I would very much prefer to entrust this subject to a joint

session of the two Houses of the Legislature than to a committee; but it seems to me the best method is to determine all such questions by a judicial proceeding before the Supreme Court. Let the Legislature pass a law which shall direct the manner in which such cases shall be determined, as any other judicial proceeding would be. I cannot see any reason why the legislative branch of the government should settle the question of contested elections for the Executive rather than the judicial department. I prefer, therefore, that all such questions should be settled by the highest court in the State, in accordance with the rules and regulations prescribed by law.

Mr. BUCKALEW. Mr. Chairman: This motion to strike out and insert is, I suppose, to be indivisible. I am in favor of striking out this clause in the section, but not of inserting the new matter proposed by the pending amendment. Our Committee on Suffrage have had the general question of contested elections before them for consideration, and they agreed upon the general form of a section upon this subject, covering not only the case of a contested election of Governor, of electors of President and Vice President, of members of the Legislature, but of the various State officers and all other officers of the State.

We do need a constitutional provision on this subject. Now the Committee upon the Executive Department have not proposed anything new. This clause is simply a clause of the present Constitution retained in their report, and I am strongly opposed to retaining it in the Constitution, and that for a reason which will appeal to every gentleman who has ever been a member of the Legislature, or has been observant of legislative proceedings in contested election cases. By the existing statute of 1839, based in part upon this clause of the Constitution, it is provided that a committee be drawn by lot from the two Houses of the Legislature, assembled in joint convention for the purpose. Well, sir, under the experience we have had, an experience which was not before the men who placed this provision in our Constitution, we know perfectly well, that in three cases out of four, to speak within bounds, of a contested election for Governor, the result will be determined by the composition of

the committee drawn. Every intelligent man familiar with public affairs can judge, or will be able to judge at once, how a contest will be decided, when he knows what is the composition of the committee. These committees will be purely political, as to the constitution of their majority, and in three cases out of four will decide in favor of their political party or of the candidate representing it.

One marked inconvenience is encountered in drawing these committees. As a matter of course, challenges are freely allowed. The number is very great compared to the whole number of names drawn. What is the inevitable result? Why that each party to the contest will object off all the strong men on the opposite side, politically, and the committee will ordinarily be composed of the weakest members of the Senate and House—men of little capacity—men who are not dreaded by their political opponents, when their names come to be drawn, by reason of their conscientiousness, and you will therefore always get a committee composed of comparatively weak and incompetent members of the Senate and House; and these men, lacking intelligence and independence, will vote dead for party in committee on all questions which arise; so that I consider that this clause of the Constitution, as we have it now, and as it is proposed to continue it, is a very bad provision. It should be stricken from the Constitution, and this question of contested elections should be vested in some tribunal which shall possess in the first place more capacity, and next possess independence, and lastly have something of a judicial character—for a contested election presents a purely judicial question, and the members of the Legislature, acting as they ordinarily do with reference to party considerations, claiming for themselves a wide discretion in the exercise of their authority, will not decide anything judicially, and you must make a change. But I agree, sir, with one of the gentlemen who has just spoken, that it is not perhaps expedient to charge this duty upon the Supreme Court. At all events we ought to consider this question in Convention, and the other questions of contested election which will be before us on a separate report, which in due time will be presented by the proper committee. At present I am in favor of

striking out this clause, and as the pending amendment proposes to insert new matter, and it is indivisible, I do not know what gentlemen who feel as I do can do but vote down this amendment, and afterward vote to strike out the clause, because I believe in modern practice, after a motion to strike out and insert has been rejected, you can still move to strike out the same clause.

Mr. HARRY WHITE. Mr. Chairman: I move to strike out the amendment offered by the gentleman from Allegheny, and insert the following amendment:

"Contested elections shall be tried and determined only in the manner the Legislature shall prescribe by general law."

Mr. HARRY WHITE. Mr. Chairman: It is very manifest that the Committee on the Executive have considered this subject, and have determined to repose the power to try contested elections in the Legislature; and I observe from the report, that they have left the Constitution just as the statute of 1839 left it. I assume that is the sentiment of the committee. I agree with them to a certain extent, but I differ entirely from the gentleman from Allegheny, (Mr. Ewing,) who offered the amendment to refer this matter to the Supreme Court. I agree with the report of the committee, in so far as they would allow the Legislature to determine this matter, and take the responsibility of passing a general law to determine the question, but I differ entirely with the report of the committee, in reposing the power to try and determine this question in a committee to be drawn by lot. If this committee of the whole will take the trouble to look at the report of the Committee on Legislation, they will discover that this question of contested election has been passed upon. That committee have seen fit, in their report, to provide that contested elections, in the Legislature, shall be tried and determined by a court of common pleas of the county in which the returned member lives, in such manner as shall be prescribed by law.

Mr. BIDDLE. Mr. Chairman: If the gentleman will allow the interruption, I desire to say that there is nothing in the report of the Committee on Executive Department that requires a committee to determine a contested election to be drawn by lot. Nothing whatever.

Mr. HARRY WHITE. I am aware of that fact, Mr. Chairman. But from the language of the report, you will discover "contested elections shall be determined by a committee to be selected from both Houses of the Legislature."

Mr. BIDDLE. "In such manner as shall be prescribed by law."

Mr. HARRY WHITE. Mr. Chairman: That is true; and this evidently contemplates some measure of lot in the selection of the committee. This report is evidently predicated upon the existing rule on this subject.

I reiterate the experience which the gentleman from Columbia (Mr. Backlaw) has uttered on this subject. Contested elections in our Legislature have, to a certain extent, been a mockery upon its legislative and upon its judicial tribunals. The Legislature of 1839, in following the Constitutional Convention of 1799, thought they were wise in following the precedent which George Granville adopted in the English Parliament in 1770, and thought, when this matter of lot was agreed upon and secured for trying these cases, a panacea for all excitements resulting from political contests had been secured. But the experience of the past few years in Pennsylvania, where this system only obtains, has been to contravene this conclusion, and it is true, in the main, that the result of a contested election in the Legislature of Pennsylvania, if not elsewhere, depends upon the political complexion of the committee that is selected to try the case. I speak from experience, and I speak from observation upon this subject.

I would change this rule Mr. Chairman; I would break up the system of selecting a committee by lot and allow them ultimately to determine this question. Heated partisan politics, the tenor of party rule, the control of party caucuses if you please, affect the individual members of these committees, and fill not only the atmosphere around the Legislature with scandal and corruption, but the whole Commonwealth, and breed that discontent and want of confidence in the law-making power that is perilous to our institutions. I see no remedy for it but to repose this power in the Legislature; not in the committee, but in the legislative body. Let a committee be selected, in the first place, in such a man-

ner as shall be provided by law; let them be elected upon the limited or upon the cumulative plan, I care not what; require them to make their report to a joint convention of the Houses, or, respectively, to each body, but let that report be passed upon in the Legislature and be scrutinized, and if it cannot be sustained by argument, if it cannot withstand the scrutiny of Senators and Representatives from both sides of the House, why let the report of the committee go under. But I hope the time will come, and that this Convention will mark the period when we have ceased reposing the ultimate power to dispose of contested elections in committees drawn as is provided for by the act of 1839. My amendment, Mr. Chairman, seeks to let this matter be regulated by law, and not to bind the hands of the Legislature to repose it in the power of a committee to determine this question. Let the Legislature pass a general law as in their wisdom they shall see fit, but do not let them say when they select a committee to examine into a case of contested election that such a committee shall have the ultimate determination of the question. The amendment that I offered opens the door and allows a general law to be passed, which will determine all these cases.

MR. CURTIN. Mr. Chairman: The Committee on the Executive Department found the language of this section in the Constitution as it is, and, as no contest has ever occurred in the election of a Governor, there was no abuse to correct, and the committee very properly concluded to let the Constitution remain as it is. For I presume that this committee is called to correct abuses, and not to provide against evils that have not been complained of in our experience. The Committee on Executive Department have, therefore, left the matter with the Legislature, and whether they will determine a contested election for Governor, if one ever occurs, by drawing a committee by ballot, or by the joint action of its two bodies, is entirely immaterial. If the gentlemen from Columbia (Mr. Buckalew) and Indiana (Mr. Harry White) are correct, then the political majority in the Legislature, whether found in a committee or in the body of the two Houses at large, will control the result. It is very unfortunate, indeed, that contests grow-

ing out of our elections for officers, and carried into the Legislature, would not be determined fairly.

The delegate from Columbia has said that the committee, of which he is a very useful member, have adopted some plan bearing on contested elections, which, in a few days, will be submitted to the Convention. Now, Mr. Chairman, so far as I am personally concerned—not speaking for the committee—I am quite indifferent upon this subject. Finding there was no evil that had grown out of this old section of the Constitution, we incorporated it into the proposition for the amended Constitution. It is alleged by the gentleman from Indiana, (Mr. Harry White,) who has had quite experience enough in the Legislature of the State, as a member of the highest body, and surely enough as a member of committees on contested election, to know, and we must accept as true what falls from his lips, that notwithstanding the oath of office and the obligation to the people, contested elections are decided by the politics of the contestants and the political complexion of the committee. It is a frank and candid acknowledgment on the part of the delegate, which is very creditable to him, indeed, and may be very useful to this Convention in their future deliberations.

The learned and distinguished delegate from Columbia (Mr. Buckalew) has said that they propose to lodge the subject of contested elections with the court—the Supreme Court, or the court of common pleas. In this deluge of political sin which seems to be visiting this State and finds so many ready and eloquent exponents in this body, had we not better take care that in giving too much power to the courts we do not carry the judiciary itself down into the very gutter of politics, in the unhappy and deplorable condition described by the delegate from Indiana (Mr. Harry White) in which we find the committees of the Legislature. I do not believe that it is judicious to give to the courts too much power. I do sincerely think that all these appointments of commissions made in the city of Philadelphia degrade the judiciary. The Supreme Courts are designed to be an abstraction, and to sit there to decide judicial questions of rights of property and person, and I doubt very much whether it would improve the

character of that exalted tribunal to give to them the power of meddling with all the political squabbles which occur at Harrisburg, and place them in danger of the taint which may follow them from the committees of the Legislature; but it is a matter of perfect indifference to me as a member of the committee, and I am quite sure I speak the sentiments of the others. It will be for the committee to decide whether it would not be better to amend this section of the article or to pass it for the present, and when the committee have reported on the subject of contested elections that can be changed on second reading.

MR. DARLINGTON. Mr. Chairman: I am not able to concur with my friend from Allegheny (Mr. Ewing) on the subject now before the committee, for the reason which has been briefly stated by the gentleman who has just taken his seat (Mr. Curtin.) I feel myself constrained by the reflection that I have given to the general subject, to endeavor to mark out to myself a general plan of action on this general question, and that is, not to add to, but to take from the judiciary all political power. Relieve them from all political labor—let them give the whole of their time and talents to the proper discharge of the functions of their judicial office. I would take from them all political power that has heretofore been committed to them, all power that is of a political character, such as deciding upon contested elections in the city or county of Philadelphia, or other powers of that kind.

I think it would be objectionable on two accounts: First, the imposition of unnecessary labor upon them which they ought not to have; and then the danger of bringing them into the political arena.

How should the contest of an election for Governor be decided? What better can we do, with the lights we have before us, than to leave it precisely where the committee have left it? They found this provision in the Constitution of 1790, and the Constitution of 1838. No better plan has as yet been suggested. If any better plan should be suggested by the gentleman from Columbia, (Mr. Buckalew,) when his committee shall bring in their report, it will be time enough to be enlightened by it, and act upon it in ref-

erence to matters of this character when it comes before us. What better can we do now than to leave the provisions of the Constitution as they are? I submit that there has been no improvement. I suggest that we ought not to undertake a change merely for the sake of change, without being very sure that it is an improvement.

MR. ARMSTRONG. Mr. Chairman: There is much force in the suggestion which has been made by the gentleman from Columbia, (Mr. Buckalew,) and, perhaps, that may be a wise and proper disposition of this question, when it comes properly before the House. We are not yet informed what particular provision the Committee on Elections may present to the consideration of the House, as a substitute for this, and which will embrace the whole question of contested elections, not only of the Governor, but of all inferior officers. I would suggest, however, that in the absence of such report, the provision now under consideration should be adopted as it stands. The question received much consideration from the committee, and it was our judgment that it would be better to follow the Constitution as it now stands, until some definite and distinct proposition is reported from the Committee on Elections, which would cover the entire ground. If they present such a report as will fully cover the contested election of Governor, the Committee on the Executive Department would have no objection, whatever, to its adoption, and that it should then become a part of this article of the Constitution; but as this section is pending only in committee of the whole, and will be fully and entirely within the power of the Convention, when it comes up upon second reading, I would suggest that it would be judicious, for the present, to pass it as it is, and after we have had full opportunity to consider the report of the Committee on Elections, we may then amend this section of the article under consideration, or strike it out upon second reading, if that report should be satisfactory. For the present, therefore, I hope that the amendment will not be agreed to, and that the report of the committee, as they have presented it, will be adopted.

MR. EWING. Mr. Chairman: By the consent of the House, I withdraw my amendment.

The CHAIRMAN. If the amendment be withdrawn, the amendment to the amendment goes with it. The question then will be on the section as amended.

Mr. CUYLER. Mr. Chairman: I move to strike out the words "a committee to be selected from," so that the section shall read, "shall be determined by both Houses of the Legislature, and formed and regulated in such manner as shall be directed by law."

Mr. HARRY WHITE. That is what I offered.

Mr. CUYLER. Mr. Chairman: I understood the gentleman from Indiana (Mr. Harry White) to be opposed to a committee to be selected to be regulated by law; but to favor leaving in the section the proposal that it should be got at by the committee of both Houses.

Mr. HARRY WHITE. Mr. Chairman: For the purpose of testing the sense of the Convention, I moved my amendment to strike out and insert as proposed.

Mr. CUYLER. That leaves in the words, "the committee to be selected from."

Mr. HARRY WHITE. No, I beg pardon. If you will observe, the amendment speaks of striking out all after the word Houses, in the eleventh line, and insert —

The CHAIR. The question will be upon the amendment of the gentleman from Indiana, (Mr. Harry White,) to the amendment of the gentleman from Philadelphia (Mr. Cuyler.)

Mr. CUYLER. Mr. Chairman: The amendment of the gentleman from Indiana (Mr. Harry White) correctly expresses the view that I had in my mind. I therefore withdraw my amendment. I would like to ask the gentlemen who have had experience in contested election cases in our courts—and I have had some—and my friend from Philadelphia, who sits behind me, (Mr. Biddle,) has had more, when we have ever regarded the contested election cases, in the courts of Philadelphia, as doubtful? I want to ask any gentleman here, who has had experience, whether the result of a contested election in our courts has not uniformly been predicted by the bar before the decision was made? I must say, so far as my experience has gone, and so far as my observation has gone, I have never entertained a doubt. I have never erred in my

prediction as to what the result of a contested election case in our courts would be. And just so long as our judges are elected by the popular vote, will that be the fact. Just so long as a judge is taken from the body of the people, and nominated by a political convention, and elected by a political party, just so long the decision of our judges in contested election cases, will be founded upon their political predelections. I charge no corruption, but the influence upon the mind of the judge is so irresistible that he struggles against it in vain. The existence of this influence is perhaps unconscious upon his mind, but it is no less the truth, that his opinion is influenced by his political predelections.

This question has been discussed in the Judiciary Committee. It is the feeling of the committee, and it is certainly my feeling as a member of that committee, that it is one of the most solemn duties resting upon us, to take away from the courts all connection with this question. I would not pollute our courts by bringing contested election cases into their tribunal at all. Some other method must be found. I cannot suggest what, but it must, or certainly should be found, by which these questions can be determined without submitting it to the decision of the courts. This decision of contested election cases has done more to shake the confidence of the people of Pennsylvania in the purity and integrity of their courts than any other class of questions that has come before them. I am far from supposing that the remedy in this section is faultless. I agree with the gentleman from Indiana, (Mr. Harry White,) whose experience is vastly greater than mine, that the result of the experiment in the Legislature has not been such as to encourage the hope that their decision would be free from party bias, or uninfluenced by partiality; but I accept it as a choice of evils. Let us follow it until something better is devised, as I am sure there will be before we close our labors, but still of the two evils it is the lesser. Rather than deposit the decision of such questions with the courts of justice, and impair the old confidence of the people, would I leave it with the Legislature with all the disadvantages and all the reasons that attend the decision of such questions by that body.

Mr. J. N. PURVIANCE. Mr. Chairman: I will remark that the section under consideration received the very deliberate consideration of the committee, and I should regret very much that any change should be made in it in committee of the whole, but if the suggestion of the gentleman from Lycoming (Mr. Armstrong) be adopted, if upon careful examination in Convention it may be deemed advisable to make a change, it can be better done there. I would remark that this section and the language now objected to, is precisely the words of the Constitution of 1838. We have lived under this Constitution a period of nearly forty years, and no citizen of this Commonwealth, from the Delaware to the lake, has ever complained of this clause in the Constitution. It would be unwise, perhaps, on the part of this Convention to strike it out and adopt a new section, because uncalled for, and perhaps it might lead to bad consequences. As it stands now, it is probably as good as we can get it. It is not one of the subject matters that the people have sent us here to correct, and if we go on correcting everything, if we are satisfied with nothing in the Constitution of 1790 or the Constitution of 1838, we shall make such a Constitution as the people of the State will vote down almost unanimously.

Now, I take it that we must trust some tribunal in this State. The whole people of this Commonwealth are not corrupt. If you remove from the Legislature a jurisdiction over its elections and lodge it in the Supreme Court, you may have a tribunal just as likely to be swayed by partisan feeling and by political excitement as the Legislature. The Legislature has, thus far, been the safe repository of that power; let us keep it there, at all events, until there shall be some reason for the change as reported. I trust the section will pass the committee, then in Convention it may be reviewed and more fully considered if it is deemed proper so to do.

Mr. BUCKALEW. Mr. Chairman: There has been but one Governor in this State who was elected by a very small majority since my recollection. I refer to the election of Wm. F. Johnson, and I submit that because it has not heretofore happened that we have had a contested election for Governor, it does not follow that

we ought not to make careful provision for such an occasion in the future.

Mr. HARRY WHITE. Mr. Chairman: At the suggestion of several members I have drawn up my amendment in proper shape, and I desire to have it read.

The CLERK read:

"Contested elections shall be determined by both Houses of the Legislature, in such manner as shall be directed by law."

The amendment was agreed to.

Mr. GOWEN. Mr. Chairman: I move to amend the section, by inserting after "power," in the first line, the words "of this Commonwealth," so that it will read, "the supreme Executive power of this Commonwealth shall be vested in a Governor," &c.

Mr. BIDDLE. Mr. Chairman: We are only legislating, I presume, for the Commonwealth of Pennsylvania.

Mr. BOWMAN. If the gentleman from Philadelphia (Mr. Gowen) will look at the first line of the first section he will see that his amendment is entirely unnecessary. The reading of that line is: "The Executive department of this Commonwealth shall consist of a Governor," &c. Now, the first line of the section under consideration, which the gentleman proposes to amend, reads: "The supreme Executive power shall be vested in a Governor," &c. What power? Of what? Of this Commonwealth.

The amendment of Mr. Gowen was not agreed to.

The question recurring on the adoption of the second section, it was agreed to.

The CLERK read section third, as follows:

The Governor shall hold his office during four years, from the third Tuesday of January next ensuing his election, and shall not be capable of holding the office for the term next succeeding the term for which he was elected.

Mr. BRODHEAD. I move to amend, by striking out the words "capable of holding office," and inserting the words "eligible to." The difficulty will arise in case of the Governor going back to the Senate, or of his becoming Lieutenant Governor, of his being unable to hold the office of Governor in case of the Governor's death; but by striking out the words "capable of holding office," and

inserting "eligible," the true intent of the committee will be carried out.

Mr. ARMSTRONG. Mr. Chairman: The purpose which the Committee had in view was to prevent the Governor from holding two terms successively. It was thought that the word "eligible" might prevent his being a candidate at the second succeeding election, as the word "eligible" takes hold upon the qualification at the time of the election, and would operate to prevent his nomination for the second succeeding term, which would practically exclude him from the office for two instead of one term. The Governor's term commences in January. The election will be held in the November preceding. He might not hold the next term, but he would be enabled to run at the election which would fall in November preceding the time when he would take office, and be eligible for the next succeeding term, if the phraseology of this report is preserved, but it will practically exclude the Governor for two terms if he is to be eligible at the time when the election is held. We sufficiently guard it by the phraseology, which prevents him from holding office for two terms in succession, although we permit him to be elected at the election preceding the time when he would come into office. The phraseology was used with that intent.

The amendment of Mr. Brodhead was not agreed to.

Mr. BUCKALEW. Mr. Chairman: I move to amend, by striking out all after the word "election," in the second line. The provision in the present Constitution is, if I remember it correctly, that no person shall hold the office of Governor more than six years in any term of nine years. I am in favor of allowing that provision to stand. In short, sir, I have never been captivated with this general idea which some gentlemen seem to think popular, of one term for all sorts of people in public office. I think that it is against the public interest.

Now it is true that a considerable amount of opinion has grown up in the country, or at least has been indicated by the press and otherwise, in favor of limiting the President of the United States to a single term, and that opinion, to whatever extent it may have gone among the people, is founded upon a reason which

does not exist in the case of the Governor of this Commonwealth.

The President of the United States has very large powers of appointment. His patronage is positively fearful, in the judgment and opinion of those who have considered the question of the organization of our general government carefully. He appoints an enormous mass of men to fill and discharge the duties of the public offices of the United States, and, of course, he has enormous powers grasped in his hand, and mostly without accountability to any earthly power, which he can use for the purpose of re-nominating and re-electing himself to that high office. The check of the Senate upon him, with reference to some of the high offices, goes but a little way in lessening the force of this general statement; therefore there may be fair argument, I grant you, made in favor of limiting the holding of the Presidential office to a single term. But how different is the case with reference to the Governor of this Commonwealth! In 1838 he was stripped of nearly the whole power of appointment which had been theretofore vested in him. He now only appoints his own Secretary and Attorney General, and he fills certain offices for fragments of terms, when they become vacant, throughout the State, and I believe appoints a few inspectors in the city of Philadelphia, and some notaries public here and elsewhere. This power of patronage in his hands is quite insignificant, and his possession of it will not enable him to re-nominate himself, or re-elect himself as Governor of the State, or exercise any considerable influence to that end. Therefore there is no reason, in my opinion, for limiting the people in this matter of their choice of Governor for a second term.

When a man has been placed in that office, and has proved himself to be a man of singular ability, and by his integrity in the discharge of his high office has won the confidence of the people, why deny him the privilege of serving the people for a second term, and compel the people to select a raw man to fill that office and discharge its important duties? If there were great abuses to be apprehended from continuing a Governor in office a second term, I would say nothing against this clause reported by the com-

mittee; but as no such abuses seem reasonably to be apprehended, and as our experience in this State has not shown any abuses or mischief in that quarter, I hope no such provision as this will be inserted in the Constitution. I think it would have been a cause of regret during the last twenty-five years, if the people had not been permitted to re-elect several men who have filled the office of Governor of this State with rare ability; and as there seems to be no reason or necessity for the change, I hope we will leave the Constitution as it is.

MR. BIDDLE. Mr. Chairman: This clause was a matter of anxious consideration in the committee, and as it stands reported to the Convention, I believe I am entitled to say that it received the endorsement of every member. Now, undoubtedly in theory there is no good reason why you should limit the choice of the people at all, because, theoretically, I suppose constituents are able to take care of themselves; but our Constitutions, both State and federal, are full of limitations. We have limitations as to age, as to the qualifications of President, Governors and Senators; and yet it might be said, with a good deal of force, "why make any limitations, and why, if the people choose to elect Senators of the age of twenty-one, are they not just as good as men of twenty-five years of age?" It is difficult to argue and answer these questions on theory alone, and yet I think in practice we find a certain amount of value in these restrictions. Now it is the same in regard to what is called the one-term principle. In regard to the Chief Executive of the federal government, the sentiment is becoming very strong indeed as to limiting him to a single term of office. Whether truly or untruly, it has been believed that during the last year of the first term of office the whole patronage and the whole force of the government is carried in one direction, and that direction is the direction which is supposed to secure the re-election of the incumbent. Now, measurably, this will be the same in the Commonwealth; not to so great an extent, of course, because the patronage is much less, but so far as the whole machinery of the government, the passive and the active machinery, may be diverted in one direction, it may be used to accomplish this same end. I

know there are many illustrious instances to the contrary, but it was supposed that where the term was lengthened it would be wiser to restrict the Governor to a single term. The thought of the people at large is undoubtedly running in that direction, and the committee therefore reported this section as it stands. I cannot say that I am absolutely wedded to it, but I think I am entitled to say that, so far as that committee could obtain what they supposed to be the sentiment of the Commonwealth, they had it. We were also fortunate in having most important aid in the large experience of the chairman, himself a former and distinguished occupant of the gubernatorial chair. The sentiment was a general one.

Of course this Convention will do what it pleases, but I think we are leaning in the direction of a salutary change when we report the section and pass it in the shape in which it now stands.

MR. WRIGHT. Mr. Chairman: I offer the following amendment to the amendment: Strike out all after the word "office," and insert the words "for more than two successive terms." I ask for the reading of the section as amended.

The CLERK read as follows:

The Governor shall hold his office during four years from the third Tuesday of January next ensuing his election, and shall not be capable of holding office for more than two successive terms.

MR. HARRY WHITE. Mr. Chairman: I have no desire to intrude upon the time of the Convention unnecessarily in this matter, but my experience and observation in regard to this question of the re-election of the Executive is the very opposite from that of my friend from Columbia (Mr. Buckalew.) I feel like standing by every word of this section as reported by the Committee on the Executive Department. If there is one change—I was going to say reform—I will certainly say if there is one change that is required by many of our citizens who are familiar with this subject in the Commonwealth this is certainly one of them. It has been remarked that there is no reason why there should be any incompatibility to the immediate re-election to the office of Governor in a person who has worthily occupied that position. Without any reflection upon any distinguished occupant of that position, the

result of experience and observation is that few men have occupied the gubernatorial chair who would not use its privileges and its opportunities to make capital for their re-nomination. In the matter of pardons the Governor has large power, and it is said that it is the intention to change the Constitution in this respect, but in what manner? If you glance over the report of this committee, you will find that in section ten that power is proposed to be vested in the Governor to remit fines and forfeitures and to grant reprieves, &c., but it is proposed by the committee that this pardoning power shall only be exercised upon the recommendation of the Attorney General, Secretary of the Commonwealth, or other officers in immediate relation to the Executive. Why the Attorney General is the appointee of the Governor, and the Secretary of the Commonwealth is his appointee, and both of these officers are interested in his perpetuity in office. One of the objects, then, in placing this restriction upon the Executive is to secure him independence of character in this important matter of granting pardons. The gentleman from Columbia (Mr. Buckalew) has said that the Governor has no power in this Commonwealth. Why, sir, in addition to the great power of pardon he has the vetoing power, and in the matter of legislation affecting different interests in different parts of this Commonwealth, hereafter as heretofore, the Governor will be tempted to exercise his power of veto in the interests of his re-nomination and re-election. I agree with the distinguished gentleman from Columbia (Mr. Buckalew) that experience in public office and experience in legislative matters is invaluable to the people, but there are some offices where re-election would not secure that independence of action which is necessary to the faithful discharge of the duties of a public officer, and the limitation upon the term of office of the Executive, I think, is the most salutary change that has been suggested in the report of the committee.

Mr. DARLINGTON. Mr. Chairman: I desire to add simply a word or two in regard to this question. It certainly should be the object in dealing with a section of this character to provide the means by which the mind and attention

of the gentleman who may occupy the Executive chair shall be exclusively directed to the discharge of the duties of that office, and I hold it to be a great evil if any gentleman should obtain that office with any expectation or purpose of continuing himself in that position. I would remove the Governor as far as possible from the danger of seeking something higher and further, to which all men are liable. I would take from him all motive in the conduct of his office that should be in any way calculated to continue him in that position. Nay, I would go further, and, if it were possible, I would remove from him all temptation to seek a higher office. I think the office of Governor of this Commonwealth is exalted enough for any man to look to as the sun of his ambition, and no man should be sent to occupy that high office for the purpose of seeking a still higher position, as, for instance, the collectorship in Philadelphia, which one of our ex-Governors once accepted. I would make the office of Governor in this great Commonwealth so dignified and so honorable that no man should care to look beyond it. Nay, more. For the purpose of removing all possible motive from his mind to attend to any other matters, I would discourage him, so far as it is possible, from any kind of speculation with the view of making money. I would not let his mind be distracted from the discharge of his public duties by anything of that kind, and I would allow him to grant pardons. I do not suppose any man ever granted a pardon for the purpose of making use of a thief as a voter. I suppose all Governors are beyond and above all that. I would not allow him to exercise his office in any way, or for any purpose, with a view to his own advancement. He should look solely to the conscientious discharge of the duties of his office.

The CHAIRMAN. The Chair is of the opinion that the motion of the gentleman from Luzerne (Mr. Wright) is not in order at this time. The amendment of the gentleman from Columbia (Mr. Buckalew) was to strike out all after the word "elections," in this section. If that motion prevails, the amendment proposed by the gentleman from Luzerne (Mr. Wright) would form part of the section stricken out, and hence it is out of order at this time.

Mr. BUCKALEW. Mr. Chairman: I withdraw my amendment for the purpose of allowing a vote to be taken upon the amendment offered by the gentleman from Luzerne (Mr. Wright.)

The question was then taken on the amendment, and it was not agreed to.

Mr. BUCKALEW. Mr. Chairman: I now renew my amendment, to strike out all after the word "election."

The CHAIRMAN. The question is upon the amendment.

The amendment was rejected.

The CHAIRMAN. The question is upon the section, which will be read.

The CLERK:

SECTION 3. The Governor shall hold his office during four years, from the third Tuesday of January next ensuing his election, and shall not be capable of holding the office for the term next succeeding the term for which he was elected.

The section was agreed to.

The CHAIRMAN. The fourth section will be read.

The CLERK:

SECTION 4. A Lieutenant Governor shall be chosen in the same manner, at the same time and for the same term, subject to the same provisions; he shall be President of the Senate, but shall have no vote, unless they be equally divided.

The section was agreed to.

Mr. ARMSTRONG. Mr. Chairman: At this point I will ask unanimous consent of the committee to go back to section one, for the purpose of inserting after the words "Auditor General," the words "a State Treasurer." These words were inserted by the committee, and were omitted in the printing. I did not observe it until this moment, and they should go in to make the report uniform. The section as drafted read:

SECTION 1. The Executive Department of this Commonwealth shall consist of a Governor, a Lieutenant Governor, a Secretary of State, Attorney General, Auditor General, a State Treasurer, a Secretary of Internal Affairs and a Superintendent of Public Instruction.

Mr. HARRY WHITE. Mr. Chairman: While the gentleman from Lycoming is making that correction, I will suggest that he change the words "Secretary of State" to "Secretary of the Commonwealth." That is the term used now.

Mr. ARMSTRONG. Mr. Chairman: The office is named in the report of the committee, as the committee intended it should be, "Secretary of State," which is a more appropriate and shorter phrase than "Secretary of the Commonwealth."

The CHAIRMAN. The correction suggested by the gentleman from Lycoming will be made.

The question is on the fifth section, which will be read.

The CLERK:

SECTION 5. No person shall be eligible to the office of Governor, or Lieutenant Governor, except a citizen of the United States, who shall have attained the age of thirty years, and have been seven years next preceding his election an inhabitant of the State, unless he shall have been absent on the public business of the United States or of this State.

The section was agreed to.

The CHAIRMAN. The next section in order, the sixth, will be read.

The CLERK:

SECTION 6. No member of Congress, or person holding any office under the United States, or of this State, shall exercise the office of Governor or Lieutenant Governor.

Mr. TURRELL. Mr. Chairman: I move to amend as follows:

To insert after the word "shall" the words, "be eligible to or."

The section will then read:

No member of Congress, or person holding any office under the United States, or of the State, shall be eligible to, or exercise the office of, Governor or Lieutenant Governor.

Mr. ARMSTRONG. Mr. Chairman: That is right. That was the intention of the Committee on Executive Department, and this amendment expresses that intention more clearly. We intended that a candidate should not even run, desiring to make any person holding a national or State office, or a member of Congress, entirely ineligible.

Mr. TURRELL. Mr. Chairman: I have offered this amendment in order to definitely settle the question, that no member of Congress shall be eligible to the position of Governor or Lieutenant Governor. The confusion and disorder which have prevailed of late years in Louisiana have been mainly due to the eligibility

of members of Congress to the office of Governor. I wish to avoid any possibility of such a scene in this Commonwealth.

Mr. WORRELL. Mr. Chairman: I desire to ask the gentleman from Susquehanna when the question of eligibility to office is to be determined, and if it is not when the person elected presents himself to be qualified for office?

Mr. TERRELL. Mr. Chairman: The intention I had in offering the amendment was to prevent any person disqualified by the provisions of this section from accepting a nomination for either the office of Governor or of Lieutenant Governor. If, as the question of the gentleman from Philadelphia would intimate, the amendment does not do that, I will modify it by using another phrase, in place of eligible to.

Mr. CORSON. Mr. Chairman: I think we ought to adopt this section as the Committee on Executive Department have reported it. If anything should be stricken out it should be the four words "member of Congress or," because why we should select a member of Congress as the standard of an officer in the United States government I do not understand. The better way to word the section would be:

"No person holding any office under the United States or this State shall exercise the office of Governor or Lieutenant Governor."

Mr. ARMSTRONG. Mr. Chairman: I will state that the view of the committee is that a member of Congress is not essentially an officer of the United States. The design was to exclude members of Congress and officers of the United States. A member of Congress is not essentially such an officer.

Mr. BIDDLE. Mr. Chairman: If the gentleman from Montgomery will allow me a suggestion, we have retained in this section the language of section five of the existing Constitution, which shows that at least there was a doubt in the minds of the framers of that Constitution. I think it is better to leave it as it is, and not strike out the words "member of Congress or."

Mr. CORSON. Mr. Chairman: If that seems to be the view of the Convention, that this office of member of Congress is no office at all—I never had an idea it

was much of an office—I am satisfied with it; and it does seem to me that this proposition, with the explanation which has been made about the members of Congress, is exactly right as it has fallen from the hands of the committee, that no person holding any office under the United States or this State shall exercise the office of Governor or Lieutenant Governor. There is no necessity for an amendment such as has been offered by the gentleman from Susquehanna. A very worthy man might be a member of Congress, or might hold some office under the United States government or under this State government, who would make a most excellent Governor, and we have a right to elect him while he holds that office. But he cannot exercise the office of Governor or Lieutenant Governor until he has resigned the other office. Now if we incorporate any such principle as this which is proposed by the gentleman from Susquehanna, we will cripple the people in the exercise of the right of selection. They cannot elect a man who is, perhaps, Chief Justice of the Supreme Court of Pennsylvania, because he shall not be eligible while he holds that office. Now my position is, that no matter what office a man holds, let him go out of it before he enters upon a new office. That is the law as it stands to-day, and therefore I hope that this section will be adopted exactly as it has been framed.

Mr. SIMPSON. Mr. Chairman: While I heartily approve of the theory of the gentleman from Susquehanna, that a person holding the office of member of Congress, or any other office under the United States or this State, ought not to be a candidate for the office of Governor or Lieutenant Governor; to make it effective, I think there should be some other words inserted than those proposed by him, and I am reminded that the gentleman himself proposes to make his language stronger. It was suggested by my colleague, (Mr. Worrell,) a few moments ago, that a question might arise when that eligibility began. A man might be elected while holding the office of member of Congress, or some other office under the United States or of this State, who, for the reason that his term has expired at a time when he presented himself to be sworn in, would claim eligibility. The question might

arise, and in order to prevent any trouble, I would suggest that the words, "during his term of office," be incorporated into the amendment.

Mr. TURRELL. Mr. Chairman: I will try to satisfy the gentleman in a way that will, perhaps, meet his approval more than his own suggestion. At the instance of several gentlemen around me, including the gentleman from Columbia, and in order to make this matter more certain, I will change my amendment from "eligible to" to "elected."

The CHAIRMAN. The section as amended will be read.

The CLERK: No member of Congress, or person holding any office under the United States or of this State, shall be elected to or exercise the office of Governor or Lieutenant Governor.

Mr. WORRELL. Mr. Chairman: Just at this point I would like to say that this very question of eligibility arose when you, sir, were nominated for Governor in 1863, and it was then the judgment of the people of this Commonwealth that this question was to be determined at the time the gentleman presented himself to be qualified for the office. It has been so determined in Congress that eligibility under the constitutional provision in regard to age is to be determined when the party presents himself to be qualified for the office. Therefore the word "eligible" would not secure what the gentleman from Susquehanna desires, but the word "elected" seems to meet the whole question.

Mr. EWING. Mr. Chairman: I look on this proposed amendment as a matter of considerable importance. While it may be true, as suggested by the gentleman from Montgomery, (Mr. Corson,) that occasionally a congressman, a man actually in Congress, or holding some other office under the United States, might make a very good Governor, I do not think it will ever occur that we cannot find other citizens of the State, who are not members of Congress, who would also make good Governors. We will not be limited to congressmen, and I think that the prohibition proposed is a proper one. I hope that we will, so far as possible, keep our State government as an independent and distinct government, in its sphere, from the United States government. As a matter of experience, and as

a matter of fact, in quite a number of the States in this Union, have we had examples of members of Congress, and officers of the United States government, using their power and their influence acquired from that office, to elect themselves Governors and other officers of the State government. We saw examples of that in Louisiana. It has occurred in several of the western States, and may occur again. Now, as a matter of fact, many of the Congressmen in large districts in this State, and in other States, have more power, more patronage, and more ability to use their office to get men to work for them and for their election to State officers, than the Governor of the State has. Under the present system, and as it has stood for many years, the Senators from a State, or the Congressman from his district, controls absolutely every appointment to a federal office within that district. He has large powers, and I think it is a wise provision to put in here, that while a member of Congress, or an officer under the United States, a man shall not be a candidate for Governor or Lieutenant Governor. If it is desired by the people that he should run for the office, and should be Governor, let him resign his United States office; that is easily done. The section may be further amended, so as not to apply to officers under the State government. I would be willing to see that amendment made, but, so far as officers under United States government are concerned, I hope to see them excluded, even from candidacy, for these important State offices.

Mr. D. W. PATTERSON. Mr. Chairman: I should like to ask why we should get up machinery here to prevent the people from nominating a man who had been in Congress, and whose term would end in November, say the day after the gubernatorial election. Is it on the ground that we could get no good and honest material from that source? I do not think we should go so far as that. It might be that a Congressman from this State who, by his integrity in Congress and his straight-forward action, has especially recommended himself to the people. Hence I think the section, as it stands, is eminently wise. It contemplates that a man cannot exercise the office if he is a Congressman; but he may be nominated and elected, and if elected, and his Congress-

sional term ends within the proper time, it enables him to exercise the office, if the people select and elect him. It seems to me we ought to adopt the plain words of the section, and adopt no amendment, unless we think we have so many citizens in the Commonwealth of Pennsylvania who have had public experience that we will not, on any occasion, have to look to a member of Congress, whose term is about expiring, when the gubernatorial election is coming on.

Let us leave the section as it is. I think it is eminently wise, and should be retained and adopted by the committee.

The question being on the amendment of Mr. Turrell, it was rejected.

The question then re-curring on the section as amended, it was agreed to.

The CHAIRMAN. The seventh section will now be read.

The CLERK read as follows :

SECTION 7. The Governor and Lieutenant Governor shall, at stated times, receive for their services a compensation, which shall be neither increased nor diminished after their election, nor during the term for which they shall have been elected.

Mr. WHERRY. Mr. Chairman : I offer the following as a substitute for that section :

"The Governor shall receive for his services five thousand dollars annually, and the Lieutenant Governor three thousand dollars annually."

The question being on the substitute, it was rejected.

Mr. ANDREW REED. Mr. Chairman : I offer the following as a substitute :

"The Governor shall, at stated times, receive for compensation for his services the sum of six thousand dollars, and the Lieutenant Governor the sum of four thousand dollars, which compensation may be increased or diminished by the Legislature, but not so as to increase or diminish the compensation of any one after his election or during his term of office.

The question being upon the substitute, it was rejected.

The question recurring upon the section, it was agreed to.

The CHAIRMAN. The eighth section will now be read.

The CLERK read the section as follows :

SECTION 8. The Governor 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 question being upon the section, it was agreed to.

The CHAIRMAN. The ninth section will be read.

The CLERK read the section as follows :

SECTION 9. He shall nominate, and by and with the advice and consent of two-thirds of all the members of the Senate, appoint a Secretary of the Commonwealth and an Attorney General during pleasure, and such other officers of the Commonwealth as he is or may be authorized by law to appoint. He shall have power to fill all vacancies in offices to which he may appoint that may happen during the recess of the Senate, by granting commissions, which shall expire at the end of their next session. He shall have power to fill any vacancy that may happen during the recess of the Senate in the office of Auditor General, State Treasurer, Secretary of Internal Affairs, Superintendent of Public Instruction, in a judicial officer, in any other elective office which he is or may be authorized so to fill. If the vacancy shall happen during the session of the Senate, the Governor shall nominate to the Senate, before their final adjournment, a proper person to fill said vacancy. But in any such case of vacancy in an elective office, a person shall be chosen to said office at the next annual election of Representatives, unless the vacancy shall happen within three calendar months immediately preceding such annual election, in which case the election for said office shall be held at the second succeeding annual election of Representatives. In acting on executive nominations the Senate shall sit with open doors, and in confirming or rejecting the nominations of the Governor the vote shall be taken by yeas and yeas, and shall be entered on the Journal.

Mr. ARMSTRONG. Mr. Chairman : I propose to strike out the words "the Commonwealth," in the third line, and insert in lieu thereof the word "State," for the purpose of harmonizing it with the first section.

Mr. DARLINGTON. Mr. Chairman : If it is the design of the committee to use the term "Secretary of State" all the way through the Constitution, so as to

make it harmonious, that is all right. We have, however, already passed over some sections where we used the expression, "Secretary of the Commonwealth," instead of "Secretary of State." In the Constitution of 1837-8, and in that of 1790, sometimes one expression is used, sometimes another. If it be the design of the committee to adopt the latter expression altogether, it can be arranged by the Committee on Revision and Adjustment.

Mr. ARMSTRONG. Mr. Chairman: It is the design of the committee to use, uniformly, the term "State," instead of "Commonwealth," and therefore this amendment should be made in order that it may harmonize with the first section.

Mr. HARRY WHITE. Mr. Chairman: I am going to vote to retain the old expression of the Constitution. I am opposed to changing the expression from "Secretary of the Commonwealth" to "Secretary of State." I have no special feeling about it, but I see no particular reason why it should be done. I call the attention of the committee to the fact that the expression "Secretary of the Commonwealth" is all through our acts of Assembly. It was in the Constitution of 1790, and that of 1838, and all subsequent legislation is careful to observe the expression. Furthermore, the processes of our courts are all done in the name of the "Commonwealth," not of the "State." I would like to see the harmony of the Commonwealth in this respect preserved; hence I am opposed to any change.

Mr. J. N. PURVIANCE. Mr. Chairman: I concur with the gentleman from Indiana (Mr. Harry White) that we had better preserve the old fashioned term—the "Secretary of the Commonwealth," which has been used in our legislation and in all our judicial proceedings—even down to summonses, for a period of a hundred years. The term "Secretary of State," as it strikes me, is more national. The nation is called the "State." The several States of the Union are called "Commonwealths"—as portions of a great State or nation. I therefore hope the word "Commonwealth" will be retained. It conforms to all our legislation and to the seal of the Commonwealth; and for so long a period of time that it should not be altered without some good reason, and I certainly have heard none.

I may here remark that when Mr. Secretary of the Commonwealth Jordan came into office, he signed all his official documents, "Secretary of State," for a period of about a year, but I then noticed that a sudden change to the old expression of "Secretary of the Commonwealth." He no doubt thought the first term he used more expressive of dignity of position, but for the reason that he found all the records to be signed "Secretary of the Commonwealth," and that the very seal of his office so put it, he fell back upon the old title. I trust the older term will remain as heretofore.

Mr. CURTIN. Mr. Chairman: I agree with the gentleman who has last addressed the committee (Mr. J. N. Purviance.) I think we had better suffer the title of Secretary of the Commonwealth to remain. It has been a long time in existence, and it is, withal, a dignified and elevated title. It is a pure Saxon expression; "State" has vastly too much Latin in it for ordinary purposes. I think "Secretary of the Commonwealth" a dignified and elevated title, and I believe it should be retained.

Mr. J. W. F. WHITE. Mr. Chairman: I shall vote for this amendment, sir, to change the word "Commonwealth" to "State," not only in this instance, but throughout our entire Constitution. I shall also vote, when it comes up, to change the words "General Assembly" to the word "Legislature," and harmonize our Constitution. In our present Constitution the word "Commonwealth" is used about half the time, and the word "State" about as many times.

If I remember correctly, the word "State" is used a few times more than the word "Commonwealth." Frequently these words are used in the same article. Now, sir, I think we had better harmonize by using one expression throughout the entire Constitution. The same remark applies to the words "General Assembly" and "Legislature."

I cannot see why we should retain the word "Commonwealth," a part of the time in the Constitution, because we have been in the habit of using it for so many years. I believe there are but two States in the Union whose Constitutions retain the word Commonwealth. If I remember correctly, Kentucky and Massachu-

sets are the only two States that use the word Commonwealth, and all the States that have recently formed Constitutions have put themselves in harmony with the general government, as well as in harmony with the other States of the Union, by using the word "State," and also using the word "Legislature" instead of "General Assembly." It strikes me that it is, if anything, a more elegant and more dignified expression to say "Secretary of State" than "Secretary of the Commonwealth." As for our laws now containing that and "Constitution," there will be no inconvenience, no trouble, no difficulty arising from using the word "State," because we now frequently use that word in the Constitution, and in the laws interchangeably with the word Commonwealth.

Mr. ARMSTRONG. Mr. Chairman: I believe that no very high degree of importance attaches to the question now before the committee. It is not very important whether the officer designated is called the "Secretary of the State" or the "Secretary of the Commonwealth." There is nothing to commend the use of the phrase "Secretary of the Commonwealth," except the long continued use of that expression. It is a cumbersome and not a very natural designation. The word "Commonwealth" means the public weal, the public welfare. There seems to me no especial propriety in entitling this officer by this designation. "State" is the distinct corporate designation, recognized and known to all judicial proceedings and to all laws. The Secretary is an officer of the State, as an organization, and not an officer having any especial charge of the public weal or welfare. The expression is cumbersome.

As has been already stated, the expression "Secretary of State" and "Secretary of the Commonwealth" are used interchangeably in the State very frequently. The committee has already passed upon the question, possibly by inadvertence, in the first section, and called this officer the "Secretary of State." The article must be harmonious. Either in the first section or in this and others we must make a change. I have no choice upon the question, and rather incline to the continuance of the designation, "Secretary of the Commonwealth." My purpose is

to have the same designation consistently carried through the whole article.

Mr. HENRY W. PALMER. Mr. Chairman: It has been said that this change of name is a matter of no great importance, but simply a question of taste, and that there is no disputing about tastes. To me it is something more than a question of taste. It is a question of ancient usage, sanctified by lapse of time, and it seems to me a little curious to find so many lawyers, who, from habit and education are conservative, favoring a change without assigning anything that can be dignified by the name of reason. I believe nothing can be gained, but something lost by change. Let us not tear up every association and destroy every reminiscence connected with the old Commonwealth. I feel prouder for being a member of the Commonwealth of Pennsylvania.

In the State of New York, process runs in the name of the people of the State—here it issues in the name of the Commonwealth. All patents for our lands bear the broad impress of the Commonwealth—all commissions are thus issued—the great seal bears that inscription. I would not follow New York in anything pertaining to her State administration, nor deface our process nor break our seal.

A desire for uniformity is urged by the gentleman from Allegheny (Mr. J. W. F. White.) He says two States only besides Pennsylvania retain or have adopted this word, viz: Massachusetts and Kentucky—if not another State in the Union kept the good old Saxon word, I would cling to it. If uniformity is desired, let the rest come to us, and, if they do not see fit to do that, Massachusetts and Kentucky are good company to stand with. Let no change be made merely for the sake of change, but cling to the traditions, usages and memories of our grand old Commonwealth, until necessity forces change upon us.

Mr. WALKER. Mr. Chairman: According to my recollection of what transpired in the committee, we took a vote upon it, and we agreed that "State" should not be the word to be used, but "Commonwealth," because the old Constitution and all our laws contained that word.

Now the gentleman from Allegheny (Mr. J. W. F. White) says that the Con-

stitution of 1838 has here and there the word "State" interchanged with "Commonwealth." I would like the gentleman to turn to that page of the Constitution of 1838 where "State" is used in that connection. I cannot call it to mind.

Mr. J. W. F. WHITE. I did not mean to say that it is used in reference to the Secretary of State. I was using the words "State" and "Commonwealth" synonymously.

Mr. WALKER. I cannot call to mind where the word "State" is used in connection with the Commonwealth. It is "Commonwealth" always in the Constitution of 1790 and in the Constitution of 1838. We took a vote upon it in committee, and my recollection is that we were united, every gentleman on the committee voting for retaining the word "Commonwealth" instead of "State."

Mr. ARMSTRONG. Mr. Chairman: I will withdraw my amendment, and I will add a word or two of explanation for introducing it. Finding the words "Secretary of State" in the first section as adopted by the committee, my purpose was to harmonize the article. I have no tenacity whatever about it.

Mr. HARVEY. Can we not change the wording of the first section by general consent?

Mr. ARMSTRONG. If it be the sense of the committee. I have no objection.

The CHAIRMAN. No objection being heard, the change will be made.

The question now recurs upon the ninth section.

Mr. BROOMALL. Mr. Chairman: I desire to ask the committee which reported this article whether they properly considered the effect of the words "two-thirds of all the members" in the second line.

["Yes, yes."]

Whether they considered the probable consequence would be that no appointment would be made at all, and that the result of that would be, by the after provisions of the section, that the appointment would be given to the Governor session after session, without any reference to the Senate at all.

Mr. MANTOR. Mr. Chairman: I move to strike out, in the third line, the words "and the Attorney General."

I call for the reading of the minority report, which is to be found in the Journal, page 347:

The CLERK read:

I concur in the report of the majority of the Committee on Executive Department, in all respects, except as to Attorney General. In my opinion that officer should be elected.

If he were exclusively the legal advisor of the Governor, it would be proper and right that he should be appointed by the Chief Executive officer, but as he is the law officer of the Commonwealth, and, as such, is required to give his opinion on all legal questions affecting the interests of the people of the State, especially upon questions of taxation, legislation and revenue laws, it is believed that his election by the people would place him in a position of greater independence of thought and action, than if he held his office upon any uncertain tenure.

In times of political excitement, when grave constitutional questions require deliberate consideration, and when the Governor would desire to be sustained in his views, which might be wholly of a partisan character, a difference of opinion between him and the Attorney General might result in the removal of the latter, that his place be filled by one more pliable and less conscientious in the performance of his duties.

The Attorney General, in the discharge of his duties as to constitutional questions arising from the power of the Legislature to grant corporate privileges and acts on other subjects, many of which may conflict with the rights and interests of the people, should not be restrained or influenced by partisan sympathy, or the power of removal from office.

It may happen, too, that partisan zeal and activity, rather than fitness and honesty, may prompt the dispensation of patronage; and combinations of factions, operating as well in the concentration of power in nominating conventions, as in the popular sentiment, may control appointments prejudicial to the general welfare.

Respectfully submitted,

JOHN N. PURVIANCE.

Mr. MANTOR. It is not my purpose, at this time, to attack this report. I regard the report, in general, as a very able and

a very fair one. But, sir, I believe there is a desire on the part of many people of the Commonwealth to elect all the officers that belong to the government; and the minority report, which has just been read, is all the argument that I desire to offer on this occasion.

The amendment of Mr. Mantor was rejected.

The question being upon the adoption of the ninth section, it was agreed to.

The CHAIRMAN. The next section will be read.

The CLERK read :

SECTION 10. He shall have power to remit fines and forfeitures, to grant reprieves, commutations of sentence and pardons, except in cases of impeachment, but only upon the recommendation, in writing, of the Secretary of the Commonwealth, Attorney General, Superintendent of Public Instruction, Secretary of Internal Affairs, or any three of them, and such recommendation, with the reasons therefor at length, shall be recorded and filed in the Department.

Mr. NEWLIN. Mr. Chairman : I move to strike out " Secretary of the Commonwealth, Attorney General, Superintendent of Public Instruction, Secretary of Internal Affairs," and insert " Auditor General and State Treasurer." I have no desire to press my particular view at any length upon the committee. My simple object for making this motion is this : The Secretary of the Commonwealth, and the Attorney General, and the Superintendent of Public Instruction, I believe all of them to be appointed by the Governor.

Mr. BROOMALL. But two are to be appointed.

Mr. NEWLIN. That will give the Governor the majority of the board. Now the Auditor General is elected by the people, the State Treasurer is elected by the people, and so is the Governor, and if the power of pardon is confided to these three, they will be a check upon each other. They will be jealous of each other's powers and their standing in the community, and they will be a very wholesome check upon the actions and views of each other. I have no desire to press this view at any length. I merely suggest it. If the idea is a good one, it will commend itself; if not, it will be voted down.

Mr. JOHN R. READ. Mr. Chairman : I offer the following as a substitute for the section :

The Governor and Lieutenant Governor (or the persons acting as such) and the Chief Justice of the Supreme Court, or the major part of them, of whom the Governor or person administering the government shall be one, shall have power to remit fines and forfeitures, to grant reprieves and commutations of sentence, and to grant pardons, after conviction, in all cases except impeachment.

Mr. JOHN R. READ. Mr. Chairman : I have but a few words to say in connection with this subject, and it is that I believe that the exercise of the pardoning power in the past has been grossly abused. I think upon this subject there certainly must be an unanimity of sentiment on the part of this Convention. I believe if this pardoning power is clothed with more sanctity than it has been in the past, that it will be exercised in a manner better calculated to promote the interests of the people at large. If gentlemen will refer to the Constitution of New Jersey, they will find that the pardoning power of that State is vested in the Governor, a Chancellor and six judges of the court of error and appeals. In no State in the Union is it more difficult to obtain a pardon, and in no State is a pardon granted more properly or refused more often. I believe if this pardoning power is vested in the Executive, in the manner provided in the section reported by the committee, that it will be almost as easy to obtain an improper pardon as it is now, for we all know how loath we are to refuse signing an application or recommendation to the power that exercises this right, while we might be reluctant to exercise that same power if we were clothed with the same responsibility of granting pardons, and remitting forfeitures. It seems to me that if this Convention would provide for a court of pardons, and thus make the approach to the mercy seat of this Commonwealth more tortuous than it is now, that this power would be exercised in a more beneficial manner in the future than it has ever been in the past.

Mr. WALKER. Mr. Chairman : Before the vote is taken I would like to say but one word in regard to this question. It has been demonstrated to a certainty that a court of pardons is necessary to be fixed

somewhere. Now the object the committee had in view in fixing the court of pardons was to make it consist of gentlemen who were already elected to office, and whose offices were located at the seat of government. The necessity of creating any additional tribunals outside of those already established was thereby avoided. The committee wisely concluded a court of pardons had become necessary, and I concur most heartily in their action. In arranging this matter it should not be rendered impossible, however, to exercise the pardoning power. An opinion seems to prevail in the minds of some of our members that there must be a tribunal created by means of which it shall be impossible to grant a pardon. Now, although I am in favor of granting pardons as seldom as possible, yet it will not do to say that a tribunal not harmonizing or sympathizing with the Executive shall be established, and thus render the granting of pardons impossible. The officers of the four departments of State on the hill at Harrisburg are in sympathy with the Executive. Two of them are his appointees, and two of them are elected by the people. It will be necessary for three of them to recommend a pardon, and that recommendation must be in writing, and set forth the reasons why the pardon should be granted, before the Governor can consider the matter of pardon at all. Now I think we have sufficiently hedged in the pardoning power of the Governor by this provision, without creating a single additional office, and we think it has been done as cheaply and efficiently as it can be done. I hope, therefore, the amendment will not prevail.

Mr. CURTIN. Mr. Chairman: The committee in considering this section of the article had also in view the protection of the pardoning power, because after all the abuse of the pardoning power by an Executive generally arises from impositions practiced upon him, and notwithstanding all that may be said of the abuse of that power, and it may have been undoubtedly abused, more than one half of the cases in which an Executive is censured for the exercise of this prerogative can be traced back to an imposition practiced upon him. In a recent instance, which has been spoken of in this Convention more than once, of Executive clemency whereby a man named

Brown was pardoned for an offence committed in this city, the evidence that the Executive was imposed upon is found on the face of the pardon itself, because the man is there described as having been a soldier, and he is now but twenty-three years of age, and as having a family, while in reality he is a single man. The Executive should not be blamed for granting pardons in instances like this. It is only those who have practised imposition upon the pardoning power who should receive the censure. In the discussion of this question the aim of the committee was to avoid, if possible, the creation of any new offices. There are enough already in existence in Pennsylvania, and the committee supposed that it were best to require the Executive to call to his council only gentlemen of the first ability in the Commonwealth, such as the Secretary of the Commonwealth; and abolishing as the report does the office of Surveyor General, and creating in its place an office of large power and of great importance, and requiring the discharge of such duties as would claim the services of almost any citizen in this Commonwealth, with a Superintendent of Public Instruction, elected by the people. The committee, while it did not increase the expense of the Commonwealth, or multiply the public officers, named four persons to consider applications for pardons, and required a recommendation in writing of at least three of these officials containing the reasons why the pardon should be granted before the attention of the Executive can be called to the application at all.

Now this provision was designed by the committee for the protection of the Executive power, for I would not degrade the office of the Executive of Pennsylvania in surrounding him by any board or council of pardons, to interfere with the discharge of any of his official duties. This provision which the committee has reported does not lessen the dignity of the high office of the Executive, but it provides that this extraordinary power of pardon shall only be exercised by that officer after the application, the names of the applicants and the reasons for the application have been sifted through an examination by four of the most distinguished citizens of the Commonwealth. My young friend (Mr. John R. Read) is

mistaken in his views as to the exercise of the pardoning power. I would not make the power inaccessible, except through difficult and tortuous ways. I would not surround the Governor of Pennsylvania and take from him part of the Executive power by means of advisers who shall assume part of the responsibility of the discharge of his official duties as an Executive; for this exercise of the pardoning power, although often abused and the Executive continually imposed upon, contains in itself the mercy side of our form of government. There is a period in the history of almost every criminal confined in your prisons when a proper exercise of the pardoning power may restore him to usefulness, and give him a future life honored and respected; when, if he remained within the prison walls, he turns out a hardened villain, abandoned by society, and ready for the commission of new crimes. In addition to this, the exercise of the pardoning power is often called suddenly into requisition. Criminals confined in your prisons become deranged; they are seized with disease, and grow infirm under the solitary system of confinement which, I am sorry to say, is a reproach to the humanity of the people of Pennsylvania. The pardoning power must, therefore, be sometimes suddenly exercised. I would not vest the pardoning power in the courts; it is not a judicial proceeding. It is a subject which appeals solely to the conscience of the Executive, and its exercise does not require a judicial inquiry and decision. When a judge has discharged his duty in sentencing a criminal, after conviction, his connection with the destiny of the criminal should terminate for ever, and he should not be recalled to sit in judgment upon his pardon. I would not select the Auditor General and the State Treasurer as members of this advisory council, although their relations are intimate with those of the Executive; because they are chargeable with the monied interests of the Commonwealth, and it is their duty to attend to the collection and distribution of the public revenues. As proposed we select those officials intimately connected with the Governor—his Attorney General and Secretary of the Commonwealth, and repose in them the duty of examining pardons before they reach the Executive. With them

we associate the Superintendent of Public Instruction, who is elected by the people, and as yet none other than the first minds in the State have ever occupied that position. The fourth citizen charged with this duty is the incumbent of the new office we create, which invites to the importance and high responsibility of its duties the first talent and the highest integrity of the State, and we shall then secure such an examination into the merits of applications for pardons that the deserving cannot fail to receive Executive clemency which they are entitled to under our Constitution and our laws.

Mr. JOHN R. READ. I desire to ask the gentleman whether it is not the custom to refer all questions of pardon to the Attorney General's office.

Mr. CURTIN. The Attorney General has nothing whatever to do with the granting of pardons. If it is the pleasure of that officer or the Secretary of the Commonwealth to assist the Governor in the examination of applications for pardons, they can do so, but they are not bound to do so by law.

Mr. JOHN R. READ. I simply asked the question if it was not the custom to refer the subject of pardons to the Attorney General's office.

Mr. CURTIN. I cannot answer the question as to what the custom is now, or was years ago; but I can answer that it was not the custom during the six years I exercised the pardoning power. The question of exercising the pardoning power was not referred to the Attorney General. It was considered a question for the conscience of the Executive alone, and it would be hard to conceive a more painful and unpleasant duty than that of hearing applications for the exercise of this most delicate and useful—nay, necessary power. It is true that the four officials offered by your committee will relieve the Executive of all this inquiry and examination, but it will occasion them serious inconvenience. They must expect, when they travel either for pleasure or business, to be waylaid at their hotels and in their journeys, by constant applications for pardons, and expect to share in the annoyance and inconvenience of the hue and cry raised against the Governor in the exercise of this the most important duty of his office, and I

take it this hunting down, this pursuit and importunity of the Governor, which disturbs his peace and confuses his mind, will cease. Your committee purposes to transfers to four officials the responsibility of this duty, and designate them in the Constitution as the persons who shall first examine and report upon the pardons, and then the Executive will not be troubled to grant or refuse pardons, until he is requested by them in writing to do so; and the reasons given for this recommendation, and even then I would keep the dignity of the office, so high that the Governor can refuse to grant a pardon. This section of the article was very fully considered by the committee, and it met the entire approbation of every member of it, and I trust it will meet the approbation of this Convention.

Mr. ARMSTRONG. Mr. Chairman: This section received, at the hands of the Committee on Executive Department, more careful and anxious consideration than perhaps any other, and they have reported it to the Convention after the most careful deliberation. The pardoning power must be vested somewhere, and ought to be vested where it can be easily reached and shall be most carefully exercised. The committee has, in this section, endeavored to surround it with what they believe to be necessary and safe restrictions. The persons who are here appointed are required not only to act with great deliberation and care, but it is imposed upon them that they shall express, in writing, the reasons which have influenced their judgment, and that a permanent record shall be made in the department, not only of the pardon, but of all the reasons that have been given for granting it. This action of the persons designated is advisory only and not conclusive. It is still left in the discretion of the Executive to grant the pardon or to withhold it, as he may deem best. We believe that the power has been carefully and sufficiently guarded against abuse, and that at the same time it has not been placed so high as to be out of the reach of those for whom it ought to be properly exercised. I will not detain the committee by any farther discussion of the question. I rose only to state, that after the most anxious consideration, the report, as it stands, received the unanimous approbation of the committee, and

we hope it may commend itself to the favorable judgment of the House.

Mr. JOHN R. REED. Mr. Chairman: In offering my substitute I was actuated by the purest motives. I did not wish to make any hypocritical criticism of the report of the Committee on the Executive Department; but I did not suppose, from a careful reading of the amendment which they had offered to the Convention, that they had provided the best means for granting pardons. The report of the committee, in some respects, commends itself to my judgment, but in others I think it could be amended with advantage. It provides that the power to grant pardons is still reposed in the Governor. With that we can find no fault. To be sure, before any pardon shall be granted he shall have, in writing, the recommendation of the Secretary of the Commonwealth, the Attorney General, the Superintendent of Public Instruction, the Secretary of Internal Affairs, or any three of them. Now who does not know, as I said before, how easy it is to get the recommendation of a public officer to another public officer to do this or that, as the person recommending desires him to do? Two of the persons alluded to in this report are officers appointed by the Governor himself. One of them only is elected by the people. We all know that most of the pardons that have been granted in this Commonwealth, within the few years last past, have been made upon the recommendations of public spirited citizens, both in private life and in public life, by members of the Legislature, by district attorneys and by other prominent citizens. Yet we all know how that power has been grossly abused, and it is not necessary for me, on the floor of this Convention, to allude to instances that have been particularly mentioned during the debates of this Convention.

These are some of the considerations which in good faith induced me to offer my substitute. I am not, however, so wedded to it as when I find that the sentiment of this Convention is not in favor of any particular change, as to insist upon its being put before them; and as the Committee on the Executive Department seem to be determined about it, and as they have no doubt given it a careful consideration, and as they may have had before them the very proposition which I

submitted to this committee, I shall withdraw my substitute.

The CHAIRMAN. The substitute is withdrawn. The question recurs on the amendment of the gentleman from Philadelphia.

Mr. DARLINGTON. Mr. Chairman: I move to amend as follows: By striking out all after the word "impeachment," and inserting the following:

The CHAIRMAN. There are two amendments pending.

Mr. NEWLIN. Mr. Chairman: I ask permission of the Convention to say a single word, inasmuch as I offered this amendment, my whole object is to test—

Mr. BIDDLE. Mr. Chairman: I did not hear the amendment; I would like to have it read.

The CLERK: The amendment is to strike out the words, "Secretary of the Commonwealth Attorney General, Superintendent of Public Instruction, Secretary of Internal Affairs, or any three of them," and insert "the Auditor General and the State Treasurer."

Mr. NEWLIN. Mr. Chairman: The single word I desire to say to the Convention is this: I offered this amendment. I do not press particularly for any special shape of putting it in, but I offered it for the purpose of testing the sense of the Convention upon the general proposition of leaving to the Executive the unrestricted power of pardon; because I take it that inasmuch as two members of the advisory board, with the Governor, must constitute the majority of the pardoning tribunal, that practically the power is left just where it is. In any case, where there is any public clamor or any political force or power brought to bear upon the officers of the government to exercise the pardoning power in a particular case, in all these instances the officers appointed by the Governor, who are to advise him in this regard, will, by rumor and common gossip, know exactly what influences are brought to bear, and will know what effect those influences will be likely to have in another quarter. Therefore, though there will be no concert of action, there is that *esprit du corps*, that feeling that exists, and is well known to exist, in these cases, which will enable each officer, in any case of moment, to know how the others will be affected. So that I say, practically, to my mind this leaves the

pardoning power just where it is now; and I am strengthened, Mr. Chairman, in that view of the question by the remarks of the distinguished gentleman who sits on my left, the chairman of the committee, (Mr. Curtin,) because his argument, to my mind, is not so much an argument in favor of this particular form of an Executive council, but it is an argument against all restrictions on the Executive; not so much in favor of the detail, but against the principle embodied in this very report; and therefore I take it that the proposition comes up fair and square before the Convention on this amendment whether they will really and substantially restrict the Executive by joining with him those who are in no way subject to his influence, but who come direct from the people, or whether we shall let him name his own advisers.

It has been suggested that the accounting officers of the government are not the proper persons to share with the Governor the clemency of the State on account of the nature of their duties. I conceive that the other officers, who in the committee desire to join with him, are equally, in the nature of things, remote from a court of pardons, and that the duties of their offices are as incompatible with the exercise of the power of a court of pardons as would be those of the Auditor General or State Treasurer. There is nothing in that objection. These two officers are quite as suitable as advisers to the Governor as the others named. The question before this Convention is, whether they will restrict the power of the Governor, or whether they will appoint the semblance of a council, which has no existence in point of effect, as a check upon the exercise of the prerogative of mercy.

Mr. LILLY. Mr. Chairman: The gentleman who has just taken his seat seems to be in error in his entire presentation of the question. He is all wrong in the premises of his speech. He has assumed what is not in the section at all. He says that the Governor would, under this report, substantially have the control of the pardoning power in his own hands. The simple fact is that the matter is taken partially, and in the initiatory stage entirely, out of the hands of the Governor, and referred to four officers distinctly and specifically named, the Secretary of the

Commonwealth, the Attorney General, the Superintendent of Public Instruction and the Secretary of Internal Affairs, three of whom, sir, have to sign a recommendation to the Governor before he can touch it at all. He has nothing to do with it until after the thing gets into the hands of the officers who must examine into the matter and recommend it to him, and the whole argument of the gentleman from Philadelphia, (Mr. Newlin,) based upon false premises, therefore falls to the ground.

Mr. BIDDLE. Mr. Chairman: There are two widely divergent opinions on this subject. One is that no limitation or restriction whatsoever should be placed upon the Executive, but that the section should be left as it stands in the present Constitution. To gentlemen that entertain that opinion, I shall not attempt to offer any argument. I feel satisfied that a change is demanded by public opinion. Now, assuming that some change is demanded, where shall the power of recommendation or of pardoning be lodged? There are several theories upon this subject. You may place it in a tribunal purely judicial; you may delegate it to a board of commissioners, specially chosen with reference to this subject, or you may attempt to place it, as is attempted in this tenth section, in the hands of a body of public servants, who are supposed, from position and from previous training, to be entirely competent to give advice to the Executive upon the subject.

Now let us consider the first two modes. I feel a deep conviction myself that the very moment you impose upon the judiciary any functions apart from the distribution of justice according to law, you impair their efficiency and ultimately break them down. Why is it that we have the painful contrast, drawn more than once in our debates, between other bodies connected with the government and the judiciary? Simply because the judiciary attend to the duties exclusively devolved upon them; and the moment you fasten upon them other duties, to that extent you injure them. As was said by the chairman of this committee, when the judge has pronounced the ultimate judgment of the law, his function with the case is, or ought to be, ended forever. If there are good reasons for a modification of the judgment, they ought not to

be addressed to him who is, or who ought to be, as we say proverbially, blind.

But you may delegate this power to a body of commissioners specially selected for the purpose. There are two objections to this: One is, you create a new body of officers, who must be paid for their services, and to the extent of their being paid you impose upon the public treasury an additional burden. Perhaps that is not a very strong objection, if their work could be done efficiently. What particular guarantee have you, however, that by electing or appointing four, or six, or ten commissioners, you get a better body than the body named in this article? You want men of character, men of intelligence, and men of a certain amount of experience. You not only want such men, but you want men who sympathize, measurably, with the people's feelings. Do you think, apart from the question of additional compensation, that you are more likely to get so good a board as by taking the four that are offered by this section? Who are they? Two of them come directly from the people, by election. One of them is the Secretary of Internal Affairs, who, it will be observed, by reference to a section a little lower down, must be a man of pretty broad mind and large experience, if he is at all competent to discharge the duties imposed upon him. The other is the Superintendent of Public Schools, necessarily, to a considerable extent, a trained man—necessarily a man of character—necessarily a man familiar with the youth of the Commonwealth. Upon one point my colleague from Philadelphia (Mr. Newlin) fell into an error; these gentlemen are not appointees of the Governor—they are not subject to his influence—directly or indirectly.

Mr. NEWLIN. Mr. Chairman: I hope the gentleman will permit himself to be interrupted just a moment. I desire to say that both my colleague from Philadelphia (Mr. Biddle) and the gentleman from Carbon (Mr. Lilly) have misunderstood the purport of my remarks. They have accused me—

Mr. BIDDLE. Oh, I make no accusation.

Mr. NEWLIN. I understand that. They have, I should prefer to say, suggested that I have not properly considered the

phraseology of this section. It is true that this "advisory board" is composed of four members, and that it requires a majority to recommend a pardon to the Executive; and that without this it cannot ever come before him for action. What I contend for is this: Two of the four are appointees of the Executive and subject to the influence of which I have spoken. They are in favor of what? Simply of submitting the application for pardon to the Executive, with their formal assent. The third man can be readily got by the very plausible argument that this is not a granting of the pardon, but simply a decision in favor of permitting the case to go before the Governor for the exercise of his discretion upon his own responsibility.

Mr. BIDDLE. Mr. Chairman: I will answer here the objections of one gentleman which are entitled to weight. He thinks that the Superintendent of Public Instruction is not an elective officer. If he turns to section twenty-two he will find that these officers, the Secretary of Internal Affairs and the Superintendent of Public Instruction, "shall be chosen by the electors."

Mr. NEWLIN. I never said they were not.

Mr. BIDDLE. No; but another gentleman came to me while you were making your suggestions and mentioned that. It would be a very valid objection, but it does not exist. I should like to know why these two men—I do not speak now of the Attorney General and the Secretary of the Commonwealth—are not as well qualified as the two gentlemen suggested by the gentleman from Philadelphia (Mr. Newlin.) He suggests the Auditor General and the State Treasurer. Now, assuming that they are men of equal character, standing and experience, for their respective offices—which I feel bound to assume—I do say that the particular duties entrusted to the Auditor General and Treasurer of the Commonwealth have not the slightest relation to the question now before the Convention, whilst the duties imposed upon the other two officers, also elective, have some general connection with it. The first are purely the fiscal officers of the Commonwealth; the second have a general supervision of its economic affairs and of its education; and if you are to take two existing elective

officers, I do not know any two better qualified.

In addition to that you have the law officer of the Commonwealth, appointed by the Governor; and his own Secretary. Is it possible that these men thus appointed will be no better than a mere body of petitioners, without any duty imposed upon them, without any obligation resting upon them, in recommending the pardon of a person?

There can be only two valid reasons for a pardon. There may be indirect reasons—there may be suppositions and assumptions; but there can be only two really valid reasons for a pardon. One is, where innocence is discovered after conviction. I suppose we would all agree that a pardon could not be granted too soon, after such a discovery as this. The other is, where there are extenuating circumstances. These circumstances may arise sometimes from the age, sometimes from the sex, and sometimes from the associations and surroundings of a criminal; he or she may have been made a tool of by others, or some other extenuating circumstance may enter into the case which commends it to consideration.

The guarantee you have for proper action on the part of this board is found in these facts: That these men live in the public gaze; two of them are elected and two appointed. Their reasons are obliged to be given to the Executive in writing. This is certainly an additional guarantee, but it is not all. They might be given in writing and they might be thrust aside, where they would never be seen. But this section requires further that they shall be filed, and, in addition, that a permanent record be made of them, which I presume means transcription into a book. These reasons, therefore, if improperly given, will rise in judgment at a future period against these men, and no man who has any regard for self, no man cherishing reputation, will subscribe his name to improper reasons, which will form a part of the records of the Commonwealth.

In addition to this, as was very well said by the chairman of the committee, the Chief Executive is not bound to accede to the request for the pardon. He still reserves his own judgment. He may pardon on this recommendation, but he is not bound to do so.

Now, unless we wish to say one of two things: First, that we desire no change at all, or, second, that we wish a conviction to be irrevocable, and that no circumstance—which is hardly consistent with civilization, not to say christianity—shall ever induce a pardon to be granted to any offender, no matter what the extenuating circumstances may be, I do not see how you are going to do much better. By adopting any of the other plans, I do not see how you remedy the evils pointed out. I see a great many other good points in this plan, which, however, it is hardly worth while developing to the extreme point of development.

The question being upon the amendment of Mr. Newlin, it was rejected.

MR. NEWLIN. Mr. Chairman: I move to strike out "Secretary of the Commonwealth and Attorney General."

The motion was rejected.

MR. HENRY W. PALMER. Mr. Chairman: I move to amend the section under consideration, by adding the following words: "No pardon shall be granted except after full hearing in open session, by the persons aforesaid, or a majority of them, of petitioners and exceptants, if such desire to be heard."

The practical operation of this section, if adopted as it stands, might not materially improve the existing state of things. An attorney or agent seeking a pardon would be likely to lay his bundle of petitions, letters and reasons before the officer who happened to be his personal friend, and after securing his signature on personal and friendly grounds, claim the signatures of the other officers named for the reason that one officer had already examined and approved the application. In most cases the reason would not be urged in vain. Members of the pardon board would, from time to time, need favors from each other in the pardon business, and in the end the endorsement of either would be sufficient to secure the rest and obtain from the Governor a pardon. This, we can easily imagine, would prove to be the practical operation of the section.

Should we not guard against such abuse by adopting a proviso requiring an open hearing, before the board, or a majority of them, of the petitioners and exceptants, if such desire to be heard?

Many of the abuses of the pardoning power have sprung from the secrecy attending its exercise. It has not been customary to give notice of the time and place of soliciting a pardon, and undoubtedly many have been granted upon gross misrepresentation, forged letters and petitions. To secure the authorities against fraud, and to afford persons who object an opportunity to be heard, some such provision as that suggested would seem wise.

A further advantage would result in securing the persons named in the section from private importunity. Few men can resist the pleadings of woe-clad women with brimming eyes, and many an improper application has been approved at the behest of mistaken sympathy.

The awful infamies or woeful errors connected with this pardoning business have aroused general public indignation, and if we were not bound by the maxim, "*De mortuis nil nisi bonum*," a tale might be unfolded which would hasten this Convention on the pathway to reform.

MR. ARMSTRONG. Mr. Chairman: The idea embraced in this whole amendment strikes the committee rather favorably. I confess that it meets my personal approbation. I do not entirely like the manner in which it is framed.

MR. H. W. PALMER. I am not at all particular as to the phraseology.

MR. HARRY WHITE. Mr. Chairman: I have but a word to say in answer to what the gentleman who has just taken his seat has so well said. I am one of those who, if I had it in my power, would entirely leave the responsibility of the pardoning power in the hands of the Executive. It seems to me that the people of the Commonwealth should elect a man to the position of Governor who has the character and the firmness to say no, even at the risk of sacrificing personal friendship, or political support, when his conscience and his judgment tell him he should do so, and I conceive the propriety, the philosophy and wisdom of requiring that this responsibility shall be somewhat divided, and that the character of some other gentlemen, who occupy conspicuous posts in the Commonwealth, shall be put in the scale, and required to support the Governor in every act that

he does. In other words, I think it is wise that no pardons shall be granted, as we find things constituted, without they are recommended in writing by a gentleman who occupies the position of Attorney General, Secretary of the Commonwealth, or one of the elective officers.

If I had it in my power, and could make this report *de novo*, I would not insert the name Superintendent of Public Instruction; I would exclude him. Education is of such a delicate character, so closely identified with the moral status and prosperity of the people of this Commonwealth, that I would not subject that officer to the temptation, which must necessarily follow to those who listen to the eloquent appeals in behalf of convicted scoundrels. I would save this office from that temptation; I find it in the report, however, and shall not attempt to interfere with it.

I think there is much force in the remark of the gentleman from Luzerne, (Mr. H. W. Palmer,) in requiring that this tribunal shall be organized as a board, for the purpose of greater regularity in the performance of their duty, but we are not here for the purpose of codifying laws, and we are to assume that these gentlemen, when they are elevated to their new positions, and clothed with this power, will appreciate the responsibility, and by virtue of their power and of their office, and of their responsibility, will organize themselves into a board, and make their own rules in this regard, to hear parties, publicly, in behalf of pardon. If they fail to do this, if they fail to organize and establish rules for this purpose, it is in the power of the Legislature, after the light of the experience of years, to make a statute to meet this necessity. I would not have this provision in the Constitution; I would let it be as it is, and trust these gentlemen to recognize the propriety of the course. If they fail to do so let the Legislature provide for it by statute.

Mr. ARMSTRONG. Mr. Chairman: After full discussion with my friend from Luzerne, (Mr. H. W. Palmer,) who offered the original amendment, I propose to amend his amendment, by adding after the word "them," "after full hearing of the party, upon due notice and in open session."

Mr. H. W. PALMER. I will accept that modification, and withdraw my amendment.

Mr. GOWEN. Will the gentleman from Lyco (Mr. Armstrong) permit me to suggest the addition of the word "public" after "due?"

Mr. ARMSTRONG. I accept that.

Upon the amendment of Mr. Armstrong a division was called for, and being taken, resulted: Affirmative, sixty; negative, twelve.

So the amendment was agreed to.

Mr. WHERRY. I now call for the reading of the section as amended.

The CLERK read:

SECTION 10. He shall have power to remit fines and forfeitures, to grant reprieves, commutations of sentence, and pardons, except in cases of impeachment; but only upon the recommendation, in writing, of the Secretary of the Commonwealth, Attorney General, Superintendent of Public Instruction, Secretary of Internal Affairs, or any three of them, after full hearing of the party, upon due public notice and in open session, and such recommendation, with the reasons therefor, at length, shall be recorded and filed in the department.

Mr. DARLINGTON. Mr. Chairman: I move to amend, by striking out all this section after the word "impeachment," in the third line, and inserting the following:

The CLERK read: "Judges of the Supreme Court shall, from time to time, appoint eight discreet persons, who shall compose the council of pardons. They shall serve without pecuniary compensation, their expenses only being paid by the Treasurer. They shall be convened at the seat of government, whenever required by the Governor. No pardon shall be granted without the consent of at least four of the council, and in no case shall a pardon be granted before conviction."

Mr. DARLINGTON. Mr. Chairman: I shall ask the attention of the committee for a very few moments. If gentlemen wish to see the substance of this amendment they will find it upon page eighty-three of the "Suggestions."

If there be any question which the people of this Commonwealth have most emphatically expressed their opinion

upon, it is that there must be some limitation of the power of pardon. No one who gives any attention to the course of public opinion can close his ears or his eyes to the fact that these-called and supposed abuses of the pardoning power have been so enormous and so great under many administrations that it calls loudly for remedy. I do not pretend to say how far these cries are justified. I have no censure to cast upon any of the preceeding Executives. That is not my business here. It is enough for me to know that there is a thoroughly imbued sentiment in the public mind everywhere; that the power of pardon, in our experience, has been so far abused as to require to be restrained by some other means than those which have heretofore been adopted. Assuming this to be the case, and that I take to be the sentiment of the committee which reported the proposition embodied in the report now under consideration.

If they have proposed to limit the power of the Governor, the question for the Convention to consider is how shall that best be accomplished? Can we safely confide this power to those in intimate and immediate relations with the Executive? Has not the public mind become so poisoned, if you please, with the state of things in and about the Executive Chair in all past time that no confidence will be felt in the limitation which anybody in the vicinity of the Capitol at Harrisburg shall be able to throw around the exercise of that power? Now, whether rightfully or wrongfully, I submit to you such is the admitted fact. There seems to be an entire want of confidence in the pardoning power. I am sorry to admit it, but such is the state of the public mind, and the public mind cannot be satisfied without placing restrictions around the exercise of this power of the Governor. It will be impossible to satisfy the public mind by combining together the very men who are supposed to be connected with the interests of the Executive, and who may partake of the same political opinions. Now can this Convention devise a better plan than the one already in existence? If it is impossible for us to establish a council for the Governor in this body that shall be free from the general taint of public suspicion, we had better abandon our work and return to our

homes. If, on the other hand, we can organize a body of men at Harrisburg in whom the public would have confidence it is our duty to do it. I submit that I am ready, for one, to go with any one else here in the Convention in adopting the best plan. I do not pretend to say that the one I have originated is necessarily the best that can be adopted. I can only say that it is the result of my best judgment and consideration. I would not, therefore, entrust the pardoning power to the Executive alone. I would not entrust it to him and to those who surround him, but I would allow him to exercise this power under the limitations and restrictions of other men selected from the various communities in the State. How, then, shall this council be constituted? I have suggested that it shall be constituted by appointments made by the judges of the Supreme Court. While I am opposed, in general, to giving to the judges of our courts any other than judicial functions, yet there are cases in which it seems expedient, because the difficulty that will be experienced in forming this council will be in selecting the men who shall command the entire confidence of the public. The appointees for such a council should be chosen from among those throughout the State in whom there shall be no guile. The men selected should be renowned for their integrity and position in society, and the men above all others to be entrusted with the selection of the members of this council, I think, are the judges of the Supreme Court. This council could be composed of eight, ten, or any number of men, and they could be selected from the neighboring counties around Harrisburg, from Cumberland, York, or Lancaster county, and certainly gentlemen could be found whose characters and integrity are far removed from all suspicion, who would be willing to serve the State of Pennsylvania when called to Harrisburg to discharge a public duty of this kind without pecuniary compensation and upon the mere payment of traveling expenses. I think there would be no difficulty in selecting such a body of gentlemen, who will be ready to devote their time to the public service, and I do not hesitate to say that they can be found in every county. It is not necessary for me indicate who they shall be. Now why should we not trust

the judges of our Supreme Court with the power to make these appointments? There is no money in it, to use a popular phrase of the day. There is nothing to be made by these appointments, and there can be no other motive than properly to discharge a public duty; neither would the appointees be influenced by any motive except to discharge their public duty. My friend on the right (Mr. H. W. Smith) might be appointed as one of the members of this council, and who would dare approach him with a bribe, or any gentleman who might be selected from the body of this Convention? The members of this council, when appointed by the judges of our Supreme Court, could assemble at Harrisburg once a month, or oftener if necessary, and the Governor could lay before them all applications for pardons. I would not give to any council, however, the right to pardon, but simply the right to counsel and advise with the Governor when he might be in doubt. I do not know, however, that anything I can say will be listened to by some of the members of this Convention, but it is not of much importance whether it is or not. If gentlemen have no mind to look into this question, or if they have formed their opinions unchangeably, why of course they are as much entitled to them as I am to mine. I do not know that I can instruct the Convention, but I think the question which should commend itself to the individual mind of every member of this body is what is the proper limitation of place upon the pardoning power—on the one hand to guard it from abuse, and on the other hand to aid the Executive in the exercise of that delicate and important trust. I should think that any well constituted mind filling the Executive Chair would be glad to have the advice of a council so selected and so chosen in every case in which he might be called upon to discharge his duty. There is no question but that it is a very high and holy duty. It must rest somewhere, and it cannot rest any where so well as in the hands of the Executive. Whatever difference of opinion may exist in regard to the formation of this council, our opinions concur that there must be a limitation to this pardoning power. I have endeavored to give the reasons I entertain in offering

my amendment, but if any plan can be proposed which will accomplish this purpose in a better manner than my amendment contemplates, I shall most cheerfully accept it. The loudest complaints we have heard in reference to the exercise of the pardoning power have been in times of political excitement, when the Governor has assumed to turn loose a man under a recognizance to appear and stand his trial for a criminal offence. I think the wheels of justice should not be obstructed by such unwise exercise of Executive clemency. If a man proves to be not guilty when brought to answer at the bar of justice, be it so. If he proves to be guilty, it will then be time enough for the Executive to interfere with the pardoning power. These remarks contain a brief statement of the principles I entertain in offering my amendment, and I therefore have submitted them for the consideration of the Convention.

The question was then taken on the amendment offered by Mr. Darlington, and the amendment was not agreed to.

MR. GOWEN. Mr. Chairman: I desire to say a few words in regard to this question, and I shall endeavor to be as brief as the importance of the question will permit. The question of the pardoning power in this Commonwealth has attracted a great deal of public attention during the last two or three years. It may be very well in theory, and probably in practice, to admit the fact that mercy is one of the most graceful attributes that can deck the Executive office of this Commonwealth, but at the same time we cannot help admitting that the stream of mercy has flown in such copious volumes during the last two or three years, that if the public can reach this question they will be very apt to take the pardoning power out of the hands of the Executive altogether.

In favor of vesting it with the Executive, that is to say, in favor of vesting it in but one person, there is this powerful argument: That where one person is called upon to perform any public function the sense of responsibility in any well balanced mind is so great that the public is more apt to be protected than when the responsibility is divided among a great number.

In other words, there is no case of responsibility at all attached to the people if they exercise their power by election, for the share that each one bears in the act is so small that it affects him little or nothing. If there is but one man to do it, it is probable that a sense of responsibility will lead him to do his duty. On the other hand the danger to be guarded against is this, that where there is but one person to act, the likelihood or probability of getting a pardon is so great that many people are led, by the ease with which it can be acquired, to seek for a pardon which they would never dare to ask for if they were to attach some publicity to the act of asking. Therefore I think it is well to follow the suggestions of the committee for some advisory board, and I think three or four are enough.

Now, Mr. Chairman, there is an objection urged against the report of the committee which is certainly entitled to some weight, and which the amendment of the gentleman from Chester was, I think, intended to cure, and that is this: That this board appointed or suggested by the committee is composed of four people, two of whom are appointed by the Governor himself, and one of whom, the Secretary of the Commonwealth, is in such intimate relations with the Governor as to be almost the Governor himself in many cases, especially in such cases where it is not possible for the Governor to give his own personal attention to the subject. The amendment of the gentleman from Chester, which was voted down, would have cured this; and yet that amendment was accompanied with this, which is to me a very great objection, the objection of vesting in the Supreme Court or in any judicial tribunal of the Commonwealth, for any purpose whatever, except for the administration of justice, in a particular tribunal the appointment of any officers at all. I conceive, as I said before, that nothing can so surely, in the long run, degrade the judiciary of the Commonwealth as to vest in them the power of appointment to office. Reflecting, therefore, upon what has been said, it seems to me that if this section were amended, by striking out the words "Secretary of the Commonwealth," and striking out the word "three," and inserting the word "two," you would then have a board of three

persons. Two of them would be elected by the people, over whom the Governor would have no control whatever, the third one would be a member of the bar, by common custom and consent occupying the position which gives to him the leadership of the bar of Pennsylvania, and surely, sir, it cannot be doubted in this Commonwealth that such a man as that, occupying the proud position of Attorney General of the Commonwealth, will be honest in any motive or act of his official position and in the exercise of any pardoning power will be governed only by his sense of right and justice. And the other two are persons elected by the people, with the sense of responsibility which attaches to a position founded upon an election.

I therefore propose to make that amendment, and while I am upon the floor, I desire to say that I propose to suggest another amendment in the shape of a proviso, namely: That no pardon shall be issued prior to the conviction and sentence of the person to whom it is granted, the object being to prevent what we have often seen in this State, and which sometimes may have been granted for most excellent reasons, but which, in my opinion, has been a great abuse—the issuing of a pardon secretly and quietly to a person charged with an offence, who goes into court with the pardon in his pocket, hoping that he may be acquitted, but relying, in case of conviction, upon his pleading the pardon in opposition to his sentence. The amendment I propose, therefore, is this:

To amend, by striking the words "Secretary of the Commonwealth," and by striking out the word "three," and inserting the word "two," and by adding to the section the following proviso:

Provided, That no pardon shall be issued prior to the conviction and sentence of the person to whom it is granted.

In regard to the last proviso there may be many cases, especially in the heat of political excitement in some particular counties of the State, when a person charged with crime may be in danger of conviction on account of political feeling, and in such a case it is proper and right that the man should be pardoned, probably, as quickly as possible after sentence. It can be done the same day. It can be

done an hour afterward. But do not let us have the exhibition in our criminal courts of a man coming in before a jury of his countrymen, asking an acquittal, when he knows that he has in his pocket the ammunition that will destroy their conviction.

Mr. LEAR. Mr. Chairman: There has been an argument with regard to this matter, based upon the assumption of a fact which has not yet been established by proof. With regard to these officials, I rise not so much to object to the pardoning power being vested in these officers, as for the purpose of forestalling what seems to be regarded as a foregone conclusion, that the Superintendent of Public Instruction is to be elected by the people. That officer; it is provided in one of the sections reported by the Committee on Executive Department, shall be elected by the people. But there is another committee of this body, that I think has just as fairly jurisdiction of this subject as the Committee of Executive Department, and that is the Committee on Education, a report from which has been made, and of which the gentleman from Chester (Mr. Darlington) is chairman. In that report we provide that the Superintendent of Public Instruction shall be appointed by the Governor, with the advice and consent of the Senate, I think two-thirds of the Senate agreeing thereto. Now that officer, when he is provided for by the Constitution, when we shall consider upon this subject, it will be time enough for us then to assume the fact he is to be elected by the people. We think that the Committee on the Executive has undertaken to do too much when they have undertaken to provide how the Superintendent of Public Instruction shall be elected, and we think our committee is more appropriate than they to consider that subject, and we recommend that he be appointed by the Governor. We do not think that at all times the people of the Commonwealth are the best qualified to judge of the fitness of a man for that position, or that the people are at all times the proper tribunal in which to repose the selection of such an officer as this, if for no other reason, because they are unfitted to judge of his qualifications. I therefore desire to protest, at this time, against an argument being based on a fact which has not yet been established.

Mr. LILLY. Mr. Chairman: I call for a division of the question.

The CHAIRMAN. The question will be read.

The CLERK: To strike out the words "Secretary of the Commonwealth;" to strike out the word "three" and insert "two," and by adding at the end of the section a proviso, as follows:

"*Provided*, That no pardon shall be issued prior to the conviction and sentence of the person to whom it is granted."

Mr. LILLY. Mr. Chairman: I call for a division of the question, to take place at the proviso.

Mr. ARMSTRONG. Mr. Chairman: Before that question is taken, I desire to say that the exercise of the pardoning power is essentially and necessarily the exercise of a discretionary power. It is eminently proper to limit it. It would be disastrous to destroy it. Where you take it away or render its exercise almost impossible you take from the Executive one of the most useful powers with which he invested, and the deprivation of which would be dangerous to personal liberty. The proviso which the gentleman has proposed would take from the Governor the exercise of a power which ought to be vested in his discretion. We cannot foresee all the circumstances which might require the exercise of the pardoning power, even before conviction and sentence. We have already so guarded its exercise that we believe it will not be unwisely nor unfairly exercised, and cannot be used for any other than proper purposes. To say that the Governor shall not pardon at all before sentence, is taking from him a discretionary power, which, under the restrictions of this section, it might be very necessary he should exercise. Guarded as it is, I think it would be unwise to provide that it should not be exercised at all until after sentence.

As to that part of the amendment which proposes to strike out the words "Secretary of the Commonwealth," there should not be any antagonism between the Governor and the persons appointed by this section to consider the question of pardons, and it is eminently right and proper, as it occurred to me, and as it seemed to the committee, that the Governor should have some person in this board of which he is not himself a member, who should represent him, at least in

part. It would seem proper that the Governor's views, if he entertained any, upon any particular case, should be expressed before the court of pardons. I think, therefore, that neither of these amendments would improve the section; on the contrary, I think it renders it cumbersome and would exclude the exercise of this discretionary power in many cases in which it ought to be exercised, and which, under the restrictions here provided, will be safely and judiciously exercised.

Mr. DARLINGTON. Mr. Chairman: I would like to ask the gentleman from Lycoming if it would be right to issue a pardon in a case before conviction?

Mr. ARMSTRONG. I could imagine very many such.

Mr. DARLINGTON. What are they?

Mr. ARMSTRONG. Mr. Chairman: It would be a very unwise way of legislating on a question of this importance, to propound an inquiry on the floor and ask for a horse-back opinion. I might not, at this moment, be prepared to give instances, but one has occurred to me in Lycoming county, which Gov. Curtin will well remember, in which a large number were charged with riot in times of great political excitement. Warrants were issued against some eight or ten persons, who would have been put on trial, when it was plain to all impartial persons that the entire proceedings were malicious, and closely akin to malicious prosecution. And I can readily conceive that many instances might occur when, from the malice of the prosecutor, by the easy process of swearing out a warrant, persons plainly appearing, after commitment, to be innocent, might be, as often has been done, placed upon trial, when justice would require that they should not be subjected to any such public disgrace as a criminal prosecution always and necessarily involves. I can very readily imagine many such instances, in which I believe the pardoning power ought to be, and under the restrictions of this bill, would be, wisely exercised before conviction.

Mr. S. A. PURVIANCE. Mr. Chairman: If the gentleman will permit me, I desire to express one thought upon this subject of pardon before conviction. Is not every

man put upon trial, for any crime, presumed to be innocent until proved guilty? And if presumed innocent, upon what is the pardon to rest?

Mr. ARMSTRONG. Mr. Chairman: Of course every man charged with crime is presumed to be innocent until convicted; but when convicted the sentence of the law is imposed upon him, and he suffers for the crime of which he has been adjudged to be guilty. But before conviction there is another punishment, and a severe one, which rests in public sentiment and in the popular presumptions of guilt which too frequently attach to the mere accusation. Nor is such punishment to be lightly regarded. On the contrary there are many cases in which the person accused is subjected to harsh, unreasonable, and very frequently unjust, accusations, and, under proper restrictions, it would seem reasonable that he should be relieved promptly, instead of being subjected to the successful malevolence of an enemy. When such instances occur, it would be in the highest degree advisable, under the recommendation, say, of the board, which must recommend the exercise of this discretionary power, and without which it cannot be extended to any case whatever. It is a conservative power, to be exercised in the interests of public justice, public order, public peace and private happiness. The power to release against oppression should be clear, and its exercise prompt in proper cases. There should be as much reliance upon the clemency of the government as upon its justice, and both should be exercised with equal regard to the rights of the citizen and the peace of the community. I hope the amendment will not prevail.

Mr. J. N. PURVIANCE. Mr. Chairman: The section has now, through the amendments offered, got into bad shape, and in order that the committee may have an opportunity of examining it further, in connection with the amendments, I move that the committee of the whole do now rise, report progress and ask leave to sit again.

The motion was agreed to.

IN CONVENTION.

Mr. WOODWARD. Mr. President: The committee of the whole has had under

consideration the article reported by the Committee on the Executive Department, and has instructed its chairman to report progress and ask leave to sit again.

Leave was granted.

Mr. STANTON. Mr. President: I move that the Convention do now adjourn.

The motion was agreed to.

The Convention then, at two o'clock and forty-eight minutes, adjourned.

FIFTY-EIGHTH DAY.

WEDNESDAY, *March 5, 1873.*

The Convention met at ten o'clock A. M., the President, Hon. Wm. M. Meredith, in the chair.

Prayer was offered by the Rev. James W. Curry.

The Journal of yesterday was read and approved.

PROHIBITION.

Mr. PARSONS presented a petition from citizens of Williamsport, praying for the insertion of a clause in the Constitution prohibiting the sale of intoxicating liquors as a beverage, which was referred to the Committee on Legislation.

Mr. S. A. PURVIANCE presented a petition from citizens of Allegheny county, praying for the insertion of a similar provision in the Constitution, which was referred to the Committee on Legislation.

Mr. DARLINGTON presented a petition from the Longwood monthly meeting of Progressive Friends, praying for the insertion of a similar provision in the Constitution, which was referred to the Committee on Legislation.

Mr. WRIGHT presented a petition from the citizens of Luzerne county, praying for the insertion of a similar provision in the Constitution, which was referred to the Committee on Legislation.

DIVISION OF COUNTIES.

Mr. PARSONS presented the petition of Hon. A. C. Bush, of Tioga county, remonstrating against any change being made in the Constitution in relation to creating new counties or dividing old ones, which was referred to the Committee on Counties, Towns and Townships.

SENATORIAL DISTRICTS.

Mr. BAER offered the following resolution, which was read and referred to the Committee on Legislation:

Resolved, That the Committee on Legislation be requested to take into consideration the propriety of reporting a section which shall substantially provide:

I. That the State shall be divided into six Senatorial districts, upon the basis of

population, of which Philadelphia shall always be one.

II. Each district shall elect six Senators. Each voter shall vote for not more than four persons, and the six persons highest in vote shall be declared elected.

III. The House of Representatives shall consist of two hundred members, to be elected from districts based upon population.

IV. Districts shall be formed of compact and contiguous territory.

THE LEGISLATURE.

Mr. BROOMALL offered the following, which was read and referred to the Committee on the Legislature:

The General Assembly shall apportion the State for the election of Senators and Representatives according to population, as ascertained by the last preceding census, every ten years, commencing at the first session after the adoption of this Constitution. Senators and Representatives shall be chosen in single districts of contiguous territory, and, as nearly as possible, of equal population, the boundaries being county or city lines where practicable, otherwise by township or ward lines. The number of Senators shall be thirty-three, and the number of Representatives one hundred.

LEAVE OF ABSENCE.

Mr. HAY asked and obtained leave of absence for himself for a few days.

Mr. DARLINGTON asked and obtained leave of absence for Mr. Hemphill for a few days.

EXECUTIVE ARTICLE.

The Convention then resolved itself into committee of the whole, Mr. Woodward in the chair, for the further consideration of the article reported from the Committee on the Executive.

The CHAIRMAN. The Clerk will read the pending section and amendments.

The CLERK read:

SECTION 10. He shall have power to remit fines and forfeitures; to grant reprieves, commutations of sentences and pardons, except in cases of impeachment.

but only upon the recommendation, in writing, of the Secretary of the Commonwealth, Attorney General, Superintendent of Public Instruction, Secretary of Internal Affairs, or any three of them, after full hearing of the parties upon due public notice and in open session, and such recommendation, with the reasons therefor at length, shall be recorded and filed in the department.

The CHAIRMAN. The gentleman from Philadelphia (Mr. Gowen) moved to strike out "Secretary of the Commonwealth," and strike out "three," in the fifth line, and insert "two."

The gentleman from Carbon (Mr. Lilly) called for a division of the amendment, and the immediate question before the committee is upon the first part of the amendment of the gentleman from Philadelphia (Mr. Gowen.)

Mr. MANN. Mr. Chairman: I move to amend the amendment, by inserting in lieu of the words stricken out, "the ex-Governors of this Commonwealth." The motive will be to add those gentlemen to the pardoning board. I am in entire accord with this section. I believe it is the judgment of the committee, that in the main the section is a necessary one. The developments that have been made in the last two or three years, the dissatisfaction with the matter of pardons, show that in justice to the Executive of the Commonwealth, something of this kind is necessary to satisfy the public demand. But I apprehend there are very few delegates who are quite satisfied with the officers named in this section to co-operate with the Governor, and advise with him upon this subject. I therefore make the motion to add to them the distinguished gentlemen who have filled the office of Governor.

This is not my own idea. The proposition was submitted to the Convention in the early part of its session by a distinguished member of the bar, representing the Dauphin district. I claim no credit for the idea, therefore; but when I heard it announced it struck me as the most satisfactory proposition that had been made or has been made to the Convention at any time upon this subject.

Mr. BOWMAN. Mr. Chairman: Will the gentleman allow himself to be interrupted?

Mr. MANN. Certainly.

Mr. BOWMAN. In case there should be no ex-Governor, what would be done?

Mr. MANN. The section will not be affected. It provides for certain other officers, any two of whom can make the recommendation required. The addition which the amendment proposes to make will not interfere in any way with the successful operation of this section; but it is hardly probable that we shall ever be in the condition of having no ex-Governor. We have three now living, in the prime of life, and I believe any delegate, who for a moment refers to these gentlemen, will be satisfied that this is a wise proposition. They have had great experience upon this very question; they were selected because of the confidence which the people reposed in them, and they will, necessarily, always be entirely independent of the Executive, sustaining no such intimate relations with him as could, in any way, affect their judgment upon propositions pending. They would be, Mr. Chairman, the most independent board we could select. They would be selected without any machinery, without any action on the part of the people. They would come naturally and properly to the discharge of these duties, because their attention had been given to them for years. They would have all the information upon this question of pardon of crimes that is possible for any gentleman to have, and in addition to that, it would be paying a proper respect to the gentlemen who have been called to exercise the duty of the Governor of this Commonwealth; and I have no doubt, should this amendment be adopted, and the section become part of the Constitution, we would forever remove this question of pardon from all suspicion of improper influences being brought to bear upon the Executive.

I feel great confidence that the adoption of this amendment would lift this question of the pardoning power out of all suspicion, and remove it from all the unpleasant rumors that we have heard for the last few years.

The CHAIRMAN. The Chair is doubtful whether the amendment of the gentleman is at present in order.

Mr. MANN. Mr. Chairman: There is a motion to strike out, and I move to insert.

The CHAIRMAN. The question before the committee is this: The gentleman from Philadelphia (Mr. Gowen) moved an amendment with two parts. The gentleman from Carbon (Mr. Lilly) called for a division of that amendment, and that brought us to the question of the first part of the motion of the gentleman

from Philadelphia, (Mr. Gowen,) which is, to strike out "Secretary of the Commonwealth." The Chair now understands that the motion of the gentleman from Potter (Mr. Mann) is, not to strike out "Secretary of the Commonwealth" and insert "ex-Governors," but to add "ex-Governors" to "Secretary of the Commonwealth and other officers."

Mr. MANN. The gentleman from Philadelphia (Mr. Gowen) moves to strike out; I move to amend, by inserting.

The CHAIRMAN. But you do not move to strike out.

Mr. MANN. I have a right to move to amend a motion to strike out by moving to insert in place of the words to be stricken out.

The CHAIRMAN. The opinion of the Chair is that the motion of the gentleman from Potter (Mr. Mann) will be in order if the committee shall vote down this amendment of the gentleman from Philadelphia, but that in the present posture of the amendment of the gentleman from Philadelphia, (Mr. Gowen,) the Chair is of the opinion that the motion of the gentleman from Potter (Mr. Mann) is not in order.

Mr. MANN. I am then placed in this position: There is a motion to strike out "Secretary of the Commonwealth." I desire to vote in favor of that proposition; but suppose it is voted down? Then I cannot make the motion which I desire to make. I want to make a motion to strike out "Secretary of the Commonwealth," and insert in place thereof, "the ex-Governors." How am I to reach that end in any other way than the one which I am now striving for? If the motion to strike out is defeated, it precludes my motion to strike out and insert.

The CHAIRMAN. It precludes a motion to strike out, but it does not preclude a motion to strike out and insert, which is the substance and essence of the gentleman's motion.

Mr. MANN. I understand that; but I take it that every member has a right to have his motion in that form, to strike out the "Secretary of the Commonwealth," and insert in the place of that. I think that motion will be stronger than to insert it as a separate proposition. However, I waive my own opinion and accept that of the Chair.

Mr. TURRELL. Mr. Chairman: I have listened to the discussion that has been had upon this section yesterday and this morning, and to the suggestions that have

been made. They have failed to satisfy me that we shall be able very materially to improve this section as it stands now, with the amendment adopted yesterday at the suggestion of the gentleman from Luzerne (Mr. H. W. Palmer.) It seems to me to have been well considered in all its bearings, and constituted in such a manner as will give confidence to the public that those questions which arise upon the granting of pardons will be considered and not hastily disposed of.

Now the proposition of the gentleman from Potter, (Mr. Mann,) to add ex-Governors to it, it seems to me, would be only to make it cumbersome and inconvenient, as well as open to the objection that it must impose an additional expense. As at present constituted, a leading feature that the committee had in view, in framing this section, was evidently convenience and economy, as well as promptitude of action. The board is composed of officers already elected and at the seat of government; therefore, whenever an application for pardon came before them it could be readily considered and disposed of, and without adding to the expenses of the Commonwealth. To ask the ex-Governors to go to the capital of the State and sit there in session, as provided for in this section, to examine these cases, from time to time, without compensation, would be unreasonable.

So that one view which the committee had in making this economic would be frustrated. These gentlemen would of necessity be called there from time to time. They might have a case under consideration one day, go home the next, and some poor mortal who may be under sentence of death would require their attendance immediately again, to consider his case before he should be launched into eternity. It would put upon those gentlemen an exceedingly unpleasant and onerous duty, to which, doubtless, they would strongly object. This, to my mind, is a serious and conclusive objection. The other arguments which have been presented, in relation to the constitution of this board, have been so fully gone into that I will not take up time to repeat them. It seems to me that we should do well to take this section as it stands, and adopt it.

Mr. CORBETT. Mr. Chairman: I think the amendment offered by the gentleman from Philadelphia (Mr. Gowen) very objectionable, that the pardoning power cannot be exercised before conviction. There are cases of that kind where the par-

doning power is necessary. Take cases of riot and of insurrection. It might be a very salutary power for the Governor to exercise the pardoning power by a general proclamation. This proviso would prevent the exercise of that power in a case of that kind; and I think it would be very doubtful policy for the committee of the whole to adopt that second division of the amendment.

Mr. ARMSTRONG. Mr. Chairman: What is the precise question upon which the Convention is now to be called upon to vote?

The CHAIRMAN. That the words "Secretary of the Commonwealth" be stricken out from the third and fourth lines, and the word "three," in the fifth line, be changed to "two."

Mr. ARMSTRONG. That is the first division?

The CHAIRMAN. Yes.

The question being upon the first division of the amendment, it was rejected.

The CHAIRMAN. The question is now on the second division of the amendment, that no pardon shall be granted before conviction.

Mr. ARMSTRONG. Mr. Chairman: Is it competent, at this time, to discuss the question? The committee have not been heard from as fully on this point as they would probably like to be, and I trust the Convention will hear the chairman of the committee (Mr. Curtin) on this question.

The CHAIRMAN. The Chair believes the question open for discussion.

Mr. CURTIN. Mr. Chairman: I did not desire to intrude upon the Convention again on the article reported from the Committee on the Executive Department, but the change proposed by the gentleman from Philadelphia, (Mr. Gowen,) and embodied in the amendment now before the Convention, is, in my judgment, one of such grave importance as should demand the serious consideration of every member of this body. It is to take from the Governor the power of pardon before conviction and sentence.

It is quite true that what is called "previous pardoning" is by no means free from abuse, and the Executive who has the courage to exercise that power generally falls under the displeasure of a large portion of the people, and always the denunciation of the press. I doubt very much whether that power has been often abused; and of all the official functions given to a citizen under our form of government, notwithstanding all that has

been said, and the current of abuse and denunciation which has been running for many years against the Executive for the exercise of that power, I do not believe there is any delegated authority or official function less abused than it has been.

For when a man who has the pardoning power approaches its exercise, conscious of its delicacy and alive to the criticisms which will follow, his act will be cautious, and, after all, sir, we must trust men. You may put into your Constitution whatever restraints you can devise and give expression to your disapprobation of the abuse of the pardon in the most positive words the English language affords. You may surround the Executive with threatened pains and penalties, trammel him with restraints and restrictions on his legitimate and necessary powers; nay, you may create armies, if you please, to see that the people are protected in their just rights, and to compel the Executive of the State to perform his duties, and to restrain him from violating or exceeding his duties, and yet we come down, after all, to the plain, practical fact that in our form of government, and indeed in every government upon earth, you must trust men; and all men are alike, mortal and may err. If the men you place in power abuse their trust, our form of government provides the means of getting clear of them. Our prosperity is so marvelously great, and our people are so enlightened, that the ingeniously devised machinery of government runs on, notwithstanding it may sometimes be badly administered. You must have an Executive, and when you elect a citizen to the high position of chief Executive Magistrate of your State, and give him the pardoning power at all, he may abuse it, and it is possible it has been abused, but not to the extent commonly charged, and in a large measure believed by the body of the people. In fifty cases out of every hundred, however, where pardons are granted, your Executive is abused, and no one halts to ask if he has not been imposed upon by his friends, and those who have pecuniary interest in obtaining pardons or those who have some relationship to the prisoner, or special interest in case.

You give your Governor the pardoning power; therefore the power to exercise mercy; and clothed with this beneficent attribute of Government, the properly constituted man will take care that he does not violate his conscience when he is

to answer to that monitor in the exercise of a high official authority, and if he is not to have the power to pardon, or if it be not lodged in some official—in some part of the government—then the office of Governor ceases to be of dignity; and you turn away from the mercy side of humanity, and your form of government in this respect will be tyrannical and barbarous. You will suffer courts and juries to inflict punishment; and whether the citizen accused be convicted by mistake from some local excitement, prejudice or jealousy, by any of the passions which so fill the human breast, you turn yourselves away from humanity, and you deprive your fellow-citizens of a positive natural right—the right to demand mercy from man as he can pay for it to God. An Executive may err, it is true, in exercising this power of pardon, but if he errs in exercising that power, he has the sweet consolation of knowing that he is using that beautiful attribute—that sweet inspiration of the human heart, the most precious gift of Providence—*mercy*! Mercy to a fellow-being, mercy to the poor, mercy, especially, to the poor unfortunate man who may have been convicted of, or charged with, crime by the designing and the cruel, the wicked and the powerful.

Now, Mr. Chairman, how often has it occurred in your experience in life, as a member of the bar—why it has occurred in the experience of the youngest member of the bar holding the honor of a seat in this Convention—that a man is arrested and imprisoned, charged with crime, and his accuser seeks to punish him by the accusation and imprisonment before trial, without the slightest expectation that the trial will result in conviction. He has his personal revenge to gratify. Would it be proper to leave the State without the power to relieve a man thus imposed upon? That is one of the evils in the contemplation of the Constitution when it grants the power of “previous pardon.” You suffer citizens to be arrested and incarcerated in times of high political excitement, against whom there may be prejudice, against whom a hue and cry has perhaps been raised, founded on falsehood and pursued with malice, and if they have committed no act to warrant such incarceration, it is eminently proper that the Executive should be appealed to for relief. It is to meet such and kindred cases that the power of “previous pardon” is granted. If you take away the right to pardon be-

fore trial you take away from this section of the article on the Executive department one of the essential attributes of the pardoning power.

It is to be noticed that before the Executive can pardon a criminal, as proposed in this section, the application is to be considered and examined by the gentleman we have named in connection with the Executive department. Now, Mr. Chairman, full one-half the applications for pardon in the State of Pennsylvania are made on account of the character of the sentence. I read in the newspapers the other day that four men were sentenced to the penitentiary for a term of two years and a half, having been found guilty of keeping some kind of a gambling saloon in this city. I have no doubt of the integrity of the court in pronouncing that sentence, and there can be no question that that learned and enlightened court, in sentencing those criminals, believed the sentence was just, but will any member of this Convention tell me that the newspaper clamor and the public excitement on the arrest of these men had nothing to do with influencing the mind of that court in passing a sentence so much heavier than the crime seemed to demand? I venture to say before a year runs around, the jury that tried these men, the newspapers that made the attack, and many virtuous and intelligent people of this city will unite in an application to the Executive to grant a pardon to these men, on the ground that the sentence was too severe for the crime, and it is in such cases as these that the pardoning power should be exercised. Courts err as well as the Executive, and the power that sentences does not always measure the crime, and it is for this reason many, very many, applications for pardon are made, and this tribunal is proposed to be created. By the committee full and just consideration can be given to all applications for release. If the Executive cannot be trusted with the exercise of this power we had better abolish the office. I was surprised to hear the amendment of my friend from Potter county (Mr. Mann) read by the Clerk. I have been speaking of mercy, and I hope that gentleman will be a little merciful. A man who has passed through the pardon mill would like to be in peace the remainder of his life, and when Executives have held the pardoning power and have been subjected to criticism, abuse and misrepresentation, when they have retired from their office,

I beg the gentleman, my good friend, do not persecute them to their graves, for while a man may have held that important trust to the satisfaction of the State in all other respects, he shivers as if he was in the cold shower after a hot Russian bath, when he thinks of the annoyance he suffered through the exercise of the pardoning power, and threatened with it again. If you want ex-Governors to live, in the name of mercy do not place this burden upon them. There are three ex-Governors now living, and I do not think either of them would live under the persecution they would be compelled to endure. I hope, therefore, the gentleman from Potter (Mr. Mann) will withdraw his amendment, and that the section will then be adopted as it is reported by the committee. The section was fully considered by the committee, and I do think has preserved in that section of the article the only means of securing the impartial exercise of this power of the Executive. Mr. Chairman, I regret that some one proposes for me to address the committee again upon this question. I am obliged to the committee for its indulgence, and shall not trouble them again.

MR. LAWRENCE. Mr. Chairman : I am very well aware that the discussion of this question has been quite full, and I have not desired to occupy the time of the Convention, and had it not been for some remarks addressed to the Convention by the last speaker (Mr. Curtin) I should not have said a word in regard to this section. It is very natural that a gentleman, situated like the distinguished chairman of this committee, should be desirous to speak upon this subject, and, I think, he more fully comprehends the subject than any member of the Convention. I infer, however, from the gentleman's argument, that he would, if he had the individual power, continue the pardoning power in the Executive alone. I say that this seems to be the force of the gentleman's argument. Now, Mr. Chairman, if I understand the feeling of the people of this country in regard to this question, not only within the limits of our own State, but in almost all the States of this Union, and under the general government, it is that there ought to be some restraint upon this power which has been abused. It will not do for the gentleman who has just spoken, or anybody else, to say that the pardoning power has not been abused in this State, in the State of New York, and under the general government. Why,

much has been said in this Convention, by gentlemen of distinguished ability, against the President of the United States for having abused this power within the last few months, and it is only recently that he has been censured for having pardoned a most miserable scoundrel named Brown, who repeated at a late election in this city. When I was in Washington, the other day, I found, just as my friend, Mr. Curtin, has said, the President had been imposed upon in the same manner as Governors of this State have been imposed upon, but still this is no argument against the propriety of limiting this pardoning power. I found, in Washington, that a democratic member of the House of Representatives, a most distinguished and upright man, had been endeavoring, week after week, to introduce a resolution before that body, calling upon the Attorney General and the President to produce the papers which accompanied the pardon, and the reasons why the pardon was granted. "Why," said that member of Congress, "I do not desire to implicate the President in anything that was wrong in granting that pardon. I want to exonerate him." He said he knew that the Attorney General had been imposed upon, and that the President usually referred such cases to that official, as happened to be done in this particular instance. Upon inquiry, I learned that gentlemen of standing in this city, whose names I do not know, and I would not repeat if I did, went to Washington and laid the papers containing the application, with forged names attached, before the Attorney General. The Attorney General, who is a very just and upright man, and of decided ability, doubtless sent the papers to the President, who, after an examination of the recommendations and the request positively made, pardoned Mr. Brown. The pardon ought not to have been granted, but it was granted, and only obtained by means of a fraud practiced upon the Attorney General and the President.

Now I have mentioned these facts in justification of the President, because he has been referred to by my colleague from Washington, (Mr. Hopkins,) who is not present in the Convention on account of illness, and by the gentleman from Philadelphia, (Mr. Gowen,) who censured the President severely, the other day, for granting this very pardon. The distinguished chairman of the Committee on the Executive Department (Mr. Curtin)

has, himself, admitted that the Executive of this State has been occasionally imposed upon, but these facts and instances of the unwise exercise of the pardoning power do not form an argument against its limitation.

I repeat, Mr. Chairman, that there is a wide-spread sentiment, all over this country, prevailing in the public mind that this pardoning power ought to be restrained. Why, sir, has not this power been abused in New York? It is well known that Governor Hoffman, who is a man of decided ability, has been traduced and censured because he exercised this power probably too often; and now you will read in the papers of to-day that that stern old patriot, Governor Dix, of New York, is in the city of New York conferring with some of the judges about the propriety of pardoning Foster, who was convicted of murder. Governor Dix has refused to pardon some of the criminals in that State; and we must conclude that it will not do to look only to the side of mercy in such cases. Why, I recollect when the chairman of this committee was Governor of the State of Pennsylvania I went to him and sought a pardon for a man in my county, who had been convicted of arson. I narrated the circumstances to the Governor, how the crime had been committed at the instigation of others and through whisky, and the Governor pardoned him. Now he is one of the best citizens in our county. He is an upright, honest man, sustaining his family in the western part of the county, and he exhibits his gratitude on all occasions by voting for Governor Curtin ever since, as he does for your humble servant; so that I do not say that there are not cases wherein this pardoning power may be properly exercised. I would not remove it entirely from the Executive, but I say it ought to be restrained; and when I arose I intended to say that I congratulate the committee in presenting the very best board that could possibly be preselected under the Constitution. This power must either be committed to one man or to several men, and the committee proposes to constitute a board composed of officials already in office; but as my friend from Chester, (Mr. Darlington,) who is very prolific in his imagination, yesterday proposed to amend the section by giving the Governor the power to appoint a board, consisting of eight or ten persons, —

Mr. DARLINGTON. No; I proposed giving the power to the Supreme Court.

Mr. LAWRENCE. Well, I concurred with the Convention in voting down the amendment, as I think our courts should not be encumbered with any such duty; but I thought there was something honest in the proposition, because, coming from a Quaker neighborhood, it is not to be supposed the gentleman could be influenced in any way. [Laughter.] I admit, Mr. Chairman, that there is force in the argument presented by the gentleman from the city (Mr. Gowen) yesterday, in reference to the motion which he made, to strike out the words, "Secretary of the Commonwealth," in the section, for he is an officer directly under the control of the Governor, and will almost invariably obey what the Governor dictates, and *vice versa* the Governor may obey what the Secretary of the Commonwealth dictates. There is much force in the argument used by the gentleman, but it is a question in my mind whether you can devise a more suitable board for the purpose named in the section than by constituting it in the manner devised by the committee. The pardoning power must be placed somewhere, and as it is impossible to destroy it altogether, or remove it entirely away from the Executive, the committee have proposed to entrust the power with the Governor, the Attorney General, the Commissioner of Public Instruction, &c., and then the gentleman from Luzerne (Mr. H. W. Palmer) has suggested that the hearing of applications for the granting of pardons must be in open court, or in other words, "openly." I think, however, this suggestion may be attended with serious personal difficulty to some poor men who may be applicants for pardon; but still, after all, it is the better plan if it is designed to throw additional safeguards around the pardoning power. I do not charge the gentleman from Centre (Mr. Curtin) with having abused the pardoning powers, and I do not desire him to so understand my remarks. I do not know that he ever did, although he has been charged with so doing, as well as his successor; and I think if the history of pardons which have been granted improperly in this State could be examined, it would be found that they were obtained through the influence of the friends of the Governor, or as has been remarked, through imposition or an error in his judgment. This is precisely the trouble. We are naturally kind-hearted, and we do not desire to occasion an injury to any person, and we many times suffer our friends to

advise with us in matters of charity. I remember Governor Geary, a short time before his death, told me that he received as many as twenty-five applications for pardon in one day, and that he considered their attention involved more inconvenience and annoyance than any other duty of his office, and I think Governor Curtin will testify to the same effect. The section which the committee proposes, if it is adopted, will relieve the Governor, in part, of the weight of this obligation, and it will divide the responsibility. The only difficulty in the way of this plan reported by the committee working successfully is the one suggested by the gentleman from Luzerne, (Mr. H. W. Palmer,) that special pardons might be obtained by sending the application from one commissioner to another, and thus obtain the individual consent of each commissioner to grant the pardon; but this would not, in all probability, occur very often, and under the amendment proposed by the gentleman from Luzerne (Mr. H. W. Palmer) it will be rendered impossible of occurrence at all.

I do not want to detain the committee, but I say that the people will sustain us if we restrain this pardoning power. And if we do not do it—if we do not pass some provisions here—if we do not put some provision in the fundamental law restraining this pardoning power, thousands of men in this State will vote against your Constitution, and they ought to do it. I assert again that this power has been miserably abused all over this country, in all the States of the Union. You will find that when men have been called together to frame a fundamental law, as they have been in some of the States, that this is one of the subjects which always engages their attention; and in all the States which have acted upon this subject they have formed some board which has restrained the power which had been in the hands of the Executive. I trust, therefore, that the clause, just as it is, will pass without the amendment of the gentleman from Potter.

MR. TEMPLE. Mr. Chairman: I rise simply to say a word in this regard. It is with great diffidence that I assume to make any suggestion in opposition to the distinguished gentleman from Centre, (Mr. Curtin,) who is chairman of this Committee on Executive Department. But I have three points which I deem to be of importance on this question.

First. If the amendment is not adopted, it takes away, to a certain extent, the right of trial by jury.

Second. The Governor will be pardoning a person for an offence for which he has not been convicted, and about which the Executive is presumed to know nothing at all.

Third. I believe that public necessity requires it.

First, then, it has been suggested here that criminals are often arrested and confined in our jails without an opportunity of trial. I merely beg leave to submit to the committee that the opportunities for trial by jury under our judicial system give every man an opportunity of proving his innocence much easier and with greater facility than he could by an appeal to the tribunal of which the Executive constitutes a part. It cannot be denied, in speaking upon this branch of this question, that the pardoning power has been greatly abused. There is no doubt about that, and the distinguished chairman of the Committee on Executive Department has not undertaken to deny it. He says that it is the exercise of that mercy which pertains to every human being, and he goes on to say, in justification of his statement, that the Executive is not to blame, and that the friends of the prisoner and the friends of the Executive are the persons to blame. Well now I beg leave to say that this is the greatest reason why this amendment should be adopted. If the Executive has heretofore been imposed upon by reason of the pressure brought to bear upon him by friends of the criminal, or by reason of pressure of his friends brought to bear on him, is it just, is it right to the community that Executive clemency should be exercised for such reason, without giving the Commonwealth an opportunity to have the guilt or innocence of a man charged with crime proved regularly before court, and his case passed upon by a jury of his peers? I submit that this is the strongest reason in favor of the adoption of this amendment. It has been admitted by the gentleman from Centre himself, who so long and so honorably filled the chair of the Executive of this State, that the Governor of the State is likely to be imposed upon by the friends of the criminal and the friends of the Executive. I submit that this is the strongest reason why this amendment should be adopted.

Again it has been asserted that very frequently a man can be arrested and

thrown into prison, and there would be no disposition on the part of the courts to try his case. In the city of Philadelphia, I presume it is so all through the State, there are regular terms of court. When a man is arrested who is charged with crime, if his offence be trifling, or if he is not a noted criminal in the community, it is easy for him to obtain bail to appear at the next term of court. His case is then submitted to the action of a grand jury, which passes upon his offence. If the majority of that grand jury find a bill of indictment against the prisoner he is taken into an open court, under the same conditions as attach to any other citizen of the Commonwealth. He is surrounded by eminent and learned counsel. He comes before the court and, under the instructions of that court, he has a fair trial, and, more than that, he is given the benefit of any reasonable or rational doubt that may be thrown into the scales of justice, and if that doubt is in his favor, and I do not mean by a doubt any mere figment of the imagination, but any good, substantial reason why the accused shall not be convicted, he is at once discharged. And even after that, if he is improperly convicted, he can go before the tribunal which tried him, and if he can satisfy the court of that fact, under our rules in the city of Philadelphia, and I presume it is the same throughout the State, there is a limited time given to the court to pass upon the sentence of the person convicted, and if evidence of a proper character be submitted to the court, and the court is satisfied that the sentence is harsh, or if it appears that the party convicted has been improperly dealt with, the court can re-consider its sentence, if they see proper and think justice requires it.

How would this operate if the Executive department of the government, constituted as it will be under this section, had the right to pardon criminals before they were tried? Why, you would constitute this very board a board for the trial of criminal cases. It would be run down with business. Its whole time would be occupied by persons coming before this board and asking to have their cases tried before they had been submitted to the scrutiny of a grand jury or been judged of by a petit jury; but, more than that, as the proposition was stated by me in the outset, this court of last resort is not the proper tribunal to try a criminal.

Some instances have been referred to where a pardon has been granted a criminal before conviction. I beg leave to refer only to one. I was not in the hall when the gentleman from Philadelphia (Mr. Gowen) spoke upon this subject. I do not know what he said. But I submit that in one instance, at any rate, which occurred in the city of Philadelphia, where Executive clemency was awarded to a criminal prior to trial; it was a great abuse of the pardoning power. It was abused so far that the whole community was up in arms against the Executive for the exercise of that clemency prior to the trial of the criminal. I refer to a person who lived on North-Sixth street, in this city, and because some boys coming along pulled his door-bell, as boys will do, on Hollow Eve night, he shot one of them with a pistol in a most reckless and brutal manner. He was indicted by the grand jury; the day for the trial was fixed but he fled to Europe, and his bail was forfeited, and because he wanted to come back to this country and engage in a lucrative business, an appeal was made to the Executive to pardon him and to remit the forfeiture of his recognizance, and the Governor who last filled the Executive chair of this Commonwealth pardoned him before he had been tried, and there has never been, to this hour, a reason given for what I consider to be such an extraordinary and unreasonable exercise of the Executive power.

Well now, Mr. Chairman, why should we do this? Is there any necessity for it? Is it not forfeiting, to a certain extent, the confidence we have in our court? Why the distinguished gentleman says that in many cases a whole jury will sign a recommendation that a pardon may be issued to a criminal. I do not deny this. I have known cases where I have been retained professionally, in which the signatures of the whole jury have been secured to a petition that the criminal might be pardoned, but they have been rare cases, and I do not think that these rare exceptions should cause us to depart from what I believe to be a cardinal principle in our government, that we should maintain the right of trial by jury, thereby preserving the forms of law, and also give every defendant an opportunity to come before his peers, and have them decide whether he is guilty, and then if the court sees fit to exercise what might be considered a vin-

dictive spirit in its sentence, we can then appeal to this pardoning board.

I am decidedly in favor of this amendment and trust it will be adopted. I could go on and narrate instances of this kind, where I have personally known that the use of the pardoning power has been violated. But, inasmuch as the subject has been somewhat fully discussed, I rest my argument here.

Mr. BOYD. Mr. Chairman: I do not think that an hour or so more spent in the consideration of this question will be wasted time, because if the people of this Commonwealth expect one thing more than another, it certainly has reference to a change and a reform in the pardoning power. There is no gentleman on this floor but who can bear testimony that his constituents are deeply impressed with the conviction that there is some remedy needed in this quarter. I desire to say, that if no other means shall be adopted than that reported by the Committee on Executive Department, it will fall far short of the public expectation in this regard.

Now, sir, it is known that the Executives we have had for several years past have desired a change with reference to this matter, and I know that the present Executive of this Commonwealth is exceedingly desirous that a change should be effected, and would rejoice to be wholly and entirely relieved from that function of his office. Now the committee's report, as I understand it, proposes to leave the pardoning power just where it has always been, because that is the effect of their report. It is true they have provided that the Governor, Secretary of the Commonwealth, Attorney General, Superintendent of Public Instruction and the Secretary of the Interior shall be a board of pardons. Well, it will be observed that every one of these gentlemen are appointed by the Governor. These places, therefore, will be all filled by him.

Mr. BIDDLE. Mr. Chairman: I desire to correct the gentleman. Two of these officers are elected, two appointed.

Mr. BOYD. Mr. Chairman: I understand that there is to be a board of pardons. The Governor is to be one.

[Several delegates. No! No!]

Mr. BOYD. The section says:

"He," that is the Governor, "he shall have power to remit fines and forfeitures, to grant reprieves, commutations of sentence and pardons, except in cases of impeachment, but only upon the recommen-

dation in writing, of the Secretary of the Commonwealth, Attorney General, Superintendent of Public Instruction, Secretary of Internal Affairs, or any three of them, and such recommendation, with the reasons therefor, at length, shall be recorded and filed in the department."

Now I understand that it is proposed to take out the Secretary of the Commonwealth, and that it is the amendment pending.

Mr. BIDDLE. That is already voted out.

Mr. BOYD. Very well. Then as it stands, the Attorney General, Superintendent of Public Instruction and Secretary of Internal Affairs shall be the board.

I intend to move, at some time, when it will be in order, to refer this section back to the committee, with instructions, having in view some mode by which this thing can be improved. I shall propose to take it away from any officers connected with the State government, and have it lodged in an independent body.

There will be no impropriety in having the Governor president of such a board but to have it constituted of members of his cabinet would be precisely the same as we have had in it in the past. I have always understood that heretofore the Attorney General and the Secretary of the Commonwealth, the cabinet of the Governor, have had pretty much all to do with granting pardons. This I know has been the case in the recent past, that almost every application for a pardon has been considered in the manner stated, and, as a matter of course, if the Governor is desirous that a pardon should be granted, or issued, his cabinet is very apt to defer to the wishes of the Governor, so that, at least, it becomes the act of the Governor himself; and what I contend for, and mean to insist upon here, will be: That this mode shall be changed, and a board of pardons, constituted either by appointment or election, I do not care which, with the Executive of the State as president of it, the other members to be wholly independent of him, so that there will be no responsibility of one to the other, by virtue of their position in the Executive department of the State; and unless something of that kind is done, I am perfectly convinced that our work here in this behalf will fall very far short of public expectation. I have no doubt that every Governor who has exercised this pardoning power believes he has exercised it in a conscientious manner; but we all know that pressure has been brought

to hear upon them of such a character, that is has been found impossible to resist. It is all nonsense for any gentleman to rise here and point out individual instances of the abuse of this power. To relate such instances which have come under the personal observation of the members of this body alone, would simply overwhelm us in the length of time it would take us to recapitulate them. Influences of a political and personal nature are brought to bear, and all that sort of thing always result in a pardon. I therefore shall vote against this section altogether, and against any amendment short of the mode and manner which I have indicated, to wit: An independent board of pardons, of which the Executive shall be the president.

Mr. J. N. PURVIANCE. Mr. Chairman: I think it would meet the approbation of this Convention to let this section pass in committee of the whole, and then if there be any material objection to it, it can be corrected on second reading. Now the amendment offered by the gentleman from Luzerne (Mr. H. W. Palmer) is not accepted by the Committee on the Executive, at least not by a majority of that committee, because, I take it, it would almost exclude every application for pardon. If an applicant for a pardon were compelled to go before a board, a kind of a court, and have his attorneys there, and his witnesses, and undergo a kind of a second trial after that due public notice, I apprehend that it would be almost a complete bar to all applications for pardons. Therefore I trust that the amendment will not prevail, but that the section will be adopted as reported by the committee.

Now, I would say, Mr. Chairman, that this section was very fully considered by the Committee on the Executive Department. There were various propositions before that committee; one was, as suggested by the gentleman from Montgomery, (Mr. Boyd,) to have a court organized, to be appointed by the Governor, composed of some five or six or seven citizens of the Commonwealth, entirely outside of the officials of the government. Another was to confide it to the judges of the Supreme Court. Another was to confide it to four or five president judges of courts of common pleas, and other courts. Another was to confide it to the ex-Governors. All of these propositions were well considered in committee, and none of them met with the favor which the pro-

position as reported met with. The reasons why the Attorney General and the Secretary of the Commonwealth and the Superintendent of Public Instruction, and the Secretary of Internal Affairs were agreed upon as a board of pardons mainly was, that they are officials of the government already, if this Constitution be adopted. Their residence is principally, and their official duties entirely at the seat of government. They are gentlemen selected generally with reference to their high character for integrity and intelligence, and would be a competent board to represent, properly, the important branch of the dispensing power of the government.

I believe, Mr. Chairman, if there be any abuse of the pardoning power it consists in the fact of its non-exercise. It has not been materially abused in the exercise of it, but it has been, perhaps, from a fear of public clamor, and from other causes that have existed in the State, abused in the fact that it has not been exercised in many cases where it should have been. It has been withheld, perhaps, in meritorious cases, because the Governor desired, as far as practicable, to avoid public abuse which was generally brought upon him for the exercise of this power.

I will refer to the number of pardons heretofore granted by Governors, from Gov. Mifflin down to Gov. Geary, inclusive. I find that the average number of pardons per year was as follows:

Gov. Mifflin, 132; Gov. McKean, 212; Gov. Snyder, 177; Gov. Findley, 434; Gov. Heister, 262; Gov. Shultz, 136; Gov. Wolf, 83; Gov. Ritner, 160; Gov. Porter, 120; Gov. Shunk, 81; Gov. Johnson, 126; Gov. Bigler, 108; Gov. Pollock, 53; Gov. Packer, 72; Gov. Curtin, 127; Gov. Geary, 71.

Now, sir, I take it there has been no abuse—

Mr. LILLY. I would like to ask the gentleman a question. Has he any record, or knowledge of any record, of how many convictions there were in those days. I take it that these statistics, without you have the number of convictions and the number of persons in prison, amount to nothing. The pardons granted by Gov. Curtin and Gov. Geary are a very small percentage compared with the rest.

Mr. J. N. PURVIANCE. I agree with the gentleman that they were a very small percentage as compared with the other Governors, because convictions were much more numerous; but we will suppose that in a long period of time, such as I have

gone over, three-quarters of a century, that the average of convictions were about the same, proportionate to population, except in times of war, except during the rebellion and other times of war, because, no doubt, on occasions of such extraordinary kind, there were more convictions and more offences, and of a less aggravated character.

I wish, however, to make one remark. The gentleman from Luzerne (Mr. H. W. Palmer) in his remarks yesterday took occasion to speak in terms very denunciatory of the late deceased Chief Magistrate of this Commonwealth. How he intended the remark exactly is not to be misapprehended. He cited that ancient Latin maxim, "*De mortuis nil nisi bonum*," but he used it in villification of the memory of the deceased Governor. He refrained from remarks in reference to him, because his tongue is silent in the grave and his earthly career is ended. Now I beg to say that, so far as the record shows, that Chief Magistrate of Pennsylvania stands as high upon the record, in regard to the exercise of the power of granting pardons, as any other Executive that ever filled the gubernatorial chair of this State. Therefore the remark, perhaps, should not have been made, and the few words that I have said in vindication are but just and right to the memory of the deceased Governor.

Then, Mr. Chairman, so far as the committee of the whole is concerned, it is to be hoped that it will adopt the section as we have reported it. If there be any changes thought of they can be made when we are considering this at a subsequent time in Convention. With these remarks I will close, trusting the committee will see the propriety of adopting the section.

MR. BUCKALEW. Mr. Chairman: I sincerely hope that this amendment will not be adopted by the committee. I am in favor of regulating the pardoning power, but I am not at all disposed to impair it, and one of the most important and salutary regulations possible will be to make the proceeding upon the consideration of the granting of pardons public, so that parties necessarily and properly concerned in can be heard by the persons who shall be charged with this duty of recommending and granting pardons. Now, sir, pardons before sentence or before conviction are occasionally necessary in every government upon the earth. In case of a riot it may be necessary that your chief magis-

trate, who has and always ought to have control of the military power of the State, should, by proclamation or otherwise, extend amnesty and pardon to the persons who may be in the act of violating the law, misled by excitement or by the operation of some transient causes. It may sometimes be indispensable to the restoration of the public peace that the chief magistrate shall say to all turbulent persons concerned: "Return to your duties under the law, and you shall not be punished for what has already occurred." This power is also necessary in case of a revolution, and every State is liable to that; we have had one or two in a small way even in our State. We saw the necessity of this power recently in the government of the United States; it was exercised by two late Presidents during and after the late war.

In the case of a revolution in this State this power would be indispensable—a power to act at once, and speak with authority—to conciliate the disaffected element in society that may be in revolt, or in a condition of turbulence. Then, again, how necessary is this power in the Executive, in order to obtain necessary evidence for purposes of public justice?

When persons have been engaged in some criminal transaction, some of whom may be only subordinate agents, and not principals in guilt, it may be important for the purposes of public justice that a pardon should be extended to some of them, in order to obtain evidence against the principal offenders.

With such a limitation as is proposed in the pending amendment, which, in effect, provides that under no possible circumstances, in this government, shall a pardon be extended, or even promised, (because that is the effect of it,) before not merely a trial, but an absolute conviction, or until the end of judicial proceedings, you will cut off all these opportunities for Executive interposition to which I have referred, and, possibly, many others. How can we foresee all the exigencies of the future? Any attempt to narrow—to curtail—this proper Executive power of pardon, as proposed by the amendment now before the Convention, would, in my opinion, be a grand mistake. All that we are required to do, and all that public opinion demands of us, is to regulate the exercise of this power, so as to meet any abuses which may have been developed in our past experience, or are likely to attend upon our future pro-

gress. Let us leave the power, unimpaired, remain under such regulations as we may think proper to surround it with. I hope that, eventually, upon deliberate reflection, every gentleman will come to the same conclusion that I have come to, that this power, like all the other leading powers of the government, is a necessity, and that its full and complete existence, under the Constitution, ought to be guaranteed by most ample and certain provisions.

Mr. DARLINGTON. Mr. Chairman: Neither the argument of my learned friend from Centre (Mr. Curtin) or of my other learned friend from Columbia, (Mr. Buckalew,) as to the necessity for the exercise of the pardoning power previous to conviction, have influenced my mind in the least in favor of their side of the question.

If there could possibly arise, as no doubt there will arise, cases where it may be necessary to guarantee immunity from punishment to one person charged with crime, in order to convict another or others, it is not necessary that the pardoning power of the Executive should be resorted to.

It is a well understood principle of common law, applicable in the administration of justice here and elsewhere, that there is an implied understanding, given by the prosecuting officer to the man who becomes a witness for the Commonwealth, that he shall not be convicted; and no instance has occurred, within my knowledge, either in history or in practice, and, I apprehend, not within the knowledge or experience of any gentleman on this floor, in which it ever was necessary to call upon the Executive for a formal pardon in such a case as that.

I do not conceive that it is necessary that it should be exercised in the case put by the gentleman from Columbia, (Mr. Buckalew,) when in case of a mob, or a general condition of disorder or revolt, it would be proper to grant amnesty.

Whatever may have been the practice of the general government in the time of the rebellion, it has never had any application, and is not likely to have application, to the case of a State of this Union.

When a body of men rise in riot against the constituted authorities of the State, in violation of all law, and make themselves criminals, I would not entrust to a single Executive, who must belong to one or the other of the political parties, the power to grant amnesty to all his friends

who may be engaged in this attempt. I would not put it in his power to say: "If the rioters are political enemies of mine I will not pardon them, but if they are friends I will." That would put the law into the hands of the Executive without examination of the offence, without trial and without conviction? Are the liberties of this people to depend upon the fiat of any Executive? If a man assail or invade my home or burn my property I have a right to demand that the Commonwealth shall do justice upon him, and I have an equal right to demand that no man shall interfere with the administration of the law between the offender and the Commonwealth. It is time enough for him to be freed from the consequences of his crime after he is adjudged guilty by the verdict of his peers, and the sentence of the court is pronounced. What would be the effect of allowing the Executive unlimited sway to grant a pardon to any man and every man previous to conviction? Why, sir, it is impeding the wheels of justice; it is interfering with the administration of justice; it is equivalent to saying that a judge, whose function it is to see that the man has a fair trial before a jury, is not an impartial judge; that he is influenced by other considerations than the facts and the law of the case, and that that man has had an *ex parte* trial; but it is said that "the prosecutor, who has attempted to inflict this punishment, ought not to be allowed to prosecute this defendant, because he is actuated by malice or other improper motives."

It is also said "there are times of high political excitement when this right must necessarily be exercised." That is equivalent to saying that "the offender was in a minority, and had no business to interfere with the mob; so the mob shall not be tried at all for their offence. I will pardon them at once." What kind of law would that be under which we would be asked to live? Is it necessary, let me ask the gentleman for a moment, that the Governor should interfere to protect the alleged criminal from trial because the prosecution may have been actuated by malicious motives and without probable cause? Why the party accused has ample redress in the courts, by civil action, for malicious prosecution, or malicious arrest, in which a sufficient guard will be held over any man who attempts a prosecution unwisely or improperly. The law is open to him. If any man be improperly

charged and is acquitted, there is no danger of any punishment being inflicted upon him. He has his redress in an action for the injury inflicted upon him. Shall it be said that the Executive of the State, on a one-sided hearing, and without listening to any man but one, knowing nothing of the facts but those which the friends of the criminal put before him, shall be at liberty to impede the administration of the law? "High political excitement!" I would allow that excitement to find its quietus in the proper administration of justice in the courts. Whoever is guilty of riot must take the consequences of it, and let not the Governor interfere. If, after conviction, it appears that it was unjust, if it can be made to appear beyond all doubt that conviction was improper, through perjury or fraud, or from any other cause, I would not withhold the mercy of the Governor, but give some chance to the man who institutes a prosecution against another to prove, before a jury and a court, that the man whom he charges is guilty, and if he be guilty, no previous good character, no previous high standing in the community, and no previous association with eminent men, should save him from the consequences of his crime. For these reasons it is inexpedient, in my judgment, to provide for the exercise of the pardoning power prior to conviction for any cases that cannot arise, or for cases of supposed riot where it is not necessary to interfere, and I submit that it is not necessary for such a power to be exercised at all before conviction. For the reason, then, that it is inexpedient it is also improper to allow a Governor to interfere with the course of justice, before justice is begun to be administered, and I would deny him that power.

Mr. DE FRANCE. Mr. Chairman: I have just a few words to say on this subject. I am in favor of the amendment of the gentleman from Philadelphia (Mr. Gowen.) I believe that pardons should not be granted before conviction in any case. The gentleman from Columbia (Mr. Buckalew) said it was a necessity. If it is a necessity, sir, it is a necessity that is dispensed with in a majority of the States of this Union. You may take the State of Kentucky; there they do not grant any pardons until after conviction. Massachusetts, I believe, is in the same position. So are Rhode Island and New York, and a majority of the States of this Union. They do not give the Executive the right to grant pardons until after conviction.

Is it a necessity? The only case that has been mentioned is that of times of high political excitement or rebellion. I judge that the Governor, at such times, has the right to issue his proclamation, not, perhaps, of pardon, but exercising his authority as commander-in-chief of the army and militia of the State.

At any rate it does not amount to much, in my judgment. I have failed to see the necessity for this power being in the hands of the Governor, and after hearing the arguments of the gentlemen, especially of the gentleman who has been Governor of the State for six years, (Mr. Curtin,) and of other gentlemen who have held high political honors, I cannot see any reason why Pennsylvania should allow her Governor to grant pardons before conviction, when nearly all the States in the Union deny it to them.

Mr. S. A. PURVIANCE. Mr. Chairman: I desire to make a few remarks directly to the point now before the committee.

I have listened, sir, in vain to the gentleman from Centre (Mr. Curtin) and the gentleman from Columbia (Mr. Buckalew) for any reasons why we should not place this restriction in the Constitution. I listened in vain to those gentlemen for an illustration of a case, such as should call for the exercise of the pardoning power previous to conviction and sentence.

Now, sir, as I said yesterday, and asked the gentleman from Lycoming, (Mr. Armstrong,) is not a criminal, when he is placed in the box, presumed to be innocent until he is convicted; and if that be true, my further inquiry is: If the prisoner is innocent, upon what is this previous pardon to rest? It is an anomaly in our jurisprudence, and should not be recognized by the wisdom of this Convention. There is only one class of cases to which it should ever be applied, and that is the class intimated by my friend from Clarion, (Mr. Corbett,) in cases of insurrection and rebellion, and not in case of riot, as claimed by the gentleman from Columbia, (Mr. Buckalew,) because a riot may not rise to the dignity of a case, such as would invoke the exercise of a power like that of an insurrection or rebellion, and hence there is no difficulty in appending to the proposition offered by the gentleman from Philadelphia (Mr. Gowen) that which will make the exception in the case of rebellion and insurrection.

Now in twenty-two States, a list of which I hold in my hands, it is provided, in some instances, that the Governor shall have power after conviction to grant reprieves, commutations of sentences, and pardons for all crimes and offences, except treason and in cases of impeachment. Again, in other instances, it is provided that the Governor shall have power to grant reprieves, pardons and commutations of sentences after conviction for all offences, except treason, and so on.

This provision is made in twenty-two of the States of the Union, and they are the States of Alabama, Iowa, Nebraska, Ohio, Arkansas, California, Michigan, Wisconsin, New York, North Carolina, Illinois, Missouri, Tennessee, Oregon, Indiana, Rhode Island, Connecticut, South Carolina, Texas, Virginia and Maine. Now, sir, are we going to make a departure from what has been the recognized wisdom of the whole nation?

Mr. SIMPSON. Mr. Chairman: I trust the committee will not adopt the amendment. The limitation proposed to be placed upon the Executive power by this amendment has been exercised in a very few cases, indeed, in this Commonwealth. While I am aware of the fact, as suggested by my colleague, (Mr. Temple,) that in one instance it was, perhaps, exercised where it ought not to have been, I am also cognizant of the fact that in another case it was exercised where it ought to have been exercised. I am clear upon this subject, for I know the parties, and I know all the surroundings of the case. The party should not have been permitted, and called upon to stand his trial, for every lawyer who practices at the bar knows the uncertainty attending jury trials. It has been said that the Lord knows everything, but I doubt if the verdict of a petit jury can ever be predicted with any reasonable degree of certainty. In the case I refer to, the party ought not to have been called upon to run the risk of a jury trial and a conviction before applying to the Executive for a pardon. As the instances have been so few in the Commonwealth, and creating, as the proposed plan suggests, a body independent of the Governor, to examine into and report before a pardon can be issued, I am sure the pardoning power can be exercised without much fear of its being abused. I trust, therefore, the pardoning power will not be taken away from the Governor in cases like these, that his power in the premises will not be emasculated,

but that it may continue to be exercised whenever the public interest and justice shall require, in accordance with the provisions contained in the section reported by the committee.

Mr. HOWARD. Mr. Chairman: I desire before the debate closes to say a few words in relation to this question. It seems to me the plan as proposed is as good as anything that can be devised by the Convention. It seems to me, in listening to the arguments that have been made, that gentlemen have conceived an idea that they can create, in some way, a tribunal that will not be liable to the same errors, the same temptations, the same feelings and the same impositions that have afflicted those who have heretofore exercised pardoning power, but I think this is a very serious mistake. If the Convention could by any magic power create some tribunal that would be composed of a superior order of beings, who were higher and above common humanity, I certainly should at once support such a plan; but in no possible way can we escape trusting men. The Governor is the highest officer in the Commonwealth, and he is chosen by the entire voice of the people. He is responsible to the people, and it seems to me that there is no person in whom this pardoning power can be more safely entrusted, especially when it is guarded in the manner provided in the report of the committee. It has been suggested that it would be wise to strike "the Secretary of the Commonwealth" from the section, because he is an officer appointed by the Governor; but that is the very reason why I would retain him as one of the members of this board. The Secretary of the Commonwealth is supposed to be the friend and counsellor of the Governor, and it is not to be supposed he would advise the Governor to grant a pardon when it was not proper that it should be granted, and I think, therefore, by all means the Secretary of the Commonwealth, as the friend and counsellor of the Governor, should be retained, as the committee has reported. The section reported by the committee also further provides that "this board shall also consist of the Attorney General, the Superintendent of Public Instruction and the Secretary of Internal Affairs." If this provision is adopted it will possess this additional advantage, which I hope will not be overlooked: That the pardoning power thus entrusted to the Governor shall be exercised by and with the advice of gentlemen already occupying offices in the

Commonwealth, and officers that we consider indispensable to the State. I am opposed to the creation of other offices. How could any better tribunal be created, and especially when we consider that the people will know that the pardoning power will enter into their duties, and they will select men to fill these offices with the idea of obtaining talent and integrity, suited to this as well as other duties. I have said, and I repeat it again, that if this tribunal we propose to create could be composed of a higher order of beings, I would be willing to endorse the plan, but as we cannot do this I can see no reason for shifting about and originating devices for the creation of new offices. It is for these and other reasons, Mr. Chairman, that I shall support, most cordially, the report of the committee.

Mr. COCHRAN. Mr. Chairman: Before the gentleman from Lyeoming (Mr. Armstrong) closes the debate upon this question, which I presume is his intention, I venture to submit a few remarks. I came to this Convention deeply impressed with the belief that it was the conviction of the public mind that this power of granting pardons vested in the Executive should be, in some way or other, guarded by the action of this Convention; and I have not yet been fully satisfied that this provision, reported by the committee, has that effect. I have listened to the whole discussion upon this question, and the result produced on my mind has been to leave me still under the impression that the provision reported by the committee is not adequate. I think, sir, this matter of granting previous pardons, although the power has not been so very frequently exercised, is one which has attracted towards it considerable public attention and considerable public disapprobation, and I believe the general sense of the community is that that power ought to be abolished, and therefore, as the question now stands, I shall be in favor of abolishing it; though if this council of pardons were differently constituted, notwithstanding there seems to be something illogical in pardoning a man who is presumed to be innocent, I would, nevertheless, be in favor of retaining the provision in the Constitution. My own idea has been that this council of pardons should be constituted of some different material than that mentioned in the report of the committee. I have never been able to fully satisfy my mind as to what persons should be selected to constitute

this council, but the conclusion I have come to is to incorporate a provision something like the following, which I will read in connection with the section now pending:

"The Governor shall have power to remit fines and forfeitures, and to grant reprieves, commutation of sentence and pardons, except in cases of impeachment, but only upon the recommendation, in writing, of the majority of the members of the council of pardons, to be composed of the chief justice of the Supreme Court, the president judge of the court in which the applicant for pardon in each particular case was convicted," and the several officers mentioned in the section reported by the committee.

With the addition of this element I would be willing to commit the whole question of pardon to the Governor and the council so constituted; but I believe it is a defect, that possibly may be irremediable, to leave this power of pardon entirely in the hands of gentlemen who are elected to offices in themselves distinctly political, and who are liable to be influenced by partisan considerations.

Now if you introduce the judicial element, it is not for the purpose of causing the pardon to be granted on legal grounds, but because it would bring into the consideration of the question a class of men who will look at it from a cooler and more considerate standpoint. In the Constitution of the council of pardons, in the adjoining State of New Jersey, the chief justice and the chancellor, either or both, act as members of the council, and I have never heard that the action of that body has not been satisfactory to the community and the people of that State. Now in addition to the chief justice, by introducing the president judge of the district, before whom the trial is had, as a member of this council, all the facts involved in the case will become known to the other members of the council. He can inform the council whether or not the Governor will be justified in exercising the pardoning power. If that amendment were made in this section, I would vote against the proviso, because I could then have confidence in the impartiality of the tribunal; but without this amendment I am in favor of the proviso and against permitting this council so constituted to grant pardons before conviction and sentence, which form a class of pardons that have excited more public dis-

approbation than any other that have been granted in the Commonwealth.

Mr. ARMSTRONG. Mr. Chairman: That the pardoning power has been greatly abused in this State there can be no question. It is by reason of this admitted fact that the Committee on the Executive Department have given to this clause of this article so careful and anxious consideration. That there has arisen in the public mind an idea that it is a dangerous power is, I think, too clear for argument. It pervades the entire public mind on this subject. This also was clearly in the minds of the committee when they came to the consideration of this subject. This prejudice has arisen from the fact that the pardoning power has been exercised in the sole discretion of a single person, who, from his position, was necessarily, more or less, under the influence of political considerations. At the same time that I make this remark I am prepared to say that the pardoning power has been exercised in this Commonwealth, as a rule, with exceeding great carefulness.

The gentleman from Pittsburg (Mr. John N. Purviance) has read in the hearing of the committee a statement of the number of pardons which have been granted by the successive Governors of this Commonwealth for many years past. But he overlooks the fact that until the act of 1830 a sentence which was served to the end was followed by political disability, and that up to that time pardons were granted in great numbers, in many instances the day before the sentence would expire, in order that the political disabilities, which attached to the serving out of the full sentence, might be removed. It happened, therefore, that a large number of these pardons were for the simple and only purpose, not of diminishing the weight of punishment, but of relieving the political disabilities which would ensue if the full term of sentence were served out. This was corrected by the act of 1830, and since that time the serving out of the sentence has not been followed by any such disability.

But my friend from Pittsburg (Mr. S. A. Purviance) referred also to the various provisions of the several States with reference to the pardoning power. In a majority of the States where they refused to permit pardons to be granted until after conviction and sentence, it is where the pardoning power is vested solely in the discretion of the Executive, and not where that power is vested in the Executive

subject to the recommendation of a council of pardons. The rule in the States is not uniform, but it is the prevailing rule that where there is a court of pardons, or a council of pardons, which must first pass upon the expediency of granting the pardon, the right of pardon before sentence does exist.

We are not considering this question in the position in which it stands in the public mind, as a power to be exercised by the Executive, in his sole discretion, but as a power hedged around with defences which are calculated to, and which, in the judgment of the committee, will effectually prevent its abuse. It does not follow that all of the four persons designated as a court of pardons will be of the same political party. But if they should be, as possibly they may be, they will be gentlemen of such standing, presumably, from the position which they occupy, and so regardless of their personal reputation and character, that from the necessity of spreading the reasons which induced them to recommend a pardon, before the people in a record, which is perpetual and accessible to the public, that they must be constrained to exercise this discretion with exceeding care. No sufficient reason has been suggested why a power, which is essentially discretionary, shall be exercised after conviction, but shall not be exercised before. It is, when properly exercised, in the nature of government clemency, based upon sound and sufficient reasons, and it would be very hard to draw a line of distinction, which should admit its exercise in the one case and exclude it in the other. Nor has it been indicated in this debate by what rule, or for what reasons, it would, for the public interest, that pardons after sentence may be granted, but before sentence shall not be. It is, in its whole entire compass and effect, an appeal to the discretion of the Executive, bounded and circumscribed by the provisions for a council of pardons, in such manner that in no case can it be exercised hastily and indiscriminately. As the section stands, an application for pardon before sentence must take the precise course, and be subjected to the same limitations, as application for pardon after sentence. It would seem, and it did seem to the Committee on the Executive Department, to be extremely unwise that we should fix, by an immutable law, by an organic provision in the Constitution, a limitation upon the Executive power, which is not at all likely to be abused. And when many in-

stances have occurred, and many must suggest themselves, to the minds of members on this floor, in which it ought to be exercised, and in our past history has been exercised with very marked advantage to the public peace, and with equal and admitted justice to the accused. Reference has already been made to the case of an insurrection, and it is proposed to break the force of this illustration by saying that it shall be made a special exception. This assumes that the discretion of pardon ought not to be exercised, except in this particular case. We cannot take in the whole scope of criminal law, nor can we anticipate the contingencies of all criminal administration, nor undertake, as a Convention, to provide for all cases that may occur. The most we can do, is to so construct the organic law that grants the discretionary power we confer shall be exercised with such discretion, that it shall be always with great care and consideration, and with such proper and sufficient safeguards that, whilst we preserve the power, we take care that it shall be so carefully guarded that it shall work no wrong.

The Committee on Executive Department have given to this section, as I have before remarked, their most careful and anxious consideration. They believe that this power ought to be exercised, but that it should be hedged around with such defences as will prevent its abuse. But that to go so far as to provide that no pardons shall be granted prior to conviction and sentence is withholding the exercise of a power which may often be necessary to prevent great injustice, and in many instances seriously and injuriously affect the public welfare. I do not now propose to detain the committee by any enlarged discussion of this question. It has been ably and fully discussed. I desire only to impress upon the Convention, if I can, that the Committee on Executive Department has most earnestly given their attention to this entire subject, and after the most minute and careful consideration have presented this section as the result of their unanimous judgment upon this subject. I hope it commends itself to the favorable consideration of this Convention.

The CHAIRMAN. The question is on agreeing to the amendment.

Mr. S. A. PURVIANCE. Mr. Chairman: I call for a reading of the amendment.

The CLERK. The amendment to the amendment is to add to the end of the section, as follows:

"*Provided*, That no pardon shall be issued prior to the conviction and sentence of the person to whom it is granted."

Mr. FUNCK. Mr. Chairman: I ask for a division of that question, so that there might be a pardon granted after conviction and before sentence.

On the question of agreeing to the amendment to the amendment, a division was called, resulting in twenty-six votes in the affirmative. Not being a majority of a quorum, the amendment to the amendment was rejected.

The CHAIRMAN. The question is on the amendment of the gentleman from Potter, and the amendment will be read.

Mr. MANN. Mr. Chairman: The persuasive speech of the gentleman from Centre (Mr. Curtin) has induced me to withdraw my amendment. [Laughter.]

Mr. JOHN M. BAILEY. Mr. Chairman: Before the vote is taken on this question I have one amendment to suggest which, I think, will strike every member of the committee favorably. It will be observed that since we have added the amendment suggested yesterday by the gentleman from Luzerne (Mr. H. W. Palmer) the Governor could not grant a reprieve until after due public notice and a full hearing in open session. This difficulty might arise; there might be a case where a reprieve should be granted without the delay of a single day. Pending the execution of a death sentence, for instance, it may be demonstrated in a day, even the day before execution, that the criminal be innocent, but under the operation of this section as it now stands, it would be impossible for his innocence, though demonstrated to a certainty, to save him from the execution of the sentence. For it would be impossible to give due public notice and have a hearing in open session before a reprieve could be granted, even under such circumstances. I would, therefore, move to amend this section further, as follows: By striking out the word "only," in the third line, and adding after the word "but," in same line, the words: "No pardon shall be granted nor sentence commuted, except," so that the provisions for recommendation in writing, and public notice and hearing shall only apply to the granting of pardons and commuting of sentences, and not to reprieves.

Mr. CURTIN. Mr. Chairman: I would just remark that under our system an execution cannot occur without a death warrant, and the death warrant must be signed by the Governor.

Mr. JOHN M. BAILEY. Mr. Chairman: I was aware of that. Still it strikes me that a warrant might be issued before the innocence of the man was shown, and the day even fixed for the execution, and the day immediately preceding the time for execution it might be demonstrated that the man was innocent. It is to meet such a case as that that I have offered this amendment.

Mr. CURTIN. Mr. Chairman: It strikes me that it is a good provision. I make no objection to it.

Mr. ARMSTRONG. Mr. Chairman: I would like to hear the section read as it is proposed to amend it.

The CLERK read:

SECTION 10. He shall have power to remit fines and forfeitures, to grant reprieves, commutations of sentence and pardons, except in cases of impeachment, but no pardon shall be granted or sentence commuted except upon the recommendation, in writing, of the Secretary of the Commonwealth, Attorney General, Superintendent of Public Instruction, Secretary of Internal Affairs, or any three of them, after a full hearing of the parties, upon due public notice, and in open session; and such recommendation, with the reasons therefor at length, shall be recorded and filed in the department.

Mr. SIMPSON. Mr. Chairman: I suggest that the gentleman from Huntingdon had better include the remission of fines and forfeitures as well as reprieves.

Mr. JOHN M. BAILEY. Mr. Chairman: I prefer the amendment as I offered it.

The amendment was agreed to.

Mr. SIMPSON. Mr. Chairman: I now move to amend, as follows:

By inserting the words "fines and forfeitures" after the word "reprieve."

The amendment was rejected.

The CHAIRMAN. The question now recurs upon the tenth section, as amended.

The section was agreed to.

SECTION 11. 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 eleventh section was agreed to.

The CLERK read:

SECTION 12. He shall, from time to time, give to the General Assembly in-

formation of the state of the Commonwealth, and recommend to their consideration such measures as he shall judge expedient.

The twelfth section was agreed to.

The CLERK read:

SECTION 13. 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.

The thirteenth section was agreed to.

The CLERK read:

SECTION 14. In case of the death, conviction on impeachment, failure to qualify, resignation, or other disability of the Governor, the powers, duties and emoluments of the office for the remainder of the term, or until the disability be removed, shall devolve upon the Lieutenant Governor.

The fourteenth section was agreed to.

The CLERK read:

SECTION 15. The Senate shall, at the beginning and close of each regular session, and at such other times as a vacancy may occur in said office, elect a Senator President *pro tempore*, whose duty it shall be to preside over the Senate during the temporary absence of the Lieutenant Governor; and in case of a vacancy in the office of Lieutenant Governor, or on his conviction on impeachment or disability, the powers, duties and emoluments of the office for the remainder of the term, or until the disability be removed, shall devolve upon the President *pro tempore*, and he shall, in like manner, become Governor if a vacancy or disability shall occur; his office of Senator shall become vacant when he becomes Lieutenant Governor, and shall be filled by election, as any other vacancy in the Senate.

The fifteenth section was agreed to.

The CLERK read:

SECTION 16. 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, which shall enter the objections at large upon their Journals and proceed to re-consider it; if after such re-consideration two-thirds of that House shall agree to pass the bill, it shall be sent, with the objection, to the other House, by which likewise it shall be re-considered, and if approved by two-thirds of that House it shall be 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 have been presented to him, the same shall be a law, in like manner as if he has 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.

Mr. EWING. Mr. Chairman: I move to amend that section, by striking out in the last line, after the word "unless," and inserting "he shall file the same, with his objections, in the office of the Secretary of the Commonwealth, and give public notice thereof by proclamation within thirty days after said adjournment."

The amendment was agreed to.

Section sixteen, as amended, was agreed to.

The CLERK read:

SECTION 17. The Governor shall have power to disapprove of any item or items of any bills making appropriations of money, embracing distinct items, and the part or parts of the bill approved shall be the law, and the item or items disapproved shall be void, unless re-passed according to the rules and limitations prescribed for the passage of other bills over the Executive veto.

The seventeenth section was agreed to.

The CLERK read:

SECTION 18. If the trial of a contested election of Governor or Lieutenant Governor shall continue longer than until the third Monday of January next ensuing the election of Governor or Lieutenant Governor, the person who is then exercising the authority of the office in reference to which this contest is pending, shall continue therein until the determination of such contested election and until his successor be qualified.

The eighteenth section was agreed to.

The CLERK read:

SECTION 19. The Secretary of the Commonwealth 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 relating thereto, before either branch of the Legislature, and shall perform such other duties as shall be enjoined upon him by law.

The nineteenth section was agreed to.

The CLERK read:

SECTION 20. The Secretary of Internal Affairs shall exercise all the powers and duties devolved by law upon the Surveyor General; and the office of Surveyor General shall cease when the Secretary of Internal Affairs shall be duly qualified. His department shall embrace a bureau of industrial statistics, and such duties relating to the charitable institutions, the agricultural, manufacturing, mines, mineral, timber, and other material or business interests of the State as may be by law assigned thereto. He shall, annually, make report to the Legislature, and at such other time as may be required by law.

The twentieth section was agreed to.

The CLERK read:

SECTION 21. The Superintendent of Public Instruction shall exercise all the powers, and perform all the duties devolved by law upon the Superintendent of Common Schools; and the office of Superintendent of Common Schools shall cease when the Superintendent of Public Instruction shall be duly qualified.

The twenty-first section was agreed to.

Mr. DARLINGTON. Mr. Chairman: In reference to the office of Superintendent of Public Instruction I wish merely, at this time, to state that the Committee on Education had that subject in charge, and after a great deal of consideration and many meetings, and consideration of the views of all the members, finally united upon it. They have recommended that there should be such an officer, and upon the question whether he should be elected by the people or appointed by the Governor, by and with the advice and consent of the Senate, the committee finally came to the conclusion that the latter was the better plan. Believing that the Superintendent of Public Instruction was an officer who should be as far as possible removed from the political arena, and possessing, as he must possess, all the varied qualifications to enable him to discharge the duties of that office properly, it seemed to the committee eminently wise that he should be selected by the Governor and confirmed by the Senate. That being the conclusion of the Committee on Education, it seemed but right that I should bring it to the attention of this committee at this time, as we have not yet arrived at the consideration of the report of the Committee on Education. It will be for the Convention to decide whether the one or the other will

be the better mode. The committee whose report is now before us proposes the election of this officer. The other committee recommend that he should be appointed by the Governor, by and with the advice and consent of the Senate; both committees agreeing in the length of his term—four years.

With this explanation, which is all that I need to make, I wish to say, merely, that I prefer, myself, and I think the committee also prefer, the appointment of the officer instead of his election.

MR. LILLY. Mr. Chairman: I would like to make a suggestion to the gentleman. Would not it be better to so frame the section that the Superintendent of public schools should be elected by the county superintendents at their annual assemblage, or, say every three years, or at any fixed time. If that plan were adopted I think it would be better, perhaps, than to have them elected by the people or appointed by the Governor.

MR. DARLINGTON. Mr. Chairman: The Committee on Education thought over that plan also, but did not approve it, because it was neither election nor appointment, but a half-way measure that did not strike them as at all wise to adopt.

MR. MINOR. Mr. Chairman: I move to amend the section, by striking out the words, "and Superintendent of Public Instruction," for these reasons:

In the first place, it is a very strange place to fix any thing bearing on the subject of education in the department of the Executive. It is certainly the last place in which one would think of looking for it. It would seem that the provisions relating to this officer should be under the head of education, and the committee having charge of that subject, of which I have the honor of being a member, taking that view of the case, have provided for that officer.

In the next place, the mode of selection of this Superintendent of Public Instruction is one which is open to discussion. Some favor election by the people, as reported here; others favor nomination by the Governor and confirmation by the Senate, as the Committee on Education have reported. Others favor election by the county superintendents, as suggested by the gentleman from Carbon (Mr. Lilly.) Others, again, prefer other modes. That subject will of course be fully discussed, as there is a diversity of views upon it. I suggest to this committee whether the proper place for it is not when

we take up the subject of education; we can then take it up in connection with all the other particular branches of education.

It is not for the purpose of committing any one in his opinion as to how he would vote on the question of the appointment or election of the School Superintendent, that I make this motion to strike out; but for the purpose of placing the matter in its proper position in the report of the Committee on Education.

MR. CURTIN. In deference to the Committee on Education, I would say that we have now passed, in the article on the Executive Department, all the powers which the Committee on the Executive specially desire, and as a member of that committee I, for my part, see no objection to striking out the name of that official. I do not know what may be the views of my colleagues on the subject, but I see no objection to it myself.

MR. WHERRY. Mr. Chairman: I have the honor to be a member of the Committee on Education, and I do not feel at all alarmed about this section as it stands reported by the Committee on the Executive Department. I think this is eminently the proper place for this officer, with his duties, to be designated, because he is especially an Executive officer of our State government. This committee has reported upon the other Executive officers; upon the Governor, Lieutenant Governor, Secretary of the Commonwealth, Attorney General, State Treasurer, Secretary of Internal Affairs, and why not also upon the Superintendent of Public Instruction? Why not, I ask? Is he not an Executive officer of the government as much as the Secretary of the Commonwealth, Attorney General, State Treasurer and Secretary of Internal Affairs, all whom are designated in this report? Is he not very properly classified with them? Now as to another point, which the gentleman from Chester (Mr. Darlington) has raised. How shall this officer be selected? My colleague has left the committee under the impression that the Committee on Education was unanimous in the report which they have made to this Convention, so far as it relates to the appointment of the head of the Educational Department.

I beg to say, sir, as a member of that committee, that we were not unanimous at all on that subject. For myself and three others of that committee, I can say we

are emphatically in favor of making this officer elective and not appointive.

Mr. J. PRICE WETHERILL. Mr. Chairman: The argument this morning and yesterday in regard to the pardoning council was that the power was divided—the people electing two of the board and the Governor appointing the other two, and therefore the majority of the board could not in any way be manipulated by the Governor. Now if this section is adopted you place the board entirely in the power of the Governor; as in a board of four he will have the appointing of three. I hope we will hesitate before adopting a section of this sort. If I understand at all the feeling of those whom I represent on this floor, it is that the pardoning power ought to be removed as far as possible from the one-man power, and that the board ought certainly to be out of the reach of this objectionable one-man power; and I do hope, therefore, we will be extremely careful how we vote upon the amendment now under consideration.

Mr. BUCKALEW. Mr. Chairman: In my opinion the organization of our Common School department is a very much more important question than any question of the organization of the pardoning power. Our common schools constitute a sort of neutral territory, if I may use that term, where all our people stand on common ground.

I would inquire of gentlemen, has there been any complaint made since the organization of the present system of common schools in this State as to the manner in which the School department has been conducted? None whatever. Our common school system has been administered to the satisfaction of the people, and every year we are increasing our appropriation for them, and I believe an amendment is now reported to fix the appropriation at a minimum of one million. There are no abuses in the department of Public Schools; there is no question of politics in it. There are no political considerations connected with its action in any part of the Commonwealth. It stands clear and free from complaint, and always has. With, then, no abuse to correct—no evil to remove—why will gentlemen throw this department into the general pool of election matters, to be managed in political conventions throughout the State, and to be mixed up with political agitation. I trust, whatever else may be done in the other departments and other officers of this government, the School

department and its head will be left just where they are. They are now popular and satisfactory to the people, and there is no reason, in my judgment, for this change, except an insane or mistaken notion of symmetry—throwing everything to the people to be voted upon. The same sentiment, vague, indefinite, ill-considered, would throw the offices of Secretary of the Commonwealth, and Attorney General, and every other State office into the popular elections. You have thrown so much into your elections that they have almost broken down; and the great work of this Convention is to brace up, and amend, and strengthen our system of popular election, so that it can carry the enormous load put upon it.

Why throw the common schools also into the elections? Let gentlemen consider what we have been doing in Convention, and refrain accepting this panacea of superficial thinkers, who, whenever they do not know exactly what to do about filling an office, throw it to the people.

I trust, sir, we will leave this department of our government where it is now. Do not let us make any change in our existing Constitution as to any department that has worked well—when there is no complaint—merely for the sake of change. The men in this State who are connected with our common school system are legion. The persons who are directly and indirectly connected with the operations of our educational system are innumerable; and I doubt whether you could make a single change in the Constitution that would be less popular or acceptable to them than this.

Mr. LEAR. Mr. Chairman: It seems to me if we adopt the provision contained in this section, relating to the election of the Superintendent of Public Instruction, we will be taking a step backward. This question as to the manner in which this office should be filled was carefully and well considered in the Committee upon Education, and although there were some gentlemen who did not agree with the report of the committee, there were reasons given why this officer should be appointed by the Executive of the Commonwealth, which, it seems to me, should prevail in this committee and before the Convention. The gentleman from Philadelphia (Mr. Wetherill) is opposed to having this officer appointed by the Governor, because he is made one of the board by which the questions of pardons shall be

decided prior to their being finally acted upon by the Governor; and if he is appointed by the Governor, and he desires to grant a pardon, concerning which the rest of his advisory council do not agree with him, he has only to remove that particular member of the board obnoxious to him, and appoint another member in his place. Now that objection may be of some validity in some cases, and such cases may possibly occur, but whenever they do occur the Executive of this Commonwealth will have been found of a lower grade than has ever yet existed among the Governors of this Commonwealth; but the gentleman from Philadelphia, (Mr. Wetherill,) when he speaks about the election of the Superintendent of Public Instruction, may speak of it and may vote upon it with perfect impunity, so far as regards the position of the officer himself, for the Superintendent of Public Instruction has none or very little supervision over the public schools of the city of Philadelphia.

Philadelphia was carefully protected, in the report of this Committee upon Education, against any innovation by which the general school laws of the State should apply to her. They are not adapted to the wishes and requirements of the educational interests of this city, but we can arrange a system that will be consistent with the interests of all the people. The people of the rural districts concede this much to Philadelphia, and we hope this city will concede as much to us. The person who shall be selected to fill this important position of Superintendent of Public Instruction should be characterized by official purity. When I speak of his official purity, I refer to his purity from all the contaminating influences of political manipulation and management. This official will be compelled to traverse our State from one end to the other, outside of the city of Philadelphia, in superintending the schools in the different townships and counties, and he will be brought into contact with the school directors in the various local districts all over the State. What an exhibition it will be when the candidates for Governor of the Commonwealth, the Superintendent of Internal Affairs, and the Superintendent of Public Instruction, nominated upon a common ticket, shall take a ride around the Commonwealth, stumping the State in behalf of their own election, stirring up the bitter feeling of partisan admiration upon the one side and hostility on the other? What a dis-

advantage it will be when the candidate who happens to be elected as Superintendent of Public Instruction, in his official capacity, happens to visit the counties where these old substantial, party-bound school directors reside, who think if a man is against them in politics, he is against them for some impure and unworthy motive? It is impossible to eradicate this idea from the minds of some of the people in this State. It does not prevail here in this Convention, of course, but there are numbers of people in the State who believe that a man who is opposed to them in politics is a man unfit to attend to that business, and unfit to be the Superintendent of Public Instruction, or to exercise a general supervision over the school and educational interests of this great State. Now, Mr. Chairman, if this provision in regard to the Superintendent of Public Instruction is adopted, he will have to enter the arena of politics before he is elected, and then, if elected, in the administration of the functions of his office, he will be required to traverse the State again and be compelled to submit to all this personal animosity which the election shall have engendered. Philadelphia, however, will be exempt from this inconvenience and difficulty, because her educational matters will require no immediate supervision. I say, therefore, that this official should be placed beyond the influence and range of political management of a State Convention or elsewhere. He will belong to a party, of course, and he will belong to the party to which the Governor is attached.

There can be no question about that, unless he is controlled by the provision made in our report respecting the confirmation of his appointment by the Senate, but still he will be further removed from contact with the political prejudices of the people. Now, it has been said, that the services of better men are obtained by submitting questions of election to the people. I deny that principle, and the Convention yesterday testified, by the vote they gave upon the question under discussion, that they did not believe that the question of elections should at all times be submitted to the people. When the vote was taken in committee of the whole upon the provision contained in the report of the Committee upon the Executive Department, that the Governor's office shall be limited to a single term, the members of this Convention testified that they were not in favor even of this idea

of civil service reform, by permitting him to so serve two terms, and that they were not in favor of the idea that a man who has served in the position of Governor is better qualified by reason of his experience, other things being equal, to fill the office for another term. The Convention, by its action upon this question, announced that it was inexpedient to allow the people, by a constitutional provision, to re-elect a man to the office of Governor after he had served a single term, even though he may have served the State with rare ability. The Governor may be as pure in character as the driven snow which now covers the mountains of Pennsylvania. He may possess all the wisdom and experience necessary for the discharge of the important duties of that office, and yet the Convention has voted in the committee of the whole, upon the article which proposes to remove from the people the power to re-elect a man who, by the purity and ability of his official career, may be the very man most worthy to occupy that distinguished position; and why? It is because we believe that the Governor will be surrounded by political parasites who will control the patronage and manage the affairs of his office for the purpose of securing his re-nomination and re-election for a second term; and therefore the Convention has decided to remove all this temptation for a re-election in order to protect the people against the designs of such men. The Convention does not mean to say that the Governor may not be a wise and prudent officer; but it says that this political management has such a demoralizing tendency, that it shall be removed from the power of those around the Governor to re-nominate him for a second term of office. It is, perhaps, well enough to indulge the pride and gratification of the people by saying that they shall elect every officer of the Commonwealth, but the decision of the Convention has been, and I believe it is an eminently wise and proper one, that the people are not at all times the judges of the qualifications of an officer of our government. Now, in connection with this subject, the person who shall be called upon, in particular, to fill the office of Superintendent of Public Education, should be a man of eminent ability, and not a politician by any means. He should be a person acquainted with all our educational interests, and possessing all the requisite acquirements appertaining to this important

public office. He should not be a man who would condescend to enter a State Convention, and by entering into political combinations for the purpose of securing a political nomination, for it is well known that such combinations would invariably sacrifice the public school interest of the State of Pennsylvania.

It has always been found that whenever a particular evil of a particular nature has prevailed for a certain time, public clamor has become rampant, and the excitement which is occasioned demands a strong remedy to correct the evil. Let not this Convention, then, be carried away by any public excitement that has been created against any particular class of evils. Let the tide of public prejudice sweep over this State, if it will, carrying with it the people in their excitement, but when it reaches the door of this hall, let it stop there, and not expect to find an entrance into this body.

Mr. CARTER. Mr. Chairman: I agree most heartily with the remarks of the gentleman from Bucks, (Mr. Lear,) and also of the gentleman from Columbia (Mr. Buckalew.) The most important interest requiring attention in our State is unquestionably that of education. We have in this State one of the best educational systems, perhaps, in the whole Union, and for many years past it has been under the management of gentlemen most eminently qualified for the purpose. The system has produced most excellent results, and I should regard it as a great public calamity if the office of Superintendent of Public Instruction, which has heretofore been filled by means of the appointing power, should be made elective. I can see no possible good that can arise from changing the manner in which that office has been filled, because no harm has arisen from the selection of this officer in times past. I am therefore ready to vote to retain the present system in force, because there has been no request or indication on the part of the people that this office should be made elective. If there is any office that should be entirely disconnected from the excitement of political matters, it is this office, which embraces all those questions which appertain to the educational interests of the children of the State.

I remember, sir, that about two years ago, when it was proposed to take away the special appointment of the Superintendent of the Orphans' School, that when it was suggested by some gentleman in

the Senate that the present Superintendent of Public Schools should have charge of it, it was admitted that he had filled the duties so faithfully that by unanimous consent the charge of them was transferred over to him, where it remains at the present time. Now this man, filling the duties of this most important position thus well, would be subjected at the expiration of his term, just when he had come to understand the position and its requirements thoroughly, because it is not a place which a man can fill without much previous knowledge, to have by the candidate of a nominating convention. This would most certainly be regarded as one of the offices not to be filled by a politician. Its petty salary of \$2,500 or \$3,000 a year might make it a boon to be sought after by political managers, and at once it would be put into the arena of politics, to the detriment, most unquestionably, of the great educational interest of the State. The man who holds such a post may be most eminently qualified for it, but if his party happens to be in the minority he will be removed, though all the school interests of the State suffer, even though it bring detriment to that system, which, above everything else that comes before this Convention, we should most sedulously protect.

With regard to the suggestion of the gentleman from Carbon, (Mr. Lilly,) that the choice be made by the county superintendents, a great objection seems to arise in my mind in regard to that. It seems to me that these men are necessarily somewhat dependent on the officer they would select. They are under the control of the Superintendent to some extent, or under his supervision, and it would be inexpedient to entrust that power to them. I see nothing to be gained whatever by any change in that direction, but the gentleman from Philadelphia (Mr. J. Price Wetherill) suggests that it destroys the balance of the elective and appointed persons in this board of pardons, and of course that may require some consideration, and a change be made in the matter of choosing one of the others; but for Heavens be cautious of doing aught that might injure this great and most beneficent system.

MR. J. PRICE WETHERILL. Mr. Chairman: I desire to say just a word on this subject. I favor the report as it comes from the Committee on the Executive Department, and for this reason: They, af-

ter a careful consideration of the matter, reported that they believed the Superintendent of Public Instruction should be elective. The Committee on Education, on the other hand, believes the reverse of this. Now it is for the Committee on the Executive Department to defend that portion of the section. I do not feel called upon to do it. But if they are right then I contend that the amendment should be voted down, as offered by the gentleman from Chester, (Mr. Darlington,) because it affects the position of the board of pardons just passed.

Now, sir, continue the line of argument as offered by the gentleman from Lancaster (Mr. Carter.) Every word that he has said in regard to the appointment of the Superintendent of Public Instruction might also be said in regard to the appointment of the Secretary of Internal Affairs. For why? We charge the Secretary of Internal Affairs—according to the section which we have just passed—with all the public charities of the State, as I understand it. Thus every prison board throughout the State must report to him, if we carry out the idea of this section, and give him charge of the public charities, which I understand will be his duty. Shall we make that man elective? The same argument applying to either case, shall the man who has charge of the reformatory institutions of the State, shall the man who looks after the poor convicts of the State, shall the man to whose charge is committed the prison reformation of the State, go from county to county and from city to city, electioneer and endeavor to control this combination and that combination, in order that he may secure his office? Just as strong an argument may be offered in regard to his appointment as was offered in regard to the appointment of the Superintendent of Public Instruction. The people elect their school directors, and they are the ones who come in direct contact with the teacher and the child. They are the ones who control your schools. They elect the county superintendents, and this Superintendent of Public Instruction, throughout the State, is simply supervisory in his duties; and if the arguments apply forcibly in the one case, they will also apply forcibly in the other. We should make the Secretary of Internal Affairs appointive instead of elective, and thus let the board or council of pardons be entirely under the charge and control of the Governor.

Mr. STRUTHERS. Mr. Chairman: I wish to submit the following amendment to the amendment:

To insert after the word "election" the words, "except the Superintendent of Public Instruction, who shall be chosen by the county superintendents of schools in the State."

Mr. STRUTHERS. Mr. Chairman: It seems to me to be very properly arranged in the first section that this Superintendent of Public Instruction is made a member of the Executive department. It seems to me very appropriate that it should be so. It is necessary that, as a member of the Executive department, he should be at the seat of government. He may, therefore, with great propriety, serve as one of the advisers of the Governor in regard to the pardoning power. That all appears to be very right. It also seems to me to be important, as the gentleman from Columbia (Mr. Buckalew) so well expresses it, that you keep the direction and management of the schools as far aloof from every political influence as possible. I understand that now the Superintendent of Schools is elected by superintendents of the different counties. I see no impropriety or inconsistency, therefore, in letting that remain just as it has been, and let the superintendents of the schools of the several counties select or appoint this officer. The school directors elect the county superintendents of the several counties, and the superintendents of the several counties elect this Superintendent of Public Instruction.

Mr. LANDIS. Mr. Chairman: I desire to inform the gentleman that such was the case, but the Superintendent of Public Instruction is now appointed by the Governor.

Mr. STRUTHERS. Mr. Chairman: I beg pardon, then. I am mistaken about that. But still, I would adhere to my amendment, and let the county superintendents who have been elected by the directors of the several townships in the county meet together and select a Superintendent of Public Instruction. You then would have the office entirely separate from these political influences. I hope, sir, that that view of it may be regarded and considered by the committee, and it does seem to me to be a very salutary one to adopt.

Mr. DARLINGTON. Mr. Chairman: One objection to the election by county superintendents may be that this office is one which it is not certain will always exist. In some counties I know there is a dispo-

sition to abolish it, and it would not be wise to place an appointing power in a power that may be withdrawn.

The amendment to the amendment was rejected.

The CHAIRMAN. The question recurs on the amendment.

Mr. J. PRICE WETHERILL. Mr. Chairman: I call for the reading of the amendment.

The CLERK. To strike out the words, "Superintendent of Public Instruction."

On agreeing to the amendment, a division was called, which resulted forty-seven in the affirmative and twenty-eight in the negative.

So the amendment was agreed to.

The CHAIRMAN. The question is on the section as amended.

The section as amended was agreed to.

Mr. CLARK. Mr. Chairman: I perceive that the committee has made an error in the adoption of the twentieth and twenty-first sections, and I therefore move to reconsider the twentieth section.

I will state the ground upon which I make that motion. It will be observed by the reading of the twentieth section that we give to the Secretary of Internal Affairs the right to exercise all powers and duties devolving, by law, upon the Surveyor General. These duties and powers are designated in various acts of Assembly of this Commonwealth; and the effect of this section would be to crystallize these acts of Assembly, defining and designating these various powers and duties, into the Constitution of the State. Thus forming part of the organic law of the State, the Legislature could not either repeal any of the provisions of these various acts of Assembly or withdraw from the Secretary of Internal Affairs any of these powers, or amend or abridge them. They would become permanently crystallized into the fundamental law of the State. I think it is proper that this Convention should institute the office, and allow the Legislature to transfer the powers and duties of the office from the Surveyor General to that of the Secretary of Internal Affairs. The same principle has application to section twenty-one, and if this amendment prevails I shall then offer an amendment to the twenty-first section.

Mr. ARMSTRONG. Mr. Chairman: I may add, in this connection, that, while the committee is not prepared to accept the criticism of my friend from Indiana (Mr. Clark) as being a necessary conse-

quence of the language employed in the section as it stands, the purpose we had in view is precisely that which he intended to present by his amendment, and if it removes any possible doubt as to the construction of it, the committee will have no objection to it.

The motion of Mr. Clark to re-consider section twenty was agreed to.

The CHAIRMAN. The question is now upon the twentieth section :

The CLERK read :

SECTION 20. The Secretary of Internal Affairs shall exercise all the powers and duties devolved by law upon the Surveyor General, and the office of Surveyor General shall cease when the Secretary of Internal Affairs shall be duly qualified. His department shall embrace a bureau of industrial statistics, and such duties relating to the charitable institutions, the agricultural, manufacturing, mines, mineral, timber and other material business interests of the State as may be by law assigned thereto. He shall annually make report to the Legislature, and at such other time as may be required by law.

Mr. CLARK. I now offer this amendment: Strike out the words "devolved by law upon the Surveyor General," and insert in lieu thereof the words "which shall be prescribed by law."

The amendment was agreed to.

Mr. CLARK. Mr. Chairman: I now move to re-consider the vote by which the twenty-first section was adopted, upon the same ground.

The motion was agreed to.

The CHAIRMAN. The question is now upon the twenty-first section.

The CLERK read :

SECTION 21. The Superintendent of Public Instruction shall exercise all the powers and perform all the duties devolved by law upon the Superintendent of Common Schools; and the office of Superintendent of Common Schools shall cease when the Superintendent of Public Instruction shall be duly qualified.

Mr. CLARK. I now move to amend that section, by striking out the words "devolved by law upon the Superintendent of Common Schools," and inserting the words "which shall be prescribed by law."

Mr. LILLY. Mr. Chairman: After the action of the committee on the twenty-second section, it would be well to strike out the whole of this section.

Mr. BROOMALL. Mr. Chairman: I would like to inquire of the gentleman from Indiana (Mr. Clark) what he proposes to do with the duties of the office of Superintendent of common schools before the act shall be passed putting those duties upon the Superintendent of Public Instruction? He provides for the abolition of one office, and then provides that certain duties may by law be put upon another office. What does he propose to do with the duties of the office in the interval? My remark will apply just as well to the amendment of the other section.

Mr. CLARK. Mr. Chairman: The powers and duties which devolve upon the Superintendent of Common Schools are only found in the various acts of Assembly respecting that office. We have no such officer designated in our present Constitution; his office is the creature of statute, and the powers and duties, therefore, devolving upon him must be defined in those acts of Assembly, and nowhere else.

It certainly must be admitted that if you create the office of Superintendent of Public Instruction, and define his powers and duties in the Constitution, it follows, as matter of course, that none of these can be taken away, abridged or impaired by any subsequent legislative enactment. His authority and jurisdiction in such case would be as independent of the Legislature as the power and jurisdiction of the Legislature is independent of him. Now whilst it is not proposed to recite specifically and in detail, in the Constitution, the powers and duties to be conferred, yet it is proposed to grant to this officer "all the powers and duties by law devolved upon the Superintendent of Common Schools," these duties and powers being given in detail in various acts of Assembly, and divers decisions of our courts. Is not the grant as specific as if these "powers and duties" were copied in detail into the Constitution? Is not the effect of the general grant of powers equivalent to a recital in the section under consideration? It is clear that the ascertainment of these various powers and duties, indicated in the section, as much involves an examination of these acts of Assembly as the comprehension of a legal document involves the reading of the exhibits attached and referred to. I regard the constitutional grant proposed in this twentieth section to be commensurate with the powers and duties heretofore by law conferred on the Super-

intendent of Common Schools, and the policy of its adoption a very bad one. The Constitution should be complete in itself; there is no necessity for references therein to any other paper, or any other instrument, act of Assembly or law to define the extent of the powers therein conferred.

As the material interests of this great Commonwealth shall expand, and its educational institutions enlarge, it may be found to be for the best interests and policy of the State to transfer some of the powers thus conferred to some other department of the government, or, perhaps, to dispense with a portion of the same altogether. In such a case we would find the Legislature powerless to disturb the grant, and nothing less than a constitutional amendment would or could effect the purpose.

It seems to me that the duty of this Convention should be, and is, simply to create the office, with such general designation of its objects and powers as to enable the Legislature to carry the same into effect. After the adoption of the Constitution, containing such general designation, it would be in the power of the Legislature to transfer these powers, and then the evil now complained of could not exist.

Mr. BROOMALL. Mr. Chairman: I do not see that the gentleman has answered my question. I do not wish to crystallize into the Constitution, as the gentleman calls it, laws that now impose duties upon the Superintendent of Public Instruction, but I do not want to leave an intermission between the destruction of one office and the enactment of the law which will put the duties before that time performed in that office, upon the officer substituted by our action. I would ask the gentleman whether or not the end could not be better attained by an amendment which I will suggest, to insert after the words "common schools" the words, "subject to such change as shall be made by law," so that the section shall read: "The Superintendent of Public Instruction shall exercise all the powers, and perform all the duties, devolved by law upon the Superintendent of Common Schools, subject to such change as shall be made by law; and the office of Superintendent of Common Schools shall cease when the Superintendent of Public Schools shall be qualified."

I ask whether that would not cure the evil which the gentleman speaks of, without creating the evil of which I complain.

In order to bring the question up, I will move as an amendment, that after the words "common schools" in the third line, we insert the words, "subject to such change as shall be made by law."

Mr. BIDDLE. I think that is an improvement. I am not certain, upon reflection, that the criticism which was made after the vote was re-considered was valid, but if there be a doubt, it is better to remove it as we are changing it. I think I prefer the change suggested by the gentleman from Delaware (Mr. Broomall.)

Mr. MANN, Mr. Chairman: I would simply suggest that the Committee on Schedule will relieve us of all this difficulty. There will be various matters of this kind to be remedied, and the Committee on Schedule can accept the suggestion of the gentleman from Delaware (Mr. Broomall.) Therefore we ought to adopt the best phraseology, without regard to the effect of creating an interim.

Mr. LEAR. Mr. Chairman: There is one thing to which I would like to call the attention of the committee, in connection with the subject of the schedule, the proper place for this section. We have a section here which seems to be in its proper place, and which, I think, provides for all that is wanted by this amendment.

"A Superintendent of Public Instruction shall be appointed by the Governor, by and through the advice and consent of the Senate. He shall hold his office for the term of four years, and his duties and compensation shall be prescribed by law."

That is the section reported by the Committee on Education. Now, with that section, why should we have this section twenty-one at all? Would not the object of the gentleman from Indiana (Mr. Clark) be just as well accomplished by voting down this section and leaving it out altogether, and then leaving the question of grafting upon this Constitution, the law as it now exists, and provide in the schedule for the time when the duties of the Superintendent of Common Schools shall expire, and then allow the section which I have just read from the report of the Committee on Education, to take its place when it comes to be passed, and do without section twenty-one in this report entirely? I make that suggestion. I think it will answer every purpose.

Mr. ARMSTRONG. Mr. Chairman: The second sober thought is usually the correct one, and upon reflection I am satisfied that the judgment of the committee is correct. The purpose of the committee

was not to invest this officer with any power which should be beyond the control of the Legislature, but simply that he should be vested with the powers now exercised by the Superintendent of Common Schools. The word was carefully chosen, and the House will observe that it reads "all duties *devolved*;" it does not say *now* devolved; nor is there anything in its construction which would exclude legislative changes in the law. I believe that the judgment of the committee, which was very carefully formed, and in which this expression was very carefully considered, was correct.

I do not, at present, see any particular objection to the amendment of the gentleman from Chester (Mr. Broomall.) It, perhaps, would make still more clear that which seems to be sufficiently clear already, and in this view I see no especial objection to the amendment. But I cannot perceive any sufficient reason for radically changing the section as has been proposed by my friend from Indiana (Mr. Clark.) The phraseology which he proposes leaves it open to the criticism that no duties be devolved upon the new officer until after the Legislature had declared what duties he shall exercise; and it was part of the purpose of the committee to avoid just that calamity, and clothe the new officer with all the powers and duties of the old and preceding officer. I believe the language was carefully selected, and that it is not open to the criticism suggested.

As the section has been re-considered, and is now before the committee, I would have no objection to the amendment of the gentleman from Delaware, (Mr. Broomall,) and I think the section should then stand as reported by the committee with that amendment.

Mr. CLARK. I will accept the amendment of the gentleman from Delaware (Mr. Broomall.)

Upon the adoption of the amendment of Mr. Broomall, a division was called, which resulted: Affirmative, fifty-eight; negative, thirteen.

So the amendment was agreed to.

The twenty-first section as amended was then agreed to.

Mr. BROOMALL. Mr. Chairman: I desire to ask unanimous consent—I do not know whether it will be granted—to make the same change in the previous sentence for the same reason. It cannot be re-considered if unanimous consent is not grant-

ed, and in that case I will wait until the bill comes up on second reading.

The CHAIRMAN. Is there any objection to going back and re-considering the section that has been agreed to?

["No!" "No!"]

Mr. BROOMALL. Then I make the corresponding motion with respect to that section (the twentieth.) After the word "general," in the second line, insert "subject to such change as shall be made by law."

The question being on the motion to amend, it was agreed to.

The CHAIRMAN. The section as amended is now before the committee.

The question being upon the section as amended, it was agreed to.

Mr. MANTOR. I now offer the following as an additional section:

SECTION 23. The Attorney General shall be chosen by the qualified electors of the State at the time and places at which they shall vote for members of the General Assembly, and shall hold his office for the term of four years.

Mr. BIDDLE. Mr. Chairman: Is not that inconsistent with section nine, already adopted?

The CHAIRMAN. It is, and is therefore not in order at this time.

Mr. BRODHEAD. Mr. Chairman: I offer the following as an additional section. I am not sure, however, that this is the proper place for it.

SECTION 23. The Secretary of the Commonwealth, Attorney General, Auditor General, State Treasurer and Secretary of Internal Affairs shall be entitled to seats in the House of Representatives, and may speak upon questions which shall arise therein relating to their several departments, and may be questioned concerning the same, but shall have no right to vote.

Mr. CURTIN. Mr. Chairman: I would suggest to the mover that that should be an amendment to the article on Legislature.

Mr. BRODHEAD. I had some doubts about its being in order here. I withdraw it.

The committee then rose.

IN CONVENTION.

Mr. WOODWARD. Mr. President: The committee of the whole has had under consideration the article reported by the Committee on Executive, and has instructed me to report the same back to the Convention, with amendments.

The PRESIDENT. The committee of the whole has had under consideration the article reported by the Committee on Executive, and has instructed its chairman to report the same back to the Convention, with amendments. The amendments will be read.

The CLERK then read the amendments.

The PRESIDENT. The amendments will be entered on the Journal.

WOMAN SUFFRAGE.

The President presented a communication from Adelaide M. Murdock, dated Philadelphia, March 5, 1873, inviting the members of the Convention to be present at a lecture she proposes delivering in opposition to woman suffrage, on Saturday, March 15, 1873, which was laid on the table.

CITIES AND CITY CHARTERS.

The PRESIDENT. The next business in order is the consideration, in committee of the whole, of the article reported by the Committee on Cities and City Charters.

The Convention then, as in committee of the whole, Mr. Darlington in the chair, proceeded to the consideration of the report submitted by the Committee on Cities and City Charters.

The CHAIRMAN. The first section of the article will be read.

The CLERK read the first section, as follows :

SECTION 1. The Legislature shall pass general laws, whereby a city may be established whenever a majority of the electors of any town or borough voting at any general election shall vote in favor of the same being established.

The question being upon the section, it was agreed to :

The CHAIRMAN. The second section will be read.

The CLERK then read the second section, as follows :

SECTION 2. Every city now existing, or hereafter established, shall be governed by a mayor and a select and common council, in whom the legislative power shall be vested.

The question being upon the section, it was agreed to.

The CHAIRMAN. The third section will be read.

The CLERK then read the third section, as follows :

SECTION 3. The mayor shall have a qualified veto on all the acts and ordinances passed by the council, shall see that the duties of the several officers are

faithfully performed, but shall exercise no judicial functions, civil or criminal.

Mr. LITTLETON. Mr. Chairman : I move to amend, by adding after the word "shall," in the second line, "appoint all heads of departments not elected by the people, and shall," so that it shall read, "shall appoint all heads of departments not elected by the people, and shall see that the duties of the several officers are faithfully performed," &c.

Mr. PARSONS. Mr. Chairman : I move to amend the amendment, by striking out the words "heads of departments," and inserting "officers." In the city I come from we have no "heads of departments," but we have "officers."

Mr. LITTLETON. I accept the amendment.

Mr. J. PRICE WETHERILL. Mr. Chairman : Before that amendment is adopted I should like to hear from the mover of the proposition, or some one else, some good and sufficient reason why we should give to the mayor in the city of Philadelphia, without consent of either branch of the council, supreme power in the indirect expenditure of many millions of dollars annually. It strikes me, sir, that that is giving the mayor of the city of Philadelphia a little too much power. Power, I know, must rest somewhere ; but, at the same time, it seems to me that if it be proper that this Convention should delegate power over the expenditure, directly and indirectly, of so much money, it ought to be by and with the consent of either one or both branches of the council. For my own part I favor the section just as it is reported from the committee. The gentleman who offers that amendment is a member of that committee. I admit his experience is large, from the position that he occupies in the city government, and he knows, perhaps much better than I do what would be for the benefit of large cities, but I should like to hear a reason for lodging with the mayor of any city so much power and so much patronage.

Mr. PARSONS. Mr. Chairman : I desire to amend the amendment, by adding after the words "heads of departments" the words "or other officers."

Mr. LITTLETON. Mr. Chairman : I accept that amendment.

Mr. CUYLER. Mr. Chairman : I am in favor of the amendment as proposed by the gentleman from Philadelphia (Mr. Littleton.) I do not agree with the remarks of my friend Mr. J. P. Wetherill.

I have had large experience in the municipal affairs of the city of Philadelphia, extending over a period of nine years' membership in its select council, and three years as its presiding officer, and I must say, with the experience I have had, I think the suggestion of the gentleman, who is now president of the select council, is full of wisdom. The mayor of the city of Philadelphia to-day is practically powerless. He sees constantly abuses—and growing abuses—and yet he is powerless to remedy them. The reason is that he has no control over the selection or removal of the heads of departments of the city government. They are selected by a joint convention of the select and common councils of the city, purely through political motives and political considerations. They are selected purely for party services rendered in the past, and for those which they may be capable of rendering in the future, and the consequence is, as a practical result, that while our streets are wretchedly paved, while our highways are unclean and filthy, and while many of the departments of the city government are as slipshod as they can possibly be, our mayor, though a gentleman of the highest virtue and largest intelligence, is simply powerless to apply any remedy. It is high time that we should have some redress for this condition of affairs, and I know of no method by which that redress can be obtained except by making the head of the department feel that he is responsible to the mayor of the city, and the mayor of the city responsible to the people of the city for the manner in which his duties are discharged. It may be that some little detail in the amendment of the gentleman from this city (Mr. Littleton) may be desirable. It may be that these heads of departments should receive the confirming vote of the majority of the select council of the city, or something of that kind; but that the mayor of the city of Philadelphia should be held responsible to the citizens for the manner in which the city is governed, and that power should be placed in his hands commensurate with that responsibility, I think is a crying necessity. I am amazed my friend Mr. Wetherill should doubt that it exists. He, too, has had large experience in the municipal affairs of this city, and I am sure his own reflection will confirm what I say, that the mayor is powerless to redress the wrong which he sees constantly before his eyes. I am in favor of a system

that shall clothe the chief executive of the city with the largest power and responsibility—a power commensurate with his responsibility and a responsibility commensurate with his power. I do not believe in any other system of efficient administration. I cannot conceive it possible that the city could be wisely governed or its citizens could enjoy, as is their right, the blessings of good police, pure air, and water and light, and clean highways, except there be placed in the hands of the chief magistrate of the city power equal to the responsibility which rests upon him. I therefore shall readily vote for the amendment proposed by the gentleman from the city (Mr. Littleton.) I would suggest that the appointments made by the mayor be confirmed by a vote of the members of the select council, and the amendment offered by the gentleman will then be in harmony with our usual system.

MR. LITTLETON. Mr. Chairman: I will accept the suggestion of the gentleman from the city, (Mr. Cuyler,) and incorporate it as part of my amendment.

MR. JOHN PRICE WETHERILL. Mr. Chairman: I then withdraw the motion I made.

MR. LITTLETON. Mr. Chairman: My object in offering this amendment is simply to place the responsibility of these appointments where it certainly ought to rest. Now, under the present elective system by councils, the responsibility is so divided that it is impossible to ascertain upon whom the blame should fall in the event of an improper person being selected to fill an official position. I think the mayor of the city, chosen, of course, as he must be for some good reasons, naturally supposed to be upright at least, should be charged with this duty of appointing the proper heads of departments, and be required to assume the entire responsibility, so that if he appoint improper persons to office he can be held to a strict accountability.

It should be borne in mind that a city does not deal with the natural or civil rights of an individual, but manages exclusively the municipality, and it practically is a question of business and entirely a question of dollars and cents, and the plan which we shall adopt should be that one which shall secure the most effective service in our officials. Now I apprehend that in a large corporation no one would think of selecting its officers by means of a system of popular suffrage. People

would scout at the idea, and it would be simply ridiculous. I believe there would be a direct responsibility vested in the mayor of the city by the adoption of this amendment, and I think the interests of the community will thereby be better promoted.

MR. GUTHRIE. Mr. Chairman: I desire to amend the amendment, by inserting after the word "shall" the following words: "Nominate, and by and with the consent of the select council, appoint all city executive and administrative officers, except the city treasurer and city controller."

MR. WALKER. Mr. Chairman: The section originally drawn and submitted to the committee contained the amendment suggested by the gentleman from the city, (Mr. Littleton,) and also other of the views of some of the members of the Convention. The section as first written read somewhat in the following manner: "The mayor shall nominate, and with the advice of the select council, appoint and remove all the municipal officers not herein made electible." The balance of the section read as it has been reported by the committee. It was originally drawn and submitted to the committee by myself, and the committee called before it a number of gentlemen from the city to advise with its members upon the subject. The result of their advice and our deliberations was to strike out the words I have referred to. I am free to say, however, that they were not stricken out entirely with my approbation; but inasmuch as the city of Philadelphia was more interested in this article than any other portion of the State, I assented to the proposition. I think the section itself is a good one, but the amendment which has been suggested, I think, will be an improvement. The amendment I would propose to the section would be the section as it was originally drawn, together with the suggestion offered by the gentleman from Allegheny (Mr. Guthrie;) but the object of the members of this committee, coming, as they do, from all parts of the Commonwealth, was to consult the interests of the city of Philadelphia and the city of Pittsburg. These cities were the most interested in the questions presented for the consideration of the committee, and believing it would best subserve their interests to report the section in its former shape, it was drawn up and submitted to the committee, but after consultation with the city authorities of Philadelphia

it was amended as it is now presented in the report of the committee. I desire to state, however, that I would have preferred the section in its original form.

MR. CUYLER. Mr. Chairman: I have not seen this section as it was originally submitted to the committee, and I prefer it to the one reported by the committee. I desire to ask the gentleman from Allegheny (Mr. Guthrie) to withdraw his amendment, in order that I may offer the original section as a substitute for the one reported by the committee.

MR. GUTHRIE. Mr. Chairman: I withdraw my amendment.

MR. CUYLER. Mr. Chairman: I desire the Clerk to read the section as amended, by the addition of the original section.

The CLERK read as follows:

"The mayor shall nominate, and with the advice of the select councils, appoint and remove all municipal officers not herein made electible. He shall have a qualified veto on all the acts and ordinances passed by the council, shall see the duties of the several offices are faithfully performed, but shall exercise no judiciary functions, civil or criminal."

MR. CUYLER. Mr. Chairman: I offer the section, as read by the Clerk, as a substitute for the section reported by the committee.

MR. EWING. Mr. Chairman: I hope the amendment will not pass in the form it is at present. From hearing it read over I understand the amendment gives to the mayor the power of the appointment of all officers of the city, excepting those made electible by this Convention. Now it is the latter clause of the section to which I object. I am in favor conferring the power on the mayor, with the advice and consent of select council, to appoint all officers, not made electible, but I think there is a large number of officers in a city, who from time to time it may be found better to elect than to leave to be appointed by the mayor. I do not know what officers the article makes electible. It seems there are none, but I am well satisfied that the wisdom of this Convention cannot determine what officers should be made electible and appointable. I prefer, however, some amendment which shall leave this whole question to the Legislature. I believe the city councils to be the worst possible depository for the appointing power, and although conferring the exercise of this power upon the mayor, with the consent of one of the city councils, is a decided improvement, yet

I think the people are the best depository for the appointing power in our cities, and that one-half or more of those officers now elected by the city councils should be elected by the people.

I would be glad if the chairman of the committee would modify the proposition, by inserting the words, "except such officers as shall by law be made elective by the people."

Mr. CAMPBELL. Mr. Chairman: I agree with the gentleman from Allegheny (Mr. Ewing) in his criticism upon the language of the amendment proposed to be inserted here. We have in Philadelphia, for instance, several officers who are now elected by the people, and among these are the receiver of taxes and the city treasurer. This report of the Committee on the Executive, I believe, does not provide for the election of these officers. I would not like the mayor of this city to have the power to appoint the receiver of taxes and the city treasurer—the men who have charge of the city's money. I think we had better, if the amendment is to be inserted at all, have its language so qualified as to except all those officers who are either now elected or who may be hereafter elected by the people.

Mr. GUTHRIE. Mr. Chairman: I think there is an error here in the word vote. It is a misprint. The amendment reads, "he shall have a qualified *vote*." It ought to read, "that he shall have a qualified *veto*." I desire to offer an amendment to the amendment, as follows: To strike out the word "qualified," and change "vote" into "veto."

Then, if the amendment be adopted, it will leave the mayor with a veto without qualification.

Mr. CUYLER. Mr. Chairman: I will state, for the information of the gentleman, that the word "vote" was only a misprint, and has been changed to "veto," which was intended—

Mr. GUTHRIE. Then, Mr. Chairman, I will withdraw my amendment. I am advised by many gentlemen to let the word "qualified" remain, and I will therefore withdraw my amendment on that subject.

Mr. CAMPBELL. Mr. Chairman: What is before the committee?

The CHAIRMAN. The amendment to the amendment.

Mr. BIDDLE. Mr. Chairman: I would like to have it read again, because I take an interest in this subject, and really do not know what we are considering.

The CHAIRMAN. If the House will come to order, and gentlemen refrain from conversation, the amendments will be read.

The CLERK: The gentleman from Philadelphia (Mr. Littleton) moves to insert, after the word "shall," as follows:

"By and with the consent of the select council appoint all heads of departments, and municipal officers, not elected by the people, and shall see that the duties of the several officers are faithfully performed, but shall exercise no judicial functions, civil or criminal."

To this the gentleman from Philadelphia (Mr. Cuyler) offers the following amendment: To strike out the section and insert:

"The mayor shall nominate and, with the advice of the select council, appoint and remove all municipal officers not herein made elective. He shall have a qualified veto on all the acts and ordinances passed by council, shall see that the duties of the several officers are faithfully performed, but shall exercise no judicial functions, civil or criminal."

Mr. CUYLER. Mr. Chairman: The amendment to the amendment is open to the criticism made by my brother from Philadelphia (Mr. Campbell.) For instance: There are certain heads of departments elected by the people, and who, for wise reasons, should not be appointed by the mayor, and certain other officers, such, as for example, the city treasurer, the auditor of the city accounts and the receiver of taxes. They ought not to be appointed by the mayor. They are now, and, it seems to me, should be in the future, elected by the people. Therefore the proper reading of this section should be, in my judgment:

"The mayor shall nominate and, with the advice of the select council, appoint and remove all municipal officers not herein made elective. He shall have a qualified veto on all the acts and ordinances passed by council, shall see that the duties of the several officers are faithfully performed, but shall exercise no judicial functions, civil or criminal."

That would seem to express it, and if the gentleman would accept that as a substitute for his amendment, I think it would meet the difficulty.

The CHAIRMAN. Does the gentleman from Philadelphia accept that as a modification of his amendment?

Mr. EWING. I think the amendment originally offered by the gentleman from

this city (Mr. Littleton) covers it completely, and there is no necessity or propriety in naming any officer.

Mr. BIDDLE. I am not certain about that.

Mr. CUYLER. Mr. Chairman: I think this substitute much more explicit and definite.

Mr. EWING. Mr. Chairman: I wish to leave it as it is. I do not object particularly to any provision which will leave it to the Legislature to provide by general law for the election to any office that may be created in the State.

Mr. CUYLER. Mr. Chairman: I confess I do. I have never been able, in my experience in the affairs of the city, to conceive how leaving it to the Legislature would work out a wise result. I think it ought to be specially provided for in the Constitution itself. With the permission of the committee I will read this section again.

"The mayor shall nominate and, with the advice of the select council, appoint and remove all municipal officers not herein made elective; he shall have a qualified veto on all the acts and ordinances passed by councils, shall see that the duties of the several officers are faithfully performed, but shall exercise no judicial functions, civil or criminal."

That does not permit the Legislature to take away from the mayor the power to appoint a commissioner of highways, a commissioner of city property and other heads of departments. It does not permit the Legislature to do that. The Constitution itself specifies that the mayor shall have this certain power of making appointments. They are excepted from legislative control; but the Legislature is left free to control the election of receiver of taxes, the city controller and the city treasurer and any others than heads of municipal departments.

Mr. HANNA. Mr. Chairman: It appears, from the explanations of a large number of the members of this Convention, that they seem to think this measure is intended only for and will affect only the city of Philadelphia. I do not so consider it. I consider that we are preparing some plan for the general regulation of the State, and not for one particular city.

With due deference to the chairman of the Committee on Cities and City Characters, and to some of my colleagues, I desire to say that I entirely differ with them on this subject. In my opinion this

matter is altogether foreign to the Constitution of the State, and has no place here whatever. It should be entirely a question of general law. Now we can readily see from the suggestions made here that hardly two gentlemen upon this floor agree upon any provision contained in this report, and that we are all trying only to form some plan which will suit the city of Philadelphia. I agree with my colleague (Mr. Cuyler) in regard to the question of reposing more power in and of placing more responsibility upon the mayor of this city. But at the same time I am jealous of the rights of the people. Now in the first place this is, to my mind, special legislation. The Committee on Legislation have, in their report, provided for this very case. If this committee will turn to the report of the Committee on Legislation, on page three, they will find that it reported as follows:

"That the Legislature shall not pass any local or special law regulating the affairs of counties, cities, townships, wards or boroughs or school districts."

By general law, therefore, I submit to the committee that this subject should be regulated by the Legislature. That is the proper place for it. Why, sir, this provides that we shall exempt from legislation in the city of Philadelphia the offices of city treasurer, city controller and the receiver of city taxes. No offices of the kind are mentioned in this respect, but what city outside of the city of Philadelphia will ever have such offices? And how are we to provide for all the wants and necessities of the different cities throughout the Commonwealth? I submit this view. Perhaps the people of Harrisburg, or of Lancaster, or of Williamsport may not require more than one branch of municipal legislature. Yet we undertake to say that every city shall be governed by a select and common council. Philadelphia may need this double council. It may be more convenient to this city. Pittsburg may find it more convenient to be thus governed, but Scranton, Wilkesbarre and Lancaster may not find it so convenient, and may be satisfied with one branch. Why should we impose upon them, then, the conditions as reported by the committee? At any time that they desire a double body in the municipal legislature the people themselves can obtain it through the Legislature. They will regulate for all the cities of the Commonwealth. Had we not better let the people of each particular city determine for them-

selves, under the provisions of a general law, how they shall be governed? If that is done, we in Philadelphia can provide, by general law, what officers shall be appointed by the mayor of the city, and what shall be elected by the people. So in other cities. Our friend says that the mayor of Philadelphia is only a chief of police. So he is, but that was in the act of consolidation; that is under the very charter that the people of Philadelphia asked for and received at the hands of the Legislature. And if it does not suit us can we not, under a general law, ask the Legislature to give us other provisions? Cannot a law be passed authorizing the mayor to appoint other officers? I certainly submit it can, and why should we embarrass and encumber the Constitution of the State by such petty details as that the mayor shall appoint all the officers of the municipality but the city controller, the city treasurer and the receiver of taxes. Why they may not have these officers in other cities, and in order to carry out the plan suggested by my colleague we ought to have a section saying that Philadelphia shall be governed as follows.

I do submit to the Committee on City and City Characters, and to my colleagues who differ with me, that this is not the place for any such plan of municipal government.

MR. LITTLETON. Mr. Chairman: I will add but one word. The gentleman from Philadelphia, who has just spoken, (Mr. Hanna,) says that this section should be provided for by a general law. That, undoubtedly, should be the case, if there was any opportunity of ever securing such legislation. It is very easy to talk about, but very difficult to obtain. I contend that anything, no matter whether it is for this city or for any other part of the State in which we can make a general improvement, is proper in this Constitution. It does not do to say here that this is special legislation; but if special legislation for a particular class, or for particular communities, will be a benefit generally to the State, then we should put it in here, and not trust to the chance or mischance of future legislation. My colleague says that this interferes with the rights of the people. I have all respect for such rights, but I maintain that it does not infringe upon what we generally call the rights of the people, the rights which are protected by a nationality or by a State. What have such rights to do with the question of street paving, or the question of water

pipe, or any of the many other questions which come before a community like a municipality.

These are questions, as I said before, of business management, purely of dollars and cents, and each community should be placed in a condition to have these services best done and at the cheapest price. You cannot do it, in my judgment, under your general system of municipal management as it exists at the present time, at least that is the result, right or wrong, of my experience. I believe that we should have direct and positive management and responsibility, even if it does take away some of the assumed rights, in a general sense, of the community. I shall be glad, sir, to surrender mine upon that subject, I assure you.

The only objection that I have to the amendment of the gentleman from Philadelphia (Mr. Cuyler) is that it renders impossible any change. I am willing to leave to the Legislature, by general enactment, the discretion to say which offices shall be filled by the people. I think it is wiser not to trammel it too much, but I am willing to accept either; but if we prohibit the Legislature from passing special laws affecting this or that locality, of course they cannot change one without changing all; and all over the State the different cities will exercise a supervision upon these questions. It will not be whether the city of Philadelphia is affected or not, but whether all the cities are affected, and therefore I think it better to have it upon the broad principle that the mayor shall have the responsibility placed upon him of selecting all officials, heads of departments and otherwise, who are not elected by the people. If he exercise that power improperly the Legislature has the power to place the selection in the hands of the people throughout the State, not simply in one locality. Therefore, I think, looking at the objection urged by my friend from Philadelphia, (Mr. Cuyler,) it will be better to leave it in that condition; but, so far as I am individually concerned, I have no special preference. I think the amendment, as proposed by myself or by my colleague, (Mr. Cuyler,) should be adopted.

MR. CUYLER. Mr. Chairman: I have already spoken too often upon this subject, but I trust the committee will bear with me for a moment. I confess that I listened with a great deal of surprise to that which fell from my friend from Philadelphia (Mr. Hanna.) No man knows bet-

ter than he does the wishes of the people of the city of Philadelphia, and that the Legislature of the State has utterly refused to listen to or recognise the councils of the city. No man knows better than he does how utterly powerless those councils are to-day in Harrisburg, to obtain any legislation they ask for. No man knows better than he does, the fact that if the city of Philadelphia asks she is to be refused, because she asks. Our streets are taken from us and handed over to private corporations. The city councils, with almost entire unanimity, entreat the Legislature not to do it; but the Legislature is silent. So it is with almost everything that is asked from the Legislature of Pennsylvania which has the endorsement of the councils of Philadelphia. To ask it is to be sure to be refused.

Now I do not recognize the distinction which disturbs the mind of my excellent friend from the city (Mr. Littleton.) This Convention is but the embodiment of the people of Pennsylvania. This higher law called the Constitution, which we are to make here, is but an enactment of the people of Pennsylvania, which they shall approve by their confirming vote hereafter, when it is submitted, and will be just as much a law and an enactment of the people of the State as an act of the Legislature would be.

A word as to the particular amendment. The thought that underlies the amendment is, that there must be individual responsibility in these matters that come so closely home to us as the police of the city, the protection of our lives and our property, the enjoyment of pure water, good light and pure air, and a thousand and one things having more to do with the happiness and the comfort of the people of the city than any legislation of the Legislature, or any legislation of the Congress of the United States. If we are to have these blessings, we are only to have them by depositing a large power in the hands of a responsible public officer. Elect him by the people, hold him to a rigid responsibility as to the manner in which he discharges his duties, but give him a power that is commensurate with the responsibility you deposit with him.

I have another reason that moves my mind that might affect the judgment of many members of this Convention. I think that many of the laws that afflict our city have arisen from overburthening our popular elections. We send too

many things to the people; we should elect, by popular vote, the chief or leading officers of the State and of our municipalities; but, as for electing the immense number of officers that we have been accustomed to do, I think it is to destroy the value of the popular vote itself, to multiply temptations and incentives to dishonesty in the manipulation of elections, and tends seriously to damage the rights of the citizen which I would exercise in the popular vote not more than the proper administration of the republican system of our government would simply and reasonably require.

I would give the mayor the appointment of these various heads of departments, to lay our pavements and water-pipes, and provide pure air and good gas for the consumption of our citizens. I would give him all these appointments, because I would clothe the citizen with the power to look to some one individual for the manner in which this thing is done, and to hold him responsible for the proper discharge of that duty. If you do that, you must give him power commensurate with his responsibility.

Mr. GIBSON. It is evident, sir, that the committee is not prepared to act upon this article. The differences that exist among the gentlemen from Philadelphia show that the measure has been sprung upon them prematurely. Therefore, sir, in order to give the gentlemen from Philadelphia and the gentlemen from other cities an opportunity of coming to some understanding upon this question, which is, perhaps, of considerable importance, I move that the committee now rise, report progress and ask leave to sit again.

The motion was agreed to, and the committee rose.

IN CONVENTION.

Mr. DARLINGTON. Mr. President: The committee of the whole have had under consideration the article of the Constitution relating to cities and city charters, and have instructed their chairman to report progress and ask leave to sit again.

Leave was granted to the committee to sit again to-morrow.

Mr. LILLY. Mr. President: I move that the Convention do now adjourn.

The motion was agreed to.

So the Convention, at two o'clock and twenty-five minutes, adjourned.

FIFTY-NINTH DAY.

THURSDAY, March 6, 1873.

The Convention met at ten o'clock A. M.

Prayer was offered by Rev. James W. Curry.

JOURNAL.

The Journal of yesterday's proceedings was read and approved.

DEATH OF MR. HOPKINS.

The PRESIDENT. The Chair has the painful duty of announcing to the Convention that yesterday afternoon, shortly after the adjournment, he received a telegraphic dispatch from Pittsburg announcing that our late colleague, Col. Wm. Hopkins, died at two o'clock yesterday. It is with sincere pain and regret that the Chair makes this announcement. He presumes some gentleman is ready to offer a resolution upon the subject.

Mr. LAWRENCE offered the following preamble and resolutions, which were read :

WHEREAS, This Convention has been informed of the sudden death of Hon. William Hopkins, of Washington county, a delegate from the Twenty-sixth Senatorial district ; therefore,

Resolved, That it is with the deepest feeling and most unaffected regret that we have heard of the sudden death of Hon. Wm. Hopkins, a member of this Convention, so universally esteemed and so highly respected.

Resolved, That in his death this body has lost a faithful and honest member, a useful and intelligent citizen, and his family a tender and devoted parent.

Resolved, That in this hour of deep affliction and grief we tender to his family, so deeply stricken, our most sincere condolence and profound sympathy.

Resolved, That as an evidence of our respect for the memory of the deceased, we do hereby appoint a committee of this Convention to attend his funeral at Washington, Pa.

Resolved, That the Chief Clerk be directed to forward to the family of the deceased a copy of these resolutions; and that we do now adjourn.

By unanimous consent the Convention proceeded to the second reading of the resolutions.

The first resolution was read the second time and agreed to.

The second resolution was again read.

Mr. LAWRENCE. Mr. President: The most certain, and often the most unexpected messenger, *death*, comes to take us one by one away from these earthly scenes, and whether among the humble and lowly, or the honored and esteemed of the world, the messenger is alike inexorable. He is as a thief in the night, sometimes stealing stealthily, yet slowly and unexpectedly, upon his victims, and then again he attacks boldly and suddenly the vital powers of the system, when the clay tenement yields, and is robbed, by tender and sympathizing friends, in the habiliments of the grave.

When I asked this Convention, on last Friday morning, for leave of absence for my highly esteemed colleague, Hon. William Hopkins, for only a few days, that he might visit his family, to whom he was always so ardently attached, and to whose welfare he took such an undisguised interest, how little did you or I imagine that in five days I should here perform the most melancholy duty of announcing his death, and speaking very briefly of his virtues?

On his way west to Pittsburg he contracted a cold, and was compelled to take his bed at the Union hotel, utterly prostrated, on Friday morning last. Physicians were at once called, and pronounced his disease pneumonia of malignant type, and after a very few days of suffering, surrounded by members of his family and sympathizing friends, at two o'clock yesterday he died.

The deceased was born in the southeastern part of the county of Washington, in the year 1804, and was now in his sixty-eighth year. He was a tanner by trade, but did not pursue the business very long; was appointed justice of the peace by Governor Schultz and re-appointed by Governor Wolf, and served acceptably for several years; was elected to the Leg-

islature, I believe, in 1834, and for several years thereafter, and served as Speaker of the House for three sessions, and was esteemed an impartial and judicious presiding officer; was appointed Secretary of the Land Office by Governor Shunk, and served two years; was a candidate for Congress in 1848, in the district composed of Washington and Beaver, and was beaten less than one hundred votes. He was elected Canal Commissioner in 1852, and served three years. In 1862 he was again elected to the House of Representatives, and in 1863 to the Senate, from Washington and Greene, and served a full term; and then at the last election was elected as a member to this Convention from the Twenty-sixth Senatorial district.

This long and almost continuous service will show that he retained the confidence and esteem of his constituents, and they are equal in intelligence and integrity to any found in the State.

Since my boyhood, the name of Col. William Hopkins has been as familiar to me, and to every man raised in his native county, as that of any public or private citizen, and now, that he is gone, thousands of his early and late friends will express sincere condolence with his family and friends, and cherish the memory of his public and private life.

In politics he was an ardent democrat, having, in early life, embraced the principles of the then dominant party. He clung to them in his early manhood, and in his later years with great firmness, and on all proper occasions was ready to defend and elucidate them before the public.

Personally, he was much esteemed for kindness, his manner to all was (as you know) exceedingly pleasant, and his political opponents could always admire his manly and dignified bearing. He was a member of the Presbyterian church, consistent and exemplary in his deportment, and faithful in the performance of every duty. No man could excel him in his attachment to his family, and at home he found his greatest enjoyment. For a somewhat delicate wife (who still survives) he expressed the most constant and tender solicitude, and his children—how could he have loved them more? I trust a kind Providence will enable them calmly to submit to the fate they cannot control.

Here we have lost a faithful and useful member, one esteemed by us all for his ability, his integrity and devotion to the public welfare. It is a solemn and im-

pressive lesson, which must tend to divert our thoughts from these worldly honors, to the rewards of a higher life.

Mr HAZZARD. Mr. President: It is with profound and sincere regret I have heard of the sudden death of my friend and colleague, the Hon. William Hopkins, of Washington.

I have had the pleasure and honor of a long and intimate acquaintance with him and my poor words will fail to convey to this body a full appreciation of his many excellencies and virtues. These few words of praise and eulogium will only be proper upon this sad occasion as a remembrancer in memoriam, for his public acts have gone into the history of his native State, and will remain there as a lasting monument to his wisdom, integrity, and unswerving and patriotic devotion to the best interests of the Commonwealth. He has been often elevated to stations of honor and responsible trusts, by a confiding constituency, and the public never regretted their choice, for when his work was done, and the trust was executed, and he surrendered these trusts back into the hands of those who gave them to him, the universal acclaim of a grateful people was: "Well done, thou good and faithful servant." The slanderous tongue has been silent before his immaculate integrity, and his spotless life and public deeds are as pure as snow, and white as wool. William Hopkins goes to his grave with true nobility stamped upon his brow—the noblest work of God, an honest man.

His domestic virtues were as noteworthy as his public services. He was an affectionate and true husband, a kind parent, a considerate neighbor, a faithful friend, a sound and wise counsellor, and an exemplary christian gentleman. He was charitable to the poor, and foremost in all benevolent and christian enterprises. By his death, his immediate neighborhood will lose the inspiration of his public spirit, his interesting, highly respectable, and intellectual family his kind words of wisdom and advice, and the rich gifts of his social and genial nature, and the State his invaluable services in this Convention.

Mr. W. H. SMITH. Mr. President: Although it was not my privilege to know Colonel Hopkins very long, nor very intimately, I hardly remember the time when his example, as an honest, firm and faithful public officer, was not held up before young men who aspired to political distinction. As his home was some thirty

miles from mine, I have only met him as long intervals—and, unlike many here, who have shared with him legislative labors—thus I had no opportunity to know him until I met here, and for a few weeks have enjoyed the privilege of a seat next to his. Yet I claim the mournful privilege of saying a few words in the praise of a man so excellent, that it may be truly said he needs no praise.

I would then beg leave to add my sorrowing testimony to the virtues of the deceased, and to join in the general expressions of regret that come from all sides of the Hall, and evidently from the inmost hearts of those who have spoken—whether they were of his own political faith, or opposed to him in their political views.

I can add nothing to the eloquent eulogies that have been uttered. But his manly virtues have not been too warmly portrayed—his pure and consistent life well deserves all that has been said in its commendation. Among all civilized nations it has been forbidden to speak ill of the dead. And it has too often happened that more good has been ascribed to the departed than was warranted by the course of their lives. But in the case of our lamented co-laborer, nothing like this would happen. Happily for his family, his friends and his brethern in religious and in political association, no tribute to his memory could possibly say too much of his sterling honor and high integrity. A tender and kindly remembrance of his many virtues will long survive him.

It is a consoling circumstance to his bereaved family that nothing can diminish the veneration in which he will ever be held by his fellow-citizens, for it must always be, notwithstanding the unjust apportionment of praise and of blame to those who die, that

“Only the actions of the just,
Smell sweet, and blossom in the dust!”

Mr. PATTON. Mr. President: We are again called upon to mourn the loss of a dear friend. Again we are reminded that in the midst of life we are in death. A noble and honorable member of our Convention has been removed from among us by the stern decree of omnipotent power—called home to his reward. Mr. Hopkins, of Washington county, was a gentleman standing high in the estimation of this Convention in intelligence and integrity; a member beloved by us all.

This sad and unexpected event, so shocking in its character, has cast a dark shadow over this assembly, and temporarily

unfitted us for the discharge of our respective duties in the contemplation of so appalling an event.

The many bright and honorable positions held by our deceased friend in public life attest the estimation in which he was held by a great army of ardent and devoted friends.

He was a representative man, and has left a proud record in the annals of the Commonwealth, to be inherited not only by his family, but by every Pennsylvanian who admires genius and integrity. The personal relations existing between us were of the most gratifying and pleasant character, and no one will mourn his loss in this body more sincerely than your speaker. It seems to me eminently proper that out of respect to the memory of our departed friend the Convention should adjourn.

Mr. JOHN N. PURVIANCE. Mr. President: I second the motion of the gentleman from Washington. Why the sadness depicted upon the countenance of every member of this Convention? It is that our number is one less than when we adjourned yesterday.

William Hopkins, an honored member of this body, is no more. But a few days ago he was in our midst, apparently in the enjoyment of his usual good health, and an active and useful participant in the proceedings of this Convention. As chairman of the committee of the whole, filling the place now occupied by your honor, he was clear in his perception, sound in judgment and impartial and prompt in his decisions, commanding the respect and admiration of every member of the Convention. His death but adds another instance of the great truth, that “in the midst of life we are in death,” and admonishes all to be prepared for the one great event which is the common lot of all mankind.

Hon. William Hopkins was a gentleman of eminent worth, endeared to all who knew him for his sterling integrity, his manly honor, and his exemplary christian virtues.

It should be the pride of our public men to emulate his bright example. His record as a faithful public officer is without a stain of dishonor, and without the charge or suspicion of a dishonorable or dishonest act. In saying this I but utter the heartfelt sentiment of the thousands of Pennsylvanians who knew him well, and

now with us lament and deplore his sudden death.

For over a quarter of a century I have enjoyed an acquaintance with him, and during all that time our relations of friendship were cordial and sincere. As a member of the Legislature and Speaker of the House, as Secretary of the Land Office and Canal Commissioner of the State, and all other public positions which he held, he sustained a character for purity of motive and action which placed him high in the estimation and confidence of the people of this State. His record is that of a faithful public officer, who performed every duty with an honest purpose to promote the public good. As a citizen he was kind, generous and just; as a christian, sincere and consistent in his walk and conversation, and as a husband and father, kind and affectionate. Such, in brief, are the characteristics that strongly marked the life of our deceased brother.

Whilst we deeply sympathize with his bereaved family, and in view of his sudden death, let the great truth be impressed upon each one of us, and sink deep in every heart, "I too must die." And when we look upon the opening tomb let us improve the present hour, for to-morrow death may come.

Mr. J. W. F. WHITE. Mr. President: Born and raised in the same county with the deceased Colonel William Hopkins, I would do violence to the promptings of my own heart, and seem to desert an old friend, if I remained silent upon this mournful occasion, and did not speak at least one word in memory of a distinguished member of this Convention. I well remember the first time I ever saw him. It was in my early boyhood, and he was then in public life, and a man of mark and distinction. His fine personal appearance, and his gentlemanly manners, won my admiration as a boy, and made an impression upon my mind that has never been effaced. The acquaintance and the intimacy of subsequent years only tended to increase my admiration and to deepen that impression when I found that the generous qualities of his heart corresponded with his manly and commanding personal appearance. For nearly forty years Colonel Hopkins had been one of the most prominent politicians of the State of Pennsylvania, but, while ever faithful in the discharge of a public trust, he never neglected the performance of any duty in the private walks of life. In

all the relations of domestic and social life he was an exemplar, whose footsteps could be followed with wisdom. As a friend, he was always true, and never failed in the hour of need; as a neighbor, kind and accommodating, and to the poor abounding in deeds of mercy and charity; as a citizen, liberal and public spirited; as a public officer, always honest and faithful in the discharge of the duties of the numerous high and responsible positions he filled. The recollections of his many acts of kindness will linger long, as sweet fragrance in the memory of those whom he benefited. The influence of his example as an honest and incorruptible public officer will be felt years after he shall be laid away in his long resting place, and his name, appearing often in the annals of our State, always without a blot or stain, will be handed down on the long roll of Pennsylvania's honored sons to generations yet to come. It has been but a few days ago since he was here in our midst, moving around with that genial smile and pleasant manner that always characterized him. This day one week ago he presided over this Convention as chairman of the committee of the whole. Now, sir, he is numbered with those who have been. On the evening of that day he was here in this hall making arrangements in reference to his report as chairman of the Committee on the Declaration of Rights, which was then about finished and ready to be reported to the Convention. As he was about to leave the Hall for the cars, a few of us who were here bade good-bye, little dreaming that that was the last time we should see him. He went, to return no more. Soon all of us shall follow him. Follow him "to that undiscovered country, from whose bourne no traveler returns." May we all imitate his virtues while living, and when gone, leave as fair a record behind.

Mr. BOWMAN. Mr. President: Again are we admonished of the uncertainty of our earthly existence. Quick as the lightnings flash has the intelligence of the sudden and unexpected death of one who was an honored and prominent member of this body, been communicated to every part of our beloved Commonwealth. Less than one short week ago his manly form graced these halls. To day it lies wrapped in the cold embrace of death.

Our deceased colleague was by no means an obscure man. For nearly half a century he had taken a very prominent

part in the official administration of the affairs of the State.

Mr. President, I first became acquainted with the subject of this resolution at the commencement of the session of the Legislature of 1863. He was one of the oldest members of the House of Representatives, while I was one of the youngest. He, at an early period of the session, saw my embarrassment, resulting from inexperience, and well do I remember, and ever shall I with gratitude re-call the disinterested counsel, aid and encouragement I received from him. And, sir, it is because of the unsolicited favors that I then received at the hands of a stranger, that I, too, ask to join in the deep and heartfelt sorrow that pervades this Hall.

While it was my fortune to differ with him politically, and especially upon some questions growing out of and connected with the rebellion, then in progress, I never, for one moment, doubted his honesty, integrity, or the purity of his motives.

Sir, I did not know the deceased as long and as well as you did, or as well as other gentlemen who have paid a just tribute to his memory; but, sir, I knew him long and well enough to appreciate his kindness of heart, urbanity of manner, and purity of character, upon which he has left neither blot nor stain, the most valuable legacy that can be transmitted to posterity.

Mr. President: How true it is that "in the midst of life we are in death." We should bear in mind that we have no guarantee for the future. The wind that sings a silent requiem as it passes in mournful cadences through the tall grass that shades the graves of dearly loved but now departed ones, should admonish us that life is short, and that now is the time to prepare for the great hereafter that awaits us all.

Mr. WRIGHT. Mr. President: I would claim the privilege of a few words on this painful Providence that has cast a gloom over this Convention. We can yet scarcely realize, as intimated by the gentleman from Allegheny, (Mr. J. W. F. White,) that the man whose seat is vacant to-day, so lately wielded the gavel of authority in the committee of the whole on that platform. To me, sir, very suddenly and unexpectedly came the intelligence over the wires that the man I had parted with at the hotel on Thursday evening had been stricken down by disease at Pittsburg the next

morning. Not so unexpectedly, but a severe blow, came the intelligence yesterday that the connection between us and him had been suddenly terminated by death.

Many years have I learned to venerate the memory of this distinguished man; living, it is true, as I have, at the other end of the Commonwealth; but fame always brings us intelligence of the great, and of him who does good deeds. I have regarded him ever as a man of the most inflexible integrity; a man of peculiar tenacity of purpose. The rock of faith or principle on which his feet rested to-day, you found them resting upon to-morrow. Not changeable of purpose but inflexible in his position as the polar star. I was glad to renew my acquaintance with this man when the Convention met at Harrisburg; doubly gratified to renew it again here in the city of Philadelphia; and I shall always remember with gratitude and pleasure that for the last two months it has been my privilege to sit in the adjoining chair to Colonel Hopkins, at the same board in that hotel where we had our lodgings. I shall remember always his courteous manner, the ardent and affectionate way in which he demonstrated his friendship. Many times was it my privilege to go to his room, (ever open to my reception,) and be greeted with words of kindness; and there it was that I passed many pleasant hours.

But, sir, aside from the position in public life that has given to him his reputation and his fame, there is another light in which I have lately come to regard the man, and which, in my estimation, places him upon a more elevated platform than anything which political life can. I remember but a few weeks ago when I went into Colonel Hopkins' room one evening. I was informed by him that he had just closed the reading of seven chapters in that sacred volume, the great Book of books. It elevated the man, in my estimation, to a higher degree. I came, then, to look upon him in a new light; not only as a man elevated in political life and favor, but in the higher character of the christian.

And it here does my heart good to believe that that faith which had sustained him through a long life, carried him to that place intimated by the member on the other side of the Hall, (Mr. White,) "that undiscovered country from whose bourne no traveler returns." I have a grateful sense of pleasure now, in the op-

portunity afforded me of bearing a word of testimony to this man, who stood so high in the estimation of his fellows as a man of industry, a man of morality, a man firm and inflexible in his purpose, honest in the discharge of every trust communicated to him, and, above all, a man firm in his christian principles; and to-day I believe that he is reaping the reward of that faith that thus far had led him on.

Mr. WOODWARD. Mr. President: It has been my privilege to know Colonel Hopkins, both in public and private, for some thirty years, and I cannot consent that this melancholy occasion shall pass without bearing my testimony, feeble as it may be, to the high virtue of the deceased. We all knew him in his public career. You, sir, and most of the members of the Convention, will refer to a period in our civil and political history of great interest, when, but for the wisdom and the firmness of this man, our Commonwealth might easily have been involved in the horrors of civil war. I have always felt that the public owed more to those qualities of that individual man, for averting those calamities, than to all other influences which were in operation at the time.

We have all seen him in the Speaker's chair, at Harrisburg, at times of high political excitement. I remember, sir, a political convention, in which he had been chosen to preside, but had not arrived, when another gentleman was called to the chair. The body, under the administration of an inadequate presiding officer, rushed into utter confusion, and it was on the point of breaking up, when Colonel Hopkins entered the hall, went up and took possession of the chair, and instantly order and peace reigned throughout the tumultuous assemblage. His presence, his presence, and his reputation were sufficient to restore order where other men had failed to enforce it.

I have seen Colonel Hopkins in his own house; I have been his guest; I have seen him in the domestic circle; I have sat by his fireside and at his board, and I do know that the virtues of this man were not more conspicuous in public life than in private. I do know that Colonel Hopkins has been the friend of education and of all social reforms in the community in which he dwelt.

During all this period of more than thirty years a warm personal friendship betwixt us has never been interrupted for an hour. Our sympathies upon pub-

lic questions were so identical, and our views of public questions and of public men were so similar, that we were drawn together by an electric affinity that was irresistible.

For the last few years I have not had the privilege of seeing much of him, but when I met him in this body I was pleased to see that none of the force of his early years had abated; that he brought here the same solid judgment which characterized him in every other sphere of life, and that he came richly laden with the experiences of a large and varied public service.

It has been said by other gentlemen that he was a man of inflexible integrity. That is true; and, Mr. President, I wish to say that that was the fountain of all the force of his character. It has seemed to me, in contemplating the character of Colonel Hopkins, that he belonged to that august age of the republic when those men of whom we read and have heard of by tradition flourished, and who were men of such position and character as to feel a stain as they would a wound. I have wished that we had more such men in public life. This taking off of Colonel Hopkins is, in this aspect, a great public calamity, the magnitude of which overshadows all private griefs, and all Pennsylvania will and ought to mourn the loss of such a man.

Solon enacted, as a law of Athens, that only that which was good should be said of the dead, and the Roman maxim that grew out of it is familiar to all ears: *De mortuis nil nisi bonum*. Dr. Johnson made a criticism upon this maxim, and said that instead of *bonum* it should read *verum*, nothing should be said of the dead except that which is *true*, instead of that which is *good*. Now what I wish to say, is that here is an instance in which Dr. Johnson's reading of that maxim may be applied with safety. We need not insist that nothing shall be said of the dead except that which is good. We may challenge the world, sir, and bid it to say anything of this man which is true, and that which is most true will be his highest eulogy.

I agree, sir, that the crowning quality in this man's character was his christianity. He was a firm and an humble believer in the christian religion, not an obtrusive and intolerant propagandist, but an humble and rational christian man; and, sir, to-day, when he is gone, and when we are mourning his loss, it becomes us to re-

member that these great public virtues which distinguished his life had, super-added, this grace of a christian character, and thus completed as high a model of manhood as it is possible for us to contemplate. Indeed, I have long thought of Colonel Hopkins, as a model Pennsylvanian. I know not when we shall look upon his like again.

These, Mr. President, are the words which have come to my lips upon the occasion of this melancholy reminiscence. I hope the resolutions that have been submitted will be adopted. I hope, sir, that a committee will be appointed to attend the funeral of Colonel Hopkins, and I hope that this body will bear testimony in all possible forms to the merits of this most honest and most excellent citizen.

Mr. BIDDLE. Mr. President: It is with profound sorrow that I rise to unite, in behalf of the city of Philadelphia, in paying this last tribute of respect to the memory of our deceased brother. Knowing Mr. Hopkins well by reputation for many years—for his public life was part of the history of our Commonwealth—I had never had the pleasure of personal acquaintance with him, until we met as members of this body. I well recollect of being struck with the commanding figure and strongly marked countenance of a gentleman, in the lineaments of which were unmistakably written simplicity and directness of purpose, integrity, and unswerving firmness, and I asked who it was. Upon learning the name of this man, with whose external presence I had been so impressed, I immediately sought his acquaintance; and during the two or three months that we have been assembled here, in the discharge of a common duty, it has been my pleasure and my privilege to enjoy as close an intercourse with him as was permitted to me in the discharge of my duties here. The early impression made upon my mind has been strengthened and confirmed by this constant intercourse.

Mr. Hopkins, sir, was no ordinary man. He belonged to a class of men from which the very best specimens of American public characters are drawn. Feeling a deep obligation to dedicate to the service of his country the talents and the industry with which he was endowed, he was almost constantly in the public service, in some capacity. We have heard here to-day, from those who knew him intimately, how the lad, drawing from a simple education the elements of knowledge, began

early to improve himself, until, by the choice of his fellow-citizens, he was raised in successive steps from one office to another, finally uniting to assist in the performance of the great work for which we are now assembled.

The youthful justice of the peace, for he must have become so before he was thirty, since then it was he first began to represent his section of the country in the halls of legislation, ripened into the statesman, and without anything like sudden, violent advance, his growth was a slow, steady, mature one. He had many of the physical, and, it strikes me, many of the moral and mental attributes which belong to the class of men who are gradually developed. Sturdy, strong and deliberate, he may not inaptly be compared to the deep-rooted, slowly growing oak, whose very power and beauty are, to a great extent, attributable to its tardy development. He was a prudent man, a man not hasty in the formation of an opinion, but when once formed and adopted, slow to yield, requiring always good reason to induce a change. He was not easily swayed. He was a man of tenacity of purpose, and of tenacity to that which is right. He clung to his convictions, because these convictions being of slow growth, and, perhaps, of tardy adoption, he valued them highly; and hence that firmness which we have all more than once witnessed, and which was so remarkably impressed upon his face.

Indeed, with him, as I believe it always is with true men, the face was the mirror of the soul. You would have felt a great moral shock if you had heard that anything like duplicity, subterfuge or indirectness had been found lurking under that countenance. In fact, it would have been a solecism in nature. Such a thing was almost, if not altogether, impossible.

Well, sir, he is gone. He has gone in the fullness and ripeness of years, and, so far as his fellow-citizens could do him honor, in the fullness of honor. We feel keen pain at the severance of the tie which has united us so closely to him during the past winter; but would any one of us, had we the ability to do so; call him back? "After life's fitful fever he sleeps well." He has rounded off a life of great moral beauty, of great usefulness, of great dignity, by a fitting end, and he has fallen before decay had begun to impair his faculties. While to his family, his wife and children, the loss is irreparable; while to the community in which he

lived, his loss will be very great; while to us it is considerable; while to the whole Commonwealth it cannot easily be supplied. I esteem him a fortunate man to have passed away as he has passed away, after this short, this sudden illness, well prepared—for we have had testimony, and valuable testimony, on that subject—to receive from his Master the reward for the good he has done in this life.

MR. J. S. BLACK. Mr. President: I can not be entirely silent on this melancholy subject; but I have no words to express my deep grief for the loss we have sustained. If I had the words I fear I would be prevented from uttering them by that choking sensation which I have felt ever since I heard of the death of Mr. Hopkins last night.

I do not underestimate the very high qualities of my surviving associates in this body. I do not think, indeed, that any man here appreciates their various abilities and virtues more than I do; but I devoutly believe that there is no man in this Convention that we could not have spared better than him who has gone.

We shall miss very sadly and seriously his wise counsels and the influence of his high character. His death certainly diminishes the chances which we would otherwise have had of performing the duties which we owe to our constituents acceptably and well.

I do not propose to give an analysis of his character, and it is not necessary to repeat his history. I may say, for I know it, that he was, in all respects, the best balanced man that it was ever my good fortune to know. He was born with a temper somewhat ardent and with impulses rather strong, but his sterling good sense always kept him within the bounds of perfect propriety. His moral and personal courage were often tested; he was one of the most fearless men that ever lived, yet all his measures were in favor of peace, and every one who knew him testifies to the gentleness and kindness of his manner.

He was a most devoted friend of popular government; he believed in the rights of the people and conceded those rights upon all occasions, and yet he had less of the demagogue in his composition than anybody I ever knew. He revered legal authority, and was always submissive to those who rightfully wielded it, but he never fawned upon power, nor begged a favor of patronage. No man could possibly be more faithful to his political convic-

tions; and he was as true as steel to the men with whom he was associated in supporting them. Yet we all know that he never allowed himself to be tempted into any party excesses, nor stained himself with any act of extravagant opposition to his enemies. His religious faith was as firm as the "foundation of the everlasting hills"—it never wavered for one instant, but he was wholly unobtrusive with it; he propagated his faith by example, and proved it by his works. It is fit and proper that the dignity of such a character should be vindicated, and that the value of it should be made widely known.

MR. MACVEAGH. Mr. President: I trust it will not be thought improper that on behalf of my colleagues upon the Committee on the Legislature, of which Mr. Hopkins was by far the most experienced member, I should give expression over his open grave to the sincere regret with which every member of that committee has heard of his untimely loss. Mr. President, his loss is untimely only in that it has occurred before this Convention has reaped the full benefit of his long life of stainless honor, and of his varied experience in the public service. It had not been my privilege to know him well before we met here, but it has been my privilege, since this Convention has assembled, to have seen much of him, and to have learned to esteem him, and to agree in the opinion of his moral worth, which has been given by those who have known him longest, and therefore who esteemed him most. Such a man, here and now, I am sure every member of this Convention feels, is not easily to be re-placed; and our hearts are all bowed down, not only with sincere sympathy with the afflicted and sorrowing family of our brother who has gone before us, but also with hearty regret that the people of the Commonwealth have lost his services, and that our labors are to lack the advantages which his ripe wisdom, his conscientious regard for duty, and his devotion to the interests of the people, as he understood them, would have given to them.

MR. TURRELL. Mr. President: I should not, at this time, attempt to add a word to what has been already spoken—and so well spoken—in regard to the life and character of Colonel William Hopkins, were it not for the fact that I am the only member of this Convention who served with him in the Senate of this State. I would do violence to my own feelings of respect for him if I should fail, at this mo-

ment, to say a word in testimony of his character. My acquaintance with him commenced in 1863. He was then a member of the lower House, and during the next two years we served in the Senate together. It is well known that we both occupied different sides in politics, and the political feeling at that period in our country's history was accustomed to run very high. Men differed widely and radically in their views, and often upon the floor of the State Senate we met in all the acerbity of sharp debate. But I have this to say of Colonel Hopkins: That never, for one moment, did any of those bitter feelings, so often engendered by political differences, affect the cordiality and the courtesy of his intercourse with me. Colonel Hopkins was a man of a very even temperament, and of great self-command, and through all my intercourse with him never once was there the slightest unpleasantness or ungentlemanly feeling. I became impressed in that acquaintance with his character as a man, with his great honesty of purpose, with his firmness and decision of character, and I ever found him eminently a courteous, christian gentleman.

Mr. T. H. B. PATTERSON. Mr. President: It seems to me that upon an occasion like this, when a christian gentleman, such as William Hopkins, has died in our midst, it is but right that the youngest and the oldest members of the Convention should unite in bearing their tributes to his memory, and in expressing those strong feelings of respect for the goodness and honesty of his life, in order that we, his colleagues and his fellow-citizens, may, if possible, lessen the sorrows of his bereaved family. On a sorrowful occasion like this it is eminently proper we should give our testimony in behalf of a distinguished member of this Convention by re-calling the past services he rendered to the State, and the positions he so honorably occupied. In order that those of us who remain behind him may be more fully impressed with the importance of the duties which have been committed to our care, I have felt to-day I could not utter any appropriate tribute to his memory, but I feel that I would be false to myself and to a personal friend if I did not endeavor to give my humble testimony to the friend and bright example of my early boyhood. Although I have been called here to this Convention to represent another district than that in which Colonel Hopkins resided, yet the county which he repre-

sented so ably in this Convention, and the town wherein he resided, is the ancestral home of many generations of my family. All the pleasant memories of my school-boy days will ever be connected with pleasant recollections of Colonel Hopkins as a true, manly and simple christian gentleman, and representative Pennsylvanian, and as I stand here to-day in my place in this Convention, it seems to me as if it were but yesterday that I first became acquainted with him. Although his memory and his name have been associated with my life from my earliest infancy, and though it seems but a short time since I was first introduced to him upon one of the streets of Washington, in front of his mansion, I can never forget the vivid impression which that meeting has left upon my mind. I remember well that he presented the appearance of a model American citizen, dressed in the old fashioned genteel manner, just as we last saw him here in this Convention. At the time of which I speak he was engaged in driving home his cow from the pasture lot, retaining all the simplicity of the customs of his early boyhood, although then a man grown up and covered with honors, and amply endowed by fortune.

He had not forgotten, and, I may say, never forgot, even down to the last day of his life, when at home, those simple customs which he was used to when a child. And often, after my first acquaintance with him had begun, I have seen him driving backwards and forwards his cow in the same old fashioned manner. It is to draw the attention of the Convention to this humble trait in his character, and one which is so rapidly being swept away from among us, that I have adverted to this homely incident in his life. When surrounded by all the honors of public life he still clung to the old fashioned customs of his younger days. His character as an upright and self-made man exercised an influence over my life as I grew up, even in my college days, that I can never forget. And to-day I therefore stand here to add my tribute to his memory, and to express my gratitude for the lesson which his life affords to those of us whom he has left behind to complete his work in this Convention.

It seems to me, Mr. President, that we can never forget him as he stood here among us, such a short while ago, in the earnest discharge of the highest duties the people of any land can entrust to a

mortal being. He was sent here as a delegate to this Convention to assist in amending the organic law of the State. And he proved himself an example to every one of us in the simple, earnest and straightforward manner in which he attended to all his duties and listened to all the debates, however trivial in their character, that have occurred upon this floor.

I re-call with pleasure and sadness the last time I remember seeing him in this Convention. In the discharge of his duty as chairman of the committee of the whole, he manifested a deep interest and anxiety in the debate upon the article reported by the Committee on Legislature. And after many days had been consumed in its consideration, I remember well the shade of disappointment that passed over his face like a premonition of his approaching end; when, on the last day he was present with us, the committee rose and the final vote had not been taken. Let those of us who remain behind him, to complete the work which has called us together, remember the character of our departed friend and member, who never forgot the simplicity of the good old time life amidst all the storms of innovation and corruption which have swept over our State. And if we follow the bright example of this noble man in the future, Colonel Hopkins will not have lived in vain, and will not have died in vain.

Mr. CRAIG. Mr. President: I desire to drop my tear to the memory of our departed friend and fellow-member. It was not my privilege to have known him personally until within a very recent period, but being a native of the same county, and having been surrounded by the same influences which moulded his noble character, I feel that in his loss I, too, have lost a brother. I have known of him, and I have known him by sight and by reputation since the period of my earliest recollection. I have known that he was a man whom the great county of Washington delighted to honor, and that he was one of her foremost citizens; and since it has been my pleasure and my duty to become acquainted with him I have not valued him so much for the public service he has rendered as for the private virtues and character which he possessed.

I esteemed him, sir, as a friend in whom there was no guile nor deceit; a man whose friendship attached itself to you with hooks of steel; a man who when he once gave you his confidence gave it

wholly and entirely. But he is gone, as we shall all go. One by one the scythe of the Mower shall overtake us all. Grief shall fill all our heads in death. Sorrow shall fill all our hearts, and when it shall pass we, too, shall have passed to be numbered no more on earth. These thoughts are sad, but they should make us improve the friendship and the blessings of the hour as they pass. We shall have our day. We shall be mourned by friends. Our virtues shall be remembered, and our vices and our weaknesses shall be forgotten. We shall be carried to the narrow house and others shall take our place.

We may regret, sir, that the virtues of the deceased cannot be transferred to other and younger men. Though that cannot be, they shall remain as a sweet incense in all our hearts. I remember him as a friend. I know and have felt the sincerity of his heart. I, too, was one of that little circle, now broken, which has sat by the same table since this Convention convened. He was the central figure. He was the keystone of that little arch; but it has been broken. Ah! before there were three of us. There are now but two.

I know, sir, the tenderness of his heart, because I have heard him speak of that which no man can speak of and yet be insincere. I have heard him speak frequently of the tenderness with which he loved a little grand-child, whose absence and separation from him was the great grief of his life.

With him there is a lesson for us all. Let us improve it. While we must mourn over the departure of our friend, we know that our turn shall come.

"Forever shakes this mortal urn,
And soon or late
Stern death shall beat
With equal feet
At palace and at cottage gate."

Mr. BUCKALEW. Mr. President: I desire to add a few words, on this occasion, before these resolutions shall be submitted to a vote. It is rare, indeed, that I have found myself upon occasions of this kind able and disposed to endorse all that is said in commendation of a departed associate or friend. But here and now I am able to approve and endorse all that has been said by the several gentlemen who have preceded me, in commendation of our deceased associate and colleague. His memory deserves all these tributes which have been paid to him, and all over this Commonwealth, wherever our pro-

ceedings go, the hearts and the intellects of the people will endorse what we have said, and what we shall do, when we adopt, by a unanimous vote, these pending resolutions.

This man, who has left us, all his life followed the dictates of duty. Whether its performance was agreeable or painful, he stepped forward steadily and firmly in the path of duty, and he has his reward, not merely in what we say here, or in what will be said abroad by others, but in those tender and cherished recollections which will remain in his own home and among those by whom, in life, he was immediately surrounded.

I will mention one instance of the performance of duty, his latest act as a member of this Convention. You assigned him to the chairmanship of the Committee upon the Declaration of Rights, the ninth article of the Constitution. On Thursday of last week, he insisted that that committee should conclude its work before he left for home, that nothing should be left unattended to which demanded its attention, and that its work should be made complete. His views prevailed. The article was revised and its final form assigned to it, and the same afternoon he left for his home, never more to return and mingle amongst us. It would seem as if a presentiment was upon his mind, that he would be no longer able to work with us and for us in this Convention; that it was necessary before he left on that journey homeward, that the task assigned to him by our presiding officer should be fully discharged.

Mr. President, I have known Mr. Hopkins for twenty-five years, and known him very well, and have enjoyed with him relations of friendship and of intimacy during a great part of that time. What I desire to say, now, is this: That hereafter, in looking back over my little career in public life, it will be among my most cherished recollections, that during his lifetime I held the confidence and enjoyed the friendship of William Hopkins, of Washington county.

Mr. CORSON. Mr. President: I desire to say but one word, and that is supplemental to what has been just said by the distinguished member from Columbia (Mr. Buckalew.) It is true that the chairman of the committee, on which I have the honor to serve, did have the work of that committee completed and printed before he left; and I desire to call atten-

tion to the fact, which henceforth will become historical, that he was the author of these simple words, in the preamble of the Bill of Rights, which he proposed to make the first article in the Constitution:

"Recognizing the sovereignty of God, and humbly invoking His guidance in our future destiny."

The second resolution was unanimously agreed to.

The PRESIDENT. The question is upon agreeing to the third resolution, which will be read.

The CLERK:

Resolved, That in this hour of deep affliction and grief we tender to his family, so deeply stricken, our most sincere condolence and profound sympathy.

Which was unanimously agreed to.

The PRESIDENT. The question is upon agreeing to the fifth resolution, which will be read.

The CLERK:

Resolved, That as an evidence of our respect for the memory of the deceased, we do hereby appoint a committee of this Convention to attend his funeral at Washington, Pa.

Which was unanimously agreed to.

The PRESIDENT. The question is upon agreeing to the last resolution, which will be read.

The CLERK:

Resolved, That the Chief Clerk be directed to forward to the family of the deceased a copy of these resolutions; and that we do now adjourn.

Which was unanimously agreed to.

The PRESIDENT. The resolution providing for the appointment of a committee to attend the funeral of our deceased associate contains a blank to be filled with the number of the committee, and a blank as to how the committee shall be appointed. How will the Convention fill these blanks?

Mr. LAWRENCE. Mr. President: I move that the blank in reference to the number be filled with five, and that the Chair appoint.

The motion was agreed to.

The PRESIDENT. I will name as the committee Messrs. Lawrence, John N. Purviance, J. W. F. White, Guthrie and M'Clean.

The PRESIDENT. The Chair will state that he will direct the passage of these resolutions to be entered on the Journal as having been unanimously agreed to; and will also ask unanimous consent, in-

formally, to say that the Journal shall be so recorded as to say that the committee of the whole asked and obtained leave to sit to-morrow on the subject of the report of the Committee on Cities and City Charters, so as to save the lapse of the commit-

tee, which would otherwise be passed over.

Unanimous consent was given, and at twelve M. the President declared the Convention adjourned until ten A. M. to-morrow.

SIXTIETH DAY.

FRIDAY, *March 7, 1873.*

The Convention met at ten o'clock A. M.

Prayer was offered by Rev. James W. Curry.

JOURNAL.

The Journal of yesterday's proceedings was read and approved.

PROHIBITION.

Mr. MANN presented a petition from citizens of Potter county, asking for an amendment to the Constitution prohibiting the manufacture and sale of intoxicating drinks, which was referred to the Committee on Legislation.

Mr. MANN also presented a petition from certain citizens of Westmoreland county in reference to the same subject, which was referred to the same committee.

CUMULATIVE VOTING.

Mr. W. H. SMITH presented a memorial from Andrew W. Foster, of Pittsburg, asking this Convention to make some provision for cumulative voting, which was referred to the Committee on Suffrage.

PROHIBITION.

Mr. DUNNING presented a petition from citizens of Carbondale, praying for an amendment of the Constitution prohibiting the manufacture and sale of intoxicating liquors, which was referred to the Committee on Legislation.

Mr. CURRY presented a petition from citizens of Altoona upon the same subject, which was referred to the same committee.

Mr. CORBETT. Mr. President: As the Committee on Legislation has acted on that subject, I move that these memorials be laid upon the table.

The motion was agreed to.

Mr. WRIGHT presented a petition from certain citizens of Luzerne county relative to the same subject, which was laid upon the table.

Mr. HORTON presented a communication from the citizens of Wyoming county, praying for a provision in the Constitution against the sale of intoxicating

liquors as a beverage, which was referred to the Committee on Legislation.

SPECIAL ELECTION ON THE CONSTITUTION.

Mr. JOHN PRICE WETHERILL offered the following, which was referred to the Committee on Schedule:

The amendments proposed by this Convention shall be submitted to the qualified electors of this Commonwealth, at a special election to be held on the — Tuesday of — next.

The said election shall be held, regulated and conducted in the several counties of this Commonwealth according to existing laws. The said election shall be held, conducted and regulated in cities of 100,000 population under the authority and supervision of three commissioners of election, to be chosen by this Convention, which said board of commissioners, or a majority thereof, shall appoint for each election division, in the said cities, two canvassers to register voters and one judge, two window inspectors and two return inspectors, to hold the said election, in the said division, respectively.

If the said registers shall differ in opinion as to the right of any citizen to be registered, the said board, or a majority thereof, shall decide. No registry shall be conclusive evidence of the residence or other qualifications of any registered citizen, and no name shall be erased therefrom after registration. Nor shall the omission of any name therefrom disqualify any citizen legally entitled to vote. The returns of all the elections herein authorized shall be certified by the officers thereof respectively, in duplicate originals, one whereof shall be forthwith transmitted to the Secretary of the Commonwealth, and the other thereof shall be filed in the office of the prothonotary of the court of common pleas of the proper county. The said board of commissioners, or a majority thereof, shall have full power to make all necessary rules for the making and publishing the said register, and when and how the same shall be done, and all other proper rules as to the details thereof, and shall receive

such compensation for their services as the Legislature shall hereafter provide. The canvassers and officers of election aforesaid shall be paid according to the existing laws providing for the compensation of such officers.

LIABILITIES OF MUNICIPAL CORPORATIONS.

Mr. BARCLAY offered the following preamble and resolution, which were read and referred to the Committee on Municipal Corporations:

WHEREAS, It has been held by the Supreme Court of Pennsylvania, as a general rule of law, that a municipal corporation is not liable for consequential damages to private property by reason of any act done in pursuance of any change or alteration in the grade of any street, even though such private property should be altogether destroyed by such act; therefore,

Resolved, That the committee to whom this resolution shall be referred be instructed to inquire into the expediency of providing in the new Constitution that in all cases hereafter when private property shall be injured in consequence of any act done by any municipal corporation, in pursuance of any alteration or change of the grade of any street, such corporation shall be liable for such consequential damages to the party injured, in the same manner as when private property is actually taken for public use.

MEMORIAL PROCEEDINGS ON THE DEATH OF COLONEL HOPKINS.

Mr. H. W. PALMER offered the following resolution, which was twice read:

Resolved, That the Committee on Printing be instructed to procure the printing of the proceedings of the Convention, on the occasion of the death of Hon. William Hopkins, in memorial form, and that five hundred copies be furnished the members for distribution.

Mr. BRODHEAD. Mr. President: I move to amend, by inserting "one thousand copies" instead of "five hundred copies."

The motion was not agreed to.

The question was then taken on the resolution, and it was agreed to.

ADJOURNMENT.

Mr. BAER offered the following resolution, which was twice read:

Resolved, That when this Convention adjourns on Wednesday, the twenty-sixth of March, it will do so to meet again on Thursday, the sixth day of April.

Mr. HARRY WHITE. Mr. President: I rise for the purpose of making a correction in the date.

The PRESIDENT. The resolution cannot be amended.

The question being taken on the resolution, the yeas and nays were required by Mr. Corbett and Mr. Temple, and were as follow, viz:

YEAS.

Messrs. Achenbach, Addicks, Baer, Barclay, Biddle, Curtin, Gibson, Hall, Hunsicker, Long, MacVeagh, Porter, Pughe, Russell, Sharpe, Simpson, Smith, Henry W., Smith, Wm. H., Stewart, Wherry, White, Harry and Wright—22.

NAYS.

Messrs. Andrews, Armstrong, Baily, (Perry,) Bailey, (Huntingdon,) Bannan, Bowman, Boyd, Brodhead, Broomall, Clark, Corbett, Corson, Cronmiller, Curry, Darlington, Davis, De France, Dodd, Dunning, Edwards, Elliott, Ellis, Ewing, Finney, Funck, Green, Hanna, Hazzard, Horton, Howard, Knight, Landis, Lear, Littleton, Lilly, MacConnell, M'Camant, M'Culloch, Mann, Mantor, Minor, Newlin, Niles, Palmer, G. W., Palmer, H. W., Parsons, Patterson, T. H. B., Patton, Purviance, Sam'l A., Reed, Andrew, Reynolds, James L., Rooke, Ross, Smith, H. G., Stanton, Struthers, Temple, Turrell, Walker, Wetherill, J. M., Wetherill, John Price, White, David N., and Meredith, *President*—63.

So the resolution was not agreed to.

ABSENT OR NOT VOTING.—Messrs. Ainey, Alricks, Baker, Bardsley, Bartholomew, Beebe, Black, Charles A., Black, J. S., Brown, Buckalew, Campbell, Carey, Carter, Cassidy, Church, Cochran, Collins, Craig, Cuyler, Dallas, Fell, Fulton, Gilpin, Gowen, Guthrie, Harvey, Hay, Hemphill, Heverin, Kaine, Lamberton, Lawrence, M'Allister, M'Clean, M'Murray, Metzger, Mott, Patterson, D. W., Purman, Purviance, John N., Read, John R., Reynolds, S. H. Runk, Van Reed, White, J. W. F., Woodward and Worrell—47.

RECESS FROM MARCH TWENTY-NINE TO APRIL FOURTEENTH.

Mr. DE FRANCE. Mr. President: I offer the following resolution:

Resolved, That when this Convention adjourns on Saturday, the twenty-ninth of March, it will be to meet on the fourteenth day of April, at ten o'clock of said day.

On the question of proceeding to the second reading of the resolution, a division was called, resulting: Thirty-nine in the affirmative and thirty-three in the negative.

So the resolution was read a second time.

On the question of agreeing to the resolution, the yeas and nays were required by Mr. Corbett and Mr. Gibson, and were as follow, viz:

YEAS.

Messrs. Achenbach, Addicks, Alricks, Baer, Brodhead, Clark, Cochran, Corson, Curry, Davis, DeFrance, Dunning, Funck, Gibson, Green, Hall, Hunsicker, Lear, Littleton, Long, MacVeagh, Metzger, Mott, Newlin, Palmer, G. W., Palmer, H. W., Parsons, Patterson, D. W., Patterson, T. H. B., Patton, Porter, Pughe, Purviance, Samuel A., Read, John R., Rooke, Ross, Russell, Sharpe, Simpson, Smith, Henry W., Smith, William H., Temple, Wherry, White, Harry and Wright—45.

NAYS.

Messrs. Andrews, Armstrong, Baily, (Perry,) Bailey, (Huntingdon,) Bannan, Biddle, Bowman, Boyd, Broomall, Corbett, Cronmiller, Darlington, Edwards, Elliott, Ellis, Ewing, Hanna, Hazzard, Horton, Howard, Knight, Landis, Lilly, MacConnell, M'Camant, M'Culloch, Mann, Mantor, Minor, Niles, Reynolds, James L., Smith, H. G., Stanton, Struthers, Turrell, Walker, Wetherill, J. M., Wetherill, John Price, White, David N. and Meredith, *President*—40.

So the resolution was agreed to.

ABSENT OR NOT VOTING.—Messrs. Ainey, Baker, Barclay, Bardsley, Bartholomew, Beebe, Black, Charles A., Black, J. S., Brown, Buckalew, Campbell, Carey, Carter, Cassidy, Church, Collins, Craig, Curtin, Cuyler, Dallas, Dodd, Fell, Finney, Fulton, Gilpin, Gowen, Guthrie, Harvey, Hay, Hemphill, Heverin, Kaine, Lambertson, Lawrence, M'Allister, M'Clean, M'Murray, Purman, Purviance, John N., Reed, Andrew, Reynolds, S. H., Runk, Stewart, Van Reed, White, J. W. F., Woodward and Worrell—47.

PRINTING REPORTS OF COMMITTEES.

Mr. HARRY WHITE. Mr. President: I offer the following resolution:

Resolved, That the official reporter be directed to furnish the State Printer, as reported matter, the reports of all standing and select committees of the Conven-

tion, and that the State Printer print the same in the Debates.

It seems it was the understanding, I do not know whether correct or otherwise, by the Committee on Public Printing, that the State Printer was not to print in the Debates the reports from the standing and select committees of this body. It must be apparent to every delegate of the Convention that it is entirely proper to have, in their proper places, the reports of the standing committees of this body; otherwise the reading of the Debates may not be intelligible. For the purpose of having these reports inserted in the Debates this resolution is offered.

Mr. NEWLIN. Mr. President: As the Committee on Printing has been referred to, it is, perhaps, proper for me to state to the Convention that when this matter was first called to their attention the committee was of the opinion that there was no authority for the State Printer to print in the Debates the reports of the standing committees. He prints them in the Journal. The committee expressed no opinion upon the abstract question of the propriety of printing them in the Debates, but was of the opinion that, as the matter stood, there was no authority from the committee to so print them. I say nothing whatever as to whether they should go in or not; I simply make this explanation on the part of the committee.

Mr. DARLINGTON. Mr. President: If these reports should be furnished by anybody I suppose it should be by the Clerk of the Convention. The official reporters, I apprehend, do not take down the reports of the committees. They are furnished in writing, and the official reporters have nothing to do with them. They are excluded from the Debates, and properly so. I do not see what the advantage is of putting them in among the debates. They are certainly no part of the debates or discussions of the Convention.

Mr. HARRY WHITE. Mr. President: There is probably a misapprehension upon this matter. Let it be understood that it is not the intention to increase the compensation of the reporter by reason of the insertion of this matter in the Debates. The delegates will understand that the mere purpose is to have the articles, when reported from the different standing committees, put in the proper place in the Debates, so that when the Debates are read in turning over the pages, reference can readily be made to the subject matter under discussion. If it is not

so, reference must be made to the pages of the Journal which may not be at hand. It will be valuable in the future, and I call the attention of the honorable delegate from Chester (Mr. Darlington) who was a respected member of the Convention of 1838, to the fact that the report of every standing committee and select committee is inserted in the proper place in the printed Debates of that Convention.

Mr. DARLINGTON. Mr. President: I believe that that is to some extent true, and it is understood to be a perfect nuisance in the Debates to have these reports of the committees inserted. What was intended at the commencement of the session of this Convention was that our Debates should reflect the consideration given to the various questions by the members. If any one wishes to study the whole history of course he will be supplied or he can supply himself with the Debates and with the Journal, but these reports certainly have no place in the Debates.

Mr. COCHRAN. Mr. President: I wish to say but a single word in regard to this matter, because I think that there is a misapprehension in relation to it. The reports of the committees, as I understand it, are proposed to be included in the Debates at the time these reports are made to the Convention, on the ground that unless they are so included, the reading of the Debates will be unintelligible. Now I refer to page 718 of the volume of Debates to which any gentleman here can refer and satisfy himself. I take this merely as an example. The first section of the report of the Committee on Suffrage was adopted, and the form in which it was adopted is printed on this page. Then it states "the first section as amended was agreed to." Then what follows? "The Clerk read the second section as follows," and the second section is put into the body of the Debates verbatim, as it was reported by the committee, and in direct connection with the discussion upon the subject. Now, sir, does that not bring the whole question of what was under discussion before the reader of the Debates? Here is the section and the debate upon that section immediately follows. The debate is set at full on the section of the debates.

Mr. H. W. PALMER. Mr. President: It seems to me to be entirely useless to duplicate the reports of these committees. It looks as though the State Printer had drawn up some resolution to add some-

thing to his fat job. I am opposed to giving him any more plunder out of this business. So far from any advantage accruing from the printing of these reports, it seems to me mainly a botch. A copy of the Debates of 1838 was sold in open market here, in Philadelphia, a week or two ago, for five dollars, and, if we judge from that, of what the value of these Debates will be, it, perhaps, will not be found necessary to spend several thousand dollars in duplicating the reports of these committees. Therefore I hope this resolution will not be adopted.

The question being upon the adoption of the resolution, a division was called, and but fifteen members, not a majority of a quorum, voting in the affirmative, it was not agreed to.

ADJOURNMENTS.

Mr. STRUTHERS offered the following resolution:

Resolved, That the eighteenth rule be amended, so that motions for adjournment beyond the next meeting day may be adopted.

The resolution was laid on the table under the rule.

STATE PRINTER'S ACCOUNTS.

Mr. ARMSTRONG offered the following resolution, which was twice read and agreed to.

WHEREAS, It is impossible for the accounts of Benjamin Singerly, State Printer, to be settled by the Convention, because a great portion of the work must be done after the Convention shall have adjourned; therefore,

Resolved, That in the judgment of this Convention it is expedient that the Legislature provide for the settlement of his accounts by the proper accounting officers of the State, on the terms and conditions of his contract with this Convention, and for the payment of such sum as he may be entitled to receive.

DEBATES ON ADJOURNMENT.

Mr. LEAR offered the following resolution:

Resolved, That the resolution which prohibits debate on a resolution fixing the time for the adjournment of the Convention be and the same is hereby rescinded.

The resolution was laid on the table under the rule.

THE EXECUTIVE ARTICLE.

The PRESIDENT. The next business in order is the second reading of the article

reported by the committee of the whole upon the Executive Department. Is it the pleasure of the House to proceed to the second reading of this article?

The Convention agreed to proceed to the second reading thereof.

The PRESIDENT. The first section will be read.

The CLERK read:

SECTION 1. The Executive Department of this Commonwealth shall consist of a Governor, a Lieutenant Governor, a Secretary of the Commonwealth, Attorney General, Auditor General, Secretary of the Treasury, a Secretary of Internal Affairs, and a Superintendent of Public Instruction.

The first section was agreed to.

The CLERK read the second section as follows:

SECTION 2. The supreme Executive power shall be vested in a Governor, who shall take care that the laws be faithfully executed. He shall be chosen on the day of the general election by the qualified electors 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 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. J. M. BAILEY. Mr. President: For the purpose of testing the sense of the Convention upon whether the words General Assembly or Legislature shall be used in the Constitution, I move to amend, by striking out the word "Legislature" wherever it occurs in this section, and inserting in lieu thereof the words "General Assembly."

Mr. BIDDLE. Mr. President: The amendment strikes me as being entirely unnecessary. The word Legislature is a common and very comprehensive term. It is quite common in England, where we know the Houses of Parliament are designated as the House of Commons and the House of Lords, and they are spoken of, practically, as a Legislature. It seems to

me there is no necessity for substituting a double word in place of a single word, all through this section.

Mr. DARLINGTON. Mr. President: I consider it a mere question of taste, which might as well be settled now as at any other time. If we use the term "General Assembly," then the amendment would have to be made all through the section.

Mr. HARRY WHITE. Mr. President: The Committee on Legislation had this subject under consideration, and it was the unanimous opinion of the members of that committee that the word "Legislature" should obtain in our Constitution in lieu of the words "General Assembly." I will not repeat the arguments, which must be apparent to all, that can be made in favor of this term; and in reading the report of the Committee on Legislation, it will be observed that this expression prevails through the whole article.

Mr. JOHN M. BAILEY. Mr. President: I suppose it is proper I should say that I am not particular whether the term "Legislature" or "General Assembly" is used; but I think we might as well finally settle this question as to the term we propose shall be used throughout the whole Constitution. If it is the opinion of the Convention that the word "Legislature" should obtain throughout the whole Constitution, I will withdraw my amendment, and I do withdraw it.

["No." "No." "No."]

Mr. JOHN M. BAILEY. Then I renew the amendment.

The question being then taken, the amendment was not agreed to.

Mr. EWING. Mr. President: When this section was under consideration in committee of the whole, I offered an amendment to make contested elections of Governor and Lieutenant Governor determinable by the Supreme Court. After discussion, and with the understanding that the Committee on Suffrage was preparing a section relating to this matter, I withdrew the amendment. I may say that the section, as amended, suits my views now much better than as it came from the Committee on the Executive Department, but I think we should not pass this section finally without allowing an opportunity for amendment, and before we have received the report of the Committee on Suffrage. If I am correct, I understand if the section is passed now, it cannot be amended at any future stage of our proceedings, without unanimous consent. I would, therefore, move to

postpone the further consideration of this section.

The question being then taken, a division was called, which resulted as follows: Ayes, fifty-three; noes, twenty-three.

So the motion was agreed to.

CITIES AND CITY CHARTERS.

The PRESIDENT. The next business in order is the further consideration of the article reported by the Committee on Cities and City Charters.

IN COMMITTEE OF THE WHOLE.

The Convention then resolved itself into committee of the whole, Mr. Darlington in the chair.

The CHAIRMAN. When the committee last rose the question was upon the substitute offered by the gentleman from Philadelphia, (Mr. Cuyler,) for section three as reported by the committee.

Mr. WALKER. Mr. Chairman: I move that the committee rise and report progress.

Mr. JOHN PRICE WETHERILL. Mr. Chairman: Before the question is taken I should like to make a single remark. I desire that the consideration of this article should be postponed for the present, for the reason that two members of the committee are absent from the city. One of them, the gentleman from Pittsburg, (Mr. Guthrie,) who takes a deep interest in this article, is absent on official business, and I deem it a duty we owe to him, that the consideration of this article should be postponed, at least until his return. The gentleman was formerly mayor of the city of Pittsburg, and possesses considerable experience and information in regard to this question, and for this reason I hope the committee will now rise and report progress.

The question being taken, the motion was agreed to.

IN CONVENTION.

The committee then rose, and the President resumed the chair. Mr. Darlington, chairman of the committee of the whole, reported progress and asked leave for the committee to sit again, which was granted, and next Wednesday was named as the time.

Mr. LILLY. Mr. President: I move to re-consider the vote by which the consideration of the article reported by the Committee on the Executive was postponed.

The motion was not agreed to.

THE EDUCATIONAL ARTICLE.

The PRESIDENT. The next business in order is the consideration of the article reported by the Committee on Education. Is it the pleasure of the Convention to proceed to the consideration of the article?

The question being taken, a division was called, and it was agreed to, a majority of a quorum voting in the affirmative.

IN COMMITTEE OF THE WHOLE.

The Convention then resolved itself into committee of the whole, to consider the report of the Committee on Education, Mr. Curtin in the Chair.

THE EDUCATIONAL ARTICLE.

The CHAIRMAN. The committee of the whole have under consideration the article reported by the Committee on Education. The first section will be read.

The CLERK read:

SECTION 1. The Legislature shall provide for the maintenance and support of a thorough and efficient system of public schools, wherein all the children of this Commonwealth above the age of six years may be educated.

Mr. DARLINGTON. Mr. Chairman: I do not design to detain the committee of the whole but for a few moments in explanation of the general objects and scope of this article. It will be remembered that the only provision in the Constitution, as it now stands, is that the Legislature shall take care that the poor be taught gratuitous, and the arts and sciences flourish in one or more seminaries of learning. We have out-grown that state of things long since. The Legislature, with the entire sanction of the people of this Commonwealth, has gone far in advance of the constitutional injunction placed there in the early history of the Commonwealth. Perhaps the subject might be safely left to the Legislature still. Indeed there cannot be any absolute necessity for the expression of an opinion on this general subject of education by this Convention; but inasmuch as we might be said to be on the backward road if we said nothing on the subject, we felt that it was better for this Convention that it ought so to recognize the existence of that admirable system of public schools which now prevails all over the Commonwealth as the existing state of things require. It will be therefore perceived that, instead of depending upon the Legislature to establish a system of education, the phraseology of

the first section, now before us, we think shall provide for the maintenance and support, merely recognizing the fact as it exists, and merely changing the phraseology from common schools to a system of public schools. This is the general purport of the first section, in which the committee have also introduced the limitation of age at which a child may be educated, and made it at the age of six years. They have named six years as the minimum age at which a child shall be maintained. For myself I feel, as an individual, I will be entirely satisfied to leave that also to the Legislature.

We have made in the second section, it will be perceived, an appropriation for carrying into effect this system of free schools in the State. Whether this will be wise, by the committee of the whole and the Convention remains also to be decided. It is higher than the appropriation made up to this time, as the Committee on Education have named the sum of \$1,000,000. But I am glad to say that the wants of the community have been met by the Legislature from time to time, as the system has grown and the ability of the people have increased, and if this sum should be considered insufficient in the future, I have no doubt that the Legislature will be found equal to the occasion, and meet any increased demand upon the educational system of the State.

Now whether the sum which we have named is the proper amount or not, this committee or this Convention will have to determine. And whether it is wise to name a sum or not, it will also be for the Convention to decide. As a general rule, I am opposed to the insertion of any specific sum in the Constitution, whether as salary for an officer or for any other purpose, because of the fluctuating value of money. What would be sufficient to-day may be insufficient to-morrow, or may be entirely too great if there is any change, either upwards or downward, in the currency of the country. But the Committee on Education have agreed to report the sum of \$1,000,000 as a sum to be annually distributed among the several school districts as the Legislature may provide, and that question will be for the determination of the Convention.

We have provided further, and this by way of restriction put upon the Legislature in reference to this school system, that no money raised for the support of the public schools shall be appropriated or used by any religious sect for the support

of sectarian schools. Inasmuch as we design this system to be a free one, and a universal one, we do not think it wise to permit the Legislature to appropriate the public moneys, raised by taxation, for the exclusive use of any sect, no matter by what name it may be called.

In the fourth section we have provided for a Superintendent of Public Instruction, to be appointed by the Governor, by and with the advice and consent of the Senate. This will be inserted either here or in its proper place in the article relating to the Executive. The Committee on Education provide that the Superintendent of Public Instruction shall hold his office for the term of four years, as the committee on that subject have already suggested, and that his duties and compensation shall be prescribed by law.

Such is the tenor of the fourth section. In the fifth section, which we have also recommended in another report, it is provided that neither the Legislature, nor any county, city, borough or school district, nor any public or municipal corporation shall make any appropriation for the support of sectarian establishments. That is its general character and I need say no more than that.

In the sixth section we have endeavored to supply that which exists in the seventh section of the present Constitution: "That the arts and sciences may be encouraged and promoted in colleges and other institutions of learning under the exclusive control of the State." That the arts and sciences and all the varied interests of the State may be encouraged and promoted. We have somewhat varied the phraseology, but this is the purport of the section.

In the seventh section the Committee on Education have provided that the Legislature may establish industrial schools, and require the attendance of vagrant, neglected and abandoned children. I suppose there is no one branch of this whole subject that commends itself more steadily and primarily to the public mind than some means by which those who are without the care and direction of guardians shall be made the wards of the State in this regard. It is evidently the duty of the State to provide for the education and provide also subsistence, and provide it abundantly, for those unfortunate children who are neglected or abandoned, without parents, without care and with no means. Hence it is that we have suggested this for the careful consideration

of the Convention to establish industrial schools where children so circumstanced may be educated and instructed in the useful arts.

And in the eighth section, which is the last that we have reported, we have proposed that the Legislature may, by law, require that every child of sufficient mental and physical ability shall attend the public schools, unless educated by other means.

In other words, we have in this section adopted, or recommended to the consideration of this Convention, the system of compulsory education. In that respect, I beg to say, I am ready to go as far as the farthest. I will say to you, Mr. Chairman, and that the man who so far forgets himself, so far forgets his duty to society and himself, so far forgets his duty to the public as to leave his children uneducated, shall be compelled to send them to school. I beg leave to say that the word "may," in the first line, should be "shall," in my judgment. I take it that this committee, that the public, that the whole community have a deep interest in the education of every child in this community, and if, unfortunately, there should exist any man in this community, who fails to send his children to school, or who undertakes to say that his children shall not be educated, it is the duty and the policy of the State to, by proper legislation, compel it. That is a matter all admit ought to be done. If we are all agreed upon any one thing it is, that the perpetuity of free institutions rests, in a large degree, upon the intelligence of the people, and that intelligence is to be secured by education. We provide the means whereby a parent, who cannot pay for the education of his children, can have them educated, and if a parent will not have his children educated, let him be compelled to do so.

This much, and this much only, I will say in explanation of the general views of the Committee on Education in reporting the article.

Mr. WHERRY. Mr. Chairman: I am about to make a motion, and before I do so I desire to say a single word in explanation. The Convention suddenly, and to the surprise of a majority of it, went into committee of the whole on this subject. One of the most valuable members of the Committee on Education is unavoidably absent to-day, and he has, to my certain knowledge, some valuable and important suggestions to make with reference to the report of this Committee, as well as im-

portant amendments to offer after consultation with a majority of the Committee on Education. I am very desirous, on account of the gentleman from Lehigh, (Mr. Runk,) as well as for other reasons, that this committee shall now rise, report progress, and ask leave to sit again.

I therefore make that motion.

Mr. LILLY. Mr. Chairman: I trust that the motion that the committee rise will not prevail. We have been sitting here half of the morning and just as we are getting to work it is proposed to cease business. The committee should not rise on account of the absence of any gentleman. It is the gentleman's duty to be in his seat.

Mr. WHERRY. Mr. Chairman: I will state that the gentleman from Lehigh is absent on account of illness.

Mr. LILLY. Mr. Chairman: Well I am opposed to this Convention coming to a stand still on account of the absence of anybody. I hope that this committee will refuse to rise, but will go on with this bill. We are just as able to do it to-day as we will be when the gentleman from Lehigh is here. When the report of the committee comes up on second reading he can make his suggestion then, and if he has any amendments to offer he will have all the opportunity that he needs.

Mr. HARRY WHITE. Mr. Chairman: I trust the motion of the delegate from Cumberland (Mr. Wherry) will prevail. The section on education is second in importance to no other section to be submitted to this Convention. It has been explained fully and ably by the able chairman of the committee. It is short, it is comprehensive, it is understood, and can be acted on at any time. But there are some subjects in it that necessarily dovetail into the report of the Committee on Legislation. That committee has reported, and the report is before the Convention for its action. I hope, then, in view of the fact of the brevity of the report of the Committee on Education, and the fact that some of its features dovetail into the report of the Committee on Legislation, and also in view of the absence of some of the honored members of the Committee on Education, that the committee of the whole will now rise, and that the Convention will immediately afterward consent to set in committee of the whole, so that we can proceed to the consideration of the report of the Committee on Legislation, which is now printed.

Mr. DARLINGTON. I hope the committee will not rise. It will take but little time to go through with this section. I would be very glad if the members of the committee were here to express their views upon it, but an opportunity will still be afforded in the Convention after we have reported the article back. I think we had better proceed with the article.

Upon the motion to rise, a division was called for, which resulted: Affirmative, thirty-seven; negative, forty-two.

So the motion was not agreed to.

The CHAIRMAN. The first section of the article is before the committee.

Mr. DARLINGTON. Mr. Chairman: As a matter of form I suggest that we strike out "Legislature," and insert "General Assembly."

["No! No!"]

The CHAIRMAN. Does the gentlemen make that motion?

Mr. DARLINGTON. I am not anxious to press it if it is not the wish of the committee.

Mr. MINOR. Mr. Chairman: I desire to offer an amendment: In the second line, before the word "thorough," to insert the word "uniform," so that it will read, "the support of a uniform, thorough and efficient system of education." I will say but a few words upon the subject. It will be noticed by members, if they will read that section carefully, as it now stands, that there is no limitation whatever to the extent or variety of schools that we may have in this State. It is not required that they shall be limited to any age, except that they shall not go below six years, and it is not required that there shall be any limit to education. You see, then, that this section, if it is adopted, will necessarily authorize the Legislature to introduce a different system of schools into every county in this State, and they may provide for the education of persons during their entire lives in one county, and limit them in another. They may provide for an education running through all the departments of learning in one place, and limiting it to the first four rules of arithmetic in another.

I call the attention of the committee to these propositions. I re-state, then, that they may be understood. Take this section as it stands. There is no limitation upon the power of the Legislature, as to uniformity, or its counterpart, variety in the location, in the time, in the degree of schools, or of education. Now, sir, are we prepared to leave it in that form? Are

we prepared to say that one county, one city, or one town, shall have one system, and another shall have another, and so on, all over the State? If we are prepared for that, then we are prepared to vote for this section as it stands, otherwise not. A "thorough and efficient system," I repeat, is entirely unlimited.

I will not now enlarge upon the other two points as to age and extent of education. I simply refer to them in this connection as throwing light upon the amendment which I offer, that is to insert the word "uniform," so that the system shall be the same all over the State, so far as it is carried out. Every citizen, no matter where he lives, shall be under the same system as to education in the public schools, as every other citizen, no matter where he lives.

Mr. HAZZARD. Will the gentleman allow me to ask him a question?

Mr. MINOR. Certainly.

Mr. HAZZARD. I want to know if the word uniform would apply to uniformity of text books?

Mr. MINOR. No, sir, not necessarily. It is to be a uniform system. Whatever system the Legislature adopts it should adopt the same for the whole State. It may be that every part will not be acted upon at the same time, or extend down to temporary minutiae; but the point now is uniformity of general system. That is my idea.

Mr. LILLY. Mr. Chairman: I hope this amendment will not prevail. If I understand what it means, I do not think it will be proper. If uniformity means uniformity in everything, it is very impracticable. Take a district in the woods where there are only ten or twelve children, and school but three or four months in the year. To make a law for such a district that will apply to Philadelphia would be entirely improper and impracticable. They cannot have the same system of education at all. That may be an extreme case, but you will find that different regulations will have to be made for different parts of the State.

I hope that this word "uniform" will not be inserted, that is if it means, as I believe it does, to bring it down to just one system, and that system be carried out all over the State. In Philadelphia they have female and male schools which we cannot have in the country. We cannot separate them, they must be together. Hence they have certain grades of schools which in most of our country districts

would be improper and impossible to carry out in consequence of the expense. I really hope the section will be adopted as it stands.

Mr. HAZZARD. Mr. Chairman: This word that is introduced is susceptible of construction. A uniform system may embrace the same kind of text books. I think it will bear that construction. If that be so, it will be improper to adopt it. In the rural districts they may need one class of books, and in the cities another. If this system is uniform they must introduce the studies of all the higher branches in the country. In some of our schools they teach algebra and the natural sciences. They may not be ready to do that in the country. They may be unable to obtain competent teachers for that purpose. I think this word would bear this construction.

Now there are different systems, although they amount to the same thing. There are different systems of mathematics. They call them systems. The truth is, they are about the same thing, for the multiplication table in one arithmetic is the same as the multiplication table in another. At the same time these authors call their works an improvement. Hence the introduction of the word now proposed would create confusion among the schools. There cannot be a uniformity, for in some of these districts teachers cannot be obtained to teach some of the branches which will be required to be taught in other parts of the State. I have had some experience in this matter, and I know if the amendment necessitated the introduction of the same class of books for all the schools, it would create considerable dissatisfaction in the school districts. The section reads well enough, as it is, "thorough, efficient system." That will admit of some construction also, but I do not see how we can better it. If we make it "uniform" we will find it impracticable, I think.

Mr. LANDIS. Mr. Chairman: The word uniform was considered in the committee, and the majority of its members thought the introduction of the word, if not fraught with some danger, would, at least be attended with considerable inconvenience. The word "system," of itself, suggests sufficient symmetry, and a sufficient measure of uniformity, without annexing to it so rigid a word as "uniform," because if the Legislature provides for the State a thorough and efficient system of education they will certainly have accomplished all

that a constitutional requirement should ask of them. Now, sir, when we affix to that the word "uniform," you require the Legislature to so legislate that they shall create a system which shall be unbending in all its features; and no matter what may be the requirements of any part of the State, no matter what may be the length of school terms required in one part over another, no matter what may be the kind of books which one district may require, no matter, in short, what may be the different local requirements throughout the State, by the use of the word "uniform" you compel the enactment of an iron law.

The committee, therefore, I think very discretely, came to the conclusion that the word uniform should be rejected, and that enough would be attained by the use of the word "system," and when you have affixed to that the adjectives "thorough and efficient," it seems to me you have accomplished all that is necessary to accomplish, and I therefore trust that the committee of the whole will hesitate before it consents that the word "uniform" shall be inserted, as required by the amendment.

Mr. SIMPSON. Mr. Chairman: I desire to say that I trust the amendment of the gentleman from Crawford (Mr. Minor) will not be adopted, for the reason that it will either, on the one hand, prevent our having graded schools, or, on the other, it will reduce them.

I have had some experience in this school system. I have been connected with it for the last thirteen or fourteen years, and I find that even in this city it would be impossible in the nature of things to adopt a uniform system. We have in the more densely populated portions of the city, graded schools—the primary, the secondary, grammar, normal and high school, and in the sections of the city where the population is more sparse it would be impossible to establish and maintain crowded schools, as they are in what is called the thickly peopled settlements.

We must either have graded schools, or else we must have consolidated schools in which the children will be taught everything, from their "A B C's" upward. If it is the idea of the gentleman from Crawford (Mr. Minor) that the "three R's" only are to be taught, then the expression "three R's" ought to be sufficient and ought to be embodied in the section; but if the system is intended to give an

opportunity to every child in the Commonwealth to get an equal chance for a good and proper education, the word "uniform" ought not to be put into it."

Mr. WHERRY. Mr. Chairman: The word "uniform" has no such limited meaning at all, as the gentleman from Washington (Mr. Hazzard) and the gentleman from the city (Mr. Stanton) attach to it. It is simply meant to prevent special legislation in the matter of the common schools. It means "uniform law" with regard to the age at which children are to be admitted; it means "uniform law" with regard to taxation for school purposes; it means "uniform law" in relation to the taking of property for school purposes; it means "uniform law" with regard to all those matters that are of equal importance to all the schools and school districts of the Commonwealth. Only this and nothing more. It has nothing to do with text-books, or teachers, or school houses. These questions are left, as they are now very properly left, entirely to the local school authorities. It simply affects the character of the legislation made under this article of the Constitution, (if it be adopted,) and does not affect in the slightest degree the matters referred to by the gentlemen who opposed this amendment.

There are good reasons, Mr. Chairman, why this amendment should be adopted. To illustrate this, I will refer to the county in which I live. There is there an "independent district," which, though its schools are of the highest order and an honor to the borough sustaining them, nevertheless has been a constant source of irritation, and jealousy. When two independent authorities undertake to do the same work, friction is unavoidable. With us frequent collisions have occurred in supervision, in the organization of county institutes, and in the creation of the committees which examine and fix the status of teachers. But this district is an old monument of the intelligence of our citizens, and we have no desire to destroy it. But if this word "uniform" is not placed in the education article of the Constitution, there is nothing to hinder any portion of the people of this State from, at any time, attempting to have up, and getting themselves set off, as an "independent" district.

I ask whether gentlemen are willing to give this right to any little section of the State; the right to get itself cut off into an independent district and set up, not

in conformity with this constitutional provision, but in conformity to some special law which the Legislature may pass in its behalf? Do gentlemen propose to strike down special legislation on every other subject, and leave it have full swing in the affairs of the common schools?

Surely if there be any matter of pride and glory in our State, it is to be found in our system of common schools; and if there be one thing in it of more value than another, it is this uniformity—this rigid, equal and impartial system. Our common schools are the great, broad leveler by which all the children of the Commonwealth are placed in one common arena. Whatever we do let us so fix this educational system that it will remain the honor and the pride of the Commonwealth; let us adopt this amendment, so that whatever there is in it that is good shall be enjoyed equally by all.

Mr. STANTON. Mr. Chairman: I did not intend to say anything on this section, as I think it is right as it stands. It calls for "a thorough and efficient system of common schools," in which all the children of the State, above the age of six years, may be educated. I cannot, for the life of me, understand what the gentleman is driving at by his amendment. It would certainly diminish the usefulness and efficiency of our common schools in Philadelphia. This whole subject was thoroughly discussed in the committee, and a majority of the committee thought the section, as recommended, would be the best form in which it could be put. If you insert the word "uniform," I can tell, gentlemen, that it will be construed to mean, among other things, uniform text-books; and that is where the difficulty will commence.

Again, there are graded schools instituted throughout the State, but there are certain school districts wherein it would be utterly impossible to establish the same classes and grades of schools as those which we have in Philadelphia. Here are our high schools, for instance, for educating in the higher grades, the children of engineers, mechanics and others—and it would be well to have such a high school in every county, but pupils enough could not be secured to fill such a school were it established.

There is a high school near Lancaster, I believe, which is accomplishing a great deal of good in educating teachers, and children of artisans and others, but the thickly populated district in which the

school is located secures to it results, which in sparsely settled counties could not be effected, for the reason previously stated—the *want* of a sufficient number of pupils. To remove or overcome this difficulty, it would be necessary to provide that a high school district shall include contiguous counties or portions of counties; and such a regulation would be equally objectionable, because the distance of the school, from the residences of a majority of the pupils, would render the system practically inoperative.

If, then, the word “uniform” is inserted, one of two results must follow—every school district in the State must have its system of primary, intermediate, grammar and high schools by mandate of law, whether such system can be established and rendered operative or not, or, on the other hand, those districts like Philadelphia, in which this system already obtains, must abolish so much of it as will reduce the system and the grades of the various schools and departments as will make them come within the provision of the article and place them upon a “uniform” although a lower basis.

If any gentleman can devise a plan by which a more efficient system of public schools and a system of higher education in the public schools can be established and carried into effect, I will be the most earnest of its advocates and will use, in its favor, both my voice and my vote.

I oppose the amendment proposed, because I believe that its adoption would tend to degrade materially the public schools from that high standard which they have attained in this and other cities, and to which they are so rapidly tending throughout the State. These are my reasons, Mr. Chairman, for opposing the amendment.

Mr. TEMPLE. Mr. Chairman: I desire to ask the gentleman whether he considers the Philadelphia high school a common school, under this section?

Mr. STANTON. Certainly it is a common school.

Mr. WHERRY. Does the gentleman mean to leave the committee under the impression that the word “uniform,” if left in that section, would necessarily imply that every district must establish “uniform schools?”

Mr. STANTON. Certainly.

Mr. WHERRY. Certainly not, it refers to uniform legislation.

Mr. STANTON. If it is for uniform legislation, let it say so.

Mr. RUSSELL. Mr. Chairman: Would it not be better to put an article on this subject, if it is for uniform legislation, into the article on Legislation and let this article stand as it is; then it will not be mis-construed.

Mr. HAZZARD. Mr. Chairman: For the very reason assigned by the gentleman from Cumberland (Mr. Wherry) that this amendment should be adopted, I hope it will not be adopted. It would be very improper to insist, by “uniform” legislation, or in any other way, that our common schools in the country should have a “uniform” system, as that would compel those who wish to study the higher branches of education to go to academies and high schools. We, who live in the west, have no such institutions of learning, and we sometimes organize, in the common schools, a class in the higher studies. We have, in that way, introduced chemistry, natural philosophy, history, algebra and the other higher branches. We give our children the benefit of these studies, under our common school plan, and we do not want it altered. We ask no aid from the State in that regard. We pay our taxes and are content.

Mr. WHERRY. I would ask the gentleman whether every child in the school district enjoys the advantages he refers to, or only a few?

Mr. HAZZARD. All may enjoy them who desire.

Mr. WHERRY. All do not enjoy them.

Mr. HAZZARD. The gentleman might as well ask whether all have the benefit of the colleges of the country.

Mr. WHERRY. The gentleman evades the question; for it must be apparent, on his own statement, that a large number of people in his section are taxed for the benefit of a few.

Mr. HAZZARD. There are a very large number of persons who do not care that their children should go to college; but they will send them to a common school which the State supports from the taxes of the citizens. With a competent teacher in the common school we can have all the advantages of a high school: I have sent my son to such a school in my own neighborhood in preference to sending him to an academy in some other part of the State. They tell me that the system has also worked well, and that it is thorough and good, in the city of Erie.

We do not want to have a “uniform” system. We want to have the right to introduce when and where we please some

of these higher branches into our common schools, so that our children who can not go to colleges and academies away from home may go into their own schools, paid for and sustained by the people of the State, and study these higher branches with a teacher of competence. We do not want this word "uniform" here for it may be construed so as to lead to a conclusion on the part of school directors and others that we are to have only the elementary branches so as to be "uniform" with similar schools elsewhere in the country. It will admit of that construction. Why, this word would operate even as against the introduction of chemical or philosophical apparatus into one school because in another school they could not afford to have it.

Let those of us who prefer the plan of giving our children the benefits of the higher studies in their own district, and near their own homes, be allowed to do so. As to the school tax, we can, in any event, only get our share of that; and if we choose to pay something more for the privilege I speak of, over and above the tax, let us have the right to do it. Let us have a higher class of studies where we want it. If you put this word "uniform" into the section, school directors will hesitate and discuss whether they have a right to do anything of this kind or not.

Our common schools, sir, are the pride and boast of Pennsylvania. Do not let us restrict or limit their operations too much. Let it be known that even the ragged boy out of the mine may go in there and get a good education. I am afraid of this word "uniform." I think it would work trouble. Let us in the country have some liberty about these matters. Of course, everybody knows we must keep the common branches of education uniform; that must be so, of necessity; but do not let it be said that we cannot, even if we want to, introduce the higher branches into our common schools.

The question being then taken, the amendment to insert the word "uniform" before the word "thorough," was not agreed to.

Mr. WHERRY. Mr. Chairman: I move to amend the section, by striking out the words "above the age of six years." I offer this amendment, Mr. Chairman, because I think we have reached that standard of civilization in the Commonwealth of Pennsylvania which condemns as inhuman the practice of confining children of six years of age in the common school-

houses of this State. I desire that it should be fully understood throughout this whole Commonwealth that six years is the minimum age at which children can be received in our common schools.

The amendment was not agreed to.

Mr. HOWARD. Mr. Chairman: I offer the following amendment to, come in at the end of the section: "And the Legislature shall prescribe by law the kind and number of books to be used in the public schools; and changes in books shall not be made oftener than once in ten years."

Mr. HOWARD. Mr. Chairman: I have offered this amendment for the purpose of taking the sense of this Convention upon a subject that has attracted the attention of the people of the State as much as any other in connection with the system of common schools. The frequent changes which have been made in the text books of our schools has been a source of constant complaint among the parents of children throughout the Commonwealth. It has also become a matter of public scandal in many places in the Commonwealth that the agents of rival publishing houses constantly approach our school directors, and in fact are nominated and elected as school directors through the influence of prominent publishing houses in different parts of the country. The effect of such a practice as this has been to supersede certain text-books which have been used in the various schools throughout the State, and to introduce another and probably less desirable quality of text-books. There can be no possible doubt but that there should be some authority given for the purpose of prescribing the kind and number of books that should be used in the schools of the Commonwealth.

This, in my estimation, is a very important question, and one well worthy of the consideration of this Convention. We are now engaged in prescribing a system of education for the children of this Commonwealth, and one which is destined to provide a place for those higher schools that have been heretofore filled by the children of parents who have been unable to give them a collegiate education. The system which we now contemplate adopting, is designed to take the place of our colleges. It is intended to be a system in which all the children of the Commonwealth can acquire the highest branches of education, and, for myself, I would like to see some provision adopted that should prescribe the kind and number of

books that are to be used in our schools, so that there should be some uniform system, and that we might escape the continual annoyances by which our schools are subjected, in the daily change that is made in the books that are used in our schools. I desire to say, however, that it is immaterial, as far as I am personally concerned, what the Convention does with the amendment which I have offered. I have offered it for the consideration of the Convention.

Mr. DE FRANCE. Mr. Chairman: I move to amend the amendment, by striking out "ten years," and inserting "five years."

Mr. DARLINGTON. Mr. Chairman: I regard any limitation whatever upon a subject of this kind entirely inappropriate to a fundamental law. It would be a strange spectacle if a Convention engaged in revising the Constitution of the State should stop in its work to say what sort of books shall be used in our common schools, because we do not know ourselves. A book that may be a valuable school book to-day may be entirely superseded in a month or so hence.

Mr. MANTOR. Mr. Chairman: I merely rise to say that I am in favor of the section as it has been reported by the committee, and opposed to the amendment offered by the gentleman from Allegheny (Mr. Howard.) It seems to me the amendment would have been very appropriate had it been offered thirty years ago in the Constitutional Convention, but we live to-day in an enlightened age of improvement, which certainly cannot approve of any proposition which shall prevent the selection by the schools of the various books for the instruction of their pupils. I can see no necessity whatever for such a provision in the Constitution, and I shall therefore vote against it.

Mr. WOODWARD. Mr. Chairman: If I fully understand the amendment which has been offered by the gentleman from Allegheny, (Mr. Howard,) I consider it a most valuable suggestion, though I think it is out of place. I had prepared an amendment to come in at the end of the fourth section, which I had intended should accomplish the same object which I understand is the purpose of the amendment which has just been offered. I do not care in what part of this report the amendment is inserted, but that it ought to be inserted somewhere I am very confident. Indeed I see nothing in this whole report that is as valuable as a provision that would require the Legislature

to make a law compelling the Superintendent of Public Schools to prescribe uniform school books throughout the State of Pennsylvania. Now, sir, I desire that such a provision should be placed in the Constitution. I do not care where it is inserted, but I do not desire that it should be left to the Legislature. If it is insisted that this would be legislation I agree that it is, but, as surely as you leave it to the Legislature, this provision will not be made. It is of vast consequence to the parents of this Commonwealth that this provision should be made in the Constitution. If you go to New York or Boston, you will find there large mansions and store-houses that have been built out of the money Pennsylvania parents have paid to the publishers of these school books.

Mr. HARRY WHITE. Mr. Chairman. I desire to remind the gentleman that the Legislature of Pennsylvania has passed a solemn statute which prevents the school directors of any district from changing the school books oftener than once in three years.

Mr. WOODWARD. That does not accomplish the object of this amendment, which is to prescribe, as I understand it, uniform school books for all the common schools of Pennsylvania. I do not see why the school books should be changed every three years. The multiplication table does not change every three years, and the rules of syntax and prosody do not change every three years. I do not know what rule does change every three years. If there must be a change made, I hope the change will be made uniform. But if they must be periodically changed, let that change be uniform, so that if a man moves from one school district into another school district, the books that he has been obliged to buy for his children will serve him in that district to which he goes. I want the same school books to be used in all the districts of Pennsylvania. I want the children of Pennsylvania to be educated in the same manner, and this scandalous speculation, which has been carried on at the expense of Pennsylvania parents, I want stopped.

I do not know that there will be any impropriety in my illustrating my argument by a fact. I raised a family of children and educated them, and I will say to the advocates of the female sex who are about us, that I gave my daughters as excellent an education as I gave my sons. One of my daughters wanted a Latin grammar

and I took one down from the shelf and gave it to her. She took it to school and came back with the information that it would not do. She must have Bullion's Latin Grammar. Well I bought this famous grammar, price 75 cents, and examined it, and I found that it was the same Latin Grammar that I had first given my daughter, transposed and a little changed, but essentially and substantially the same grammar. But it was paid for. By and by she must have a Latin reader. I took a Latin Reader down from a shelf and gave her one. She took it to school and it would not do. She must have Bullion's Latin Reader. I bought it for \$1.50, and to my horror I found it was Bullion's Latin Grammar bound up in Bullion's Latin Reader. I had bought Bullion's Latin Grammar twice. By and by my daughter must have Caesar's Commentaries. I have a standard edition of that, and I gave it to her. She took it to school and it would not do. She must have Bullion's Caesar's Commentaries, and when I bought it I found that some worthless Latin grammar was bound up the third time in Bullion's Caesar. Thus I was made to pay three times for a Latin Grammar that never ought to have been printed, because the school master was the agent of the publisher of Bullion's school books. That is the way I was operated upon, and I suppose any other man so situated shared the same fate. Then I inquired who this famous Bullion was, and I learned that he was a Methodist minister at Albany, who was making school books, and through this system of local agents and pliant Legislatures the balance of the world were being made to pay again and again for a Latin grammar, which, again and again I say, ought never to have been printed. There is not a thing in Bullion's Latin Grammar that is not found in Latin grammars that were made and printed before Bullion's was born.

Mr. Chairman: I have no interest in this question. I am a man over twenty-one years of age, at which a man can select his own books. I have no children to educate; but there are numerous people who have, and I want to save them, my fellow-citizens and fellow-parents, from the impositions which were successfully practiced on me through this system of school books, and that is why I am prepared to vote for the amendment of the gentleman from Allegheny, (Mr. Howard,) although I would prefer that that

amendment should come at the close of the fourth section and read in this way:

The fourth section reads:

SECTION 4. A Superintendent of Public Instruction shall be appointed by the Governor, by and with the consent of the Senate. He shall hold his office for the term of four years, and his duties and compensation shall be prescribed by law.

I would add to that section these words: "which shall require him, among other things, to prescribe the school books to be used in all the common schools of the State."

I trust that either here, or in the fourth section, or some other part of this bill, some such provision will be introduced. I trust that this Convention will not let this bill pass through their hands without guarding the parents of Pennsylvania from the gross impositions which I do know have been practiced upon them, and which I have no doubt, will be continued to be practiced upon them if we do not put in some such conservative provision.

Mr. LANDIS. Mr. Chairman: I did not suppose, sir, that the amendment suggested by the gentleman from Allegheny (Mr. Howard) was really to be seriously considered by this Convention, because from its terms it would impose so much inconvenience upon the people of Pennsylvania, it would subject the directors of the public schools all over the State to so much trouble that it would be found to be entirely impracticable. It is a proposition that we embody in our Constitution a provision requiring that all the school books throughout the State will be uniform. I think that a very little reflection on the part of any gentleman will convince him that it would be almost impossible, certainly impracticable. Why, sir, the wants of every locality differ. The directors are the only ones who should determine what are the wants of the scholars of the schools in their district. They alone understand what the children there require. They have made it a study, and it is for them to ascertain what the peculiar necessities of their district are, what books they will need, besides what particular branches they will study. And who shall pretend to determine the kind of text-books to be used as those who have charge of the schools themselves?

In various parts of the State, under the system of common schools, there are organized and in operation very large German schools. In other districts there are

Welsh ones. Now, sir, imagine the inconvenience of the Superintendent of Public Instruction determining that a certain text-book should be used throughout all portions of the State. Why the gentleman from Philadelphia (Mr. Woodward) expressed himself as surprised when, on different occasions, his children brought home to him this and that kind of a book. I submit if he would not have been still greater surprised if, on sending children to school, they would bring home to him a Dutch book or a Welsh book?

This proposition is one which scarcely admits of argument. It ought to suggest itself to every one that it should not be adopted. The idea of embodying into the Constitution, which cannot be altered without great difficulty, a proviso of this kind is one that cannot be seriously considered and entertained by the members of this committee. I therefore hope it will be voted down.

Mr. H. W. PALMER. Mr. Chairman: I entirely agree with the gentleman who has just taken his seat (Mr. Landis.) I do not see why this amendment should be adopted, or why any change should be made in the present system of selecting text-books. The present statute on the subject, which seems, in my judgment, to meet the case fully, is as follows:

"The board of school directors of any district, the controllers in cities and boroughs, shall not order, or direct, or make any change in the school books or text-books used in any school under his or their superintendence, direction or control, more than once in every period of three years."

Certainly the directors of any district know better what the children in their district need than the Superintendent of Public Schools, or the Legislature of the State of Pennsylvania. They fix the series of books once in three years. At the end of three years if any improvement has been made in the school books during that time, by any of the persons who direct their attention to such matters, then another change may be made. It does not follow as a matter of course, that the system of books is to be changed every three years. The way is only opened if improvements are made that makes it desirable to change the books of any district, for the directors to make the change. And if any change is to be made they are the proper parties to make it. They certainly know more about it than anybody else.

Mr. WOODWARD. Mr. Chairman: I would like the gentleman to state a reason why the school books of one district should be different from the school books of another district, so that when a man emigrates from one district the books his children used there will not answer in the other, and he must be forced to buy new ones. Can the gentleman state a reason?

Mr. H. W. PALMER. Mr. Chairman: Certainly I can. It would be perfectly apparent to the gentleman, if he had served as a school director during the last forty or fifty years, that the wants of one school district are quite different from the wants of another, and that nobody can understand them so well as the directors themselves.

I have no doubt that Kirkham's Grammar, Duball's Arithmetic and Cobb's Speller, and the other books which the gentleman studied when he was a boy, were, in his judgment, the best books that ever were made. But I beg him to recollect that the world moves, and there has been an advance since the days when he studied his edition of Anthon's, Cæsar or whatever author he did study. I suppose his experience on the subject of Latin books is unfortunate. His experience with reference to Bullion's Grammar, must have cost him as much as one dollar and twenty-five cents, and all the extra expenses.

Mr. WOODWARD. Mr. Chairman: I beg the gentleman to answer my question. My question was, why should one school district require different school books from another school district? That is the question I ask him!

Mr. H. W. PALMER. Mr. Chairman: Simply because the wants of one district differ from the wants of another district. What would suit the Philadelphia high school, would not suit a district in the mining regions of Luzerne county. That is perfectly evident. And what would suit a primary school in the intelligent and cultivated agricultural regions would not suit a primary school in some precincts of Philadelphia. These matters can be better regulated by the school directors, those who are elected by the people who have children to send to school and who take an interest in these matters and who are better qualified to regulate the books to be used than anybody else.

On the subject of the boring of school agents and the interest of school superintendents, I desire only to say that it is made a high misdemeanor for a man connected with the public schools to be in any

way engaged in furnishing them with supplies of any kind. I do not suppose such persons are interested in supplying schools with books. I suppose they do their duty, and I believe that all this clamor which is raised about school books, is mainly attributable to the penuriousness of people who do not like to buy books for their children, either old or new, and, by this, I do not mean any personal allusion to the gentleman from Philadelphia. Having had four or five years' experience as a director of schools, in a somewhat flourishing section of the State, where the schools have acquired prominence. I can speak by the book upon this subject.

MR. LILLY. How often were your text-books changed in that time?

MR. H. W. PALMER. We changed books but once in six years.

MR. LILLY. Then, Mr. Chairman, the amendment does not touch the gentleman's case at all.

MR. H. W. PALMER. We adopted a uniform system of books and changed it but once, because more frequent change did not seem desirable, but we should have deemed it a great hardship if debarred from making a change for the better in our school books, when change became necessary.

MR. LILLY. Mr. Chairman: I am rather peculiarly situated in reference to this question. I have no children of my own to send to school, and therefore, the purchase of new books does not effect me. But I hear this clamor every time the series of school books is changed in my region of the State, where it is alleged that the change is made in the interest of school directors or others who have the books changed because there is a profit for themselves in the transfer.

The gentleman from Luzerne (Mr. H. W. Palmer) says that it only costs a dollar and twenty-five cents to make the changes in Latin grammars that were required by the daughter of the gentleman from Philadelphia (Mr. Woodward). Let me tell him that the cost of books is, in my section of the State, a tax of sometimes fifty dollars and sixty dollars a year to get all the text-books required. And it is a crying shame that these changes are allowed to be made. I have seen these book agents traveling around, and I have seen them with the school directors, taking them out to hotels, feasting them and treating them and all that sort of thing, and the first thing we know is that when these agents get home the system of text-

books is changed, and the expense put upon the taxpayer and the people who have children to send to school.

As I said, I speak entirely independant of that, because it does not touch my pocket, but I speak of it, because I hear this clamor every year, and sometimes twice a year. If in some districts, where some gentlemen here may be school directors, the books are only changed once in three or four years, the clamor does not reach them; but I will guarantee that in the county of Carbon there is not a school district in which the books are not changed three times in three of four years.

MR. H. W. PALMER. You should look after your school directors.

MR. LILLY. Well, we do, but we cannot keep looking after them all the time, and we cannot always keep them right.

MR. STANTON. Mr. Chairman: I should regret very much to see this amendment prevail. I cannot, for my life, see the advantage of it. In our city we have a system of school books, and have been obliged to take, frequently, an old book, because the act of Assembly prevents us from changing, except once in three years. The author of the book may have revised and improved it, and a revised edition is by us considered a new edition, therefore we are obliged to take the old edition. In reply to the gentleman from Philadelphia, (Mr. Woodward,) I would say that there is a law absolutely prohibiting any teacher from having anything to do with the sale of books, or to act as agent for them. We will not even permit an agent to go into our schools and solicit the teachers for the sale of books. What it is in the rural districts of the State I am not able to say.

MR. LEAR. We have the same law.

MR. STANTON. I presumed so; I presume it is an act of the Assembly. In our grammar schools we have supplementary grades called the senior class, in which departments the children receive almost the same grade of education and use the same books as those in the high or Normal schools. We do that because of the absolute demand for it by the necessities of the community. I should be sorry indeed if the school directors who are elected under the act of Assembly cannot grade their schools and select such books as they please. I think it would be utterly impossible for the Superinten-

dent to go all over the State and ascertain properly the wants of the schools. In the city of Philadelphia we have over eighty-seven thousand children in our schools, and the Superintendent could not go around and see these schools and all other schools of the State properly attended to. Therefore the act of Assembly has wisely provided that each school section or ward may have from twelve to twenty directors, whose duty it is to go around and ascertain the wants of the section and represent these wants to the board of education.

The gentleman from Carbon (Mr. Lilly) is mistaken if he supposes that the wants of the school districts remain the same all the time. Additional wants are always being discovered, and with regard to the publishers, these men seek the sale of their books all the time, and you cannot make them stay at home. If the eastern men can get up a book cheaper than those nearer home, we will have to take the cheaper book. I would very much like to see a Philadelphia house supply the whole State with school books, but it cannot be done. We are obliged by act of Assembly to advertise for proposals, and to describe in our advertisement what we want. The publishers put in their bids, and we have bids from Boston, New York, Chicago, and from other cities, and there are sometimes books which are printed and published in Philadelphia which we can buy in Boston cheaper than we can here. It is no fault of ours. It is no fault of the directors of the public schools or of the board of education. If there is a fault at all it is in the law. For my part I do not think there is any fault, and I do trust the amendment will not prevail.

Mr. CORSON. Mr. Chairman: I am satisfied the prevailing opinion of this body is to incorporate into the Constitution the spirit of the amendment proposed by the gentleman from Philadelphia (Mr. Stanton) and the gentleman from Pittsburg, (Mr. Howard,) and, by an arrangement between these two gentlemen, the gentleman from Pittsburg (Mr. Howard) proposed to withdraw his amendment to the section, so that the two ideas may be incorporated into one, which I have drawn up to be proposed as an amendment to section fourth.

There is a settled conviction in the minds of the people, especially all those of us who have any children, or ever expect to have, to have some settled law in regard to school books, and there is no reason in the world why they should be changed, and, if we can settle this question for ten years, that will help me out, and the rest can take care of themselves.

Mr. TEMPLE. Mr. Chairman: I have but one word to say, in answer to the gentleman from Philadelphia (Mr. Stanton.)

He remarked that the law as it now exists operates an inconvenience to the board of school directors in our city; because there are some editions, and various classes of school books coming out within the three years. I beg leave to say to the gentleman and to the committee, that my opinion is that if a constitutional provision, something like this, was adopted, the various editions of which the gentlemen have spoken would not be issued by the publishers. The desire upon the part of the school directors, or those who have the charge of these matters to change is, really, because of the frequent editions brought before the community by these various publishers. It is not the fault of the law; the act of Assembly prohibiting these changes within three years is all very well if lived up to; but I know it is not lived up to in the city of Philadelphia, and there are other persons whose experience in the city of Philadelphia agrees with mine in that respect. It is a very common subject of complaint with people, that their children going to the public schools are obliged to change the books every two or three years, and I understand that in some schools, the teachers have the books there for sale, and are acting as agents for them. I believe, sir, that such a provision as this should be in the Constitution.

Mr. STANTON. Mr. Chairman: I would like to ask the gentleman (Mr. Temple,) if he can name a single instance where the board of public education of the city of Philadelphia have changed a single book since the act of Assembly.

Mr. TEMPLE. Mr. Chairman: I only know, as my friend the gentleman from Philadelphia (Mr. Stanton) knows, that

it has not been two years since certain investigations were going on in the city of Philadelphia in regard to the purchase of books, by, I believe, the board of control, the complaint being, if I mistake not, that they had made a contract with somebody for a larger consideration than the books could have been got for elsewhere. I am not here to answer conundrums or to make reflections, but the gentleman knows as well as I do that such complaints have been made. I do not know that he has any reason to complain on account of his own children, but it is certain that the complaints have been made.

MR. STANTON. If the gentleman puts a conundrum, and we give it up, he ought to answer it. [Laughter.]

I will simply say here that as I have the honor to preside over the board of public education of the city of Philadelphia, who alone have authority to change the text-books used in our public schools, I assert positively and absolutely that no such changes as intimated by my colleague (Mr. Temple) have been made. The penalty for making such changes is, I believe, a fine of five hundred dollars and imprisonment. Now if such change had been made by the board of education of this city I should not, probably, have the honor of sitting in this Convention at this time. [Laughter.]

MR. PROCHÉ. Mr. Chairman: I have had the honor of being a school director for some fifteen or sixteen years in my section of country, and I look upon this question of the frequent changing of books as one of the great pests of the State. My colleague said he spoke by the books. I, too, speak by the book; because, there is scarcely a year passes that there is not some new school book issued by some publishing firm. They send their agents all over the State to canvass for that book, and how do they do it? In the rural districts they ascertain the names of the school directors and make them friendly calls, and they have no objections to loitering with them over night, provided it does not cost anything. They will go to each director and teacher, offer them an inducement, saying: "If you will adopt my book I will furnish you with books for your own family for so long a time; we will take your old books and furnish our new ones without any

extra charge for the first year." Why? So that they can introduce their books into the school district or county. It is a very profitable business. School books at present prices are, I think, the dearest books published, while they ought to be the cheapest, in order that the common people may not find them burdensome.

This does not apply, perhaps, to the city of Philadelphia, for the reason that the board of control furnishes each scholar with all necessary school books free; it is in the rural districts, and in the mining districts, that this vexatious and onerous burden is felt, where the poor laboring man has to buy books for his children. Every new teacher or board that comes in makes a change in the text-books and imposes in that way an onerous tax and burden upon the people. I have heard more complaint from parents, mechanics and working men upon this point than upon any other. I believe that we ought to engraft into the organic law a provision that the text-books should not be changed within five years. We have that arrangement now, for three years, and I think it would be an improvement to make it five, or at least some method adopted by which this constant change of text-books in our common schools should be abated.

MR. BROOMALL. Mr. Chairman: The difficulty with this amendment is that it is out of place in the Constitution. However proper it may be in a code of school laws, it seems to me that it has no business whatever in a Constitution. That the Legislature will enact a law in this direction is shown by the fact that they have done it, and the only difficulty lodged with the law now in force is that the time is not long enough. That, however, is a question for the Legislature. I am of opinion that these things had much better be left to the people themselves, who are much better capable of judging of what they want than either the Legislature or this Convention; and if not left to the school districts, it should certainly be left to the Legislature to fix from time to time what they may need.

It looks to me monstrous to put a provision in the Constitution that a particular school district, although every person in it may vote to have Bullion's Latin Grammar in use in their schools, cannot get it for ten years, and even then not

without the consent of the Superintendent of Public Instruction and the Legislature. It is said that there is a belief that the people are imposed upon by book agents. If we are going to sit here until we can protect all the people of Pennsylvania against book agents, we will have a very long session indeed.

We cannot do better than by leaving this matter to the people or the Legislature, under the penalties imposed by the act which was read by my friend from Luzerne (Mr. E. W. Palmer.) Why should we set about remedying all the difficulties of school directors in the State of Pennsylvania? Why should we suppose that school directors are capable of being tampered with, that the Legislature is capable of being tampered with, and that we ourselves are not?

I sometimes have felt ready to propose that we should resolve ourselves into a continuous body, inasmuch as we contain all the integrity of the State of Pennsylvania. I did not believe that this proposition was going to be seriously pressed until the remarks of the gentleman from Philadelphia (Mr. Woodward) were made, showing that he was really in earnest; he has a grievance, not a very extensive one, one I believe of the extent of a dollar and a half, and I am sorry for him, as I would not have him imposed upon even to that slight extent, but I do not want a provision in the Constitution of Pennsylvania, placed there for the purpose of preventing some book agent from imposing upon my associate or somebody else. I would leave this to the people of the school districts themselves, acting through their superintendent. I would certainly not go farther than to allow the Legislature the power that it already has without this amendment to regulate the matter under the penalties prescribed.

MR. RUSSELL. Mr. Chairman: I do not think that the gentleman from Delaware (Mr. Broomall) understands exactly the amendment offered by the delegate from Allegheny, (Mr. Howard,) as I understand it. There is no law touching the point spoken of by the gentleman from Philadelphia (Mr. Newlin.) The law on the subject is in these words:

"The board of directors of any district, the controllers in cities and boroughs, or any school superintendent, shall not order

or direct, or make, any change in the school books or series of text books in any school under his or their superintendence, or control more than once in every period of three years."

That is the act of May 23, 1871, and that is the act to which the gentleman from Delaware (Mr. Broomall) refers. It does not cover the point referred to, at all.

MR. BROOMALL. The gentleman will allow me to say, that the amendment suggested by the gentleman from Philadelphia, (Mr. Newlin,) has not been offered. I was speaking to the amendment offered on the other side of the House.

MR. RUSSELL. As I understood the amendment offered by the gentleman from Allegheny, (Mr. Howard,) it was to the same effect. This law allows a change of school books every three years in every school district in the State. That is just what we wish to prevent. Here, for instance, is a board of school directors in the borough in which I reside. That board establishes a certain set of school books. Only a few steps from that school is a township with a different set of school books; and if a man moves from the borough of Bedford into the township of Bedford, he is obliged to buy for his children a new set, each, of the set of books.

There is nothing in what the gentleman from Luzerne (Mr. H. W. Palmer) said that touches the point. I do not think that he fully or fairly answered the question propounded to him by the gentleman from Philadelphia (Mr. Woodward.) We are not legislating here with regard to the high schools of Philadelphia, or to the series of school books that should be used there, but we are legislating with regard to the common schools of the State; and the act provides that it shall be the duty of each county superintendent to see that in every district there shall be taught orthography, reading, writing, English grammar, geography, and arithmetic, as well as such other branches as the board of directors or controllers may require.

The purpose of the common school system of Pennsylvania is to instruct the children of the State in these common branches of education, and not in the higher branches; and what we wish is that there shall be a uniform series of school books in every district of the

State, so that we shall not have in the twenty odd districts of any county twenty odd different series of school books.

I am in favor of the amendment of the gentleman from Allegheny, (Mr. Howard,) but would prefer that it should come in at the end of the fourth section, so as to make it the duty of the Superintendent of Public Instruction to say that the same series of school books is adopted in each district, and in every district of the State.

Mr. HOWARD. Mr. Chairman: As this amendment seems to attract a good deal of attention, I will withdraw it for the present.

Mr. NEWLIN. Mr. Chairman: Inasmuch as there has been considerable debate on this section, and as perhaps sometime may be saved, if it can be disposed of now, I offer the following amendment, to come in at the end of the section:

"The Governor, Attorney General and Superintendent of Public Instruction, shall constitute a board of education. They shall have supervision of public instruction, and shall prescribe what school books shall be used, subject to such regulations as may be prescribed by law."

There seems to be an acknowledged evil just here, which it is difficult to meet. Now, it seems to me, that it is improper to leave to the local boards of a township or a section, a small and unimportant body like that, the settlement of a question of this magnitude, and the difficulty arising from it has been very aptly stated by the gentleman from Bedford, (Mr. Russell,) where, within the same county, in different public schools, different textbooks are used upon the same subject. Again, with regard to the Legislature, it would perhaps be improper to give to it the power alone, of regulating all these matters.

Now, my proposition is to leave it in a general way, subject to such regulations as may be made by law to the proposed board, composed of the Governor, Superintendent of Public Instruction and the Attorney General. Let them prescribe, under such regulations as may be indicated by law, the general course of instruction, let them have a general supervision, the details to be fixed by the Legislature from time to time.

This matter of what books shall be used is, I think, properly left to a board of

this kind. I would not leave it entirely to the Superintendent of Public Instruction for fear that officer, having so much to do with the mere details of education, his mind might, to a certain extent, be contracted, his views might be somewhat those of a pedagogue, and by joining with him in this general supervisory power two other officers, the Governor and the Attorney General, it seems to me that perhaps such a general course of instruction might be mapped out for the whole State, the details, of course, as much as possible, being left to the local authorities, as would accomplish general good, and meet with general approbation. Perhaps this amendment ought, more properly, come in at the end, as a new section; but, inasmuch, as there has been extended debate on this subject, it might be as well to take the sense of the body upon the resolution. A board, such as I have proposed, though the officers are varied, exists in the Constitutions of a number of the States, leaving the details for the Legislature to arrange.

Mr. BROOMALL. Mr. Chairman: I would suggest to the gentleman from Philadelphia (Mr. Newlin) that he add to his amendment a provision that this same board shall prescribe the food which the children shall eat. [Laughter.]

Mr. DARLINGTON. Mr. Chairman: I rise to a point of order. Is this amendment german to the first section?

Mr. RUSSELL. Mr. Chairman: I was going to suggest to the gentleman, (Mr. Newlin,) that he put it in at the proper time rather as a new section than to offer it now.

Mr. STANTON. Mr. Chairman: If we were not in committee of the whole, I should move the reference of the resolution to the Committee on the Executive Department of the government, as it mainly seems to affect that department; I think, however, that you are laying upon your Executive and his cabinet more labor than they will ever be able to get through with.

Mr. NEWLIN. Mr. Chairman: I withdraw it for the present, in order to offer it at a subsequent period as a separate section.

The question being upon the section, it was agreed to.

The CLERK read:

SECTION 2. The Legislature shall appropriate at least one million dollars for each year, to be annually distributed among the several school districts, according to law, and applied to public school purposes only.

Mr. EWING. Mr. Chairman: This section strikes me as being not only unnecessary but improper in the Constitution. The excellence of the school system of Pennsylvania, or one of its greatest excellencies is the fact of it being so completely localized, that the control and superintendence of the schools in any immediate neighborhood is under a board chosen by the people who support those schools and who send to the schools. The State supervision is a mere incident of the system. Now in the past the Legislature has made an appropriation from the State treasury, raised from State taxes and distributed among the various school districts of the State, in proportion to the number of taxable inhabitants, if I recollect rightly, either so or in proportion to the number of children in the schools. The object, and the only object that there can be in that provision, or in this appropriation, is this: The wealthy communities, such as Philadelphia, Lancaster, Chester, and other districts, can support their schools more easily than the people in the more rural districts, and where the population is sparse, and where there is less wealth. By these appropriations, made each year, for every one hundred thousand dollars taken out of Philadelphia by State taxation, you perhaps, would return to them twenty-five thousand, so with other districts; Lancaster, I venture to say, pays two dollars for the State tax for one dollar that it gets out of any State appropriations. Now I am entirely willing that this shall continue to be the policy of the State through its legislation. Heretofore, I think, the highest appropriation that has been made for this purpose is about seven hundred and fifty thousand dollars. It is not long since it was only three hundred thousand. This section under consideration provides by a constitutional provision that it shall be at least one million dollars. It is a very large increase in an appropriation to be made at once. It is an increase in the expenditures of the State that will have to be met by increased taxation, and I am not willing that it shall come in here

as a constitutional provision. The State has heretofore contributed as liberally as was necessary to support common schools throughout the State, and it may be necessary for many years to continue these appropriations; but I hope the time is coming when each community will be able to support its own schools from its own taxes in the immediate neighborhood, and then this provision will be unnecessary. It is the taking of money from each county, putting it in the State Treasury, and then spreading all over the State. It is a waste of money in the collection and disbursement of it, and should not be encouraged any further than is necessary. I do not see the justice and propriety of it; I think it is improper here, and as a constitutional provision is inexpedient.

Mr. LEAR. Mr. Chairman: I desire to say a few words with regard to this system of State appropriations, because there are some reasons in its favor which are not known to those who have not lived in peculiarly constituted communities. In many portions of the rural districts, the school law was put in operation only because of these State appropriations. In the county from which I come, there are certain townships or school districts, where they embraced the common school system with avidity, and the public schools are open for a period of ten months in the year. There are many townships in the county that, for a long time refused to put themselves within the provisions of the common school system. Finally they were induced to adopt it, when the matter was elective with them, by reason of this form of State appropriations, and although it may first have been taken from their own pockets and placed in the State Treasury, they thought, because they got this bonus from the State, that it was an inducement to adopt the common school system in their districts, and they adopted it, and common schools went into operation. At this time, although there is no election upon the question, as to whether they will have common schools or not, yet they cannot get this State appropriation in the various districts, unless the schools have been in operation for a period of five months. If it were not for that limitation, there are townships, even in the intelligent counties of Montgomery, Bucks and others

around us, where they would only have a school law in operation for a period of three months in the year.

As long as we have a bureau of education in the State, presided over by the Superintendent of Public Instruction, it is necessary that the statistics of the public schools can be collected and gathered together; and there is a provision, now in the school law of Pennsylvania, that, until the county superintendent has made his report, the amount of appropriation shall not be made, and until the district directors have made their reports there shall be no appropriations; and it is the only way in which the State has control over the local boards of directors, by which they are compelled, in order to get this State appropriation, to furnish their reports of the working of the school system in the respective localities, and it is, therefore, a whip to be held over the heads of unwilling school directors in those districts where the public school system is not popular, that this becomes of great importance, for the purpose of giving vigor, energy and motive power to the public school system of Pennsylvania. For this reason, alone, we should have the State appropriations; and besides that, it enables the districts where they are not wealthy, because wealth does not always go with population, and where we have our farms of many hundred acres, and the population is sparse, the people are more wealthy, but when we get into our mining and manufacturing communities, where there are little huts filled with children—because poverty and population, at least the multiplicity of children seem to go hand in hand, there it is, that the appropriations from the State in accordance with population, or in accordance with the number of children in the schools, as the case may be, is an assistance and help to these localities where children prevail to a greater extent than wealth.

For these reasons the appropriation from the State is of the highest importance to the efficiency of the public school system of Pennsylvania, and we should have a minimum below which this appropriation shall not go, for the reason given by the Superintendent of Public Schools of Pennsylvania to this committee. He said he annually had to go before the committee of the Legislature

and beg and implore, and threaten and argue, and use all the means and the devices in his power to get a respectable appropriation. It can be as well and as profitably expended, and for the benefit of the State as any other, and if we are making appropriations for improvements at all, let us make this appropriation for the improvement of the public mind of the State. This subject is probably of more importance than any other one that will receive the attention of this committee, and we should give it a thoughtful consideration.

Mr. BOYD. Mr. Chairman: I offer the following amendment: Strike out the first line and insert: "The Legislature shall appropriate such amount as they shall deem proper each year, to be annually distributed."

It is only necessary to remark, with reference to this amendment, that this section allows the sum of one million of dollars, and it seems to me that this amendment will meet any exigencies that will arise from time to time, and the Legislature at last is the place where the sum must be appropriated, and it can well be the place for fixing the amount. The section stands substantially as it is, with the exception of the sum one million being left out.

Mr. MANN. Mr. Chairman: I hope this amendment will not prevail. I look upon this section, as it stands, the most important one that has been proposed to this Convention. I believe that its adoption will give more encouragement, and aid more to commend the Constitution to the people, than any other one section which we can prepare. In addition to the very satisfactory and conclusive arguments made by the gentleman from Bucks, (Mr. Lear,) in favor of this section, I will make one suggestion which he did not make, in favor of a large appropriation from the State, and in favor of its being certain and fixed in the Constitution, a point beyond which the Legislature shall not go, which, in addition to the statement of the gentleman, show how this appropriation will enable the Superintendent of Public Instruction to reach out to every board of school directors in the Commonwealth, his hand, and hold them up to the support of the law. I would require every school teacher in the Commonwealth, to receive a certificate

from the County Superintendent, and it is only through this appropriation throughout the State, that the school boards, and teachers are held up to a high standard. If it were not for the State appropriation, partisan boards of school directors might select teachers without the proper qualifications. I believe in the county in which I reside, the school directors are as earnestly in favor of a school law as those of any county in the Commonwealth, and yet, even there, where education is a great necessity, there are some districts where the boards of school directors are influenced by petty feeling, and they have occasionally sought to put into the schools, teachers who could not secure the certificate of the county superintendent, and who had not the proper qualifications, according to the standard of law now fixed by the Legislature to teach school, but when it has been found that the State appropriation has had to be taken into consideration, and requires a certificate from the county superintendent that the applicant is properly qualified, it has worked a decided and very salutary influence. Teachers, often of an improper character, or an improper standard of morals, would have been installed in our schools were it not for this salutary influence which the superintendent controls by means of this appropriation. In addition to this, the appropriation enables the Superintendent of Public Instruction to extend his influence to every district in the State, and to keep them up to a better standard in regard to instruction, which would entirely fail with a smaller appropriation. When an appropriation of only half a million dollars is divided up, it becomes so small that it cannot possess much influence in the various districts, but if it is provided that the appropriation shall not be less than a million dollars, it then becomes a very considerable item, and furnishes an inducement to every board of school directors in the State to attain all the requirements prescribed by law, in order to secure a portion of its benefits. This is the argument in favor of retaining this provision in the Constitution, and the Committee upon Education have reported it simply because it will give a new impetus to the educational system in Pennsylvania, and it will give the Superintendent of Public Instruction far more influence throughout the various counties, because

there will be a larger inducement held out everywhere to school directors to comply with the law. There is now considerable difficulty in securing prompt reports from some boards of school directors, which delays the appropriation, because in sparsely settled communities the appropriation is so small, but as the section proposes the sum of one million dollars to be divided among the various counties of the State, the appropriation will be large enough for every district to secure a prompt compliance with the law, in regard to making reports to the county superintendent. Above and beyond all this, I submit that this increased appropriation will give a new impetus to the cause of education throughout this Commonwealth. It will make the people in every district of the State, personally interested in the cause of education, and feel more energetic than ever before in educational matters. I have no doubt if this section is adopted, that we shall soon become, beyond all doubt, what many of the friends of education earnestly hope, the leading State of this Union upon this question, and that we shall set an example to all the other States, of devotion to our educational interests.

MR. MINOR. Mr. Chairman: I simply rise for the purpose of stating that by the returns for the year 1872, the children returned as enrolled amounted to eight hundred and thirty-four thousand, three hundred and thirteen. The average attendance was a little over six hundred and thirty-six thousand. The sum of a million dollars was fixed, therefore, because it was thought that the appropriation of the State towards education would be so fixed as to range from one dollar to one dollar and a quarter per scholar.

MR. HARRY WHITE. Mr. Chairman: I will not intrude long upon the valuable time of the Convention. I do not think we can over-estimate the value of this provision reported by the Committee upon Education. If the original provision passes hundreds of people in the poorer parts of this Commonwealth will say, "God bless the Convention." I trust that in view of this, delegates of this Convention will hesitate before they adopt the modification proposed by the delegate from Montgomery (Mr. Boyd.)

When Thaddeus Stevens, with his matchless eloquence, arrested the atten-

tion of this Commonwealth, and succeeded in establishing a common school system for Pennsylvania it was the intention that this great State should reach out its arms as a Commonwealth to take charge of all its children, and give them a proper education, and it was only because of the factious opposition and the blindness of ignorance in some parts of this Commonwealth that the common school system of Pennsylvania was not made a State system; and if I had it in my power to-day, and the majority of the people of this State were to construct a system *de novo*, I would establish a State system, by which a tax of from three to five mills should be assessed upon all the taxable property, taken into the State Treasury, and paid out thence to the different regions of the Commonwealth, in proportion to the number of children to be educated. That would be fair, and it would be in harmony with the original design of the great system of common school education. I fear the time has gone by for success to be attained by means of this great system, unless an annual appropriation is made from the common treasury for the assistance of all parts of this Commonwealth. Delegates living in the richer parts of this Commonwealth do not realize the struggle which the people in the newer parts of Pennsylvania make to educate their children. Our school tax reaches, in some instances, to one, two and three, and I have known it to reach as high as five per cent. This is oppressive, and the difficulty in collecting these taxes makes the system burdensome and interferes with its harmony while it increases the jealousies that are inconsistent with the true prosperity of our educational system.

The only way then, Mr. Chairman, that the Legislature of the State can inaugurate now, an improvement in our educational system, is by increasing, from year to year, the annual appropriation which shall be equally and equitably distributed. Delegates from the rich old counties in the east, you will receive the benefit of it. Delegates from Philadelphia, you will receive the benefit of it. In the great populous part of the Commonwealth this fund is distributed, according to the number of children, and it may be that you get more than the poorer parts of the

Commonwealth. I was surprised when the gentleman from Allegheny (Mr. Ewing) called the attention of the Convention to this fact. He said it is unwise to fix a minimum sum in the Constitution, and leave it to the discretion of the Legislature. Mr. Chairman, I do not desire to legislate in this Convention. Year after year there has been a conflict in the Legislature upon the amount of annual appropriations. Let this Convention, representing as it does, the free sovereignty of this Commonwealth, indicate its wish, that in no event shall the Legislature, for all the great benefits and purposes of education, appropriate less than a million of dollars, and you will have accomplished a mighty thing. It is an important matter, and a proper subject for Constitutional enactment; aye, Mr. Chairman, it is fundamental, for it goes to the education of the people. Nine hundred thousand children to-day, are the wards of the Commonwealth. Your Superintendent of Common Schools is educating them under the system you have adopted. Do not be insensible to the great principles that I know he is not.

It is said by the delegate from Allegheny, (Mr. Ewing,) that we will have to increase the revenue, increase the taxes upon the people, if this greatly increased appropriation is made. Such is far from the truth. Such is a mistake, Mr. Chairman, unwittingly made, I know, by the honorable delegate from Allegheny. Last year the Legislature appropriated, for common schools alone, seven hundred thousand dollars, the first step they had made to that large sum. They appropriated, furthermore, four hundred and fifty and odd thousand dollars for the education of the soldier orphans of this Commonwealth, in propogation and support of that system which you, Mr. Chairman, inaugurated for that purpose, when you occupied the Executive chair of this Commonwealth. The time is coming when all these wards of the Commonwealth will be educated and sent forth in the struggle of life, and this one fund will be relieved from that purpose. Turn it not back to remain as a fund in the treasury! Turn it not back to be appropriated to this charity, and that charity, confined to one section of the State! Let it go into the common fund, which is an-

nually appropriated to the support of the common schools. Then the rich and the poor—those who have been favored by birth, and those who have not been favored—will all get the benefit of it. No increased revenue is required. No increased burden is called for from the people.

Mr. Chairman, I tell no secret when I remark that the Committee of Ways and Means of the House of Representatives of Pennsylvania have, to-day, by solemn vote, resolved to put in the appropriation bill eight hundred thousand dollars! In view of these facts, tell me not that we have no revenues in Pennsylvania! This great growing State; this God blessed Commonwealth is able to educate its children, and educate them liberally.

Delegates, I hope you will stand by the report of the committee, and refuse the amendment offered by the gentleman from Montgomery.

Mr. RUSSELL. Mr. Chairman: I was very much gratified to find that the Committee on Education had reported this section. During the sittings of the Convention at Harrisburg, I offered a resolution that the Committee on Education should be instructed to consider whether such a section should not be introduced, and I have the pleasure of seeing that they have carried the idea into execution. In that resolution, as originally written, the sum of two millions of dollars was named, but upon reflection, I thought that it would be better to fix it at the sum named in the report of the Committee on Education, one million, and therefore named that sum in the resolution.

Such a section should be incorporated into our Constitution. I am looking forward to the time when every school in the State will be a State institution; that is, in other words, that every school will be supported by an appropriation from the State treasury, sufficient to keep every school in every district in the State, in operation during the full term fixed by law. I concur in every word which the gentleman from Indiana (Mr. Harry White) has said on the subject, and in the argument which the gentleman from Potter (Mr. Mann) has made, in favor of having this section passed in this committee, and inserted by the Convention, in the Constitution, and I hope with him that you will not pass the amendment of

the gentleman from Montgomery (Mr. Corson.)

The CHAIRMAN. The question is now on the amendment, which will be read.

The CLERK. To strike out the words "at least one million dollars," and insert "such amount as they shall deem proper."

The CHAIRMAN. Read the section as it is proposed to amend it.

The CLERK. They shall appropriate such amount as they shall deem proper each year, to be annually distributed among the several school districts according to law, and applied to public school purposes only.

The amendment was rejected.

The CHAIRMAN. The question is upon the section, which will be read.

The CLERK read:

SECTION 2. They shall appropriate at least one million dollars for each year, to be annually distributed among the several school districts, according to law, and applied to public school purposes only.

The section was agreed to.

The CHAIRMAN. The third section will be read.

The CLERK read:

SECTION 3. No money raised in any way whatever for the support of public schools shall ever be appropriated to or used by any religious sect for the maintenance or support of schools exclusively under its own control.

Mr. STEWART. Mr. Chairman: I was about proposing to amend this section by moving to strike out the word "exclusively," when it occurred to me that perhaps the Committee on Education, that made this report, had some good and sufficient reason in introducing that word, which had not suggested itself to my mind. I will therefore defer offering the amendment until I can hear from that committee.

Mr. DARLINGTON. Mr. Chairman: The object of inserting the word "exclusively," if I understood it aright, was to preclude any portion of the public money being appropriated to the support of exclusively religious schools, whether Quaker, Catholic, or what you will. In other words, that every school to which money should be appropriated, no matter how raised, whether by the State or by taxation in a district, should be for the

public schools, which would be open to all alike, without regard to sect or religious feeling. That is, I believe, all the object we had in view. It was to make the provision of the section so clear upon that point that there could never be any question upon it in the future, but that it would always be understood to mean that it excluded none but those who are exclusively under the control of sect.

Mr. STEWART. Mr. Chairman: I am glad to discover that the gentleman from Chester, chairman of the Committee on Education, and myself, agree fully in what would be proper under the circumstances to do. But it seems to me that the language used by the Committee on Education in this section would entirely defeat the purpose intended. As I understand it, it requires that money raised for the support of public schools shall not be used by any religious sect for the maintenance of an institution of education *exclusively* controlled by that sect. I agree with the gentleman that we should restrict this fund in its application to public schools alone. I would not include any school which would be under the regulation or control of any sect or denomination, in any measure. My objection to the word "exclusively" is that it defeats the purpose which was in the minds of the committee, and which governed its action. For instance, certain schools which are chartered institutions and governed by a board of directors or trustees composed of individuals, all representing one religious sect or denomination, can, without prejudicing their own interest or control, introduce into their boards one or two members who disagree with them in their religious principles. This would exempt them from the operation of this clause, and allow them to partake of this fund, because the control of the sect could not be said to be exclusive. The word "exclusively" enables them to evade the purpose that should govern in this matter, and allows the Legislature to give their school some portion of the money raised for the public schools.

I, therefore, move to amend this section, by striking out the word "exclusively."

Mr. MINOR. Mr. Chairman: I agree with the suggestion that has been made, and I confess my attention had been

called to it by the chairman of the Committee on Education. I believe the section would be better without the word than with it.

The amendment was agreed to.

Mr. H. G. SMITH. Mr. Chairman: It occurs to me that the language of this section is indefinite in another respect. It reads, "no money raised in any way whatever, for the support of public schools." What public schools? There are public schools in the State which are not controlled by the Commonwealth.

I move to amend as follows: To insert after the word "of," where it first occurs, the word "the," and after the words, "public schools," the words, "of the Commonwealth," so as to make it read, "the public schools of the Commonwealth."

Mr. DARLINGTON. Mr. Chairman: I have no objection.

Mr. BAKER. Mr. Chairman: How would the section read as it is now proposed to amend it.

The CLERK:

"No money raised in any way, whatever, for the support of the public schools of the Commonwealth, shall ever be appropriated to or used by any religious sect for the maintenance or support of schools under its own control."

The amendment was agreed to.

Mr. W. H. SMITH. Mr. Chairman: I propose to amend further, as follows:

By adding to the section the words, "and no board of school directors shall issue the bonds of any township, or ward or borough, or sub-division of either, to be sold and the proceeds expended in the buying of lands and the building or furnishing of school houses.

The amendment was rejected.

Mr. LEAR. Mr. Chairman: I move to amend as follows: To strike out the word "own."

The amendment was agreed to.

The CHAIRMAN. The question is on the section as amended.

The section as amended was agreed to.

The CHAIRMAN. The fourth section will be read.

The CLERK read:

SECTION 4. A Superintendent of Public Instruction shall be appointed by the Governor, by and with the advice and consent of the Senate. He shall hold his office for the term of four years, and his

duties and compensation shall be prescribed by law.

Mr. CORSON. Mr. Chairman: I now offer the amendment which was withdrawn a little while ago, when proposed by the gentleman from Allegheny, (Mr. Howard,) incorporating the idea which was explained by the gentleman from Philadelphia (Mr. Woodward.)

My amendment is to add to the section, "Which shall require him, among other things, to prescribe the school books to be used in all the common schools of the State, and changes in such books shall not be made oftener than once in ten years."

Mr. NEWLIN. Mr. Chairman: I renew my amendment, as an amendment to the amendment, to add to the section, "The Governor, Attorney General and Superintendent of Public Instruction shall constitute a board of education. They shall have supervision of public instruction, and shall prescribe what books shall be used, subject to such regulations as may be prescribed by law."

Mr. WHERRY. Mr. Chairman: I rise to a question of order. In the report of the Committee on Executive Department, in section one and section twenty-two, the office of Superintendent of Public Instruction, with his duties is already prescribed, and this Convention in committee of the whole have adopted those sections. The only thing we can do is to vote this section down, as it has been already provided for.

The CHAIRMAN. There is an amendment and an amendment to the amendment before the committee, which must be disposed of before we can reach the section.

Mr. WOODWARD. Mr. Chairman: I am opposed to the amendment of the amendment offered by the gentleman from Philadelphia (Mr. Newlin.)

A system, or a State, that has not a head is in anarchy. This bill provides a head for the common school system of Pennsylvania, and calls him Superintendent of Public Instruction, and that is very nearly the name of a cabinet officer in France and in various other countries. It is a proper thing to have a head for this great interest of public instruction, and the fault of the amendment is that it

furnishes three heads—a board—instead of one.

Now, if we have the Superintendent of Public Instruction, who is competent for his place, I submit that the multitudinous affairs of the common school system of Pennsylvania will be better supervised by a single, competent man than by a board composed of officers whose duties lead them to other and entirely different subjects. The Governor and Attorney General are not necessarily interested in the subject of education. The Superintendent is supposed to be devoted to nothing else. Certainly he ought not to be.

Then, sir, the amendment of the gentleman from Montgomery (Mr. Corson) recognizes the headship of this system in the Superintendent of Public Schools, and requires him to prescribe, from time to time, the school books that shall be used in all the common schools of the State. That seems to me to be a principle of order and decorum, and a fit theory for this Convention to introduce into the Constitution.

The views suggested by the delegate from Bedford, (Mr. Russell,) when the subject was up a little while ago, struck me as perfectly conclusive upon this subject—a demonstration. It answered the gentleman from Indiana (Mr. Harry White) in regard to the act of Assembly, showing that that act—and no legislation that we have—reaches the point which it is desirable for us to secure. The gentleman from Luzerne gave us his experience on this subject, and undertook to speak authoritatively, because he has been a school director, but he failed to answer the question which I put to him, as to why the children of one particular school district should need any different school books from the children of any other school district. Why should a man be compelled, when he removes from one school district to another, to furnish his children with another set of books? The personal allusion which the gentleman made was no answer to that. It was a question germane to that point—it was pertinent and direct—and it has not been answered.

The gentleman from Delaware (Mr. Broomall) undertook to answer it, but failed. It has not yet been answered. Why not? Because, there is but one

answer that can be made, and that was suggested by my friend from Luzerne, (Mr. Pughe,) and by other gentlemen—that this thing of furnishing different districts with different school books is a job—a great job, in which the publisher, the Appletons, of New York, or somebody in Boston, has an interest; in which their agent has an interest, and in which the school director and even the teacher is made to have an interest. It is a job, set up and running, in its ramifications, all through society. But upon whom does it fall? Who foots the bill? The parents of the State. The parents of Pennsylvania are enormously taxed to put profits into the pockets of this whole class of speculators, from the publisher of these books down to the peddler, who forces them into a school.

But, say gentlemen, what are you going to do with regard to school books, in the case of German and Welsh children? Why, sir, the very object of having a Superintendent of Public Schools is to see to that—to provide German books for German scholars, and Welsh for Welsh. A Superintendent who understands his business, would not force an English school book upon a German or a Welsh child, any more than he would a German or Welsh school book on an American. There is no force in such arguments. They do not commend themselves to my understanding, nor to the understanding, I hope, of this Convention. The question is, shall we protect the people of Pennsylvania from this fraud and imposition, practiced upon them in relation to school books. The gentleman (Mr. Broomall) need not speak about the “loss of a dollar and a half.” That may be very witty, but it is not a very cogent reason why the people of Pennsylvania should not be protected against this enormous tax, that is building up princely fortunes for the book sellers in New York and Boston, but is impoverishing and harassing the parents of Pennsylvania. My friend on the left (Mr. Russell) says, as I can say, that our houses are full of worthless school books that have been purchased for children, and have been superseded by new books no better than the first.

As one gentleman (Mr. Stanton) has undertaken to speak for the board of control of Philadelphia—and I suppose they are the most intelligent body of citizens

engaged in the conduct of the school system in Pennsylvania—he reminded me of a fact, which, if he will go back a few years, he will find to have happened. When Worcester's Dictionary was about to be published, the then controllers of the common schools of Philadelphia passed a resolution that Worcester's Dictionary should be introduced into the common schools of Philadelphia. Well, sir, on looking into the subject a little, I found that meant a series of five dictionaries. I cannot give you the names of them now, but I believe one was a “pronouncing” dictionary, another a “defining” dictionary, another “comparative” or “comprehensive” dictionary. At any rate there were five of them, five separate and distinct books under the one name. “Worcester's Dictionary,” that got into the schools, and the parents of the children had to pay for them. This resolution of the distinguished board of controllers of the city of Philadelphia was carried by the book agents into the country and shown to the school directors there, and of course it was conclusive to their minds.

What higher authority could a country board want than that; the city board had resolved to use Worcester's dictionary. Now when you consider what a dictionary is, I ask gentlemen whether they have any clear idea of how a dictionary is to be split into five separate books? What sort of a dictionary of our language will that be, that is not at once a pronouncing and defining dictionary? What sort of information or education will your children get from a dictionary that has none of these qualities? Why, sir, it was simply a stupendous job. Worcester's dictionary is, undoubtedly, an excellent book, and I do not mean to find fault with the controllers for getting it. I got a copy of it myself, direct from the publishers; and I use it; and the more I use it the better I like it. I prefer it to Webster's; but why trifle with it? Either place Worcester's dictionary—if it be one book—in the schools, or get a dictionary that will be contained in one book, not five. The parents of Philadelphia had in that case to pay *five times* for one dictionary. When I last addressed the Convention I told you how I had to buy and pay for, three times, Bullion's latin grammar. Gentlemen may speak about this as an

"incredibly" matter, and of the money thus spent as an "inconsiderable" sum, but I see no reason that can be assigned, why we should not say that the head of our common schools in Pennsylvania, shall prescribe the same school books for all the children that are to be taught in the schools of Pennsylvania. Some gentleman suggested that he could not attend to it; that it would be beyond the scope of his powers to furnish every child with the right school book. But, surely, the Superintendent has not to do that. He can issue his proclamation, prescribing the books to be used for certain classes in the common schools of Pennsylvania, and he can do that in *one hour*. This order goes down through all the schools, and is carried into effect by the various local officers and teachers, and the parents are thus protected from fraud and imposition. Then if a man removes from one district into another, he knows he will not have to buy new sets of school books.

We must have a head to the system of common schools. He should be and will be a competent man; and this duty of prescribing the text-books falls right in the line of his duty. Let us, therefore, repose that duty on him. If the scholar to be provided for is a German, he will get German school books; if an English scholar, English school books; if a Welsh scholar, Welsh school books. Will gentlemen say that there is anything peculiar in the education of the children of one district that requires them to have any different school books from the children of any other district? Do gentlemen really mean that the books used in one district are not fit for another district? What is wanted is education—the cultivation and development of the mental faculties of the children. I would like to know what there is that is peculiar in the districts of Pennsylvania that requires in one district a different kind of education from that given in another.

I think, as to rudimental education, it ought decidedly to be alike throughout the State, so as to give us a population educated upon the same principles. Will any gentleman tell me that the principles of English grammar, and the operations of arithmetic, are different in different districts, and are to be taught on different plans and principles? That seems to be

the assertion here, and it offends a man's common sense to hear it. What do you mean by it? Do you mean that the children of Philadelphia are any better or any worse than the children of any other part of Pennsylvania? That they should have a different class of school books? Why, I apprehend not. I think that humanity is pretty much the same everywhere, and that it is not bounded or classified by county lines or the lines of school districts. There is much more danger that we will not educate our children at all, than there is that we will educate them upon a common standard. For my part, I would have a common standard; and I would have it rising higher and higher every year; and I would have all our children educated upon the same basis, and with the same set of books.

It has been suggested that ten years is too long at which to fix the changes of books. I hope the mover of the amendment will consent to the reduction of the term to five years, and I hope it will then be adopted.

Mr. CARTER. Mr. Chairman: I think it must be apparent to all that from the first of our assembling we have been desirous, as a general principle or rule of action, to establish guards to prevent abuses and in consonance with the same idea to keep temptations from our public functionaries. It seems to me that the proposition which the gentleman from Philadelphia (Mr. Woodward) is advocating looks too much in the direction of affording too great temptation to any individual intrusted with the selection of books for this great State. If he were not a perfectly pure and incorruptible man it would make him in the term of his office a perfect nabob of wealth. There would be nothing to do but to approach this man to get his influence to direct a certain set of school books for the State, and he could become one of the richest men in the State if he held the office for four years. The school book interest is so vast I would not submit any man to such a temptation, and if the choice of all the books be submitted to the Superintendent of Public Instruction, I certainly would adopt the suggestion of the gentleman to my left from Philadelphia, (Mr. Newlin,) that is, I would divide the responsibility with some three or four advisers, and not leave it exclusively to one

man to determine. It has been proposed in this State to take away the fees of certain officers on the ground that they secure such immense fortunes that it leads to corruption, the proposition being that there should be some stated moderate salary instead. And in conclusion—we most certainly should not do any thing here which may be a means of or lead to, as it certainly would, such gigantic corruption and fraud, and would make this highly important office, which should be held only by one of our first citizens, to be sought after by the most corrupt politicians.

Mr. H. W. PALMER. Mr. Chairman: The argument of the gentleman from Lancaster (Mr. Carter) might be extended with advantage. It seems to me if delegates stop to reflect a moment on this subject they will certainly never put this power of prescribing school books for a period of ten years together for the Commonwealth in the hands of any one man. Apart from the danger of corrupting that individual, and apart from any tenderness about his virtue, the question of what the people of the State would have to pay for these books may well be considered. I would give a half million of dollars for the privilege of supplying the people of Pennsylvania with school books for ten years, and I would make half a million dollars more out of the job. One gentleman from Philadelphia (Mr. Woodward) talks about jobs of book agents. Does he not understand that it is easier to buy one man than twenty thousand school directors, if there be so many? Would not these small jobs that he alludes to be overshadowed and swallowed up in this great job that would put upon the people of Pennsylvania a tax that they could not endure? Practically how would this amendment operate? The book agents of one book concern, I do not care whether in Philadelphia, Baltimore, or New York, would get the ear of a State Superintendent, and, by the use of proper appliances, obtain the introduction of a particular system, which could not be changed for ten years. There would not be power enough in the Commonwealth to change the system for ten years. Nothing short of a Constitutional Convention called on purpose could change the school books for that period. What would be the re-

sult? The publishers, instead of building marble palaces in Boston and New York, as complained of by the gentleman from Philadelphia, (Mr. Woodward,) would be able to build golden palaces, because these books are copyright books, and they would put such price on them as they pleased. A book that costs a dollar to-day would cost a dollar and a half to-morrow, and under this constitutional limitation, and by virtue and force of this constitutional provision, there will be nothing to restrain the book publisher from charging what price he pleases for his books after his system has been designated by the Superintendent. Now I would like that job. It seems to me that it is infinitely a bigger job than any spoken of by the gentleman from Philadelphia (Mr. Woodward.) Let us consider this proposition for a few moments. Are we ready to farm out to any publisher the monopoly of furnishing school books for this State for ten years, five years, or any other period? If the people of the townships and the boroughs and wards of this State are not competent to elect their own school directors and manage their own school affairs and select the kind of school books they desire their children to study, in the name of God what are they competent to do? Now if by any resolution this Convention can provide that the millennium shall dawn within sixty-five days after it adjourns, I might vote for this proposition, but as men are men, and as they will continue to be men after this Convention shall have adjourned, and after this Constitution shall have been adopted, if it is adopted, I shall not go for putting into the hands of any one man more patronage than the Governor of the Commonwealth has, and more patronage than any dozen other State officers have. I certainly shall never vote for putting patronage such as that into the hands of any one man, or extending to any one book concern, be it from Boston, against the publisher of which the gentleman from Philadelphia (Mr. Woodward) seems to have a particular antipathy, or from New York or Philadelphia or anywhere else.

Mr. DUNNING. Mr. Chairman: A few thoughts have come into my mind in reference to this subject. From the little experience I have had in the country, in connection with school boards and the

management of schools, I know something of the manner in which books are furnished to schools. The gentleman who has just taken his seat has told us that the greatest job that could possibly be thought of is embodied in the proposition now before this Convention, and that under it the school book for which we pay one dollar to-day, we would pay one dollar and a half to-morrow, and the expense would become so outrageous as to be unbearable. Now what is the experience of the past? I appeal to gentlemen who have had experience in country districts, in reference to the manner in which school books are furnished to the different schools. You rarely find a new teacher coming into a district but what a new set of books must be introduced. Every new school board that comes in introduces its own regulation, and introduces a new set of books, and for every change of teachers that you have and for every change of school boards that you have you find a change in the books. I believe it should be the policy of this Convention to fix upon some principle by which we shall have uniformity of books, and that the scholars throughout the length and breadth of this great Commonwealth of ours shall be instructed in the same rules, upon the same principles and in the same books, so that they will be enabled to spell alike, a thing that is almost impossible in the variety of books that are introduced. You find different forms and styles of spelling, taught by different books, and you can hardly find scholars of two schools spell the same words alike.

Let us educate them upon a common principle; let us have them understand that the principles which are fixed are fixed, not for one district, but for the great Commonwealth of Pennsylvania, and there will be some uniformity not only in books, but in the manner of educating our children.

Mr. HAZZARD. Mr. Chairman: For three mortal years I was kept in the old Webster spelling book, and I know it by heart. I can begin with words of two syllables and spell down column after column, right here, and I can repeat the most extraordinary pieces of composition in that book. One, I recollect, was about the boy that got up an old man's apple tree, and the old man tried to get him to

come down. I might as well repeat it here: "An old man found a rude boy upon one of his trees stealing apples. He told him to come down, but the young sauce-box told him plainly he would not. 'Won't you?' said the old man, 'then I will fetch you down.' So he pulled up some tufts of grass and threw at him, which only made the youngster laugh, to think the old man would beat him down with grass only. 'Well, well,' said the old man, 'if neither words nor grass will do, I will try what virtue there is in stones.' So he pelted him heartily with stones, which brought the young man down to beg the old man's pardon."

Now, sir, for three years I studied over that, trying to find out the hidden and deep literature of this extraordinary composition of that melancholy story.

I tell you there is a great deal in this matter of changing books. I would say to the intelligent gentleman on my right, (Mr. Woodward,) that his argument would be good if it applied to the case; but what has Bullion's Latin grammar to do in the common schools? Does he intend that we ought not to change these books, but keep every child at the story of the boy and the apple-tree, year after year? I was an apprentice at that time, and I was to have, for my indenture, three months' of schooling each year. The first year I commenced to study in Daball's arithmetic. At the end of the term I got as far as the rule of three, and the next term I was put back to fractions. I would work through as far as the rule of three again, and the next term I would have to commence at fractions. So it was, until I had an opportunity of going to school where they changed the books. These books should be changed. The children get tired of them, and if the people are too stingy to pay for new books, they ought not to have any children.

I used to teach school myself, and I used to think that teachers ought to be as well paid as bar-keepers, but they are not, as a general rule. Now we have been making speeches about changing the books, and they cannot be changed at all in less than three years. The gentlemen who have spoken in this Convention, in regard to this subject, have forgotten that a restraint has been placed by law upon this matter of changing school books. I know considerable about the

book selling business, and I tell you a man is about correct when he says that the Secretary of the Commonwealth will soon become the richest man in the State if this power is given him to prescribe what books shall be used in the common schools of Pennsylvania. I was offered two hundred and fifty dollars once myself to introduce a geography into our school alone.

Mr. H. G. PALMER. Did you take the offer?

Mr. HAZZARD. I have not said that I did, but if that was a fair bid for one book, what would be the bid for several books that required to be changed? I say it is a power that must not be placed in the hands of any one man. It is evident, however, that the school books will be required to be changed; but the only difficulty that confronts us is the exact time when they shall be changed. It may be three years or five years. Let it be five years, and then there will be no trouble during that time, and, perhaps, by that time the necessity for a change will be made apparent. Various reasons have been urged in support of this provision, and, perhaps, they all may be true; but can it be supposed that a school whose sessions are held only four months in the country, requires the same kind of books used in schools in the large cities, whose sessions continue for eight and ten months? In the schools in the country from which I come, there have been introduced all the appliances necessary for instruction in the natural sciences, and we certainly do not need the same school books used in a little school away out in the country, whose sessions are held only four months? Not by any manner of means. There can be no practicable uniformity in our school books; because, if it was so, the pupils of schools whose sessions are held for ten months can only learn as much as those who attend schools only four months in the year.

The Superintendent of Public Schools can understand nothing about this matter. Let the whole subject rest precisely where it is now, and that is in the hands of the directors. The law now prescribes for a change, and when a book is placed in the hands of a child, let him humdrum it by heart, and I tell you he will learn pretty near everything he can carry in his mind. There may be some sciences

in which he should be instructed, and my experience, as an old school-master, has been that after a child has read a book through he ought to have a new one. It is evident that the same books are not required in all schools, and I think where it is directed by law there should not be a change made in the books oftener than once in three years.

Mr. CORSON. Mr. Chairman: I think it is well enough for us to consider, perhaps, just exactly how this section will read when adopted. Strictly speaking I think that the discussion of this question should be confined to the amendment proposed by the gentleman from Philadelphia, (Mr. Newlin,) but somehow or other all the delegates who have preceded me have overlooked that amendment, and have come directly to the one which was suggested by the gentleman from Philadelphia (Mr. Woodward). I therefore propose to read this section as it will be when that amendment is adopted, as I hope it will be: "The Superintendent of Public Instruction shall be appointed by the Governor, by and with the advice and consent of the Senate. He shall hold his office for the term of four years, and his duty and compensation shall be prescribed by law, which shall require him, among other things, to prescribe the school books to be used in all the common schools of the State, and changes shall not be made oftener than once in ten years." Five years, I believe, is the proposed time. The gentleman who last addressed the Convention, (Mr. Hazard,) and who taught school seventeen years and still lives, supposes that there ought to be a change in our school books. Of course there will be a change of books, as well as a change of garments in all these years. We do not propose to keep a man always in his boy's clothes. We do say, however, that grammar is grammar in the same language all the wide world over, and we do say that the principles of mathematics are the same upon the Allegheny mountains that they are in Philadelphia, and that from the loftiest heights of our language the principles are the same; and we say, too, that so far as the ten-months and the four-months schools are concerned, the argument does not follow the gentleman who makes the proposition because the children in all these schools study the

same books until they attain to a certain age; and then they are promoted to the study of others, but children attending the four-months schools cannot be educated in the same manner as those who attend the twelve-months schools. We all know that, but we commence with the alphabet, and I believe the gentlemen from Luzerne (Mr. H. G. Palmer) and Washington (Mr. Hazzard) will admit that it is the same alphabet. It is not necessary that grammar should be edited by Smith first, and then by Brown, and then by Jones. It is the same alphabet, and it is the same grammar, the same arithmetic, and the same geography. The little book the gentleman from Washington studied he will find now to be superseded by one not half so good. If he takes up his arithmetic to-day he will find that it does not contain the single rule of three—that favorite rule of all of us, and he will also find that it does not contain anything about old tare and tret, over which “we used to swear and sweat.” He will find that it does not contain many things which we would willingly go back twenty or forty years to have reinstated. Now, Mr. Chairman, I say that there is no fear of danger about which gentlemen in this Convention have expressed so much solicitude—that the Superintendent of the Public Schools will by reason and by virtue of his office have in his hands a gigantic job, which will make his office worth half a million dollars, because he is to be appointed by and with the advice and consent of the Senate, and his duties are to be prescribed by law, and the Legislature shall have to do something to aid in carrying out this fundamental principle that in the State of Pennsylvania there shall be some sort of uniformity about our educational system. The lawyers are all educated alike in Pennsylvania, although we do not attain to the same eminence, but we are schooled in the same books. Our preceptors place Blackstone before us and we start with that, and then we go back to those old law books, and throughout the State of Pennsylvania, so soon as we can get rid of this curse of special legislation, there will be uniformity in the law as there should be uniformity in the education of the lawyers of Pennsylvania. Now, how about the mechanic? How about the school

teachers? Ought not a man who can teach school in Montgomery county be able to go across the line with his family for the purpose of farming, and teach school in Bucks county? It seems that he would not, and that he would have to commence again and re-read his entire studies. How often is a man constantly thrown into the midst of new school books, new systems, and new rules, and all the old rules abandoned. Now let us make this standard firm at least for a period of five years. I would much prefer that it should be ten years, but I am willing to accept the modification.

If we adopt this, then Pennsylvania will outstrip all the other States, in the matter of the education of the rising generation. Because here the people, by this nursery system which will be created, will be a mutual help to each other. No matter whence comes the boy, whether from the far west or from the east, he goes to the school, and he carries in his satchel the same books that he had in his own county, and which are not required to be changed every time a man in one county moves into another. I apprehend, Mr. Chairman, that if we can ever get the Convention to examine this question, that this proposed amendment will be adopted, but it is a very hard piece of business in this Convention to get the delegates to take up any single amendment that is proposed, just because they have an abhorrence of speeches.

MR. G. W. PALMER. Mr. Chairman: I do not desire to occupy the attention of the committee but a single moment. I regard this question as one of as great importance as any that have been brought before it, and perhaps one of the most important that we shall have. I simply desire to say that the gentleman from Philadelphia (Mr. Woodward) has met my view of this case completely, with reference to a uniform system of text-books throughout all the counties of the State. I also desire to say that the young gentleman on my left, my colleague, (Mr. H. W. Palmer,) has also met my view of the case, so far as manipulating the school directors in the interest of big jobs is concerned. I hope we will have uniformity in the system of text-books, and do away, if possible—and I think it is possible—with all big jobs. I hope both of these questions will be fairly and earnestly met

by this Convention, and the desired end attained in each instance. That is all I have to say on the subject.

Mr. BOYD. Mr. Chairman: I move that the committee rise, report progress, and ask leave to sit again.

On the question of agreeing to the motion, a division was called, which resulted twenty votes in the affirmative; not being a majority of a quorum voting, the motion was not agreed to.

Mr. RUSSELL. Mr. Chairman: I do not wish to detain the committee, but I concur with the gentleman from Luzerne who has just spoken, (Mr. G. W. Palmer,) that this is a very important question, and ought to be well considered by the committee before it is decided. I am in favor of the amendment offered by the gentleman from Montgomery, (Mr. Corson,) but I think that the time ought to be limited to five years, and he has accepted that amendment, so that will take away any difficulty in regard to that.

Now, Mr. Chairman—

Mr. NEWLIN. Mr. Chairman: If the gentleman will allow the interruption. The amendment of the gentleman from Montgomery is not before the Convention. The amendment to the amendment is under consideration.

Mr. RUSSELL. Mr. Chairman: The amendment to the amendment embraces, to some extent, the same subject as the amendment offered by the gentleman from Montgomery, and therefore both are before the committee, and in speaking of one, I must speak of the other.

I am opposed to this board of instruction, for the reasons which have been stated by the gentleman on my right, (Mr. Woodward,) and therefore I will say nothing more on that branch of the subject.

I do desire to speak of the other branch, and that is uniformity of books in our schools. But, before doing so, I wish to say that there is nothing in the objection started by the gentleman from Cumberland, (Mr. Wherry,) that this matter was already provided for by an article which has just been adopted in the report of the Committee on the Executive Department. That article provides that: "The Superintendent of Public Instruction shall exercise all the powers, and perform all the duties, devolved by law upon the Superintendent of Common Schools, and the office

of Superintendent of Common Schools shall cease when the Superintendent of Public Instruction shall be duly qualified." There is nothing there that imposes upon him the duty of regulating the books which are to be studied in our public schools. I know something about this business myself. I have been, in years gone, and I am now, a director of a school district in our county, and I understand fully the difficulties attending this subject, where they relate entirely to the board of school directors.

When I was up before, I referred to the act of Assembly, which had been spoken of by the gentleman from Luzerne, (Mr. H. W. Palmer,) who addressed the Convention on the subject. I did not read one section to which I wish to turn the attention of the Convention especially at this time. It is the twenty-fifth section of the act of 1854, and provides that:

"Immediately after the annual election of teachers in each school district of the State, and before the opening of the schools for the ensuing term, there shall be a meeting of the directors or controllers and teachers of each district, at which meeting the directors and controllers shall decide upon a series of school books in the different branches to be taught during the ensuing school year, which books and no other, shall be used in the schools of the district during said period."

Under the law as it existed prior to the passage of the act of 1871, the school directors had the right to decide what books should be used during the current year, but these books might be changed every year. Under the act of 1871, they can only be changed every third year; but as I said before, that act did not meet the point which the amendments now offered propose to put into the section we are now considering. What we want is a uniform system of school books throughout the State, not in each particular district, not in each particular county, but a series of uniform school books in each district of the State. If we adopt the amendment of the gentleman from Montgomery, we adopt a uniform series of books throughout the State, and the objection which has been mentioned by my friend from Washington (Mr. Hazzard) will be obviated, because a scholar will not be kept for three years studying in the same book.

He will pass regularly from one book to another in the series, until if he has been long enough in the school, he will have gone through the whole series.

There is an obvious propriety in putting this matter into the hands of the Superintendent of Public Instruction. I remarked that I knew how these books were selected by the board of school directors. The board meets. They are gentlemen who are engaged in other business and have not time to carefully examine the books submitted to them. An agent comes along with a set of books and lays them before the board of directors. He says it is a good series of text-books, presents each of the board with copies, presents the county superintendent with copies, and they will be induced to adopt the series without examination. The propriety of putting this important matter into the hands of the Superintendent of Public Instruction consists in this: That he will make it his business to examine the book, and he will not adopt any book which it is not proper to go into the hands of the scholar. As to the objection of the gentleman from Luzerne, (Mr. H. W. Palmer,) that this would be a job for the Superintendent of Public Instruction it is only necessary to say

that the Constitution which is to confer upon him the duties of his office, provides the punishment for the betrayal of that trust, and if he violates his duty he can be impeached, removed and punished.

I am decidedly in favor of adopting a uniform system of text-books throughout the State.

Mr. DUNNING. Mr. Chairman: I move that the committee rise, report progress, and ask leave to sit again.

The motion was agreed to. The committee rose, and the President resumed his chair.

IN CONVENTION.

Mr. CURTIS, chairman of the committee of the whole, reported that that committee had considered the report of the Committee on Education, and had instructed him to report progress and ask leave to sit again.

On the question, when shall the committee have leave to sit again? To-morrow was named and agreed upon.

Mr. KNIGHT. Mr. President: I move the Convention do now adjourn.

This was agreed to, and at two o'clock and forty-five minutes P. M. the Convention adjourned until ten o'clock to-morrow morning.

SIXTY-FIRST DAY.

SATURDAY, March 8, 1873.

The Convention met at ten o'clock A. M., Hon. Wm. M. Meredith in the Chair.

The PRESIDENT. There does not appear to be a quorum present. The Clerk will call the roll.

The CLERK then proceeded to call the roll, and the following members answered to their names:

Messrs. Achenbach, Alricks, Andrews, Armstrong, Baer, Bailly, (Perry,) Baker, Bardsley, Beebe, Black, J. S., Bowman, Boyd, Buckalew, Carter, Church, Clark, Cochran, Cronmiller, Curry, Curtin, Darlington, De France, Dodd, Dunning, Edwards, Elliott, Ewing, Finney, Hall, Hazard, Horten, Howard, Knight, Lilly, McCulloch, Mann, Mantor, Metzger, Minor, Mott, Newlin, Niles, Palmer, G. W. Palmer, H. W., Parsons, Pughe, Purviance, Sam'l. A., Reed, Andrew, Reynolds, James L., Rooke, Russell, Smith, H. G., Smith, Henry W., Smith, Wm. H., Stanton, Stewart, Struthers, Temple, Walker, Wherry, White, David N., Worrell, Wright and Meredith, *President*—64.

ABSENT OR NOT ANSWERING.—Messrs. Addicks, Ainey, Bailey, (Huntingdon,) Bannan, Barclay, Bartholomew, Biddle, Black, Charles A., Brodhead, Broomall, Brown, Campbell, Carey, Cassidy, Collins, Corbett, Corson, Craig, Cuyler, Dallas, Davis, Ellis, Fell, Fulton, Funck, Gibson, Gilpin, Gowen, Green, Guthrie, Hanna, Harvey, Hay, Hemphill, Heverin, Hunsicker, Kaine, Lamberton, Landis, Lawrence, Lear, Littleton, Long, MacConnell, M'Allister, M'Camant, M'Clean, M'Murray, MacVeagh, Patterson, D. W., Patterson, T. H. B., Patton, Porter, Purman, Purviance, John N., Read, John R., Reynolds, S. H., Ross, Runk, Sharpe, Simpson, Turrell, Van Reed, Wetherill, J. M., Wetherill, John Price, White, Harry, White, J. W. F. and Woodward—68.

Mr. BOYD. Mr. President: I move that the Sergeant-at-Arms be despatched in search of the absentees.

The motion was agreed to.

The PRESIDENT. The Sergeant-at-Arms will proceed to execute his duty and bring in the absentees.

A QUORUM.

Messrs. John Price Wetherill, M'Camant, Cuyler, Simpson and Addicks having entered the Hall, the President announced that there was a quorum present.

Prayer was then offered by the Rev. James W. Curry.

The Journal of yesterday was read and approved.

JURY ASSESSMENTS.

Mr. BARDSLEY offered the following resolution, which was read and referred to the Committee on the Judiciary:

Resolved, That the Committee on the Judiciary be requested to frame a section authorizing the courts of quarter sessions of each county, on the application of parties in interest, to appoint a jury to assess damages for the taking of adjoining lots, for the purpose of squaring up irregular tracts of adjoining land fronting on any streets laid down on the plan of any city or borough: *Provided*, The whole sum of such damages shall be assessed on the property thus benefited.

PRINTING REPORTS OF COMMITTEES.

Mr. ARMSTRONG offered the following resolution, which was twice read, considered and agreed to:

Resolved, That every report from standing committees, considered in and reported from the committee of the whole with amendments, shall be printed in bill form with the amendments, for the use of the Convention.

AMENDING THE EIGHTEENTH RULE.

Mr. STRUTHERS. Mr. President: I move that the Convention proceed to the second reading and consideration of the resolution I offered yesterday in relation to amending the eighteenth rule.

The PRESIDENT. The resolution will be read for information.

The CLERK read as follows:

Resolved, That the eighteenth rule be amended, so that motions for adjournment beyond the next succeeding day may be debated.

The motion to proceed to a second reading and consideration of the resolution

was agreed to, and the resolution was again read.

Mr. LILLY. Mr. President: I move that as an amendment, that the speeches in the debates be limited to two minutes and that no member shall speak more than once upon the same question.

The amendment was not agreed to.

Mr. PARSONS. Mr. President: I move to amend, by limiting the speeches to five minutes.

The question being taken, a division was called and the motion was agreed to, a majority of a quorum voting in the affirmative.

The PRESIDENT. The question is upon the rule as amended.

The amended rule was agreed to.

THE EDUCATION ARTICLE.

The Convention then, as in committee of the whole, Mr. Curtin in the chair, proceeded to the further consideration of the article reported from the Committee on Education.

The CHAIRMAN. The Clerk will read the section under discussion.

The CLERK read:

SECTION 4. A Superintendent of Public Instruction shall be appointed by the Governor, by and with the advice of the Senate. He shall hold his office for the term of four years, and his duties and compensation shall be prescribed by law.

Mr. CORSON moved to amend, by adding to the amendment of the section these words: "Which shall require him, among other things, to prescribe the school books to be used in all the common schools of the State, and a change of such books shall not be made oftener than once in ten years."

Mr. NEWLIN moved to amend the amendment by striking out and inserting as follows:

"The Governor, and Attorney General, and Superintendent of Public Instruction shall be constituted a board of education. They shall have the supervision of public instruction, and shall prescribe what books shall be used, subject to such regulations as may be prescribed by law."

Mr. NEWLIN. Mr. Chairman: My motion was not to strike out, but was to come in at the end of the section.

Mr. CORBETT. Mr. Chairman: The gentleman from Montgomery (Mr. Corson) modified his amendment, so that it would read "five" years instead of "ten."

Mr. CUYLER. Mr. Chairman: I earnestly trust that this amendment will not

prevail. It does seem to me to be no part of the duty of a Constitutional Convention to prescribe rules on such a subject. Gentlemen do not seem to observe the distinction between a code and a Constitution. We are not here to make a code, but we are here to make a Constitution. To follow out in this article on education the details of the educational system, seems to me to be wholly beyond our duty, and even if it were within the line of our duty, it seems to me to be exceedingly improper. What, in this progressive age of ours, limit our children to human knowledge, as it was ten years ago? What greater farce could be suggested? We do not seem to see that the world progresses, we do not seem to see that we are making advances in science all the while, we do not seem to see that adaptations for instruction are constantly being made, but we are to go back ten years in this age of progress, and stultify ourselves, and disgrace ourselves, for I do not know any other word to describe the condition to which, according to my view, this Convention would be reduced, in the eyes of the civilized world, if it resorted to such a course. We simply have nothing to do with it. Leave it in the hands of the Legislature, leave it in the hands of your commissioners of public education, where it properly belongs; but it would be quite as reasonable, to my mind, for this Convention to undertake to say what books, precisely, shall be used for purposes of instruction, or what teachers shall be employed in our schools, as to undertake to make a provision of this sort. I earnestly trust, for the sake of the credit and the honor of the Convention, that this amendment will be withdrawn, for it strikes me as simply disgraceful.

Mr. S. A. PURVIANCE. Mr. Chairman: I call the attention of the committee to what I think will dispense with any further discussion upon this subject. It seems to me, sir, in furtherance of the views of the gentleman who has just taken his seat, that there is ample provision under the first section of this article, for all that is necessary upon the question now under discussion; but if that is not the case, I ask the gentlemen to turn to the report of the Committee on Legislation, and they will there find these words among the list of specific acts which are prohibited from being passed by the Legislature: They are "prohibited from creating offices or prescribing the powers or duties of officers in counties, cities, boroughs, townships, election or school districts."

Now, it will be observed that when this is passed, as it doubtless will be, there will be nothing but general laws, prescribing the duties of these officers, amongst whom will be the school directors, and they will, undoubtedly, in the general law, clothe the directors with the power to select the proper kind of books. I, therefore, hope that we will dispense with any further discussion of this subject, and wait until this section is before the committee.

Mr. MACCONNELL. Mr. Chairman: I am opposed to the pending amendment, and I adopt the views of the distinguished gentleman from Philadelphia, (Mr. Cuyler,) and I would emphasise them more strongly even than he did; but there is another objection to it that seems to me ought to be of great weight in the minds of the members of this Convention.

You propose that no change of school books shall be made for ten years; or, if the amendment is modified, five years. It would be made at the commencement of the period of ten years, or five years, or whatever the period may be, by the Superintendent. After that it cannot be changed by any power at all until the end of the term, be it five or ten years. The Superintendent cannot make the change; the Legislature cannot make it; the school directors cannot make it; the school controllers cannot make it; no power on earth can make it, unless there is a change in the Constitution.

Now, suppose that your Superintendent is intelligent, and that he is honest, it is quite within the range of possibility, it is even within the range of probability, that he might make a mistake in selecting school books. If he does, how is the mistake to be corrected? When the books that he has selected are subjected to trial, they may prove to be not what he expected they would be; they may prove to be not effective; they may prove to be actually injurious to the interests of education, and yet he cannot change them, he cannot get rid of them. Nobody can change them, unless a change is made in the Constitution by some process provided for that purpose. You cannot make any change; the selection must last until the end of the constitutional provision.

It seems to me that that is a thing that hardly any gentleman upon this floor will venture to favor. It is certainly a thing that may happen, and a thing that common prudence, to say nothing else, should require us to avoid.

Mr. HAZZARD. Mr. Chairman: I endorse and adopt everything that was said by the gentleman from Philadelphia (Mr. Cuyler) this morning; and I hope that the words of wisdom that have fallen from his lips, and from the lips of others, will prevail, and that this amendment will not be adopted.

It seems to me that if the Darwinian system be true, there must have been a large number of crabs among our ancestors, for we are advancing backwards. Are we about to introduce a law so that no good thing for ten long years shall be introduced in our common schools? I throw not. Let us leave it under the intelligent and heretofore satisfactory system under the law and under our old Constitution.

Mr. Chairman: You know as much of your family as anybody does, or you ought to, and the school directors know as much about the individual wants and the aggregate necessities of the schools as any gentleman sitting upon high stools at Harrisburg, and they will take care of the wants of the children in these schools. It is far better that it should be so. They are personally interested; their own children attend those schools, and, knowing their wants, they will provide for them. I hope that there will be no such office as this created at all, and that it will be left to be regulated as heretofore.

We have forgotten that the law has provided against this grade of "carpet bagging" booksellers, and our directors are observing the law. It is that they shall not change any oftener than at least once in three years. I hope that the amendment of this section will not prevail.

Mr. ANDREW REED. Mr. Chairman: I have one suggestion to add. I am opposed to this amendment, and it is for a reason that I have not yet heard offered.

If the Superintendent of Public Instruction may adopt a certain series of school books, it is a proposition well enough in itself, and these publishing houses will have a copy-right in these books.

Now the gentleman from Philadelphia (Mr. Woodward) says that these publishing houses make great fortunes out of the heads of families in this State in publishing these books. Now, suppose that a certain series of school books are adopted, these publishing houses having a copy-right of them, what is to prevent their placing any scale of prices on their books that they see proper, and there is no power

which will enable us to change the books or the prices for five years.

They may increase them three times, and the whole people of Pennsylvania, your Legislature and your courts, and everything else, may feel that it is wrong, and yet they are powerless to change. They must, if they obey the Constitution, keep the same books that they adopt, and instead of hindering or injuring these houses, we would only tend to make a monopoly among them. It would be a perfect monopoly, and we would be unable to change it. We should leave the power somewhere, and the Legislature is the proper repository of that power. The matter of school books is not one upon which the Legislature would be likely to be troubled with any large lobbying influence, which would be injurious to the interests of the State, and the Legislature would always be able to make a rightful decision in it.

Mr. NEWLIN. Mr. Chairman: I desire to say a few words in answer to the various objections made to this amendment, as I had the honor to offer it.

I have been very much entertained by the very diffuse nature of the discussion on this amendment, or supposed amendment. In fact I was sometimes at a loss to imagine really what was before the Convention. I thought at one time we were trying the Boston publishers for some offence against the State or citizen. At another time I thought the "runners" for book publishing establishments were being called to account, on a charge of electing local school directors. At another time we had the Darwinian theory under consideration, and again we were entertained by an apple story. The result being that I was really at a loss to tell what was actually before the Convention. A great many of the objections which have been urged to the supposed amendment are not in point, because they are directed against something entirely different.

Now, in the first place, it has been urged with a great deal of zeal, that it would be very improper to leave with one person the important subject of selecting the books that are to be used in the schools. The amendment does not contemplate anything of that kind, and I propose to join with the Superintendent of Public Instruction two advisers in this respect, who would, to a certain extent, control his action, and regulate the judgment to be formed in this matter, and in that way obviate the very difficulty sug-

gested, of leaving this power to one person. The gentleman at large, from Philadelphia, (Mr. Woodward,) objected to the proposed amendment for that very reason, because he says that this is an Executive department, and there should be a single head for the performance of any Executive functions whatever. The Executive duties of the Superintendent of Public Instruction would continue to be performed by him alone, and he alone would be responsible for all that was done in that regard.

The only thing which it is proposed to leave to this board is to regulate what might be called the policy—the general policy of the State, in relation to education—no details whatever—and connected with the direction of what text-books shall be used in schools of different grades, and all of this subject to the power of the Legislature, from time to time, to give binding instructions, as to the exercise of the powers of the board. Therefore, I take it, that the objection urged by the gentleman from Philadelphia, who sits immediately behind me, (Mr. Cuyler,) that we are not here to make a code, is entirely out of place, because there was nothing whatever in detail, in my proposition—nothing whatever in the nature of a code. It would amount simply to this, that a central board would direct the State in the matter of its educational policy, and regulate the grades of public schools, and provide that in certain grades certain books should be used, and in other certain grades certain other books. The local board would know what grade of school would be required by their neighborhood, so that the locality would really fix the nature and mode of instruction which should be given to the children of their own neighborhood, only the action of the central board would so regulate their discretion that they would act within a limited sphere. They must say that there would be the first grade, or the second grade, or third grade of school, but if they take a certain grade, they must consult the superintending influence as to how they should act, what books should be used in that grade. That is the nature of my amendment, and it is certainly not liable to the objections offered.

Mr. WOODWARD. Mr. Chairman: I have spoken twice on this subject, and would like to make a few remarks further on it, if I may do so.

Leave was granted.

I should judge from the tenor of the remarks that we have heard this morning, that this amendment (Mr. Corson's) stands no chance of being adopted; but that it is really a great disgrace to this body to contemplate it. I said in the very first words that I offered on this subject, that it was properly a subject of legislation; but, sir, in the whole history of the common school system of Pennsylvania, the Legislature has failed to protect the parents of Pennsylvania against the impositions practiced on them in the matter of school books; and I infer that it will continue to fail to do so, unless this Convention puts a simple and easy rule into the Constitution that will be a law both to the Legislature and the courts. My friend in front (Mr. Cuyler) says it is a disgrace to us to protect the people of Pennsylvania against these impositions.

MR. CUYLER. I did not say that.

MR. WOODWARD. Well, sir, I can tell the gentleman that the people of Pennsylvania will not share the sentiment he did express. Here is a simple proposition to put into the fundamental law a rule that the Superintendent of Public Schools shall prescribe the school books, not that they are to be Webster's spelling books, which my friend from Washington (Mr. Hazzard) told us he was educated upon. I was educated upon it too, and regard it with great reverence and affection.

Nobody has said that the children of Pennsylvania shall be educated on Webster's spelling book. Nobody has proposed that the children of Pennsylvania shall not be educated on the Darwinian system, which the delegate from the city (Mr. Cuyler) refers to. If my friend thinks the children of Pennsylvania would be improved by the Darwinian system, he will have an opportunity to give them all the modern books of which gentlemen seem to be enamored. There is nothing in this rule to shut them up to Webster or to exclude them from the philosophy of Darwin. It is a reference of the whole subject to the Superintendent of Common Schools. The presumption is, that he will be a competent man—that he will be an honest man. Here the objection comes in that the booksellers will bribe him. I have no doubt they will, if he is a bribable man; but, sir, it is possible to find a man whom they cannot bribe.

Take the case of the venerable and excellent gentleman whose loss we have been mourning this week from this Con-

vention. Suppose him to have been the Superintendent of Public Schools in Pennsylvania; why, all the wealth of all the booksellers in New York and Boston, and throwing in Philadelphia, would not bribe that man; he was an honest man. I trust we will find honest men in Pennsylvania to fill that office, and to give to these children of Pennsylvania these new books with that modern philosophy that some minds so crave, [laughter,] if indeed they ought to have it. He will exercise a sound discretion in the premises. This amendment, so far from shutting up the Superintendent to Webster's spelling book, or any particular book whatever, leaves the whole subject open to him, to avail himself of all the excellencies that the wit of man can give him.

I have no objection to the proposition of the gentleman from Philadelphia (Mr. Newlin) to give it to a board, if you have not confidence enough in the Superintendent. Gentlemen would do well to remember this fact, that when you are devolving political and governmental powers, you must trust somebody. I hope we are not all knaves or all fools in Pennsylvania, yet power cannot be exercised except by human hands. You must trust somebody. If the Superintendent cannot be trusted, add the Governor and Secretary of the State, as my friend says. If all three are not to be trusted, give the Senate some power over it also. I do not care how you do it, provided you adopt the principle that some power in Pennsylvania should protect the people from the gross impositions practiced on them by the booksellers through the pliant and compliant boards of control. The principle is, as I say, one that we are bound to vindicate; and if we cannot do that simple thing we had better disband and go home, for I am sure we cannot do the people a better service.

Do not think that I am exaggerating this evil. I have never had the honor of serving in this highly respectable office of school director, nor of maintaining any official relation to the school system of Pennsylvania; but, sir, I have had the honor of being a parent in Pennsylvania, and of rearing a family, and I know what the difficulties of educating children are, and some of these younger fathers will find it out by the time they attain to my age. This very system that was intended to facilitate the subject of education is in the hands of wicked and base men, a diffi-

culty in the way of educating children properly—

Mr. H. W. PALMER. I would ask the gentleman if he ever sent one of his children to a common school on the face of the earth.

Mr. WOODWARD. Well, if I did not, it was because of the directors having charge of them. [Laughter.] If this law now proposed had been in operation, I would probably have had more confidence in the common schools. I do not desire, Mr. Chairman, to enlarge any further upon this question, but I desire to read a short extract from a lecture delivered in this city many years ago. I desire, however, to read, by way of preface, a short newspaper extract to call the attention of the Convention to the immense business done by the firm of Appletons in school books. It reads as follows: "The Appletons are now filling one of the largest orders for books ever received by a single house in this country. All the available space on the principal floor of their vast establishment is filled with books for the school libraries of the State of Ohio. That State appropriates for this purpose \$82,000 annually. Piled up in bulk, they measure twenty-five cords, and weigh seventy-eight tons. Piled on end on a shelf, in the usual manner, they would extend a distance of two miles. The Appletons have made arrangements to transport the entire lot by a special freight train, to be run straight through from this city to Columbus. The binding is neat, substantial and uniform, each volume lettered on the back with the title of the book, the author's name, and the mark of the "Ohio State Library, 1859."

I will now read the extract from the lecture to which I referred. It reads as follows:

"Another difficulty in the way of parents is the multiplication of school books. If you change your school, the children must be furnished with a new set of books. If they remain in the same school, revolution and change are the order of the day. Do parents understand this matter? Let me remind them that some of the most rapid fortunes that have been accumulated in this country, in the last few years, have been made by the publishers of school books. They get out a school book, designed rather to lighten the labor of *teaching*, than to afford facilities to the *pupil*, and then availing themselves of our common school system, that provides superintendents and controllers, the bookseller

sends his agents to these, or to the teachers, by one means and another prevails on them to introduce the new book, and then every pupil must be provided with one at the expense of the parent. As soon as the parents of the land have been made to pay for the first edition, a second edition, or a book pretending to some new improvement, is brought out, and they must pay for that, and then for another and another. The bookseller and the school teacher are thus in perpetual combination against the parent and the child.

You hear of conventions and re-unions of teachers and superintendents every now and then. I am told the bookseller's agent is always on hand to concert new schemes of plunder, and has been known, in some instances, to offer large pecuniary rewards for introducing his wares. It is time that parents held a national convention to counteract the impositions and frauds which are concerted and practiced against them, in this matter of school books.

Doubtless there are some improvements in certain modern school books, but I firmly believe that four-fifths of all that have been published in the last twenty years had better have been burned the day they were printed.

If anybody doubts this, let a test be applied that is fair and sure. Let the tree be judged by its fruits. Look over the land—in Congress, in our Legislature, in the learned professions, or in any of the walks of life—and measure the men who have been educated upon these *modern improved* school books with those who were educated before they came into vogue.

Try it around the circle of your own acquaintance, and you will find that while more books have been used, less knowledge has been gained; that the circumference of intelligence has been increased only by an increase of superficiality; and that frauds, speculations, quackeries, and empiricisms of all sorts have been the fruitful products of modern improvements.

And still the cry is for change. New books come in like a spring flood. Men who have proved themselves unfit for any other employment betake themselves to the manufacture of school books for our children. And we parents are compelled to have them forced upon us in uncomplaining silence, though they debase and debauch both the intellects and the hearts of our children. So far as I have any knowledge on the subject, I believe the public

schools of Philadelphia are the best conducted schools in the State, and yet it is within a month that you have seen in the newspapers an advertisement, a column long, setting forth the extraordinary merits of Worcester's dictionary, and a resolution of the board of controllers introducing it into the public schools of Philadelphia. Every parent in Pennsylvania, having a child to educate, has got to pay for that book. The booksellers will ply other boards of control with the resolution of the Philadelphia board, the judgments of teachers will be taken captive, the word will go home from the school that Worcester must be bought, and very likely the benevolent teacher will consent to act as broker in the business.

The parent will plead his preference for Webster, or Walker, or Johnson, or all of them together, for he may have them all in his family library, but all in vain; nothing will do but Worcester. The decree has gone forth and the word is Worcester. When the over-ruled and subjugated parent commences to purchase, he will be appalled to find that he has got to buy a whole series of dictionaries. Here they are as they stand in the advertisement; No. 1, the school dictionary; No. 2, the elementary dictionary; No. 3, the comprehensive dictionary; No. 4, the academic dictionary; No. 5, the critical dictionary.

I have had no opportunity to see this remarkable series, and shall probably go through the rest of life as best I can without its help; but taking it for granted that the several terms that make up the series are very distinctly marked, and broadly separated from each other, I should like to know what sort of a *school* dictionary that is which is neither an *elementary* dictionary, a *comprehensive* dictionary, an *academic* dictionary, nor a *critical* dictionary.

If the advertisement is to be trusted, (and I presume it does not hide any of the merits of the work,) you must understand that whilst your children are in the common schools, they are to get no views of their mother tongue that are elementary, comprehensive, academic or critical. These are to come afterwards by instalments, to be laid on in streaks.

Now I would not have any ardent reformer anticipate very great results from this extraordinary series of dictionaries; do not expect any Patrick Henrys, Channings, Websters or Clays to be reared up on them, for many moons will not wax

and wane before Worcester will be kicked out of school as unceremoniously as old Webster has been; and some Boston house, having made a fortune on *this* book, will announce, in the same solemn tones as before, that *a dictionary of the English language is about to be published!*

Then will follow the commendatory notices from susceptible doctors of divinity, from boards of control and from teachers; and parents will be put through the motions again and again.

You will be told that the book is paid for out of the public taxes, but do taxes grow spontaneously? Who but parents pay the taxes, and how much difference it does make that new publications are imposed upon him in this form instead of a more direct manner?

I thank the committee for their indulgence in listening to this extract, and having done my duty to the people in this regard, will not longer trespass upon the time of the Convention.

MR. W. H. SMITH. Mr. Chairman: With all deference to the learned and intelligent gentlemen who have spoken so earnestly on either part of this subject, I submit that my amendment offered yesterday to prevent school boards from issuing bonds, which they put aside, was more important than this question. But I do not propose to let that proposition be passed over without at least one other effort in its behalf. Meantime, if I cannot successfully attack this bond business, which is at the root of much of the corruption that has pervaded our common school system, I shall try and assist in the effort to lop off this school book abuse, which has grown to such dangerous proportions.

If the common school system had not been intrinsically good and absolutely necessary, it would have long since died out of the public esteem, or would have been abolished, because of the fearful load of usurpations, large and small, that have been piled upon its broad back by its false friends. You are all familiar with the startling utterance of Madame Roland, as in extreme anguish she was driven to the guillotine prepared for her by the Jacobins—"O, Liberty, what crimes are committed in thy name!" And may we not fairly adopt that exclamation thus: "O, popular education, what constant corruptions are committed in thy name!"

Mr. Chairman, pardon me for saying that I truly think that our common school system has come to be the most effective

engine of demagogueism and plunder because more diffused and less scrutinized than any other that this Commonwealth has yet endured or now endures! As I said before, the repeated change and endless variety of books in the common schools is one of the means whereby the people are vexed and victimized, but it is not the greatest. The frequent changes in the common school books are brought about by the united efforts of certain teachers and directors, and the solicitations of scheming publishers. And I cannot consent to put the larger part of the burden of blame on the last named, as was done in the case of poor Oakes Ames, and to let those who gave guilty consent escape with Pickwickian censure. Neither Ames nor the publishers could have succeeded if they had not found willing instruments. And here, Mr. Chairman, let me say a word about the growing assumption and importance of this same order or "ring" of teachers. They call to mind the "literary order" in China, whose tricks and manners they seem to be striving to emulate. The Chinese scholars (the third estate of the Empire, perhaps,) teach abject veneration for the "brother of the Sun," their Emperor, and unanswering obedience to the mandarins and other ruling persons and classes—with implicit confidence in themselves, of course. Our incipient "literary order" teaches that the great things of this world are "wealth, power and knowledge"—but the greatest of these is knowledge, and that they are the exclusive custodians and dispensers of it. They meddle in everything—claim more power over the child than the parent sometimes exercises, and are active in all agitations, including that of woman's rights. They meet in mock solemnity, weekly, or monthly, or yearly, form themselves into mutual admiration societies, and dole out in dreary platitudes, or in forcible, feeble declamation. The little learning they have obtained at the Normal schools, where many of them are yearly educated for teachers at the public charge. Of course, they *and* the school directors' "ring," one ordained to inflict on the luckless people who may have offspring any books they may choose, and as many of them as they like. And it is not only those who send their children to public schools that have to suffer from this sort of petty combination. Whoever may send his children to private schools will find his charges for books four times what they should be. Is it not presuma-

ble, if not manifest, that these teachers of all sorts, and school directors sometimes, derive some pecuniary advantage from becoming the convenient instruments of every compiler of a new school book, and of his enterprising publisher?

And if you whimper about the needless and very frequent change in books, you are rebuked and shamed by both teachers and directors, and told that you have no public spirit, no love for your children, that you will earn the curses of untaught millions. And yet I doubt whether *all* the directors or *all* the teachers are the best qualified persons to select books for the schools they control.

The gentleman from Luzerne, the younger Mr. Palmer, would give a million for the privilege of naming school books for the State for the Superintendent's term! Would the gentleman do that? Seriously and calmly, would he here proclaim that he would pay half a million to the State for free leave to plunder her people of an entire million. Let him not confess, and avoid by saying that the booksellers would be the victims and not the people! As he would use the booksellers how would these wicked booksellers restore to their coffers his half million of bonus, his other half million of profit, and make some profit for themselves, besides, if the people who are to buy the books would not pay extortionately for all. Booksellers don't give half millions away in that manner, either to superintendents or to the middle men. And if the aforesaid Superintendent would let the furnishing of the books to the highest bidder, or buy the copyrights himself, or rent them at a royalty, and set up a printing office, the State could supply books to her people very cheaply.

And then he could fix a minimum rate for the books, and allow them to be supplied to their customers at a commission say of 5 per cent. The State Superintendent of Printing could oversee the printing of these books, if the State shall conclude to print them.

If, as the gentleman from Luzerne has intimated, we might as well leave these delicious pickings to the 20,000 school directors, (and their friends among the teachers I may add,) as he seems to admit that they *must* be paid, I still prefer the Superintendent, for he would give us *uniformity* in text-books at least; they could be kept till worn out, and then we could watch one official better than we could 20,000. I would guarantee that there

would be no more douceurs to complying directors—no more 20 per cent. commissions to teachers of private or of public schools.

But the gentleman from Delaware has said, with great unction, that the people know what they want in this matter. True, they *do* know—and if there is any one thing that they are all of one mind about—great and small, rich and poor—it is that there are too many school books, too frequent changes in them, and that they cost too much. They regard it, in our region at least, as a continual grievance, and to some it is a serious one.

Now how are the people to tell what they want and have it done, except through the Legislature or through this body? I think the gentleman from Delaware said that if we took the step proposed, that censorious people might say *we* were tampered with. Surely he said that in pure badinage—he intended, perhaps, to perpetrate a witticism. For whoever heard of any man guileless enough, or disinterested enough or public spirited enough to be “tampering”—that, I think, was the word he used—yes, “tampering” with any legislative body or any Convention to *prevent* them from passing ordinances that would *save* the money of the people? No instance of such a man is remembered in these times—and the memory of man runneth not to the period when men were persuaded with bribes *not* to pass laws that would take money from the pockets of the people.

Mr. Chairman, I shall vote for this reform, as I think it to be, without the slightest apprehension that it will ever be charged against to any one in this body, that they were “tampered” with and dissuaded from protecting the interests of the people by money or its equivalent.

The CHAIRMAN. I believe the gentleman from Lancaster has not spoken on this question.

Mr. H. G. SMITH. Mr. Chairman: I do not intend to make a speech now. I merely wish to make a brief statement. Yesterday, while debate upon the proposed amendment was going on, a prominent gentleman from the State of Maryland, who happened to occupy a seat by my side, * * * * * informed me that in that State, by act of their Legislature, not by a clause of the Constitution—which could not be readily changed—the power now proposed to be granted had been conferred upon the Superintendent of Public Schools in Mary-

land. He said that rumors currently prevailed that the Superintendent of Public Schools had combined with publishers for the purpose of putting certain books into the schools and making changes. I merely give this statement because we must learn from experience, and the precedent of a neighboring State may be of use to us in making up our decision.

There is one thing certain. If combinations of this kind are ever made, much greater difficulties will be experienced in making them with the teachers and the school directors of this entire Commonwealth, than would be encountered in attempts to make them either with a single individual or a board composed of a few men. I do not think the publishers could bribe all the teachers and all the school directors of this Commonwealth. They might bribe the Superintendent of Public Instruction. They might possibly bribe a board. It might happen that these men would be put in a position where they could be approached, and I would relieve them from that temptation and leave the responsibility for the selection and change of school books directly with the parties who come into immediate contact with the people. Then there would be such close connection as would be likely to prevent any gross abuses.

Mr. SIMPSON. I did not suppose, when the amendment was proposed by the gentleman from Philadelphia, (Mr. Newlin,) that it would be seriously pressed upon the Convention. I desire to say a word or two against the amendment, and at the outset I may state that I am entirely unwilling that any such power should be given to the Superintendent of Public Instruction, or to any other official. If it is to be put in the control of a small body, I think we had better appoint a committee out of this Convention. I would be willing to be chairman of that committee, and I would like to take my friend from Crawford, (Mr. Mantor,) my friend from Potter, (Mr. Mann,) and one or two other gentlemen who sit near me, as my colleagues, to constitute that board, and if there is any advantage to be derived from it I would like to have my share.

I obtained my education in the common schools of Pennsylvania. I have had, and still have, children attending them. One of my boys has graduated at the High school in this city, and one of my daughters has graduated at the Girls' Normal school. I have one boy still attending the High school, and one daughter attending

a grammar school. I have never heard of any charge being made, so far as this locality is concerned, in relation to the frequent changes of school books. In answer to the gentleman from Allegheny, (Mr. Smith,) who said that parents complained that they were charged too much for school books, I would say that I suppose such parents must be akin to the man who lived in Kentucky. Being asked about the products of that State, he said, "we raise so many thousand bushels of corn, out of which we make so much whiskey, beside that which we waste in making bread." [Laughter.]

I think we had better vote this amendment down, and adopt the section just as it is, leaving the question be where it is now, in the hands of the immediate representatives of the people, controlled by the Legislature of the State.

The CHAIRMAN. The question is on the amendment to the amendment.

The amendment was rejected.

The CHAIRMAN. The question is now upon the amendment, and it will be read.

The CLERK: To add to the section the words, "which shall require him, among other things, to prescribe the school books to be used in all the common schools of the State, and changes in such books shall not be made oftener than once in ten years."

Mr. CUYLER. Mr. Chairman: I desire to say only a single word. I am very sorry that anything which fell from my lips may have wounded the susceptibilities of the distinguished ex-Chief Justice of the State, who sits behind me, (Mr. Woodward.) Indeed, I was not aware, until I heard it this morning, that he had spoken on this question, or what position he had assumed. But I am comforted with the thought, that any discomfort he may have suffered is compensated for by the assurance that the toils and labors of the Convention have ministered to the amusement and enjoyment of the Zaccheus of the Convention, who sits in front of me, (Mr. Newlin.)

Now, sir, there are in this State about seventeen thousand public schools, as I observe from the manual which lies on the table before me, about nineteen thousand teachers, about nine hundred thousand scholars, and a permanent investment of about \$20,000,000 in school property. About \$4,500,000 are expended annually in the salaries of the teachers who are employed in instructing the young. Of course these nine hundred thousand children can

only be instructed from books, and books must be provided. My friend, the delegate, practically says, "No." Why not? Why, because some book publisher makes money out of the books. That seems to be the argument, because, forsooth, some editor or some publisher of books makes money out of these books; therefore we are to have no books for the use of our children. In other words, the spots upon the face of the sun disturb the mind of my learned friend so much that he would blot the sun out entirely to get rid of the spots, for that is about the practical application of his doctrine.

The practical question after all is this: If we are to limit our school books to those that would have been correctly studied ten years ago, viewed in the light of the present, we may be constantly teaching our children what we know to be an error. Science is all the while progressing, and in the daily developments that are taking place around us, our children are to be deliberately mistaught, by a constitutional provision of the State, for ten years, and we are to compel our teachers for periods of ten years to teach that which we know and they know to be untrue.

The CHAIRMAN. Five years.

Mr. CUYLER. Five years, sir, if that be the present amendment; it was originally written ten. But it matters not as to the time; the principle is precisely the same. We are to be compelled, by the Constitution of the Commonwealth itself, to teach error to the children of the State for a period of five years, because, perchance, somebody who writes a book, or somebody who publishes a book, may chance to make a legitimate profit on his book. Certainly, to state the proposition is to illustrate its absurdity, is to show how unreasonable it is. And after all, Mr. Chairman, the answer which I gave a few moments ago, when I spoke on this question, is the true answer. It is a question with which we have no business at all. It is not within the province of a Constitutional Convention to act upon this subject; it belongs to a code and not to a Constitution. My friend from Philadelphia (Mr. Woodward) says we must protect the children of Pennsylvania, yet, in the same breath, he admits that the Superintendent of Common Schools, and other officers of the State, are perfectly competent to pass upon this question. Why, then, incorporate it in the Constitution? I accept his doctrine. We must repose

trust and confidence somewhere, and I ask him to apply the same doctrine to this very question. Let him repose all trust and confidence in the Legislature of the State, in the Superintendent of Common Schools, or any such officer as the Legislature may entrust with the consideration and control of this question.

The question being taken upon the amendment of Mr. Corson, it was rejected.

The CHAIRMAN. The question now recurs upon the section.

Mr. MOTT. Mr. Chairman: I offer the following amendment.

The CLERK read:

Add at the end of the section, as follows: "It shall be the duty of the said Superintendent of Public Instruction to assemble in convention, once in every five years, the county superintendents, and it is hereby made their duty to attend and settle upon the kind of books to be used in the common schools of the State for the next five years."

["No! No."]

The amendment was not agreed to.

Mr. HOWARD offered the following amendment, which was read by the Clerk:

Add at the end of the section as follows: "And the Legislature shall prescribe by law the kind and number of books to be used in the public schools, and changes shall not be made oftener than once in five years: *Provided*, That when this subject shall be considered by the Legislature the Superintendent of Public Instruction shall be allowed a seat in either House, and the right to speak upon the subject."

Mr. HOWARD. Mr. Chairman: I have offered this amendment, the first part of which is, in substance, the amendment that I offered to the first section on a former occasion, because I have listened to this argument very attentively, and have been very much interested in it. I have heard a great deal of objection to the one man power. That has been an argument, in my mind, which had some force. I desire to treat the opinions of all gentlemen with respect upon this and all other questions. I have no idea of being sneered out of this Convention by any man, not to attempt to sneer at others. Men are entitled to be treated with respect upon this floor, and any proposition which they offer is entitled to respectful treatment.

The friends of this proposition, who sincerely believe that the people of this Commonwealth have been abused by the men in authority who have the control of

this book question, have introduced this here as a necessary measure, one worthy to be accepted by this Convention and incorporated into the Constitution. Gentlemen get up here and tell us we do not know our business; we do not know our duty; we do not know why we are assembled; we do not know the difference between a constitutional and the business of the Legislature. I suppose that we understand the difference between a State Constitution and a national one. We know that the Legislature of Pennsylvania has all the powers of this Commonwealth that are not taken away by the Constitution of the State; that it is a very different instrument from the Constitution of the United States; that has no power, except simply the power that is granted, that much and no more.

It has been said that we have no business with this subject of founding a system of public schools. The Commonwealth is called upon to support those schools; the Commonwealth is called upon to maintain them; the Commonwealth is to provide the means, and yet it is out of character, it is out of place that in the Constitution you shall prescribe a means of supplying those schools with books, for the purpose of educating the children, and especially when we know, from past experience, the great abuses that have grown out of the old plan of supplying these school books with books.

A gentleman here says the Superintendent of Schools in the State of Delaware has grown rich. If it is true that he has, it only shows the corrupting power of these men who make it a business to impose themselves upon school boards in every part of the Commonwealth. It shows that they will corrupt, if they can do it, and that they exert the power for that purpose.

I would hesitate to vest this great power in any one single man. I think it is most especially the business of the Legislature of the Commonwealth. The Legislature represents, and represents fairly, as I believe, every man and woman and child in the Commonwealth, and the only reason why I put a limitation of five years upon the right of the Legislature to make the contract is to keep these cormorants away for at least five years, who go about the Commonwealth corrupting school boards, whether they be in the lower or in the higher school boards, or wherever they may be. Gentlemen on this floor said they were offered \$250. They thus made

the strongest argument I have heard, by that statement, in favor of putting this power somewhere beyond the reach of these men that go about corrupting the school boards of the Commonwealth, and imposing upon the parents of this Commonwealth.

This is a great evil. There is not a man in the State of Pennsylvania that has a child old enough to send to school but has felt himself aggrieved by this outrage that was perpetrated—it used to be yearly. But the Legislature, seeing the outrageous corruption that was a disgrace to the system itself, was compelled to step in and say they should not change it oftener than once in three years. Why did the Legislature do that? It was because of this very system of corruption.

The Superintendent of our own State has said that the whole number of McGuffey's Readers, from excepting numbers two and five is a humbug. I believe that this is the experience of every intelligent school director in the Commonwealth, that there is no necessity for the long string of books, only to make money for the publisher, and to take it out of the pockets of the parents who send their children to schools in the State.

Mr. Chairman, it is a proper provision, whatever may be the opinions of gentlemen, whether there be a majority in this Convention or not, it is a proper provision. It is in no sense legislation any more than it is to prohibit or provide for any other thing that we are providing for in this Constitution. We simply say that we vest in the Legislature of the Commonwealth the right of prescribing the kind and number, and that they shall not make this change oftener than once in five years. Now the best argument they can use against is that this is legislation. This Convention has got to put into the Constitution something that will look like legislation. I am perfectly willing to put it into the State Constitution. We could not put it into the United States Constitution. It would not be right and proper, but we are making a State Constitution. We are limiting power; we are not granting it.

Another objection is that these books are copyrighted; that they are patented. I do not believe they can ever patent the A B C, nor the English language, nor mathematics. They cannot patent science and philosophy. They may patent a certain arrangement of words, but I think

the Commonwealth of Pennsylvania, a great Commonwealth that is preparing to inaugurate a new system, a great system for the education of her children, is able, if it is necessary, to patent right her own books, make them, print them and give them to the parents of the Commonwealth. I think that the Commonwealth can take care of herself. Such an argument is worth nothing. It is worthy of very little consideration; it is in fact none at all, only from the fact that it came from respectable gentlemen of this Convention. I would say unhesitatingly that it is the duty of the State to provide the books for these schools, especially in all the lower departments.

I have said this much upon this amendment, because I believe it to be one of very great importance to the people of this Commonwealth. I believe it will add a hundred per cent. to the value of the system—while it will not add a dollar to the cost. If we have some uniformity in the plan of imparting instruction to the children of the State, and it is for this reason that I have consented to speak upon this subject again, and to press it upon the consideration of the Convention, with the addition that I have provided, that the Legislature shall have the power, and the State Superintendent shall have a seat upon the floor of the House or the Senate, that he may speak upon the question—his advice being fully given.

I think we have provided the best plan in that way and the safest place, where we can lodge this great and important power.

Mr. ALRICKS. Mr. Chairman: This discussion has taken a very wide range. I do not think that any gentleman of this committee differs from the delegate from Philadelphia, (Mr. Woodward,) that this is a great and crying evil, and the only question now is, whether it would be in place to insert the amendment of the gentleman from Allegheny (Mr. Howard.)

We are not, as the gentleman from Philadelphia (Mr. Cuyler) has said, making a code of laws; but we are considering an organic law, and I apprehend that we are putting entirely too much timber in the framework. We are covering too much space, and that is the cardinal reason why this amendment should not be adopted. We want to establish a few principles that are to govern the Legislature and the people, and we are not to descend to the minutæ; therefore, I apprehend that this

amendment that has been offered is out of place, if we attempt to put it in the Constitution.

For many years I occupied a seat in a school board. I know the annoyance to which members of that board are subject, and I know that the change of books in the schools is affected by dint of importunity on the part of those who are sent out to canvass. These are inconveniences that we must expect to occur; but I trust that with the present law on our statute book, which states that a change shall not be made inside of three years, they will be remedied, but it certainly is not for us to do here.

Mr. Chairman, while I am up it is proper that I should take notice of a remark that fell from a delegate at large from Indiana (Mr. Harry White.) He informed us that Thaddeus Stevens was the originator of the common school system in Pennsylvania. I beg leave to dissent from the assertion. Mr. Stevens was a great agitator, and he agitated other questions as well as that of the common school question. Our common school system originated with George Wolf, a German Governor of the Commonwealth of Pennsylvania. His constituents, those men who elevated him to the high office of Chief Magistrate of this State, were Germans; they were opposed to the common school system, and I have heard Mr. Stevens, on more than one occasion, commend Governor Wolf, for the noble stand he took upon the subject of common schools and the education of the people. The Governor received the main support from the Germans of Northampton, from the Germans of Berks, and from the Germans of Westmoreland counties; but although it was at the peril of his office he placed himself fairly and squarely upon the record, and he established that common school system which is this day one of the great enterprises in this Commonwealth. He, and not Mr. Stevens, is entitled to the credit of it.

Now, I object to introducing this amendment here, for the reason given by the poet, when he was examining a piece of amber:

"The thing is neither odd nor rare,
The wonder is how the devil it got there."

I apprehend that this amendment will be entirely out of place in the Constitution.

Mr. HARRY WHITE. Will the gentleman allow me to interrupt him a moment?

Mr. ALRICKS. I am through, sir.

Mr. HARRY WHITE. The delegate from Dauphin (Mr. Alricks) takes me to task for giving Thaddeus Stevens credit, yesterday, for being the author of the common school system. I desire to explain that when I say Thaddeus Stevens is the author of the common school system of Pennsylvania, I mean just what I say—I mean it just as I uttered it.

Doubtless there are others who may divide with him the authorship of the common school law, but when I say he is the author of it, I repeat what the history of the times will support me in saying, and I want his memory to have the credit of it. It was the power and the eloquence of Thaddeus Stevens, as a member of our House of Representatives, when urging the appropriation for the Academy of Fine Arts, in the city of Philadelphia.

The CHAIRMAN. The Chair understood the delegate to be putting a question to the delegate from Dauphin (Mr. Alricks.)

Mr. HARRY WHITE. I merely rose, Mr. Chairman, to make the statement which I have, not a digression; but because the delegate from Dauphin took me to task in the discussion of this question, for a remark which I made yesterday.

According to the rules of parliamentary law, I insist that I have a right to explain what I said. I will say then, in short, that what I meant yesterday, when I said that Thaddeus Stevens was the author of the common school system of Pennsylvania, I meant that his eloquence, while a member of the House of Representatives, in favor of an appropriation for the Academy of Fine Arts of Philadelphia, gave an impetus to the common school system in the State of Pennsylvania, which carried the measure ultimately through.

Mr. ALRICKS. That is all right. The statement that he gave an impetus to the measure is correct.

The question being on the amendment of Mr. Howard, it was rejected.

Mr. DARLINGTON. Mr. Chairman: I desire to call attention to the fact that in the report of the Committee on the Executive Department they have provided for a Superintendent of Public Instruction. To make this harmonize, I propose to strike out the letter "a," and to insert instead the word "the," so as to make it read the Superintendent of Public Instruction.

It was agreed to.

The fourth section was then agreed to.

The CLERK read the fifth section as follows:

SECTION 5 Neither the Legislature nor any county, city, borough, school district, or other public or municipal corporation shall ever make any appropriation, grant, or donation of land, money, or property of any kind to any church or religious society, or to any university, college, seminary, academy, or school, or any literary, scientific or charitable institution or society controlled or managed by any church or sectarian denominations.

Mr. SIMPSON. The fourth line provides that no grant shall be made to any university. I desire that that be made more specific, and I move to add to it "or for the use of," so that it shall read that "no grant shall be made to or for the use of any university," &c.

The motion was agreed to.

Mr. H. G. SMITH. I would inquire of the chairman of the committee what is contemplated by the term "charitable institution" in this section, and how it came to be there inserted. It seems to me that this committee have nothing to do with charitable institutions.

Mr. DARLINGTON. The object of the committee in using that phraseology, I stated, in part, when I opened the discussion. This article, like all other articles, is the result of the deliberations of a committee, and is supposed to contain, as nearly as practicable, the sentiment of the whole committee. The purpose which the committee had in view was to prohibit any sectarian institution from having control of public money, and to make it impossible to have any public moneys appropriated to academies, schools, literary, scientific or charitable institutions, or managed by any church or sectarian denomination.

Mr. H. W. SMITH. I submit that the charitable institutions of the State are provided for elsewhere, and a limitation as to legislation upon them will be found in the article on legislation. I think these words, therefore, are out of place in this section. I move to amend by inserting the word "or," after the word "literary," in the fifth line, and strike out the word "charitable" in the succeeding line."

Mr. CORBETT. It strikes me that this whole section is out of place here, and that it does not belong to this committee. By reference to the report of the Committee on Legislation, sections twenty and twenty-one, this whole ground will be

seen to be covered, and it is clearly a limitation upon the legislative power. It ought, therefore, to come under the head of restrictions on legislation.

Mr. J. R. READ. Mr. Chairman: I think the object of the gentleman from Clarion would be obtained as well as the object of the Committee on Education if we were to strike out the first five words in section five, and insert the word "no," so that it shall read "no county, borough, or other public or municipal corporation," &c.

Mr. JOHN R. READ. Mr. Chairman: I have made this suggestion for the reason that it is already provided for in the report of the Committee on Legislation.

The CHAIRMAN. The Chair will state to the gentleman that he had better, perhaps, withdraw his amendment until the amendment of the gentleman from Lancaster (Mr. H. G. Smith) has been acted upon.

The question being then taken, the amendment was not agreed to.

Mr. JOHN R. READ. Mr. Chairman: I now renew the amendment to strike out the first five words in section five, and insert the word "no," before the word "county." My object in making this motion is because it is already provided for in the report of the Committee on Legislation.

The question being then taken, a division was called, and the amendment was not agreed to: Ayes, thirty-one; noes, forty-seven.

Mr. SIMPSON. Mr. Chairman: I offer to amend the section, by inserting after the word "managed," in the last sentence, the words "either in whole or in part."

The question being taken, the amendment was agreed to.

The CHAIRMAN. The question is now upon the section.

The question being taken, the fifth section was agreed to.

The CHAIRMAN. The next section will be read.

The CLERK read as follows:

SECTION 6. The arts and sciences may be encouraged and promoted in colleges and other institutions of learning, under the exclusive control of the State.

Mr. DODD. Mr. Chairman: I certainly have no objection to the encouragement of the arts and sciences, but I have a very decided objection to this section, and to the two sections which immediately follow it, for the simple reason that they are utterly unnecessary. It will be well for

delegates to remember that the State Constitution is totally different from the federal Constitution. The federal Congress has no power excepting that expressly given to it by the federal Constitution, and consequently it is very proper in the federal Constitution that the language should be used, that "Congress shall have power," but when the State Constitution confers legislative power it is unlimited and absolute, and the language, "the Legislature shall have power," is totally uncalled for and unnecessary.

The Legislature has supreme legislative power, except in so far as limited by the Constitution, and no act of the Legislature is unconstitutional, if it is legislative in its character, unless it is expressly prohibited by some section of the federal or State Constitution. Now, sir, if this is correct—and none who are acquainted with the elementary principles of constitutional law will deny it—the Legislature has already the power which we now propose to grant to that body. It has the power to encourage the arts and sciences, and the adoption of this section by the Convention would not add one iota to that power, and neither would the two following sections, and I hope that they will not be adopted, for the simple reason that they are utterly unnecessary.

We might adopt a provision that the sun shall be permitted to shine, but it would add nothing to the power of the sun, while it would detract wonderfully from the reputation of this Convention for wisdom. If we pass such a provision as this we can accomplish no good results whatever, and will be showing to the world that we are totally unacquainted with the elementary principles of constitutional law.

MR. DARLINGTON. Mr. Chairman: The Constitution under which we have been living since all of us were born, and that others lived under long before we were born, contains the provision that the arts and sciences shall be promoted in one or more seminaries of learning. In framing this report, it certainly was not any part of the purpose of the Committee on Education to take a step backward in the career of educational improvement and enlightenment.

It would not look well for the Convention to say that while we have enjoined it upon the Legislature, in passing a section providing that the arts and sciences shall be promoted in one or more seminaries of learning, by omitting anything in regard

to the subject virtually to say that they shall be no longer encouraged.

It was with the view of preserving this idea, and to some extent of amplifying it, that the committee inserted this section in the manner in which it has been reported. I do not think that it is necessary to add a single word in additional explanation, and I therefore leave the section to the consideration of the Convention precisely as it has been reported.

MR. MINOR. Mr. Chairman: I move to amend the section, by striking out the word "may" and inserting the word "shall."

MR. DARLINGTON. Mr. Chairman: The amendment certainly meets my approval, and I certainly desire to accept it, but it is probably improper in a member of the committee to do so.

MR. MANN. Mr. Chairman: If the amendment which has been proposed to the section is adopted, it will give to it a practicable effect, for as it stands now, it is entirely without any virtue.

It is only those sections of this article which say the Legislature shall or shall not do a certain thing that possess any virtue whatever.

The other sections are entirely powerless and without any virtue whatever, and the gentleman who proposed this amendment, to strike out the word "may" and insert the word "shall," proposes to give to this section its only vital effect, but for this very reason I am opposed to the amendment, and entirely in accord with the sentiments which have been expressed by the gentleman from Venango (Mr. Dodd.)

I think this particular section ought not to be adopted, for the reason that this article, reported by the Committee on Education, is designed to provide a system for the education of all the children of the Commonwealth. It is positive in its provisions. The Legislature, as the gentleman from Venango said, has the power to encourage colleges. The Legislature has supreme power over this whole subject of the section, excepting so far as the article reported by the committee shall restrict that body, and hence the restrictive power in section three and section five, and the direct power conferred upon the Legislature, in section two, is wise and valuable, but the negative power in section six, it seems to me, is without any virtue, and the positive power which the amendment proposes to give, I trust will not be placed in the Constitution. The chief desire of

this Convention should be, that all our efforts should be directed towards the interests of the large mass of the children of Pennsylvania who must be educationally provided for, and this section, if it means anything at all, means that the State is to build up a grand State college of learning.

I have supposed the whole purpose, aim and scope of this article is to take care of all the children of the Commonwealth, and to treat them all alike, but this section means to establish a grand State college, in the benefits of which the mass of our children can never participate. I think the adoption of this section will mar the entire article. The common school system of Pennsylvania is now working in a symmetrical and harmonious manner. We have provided by law for common schools, and then for a system of Normal schools, in which teachers can be properly qualified to instruct the children of the Commonwealth, and now I ask why this system should be marred by adding to it a State college, from which the large mass of our children can never receive any benefit. The children of the Commonwealth will receive a direct benefit from each one of these Normal schools, because the teachers therein will be properly educated and well qualified for their work of instruction, and the article, leaving off this last section, will help the Superintendent of Public Instruction to infuse new life into the Normal school districts, and thereby to the common school districts. Adding this other provision will not add anything to the harmony of the system, but will detract from it. I hope, therefore, the amendment will not be adopted, and that the section itself will be voted down.

Mr. HAZZARD. Mr. Chairman: I rise simply for the purpose of saying that I hope this amendment will be voted down. There is no necessity for it either in the old Constitution or the new. To me it seems that it would be an unwise policy to establish schools of this kind. The amendment provides that the State shall have exclusive control of the schools, that is to create institutions of learning which are to be the property of the Commonwealth and by it directed. On this point, sir, we have precedents, and the experience may assist us. Almost all of the institutions of the State, where the Commonwealth was a partner, never came to any good. No good result came from the canals in which the State was interested. No good result was attained by the interest of the Commonwealth in the

bridges she erected or assisted in erecting. Many of the railroad enterprises in which State aid was invoked and secured, proved unprofitable, and therefore, judging from the past experience in these matters, I submit that this subject should be left to the management and be exclusively under the control of people who are immediately interested in it.

Let us see what such a plan as is proposed means. It means a scientific school, or two or three of them, under the exclusive control of the State; and then what follows? It necessitates a large retinue of professors at very large salaries, because no professor will take charge of a State school without large salaries. There must be a physician to the school, supported by the State at a very large salary. There must be a landscape gardener with a large salary, and there will be an immense amount of offices created for the purpose to provide a comfortable place for lazy people who have not anything else to do. Is not that the case with all public institutions of this class? Are not men appointed to positions in them not so much with reference to their fitness and worth as for the political service they have rendered some particular candidate or some political party? We know they are, and the arts and sciences will be better fostered and promoted by private enterprise, by our colleges and schools already organized, than under any such State institution as is proposed. And besides, who will go to it? If we establish this institution who will attend it? It will be a fruitful source of heart burnings, bickerings, difficulties and discontent all over the Commonwealth. No source of trouble is so prolific as partiality, and with every institution of this kind, partiality is inseparably associated. Every child has a right to be admitted to such a school, and while a few may be admitted, more will be excluded, and discontent must follow. Not only must such an institution require large expenditures of money, but it will create dissatisfaction.

Let us sustain our colleges that private enterprises have called into being. We have established common schools. We have academies under competent management. They do not require the patronage of the State. So with the Normal schools; they are not under the exclusive control of the State. It has supervision over a part of its economy, but not the exclusive control, and there ought not to be any such thing as a school erected and

supported by the State. What do we want with such an institution? Are there not schools in this State sufficient to take care of all the educational interests of the children? Have we not common schools? Have we not schools where we teach civil engineering? Have we not schools where geology and mineralogy and all the branches and departments of art or science are faithfully illustrated, and in which thorough training in any of the varied lines of scientific knowledge can be procured? Are there not educational institutions enough to educate our children in the highest measure that can be secured without adding this State institution, which will be cumbersome, expensive, and eternally so? I think that the educational necessities of the country are sufficiently taken care of by private enterprise, and our mission lies in the support and encouragement of such institutions.

Let us not, sir, make the mistake of creating an institution under the direction and exclusive control of the Commonwealth. Such an institution certainly is not required now. In the future it may become expedient to establish it, but if so the power for its creation, in my opinion, exists in the Legislature. In this I may be in error. Intelligent gentlemen inform me that the Legislature has not that power, but I do not so understand it. What principle of the Constitution would the Legislature infringe by the establishment of such an institution. Suppose tomorrow they would establish such an institution in Philadelphia; if established at all, of course it would be located here, for Philadelphia always gets all the important endowments. What provision of the Constitution would be transgressed or what law violated? I affirm that the power is now inherent in the General Assembly, and it is best to keep it there. If the time shall come when a necessity does occur for such an addition to our educational facilities, when we have not sufficient colleges and universities for the proper advancement of education, it will then be time to consider the establishment of a State institution for the purpose; at present it is neither necessary nor wise to insert this amendment into the Constitution of the Commonwealth.

Mr. MINOR. Mr. Chairman: Being connected with the Committee on Education, perhaps a single remark is due by way of explanation. It will be recollected that in the present Constitution there is a clause

identical in substance with this section, except the restricting sentence at the end of it. The present Constitution provides that "the arts and sciences shall be promoted in one or more seminaries of learning." There is where it stopped, leaving the Legislature at liberty to make any appropriation it saw fit, to any institution it saw fit, whether denominational or undenominational, under the control of the State or under the control of individuals. That was the way we found the Constitution and the law when we entered upon our work. But the majority of the committee, as it appears by the report, were not satisfied to leave it there, and hence the design of these additional words was this, to prevent the Legislature from making appropriations to denominational colleges or institutions. To accomplish that the words were used "exclusively under the control of the State." So that if appropriations were made, they should not be made to any denominational college or university or seminary; but, if made, the institution should be under the exclusive control of the State. I mention this by way of explanation. That was the design of the section.

Now, sir, there is a little more involved in it. It is, perhaps, possible that this limitation is sufficiently accomplished by the preceding section. If so, the section under consideration is unnecessary. I leave that to the decision of members.

Thus far I have spoken of the way the matter stood in committee, of the object of the section and the effect it will have if adopted. I am now free to express sentiments of my own, and these are that we should go even farther. I believe that we should not only prevent the Legislature from making any appropriations to denominational colleges, but that we should prevent it from establishing any colleges of its own. I would go farther than this section goes, and put it in such a shape that the Legislature shall not establish any such institutions or make appropriations to them, for reasons in part that have been given by gentlemen already, and also from the light that we derive from experience.

I mention one fact. It is known to all of us that in the State of Michigan there is an institution called the State University. A few years ago there was placed at the head of that University a certain person who stood high in and was one of the shining lights of a particular denomination, and from that time on the State Uni-

versity was largely held up as being the exponent of that denomination. They substantially had charge of the institution and claimed it as theirs. Other denominations accepted the proposition, and immediately went to work to destroy that control by removing the president, and after a contest which shook that State from centre to circumference they succeeded. The result was, that the then incumbent president was ousted, and a president of another denomination was put in, and many honest members of the former denomination, good sober ones, too, declared that the result should, if possible, be reversed, and most bitter feelings were expressed by those who had lost control against those who had taken the charge of the State University out of their hands. They have been in a quarrel there about it ever since, and I presume they will quarrel about it as long as the University is under the support of the State.

What further? There is connected with that institution a medical department, which made it necessary to elect a professor to take charge of that branch of instruction. And at this very time, as I am informed, they are quarrelling about whether it is to be allopathy or homœopathy which shall be taught there. Just as the president's chair caused a quarrel between the denominations, this subject caused a quarrel among the doctors, and the great danger is, that between the scalpels that are used in the two classes of schools, the institution itself will be cut to pieces. There are these dangers to be incurred in the establishment of any State institution of this kind, and while I believe that this Convention ought to provide a broad and ample basis for an unsectarian common school system, yet that colleges and higher institutions of learning should be left to the enterprise of denominations, of individuals, of communities, of scholars, &c. I am also informed that the University of Virginia, established by Thomas Jefferson himself, was a failure, until it passed into private hands. It is a fact, sir, that as long as you have a great institution holding out inducements for patronage and jobs of various kinds, that just so long will it be liable to abuses and unseemly contests, and the interests of education will be deprecated instead of being advanced. I therefore personally, would not object to taking the whole section out, even to seeing a negative one in its place.

Mr. CURRY. Mr. Chairman: I am not very particular whether this section shall be adopted or not, but if it is, then I hope my amendment will prevail, because without the word "shall," in this connection, it seems to me, sir, that the section would be without any weight or power whatever. I submit to the cool judgment of the Convention touching this particular point, and therefore, without consuming time in this discussion further, I submit to the vote.

The CHAIRMAN. The question is on the amendment, and the amendment will be read.

The CLERK: To strike out the word "may," in the first sentence, and insert "shall."

On the question of agreeing to the amendment, a division was called, which resulted, twenty-six in the affirmative. Not being a majority of a quorum, the amendment was rejected.

The CHAIRMAN. The question recurs on the section.

Mr. WHERRY. Mr. Chairman: I trust the committee will give this section careful consideration just for one moment. It is substantially a re-enactment of a provision that has been in our Constitution for nearly one hundred years. There can be no good reason given for striking it out now. It is not a mandatory clause. It leaves the whole matter at the discretion of future enlightened legislators. I freely confess I do not believe all the wisdom of the ages past is centered in this body, nor do I assume that we are the wisest men the world will ever know. I can readily understand that in the progress of civilization, as men struggle and strive for the perfection of this beautiful system of education we have adopted in this State, it may, in the course of time, become necessary to complete the symmetry of the grand design, by putting a State institution of higher learning on the top. All we ask is that the Convention will leave in the hands of the Legislature a power always heretofore entrusted to it, and never, in the judgment of any, abused, so that when the good time comes which we all expect, the Legislature may provide an institution, not to teach our children, for that is already done in the public schools; not to teach the teachers, for that is done in Normal schools; but to educate the teachers of the teachers themselves. This is the acme for which advanced edu-

cators in our good old Commonwealth are striving.

Mr. HOWARD. Mr. Chairman: We have provided for a system of public schools upon a very different basis from that provided for in the old Constitution. In the first place, the first section of the article that this committee has already adopted, is a very much broader basis upon which to rest a public school system of the State. The old Constitution read in this way: "The Legislature shall, as soon as conveniently may be, provide by law for the establishment of schools throughout the State, in such manner that the poor may be taught gratis." That is every word there was in the old Constitution, upon which to rear the structure of common schools throughout the Commonwealth, of Normal schools and of high schools, and all the structures that have been reared upon it, a simple provision that the Legislature may provide for teaching the poor gratis. Now what have we provided here? By the first section the Legislature shall provide for the maintenance and support of a thorough and efficient system of public schools, wherein all the children of this Commonwealth, above a certain age, may be educated. Now that we have vested in the Legislature all the power over the subject of providing for public schools, it seems to me if we go beyond that, and we provide for a special and exceptional system in which *all* cannot, from the nature of the case, participate, it no longer then belongs to that class that should be supported from a common and public purse.

Mr. WHERRY. Will the gentleman allow me to interrupt him?

Mr. HOWARD. Yes, sir.

Mr. WHERRY. I believe the gentleman did not read the second section of the present Constitution.

Mr. HOWARD. No, I did not; but I understand the arts and sciences shall be promoted in one or more seminaries of learning. That was provided in the old Constitution; but I say the new Constitution that we are now proposing, is so much broader than the provision in the old Constitution upon this subject that it has an ample basis upon which to rear any structure that should be supported from a common fund contributed by the people of the State.

Mr. WHERRY. Do I understand the gentleman to say that this section of the Constitution of 1838 has never been recognized in legislation?

Mr. HOWARD. I did not say anything about it.

Mr. WHERRY. I beg the gentleman's pardon; I so understood him.

Mr. EWING. Mr. Chairman: I offer the following amendment:

The CLERK read: Strike off from the end of the section the words, "under the exclusive control of the State," making the section read: "The arts and sciences may be encouraged and promoted in colleges and other institutions of learning."

Mr. EWING. Mr. Chairman: If this amendment should be adopted it would leave the section to stand in the precise words that we have in the old Constitution, and it may be of use to leave it there, although it seems to me to be rather ornamental, but being old, I prefer to let it stand as it now is. The term "encouraged and promoted" may mean something more than an appropriation of money. Colleges and institutions of learning not under the control of the State may be encouraged and aided in many ways by general legislation, and that would not include appropriations of money. Now I would not object to anything of that sort, and I take it that this Convention will adopt a provision, a very broad one, prohibiting the appropriation of any money to an educational institution not under the control of the State. Section twenty-one of the report of the Committee on Legislation is a provision that no appropriation whatever shall be made to any denominational or educational institution.

Mr. HAZZARD. We have already adopted a section just before this, of the same import.

Mr. EWING. I think the provision of that section would have the same result, the one we have already adopted; but there is a still broader section reported by the Committee on Legislation that would absolutely prohibit any appropriation of money. Then, if the amendment I propose would be adopted, it would leave this section to stand so that the promotion of sciences and arts would be encouraged in any college by legislation, whether it was denominational or otherwise.

Mr. DARLINGTON. Mr. Chairman: I do not know whether I am at liberty under the rule to speak or not. It is to be remembered that in the history of this Commonwealth the Legislature has been called upon, technically, to aid institutions of learning, colleges founded by benevolent and public spirited persons, without

the requisite means to carry on their business usefully, have applied to the Legislature and have received aid—Dickinson college, Lafayette college—I know not how many more. No one will deny that that has been a highly useful appropriation of public money.

Mr. MANN. I would like to ask the delegate a question if he will permit me.

Mr. DARLINGTON. Certainly.

Mr. MANN. I ask if the Legislature could not make those appropriations without any provision at all.

Mr. DARLINGTON. I have no doubt that the Legislature has power without any constitutional provision whatever, and always has possessed it. I look upon the provision, however, as an expression of public will, for it has moral force, for the aid which may be given to colleges by the Legislature whenever they see fit to appropriate—an expression of the moral sense of the whole community that they ought to do so. I do not doubt but that we will progress; that we will become more and more advanced; that we are unwilling to stop with the present state of civilization, but we are all striving for a higher and a better standard for all the people of the Commonwealth. It is right that we should do precisely as we have done in the establishment of our common schools; and it is right that we should do precisely as we have done in this Convention by still further enlarging the sphere of their action if we can, and command the Legislature, so far as our fiat can command it, to appropriate liberally of the public funds to their support.

I, for one, am ready to continue the public support to colleges and seminaries of learning, without restriction, but such is not the view of all the committee. I would not confine it to those immediately under the care of the State. I would allow appropriations to be made in aid of colleges and institutions of learning, no matter under what religious care they may be, whether Catholic or Protestant, whether Episcopal, Quaker or Presbyterian, or what they may be. I would allow the State to appropriate; but such is not the temper of the committee, and probably such is not the temper of the Convention.

Now we propose in this report simply to hint to the Legislature that they have the power to do that. What then? We take away the injunction which has been upon them for the last eight or ten years, and we virtually say that we have com-

manded you to encourage institutions of learning, and now we cease to command. What is the inference to be drawn? That we have changed our minds; that we care less for the education of our people; that we are more regardless of the instruction for the whole mass of the community than we were before. I say again, as I said before, I, for one, will consent to take no step backward, but rather let us advance, and therefore not only must we continue the injunction upon the Legislature as strong as it has been before, but I would even strengthen it and go further. I hope, therefore, there will be no difficulty about the adoption of this section.

The CHAIRMAN. The question is upon the amendment of the gentleman from Allegheny (Mr. Ewing.)

The amendment was not agreed to.

The CHAIRMAN. The question is upon the section.

Mr. CAMPBELL. Mr. Chairman: I offer the following amendment: I insert after the word "colleges," in the second line, the words "industrial schools."

The object I have in offering this amendment is that we may vote down section seven. The amendment will retain, in substance, the first line of that section, so that the Legislature "may establish industrial schools." I wish to get rid of the second line, that requires the attendance of vagrant, neglected and abandoned children in those schools. If you will consider a moment who are meant by "vagrant, neglected and abandoned children," you will probably see the reason and justice of my amendment. Abandoned children are mainly of two classes; one class is sent to the public alms-houses, and is supported by the State or municipal authorities; the other class is sent to religious and other asylums, and is supported at the expense of the societies or persons having charge of those asylums, or by private charity. Now, if we direct the Legislature to pass a law, under authority of which the Superintendent of Public Schools or the local school officers may require the attendance at industrial schools of children that are supported in religious asylums, it will open the door to religious persecution in the first place, and will lead to great abuses in the administration of our school laws, and consequent dissatisfaction among the people. If we adopt section seven, in the language in which it is framed, it places it in the power of an officer connected with the State to go into a religious asylum and say to

the persons in charge, "these children that you have here are abandoned children, in the contemplation of the Constitution of Pennsylvania, and you must send them to our schools, whether you wish to or not."

I do not want any such interpretation to be drawn from any section of this kind.

In reference to the word "neglected," what does it mean? Is it the intention of the Committee on Education to have the Legislature authorize an officer connected with the industrial schools proposed to be established, to go into a man's family and say to that man, "your children are *neglected*, and therefore you must send them to our industrial school?" I trust that the committee do not wish to place any such power in the hands of a superintendent or any other public school officer, and for the purpose of avoiding the possibility of vesting in him such a power. I would not put in the Constitution the seventh section proposed by the committee. The amendment I offer reserves, to suit the wishes of gentlemen who desire that the industrial schools shall be maintained by the State, that part of the seventh section providing that the Legislature may authorize the establishment of such schools.

I think the amendment would accomplish the main purpose that the Committee on Education had in view in reporting both these sections, (seven and eight,) and it would also enable us to act upon the suggestion made by the gentleman from Venango, (Mr. Dodd,) that seven, eight and nine are entirely unnecessary, because the Legislature has already the power which they, by implication, confer upon it. I agree with him that the Legislature has that power, and that the sections mentioned are entirely unnecessary, but as some gentlemen desire to have a section in reference to the encouragement of the arts and sciences in colleges and industrial schools, I have offered my amendment, with a view to give them an opportunity to retain section six, while at the same, time those who desire to vote against sections seven and eight can do so. I myself intend to vote against both of them.

The question being upon the amendment, it was not agreed to.

The question recurring on the section, it was rejected.

The CLERK read :

SECTION 7. The Legislature may establish industrial schools, and require the attendance of vagrant, neglected and abandoned children.

Mr. DARLINGTON. There is a misprint in that. The word "therein" should come in after the word "attendance," in the second line.

The CHAIRMAN. It will be so amended if there is no objection.

Mr. WHERRY. Mr. Chairman: I desire to offer a few words of explanation with regard to this section, especially in view of its relation to the following clause, section seven, with which it is intimately connected. However unwilling we may be to recognize the fact, however distasteful it may be to gentlemen of tender sensibilities to hear it said, there are two distinct classes of children in the Commonwealth of Pennsylvania, alike demanding her guardianship, her fostering care, her elevating influences. There is that class for which provision has been so nobly and so effectively made; the hundreds of thousands of well fed and well clothed innocent, hopeful, happy children who do now attend the public schools, or may attend them, who are educated in the common schools or may be educated there, if their parents desire it, and if not, are educated by other means at private expense in private schools. But, sir, down underneath this, in dirt and despondency, suffering the realities of cruel want, and breathing an atmosphere of vice, there is lower stratum. It is but idle vanity and unwise statesmanship to longer ignore the unpleasant fact that there is a large class of children in this Commonwealth who, by reason of the ignorance, the indifference, the idleness, the impecuniosity or the vices of their parents and guardians, are absolutely hindered from attending the common schools of this State. It is to provide for that class of children that this section is drawn.

For these we want compulsory education. We want a system that will require and achieve the moral, mental and industrial education of these neglected and abandoned children, and save them from a doomed inheritance of want, and crime and woe!

That is all this section is intended to provide for, and it has nothing to do, directly, with the common school system of the State, as we now understand it.

Mr. HAZZARD. But where are the children?

Mr. WHERRY. All over the State, in every city, town and county. Of this class of children you find twenty thousand reported to the school authorities of this city alone.

There are in my county alone no less than twelve hundred and thirteen children between the ages of ten and twenty-one, who cannot read—a thousand, at least, of these, owing to the criminal neglect of their parents, are not provided for. In our county alms-house, county jail, and belonging to the professional “tramps,” there are from one to two hundred children for whom there is no educational provision of any kind made at all. They would not be in their present condition tolerated at the common school. Children of wealthy families would not sit at the same desk with them. They are paupers and criminal children, and there is not one iota of provision made for them by the State beyond some statutory enactment of a hundred years ago, long since forgotten. They grow up in stolid ignorance and stupidity, in idleness and in want, and furnish the very class of people from whom the great army of criminals of our country is recruited.

I say, here, briefly, but positively, that it is this great neglect of abandoned children that gives us the large proportion of criminals that we find pervading the community.

MR. DARLINGTON. Mr. Chairman: I am unwilling to allow this vote to be taken without adding a few words in defence of the report of the committee. The object of the committee, in introducing this section, was to provide for the education of a class of children of whom we all know there are but too many existing among us, children without parents, without protectors, without any means of education or of support. Is it right for the community to allow such children to grow up amongst them entirely ignorant, without any education or means of education being offered to them? You may say that the common schools are open to them. True, but if the common schools are not open to them, if they cannot be clothed and fed, you find them upon your streets and at your doors, children wanting clothing and food, as well as education. Who is to take care of them? We cannot, in common humanity, stop to inquire whether they belong to this religious denomination or to the other. The question is, will we allow them to remain in ignorance? Is it not the duty of the State to employ some of our ample means for the establishment of industrial schools for the proper education of such children? Surely gentlemen will not be content to permit a state of things to exist, which

manifestly, and by the consent of everybody, does exist, namely: That there are children among us without any means of education, or anybody being responsible for their support or their clothing. What are we to do? It is the duty of the State, it is the duty of the whole people, to provide shelter for these houseless outcasts, to provide food for them, and clothing, and occupation for them.

This can be done by providing industrial schools where they may be taught to learn the arts of common life. Is it right to say that the Legislature may establish such schools? I would rather say that they shall establish them. It is certainly right to say that they may, and in that way give it the sanction of our voice, showing that there is a class of the community who ought to be taken to school, no matter how they happen to have become neglected, or how they became abandoned or vagrant.

The gentleman from Philadelphia (Mr. Campbell) seems to have some fear that this might allow somebody to go into a seminary or retreat or institution of charity, where children are to be found, and take them out of it on the ground of their being abandoned. I fear nothing of that kind. I have no fears of any disposition to interfere with any charity that is actually taking care of children; but if, unfortunately, there should be existing any institution, which, under the name of charity, so far forgets the first principles upon which it was founded, as to take children under its care and deprive them of education—who would be of the opinion that no education was necessary for them—then I would say that the law not only should but ought to step in and say to that charitable institution: “While you are doing much good, you are not doing all the good that the good of the community demands.” I would not allow individuals or anybody else to raise up a body of such children without education. However, I have no fear of any such difficulty arising, and I think the gentleman from Philadelphia need have none. There is no danger of any private charity being interfered with. Some observations have been made with regard to the next section, which is compulsory also. I would not allow a single man in this land to say, “my children shall not be educated.” He fails in his duty of a citizen of the republic when he attempts to raise up a child without education, and if there be any such wrong-headed men, I would not care,

sir, even if they be found in my own brother, or my dearest friend, I would say to him, that by the law of the land and the Constitution of his country, he must educate his children, or if he fails in that duty, the State will take them from him.

Mr. CARTER. Mr. Chairman : I am in favor of this section as reported by the committee, and wish to say just a word or two to remove some doubts and difficulties on the part of my friend from Philadelphia (Mr. Campbell.) I think that if he will give a reasonable signification to the language of the section, he need apprehend no difficulty of the kind which seems to occur to his mind.

"The Legislature may establish industrial schools, and require the attendance therein of vagrant, neglected and abandoned children."

I submit that this proposition does not interfere in any way with the class of children to which he refers. They are not *neglected* children placed in charitable institutions; they are *not abandoned*, if they are in still under parental care. Nothing can be plainer to my mind than this, so when the gentleman speaks of men going armed with authority to charitable institutions at the poor man's home, he is conjuring up a chimera dire in his own imagination. But, sir, this section is needed to provide for those poor waifs—of those helpless little ones that have been actually abandoned and neglected. And further, sir, I most firmly believe, that for the safety of the State this should be done. I think the gentleman is in error in regard to any anticipation of wrong on that score, but I favor this for the reason that it looks in the right direction, in regard to the educational duties of the State.

This great State of Pennsylvania has taken her position long since, on the high ground that it is the duty of the State, as a matter of justice and self-preservation, that every child in the Commonwealth should be properly educated and trained for the high and responsible duties of citizenship. There is a large class of citizens in our Commonwealth commonly known as the perishing class. I entreat the members of this Convention, before they vote upon this section, to consider whether its adoption will not limit, to some extent, the number of vagrant children, who are now neglected and abandoned. The adoption of this section may possibly lead to the establishment of industrial schools, wherein the large number of our vagrant

children can be properly educated in some industrial employment, and properly fitted for their important duties of citizens.

I can foresee none of the difficulties likely to arise which have been predicted by those who have opposed the section. I can, however, perceive a great deal of good that may arise from its adoption, and as a friend, ever and always advocating every measure that is intended to elevate the children of our State, and to every measure that is calculated to promote the prosperity and happiness of all our citizens, I most heartily favor the adoption of this section.

The CHAIRMAN. The question is now upon the section.

The question being then taken on the seventh section, a division was called, which resulted as follows: Ayes, twenty-eight.

Mr. DARLINGTON. Mr. Chairman: Shall not the negative side of the question be taken?

The CHAIRMAN. Certainly. Those who are opposed to the section will please rise.

The noes were counted, and were found to be twenty-six.

The CHAIRMAN. There is not a quorum in the Convention.

Mr. CORBETT. Mr. Chairman: I submit that the vote evidently shows that there is a majority of a quorum, and that the section has been agreed to.

Mr. HARRY WHITE. Mr. Chairman: I desire to call the attention of the Chair to the fact that the question of a quorum can only be taken notice of by the Chair when it is formally called to his attention.

There may be a quorum in the Convention, and by the fact that a quorum does not appear on the count of the vote, it does not necessarily follow that there is not a quorum present in the Convention.

The CHAIRMAN. In accordance with a previous ruling the Chair will decide that the vote just taken is not a vote of a majority of a quorum, and the Chair therefore decides that the section has not been agreed to.

The CHAIRMAN. The eighth section of the report will now be read.

The CLERK read as follows:

SECTION 8. They may by law require that every child of sufficient mental and physical ability shall attend the public schools, unless educated by other means.

Mr. EDWARDS. Mr. Chairman: I move to strike out the word "may," where it

occurs in the first line, and insert the word "shall."

The question being then taken, the amendment was not agreed to.

Mr. HARRY WHITE. Mr. Chairman: I move to amend the section, by adding at the end thereof the following words: "And may establish industrial schools, and require the attendance of vagrant, neglected and abandoned children."

Mr. CORBETT. Mr. Chairman: I rise to a point of order and it is, whether the amendment proposed was not embodied in the section which has just been rejected by the committee?

The CHAIRMAN. Such is the understanding of the Chair, and the point of order is therefore sustained. The section is now before the committee.

Mr. COCHRAN. Mr. Chairman: It really seems to me that there are very important questions pending before the committee that I think are not treated with that deliberation and consideration due to them. I do not know whether it is owing to the sparsity of members present or whether there is a disposition to entirely neglect them. I do not like to see important sections like these embodied in the article reported by the Committee on Education stricken down in this manner and without a quorum voting. I therefore move that the committee rise, report progress and ask leave to sit again.

The question being taken, a division was called, and the motion was not agreed to, a majority of a quorum not voting.

The question then recurred upon the seventh section, and the section was not agreed to.

Mr. BOWMAN. Mr. Chairman: I rise to a point of order, and it is this: That if the Convention is to be held down to such a rule as this, no proposition can be carried here to-day.

Mr. MANN. Mr. Chairman: The article having been gone through with, no motion can be entertained, and the committee must rise.

Mr. BUCKALEW. Mr. Chairman: I desire to offer an additional section.

The CHAIRMAN. The entire report of the committee has been disposed of.

IN CONVENTION.

The committee of the whole then rose, and the President resumed the chair.

Mr. CURTIN. Mr. President: As chairman of the committee of the whole, I have the honor to report that the committee of the whole, having had under con-

sideration the article reported by the Committee upon Education, now report the same with amendments.

The PRESIDENT. The amendments made by the committee of the whole upon the article reported by the Committee upon Education will now be read.

THE AMENDED ARTICLE ON EDUCATION.

The CLERK read as follows:

SECTION 1. The Legislature shall provide for the maintenance and support of a thorough and efficient system of public schools, wherein all the children of this Commonwealth above the age of six years may be educated.

SECTION 2. The Legislature shall appropriate at least one million dollars for each year, to be annually distributed among the several school districts according to law, and applied to public school purposes only.

SECTION 3. No money raised in any way whatever for the support of the public schools of the Commonwealth shall ever be appropriated to or used by any religious sect for the maintenance and support of schools under its control.

SECTION 4. The Superintendent of Public Instruction shall be appointed by the Governor, by and with the advice and consent of the Senate. He shall hold his office for the term of four years, and his duties and compensation shall be prescribed by law.

SECTION 5. Neither the Legislature nor any county, city, borough, school district, or other public or municipal corporation, shall ever make any appropriation, grant or donation of land, money, or property of any kind to any church or religious society, or to or for the use of any university, college, seminary, academy, or school or any literary, scientific or charitable institution or society controlled or managed either in whole or in part by any church or sectarian denominations.

Sections six, seven and eight were stricken out in committee of the whole.

The PRESIDENT. The next business in order is the consideration of the article reported by the Committee on Legislation.

Mr. SIMPSON. Mr. President: I move the call of the roll, in order to ascertain whether a quorum of members is present.

The motion was agreed to.

The PRESIDENT. The Clerk will call the roll.

The CLERK then called the roll, and the following members then answered to their names:

Messrs. Achenbach, Addicks, Ainey, Alricks, Armstrong, Baer, Bailly, (Perry,) Bardsley, Bartholomew, Beebe, Biddle, Black, J. S., Bowman, Buckalew, Campbell, Carter, Church, Clark, Cochran, Corbett, Cronmiller, Curry, Curtin, Dallas, Darlington, De France, Dodd, Dunning, Edwards, Elliott, Ellis, Ewing, Finney, Gibson, Hall, Hanna, Hazzard, Horton, Howard, MacConnell, M'Culloch, Mann, Mantor, Minor, Mott, Newlin, Niles, Palmer, G. W. Palmer, H. W., Pughe, Pucviance, Sam'l A., Read, John R., Reed, Andrew, Reynolds, James L., Rooke, Russell, Simpson, Smith, H. G., Smith, Henry W., Smith, Wm. H., Stanton, Struthers, Turrell, Van Reed, Walker, Wetherill, Jno. Price, Wherry, White, David N., White, Harry, Woodward and Meredith, *President*—71.

ABSENT OR NOT ANSWERING.—Messrs. Andrews, Bailey, (Huntington,) Baker, Bannan, Barclay, Black, Charles A., Boyd, Brodhead, Broomall, Brown, Carey, Cassidy, Collins, Corson, Craig, Cuyler, Davis, Fell, Fulton, Funck, Gilpin, Gowen, Green, Guthrie, Harvey, Hay, Hemp-hill, Heverin, Hunsicker, Kaine, Knight, Lambertson, Landis, Lawrence, Lear, Lilly, Littleton, Long, M'Allister, M'Camant, M'Clean, M'Murray, MacVeagh, Metzger, Parsons, Patterson, D. W., Patterson, T. H. B., Patton, Porter, Purman, Purviance, John N., Reynolds, S. H., Ross, Runk, Sharpe, Stewart, Temple, Wetherill, J. M., White, J. W. F., Worrell and Wright—61.

The PRESIDENT. The next business in order is the consideration of the article reported by the Committee on Legislation. Is it the pleasure of the Convention to proceed to the consideration of the article?

Mr. LILLY. Mr. President: I move that the Convention proceed to the consideration of this article.

The motion was not agreed to.

Mr. NEWLIN. Mr. President: I move that the Convention do now adjourn.

The PRESIDENT. Will the gentleman withdraw his motion for one moment?

Mr. NEWLIN. Certainly.

AMENDING THE EIGHTEENTH RULE.

The PRESIDENT. The Chair desires to state that there was an error committed on the part of the gentleman from Warren, (Mr. Struthers,) in offering a resolution relative to the amendment of rule eighteen, which would have an effect not intended by him. His object was to repeal the order made by the Convention in February last, on the motion of the gen-

tleman from Chester (Mr. Darlington.) He now desires to make a motion to reconsider the vote which was taken upon the resolution. Shall he have leave to make that motion?

["Aye," "aye," "aye."]

Mr. STRUTHERS. I move to re-consider the vote which was taken upon the resolution I offered this morning in relation to amending the eighteenth rule of the Convention.

The motion was agreed to.

The PRESIDENT. The resolution is again before the House. Will the House agree to the resolution?

Which was decided in the negative.

Mr. STRUTHERS. Mr. President: I offer the following resolution at this time:

Resolved, That the order made by the Convention on the 12th of February, prohibiting debate on questions as to the time of meeting and adjournment be rescinded.

On the question of proceeding to second reading, a division was called, which resulted twenty-one in the affirmative. Not being a majority of a quorum, the question was decided in the negative.

THE LATE COLONEL HOPKINS.

Mr. HARRY WHITE. Mr. President: I desire to ask unanimous consent at this time to offer a resolution, which should have been offered yesterday.

Unanimous consent was given, and the resolution was read as follows:

Resolved, That the House Committee cause the Hall to be draped for thirty days as a mark of respect to the memory of the late Hon. William Hopkins.

The resolution was read a second time, and unanimously agreed to.

THE STATE PRINTER'S ACCOUNTS.

Mr. CLARK. Mr. President: I ask leave at this time to make a motion.

Leave was granted, and Mr. Clark said: Mr. President: Yesterday the Convention passed a resolution referring the settlement of the accounts of the State Printer to the authorities at Harrisburg. Many persons have found fault with the action of the committee at that time, and at their instance I now desire to make a motion for the re-consideration of that question. I have no views to express, but in order that the matter may be brought fully to the attention of the Convention, I move to re-consider the action of the Convention on that subject.

The PRESIDENT. How did the gentleman from Indiana vote?

Mr. CLARK. In the affirmative.

The PRESIDENT. Who seconds the motion?

Mr. BIDDLE. I do, sir.

The PRESIDENT. Did the gentleman from Philadelphia vote in the affirmative?

Mr. BIDDLE. I did.

Mr. HARRY WHITE. Mr. President: I want to make a motion to postpone the motion of re-consideration for the present, or until Monday, when we can have a fuller House. I move to postpone the consideration of the re-consideration for the present.

The PRESIDENT. The motion to postpone the re-consideration is not in order.

Mr. HARRY WHITE. Mr. President:—

The PRESIDENT. Nothing is in order but the re-consideration.

The motion to re-consider was agreed to.

The PRESIDENT. The gentleman from Indiana has the floor.

Mr. HARRY WHITE. Mr. President: I did not design to say anything, but being recognized by the Chair, I will explain my situation in this matter. I was unaware of the action of the House yesterday until the resolution in question had been passed. I confess I thought it was a little hasty myself. But however that may have been, I thought to-day that it would be proper to dispose of this question of re-consideration until there was a full Convention. It is manifest that we are very short of a full Convention to-day. This is not an unimportant matter, and I would prefer that it should go over until next week. The question is up now on its merits, and I therefore move to postpone the consideration of this question for the present.

Mr. ARMSTRONG. Mr. President: As I offered the resolution, I desire to say a single word in explanation, and ask unanimous consent for that purpose.

The PRESIDENT. A motion to postpone is not debatable.

Mr. ARMSTRONG. I am aware of that, sir, but I ask unanimous consent to say a word.

Unanimous consent was given and Mr. Armstrong said:

Mr. President: I offered that resolution yesterday morning, and it is proper that I should state the circumstances. The gentleman from Pittsburg (Mr. J. W. F. White) came to me the evening before and handed me a resolution, stating that he was obliged to go to Pittsburg, as a member of the committee appointed by this Convention to attend the funeral of Colonel Hopkins, and could not return for

several days, and that there was necessity that the resolution should pass immediately. I made some inquiry into the facts and ascertained them to be about these: That a very large amount of work had been done by Mr. Singerly, and that no provision had been made whatever for his procuring payment upon account. The Legislature passed a bill for the purpose of affording him a mode of reaching payment on account, and it was in the hands of the Governor, who had much hesitation in signing it, unless under some expression of approval on the part of this Convention, he having much reluctance to sign a bill which might be construed as an attempt on the part of the Legislature to take out of the hands of the Convention a matter which properly appertained to it. Upon the merits of the resolution as it occurred to me, and such was the view of the gentleman from Allegheny, whom I represented in offering it, although I did not desire, nor did I think it proper to make such a statement at that time, for the resolution met my own view of what was proper under the circumstances.

I will further say that I took the precaution, before offering it, to consult with two or three members of the Committee on Printing, who expressed no dissent at all to the resolution, and whom I understood to approve it, the idea being that a large amount of work will be done for the Convention, which ought to be paid for on current account, and for which payments no provision has yet been made. A very large amount of work will remain to be done after this Convention has adjourned. We have no accounting officer, nor do I see how we can extend any powers or functions of the Convention beyond our final adjournment. I knew of no other mode so fitting and appropriate, by which these large accounts can be so properly and satisfactorily adjusted, as by passing them through the hands of the regularly appointed and experienced accounting officers of the State, and as the Legislature must provide for the payment, it is proper that they should also provide for the adjustment and settlement of the accounts.

Having made this explanation, it is proper to add, I have not the slightest personal interest in the subject, beyond the desire that we should provide some mode by which the work, as it progresses, shall be reasonably paid for, and that the final account shall be justly and properly settled, with exact fairness both to the con-

tractor and the State. If there be any apprehension, as I have heard suggested, that there is something concealed under this, some effort to obtain an undue advantage for the printer, I utterly disclaim it, and would instantly, at any and all times, vote against the resolution, or any proposition which would look to that end. I offered it under the circumstances, and with the view which I have stated. I have nothing further to express upon this subject, but submit it solely to the judgment and discretion of the House, desiring only to add that it is certainly incumbent upon the Convention to provide, without unnecessary delay, some mode in which the contractor can receive payments on account as the work progresses, and this I understand to be his only desire in the premises.

MR. HARRY WHITE. Mr. President: I ask unanimous consent of the Convention to state what I know about this.

Unanimous consent was given.

MR. HARRY WHITE. Mr. President: I know the motive of all parties connected with this. I know it, and I am satisfied it is perfectly pure and beyond reflection. My attention was called to this matter by the Attorney General, who was late a member of this body, and who knows how sensitive this Convention was upon the subject, and properly, too, of expenses, particularly upon the subject of printing. I was informed that a joint resolution had been introduced and passed through the Legislature providing for an allowance of \$25,000 on account to the State Printer for printing done for this Convention. I inquired of the State Treasurer why this was. The information derived from that source was, that application was made to him by the State Printer to get something on account to assist in defraying the large expenses to which he is subjected. The State Treasurer very properly remarked that before he made any payment on account to him, he wanted some proper voucher, and he called the attention of Mr. Singerly to it. But, inasmuch as this appropriation must be made by law ultimately, at Mr. Singerly's instance, a joint resolution was introduced and passed, without debate, through the Legislature, as a matter of courtesy, I may say, to this Convention. There is now a better feeling between the Legislature and the Convention, if you will allow me to make the suggestion, than there was formerly. There is a desire to show every courtesy possible to the Convention, and this joint

resolution was passed without debate as a matter of courtesy to this Convention. The Attorney General having been a member of this body, knew how sensitive the Convention was about controlling its own expenses, and he called the attention of the Governor to it, and the joint resolution has not been signed.

These statements are due to all parties. Now the matter is entirely in the possession of this Convention, and if, after this consideration, this Convention refuses to pass the resolution which was under consideration yesterday, I am satisfied that the joint resolution will not be signed, and this Convention is as able as any other tribunal to judge whether it is proper to pass a resolution of this kind or not.

MR. ARMSTRONG. Mr. Chairman: For the information of the Convention, as it has not been read this morning, I call for the reading of the resolution.

THE PRESIDENT. No copy of the resolution is now in possession of the Clerk, the Journal having been sent to the printer.

MR. ARMSTRONG. A gentleman has handed me a copy of the *Inquirer*, from which I will read the preamble and resolution:

WHEREAS, It is impossible for the accounts of Benjamin Singerly, as printer, to be settled by the Convention, because a great portion of the work must be done after the Convention shall have adjourned; therefore,

Resolved, That in the judgment of this Convention it is expedient that the Legislature provide for the settlement of his accounts by the proper accounting officers of the State, on the terms and conditions of his contract with the Convention, and for the payment of such sum as he may be entitled to receive.

MR. H. G. SMITH. Mr. President: I ask unanimous leave to make a statement.

Leave was granted.

MR. H. G. SMITH. Mr. President: Yesterday morning, when this resolution was passed through the Convention, sitting in my seat, I heard it very indistinctly while it was read. I tried to listen, but could not catch the full tenor of it. I went to the Clerk's desk, afterwards, and read it in manuscript, as it has been read here this morning. Upon reading it, I thought, perhaps, some members of the Convention besides myself were unable to ascertain clearly the intent and meaning of the resolution, and I thought it probable that not a few might have found themselves

in the position in which I found myself, unable to vote upon it intelligently.

Looking at the resolution as it passed, it strikes me, sir, that the first section of it, the preamble, contains a misstatement. If the State Printer complies with his contract, as entered into with this body, there will be no large amount of printing undone when this Convention adjourns. All of the miscellaneous printing will be entirely finished, and there ought not to be a single thing, at the hour when this Convention adjourns, left unprinted and unfurnished to this body, except one day's Journal and one day's Debates. In looking back to the act of Assembly calling this Convention, I find that the Legislature provided that "warrants for the compensation of members and officers, and for all proper expenses of the Convention, shall be drawn by the President and countersigned by the Chief Clerk," &c. The design was that we would attend to our own accounts, and send no accounts to the accounting officers at Harrisburg without having first passed upon them, intelligently, by our own Committee on Accounts. So far as that committee has acted, it has acted intelligently and well, and it has given evidence of its care for the interests of the people. When the reporters from Harrisburg presented their bill here, the chairman of the Committee on Accounts found that they had estimated the amount of what they claimed to be due by counting the matter, which was printed as leaded matter, making one-fifth more than it would make in solid minion type. He very properly objected to that upon the ground that they did not report the leads which the printer had put in, and he cut their account down to a proper basis.

Now I submit that after the various resolutions that we have had here with regard to printing, after the changes that have been made, that it would be a very indelicate thing for this Convention to ask the accounting officers at Harrisburg to go back over our files, through our contract with the State Printer, through the whole course of our proceedings, and without any instructions from our Committee on Accounts, to ask them to settle a question of this kind for us. We would be setting a bad example, sir. We would be leaving our work undone, the very work that the Legislature charged us to do in a proper manner; and, for one, if I were a member of the Legislature, and especially if I had been there last

year, when this carefully prepared act of Assembly was passed, I would say to the members of this Convention: "Gentlemen attend to your own business; make up your own accounts, send them in the proper manner and shape to the accounting officer of this Convention, and let them be settled as they ought to be settled." I do not charge that there is a job in it or anything of that sort. I say that we ought, in view of our plain duty, and in accordance with our own dignity, to arrange all our accounts in the proper manner provided by law, and send them to Harrisburg in proper shape, in such shape as will make them intelligible to the accounting officers of the Commonwealth.

THE PRESIDENT. The question is upon the motion to postpone.

The motion was not agreed to.

THE PRESIDENT. The question recurs upon the resolution.

MR. H. W. PALMER. Mr. President: It may be added to what has already been so well said by the gentleman from Lancaster, (Mr. H. G. Smith,) that the chairman of the Committee on Accounts of this body is not present. We know how thorough and careful a man he is, and we know what a thorough and careful committee we have; and it seems to me that it would be proper to have some expression from him on this subject, before a resolution of this character is presented to the Legislature. It is perfectly evident this committee is entirely able to take care of its accounts. It also seems to be clear, under the act of Assembly providing for the expenses of this Convention, that the State Treasurer will be entirely warranted in drawing money from the treasury upon a warrant drawn by the President and countersigned by the Clerk. Why any further machinery is needed is not apparent to me. When the accounts are properly audited, by the Committee on Accounts of this body, who are competent and careful, who can necessarily have more and better information on the subject than anybody else, when the accounts are thus audited, and warrants are prepared by the officers which the law designates to prepare them, why should not the State Treasurer pay the money? Shall we resign to the State Auditor the control of all these matters, or shall we attend to it ourselves as the law contemplates?

It has been very justly said, that if the State Printer performs his contract, which he has not approximated yet, if he does his duty, which he is not doing at present,

at the end of the Convention his printing will have been accomplished, except one day's journal and perhaps one or two day's debates, and, therefore, while of course there is no intention probably to express anything erroneously in the preamble of the resolution, there is a misstatement in it. The binding of the reports that may necessarily have to be done after the Convention adjourns, can all be estimated and settled for by the Committee on Accounts before the Convention adjourns, and the printing that necessarily remains will be very trifling; and, therefore, the reason upon which the resolution is based, seems to me to be untrue; and it seems, further, that there are already sufficient means provided for drawing any sum out of the State Treasury that the printer is entitled to, by reason of the work that he has

done and the work that he has to do hereafter. Therefore, I hope our Committee on Accounts will not have this slight put upon them, but that they may be left to perform the duty they should perform.

Mr. HARRY WHITE. Mr. President: I move that this resolution be referred to the Committee on Accounts and Expenditures with instructions to report a resolution for the payment of such amount as shall be found to be due the printer in his contract with the Convention.

The motion was agreed to.

Mr. NEWLIN. Mr. President: I move the Convention do now adjourn.

The motion was agreed to.

So the Convention, at two o'clock and forty-three minutes, adjourned until Monday next at ten o'clock, A. M.

SIXTY-SECOND DAY.

MONDAY, *March 10, 1873.*

The Convention was called to order at ten o'clock. Hon. William M. Meredith, President, in the chair.

The roll was called and those present answered, as follows:

Messrs. Achenbach, Addicks, Alricks, Andrews, Armstrong, Baer, Baily, (Perry,) Baker, Barclay, Beebe, Biddle, Black, J. S., Bowman, Boyd, Brodhead, Broomall, Campbell, Carter, Church, Clark, Cochran, Collins, Corbett, Corson, Cronmiller, Curry, Dallas, De France, Dodd, Dunning, Edwards, Elliott, Ewing, Finney, Hall, Hay, Hazzard, Horton, Howard, Hunsicker, Kaine, Landis, Lilly, MacConnell, M'Clean, Mantor, Minor, Mott, Niles, Palmer, G. W., Purviance, S. A., Reed, A., Rooke, Russell, Simpson, Smith, Henry W., Smith, W. H., Stanton, Temple, Turrell, Walker, Wetherill, J. M., Wetherill, John Price, Wherry, White, David N., White, Harry and Meredith, *President*—67.

ABSENT OR NOT ANSWERING TO THEIR NAMES.—Messrs. Ainey, Bailey, (Huntingdon,) Bannan, Bardsley, Bartholomew, Black, Charles A., Brown, Buckalew, Carey, Cassidy, Craig, Curtin, Cuyler, Darlington, Davis, Ellis, Fell, Fulton, Funck, Gibson, Gilpin, Gowen, Green, Guthrie, Hanna, Harvey, Hemphill, Heverin, Knight, Lamberton, Lawrence, Lear, Littleton, Long, M'Allister, M'Camant, M'Culloch, M'Murray, MacVeagh, Mann, Metzger, Newlin, Palmer, H. W., Parsons, Patterson, D. W., Patterson, T. H. B., Patton, Porter, Pughe, Purman, Purviance, John N., Read, John R., Reynolds, James L., Reynolds, S. H., Ross, Runk, Sharpe, Smith, H. G., Stewart, Struthers, Van Reed, White, J. W. F., Woodward, Worrell and Wright—65.

The PRESIDENT. There is a quorum of members present.

Prayer was offered by Rev. James W. Curry.

JOURNAL.

The journal of Saturday's proceedings was read and approved.

PROHIBITION.

Mr. ANDREWS presented a petition on the subject of prohibition, which was laid on the table.

FENCING RAILROADS.

Mr. DE FRANCE presented six petitions in favor of fencing railroads, which were referred to the Committee on Railroads.

PROHIBITION.

Mr. DE FRANCE also presented a petition, signed by over four thousand citizens of Mercer county, in favor of inserting in the Constitution a clause prohibiting the sale and manufacture of intoxicating liquors; also to have the same referred to the people in a separate proposition, which was laid on the table.

EDUCATION OF ORPHANS, &C.

Mr. WHERRY offered the following resolution, which was read and referred to the Committee on Education.

Resolved, That it is the duty of the State to provide effective measures for the moral, mental and industrial training of truant, incorrigible, neglected, vagrant and orphan children, and children and youth in jails, almshouses and dependent families, who are wholly or in part the wards of the State, whereby no child in the State shall be permitted to grow up in ignorance, idleness and vice.

RAILROADS.

Mr. BROOMALL offered the following resolution, which was referred to the Committee on Railroads:

Resolved, That the Legislature shall enact a general railroad law, by virtue of which any individual, company, or corporation organized for the purpose, shall have power to construct a railroad between any two points in the State, he or they paying all damages thereby caused to individual owners or to the public where streets or roads are occupied. No ground shall be taken for the purposes of construction or operating a railroad unless the same be necessary, and the question of

necessity shall be determined by proper tribunals under general law.

Mr. SAMUEL A. PURVIANCE offered the following resolution, which was read and referred to the Committee on Railroads :

Resolved, That the Committee on Railroads be instructed to inquire into the expediency of reporting an amendment providing an election by the people, every three years, of a board of railroad inspectors, composed of five persons, whose duty it shall be to examine and report upon any insufficient construction of railroads within the State, which, in their judgment, might imperil life or property, and to provide a remedy therefor, to be enforced after due notice to the companies, on pain of forfeiture of charter.

GAMBLING.

Mr. BAKER offered the following resolution, which was read and referred to the Committee on Legislation :

Resolved, That the Committee on Legislation be instructed to inquire into and report to this Convention a clause in the Constitution making the owner of the property in which a gambling saloon is held, or in which games of chance are allowed to be played, directly responsible to any person or persons who may therein lose any sums of money in any game of chance, or in any gambling operation whatever, for the amount so lost, the same to be recovered, together with the costs of prosecution, by due process of law, and the same to constitute a first lien on the property in which such loss was incurred.

LIABILITY OF SALOON KEEPERS.

Mr. BAKER also offered the following resolution, which was similarly referred :

Resolved, That the owner of the real estate in which any saloon for the sale of intoxicating liquor shall be kept, shall be personally responsible for any damages or injury that may be inflicted by any person while under the influence of intoxicating drinks procured in the said saloon, whether the damage be personal or otherwise, or be the cause of withholding from any family the necessities and comforts of life, which could have been procured with the money spent for liquor. And the Committee on Legislation is hereby instructed to present a clause of the Constitution carrying this provision into effect.

LEAVE OF ABSENCE.

Mr. HORTON asked and obtained leave of absence for Mr. Patton for a few days from to-day.

Mr. FINNEY offered the following resolution, which was referred to the Committee on Mines and Mining :

Resolved, That no incorporated company organized for mining purposes or possessed of mining privileges, shall own, hold or possess the soil or surface right of more than one thousand acres of land at any one time, exclusive of land held for rights of way for railroad purposes by due appropriation of law.

LEAVE OF ABSENCE.

Mr. ANDREWS asked and obtained leave of absence for Mr. M'Murray for a few days.

Mr. BOYD asked and obtained leave of absence for Mr. Darlington for a few days.

ELECTION CANVASSERS.

Mr. JOHN PRICE WETHERILL offered the following resolution, which was referred to the Committee on Schedule :

Resolved, That in proceeding to the election for the adoption or rejection of the amendments proposed by this Convention, when the canvassers shall not agree in registering a name, such name shall be placed on a disputed list, and the right to vote be decided by the election officers on the day of election.

LEAVE OF ABSENCE.

Mr. ALRICKS asked and obtained leave of absence for Mr. Metzger for a few days, on account of sickness.

Mr. EWING asked and obtained leave of absence for Mr. T. H. B. Patterson for a few days from to-day.

Mr. ADDICKS. Mr. President : I am instructed by the Committee on House to make the following report, which I ask to be read, and the resolution annexed thereto adopted :

The Committee on House respectfully report that during the arrangement of the fitting up of this hall, and during part of the month of January, until the Convention determined what employees were required, the Committee on House had employed as messenger and for general duty Thomas Cooper. Annexed is his account for services at two dollars and a half per day, total amount due, forty-seven dollars and fifty cents.

On reference of said bill to the Committee on Accounts, said committee declined to order its payment, for the reason that the employment of said Cooper was not authorized or approved by the Convention. In answer to this your committee desire to state that the said Cooper was of great service, and his engagement by the Committee on House was a matter of ne-

cessity. We respectfully request that the Convention will adopt the annexed resolution.

JOHN E. ADDICKS, *Ch'n*,
M. HALL STANTON,
GEORGE M. DALLAS,
JAMES BOYD.

Resolved, That the employment of Thomas Cooper by the House Committee as messenger during a part of the month of January be approved by the Convention.

Upon the question of proceeding to the second reading of the resolution it was agreed to.

The PRESIDENT. The Chair will observe that the rule of the House provides for the drawing of no warrant except upon the recommendation of the Committee on Accounts. The Chair would suggest that the motion be made to refer this resolution to that committee.

Mr. HAY. Mr. President: I suggest that instead of the resolution reported by the committee a resolution be adopted sanctioning the employment of Mr. Cooper as messenger. Upon such resolution being passed, the Committee on Accounts will of course report a resolution for the payment. I therefore move the substitution of such a resolution authorizing the employment of Mr. Cooper as messenger of the House Committee.

The motion was agreed to.

THE ARTICLE ON EDUCATION.

The PRESIDENT. The next business in order is the second reading and consideration of the article reported from the Committee on Education. Is it the pleasure of the Convention to proceed to the second reading?

The question being taken, shall the Convention proceed to the second reading thereof, it was not agreed to.

LEGISLATION.

The PRESIDENT. The next business is the consideration of the article reported by the Committee on Legislation. Is it the pleasure of the House to proceed to the second reading of this article?

The question being taken, shall the Convention proceed to the second reading thereof, it was agreed to.

The CHAIRMAN. The report will be read.

The CLERK read as follows:

ARTICLE —.

LEGISLATION.

SECTION 1. Before any member shall take his seat in the body to which he has

been elected he shall take the following oath:

I, A. B., do solemnly swear (or affirm) that I will support the Constitution of the United States, and that as a member of the Legislature I will, in all things, support, obey and defend the Constitution of Pennsylvania and discharge the duties of my office with fidelity. And I do furthermore swear that I believe myself to be lawfully elected a member of this House without any false return, bribery, corruption, or fraud committed by me or others with my consent.

Which oath shall be administered by one of the judges of the Supreme Court or court of common pleas learned in the law, in the hall of the House to which the member is elected, and shall be subscribed by the member taking it and filed of record in the office of the Secretary of the Commonwealth. Any member elect refusing to take this oath shall not be admitted to his seat, and any member violating his said oath shall be guilty of perjury, and on conviction thereof, in addition to such punishment as may by law be prescribed, shall forfeit his office and be ineligible thereafter to either House of the Legislature.

SECTION 2. Each House shall judge of the qualification of its members, but contested elections for members of either House shall be determined by the court of common pleas of the county in which the returned member lives, in such manner as shall be prescribed by law.

SECTION 3. Each House shall keep a journal of its proceedings, and publish them daily, 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 Journals.

SECTION 4. Either House shall have power to punish for contempt or disorderly behavior in its presence, to enforce obedience to its process, to preserve order in the House or in committees, protect its members against violence or offers of bribes, or private solicitation, and with a concurrence of two-thirds, expel a member for misconduct, not a second time for the same cause, but a member who has been expelled for corruption shall not be eligible thereafter to either House. Punishment for contempt or disorderly behavior shall not bar an indictment for the same act.

SECTION 5. No law shall be passed, except by bill, which shall be preceded by a

preamble briefly reciting the reason of the Legislature for its passage, and no bill shall be so altered or amended in the course of its passage through either House as to change its original purpose.

SECTION 6. Bills may originate in either House, but may be altered, amended or rejected in the other. No bill shall be considered unless reported from a committee, and printed for the use of the members.

SECTION 7. No bill shall be passed containing more than one subject which shall be clearly expressed in its title, except appropriation bills.

SECTION 8. Every bill shall be read at length on three different days in each House, all amendments thereto shall be printed before the final vote is taken, and no bill shall become a law unless on its final passage the vote be taken by yeas and nays, the names of the persons voting for and against be entered on the Journal, and a majority of the members elected to each House be recorded on the Journal thereof, as voting in its favor.

SECTION 9. No amendment to bills by one House returned to the other for concurrence shall be concurred in except by the vote of a majority of the members elected to the house to which the amendments are so returned, taken by yeas and nays, and the names of those voting for and against recorded upon the Journal thereof; and reports of committees of conference shall be adopted in either House, only by the vote of a majority of the members elected to each House taken by yeas and nays, and the names of those voting for and against recorded upon the Journals.

SECTION 10. No law shall be revived, amended or the provisions thereof extended or conferred by reference to its title only, but so much thereof as is revived, amended, extended or conferred, shall be re-enacted and published at length.

SECTION 11. The Legislature shall not pass any local or special law.

Authorizing the creation, extension or impairing of liens.

Regulating the affairs of counties, cities, townships, wards, boroughs or school districts.

Changing the names of persons or places.

Changing the venue in civil or criminal cases.

Authorizing the laying out opening, altering or maintaining roads, highways, streets or alleys.

Relating to or incorporating ferries or bridges.

Vacating roads, town plots, streets or alleys.

Relating to cemeteries, grave-yards or public grounds.

Authorizing the adoption or legitimating of children.

Locating or changing county seats, erecting new counties, or changing county lines.

Incorporating cities, towns or villages or changing their charters.

For the opening and conducting of elections or fixing or changing the place of voting.

Granting divorces.

Erecting new townships or boroughs, changing township lines or borough limits.

Creating offices or prescribing the powers and duties of officers in counties, cities, boroughs, townships, election or school districts.

Changing the law of descent or succession.

Regulating the practice or jurisdiction of or changing the rules of evidence in any judicial proceeding or inquiry before courts, aldermen, justices of the peace, sheriffs, commissioners, arbitrators, auditors, masters in chancery or other tribunals.

Regulating or extending the powers and duties of aldermen, justices of the peace, magistrates or constables.

Regulating the management of common schools, the building of school houses and the raising of money for that purpose.

Fixing the rate of interest.

Affecting the estates of minors or persons under disability.

Remitting fines, penalties and forfeitures, or refunding moneys legally paid into the treasury.

Exempting property from taxation.

Creating corporations, or amending, renewing or extending the charters thereof.

Granting to any corporation, association, or individual, any special or exclusive privilege, or immunity.

Granting to any corporation, association, or individual, the right to lay down a railroad track.

Nor shall any bill be passed granting any power or privileges in any case, where the manner, form, or authority, to grant such powers and privileges shall have been provided for by general law, and in no case where a general law can be made

applicable, nor in any other case where the courts have jurisdiction, or are competent to grant the powers, or give the relief asked for.

SECTION 12. No local or special bill shall be passed, unless public notice of the intention to apply therefore shall have been published in the locality where the matter or thing to be affected may be situated, which notice shall be at least sixty days prior to the introduction into the Legislature of such bill, and in the manner to be provided by law. The giving of such notice shall not be waived by any person or interest, and the evidence of such notice having been published, shall be exhibited in the Legislature before such act shall be passed.

SECTION 13. The Speaker of each House shall publicly in the presence of the House over which he presides, while the same is in session, sign all bills and joint resolutions passed by the Legislature.

SECTION 14. The Legislature shall prescribe, by law, the number, character, duties and compensation of the officers and employees of each House, and no payment shall be made from the State Treasury or be in any way authorized to any person, acting as such officer or employee, except they shall have been elected or appointed in pursuance of law.

SECTION 15. All stationery, printing paper and fuel used in the legislative and other departments of government, shall be furnished, and the printing, binding and distributing of the laws, journals, department reports and all other printing and binding, and the repairing and furnishing the halls and rooms used for the meetings of the Legislature and its committees, shall be performed under contract, to be given to the lowest responsible bidder, below such maximum price, and under such regulations as shall be prescribed by law. No member or officer of any department of the government shall be in any way interested in such contracts, and all such contracts shall be subject to the approval of the Governor, Auditor General and State Treasurer.

SECTION 16. No law shall be passed which shall operate to extend the term of any public officer, nor to increase or diminish his salary or emoluments after his election or appointment.

SECTION 17. All bills for raising revenue shall originate in the House of Representatives, but the Senate may propose amendments as in other bills.

SECTION 18. The general appropriation bill shall embrace nothing but appropriations for the ordinary expenses of the Executive, legislative and judicial departments of the Commonwealth, interest on the public debt, and for common schools, all other appropriations shall be made by a separate bill, each embracing but one subject.

SECTION 19. The general appropriation bill shall, before it becomes a law, be presented to the Governor. If he disapprove the bill, or any item or appropriation therein contained, he shall communicate such disapproval, with his reasons therefor, to the House in which the bill originated, who shall enter such reasons at large upon the Journals thereof, and immediately proceed to re-consider such bill or the separate items thereof disapproved. All items in said bill not so disapproved shall have the force and effect of law. Any item so disapproved shall be void unless re-passed by two-thirds of each House. And as to such bill or any item disapproved the vote shall be taken by yeas and nays, the names of the persons voting yea and nay to be entered on the Journals of each House according to rules and limitations hereinbefore prescribed as to other bills.

SECTION 20. No appropriation shall be made to any charitable or educational institution not under the absolute control of the Commonwealth, except by a vote of three-fourths of all the members elected to each House.

SECTION 21. No appropriation shall be made to any person or community nor to any denominational or sectarian institution, corporation or association for charitable, educational or benevolent purposes.

SECTION 22. The credit of the Commonwealth shall not in any manner or event be pledged or loaned to any individual, company, corporation or association whatever; nor shall the Commonwealth hereafter become a joint owner or stockholder in any company, or association, or corporation.

SECTION 23. The Legislature shall not authorize any county, city, borough, township or incorporated district, by virtue of a vote of its citizens or otherwise, to become a stockholder in any company, association or corporation, or to obtain money for, or to loan its credit to any corporation, association, institution, company or individual.

SECTION 24. The Legislature shall not delegate to any commission of private

persons, corporation or association any power to make, supervise or interfere with any public improvement, or to levy taxes, or perform any municipal function whatever.

SECTION 25. The Legislature shall not create offices for inspecting, weighing or guaging any merchandise, produce, manufactures or commodity; this shall not, however, affect any office created, or to be created, to protect the public health and safety, or for supplying the public with correct standards of weights and measures.

SECTION 26. No act of Assembly shall limit the amount to be recovered for injuries to person or property, and in case of death from such injuries, the right of action shall survive, and the Legislature shall prescribe for whose benefit such actions shall be prosecuted.

SECTION 27. The power to change the venue in civil and criminal cases shall be vested in the courts, to be exercised in such manner as shall be regulated by law.

SECTION 28. No money shall be paid out of the treasury, but in consequence of appropriations made by law, and on warrant drawn by the proper officers in pursuance thereof.

SECTION 29. No obligation or liability of any railroad, or other corporation held or owned by the Commonwealth, shall ever be transferred, remitted, postponed or in any way diminished by the Legislature, nor shall such liability or obligation be released except by payment thereof into the State Treasury.

SECTION 30. No bill shall be passed giving any extra compensation to any public officer, servant, employee, agent or contractor, after services shall have been rendered or contract made, nor providing for the payment of any claim or part thereof now existing, or hereafter created against the Commonwealth, without previous authority of law, and all such unauthorized contracts and agreements shall be void.

SECTION 31. Every bill which shall have passed both Houses, shall be presented to the Governor, if he approves 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 re-consider it. If, after such re-consideration, two-thirds of that House shall agree to pass the bill, it shall be sent, with the objections, to the other House, by which like-

wise it shall be re-considered, and if approved by two-thirds of that House, it shall be 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 and against the bill shall be entered on the Journals of each House respectively. If any bills shall not be returned by the Governor within ten days (Sundays excepted) after it shall have been presented to him, the same shall be a law in like manner as if he had signed it, unless the Legislature, by their adjournment, prevent its return, in which case it shall be a law unless he shall file the same with his objections in the office of the Secretary of the Commonwealth, and give public notice thereof by proclamation within thirty days after such adjournment.

SECTION 32. No corporate body for banking and discounting privileges shall be created or organized in pursuance of any law, without three months previous public notice at the place of the intended location, of the intention to apply for such privileges in such manner as shall be prescribed by law. Nor shall a charter for such privilege be granted for a longer period than twenty years, and every such charter shall contain a clause reserving to the Legislature the power to alter, revoke, or annul the same, whenever, in their opinion, it may be injurious to the citizens of the Commonwealth, in such manner, however, that no injustice shall be done to the corporators.

SECTION 33. The Legislature shall have the power to alter, revoke or annul any charter of incorporation now existing and revocable at the adoption of this Constitution, or any hereafter to be conferred by or under any law, whenever in their opinion it may be injurious to the citizens of this Commonwealth, in such manner, however, that no injustice shall be done to the corporators. No law hereafter enacted shall create, renew or extend the charter of more than one corporation.

SECTION 34. Every order, resolution or vote to which the concurrence of both Houses may be necessary (except on the question of adjournment) shall be presented to the Governor, and before it shall take effect be approved by him, or being disapproved, shall be re-passed by two-thirds of both Houses, according to the rules and limitations prescribed in case of a bill.

SECTION 35. Any bill passed in disregard of the provisions and directions pre-

scribed in this article shall be void and of no effect, and when the validity of any law passed by the Legislature is questioned in any court of record, it shall be competent for such court to inspect the Journals of either House, and if it does not appear thereon that all the forms of legislation in both Houses, as hereinbefore prescribed, have been observed in the passage of such law, the same shall be adjudged by such court to be void.

SECTION 36. A member of the Legislature shall be guilty of bribery, and punished as shall be provided by law, who shall solicit, demand, or receive or consent to receive, directly or indirectly, from any corporation, company, or person, any money, testimonial, reward, thing of value, or personal advantage or promise thereof, for his vote or official influence, or with an understanding, expressed or implied, that his vote or official action in any way is to be influenced thereby, or who shall, after his election and during his term of office, consent to become or continue to act as the agent, attorney or other employee of any corporation or person, knowing such corporation or person has or expects to have any personal or special interest in the legislation of the Commonwealth.

SECTION 37. Any person who shall directly, or indirectly, or by means of or through any artful or dishonest device offer, give, or promise any money, goods, thing of value, testimonial privilege or personal advantage to any Executive or judicial officer, or member of the Legislature of this Commonwealth, to influence him in the performance of any of his public or official duties, shall be guilty of bribery, and punished in such manner as shall be provided by law.

SECTION 38. The Legislature, at its first session after the adoption of this Constitution, shall provide by law to compel any person who may have offered, or promised a bribe, or solicited, or received one to testify against any person who may have committed the offence of bribery as defined in the foregoing sections, and the person so compelled to testify shall be exempt from punishment for the offence concerning which he is so required to testify, and of which he may be guilty, and any person convicted of the offence of bribery, as hereinbefore defined, shall, as part of the punishment therefor, be disqualified from holding office or position of honor, trust, or profit, in this Commonwealth.

SECTION 39. Nothing in the foregoing sections shall affect the validity of any existing statutes in relation to the offence of bribery.

SECTION 40. A member who has a personal or private interest in any measure or bill proposed or pending before the Legislature shall disclose the fact to the House of which he is a member, and shall not have the right vote thereon.

THE REPORT OF THE COMMITTEE ON LEGISLATION.

The Convention then resolved itself into committee of the whole, Mr. Armstrong in the chair, on the report submitted by Mr. Harry White, chairman of the Committee on Legislation.

Mr. KATNE. Mr. Chairman: I offer the following amendment to go in at the end of the section.

The CLERK read: —

[Mr. HARRY WHITE addressed the Convention. His speech, the manuscript of which was furnished to him for revision, has not been returned. It will be published hereafter.]

Mr. J. S. BLACK. Mr. Chairman: This is a subject upon which I speak with great reluctance. But I am deeply anxious about it. I do most devoutly believe that the destiny of this Commonwealth, and perhaps that of the whole country, depends upon the decision to which this Convention may come. I beg a brief hearing.

It will be admitted that the legislative function is by far the most important one in any free government. It is the supreme power of the State. All others are insignificant in comparison to it, inasmuch as all the others are bound to obey its will. The Executive is absolutely controlled by it in all the details of his administration. It marks out the path in which he shall walk, and it is able to punish him severely for any departure from it. The Legislature cannot appoint the judges; but it can do more, it can command them what they shall do after they are appointed. All the legal justice we get is manufactured at the seat of government and sent down in bulk to the courts, where it is distributed among the people according to the wants and merits of each individual. The Legislature regulates the practice of the courts, makes and un-makes the rules of evidence and furnishes the standard of decision for every cause. It defines all public offences and supplies the remedy for every private wrong. All rights and all obligations are protected

and enforced in the way that it prescribes, and cannot be either protected or enforced at all without its aid and assistance.

The members of the Legislature are the custodians and trustees of all public property. They can sell it, or give it away, or they can increase it by making additional purchases. The taxing power enables them to descend as deep as they please into the pockets of the people of every class, and it has absolute control, and appropriates all the revenue after it is collected.

What is a still higher consideration, they are the guardians of public morality. It depends upon them whether virtue shall be promoted, or vice and crime be encouraged. The theory is that the Legislature, being the supreme power of the State, commands what is right and prohibits what is wrong, and, in a certain sense, the mere command or prohibition does of itself make it right or wrong. What we are taught in the Bible is certainly true, that they who frame iniquity into a law, compel the people to become workers of iniquity.

The time was, Mr. Chairman, when the State of Pennsylvania, then a mere colony, containing, perhaps, less than fifty thousand inhabitants, had a reputation throughout the earth for independence, justice, peace and good order—for everything that goes to make up the happiness of an organized society. There was no portion of the world from which the eyes of the best and wisest men were not turned in admiration towards this community. All this resulted from the wise and just system of laws adopted by the illustrious founder of the colony. We lost our character as fast as we abandoned the principles upon which the early settlers conducted their legislation. As we can trace the grandeur, the honor, the high reputation of the State to the just laws of the earliest time, so we can read the history of her shame and her misfortunes in the statute books of a later period. If we can now but unite the high tone of public morality which pervaded our legislation in the better days of the State with the wealth and science of the present generation, then you may hope to see this Commonwealth set higher than ever, the envy and the example of all the world. Without infusing into our new Constitution something which will have that effect, at least in degree, our institutions must, before a very long time, rot to pieces.

What we want above all things upon

the earth, is *honest legislation*; and when I say we *want* it, I use the word in the double sense of needing it, and lacking it.

After all that has been said upon this floor, it cannot be denied that the Legislature of the State of Pennsylvania has habitually and constantly, for the last twenty-five years or more, betrayed the trust reposed in its members; and this has gone so far, that we must have reform if we would not see our institutions perish before our eyes. The horrible character and extent of the evil, will be appreciated when you recall the solemn words of the gentleman from Dauphin, (Mr. MacVeagh,) the chairman of the Committee on Legislature. His position in this Convention, to say nothing of his character and conscience, would make him extremely cautious not to be guilty, even of the slightest exaggeration, upon so grave and important a topic. He told us that corruption of the Legislature was a cancer at the heart of the State, which was eating its very life away. Another gentleman, the delegate from Erie, (Mr. Walker,) without intending to be at all condemnatory, but rather the reverse, declared that it was no use to swear the members of the Legislature, because they were, to his certain knowledge, so utterly degraded that they would take the oath and then immediately lay perjury upon their souls, without scruple and without hesitation. I believe him, for he certainly knows whereof he affirms. The evil fame of this thing has gone forth through the length and breadth of the country inasmuch that the gentleman from Indiana, (Mr. Harry White,) the chairman of the Committee on Legislation, vouches for this statement: That when one of his colleagues in the Senate was traveling in Connecticut, and it became known that he was a member of our Legislature, that fact alone raised a presumption against his honesty so violent, that there was some hesitation about letting him go into an unoccupied room, least the portable property to be found there might disappear when he went out. There was a time when membership of our State Legislature was a passport to honor and admiration everywhere, from a Parisian drawing room to the cottage of a peasant. Now that same Legislature is a stench in the nostrils of the whole world.

There are about seventeen gentlemen on this floor who were formerly members of the Legislature. Of course they passed through the furnace of that temptation

without the smell of fire upon their garments. While they have no sympathy with crime, they must naturally be anxious to make the best defence they can, for the reputation of that body to which they once belonged. But instead of a defence, all they can do is to hang their heads and acknowledge, with shame and sorrow, that the accusations are true.

The cry against this corruption comes up, not only from every part of this House, but from every quarter of the Commonwealth. It is borne to us on the wings of every wind. In his speech of this morning, the gentleman from Indiana (Mr. Harry White) acknowledged that the universal demand for a reform of these abuses had brought this Convention together, and without that it never would have been called. Nor is it a mere popular clamor. It is founded upon incontestible facts which have passed into the domain of history, and will stand there forever.

As long ago as 1836, the Bank of the United States pushed its charter through the Legislature, partly by direct bribery and partly by a base combination of private interests, which were openly and shamelessly avowed upon the face of the bill itself. The speculation exploded in the course of a short time; but it scattered destruction everywhere, and brought desolation to a thousand firesides. It disgraced the character of the State; destroyed her credit; reduced her public securities to forty cents on the dollar; branded her with repudiation, and made her name a hissing by-word among all the nations. The perpetrators of that atrocious outrage were never called to any account, and their impunity was an invitation to all others to go and do likewise. For years afterwards, the other banks, combining themselves together, corrupted the Legislature and robbed the public according to the statutes in such case made and provided.

In process of time another class of corporations grew up, composed of more adventurous men with larger capital and with a more plausible claim to public favor.

I think that everybody who has looked at the history of our railroad system will admit that in its original organization it was intended for good and proper purposes. It promised necessary improvements which could not have been made in any other way. One of them, organized to make a road from Harrisburg to Pitts-

burg, undertook the duty under a charter, every part of which is marked with cautious wisdom. If that company had been kept within the limits originally assigned to it, its career must have been entirely beneficent. But its organization gave it an influence upon the Legislature which it used unsparingly. It swallowed up nearly all the property that the State ever had. It took it substantially as a gift; the five or six millions it paid was no consideration for the fifty or sixty millions it got. But that is not all; the gift of this immense domain was followed by a surrender, upon the part of the Commonwealth, of her right to collect her own revenue, amounting to millions more, and which belonged to her as much as the purse in your pocket belongs to you.

Mr. CUYLER. My friend alludes to the repeal of the tonnage tax.

Mr. BLACK. I do; the learned gentleman understands me rightly. I refer to that fatal, that perfidious statute which the Legislature, the lobby and the railroad company conspired to pass, disarming the State of her just right to collect the duty, which was her own, of three mills upon each ton of produce carried. It was a terrible wrong; for it ground the face of labor to pour a great stream of wealth into the imperial treasury of a corporation which had no claim of right to it. By such dereliction of duty on the part of the Legislature, that corporation has grown so mighty that its little finger is thicker than the loins of the Commonwealth which created it. I do not say that it bestrides your narrow State like a Colossus, for the ancient Colossus of Rhodes was but the image of a pigmy in comparison to this Colossus of railroads. Her stride is across the continent from ocean to ocean. Her head is in the clouds and the arms of her gigantic power stretch out on either side from one horizon to the other.

I hope my very good and most amiable friend from the city (Mr. Cuyler) will take no exception to what I am saying. I would fain speak no evil, either of him or his clients. I know that he never tampered with the Legislature and never advised anybody else to do so. On his brow such a shame as that would be a shame to sit. Nor am I complaining of the corporators themselves. I will take it for granted, if he asserts it, that there is not a man belonging to the Pennsylvania railroad that would not run away from any proposition to make money for it or by it.

He may say, if he pleases, that they have impoverished themselves by going about to do good for the public, or that if they have a little more than their share of wealth, it has been thrust upon them against their will. But this I do say, that the several Legislatures which have stripped me and my fellow-citizens of our just rights, to clothe this corporation with imperial power were treacherous to their duty and basely unfaithful to their high trusts.

Other corporations have powers similarly bestowed and nearly as great. Four of them have had the advantage of the loose legislation at Harrisburg, so as to secure monopolies a thousand fold more oppressive than that which made the name of Sir Giles over-reach infamous in the dramatic literature of England. What was the exclusive privilege of selling sweet wines in the reign of Elizabeth compared to the power which puts its own price upon every basketful of anthracite coal that is consumed in a country like this?

All of the companies represented in this body—nay, my friend on the left (Mr. Gowan) need not protest. I do not say that the Reading railroad is represented here. He represents the same constituent body that I do; he is as faithful as I am; and we are both as true as steel. But I have some idea that my learned friend on the right (Mr. Cuyler) is, or was once connected—most honorably of course—with the Pennsylvania railroad as counsel.

MR. CUYLER. Mr. Chairman: I beg leave to remind my learned friend that I have had his assistance in that capacity.

MR. BLACK. True; those gentlemen, or some of them, have been my clients, and I desire to speak respectfully of them for that reason, if for no other. They have been, and they probably will be again, when they have a perfectly good and just case and want a thoroughly honest lawyer. [Laughter and applause.]

But, Mr. Chairman, the unfaithfulness of the Legislature is the subject with which we are dealing. Let us pass to another point in the arraignment. After the corporators were through with her she had left to her about nine million dollars—the remnant of a once magnificent fortune. That sum was deposited in what was called the sinking fund. It was placed there with special care. It was hedged around with constitutional interdicts. It was declared with the utmost solemnity in the fundamental law itself that it should be applied to no other pur-

pose than the payment of the public debt. Yet a combination of private interests was organized to rob the State of this last residuum. A ring was formed; the Legislature and the lobby gave it their united sanction; they dived into the sinking fund and came up with the nine millions in their hands. The grab was nearly successful; it was defeated only by the interposition of the Governor's veto.

These are only a few of the instances in which the Legislature has proved treacherous. I have not mentioned one in a hundred. Nor have I selected the worst cases. Let any gentleman who wants fuller information look at the two papers made by Mr. Jordan, the late Secretary.

The whole system, according to his description of it, is saturated with corruption from the crown to the toe. It has gone so far that the veto power is utterly incapable of stopping it. He declares that if the Governor would try to stop it, combinations would be made against him, and render him as powerless as the driver of a runaway team after his reins are broken.

But there is one fact stated by him, which will astound you when it is mentioned. He says that the office of Treasurer is the most lucrative in the State. Its profits must, therefore, exceed the enormous sums received by the officers of the State House row in this city. This, he says, induces a regular scramble for the treasurership on the first week of every session; and then he adds that the votes which elect the Treasurer are notoriously bought by the successful candidate. The significance of that simple statement of the Secretary will hardly be understood without a little reflection. Remember that the Treasurer is paid by a fixed salary.

MR. HOWARD. Five thousand dollars per annum.

MR. BLACK. No man holding that office can, by any possibility, make out of it one cent beyond the \$5,000 allowed him by law, without being guilty of some act as dishonest as the plainest stealing that ever was done by a common thief. Yet, somehow, the Treasurer of the State gets off from his office enough to buy up a majority of the Legislature, and after making all the deductions necessary for his re-imbursement of that expense, there is enough left in his own pocket to enrich him beyond any other officer. These things, mind you, are not all done at once. The Treasurer does not take all of this sum at one grab; nor does he buy up

the members by wholesale. He has to make a separate bargain with each individual. If you could suppose one of these Treasurers to be convicted of every distinct offence that he has been guilty of in a year, and then suppose him to be sentenced according to law, upon each conviction, what would become of him? At the most moderate calculation you can make, it would take him at least fifteen hundred years to serve his time out in the penitentiary, [laughter,] and for a portion of that period he would be accompanied by a majority of the members of the Legislature. [More laughter.] These are the men that are entrusted with the collection and expenditure of all your revenue, with the control of all your public affairs, and with the power which gives or withholds security to your lives and property.

But, Mr. Chairman, I do not know that we ought to blame the members of the Legislature too severely. Something ought to be allowed for the temptations with which they are surrounded. They walk among snares, and pit-falls, and man-traps. In fact they do not represent us. We are not governed by the men we send there. Our masters are the members of the lobby. They are organized into a third House, whose power is overshadowing and omnipotent. They propose the laws that suit themselves, and the interested parties who send them there. The other Houses simply register their decrees. That our rights and liberties should be in such hands is disgusting in the extreme, for they are generally the most loathsome miscreants on the face of the earth.

My friend from Dauphin (Mr. MacVeagh) spoke of legislation under the figure of a stream, which, he said, ought always to flow with crystal water. It is true that the Legislature is the fountain from which the current of our social and political life must run, or we must bear no life; but as it now is, we keep it merely as "a cistern for foul toads to knot and gender in." He has described the tree of liberty, as his poetic fancy sees it, in the good time coming, when weary men shall rest under its shade, and singing birds shall inhabit its branches and make most agreeable music. But what is the condition of that tree now? Weary men do, indeed, rest under it, but they rest in their unrest, and the longer they remain there the more weary they become. And the birds—it is not the wood-lark, nor the thrush, nor the nightingale,

nor any of the musical tribe that inhabit the branches of our tree. The foulest birds that wing the air have made it their roosting place, and their obscene droppings cover all the plains about them;—the kite, with his beak always sharpened for some cruel repast; the vulture, ever ready to stoop upon his prey; the buzzard, digesting his filthy meal and watching for the moment when he can gorge himself again upon the prostrate carcass of the Commonwealth. And the raven is hoarse that sits there croaking despair to all who approach for any clean or honest purpose.

Mr. Chairman, this state of things cannot go on without bringing us to utter destruction. It is getting worse and worse, and our institutions must utterly perish if we do not stop this mischief. We may preserve the forms of republican government, but the substance will pass away and with it will depart all that is perfect in politics, all that is pure in morals, all that makes life, liberty and property secure; all that makes existence in a free country worth having.

Shall we stand by and see this prodigious ruin rushing down upon us without an effort to arrest it. No surely not. But seeing that we are sent here for the very purpose of stopping it, we will perform our duty, and, with the help of the living God, we will succeed in our mission. We will deliver our good old Commonwealth from the body of this death.

But how shall that end be accomplished? I admit that it is possible to answer this question in different ways, when we come to the details of the remedy. But the common sense and common honesty of the people as represented here will make us unanimous at least on this; that the remedy shall be efficient, radical, thorough and complete. We will not insult our constituents by offering them mere palliatives for the hideous malady with which they are afflicted. They know and we know that this is not a case for the quackery of half-hearted measures. We must cut the cancer out. A surgical operation on a vital part of the body, if it be not entirely successful, always hastens the death of the patient.

I am thoroughly persuaded that there is some fatal defect in our American system of legislation. It has failed ignominiously wherever it has been tried. It is not only here in Pennsylvania that we have rotten representatives and dishon-

est legislation. The same evil is found in the other States. It exists in its worst form and operates on its grandest scale in the Legislature of the Union. What is the cause?

The President of this Convention (Mr. Meredith) struck the point when, speaking of the misconduct of members of the Legislature, he said that it was because they were not responsible and nobody was responsible for them. Washington said long ago that irresponsible power could never be safely trusted in human hands. By irresponsible power I mean power which may be abused without calling down any punishment upon the heads of those who commit it. In this respect all our Constitutions are anomalous. They are a series of commands without any sanction to enforce them. This is particularly and emphatically true with regard to those who execute the supreme power of making your laws. You trust the members of your Legislature implicitly. The framers of the federal Constitution, who were imitated in all the States, seem to have thought of legislative corruption as the Spartans did of parricide, that it was an impossible crime. The Supreme Court of the United States, in *Fletcher vs. Peck*, influenced by this delusion because it was embodied in the Constitution, declared that they did not believe in the corruption of a State Legislature, though it was incontestibly proved, admitted by the parties, and found to be true by a special verdict in the very case before them. Now, if anything is established by all human experience it is that no rule of action, no law, no commandment will ever be observed by men who can promote their interests or gratify their passions by breaking it, unless they are deterred by the fear of retributive justice. If you desire men to do right you must punish them for doing wrong. This may seem like a low view of human nature, but we cannot help it; we are as we are made. Men are not equal to angels, and even the angels fell. In all cases every rule of conduct is coupled with a penalty for its violation;—that is in all but ours, and it is true of ours in all except the fundamental and most important part of it. This is also the principle which runs through the divine law. Almighty God, who created the heart of man, understood the impulses which would govern it, and he annexed a sanction to every one of his commandments. There is no *brutum fulmen* in the Bible. The first law that ever was made

for the regulation of human conduct is, in this respect, the model upon which every other has been framed: "On the day thou eatest thereof thou shalt surely die." And if Satan had not managed to convince our first parents that the penalty would not be inflicted, the fruit of the forbidden tree would never have been tasted.

Can there be any reasonable doubt that corruption reigns in the Legislatures of all the States and in Congress, for the reason that it can be practiced with perfect impunity? Can you or do you expect any thing else from a body of men whom you surround with temptations of every kind to lure them into crime at the same time that you tell them they shall suffer nothing if they commit it? Such a system can not and it will not come to good. You might as well hope to gather grapes from thorns or figs from thistles.

In deciding upon the nature of the punishment which these great criminals ought to suffer, we must not consult our blood but our judgment. Our new laws must have no *ex post facto* operation, and the penalties, though certain, must be moderate even for future offences. No sentiment of vengeance must seek its gratification here. If the honest citizens of the State who have been so basely betrayed by these miscreants would obey the impulse of their natural indignation, and had infinite power to work their will upon them, they would set them upon the remotest battlement of God's creation—far out upon the borders of chaos and old night—and then lash them naked around the circumference of the universe through all eternity. But human punishment can be inflicted only for the purpose of defending society; all beyond that must be left in the hands of divine justice: "Vengeance is mine, saith the Lord; I will repay."

We must look, therefore, to see by what means we can prevent these crimes, and confine ourselves solely to defensive measures. While we should avoid that kind of mercy to the guilty which is cruelty to the innocent, we must not lay a hostile finger on the most atrocious criminal, except in so far as that may be necessary to reform him or to deter others. To do even that would not be either wise or just, unless we accompany it by some regulation which will relieve them from the temptations to which they are now exposed. It would not be fair to surround members of the Legislature with snares set for their virtue and then pun-

ish them when they lose it. Let us weaken the motives to evil at the same time that we strengthen those which impel towards right. So may the preponderance always be on the proper side of the scale.

I will now enumerate the measures in which we propose to embody these vital reforms. I hope the Convention will believe as I do, that if adopted they may save us from the greatest of all public calamities, and at the same time give no trouble or even inconvenience to any honest and upright man whether in or out of the Legislature.

I. *Confine the power of the Legislature within limits as narrow as possible consistently with a proper regulation of our affairs.* This cannot be done to any great extent. A free people must have legislation, and the freer they are the more they need it, for there can be no liberty without law. The various opinions and diversified interests of such a people as are ours, multiply the laws that are necessary for their government. After limiting the power of the Legislature as much as you can, you must still leave it in possession of a great deal. Indeed you can scarcely diminish it in any perceptible degree; and what is left in its hands is liable to be as frightfully abused, as if none was taken away.

II. *Prescribe certain forms of proceeding which will insure deliberation and publicity.* I need not specify these forms. You find them in the report. They require a bill to be reported by a committee, and then read through and through, not once or twice, but three times in each House; the final vote to be taken by yeas and nays, and recorded; each bill to have but one object, and that expressed in its title; every law to be preceded by a preamble, expressing the reasons of the Legislature for assenting to it; the final passage of the law to be concurred in by a majority of members elected to both Houses, and after passage, the title of it to be publicly read immediately before it is signed by the Speaker. These forms will do much to prevent hasty and thoughtless legislation, and make it much more difficult than it is now for members to commit frauds upon one another by clandestinely procuring the passage of bills which a majority do not consent to. But they will not throw any serious impediment in the way of injurious legislation to which a majority of the members can be induced to consent. The

most iniquitous laws we are cursed with have been passed without resort to the tricks which these forms are intended to prevent. Corrupt combinations are made every day which carry a majority, with their eyes wide open, through all frauds, and as Secretary Jordan tells us, strong enough to break down the Executive, armed though it be with the veto. While, therefore, these provisions are salutary and desirable, they are not sufficient of themselves to save us. I proceed to show what more seems to be necessary.

III. *Define bribery so as to include all sorts of corruption.* When a member is to be corrupted, he is not in one case out of a hundred offered money in the plain form of a *quid pro quo*. Almost never is a contract made in words that the vote shall be sold for a certain price paid down as promised. The money is presented as a gracious gift or as a testimonial of the donor's affection—it is slipped into the pocket of the member without a word, or it is placed under his pillow, where he finds it. Most commonly the object is reached by a wider *circum bendibus*. The member is employed as attorney for the party interested in his vote, and the bribe comes in the shape of a fee for other services. It is not at all unusual for members who are considered respectable to let themselves be bought in this way. Still oftener the end is accomplished by giving the member an interest in the subject matter, whose value is to be affected by his vote. The stock of a corporation is distributed "where it will do most good," or the member is taken as a partner, into some speculation which he is to promote by procuring legislation. In a thousand ingenious ways it may be made his private interest to disregard his public duty. All these ways are equally corrupt, and the people owe it to themselves to stop them.

IV. *Extinguish the lobby at once and forever, by making all private solicitation of members by interested parties or their agents a criminal offence.* This is so obviously proper and right that it can hardly be necessary to vindicate it. The hirelings of corruption have organized themselves into a "third house," they have usurped the power which the Constitution gives to the other two; they exercise the supreme legislative authority of the State; the Senate and House of Representatives are degraded into their mere tools, and I repeat that they are the most loathsome wretches that are suffered to live in the world. All men agree to this as a

matter of fact. Nobody doubts the omnipotent power of the "third house" or the evil purposes for which it is used, nor has any one ever suggested the least possible good that can result from its continued existence. The total abolition of this "third house" is demanded not only to secure the weak from temptation, but as a measure of protection to the strong and upright from insult and annoyance. By adopting it you purify the Legislature instantly and restore the honor of your government; for there never has been any bribery, corruption, or other improper influence which did not come privately and secretly in that way. Let no man say that we desire to cut off communication between the Representative and his constituents. All public means of expressing his opinions and wishes are to be left open; the right of petition shall be as sacred as ever; the privilege of being openly heard before committee shall be carefully secured; the right of the people to assemble and speak their will, or to discuss their affairs through the press shall not be denied. The Representative ought to be controlled in some measure at least by an enlightened public opinion, but it is not necessary for that purpose that he should open his ear to the insulting whispers of the miscreants who now dog him up and down the board-walk, and follow him to his lodgings, and stand behind his chair when he votes.

V. *Make all fraudulent acts of the Legislature void.* As the law is now held by all the courts a legislative grant, whether of money, lands or privileges, is sacred and inviolable, no matter how clearly you can prove that it was obtained by fraud, deception or bribery. This doctrine was established seventy years ago by the Supreme Court of the United States in *Fletcher vs. Peck*. The case itself was a fraud; it was made up at Boston by two men who lived in Tennessee, both of them having the same interest in the same fraudulent grant, and the counsel who pretended to argue it was employed and paid to give the cause away. This is not publicly known, but I assert it on the authority of Judge Catron, who knew the parties well, and was often told by both of them that the case was a sham, and the judgment collusive. The principle apparently decided by it is not found in the common law, and is directly in conflict with common sense and plain justice. It violates all the analogies of our jurisprudence. Not only private grants but judi-

cial decrees and executive concessions are pronounced mere nullities, when brought into contact with any kind of corruption. Yet the grossest fraud upon the public or upon individuals when committed by or through the Legislature is consecrated and protected. It has wrought intolerable mischief. It gives infinite encouragement to the worst form of public immorality. It shelters every villain of a certain class who can get away with his booty; and stifles inquiry into the worst wrongs by making it practically useless. If legislative acts were void from corruption, what man or what corporation would think it worth while to pay bribes? We can and ought to abolish this absurd and iniquitous principle. Let it be done with such reservations as will prevent any loss to innocent people, but let us cease to pay a premium for legislative rascality.

VI. *Swear or affirm every member before he takes his seat that he will not only support but obey and defend the Constitution in all things.* The oath to support it required by the federal Constitution, was intended as a mere test of political opinion, to exclude the enemies of the new government from office. To support does not mean to obey. You support the church when you rent a pew and pay the preacher, though you do not square your moral conduct by its precepts. But this preliminary oath being promissory in its nature, I do not think it just to make the subsequent violation of it punishable as perjury. Where it has been taken in good faith, with pure intent to keep it, a breach of the promise it expresses does not justify a charge of false swearing. That among other reasons makes it necessary that there should be another oath or affirmation upon which perjury can be assigned.

VII. *Require every member at the close of his last session to render an account of his stewardship to his own constituents at home.* Make him swear or affirm, specifically, that he has obeyed the Constitution, that he has not listened to private solicitation, or taken any bribe, or knowingly done any other act in his official capacity interdicted by the fundamental law. If his hands are clean he will be willing to show them. If they are not, and he declines to show them, the public can have no further need of his services, and he should not be eligible to the same or to any other office. The necessity of taking this last oath will effectually cut him off from all intercourse with known lobbyists, and free him completely from in-

proper influences, for unless he is a moral monster, he will not do a thing with the preconceived determination to swear that he has not done it. I do devoutly believe that this measure, connected with the others proposed, will make our legislation as pure as it was in the days of William Penn.

In conclusion, let me call the attention of gentlemen to the resemblance between these provisions and those which prevail in analogous cases of a private nature. A member of the Legislature is charged with the administration with the most important trusts known among men. If any body should be held, and held hard, to his duty, it is he. Yet we only propose to enforce his obligations by the same means which we use against a private trustee. When an executor, administrator or guardian takes his duty upon him, you swear him to obey the laws. When he goes out you compel him to render an account, on oath, in which he specifies the particular acts he has done, and if he swears falsely, you indict him for perjury. And if he serves his own interests by making a contract in fraud of his *cestui que trust* you hold his *et* to be void. Why should not the great trust of a legislator be subject to the same rules? Is it because you are willing the public trust shall be betrayed, but desire the private one to be honestly administered? This will hardly be the answer of those who oppose us. What it will be I know not.

MR. CUYLER. Mr. Chairman: I confess it is with considerable self-distrust that I rise to say a few words in answer to part of that which has fallen from the eloquent and distinguished gentleman (Mr. J. S. Black) who has just addressed this Convention. With much that he said I cordially agree. I listened with earnest sympathy to those brilliant and eloquent words in which he described the condition of the legislation of Pennsylvania, and I share with him in as earnest a hope as he can possibly indulge, for the application of efficient remedies for the ills we complain of. I confess, sir, that I have no hope of remedy in the direction of which the gentleman speaks, for I am profoundly convinced that a man who would take a bribe, whether that bribe were a money bribe, or that more insidious form of bribery than the use of money, which is more often employed, the man who would take a bribe in any form, would take the oath precedent and subsequent provided for by the amendment of the gentleman

from Fayette, (Mr. Kaine,) as it has been read in your hearing, and thus calmly disregard it. It is not by oaths, it is not by promises, it is not by pledges, that dishonest men are to be made honest, or untruthful men are to be made truthful. We are to find our remedy, if at all, far back of all this, for unless we have a healthful public sentiment, and unless we have a healthful public action, consequent upon that public sentiment, we shall utterly fail to have any redress, unless we shall provide for purity in our elections, honest nominations, a fair expression through the ballot-box, we shall fail to find any remedy for the ills of which we complain; and if we cannot remedy those things, as I have said before upon this floor, it were better that we abandon our republican system of government and confess it a failure and substitute something else for it.

While I admit the danger, as I say I have no hope in the remedy in the direction to which the gentleman has pointed; not that I would condemn the oath required to be taken by the members of the Legislature before they take their seats; ancient usage and precedent, the custom of all the States and countries reasonably support the propriety of such an oath; but I am sorry to say that I am an utter unbeliever in the thought that gentlemen are afterwards influenced, as they should be, by that oath, and their action as members of the Legislature in any adequate degree controlled by it. If they go there as impure men; if they go there from impure motives and with impure purposes; that oath, nor the oath which is taken afterwards, will restrain them one step in that dishonest direction in which they have been induced to walk.

Now, sir, the learned and distinguished gentleman, alluding to me personally, acquitting me personally, of any participation in, or sympathy with any one of the wrongs he so eloquently condemns, nevertheless denounces interests which I am not ashamed to confess I have a strong sympathy with, and of which, in courts of justice, and in the community, I have been a recognised and not a regretful advocate.

I am not here to say that the great corporate interests of this Commonwealth have not influenced and induced legislation; but I am here to say that they have influenced and induced legislation only because it was necessary for them to protect them-

selves from the assaults which dishonest men made upon them, and from the efforts made in the Legislature to take away from them that which they lawfully possessed, or to prevent them from acquiring that which the interests of the Commonwealth demanded they should acquire; and I will be pardoned if, following the gentleman who has just addressed the committee, I advert very briefly and impulsively to a few thoughts which he has presented here, and which he has regarded as illustrative of the truth for which he is contending.

I understood the gentleman to say that the legislation which spoke into existence, in the first instance, the Pennsylvania Central railroad company, was wise and salutary legislation, but that much of the legislation which succeeded it was unwise and injurious. The great works of internal improvement of the Commonwealth had preceded the building of that road. The Commonwealth herself had founded her great lines of internal improvements in this State by legislation as early as the year 1836, but they had ceased—though nobly useful in their day and generation—to achieve the purpose for which they had been created. This usefulness, once great, had largely disappeared. Consisting of lines of railroad and canal, constructed in the infancy of the engineering art, once answering the purposes for which they were made. Coming now in competition with improved lines of railroad from the Atlantic cities and connected with the far west, they had ceased to be profitable to the Commonwealth or to the people of the State. Then it was that the Commonwealth, expressing—I wish I could say the unanimous—it ought to have been unanimous—expressing the almost unanimous sentiment of the people of the State, authorized the construction of the lines of the Pennsylvania Central railroad company, which lines were but a protraction of the road built by the Commonwealth, which extended from Philadelphia to Columbia, and Harrisburg to Pittsburg.

The Commonwealth—unwisely, as I think and shall presently show, indeed I am amazed at this late day that it should be necessary that I should say a word in support of such an idea—the Commonwealth, for the purpose of re-paying her own supposed loss upon her own lines of internal improvement, when she had authorized the construction of the road from Harrisburg to Pittsburg, imposed a tax of three mills per ton per mile upon all

freight which should pass over the road. Now that was an unreasonable tax. It is always an unreasonable tax to impose a burthen upon your great lines of internal improvement, just as much as it is always an unreasonable tax to impose a burden upon your raw material which you propose to manufacture, or to impose a burden upon the implements and machinery and tools that you use in its process of manufacture.

It were just as sensible for one about to build a mill to construct his race to his mill, then put a dam across his race, as it is for the Commonwealth to construct or to authorize the construction of great lines of internal improvement and then burthen them with charges that sometimes paralyze and always diminish the usefulness of these great and useful public works. It is just as illogical and just as unreasonable for a miller to dam his race as it is for the Commonwealth to charge that burthen upon her great lines of internal improvement. Cheap transportation and unburthened improvements is the great policy of the State, the policy which more than any other develops State, gives value to her property, secures her citizens in the exercise of their individual rights and enables them to cover the whole Commonwealth with the grand fruitage of their labor.

But what was the result of all this? Why the result of all this was, that the Commonwealth gained more money than she ever earned before from the operation of her lines of internal improvement in the increased trade which poured over that portion of her works which extended from Harrisburg and Columbia to the city of Philadelphia, by reason of the protraction of these railways westward to Pittsburg. I mean to say simply this: I mean to say that the increased revenue from what was popularly known as the Columbia railroad, the increased revenue to the Commonwealth by reason of the protraction of that road from Harrisburg to Pittsburg exceeded in amount all that the Commonwealth had ever reaped in the highest days of her prosperity from her own lines of internal improvement. She was the gainer, largely a gainer, and more than that, Mr. Chairman, had it not been for the construction of that extended line from Harrisburg to the city of Pittsburg, the competition of railroad lines extending from New York, from Boston, from Baltimore and the seaboard would have dried up and destroyed utterly the

whole trade of the public works except in so far as it had been a purely local trade.

But more than this. I speak, sir, with exact accuracy as to the general facts I state, but at this distance of time and called upon suddenly on the spur of the moment, to state what I do state I am unable to give the precise detail of figures. But I say, Mr. Chairman, that during the four or five years which preceded the year 1857, which was the date of the passage of what is known popularly as the main line acts, that the Commonwealth operated these works at a loss to her treasury at no time less than \$1,000,000 per annum, and after a time approaching \$2,000,000. These very public works, even after all the benefits accrued to the State from the increased transit over the Columbia railroad, were operated at a loss to the Commonwealth of from \$1,000,000 to \$2,000,000, and this loss was steadily increasing each successive year.

But again, sir, as I look at yonder vacant seat and to these walls, hung around with tokens of sorrow, I am saddened to feel that I cannot appeal to that excellent gentleman who once held office as one of the Canal Commissioners of the State, but who has departed from us forever—our late friend, Mr. Hopkins. But I do appeal to the elderly gentlemen of this Convention, who will sustain me in what I say, that no more frightful source of corruption, no more productive source of dishonesty, lack of integrity and general demoralization to the politics of Pennsylvania and the integrity of her people, than the control and possession of these great lines of public works ever existed in our Commonwealth. Gentlemen may talk here of the corruption of the Legislature. Gentlemen may speak of the condition to which we have been reduced there, but gentlemen who know how our lines of internal improvement in this State were operated prior to the year 1857, will be compelled to bear me witness of the truth of what I say, that the whole politics of the State of Pennsylvania was controlled, degenerated and demoralized by the possession of these very lines of public works.

What, then, Mr. Chairman, after all this demoralization?

Mr. J. S. BLACK. I deny that it is true. There may have been a few stealings here and there of small amounts, but it was nothing to the large robberies that have since occurred.

Mr. CUYLER. Mr. Chairman: Can it be possible that at this period in the history of the State of Pennsylvania, any gentleman should doubt that this demoralization existed?

Mr. J. S. BLACK. It is true!

Mr. CUYLER. Can it be possible that I should now be called upon to prove that the politics of this State were demoralized by the possession of these public works?

Mr. J. S. BLACK. No demoralization at all. They were an honor. [Laughter.]

Mr. CUYLER. I apprehend, sir, that my friend is speaking sarcastically. I do not suppose he is speaking seriously.

Mr. J. S. BLACK. Not sarcastically at all.

Mr. CUYLER. Surely my friend cannot be serious. No man understands better than he that the records of this Commonwealth are burthened with the evidence of this demoralization.

Mr. J. S. BLACK. Let us have them.

Mr. CUYLER. I can produce them here, and I will produce them. We all know that the records of the Legislature teemed with reports of investigating committees, who exhibited the dishonesty which prevailed in the administration of these works. The record of the truth of my statement is in the bosom of every surviving Pennsylvania statesman, a witness in the heart of every pure and honest man who hears me, who was old enough to comprehend passing events. While my friend denounces the operations of a great private corporation of immense aggregated capital, which is worked in the interests of its stockholders and is watched over and controlled by them, and says it is necessarily corrupt, will he undertake to say in the same breath that all the lines of public improvement, which were owned, controlled and managed by the politicians of a great State, are not, by the law of nature, necessarily corrupt? Could they be otherwise? If it be true that this private corporation degenerated into corruption such as the gentleman describes, can it be otherwise, then, that these works of the same character, which were administered by politicians elected for political purposes and operating these lines for political ends, did not necessarily degenerate into utter corruption?

Mr. BLACK. Mr. Chairman: I did not make any accusation of corruption against the Pennsylvania railroad company, or any other railroad company. I did not intend to make any against the gentleman himself, or against his clients, nor

against my clients, nor against anybody that expects to be my client. Nor do I propose that anything shall be taken away from them that they have already acquired. What is vested is vested, and what is writ is writ. But I hope, simply, that the gentleman will agree to promise now not to ask for any more privileges or more power than what they have already got, and that if they do get any more they must get it by other and different means altogether from that by which they have acquired that which they have already possessed. If he will leave us with the burdens that have been already fastened on our backs, and give us an honest Legislature for the future, this State is strong enough to walk away under these burdens like Sampson with the gates of Gaza on his shoulders. [Laughter.] But we object to being crushed down as fast as our strength grows, and to be pressed down so that we can never be able to walk away.

MR. CUYLER. Mr. Chairman: I have no clients here. I am not here as the representative of any corporation, or as the counsel of any company, but I am here as a member of this Constitutional Convention, not unmindful, I trust, of the obligation of the oath I have taken. I am prepared to say, and I am sure my friend who has just interrupted me, and who, by this time, ought to know me well, will endorse me when I say that the wealth of the Pennsylvania railroad company will not buy me on this floor to advocate anything which I did not sincerely believe. I think I know the gentlemen who administer the affairs of that corporation well enough to say that they will not venture to ask me, nor if they had the courage, would they desire to do so. It is not in the interest of any corporation; it is in the interest of truth, it is in the interest of justice, it is in the interest of fair dealing and in the interest of the people of this Commonwealth that I am here, although I cannot indulge much hope, sir, when a gentleman of the breadth of mind, the splendid culture and the masterly eloquence of my distinguished friend who has addressed you, is incapable of rising above these small prejudices and smaller feelings. I cannot hope that men of lesser growth and smaller stature will be able to do it.

But, Mr. Chairman, I have described the condition of things which existed in this Commonwealth in the year 1857, when the act for the sale of the main line was passed. I have described it as a condition

of things in which the Commonwealth was losing steadily from one to two millions of dollars per annum; I believe a reference to the books of the Auditor General will sustain the truth of what I say; in which the Commonwealth was losing from one to two millions of dollars per annum by her public works, and was nursing in her bosom a serpent of the wickedest possible character and dimensions. And, however my learned friend may have denied what I say, I reiterate it, and I appeal to the convictions of gentlemen whose memory carries them back to that time, for the truth of my statement, when I say that the argument that mainly carried in the Legislature of this State the bill under which the public works of the State were afterwards sold, was the conviction of the honest public men of Pennsylvania, that the demoralization of the State which resulted from the administration of these works was an evil of transcendent magnitude, which grew hourly before their eyes. Then it was, Mr. Chairman, that in 1857, wisely, thoughtfully, and for the best interests of the Commonwealth, the State passed the main line act of 1857, and authorized the sale—not to the Pennsylvania railroad company—but authorized the sale at public auction to the highest bidder of the main line of her public works. They were put up at auction to the highest bidder. The whole Commonwealth, and the whole land were invited there to competition in that purchase. Corporate authority and power was provided in the body of the bill for any citizens of the Commonwealth, or elsewhere, who should desire to come in and buy this line of public works, in fair, honest competition, at public sale. And they were sold, and they were bought for seven millions and a half of dollars. Further, let me say that after a debate, most earnest and most protracted, as sagacious a man, as able a man, as honest a man, whose integrity is as pure as that of the driven snow, President Thompson, of the Pennsylvania railroad company, did record his vote, and it so stands upon the minutes of the board of directors against that purchase, as being against the sound policy of the company, because the price paid was far beyond its true value.

[Here the hammer fell.]

MR. BROOMALL. Mr. Chairman: I move the gentleman from Philadelphia have leave to proceed without limit. Unanimous consent being given, Mr. Cuyler continued.

Mr. CUYLER. Mr. Chairman: I am reminded by a gentleman who sits behind me of the fact, that Governor Pollock, then Governor of the Commonwealth of Pennsylvania, in his message to the Legislature, insisted that it were better for this Commonwealth to give away this line of public works than to hold them; better give them away to anybody who would take them, than that the State should continue to hold them with a loss of millions of dollars, and seas of political and financial corruption in their administration. Then it was that they were put up for sale. Then it was that they were bought, as I have said, and this Commonwealth, in consequence of that purchase, became the gainer.

First. By receiving seven millions and a half of dollars for that which not only was worthless to her, but was a positive sink and loss of money.

Secondly. By getting rid of demoralization, of which I have spoken; and

Thirdly. By the advantage of that great line of public improvement which has enabled this city and this Commonwealth to compete with the other cities and Commonwealths upon the Atlantic seaboard, in the transaction of the great business which extends and daily increases between the seaboard and the interior and western and southern parts of the country. What words of mine, what eloquence of the most accomplished orator of this or any other Convention—nay, can even the splendid utterances of my distinguished friend from York over-state, or adequately state in its fullness and power, the grandeur of the benefits which have thus accrued to this Commonwealth. So that it was from no selfish motive, but in the exercise of a wise and practical statesmanship upon the part of the Legislature of the State, co-operated with on the part of the railroad company, that at fair public sale, where the fullest and most lowest competition from the whole land was invited, that the Pennsylvania railroad company bought this great line of public works—bought it, charged with the tonnage tax, to which I have referred. "There," says my learned friend, (Mr. Black,) "was a stupendous instance of the vast iniquity which has attended the legislation of this Commonwealth, so far as the interests of that corporation are concerned." For whose benefit was the repeal of the tonnage tax? Here is a tax of three mills per ton per mile imposed upon freight carried from the interior—from the west-

ern part of the State to the seaboard. In other words, the farmer of Westmoreland county, the farmer of Allegheny county, the farmer of any of the western counties of the State had to pay a tax to get his grain to the seaboard, of three cents per bushel, or of ten cents per barrel, while the farmer of Bucks, or Berks, or Lancaster counties, or any of the counties nearer to the seaboard, got their grain to the seaboard either without the tax or at a price greatly diminished, by reason of their greater proximity to the seaboard than those who live in the western part of the State. So that the people of the Commonwealth, after all, had to pay this tax; and for what? That the Pennsylvania railroad company might get unreasonable compensation? Not at all.

The people of the western part of the State found that there was imposed on them a discriminating duty, or tax, as against their interests for the benefit of the man who lived near the seaboard. That was the foundation of the repeal of the tonnage tax. On what principle shall a farmer or a manufacturer, or any body else in the distant portions of the State, pay a tax upon his labor and his skill and his industry, while the man who lives here shall not be required to contribute his part equally and fairly? What mattered it to the Pennsylvania railroad company? It had but to impose this tax upon the freight that was carried over its line, and then pay it into the State Treasury. It was, therefore, but the collector of the tax for the State. Its private interests were not involved particularly by it. The repeal was little to them but to the people of this Commonwealth it was an interest of transcendent value and importance.

Mr. J. S. BLACK. Will the gentleman allow me to interrupt him one moment?

Mr. CUYLER. Certainly.

Mr. J. S. BLACK. Did the law which abolished the tonnage tax reduce the rates of fare proportionately, or at all?

Mr. CUYLER. Yes. The "commutation tonnage act" of 1881, in its third section, limited the company to the then tonnage tariff sheet, and made them deposit a copy of that sheet in the office of the Secretary of State—certainly in one of the public offices—and limited the charges of the company to the rates in that sheet—rates not to exceed those.

Mr. J. S. BLACK. That included the three mills?

Mr. CUYLER. I suppose it did.

Mr. J. S. BLACK. Then they just went on making the same charges upon every thing going over the road, as they had before, and instead of putting the money into the treasury of the State, they put it into their own pockets?

Mr. CUYLER. The gentleman has no authority for saying that. The rates of charge by railroads are, I suppose, guided somewhat like the rates of charge of all other enterprises by the laws of trade and by competition. A private corporation, created to establish a line of internal improvement, must be operated in competition with other lines of internal improvement; and it cannot establish a rate of charge higher than that established by others, or it gets no business. It cannot establish rates that are unreasonably high, for that tends to the establishment of competing lines, just as unreasonable profit by a merchant or manufacturer induces the establishment of other like mercantile enterprises or like manufactories. In other words, the mistake which my friend makes—the point which he, in his great intellect, broad cultivation and noble statesmanship, fails to rise to, as might perhaps have been expected only from minds less than his, is that he does not perceive that the same laws of business and trade which govern private individuals—the private manufacturer and the private dealer—laws as eternal as those of truth and justice themselves—must of necessity apply also to private corporations. No merchant, or manufacturer, or corporation can long thrive who conducts his or its business without due regard to these laws, for just so true as there is a God, and God's laws are eternal—just so true is it that that individual or that corporation who does so must ultimately succumb if it persists in violating those laws.

I might add here, that I contended earnestly in the discharge of professional duty, with the grand assistance of the distinguished gentleman who presides over this Convention, and of that other great man who has departed—Mr. Stanton—in the courts of Pennsylvania, and would have done so at Washington, if necessary, that that tonnage tax was an unconstitutional tax—unconstitutional as being a burden upon the trade of other States which passed through our State; unconstitutional as of operating as an unequal burden upon the citizens of our own State—not a fair and equal tax. The Supreme Court of Pennsylvania, divided three to

two, declared so to hold, but the Supreme Court of the United States, within the last three weeks, has so held. The Supreme Court of the United States then, had the Legislature not repealed the tonnage tax of 1861, would have held it unconstitutional and the Commonwealth of Pennsylvania would have lost by the decision of that court, the tax for which my distinguished friend (Mr. J. S. Black) so earnestly pleads before this Convention. But what more? This very act of 1861, distributes \$800,000 among the various railroads of Pennsylvania, for the development of the trade and the resources of the State. The State got rid, first, of an unreasonable burden upon her own industry and her own commerce. She got rid, secondly, of that which it now appears, and was then contended to be, unconstitutional; finally, she developed her own internal resources grandly, by the establishment of additional lines of internal improvement, by which almost numberless millions have been added to the wealth and the resources of the State.

I will refer to a single other fact, because the distinguished gentleman himself (Mr. J. S. Black) alluded to it. He talks about a raid on the Sinking Fund. What does he mean? Why, he means that some nine millions of dollars worth of property, that was yielding to the State six per cent. revenue, and otherwise was dead, should be exchanged for other property which should rest on precisely the same foundation of safety and security to the State, while, instead of being dead, it should be vitalized and invigorated, and made a mighty engine for the promotion of the wealth and prosperity of the State. He means that the State herself should not be the loser, if he puts the case fairly, as I have no doubt he intends to do, that the State herself should not be the loser one single fraction of the capital of this money, or of the security by which it was made safe to the State, and that the State, instead of locking up in her coffers these nine millions of money, should make them vital, and active, and vigorous in the development of the resources of the Commonwealth. It failed, not by "the salutary veto" of the Governor, for the veto of the Governor was singularly unwise and unjust; and did not my respect for the dead compel me to silence, I could prove here what I say.

I beg pardon of the Convention, however, for having been betrayed into saying so much as I have in response to that

which fell, so unexpectedly to me, from the lips of the distinguished gentleman from York (Mr. J. S. Black.) I am not here as the advocate of the Pennsylvania railroad. I am here simply to express my amazement that at this period of the history of the State, a gentleman of the breadth of mind of that distinguished gentleman, should lament that these developments in the business and the prosperity of the Commonwealth, should have taken place. Why let him go back to the condition of things existing in 1857. Let him then contemplate this Commonwealth, growing to its present vast proportions, in wealth, prosperity and happiness through these very measures he condemns as moral, then where would Pennsylvania be? Her population, a million less than it is to-day; her wealth, but one-half what it is to-day. Instead of being the grand spectacle that the eyes of the world now gaze upon with delight and satisfaction by reason of the wisdom of her citizens, and the prosperity that their wise applications of capital have developed in this State, she would be far, very far, behind nearly half the States of this Union. I could not consent to be silent when an engine of such vast good to Pennsylvania, one whose vast resources, as I know, have been applied with so much wisdom and integrity, aye, sir, *integrity*, to the promotion of the best interests of this city and Commonwealth, was denounced, without at least uttering a word in its defence. It did not need it, however, not in this city of Philadelphia. I said, sir, *integrity*. I am not here to say, as I stated when opening, that there is no corruption practiced upon the Legislature by those great corporations, but I am here to say that the necessities upon these corporations to defend the rights and interests given to them, from plundering and from vicious hands, and the necessity that these corporations should grow with the growth of the country, and not within vigorous manhood, be clothed in the swaddling clothes of infancy. It is that necessity which has brought about this condition of things. The people of Pennsylvania, while they send many honest and many honorable men to their Legislature, send many men there, and I am sorry to say, some from Philadelphia, whose motives are just as base as the most eloquent words which my distinguished friend (Mr. J. S. Black) could possibly employ could describe.

It will not be until the people of Pennsylvania arrive at some method by which they can select honest legislators, and when they have selected them can secure their return to the Legislature, that we shall ever come to walk in the right path in this matter. Our remedy will not be by changing things only for the worse, not by taking men who are scoundrels and villains, and administering to them oaths of fidelity and expecting them to change their nature. Not by forgetting that the man who will take a bribe will take that oath as readily as he will take a bribe, or as he will, when hungry, take a meal. No, sir, you cannot make men honest by oaths. You must go farther back. I do not doubt the integrity of the people of Pennsylvania. I have belonged all my life long to that class in politics which recognizes the ultimate integrity and honesty of the people of the State. I do believe in their integrity. I do believe that if you can appeal to the heart and conscience and to the intelligence of the people of Pennsylvania, they would cleanse this cage of unclean birds more speedily than Hercules did the unclean stables. All we have to do is to make the people of Pennsylvania know and feel in their heart of hearts what the peril is that surrounds them, and my word for it, when they wake up to action it will be to realize the expression of my learned friend, (Mr. J. S. Black,) who likened it to the feat which Samson performed in walking off with the gates of Gaza upon his back. Sir, they will trample out of existence the men who are doing these things of which they complain. They will bring us back to the grand old days of this Commonwealth, and they will give us a Legislature that will not be a by-word and reproach to the whole country, a Legislature that will be filled with men of integrity, of honesty, of ability, and of character; men of whom the whole State and whole nation may well be proud.

Mr. MOTT. Mr. Chairman: I cannot sit quietly in my seat and listen to what has been said here to-day without raising my voice to controvert some of the charges that have been made by gentlemen who have participated in this discussion. One gentleman, after looking around this Convention and seeing that our old friend, Col. Hopkins, has gone from us to return no more, concluded that there was nobody else here that would say anything in defence of the Canal Board. The "inevitable

Mott," as the venerable President of this Convention once called me, is here, however, and will answer for himself, in so far as he was connected with that board.

Now, sir, in the first place, the gentleman from Philadelphia (Mr. Cuyler) is very much mistaken when he says that at the time the improvements were sold the State was losing from one to two millions of dollars a year by the management of its public works. Such was not the case, and the statistics will show that the gentleman made a misstatement.

I will give the Convention a little of the history of those times, and of the transaction referred to. I then had the honor to be a member of the Canal Board. I was elected in 1854, and took my seat in the board in 1855. I found, when I got there, that the Pennsylvania railroad had bought off the two firms which did most of the transporting upon the main line of the public improvements, and that in consequence, we were left with greatly diminished means for transportation upon them. Of the owners of the two lines referred to, one was appointed agent for the region east of Philadelphia, to get freights for the Pennsylvania railroad company upon their lines, and the other was appointed to a similar position west of Pittsburg. The first year that I was in the Canal Board, in consequence of having no power ourselves under the law to supply means of transportation, and having to depend entirely upon legislation, we could do nothing, and when we called upon gentlemen who we supposed were able and willing to take hold of, and provide the necessary furniture and fixtures for transportation, we were told by them that it would not be safe for them to do that, because the agents of the Pennsylvania railroad were constantly agitating the sale of the improvements, and perhaps they would be sold out and then those furnishing means of transportation would be left with a large stock on hand. Therefore, the first year, the main line did not pay what it should have done. It is true that the Philadelphia and Columbia division paid as much, if not more than it had paid before, because the Pennsylvania railroad was throwing its freight upon it in addition to that supplied by the public improvements belonging to the State.

Such were some of the difficulties we had to encounter during the first year of my management in consequence of the movements of this anaconda, which wound its coils about public interests at that early

day. What was expected came to pass sure enough. The next winter application was made, and a bill was introduced for the sale of the improvements. This virtuous Pennsylvania company had "nothing to do with it." Certainly not. Mr. Thomson certainly could not have had, for "he voted against the purchase," if we are to believe what the gentleman tells us. Well, that is all very well for buncombe. I, as President of the Canal Board, instituted a proceeding in the Supreme Court for an injunction against the purchase of the public works by the Pennsylvania railroad company, and I think the question raised was argued and defended pretty ably by the employees of Mr. Thomson and his Pennsylvania company. It resulted, however, in the court declaring that the lines might be sold, but that the Legislature should not transfer the tonnage tax and the right of taxation with the sale. In that manner and by their own action the managers of the Pennsylvania company thus reduced the value of the improvements belonging to the State. In the bill of sale they were authorized to abandon certain sections of the canals, which we had been obliged to keep up at a considerable expense and loss.

In the publication made by the Board of Canal Commissioners, just before the sale was consummated, we showed very clearly that if the Legislature had allowed or empowered us to do what they empowered the Pennsylvania railroad company to do, we could make the public improvements pay an interest on fifteen millions of dollars instead of on seven and a half millions only. We could have done this beyond a doubt. Gentlemen need not tell me that there were not corrupt means made use of in that transaction. I know something about that. I know some of the "boys" that got the corruption money, [laughter,] but I am not going to "peach" on them, [laughter,] because I am not a public "inform-er." I know very well when the question of that tonnage tax repeal came up, that the agents of the Pennsylvania company did try to defeat me by sending a man up to my district with from three to five thousand dollars to render my nomination for the State Senate impossible. They knew, sir, that "Inevitable Mott" would be on hand to help defeat the tonnage tax repeal bill, and he *was* there. I was not offered money myself, but my wife was offered \$25,000 to "influence" me to vote for that repeal, and

\$13,000 to secure my vote for giving the rest of the works away to these fellows up the river here, [laughter,] but she had spunk enough to say to the would-be bribers: "No! we are poor, very poor; but," said she, "I have always traveled with Henry with his head up, and he cannot go back to his county and mine with that sort of money in his pocket." [Laughter.] These, sir, are *facts*. So it is of no use for gentlemen to talk to me about the "virtue" of this Pennsylvania railroad company. But I expect I have said enough.

["Go on! Go on!"]

Well, all I have to say is, that I have nothing against the Pennsylvania railroad company. I had hoped that that whole thing had been forgotten. I did not expect to have to defend the Canal Board in this Convention, neither do I care specially to do it, having been myself a member of it. There is one thing, however, that I can say of it: I went into that board with such men as William Hopkins and Thomas H. Forsyth, and I went out of it with Arnold Plummer and George Scott; and I do not believe there were four more honorable men than they to be found in the State of Pennsylvania. During the time that I was Canal Commissioner there was not a dollar of defalcation among any of the collecting or disbursing agents, or others connected with the large fund involved in the operation of the public works. There never was an investigation into the conduct of any member of the Canal Board in the history of this State; but I do remember, and would remind the gentleman from Philadelphia, that there was an investigation ordered to be made into the means employed to secure the repeal of the tonnage tax, and that a certain official of this virtuous Pennsylvania company fled the State, and remained absent for months to escape that investigation. [Laughter.] And yet we are to be told, on this floor, that the members of the Canal Board were a "corrupt" set of scoundrels, engaged in corrupting the politics and morals of the State. Let me tell gentlemen that we were no such thing. On the contrary, sir—and with this remark I will close what I have to say on this subject—we served the people of Pennsylvania as faithfully as men could do, and as efficiently as was possible under the circumstances, taking into account the fact that we were impeded and hindered by this hydra-headed monster, the Pennsylvania

railroad company, [laughter,] which was ever surrounding us on every side with open jaws. [Renewed laughter.]

Mr. MACVEAGH. Mr. Chairman: I desire to offer, as an amendment to the amendment now offered, the two sections reported by the Committee on the Legislature, and numbered in the report of that committee as paragraphs ten and eleven. They are as follows:

Tenth. Every member of the General Assembly, before he enters upon his official duties, shall take and subscribe the following oath or affirmation: "I do solemnly swear (or affirm) that I will support the Constitution of the United States and the Constitution of the State of Pennsylvania, and will faithfully discharge the duties of Senator (or Representative) according to the best of my ability; and I do solemnly swear (or affirm) that I have not paid or contributed anything, or made any promise in the nature of a bribe, to corrupt or influence, directly or indirectly, any vote at the election at which I was chosen to fill the said office, and I do further solemnly swear (or affirm) that I have not accepted or received, and that I will not accept or receive, directly or indirectly, any money or other valuable thing, from any corporation, company or person, for any vote or influence I may give or withhold on any bill, resolution or appropriation, or for any other official act.

Eleventh. The foregoing oath shall be administered by one of the judges of the Supreme Court, in the hall of the House to which the member is elected, and the Secretary of State shall read and file the oath subscribed by such member; any member who shall refuse to take said oath shall forfeit his office, and every member who shall be convicted of having sworn falsely to, or of having violated his said oath shall forfeit his office, and be disqualified thereafter from holding any office of profit or trust in this State.

The committee will remember that when this matter was before the Convention on a former occasion, it was postponed, at the instance of the gentleman from York, (Mr. J. S. Black,) and of several other members, until we could have the alternative oaths to be reported, one by the Committee on Legislation, and one, possibly, by the Committee on Constitutional Sanctions. I assume that both these propositions are now before the committee, and in order that the entire subject may be brought before them, I have ven-

tured to offer these paragraphs as an amendment to the amendment.

The gentlemen of the committee will understand the marked difference between the three propositions. The Committee on Legislation propose simply the present oath and an oath that the member has not been guilty of bribery to secure his own election, nothing more—nothing as to his discharge of his official duties, except the general oath that he will discharge them with fidelity. The gentleman from York (Mr. J. S. Black) or the gentleman from Fayette (Mr. Kaine) proposes to amend the section as reported by the committee, by providing an oath to be taken upon the final completion of the official labors of the Representative, in which he shall swear that he has not corruptly used his office, and that upon failure to take such an oath, or upon swearing falsely thereto, he shall be rendered ineligible for re-election. The Committee on the Legislature thought it wise to present an oath for your consideration, of a three-fold character, as I once before stated; first, the general oath of fidelity to the fundamental law of the nation and of the State, and the usual declaration of the discharge of the duties of the office with fidelity. Secondly, that he comes to the discharge of his duties with clean hands. Thirdly, God helping him, he will leave it with hands as clean. I have listened in vain for any reason why this oath should not be adopted.

It is a preliminary asseveration that up to that time he has not soiled his conscience, and a prayer for the help of God, through all his official labors to prevent him from soiling that conscience while he remains in office. It was suggested that such an oath was degrading. I trust that consideration has disappeared in view of the flood of light which this morning has been let in from every quarter of the house upon the great danger which menaces free institutions in America. We must be thankful that the morning has not been spent in vain, for there is a consensus of authority at last that American legislation is for sale to the highest bidder, and whoever born on our soil and claiming to be an American citizen can look that admission in the face and not be clothed with humiliation as with a garment, will vote against any proposition tending to correct the evil, but those of us who know that the evil exists, who recognize the truth of the unanimity of opinion expressed here this morning, and who

will seek as with a lighted candle to find some remedy, at least some partial cure, for this terrible disease, this menacing peril, will, I think, agree to support a more stringent oath than has been reported by the Committee on Legislation. It does not seem to me that it is necessary to travel backwards to distribute a share of blame for our present sad condition greater in one corner than another. I hold, Mr. Chairman, that every member of this Convention—I admit frankly that I am in the number—is in his measure and place responsible for the evil that exists. On a former occasion I trespassed upon your time to state then that the corruption in our legislative borders was only one of the results, perhaps one of the inevitable results, of the era of material prosperity in which you live, and of the great works which have been constructed to develop that prosperity; and it does not seem to me so very important to go to yesterday or last week, or last month, or last year to ascertain what portion of blame attaches to this corporation, or to that individual. It is far more important, I think, that we should all admit to-day that the evil exists, and that we ourselves may fall the victims of this temptation to-morrow. As good men as any of us have fallen in the past, and we should endeavor to discover some antidote; we should endeavor to erect some barrier against its further spread.

It is enough to know that the broad statement of the gentleman from York (Mr. J. S. Black) is not only true of the Legislature of this State, but is true of the Legislature of almost every American State, and apparently of the National Government itself; that the men elected to frame your laws do not frame them, but that an infamous and corrupt lobby surround the Legislature, and controls its action for private advantage. Now, in some way we must put up barriers that will, if possible, be impassable between the lobby and the Legislature, at least we must do what we can in that direction. We must do what we can to make the profession of the lobbyists impossible, and if we do that we will do much to purify this fountain from which our evils flow.

Considering the average character of American representatives, I believe it must be useful to require these gentlemen at the threshold of their entrance upon official life, to swear that they will not entertain association with the lobby. Certainly that will go a little way. It can

do no harm; it may do some good. Degrading to anybody? I beg gentlemen to believe there is no degradation for the proudest in the land, to stoop to the lowest service in order to help to save American liberty and American government, in these days of their trial, and unless some will help in this work they cannot be saved, and I trust, therefore, that we will at least go to the extent suggested. I do not know how the laws discussed this morning were passed. I do not know that corrupting influences were used or were not used. I do not know whether the Executive veto was interposed or withheld from improper consideration, but I know this, that the public interest is shamelessly disregarded, and that corruption stalks unabashed in your legislative halls throughout all the American States, and even in the National Capitol itself; and knowing that, I believe that the professional lobbyist is largely the instrument whereby the money is carried to the representative, and I will go "as far as the farthest" in any measures calculated to make that profession henceforth, in Pennsylvania, an impossibility; at least I will put up the barriers of self-respect, all the barriers of conscience between the legislator and the corrupting influences that assail him. I beg the committee to believe, the members are not corrupt to any very considerable numerical extent, when they first assemble at the legislative capitols. It is not true that the men selected to represent this State at Harrisburg are much worse, if any worse, than we are. They are fair, good honest men, from the country districts, known and respected by their neighbors, but they yield, in some instances, and that is only true of a majority, and perhaps not even of a majority, because very good men vote for bad measures for good purposes frequently, but it is sufficiently true to make the whole result a corrupt result, and therefore I do beg of this committee to consider whether it will not be useful to ask the legislator to take an oath before he enters upon his duty, that he will hold no relations with the lobby, that he will never wear their fetters or serve their ends. I do beg of gentlemen to consider, not whether many men will disregard their oaths, not whether, many men will swear falsely, but whether, taking the average farmer, taking the average artisan from the rural districts, whether this oath will not be an added strength to him against the day of his

temptation? Will it not be likely to strike the average legislator as a help to him to resist the evil when it comes?

It is upon that ground, not that it will change the character of men, not that it will cause a paradise of purity and of innocence in legislation, but that it will be at least a little support for virtue and a little barrier against corruption, that I implore gentlemen of the committee to consider it with care, and to decide it as I know they will all desire to decide it, according to what, in their judgment, will be most conducive to the public good.

Mr. HARRY WHITE. Mr. Chairman: I hope the committee will pardon me for saying one word. It strikes me that the proposition now under consideration is exceedingly impractical, and I would be false to my judgment at this moment if I did not say so, and I am surprised at the intelligent gentlemen who have spoken upon the subject, seeking a remedy for an evil in such a movement. It is proposed to provide no member of the Legislature shall have his judgment bound by the decision of a caucus, and every member should be willing to swear that he will not before he enters upon the duties of his office. What does this assume; unquestionably without the oath, that every member of the Legislature—republican or democrat, or liberal, if there be such—is bound, notwithstanding his oath of office, under all circumstances to obey party dictation. I have too much respect for the independence and character of individual members of the Legislature, to assume that they will do so. I have had the honor, if it is an honor, of representing a constituency in the upper branch of the Legislature for nine years, and those who know me best know that there are none more decided in their political convictions in our Commonwealth than I, but sir, I have differed from my party, when we met for consultation, time and again. I voted against apportionment bills twice. Last winter I had the honor of assisting to defeat the Congressional apportionment bill, which was supported by a majority of the members of my own party.

Mr. KATINE. I ask the gentleman whether, if a matter in the Legislature had been agreed upon in caucus of which he was a member, he ever voted against the measure?

Mr. HARRY WHITE. Mr. Chairman: I again say that I have refused to vote

with my party more than once, when my party had resolved upon a certain course of action, after consultation.

Mr. KAINE. The gentleman is begging the question.

Mr. HARRY WHITE. Let me state the case exactly. In common with my associates, I have gone into caucus, consulted about a particular measure, and if I have been satisfied that it was not a proper matter of caucus I would not stultify my judgment, by committing myself to the decision of the majority, and I have left the caucus, and so should any man who values his oath to perform his duty with fidelity above mere party ties. I care not what number of oaths he takes against caucus action, you may pile Pelion upon Ossa mountain high, and you will not affect a change in human nature in this respect. The independent man, the honest man, will always refuse party decisions, when his conscience and convictions prevent him agreeing with a majority of his colleagues. The legislator must not, and does not, always act as a partisan, but as the representative of a free people. Party obligations and decisions cannot hush the still, small voice of conscience. The proposition assumes a depravity in our political organizations insulting to the intelligence and virtue of the people. Sir, the proposition would weaken public confidence in the men you expect to occupy positions in your legislative assemblies. It supposes that after they have sworn to obey the Constitution of the State, and to perform their duty as Senators or Representatives with fidelity, they will disregard this solemn obligation, and rather heed the whisperings of the mere partisan, than vote under the convictions of their judgment and the control of their consciences. I will do no such violence and injustice to the representatives of the people. I am satisfied that this provision will result in no substantial good whatever, and I shall earnestly oppose its passage.

Mr. J. PRICE WETHERILL. Mr. Chairman: I am clearly of the opinion that the amendment, as offered by the chairman of the Committee on Legislature, (Mr. MacVeagh,) is a proper one, and that the sections which he recommends should be adopted by this Convention. I do not intend to occupy the time of the Convention in an argument in regard to the necessity of an oath. That has been gone into very fully by other gentlemen. But I do say that if we require an oath at all

let it be iron-clad, and I do say that the oath as presented by the Committee on Legislature is a much stronger and a much more comprehensive one than the oath as prescribed by the Committee on Legislation. The Committee on Legislation, in their oath, say:

"I, A. B. do solemnly swear (or affirm) that I will support the Constitution of the United States, and that as a member of the Legislature I will in all things support, obey and defend the Constitution of Pennsylvania, and discharge the duties of my office with fidelity. And I do furthermore swear, that I believe myself to be lawfully elected a member of this House, without any false return, bribery, corruption or fraud, committed by me or others with my consent."

I contend, sir, that that is open to objection; that it is not near as strong or nearly so comprehensive as the oath as presented by the Committee on Legislation:

"I do solemnly swear (or affirm) that I will support the Constitution of the United States and the Constitution of the State of Pennsylvania, and will faithfully discharge the duties of Senator (or Representative) according to the best of my ability; and I do solemnly swear (or affirm) that I have not paid or contributed anything, or made any promise in the nature of a bribe, to corrupt or influence, directly or indirectly, any vote at the election at which I was chosen to fill said office; and I do further solemnly swear (or affirm) that I have not accepted or received, and that I will not accept or receive, directly or indirectly, any money or other valuable thing from any corporation, company or person, for any vote or influence I may give or withhold on any bill, resolution or appropriation, or for any other official act."

I will admit all that the gentleman from Philadelphia (Mr. Cuyler) has said in regard to the uselessness of dishonest men taking oaths. I do say that if a man be corrupt and dishonest, oaths may be of little or no use in his case; but, notwithstanding that, I see a value in this section which has not been alluded to in the course of this discussion. It is this: That if a dishonest man shall run for office, and it can be proven upon him that he is guilty of bribery, he by this amendment will lose his place; he is declared unfit for the office and he entirely forfeits it. I can see clearly that in the case of two men running for the same office, one of the men honest and

the other corrupt, both having full knowledge of this oath and this section as law, the honest man can and will watch the rascal, and he will endeavor to detect anything like a bribe, and will make sure of his information and keep it to himself until the proper time comes; and when this dishonest man shall come to the Legislature and show his credentials and shall demand to be sworn in, the honest man can show at once that this man, by his own act, has forfeited and cannot hold the office which he seeks to fill. Here I see the value of this provision—not in the fact that it will in any way make a dishonest man honest—but that the honest man who is running against a dishonest man, or any good citizen, anxious to see the law properly carried out and the purity of the elections maintained, may go up and show that this man was guilty of bribery, and is, therefore, excluded from his seat. There is a point in which, it seems to me, there is very much force in this oath; and I doubt very much whether so much force as that could be secured from the oath submitted in the report of the Committee on Legislation.

Mr. WOODWARD. Mr. Chairman: I am prepared to vote for the double oath of my friend from York, (Mr. J. S. Black,) and if that fails to pass, for the lesser oath of the gentleman from Dauphin, (Mr. MacVeagh,) and, in the last resort, for the oath submitted by the Committee on Legislation.

This body, in its very best aspect, is an educational body. It may be true, as the gentleman from Philadelphia (Mr. Cuyler) asserts, that you cannot reform these old hard-headed sinners by any oath you can lay upon their consciences; it may be true that a man who will take a bribe will take a false oath; but, sir, we have some men growing up in Pennsylvania to be the future legislators, and if you place before them these solemn oaths, as conditions upon which they are to take their seats in the Legislature, and a duty which they are to perform after they have come out of the Legislature, you will, in the process of years, rear up a body of legislators whom you can trust; for the young men who are growing up to be our future rulers, with these oaths staring them in the face, will be admonished that they must be honest in politics; that politics is not a fair business for plunder and bribery and all manner of corruption, which is now the prevalent opinion in Pennsylvania.

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You place before the rising generation a better sentiment—you force it upon their attention. Thus while you may not reform any of our present legislators by your oaths, I maintain that you will most certainly provide the State with future legislators of a better quality by virtue of these very oaths. This thought has been weighing upon my mind, and has inclined me to vote first for the oath proposed by the gentleman from York (Mr. J. S. Black.) I hope it will be adopted, and whatever influence it may have upon existing politicians, be it much or little, I am sure the influence will be salutary upon those who are to come after the present race of politicians.

If the committee is not prepared for so strong a measure, take the proposition of the gentleman from Dauphin (Mr. MacVeagh.) He does not propose a subsequent oath.

I am going to vote for these oaths, and in the order I have named—not that I have any Quixotic expectation that they are going to make base men honest now, but in the reasonable, religious and holy hope that they will make men honest in the future.

I do not enter into the struggle of the giants to which we have listened this morning. I leave this part of the discussion exactly where they have left it. When it becomes necessary for us as a body to decide upon these questions, I shall have something to say before I am prepared to cast a vote. But, for the present, I have nothing to say more than to thank the gentlemen for the argument which they have given us this morning.

Mr. J. S. BLACK. Mr. Chairman: I understand that the first section of the committee's report was proposed to be amended by the gentleman from Fayette, (Mr. Kaine,) by adding this requirement for the oath to be taken after the member goes out. Then the gentleman from Dauphin (Mr. MacVeagh) proposed to substitute the oath reported by the Committee on Legislature for the oath that is in the report under consideration. Now what I desire to know is this: Have we before us now simply the question between the two oaths proposed by the two committees?

The CHAIRMAN. The Chair will state the position of the question. The gentleman from Fayette (Mr. Kaine) moved to amend, by adding at the end of the section an amendment, which was read by the Clerk. The gentleman from Dauphin

(Mr. MacVeagh) moved to amend the amendment, by striking out the amendment of the gentleman from Fayette (Mr. Kaine) and inserting his amendment. If the amendment of the gentleman from Dauphin (Mr. MacVeagh) should be carried, it will be an amendment added to the end of the section, which will then open the entire section, as amended, to further amendment on the part of the Convention.

Mr. Kaine. If the gentleman from Dauphin (Mr. MacVeagh) will withdraw his amendment, I will then withdraw mine, to enable the gentleman from Dauphin (Mr. MacVeagh) to offer his amendment as a substitute for the report of the committee.

Mr. MacVeagh. Mr. Chairman: I withdraw my amendment.

Mr. Kaine. Mr. Chairman: I withdraw my amendment also.

Mr. MacVeagh. I now renew my amendment in the shape of a substitute to the section.

Mr. Cuyler. Mr. Chairman: Is a further amendment to the amendment in order?

The Chairman. An amendment to the amendment is in order.

Mr. Cuyler. I was preparing to amend the section itself, by adding after the word "fidelity," the words "and that I will not submit my individual judgment or action to the decision or control of any caucus or combination of the members of the Legislature."

The Chairman. That cannot be received at this time as an amendment to the section, but it is competent to receive it as an amendment to the amendment.

Mr. Cuyler. Then I move to add it as an amendment to the amendment. Now, half a dozen words in support of his amendment of mine.

It must be entirely practicable for not more than one-fourth of either House of the Legislature to control the legislation of the entire body, and to bring the people of the State to that condition where, although they are entitled to the deliberate thought and action of the entire body, they will have to submit to the action of only a fourth of the body. If we suppose the House to consist of one hundred members, and the dominant party to have fifty-one of these, of which fifty-one a majority will be twenty-six, these twenty-six can, by means of caucus regulations, control the legislation of the whole State.

That the ill exists no one can doubt; that the remedy proposed here is not as effectual as could be desired is to be confessed, but, after some reflection, my mind has not suggested to me any other mode of arriving at the difficulty.

Mr. Buckalew. Mr. Chairman: I will favor and vote for that amendment if it shall be modified so as to read that the member shall not submit his individual judgment or action to a caucus, on the passage of any law or joint resolution. I do not think it ought to apply to nominations to offices. In cases of that kind there does seem necessity for consultation; and we should, perhaps, be disturbing the practice of the country too far by applying this proposition to cases of that sort. What the gentleman (Mr. Cuyler) means and desires, I suppose, is that in the enactment of no law a joint resolution having the force or effect of law—matters in which the public are all interested—shall there be a subserviency of individual, to aggregate judgment among a portion of the members of the Legislature. I am entirely prepared to vote for that.

Mr. Cuyler. Mr. Chairman: I will modify the proposition as suggested by the gentleman from Columbia (Mr. Buckalew.)

Mr. Buckalew: The caucus, as it is organized and used in this country, is a body entirely unknown to the Constitution and laws; and yet, perhaps, it is one of the most efficient instruments of power in practical politics. For my part I am prepared to vote for its abolition in all cases except where its propriety may be vindicated by some fair process of reasoning—as in the case of the selection of candidates for legislative offices and in the selection of candidates for United States Senator or any other candidates who may hereafter be chosen by joint vote of the two Houses of the Legislature, or by either House separately. In cases of that sort there is some reason for it. Practically, at this time, as the gentleman from Philadelphia (Mr. Cuyler) has so well said, by the instrumentality of a caucus you get the rule of but a small portion of the people of the State or country; a majority of the Legislature absolutely controls the ultimate decision arrived at upon any question—upon any act or joint resolution having the nature or effect of law.

It is a power alien to the Constitution, subversive of the just ends of government, and practically, in my mind, is productive of as much mischief in govern-

ment as corruption itself. That is, I know, a pretty strong statement, but I feel myself justified in making it, by reason of that experience and observation which I have had of public affairs.

While I had the honor of serving this State in the federal government for a period of six years, I did not enter a room of consultation more than twice, and regretted my presence on both these occasions. At Harrisburg, however, this caucusing is one of the practical evils in the management of the legislation of the State, and I am entirely prepared to say that one of the most wholesome changes that we can introduce here is the novel proposition of the gentleman from Philadelphia, (Mr. Cuyler,) to extract from the practical operations of the government a power of which the people have no knowledge, constitutionally, over which they have no control, which is irresponsible in the highest degree, and yet which is despotic beyond any other power or principle which takes effect in the practical action of the government.

I say this in view of the fact that I have been hitherto in my life, although moderate possibly in sentiment, strictly and always a party man, willing to submit to any portion of that necessary discipline which is calculated to unite sentiment in a proper manner and direct it to public ends.

It will not impair the efficient action of parties; it will not take away from them any instrument necessary to the accomplishment of their work, but it will deprive a few enterprising and often unscrupulous men in legislative bodies from imposing their private will upon their colleagues, and infusing into the Legislature of the State a poisonous and degrading and despotic element, which is altogether alien to free institutions, and subversive of their just ends. I arose to suggest the modification, so that this power of consultation shall still remain unchecked in reference to the question of candidates to office.

MR. MACVEAGH. Mr. Chairman: I should like members to consider the length to which this will commit the Convention. It prevents upon all matters of legislation, of however political a character—and legislation is sometimes necessarily divided by party lines—it prevents consultation and agreement of opinion in pursuance of party sympathy.

MR. CUYLER. Not at all; it is not so intended.

MR. MACVEAGH. Well, it seems to me to do precisely that; and I do not see how any fair-minded man, who is not a casuist, after taking this oath, could enter into any body of his fellow-members to consult with them, in order to agree upon a common policy to be pursued with reference to any legislation. It seems to me utterly impossible for a gentleman so to do, belonging to either of the political parties; that is, it is impossible for either side to have a consultation together, for the purpose of agreeing upon any matter of legislation. If the Convention desires to go so far as that; if they desire to say that all legislation in this State shall be non-partisan, and that members of the same class of sympathy shall not meet together to agree upon a common basis of arrangements, well and good. If it is only meant to say that caucuses shall not have despotic power over the will of a member, let it be so expressed in some proper form.

MR. CUYLER. That is all that is intended.

MR. MACVEAGH. It seems to me it goes very much farther.

MR. KAINE. Mr. Chairman: It seems to me that this is intended to prevent the very thing the gentleman from Dauphin (Mr. MacVeagh) has suggested—that when there is a measure before the Legislature, of whatever kind or character it may be, being a matter of legislation, every man upon the floor of the House or of the Senate should have a right to vote as his own judgment dictates; that he, on such an occasion, should not be controlled by his fellow-members, or by any portion of them—that he should not be bound by what he supposes to be a matter of honor—that is, to vote according to the decision of a majority of a caucus. I understand, sir, that this amendment is intended to meet that very thing, and it is for that reason that I propose to vote for it. I have some recollections of transactions of that kind, Mr. Chairman, as you, also, may have. When apportionment bills, or bills of that sort, which are mere matters of legislation, have been agreed upon, no matter what wrongs have been put upon different sections of the State, members feel themselves bound to vote for the bill, because of caucus decisions; and if they did not so vote they would feel themselves dishonored in the eyes of their fellow-members.

MR. GOWEN. May I ask the Chair this question? If this amendment, offered by

the gentleman from Philadelphia, (Mr. Cuyler,) is now adopted, and the amendment of the gentleman from Dauphin (Mr. MacVeagh) is rejected, can the amendment of the gentleman from Philadelphia (Mr. Cuyler) be offered put upon the main section afterwards?

The CHAIRMAN. The Chair will state if the amendment of the gentleman from Philadelphia (Mr. Cuyler) is lost, it will fail to go upon the section as a part of the amendment of the gentleman from Dauphin, (Mr. MacVeagh,) but that would not prevent the gentleman from Philadelphia (Mr. Cuyler) from moving it at a subsequent time as an independent amendment.

Mr. BOYD. Suppose it is adopted?

The CHAIRMAN. If it were adopted, and the amendment should not be passed, the amendment to the amendment would fall with the amendment.

Mr. GOWEN. But could not the amendment to the amendment thereafter be offered as a separate amendment?

The CHAIRMAN. It could be offered as a separate amendment after the amendment has been voted down.

Mr. GOWEN. I would like to suggest to my friend, the gentleman from Philadelphia (Mr. Cuyler,) whether it would not be well to withdraw the amendment in the shape in which it now is, for I believe firmly and truly that no greater measure of reform in legislation can be offered upon the floor of this Convention than that very amendment; but if that amendment is adopted as part of this long oath, there are a great many members upon this floor who do not believe that you can make corrupt people by swearing them to be good, and I believe a great many persons who are in favor of the amendment of the gentleman from Philadelphia (Mr. Cuyler) are opposed to this oath. As they are both before the committee I desire to say a few words upon this subject.

Mr. CUYLER. My friend will pardon a single word in explanation. I wrote this amendment, being in favor of the section as originally reported, for I did not think myself it was as much in harmony with the substance of it. I am in favor of the original oath as reported.

Mr. J. S. BLACK. Does the gentleman withdraw that?

Mr. CUYLER. No, sir.

Mr. J. S. BLACK. If that amendment is made a part of the oath that is presented

by the gentleman from Fayette (Mr. Kaine) will the gentleman vote for it?

The CHAIRMAN. The gentleman from Philadelphia (Mr. Gowen) has the floor.

Mr. GOWEN. Mr. Chairman: I always give up the floor to the gentleman from York, (Mr. J. S. Black,) because the highest compliment I ever heard paid to the intellectual faculties of any man was paid to him by one of the most eminent judges of a high court in this country, who stated that he listened to his arguments when he knew he was wrong with more pleasure than he listened to the arguments of any other counsel when he knew that counsel was right. Now I do not know whether it is incumbent upon me to reply to the elaborate argument of the gentleman from York (Mr. J. S. Black) made on the floor this morning. He did not say a word about me. He did not say a word about any interest that I am supposed to be connected with, but "the captain with his whiskers took a sly glance at me," and I suppose that he expected that I would reply to it, and I simply desire to say that there are three reasons why I should not reply to that part of the gentleman's argument. The first is, that I am not a representative on this floor of any corporation. The second is, that I do not know anything about these corrupt practices which the gentleman charged, and the third is, that I believe that the basket full of coals which the gentleman spoke about so eloquently is too small a matter for a Convention to amend the Constitution of Pennsylvania to talk about. For these three reasons I will not answer the argument, and I will confine myself, therefore, to what is now before the committee.

First, as to the amendment of the gentleman from Philadelphia, (Mr. Cuyler,) I am in favor of it, but I fear it may be lost, by incorporating it upon the amendment of the gentleman from Dauphin, (Mr. MacVeagh,) and if I am right in believing that the amendment of the gentleman from Philadelphia (Mr. Cuyler) may therefore be offered as a separate amendment, there is no objection to leaving it before the committee now.

A few practical suggestions. It will not do for us to assume that all corruptions in the Legislature are directed to procuring the passage of bills. There may be as much corruption used to defeat a bill as there is to secure its passage. Where the object is merely to defeat a bill, this King Caucus who puts upon his robes and his

sceptre the emblem of sovereignty, gives to any corrupt party the right to defeat the whole legislation of the State of Pennsylvania, by securing the votes of nine members of any dominant party in the Senate. One of the best reasons probably given for increasing the members of the Legislature is that it will be more difficult to corrupt them. What, then, does King Caucus do?

There may be an act of great prospective benefit to the State of Pennsylvania. That act may be for the best interests of the whole State, but it may be opposed to some particular party, or some particular influence, or some particular combination of capital, and that party, and that influence or that combination of capital may simply conclude to defeat that bill. All that it is necessary to do is to get nine members of the dominant party, that for the time being happens to have control of the Senate. Suppose the Senate is divided seventeen to sixteen. Those nine members call a caucus of their party, nine members adopt a resolution in caucus, which the other eight are pledged to carry out, and this way the nine members defeat the whole legislation of the State.

I am not much of an advocate of iron-clad oaths, but I do believe this, that if you are to have these oaths, that to be taken at the end of the session is going to be of much more power than the oath taken at the commencement of it. It has been argued upon this floor, by those who are opposed to this subsequent oath, that the very fact that members know they will have to take the preceding oath will bring a better class of members to Harrisburg. If that is true, and if the member knows that before he goes back to his constituents he has to take another oath, will not that serve to make him honest while he is there? I do not desire to press this very much, for while I have no great belief that oaths will cure rascality, I do believe that if any oath is taken at all, the one at the end of the session will be productive of more good than the one at the beginning. I would be perfectly willing to accept the article as it stands, as reported by the Committee on Legislature, with the amendment of the gentleman from Philadelphia with reference to caucusing. If that amendment shall carry I believe it will cure this evil, and if this other oath is adopted, as it may be, then I will be in favor of adopting the suggestion of the gentleman from Philadelphia. If we are to have one let us have both. If

we are to have one of either of the two let us rather have the one at the end of the session than at the commencement.

Mr. MACVEAGH. Mr. Chairman: I beg permission, before this vote is taken, to say that I hoped it would at least have been modified so that it should not be construed to prevent assemblages of members of the Legislature for consultation and agreement of opinion. As it has not been done, further reflection satisfies me that if it is appended to the oath which I moved as a substitute, it will result in the defeat of that oath, and will really result in leaving only the report of the committee.

The CHAIRMAN. The Chair is compelled, very reluctantly, to remind gentlemen that a delegate, under the rules adopted for the government of debate in committee of the whole, cannot speak but once on the same subject.

Mr. BAKER. Mr. Chairman: I move the gentleman from Dauphin have leave to proceed.

Mr. LILLY. I object.

Mr. EWING. Mr. Chairman: The gentleman from Philadelphia has offered an amendment which, as I understand, will be a very unwise one to have incorporated into the oath to be taken by a member of the General Assembly. As a member of the Committee on Legislation I have agreed to the report as given to the Convention. But on scarcely a single section of that report has any member had precisely his own wish or desire in regard to what words should be in it. Almost every section of the report is a compromise of the ideas and wishes of all the members constituting the committee. I take it that such is necessarily the case wherever members of any deliberative assembly have some general ideas or plans in view. They must consult. They must deliberate. They must compromise and must come to some agreement, and each one must in part yield his convictions to the judgment of his colleagues. Now I take it that that would be prohibited by the amendment under consideration.

Mr. JOHN R. READ. Mr. Chairman: If the gentleman will allow himself to be interrupted, I will ask him whether he understands that by the amendment offered by the gentleman from Philadelphia, consultation of members of the Legislature is prohibited, and whether it does not say that they shall not submit themselves to the result of that consultation?

Mr. EWING. Mr. Chairman: I understand it to say that consultations shall not take place between members of a deliberative body. That if a matter was submitted to the consultation of members having the same general object in view, as I understand it, it would prohibit a member from carrying out the result arrived at by the consultations, if not in accordance with his own views, as I understand it, the amendment would prohibit me from doing that which I have done almost every day in this Convention. It would prohibit that which occurred just now on the floor, between the distinguished gentleman from York, (Mr. J. S. Black,) and the mover of the amendment, when one inquired of the other if he would vote for the oath reported by the committee with that amendment. I think it is impracticable. Now the oath which is reported by the Committee on Legislation is, in my opinion, substantially what should be taken as a preliminary oath by the members of the Legislature. As explained by the gentleman from York, it does more than merely provide that the members shall "support the Constitution of the State." To get the full force of that oath, you must look at the entire provision of the Constitution, and you will find that bribery is to be prohibited. There are a great many things prohibited, and I take it that the oath binds the member to pay attention to, and to observe the forms of legislation laid down here, and a hundred things that it is entirely unnecessary to incorporate into the oath.

Mr. KAINE. Mr. Chairman: May I ask the gentleman to inform the committee what he understands the word in that oath, "to defend the Constitution," to mean?

Mr. EWING. I understand it to mean that he will obey it; that he will observe in his place as a legislator the directions that are laid down there; that he will in all things pay attention to it and obey it and defend it. Now I take it that we can tell better what oath we should prescribe for the members, after we have passed through this article and have determined what restrictions we will lay on the Legislature or on legislators, to see if when we reach the end of this article we have not covered all the ground that it is intended to be covered by the oath reported from the Committee on Legislation. To my mind it is objectionable to incorporate many things in any oath that simply looks to the future. When a man

takes an oath, an official oath, or an oath in any private matter, usually it should be such an oath that the violation of it, or any false swearing, would be punished as perjury.

I take it that the latter clause of that oath covers all that is contained in the oath reported from the Committee on Legislation. If a man has been guilty of bribery, or of corruption, or any undue means by which his election has been secured, he knows it at the time he takes this oath, and if he takes the oath, having committed this offence, he is guilty of perjury. Now the gentleman from Dauphin (Mr. MacVeagh) stated here I think that the oath reported by his committee was a copy of the oath in the Illinois Constitution. I think if he will examine it carefully he will find that that is a mistake. That is loose enough, and I do not think it would hurt any man who is guilty of bribery or corruption, or who violates his obligations while a member of the Legislature. I do not think it would hurt him very much to take the oath prescribed in the Illinois Constitution. But these gentlemen have been still more careful of the consciences of the members. They provide that he shall not do these things; that he shall not bribe; that he shall not lie; that he shall not take a gift, if he does it "*corruptly*." If he does not do it corruptly it is all right. He must do it corruptly, or it is no offence. Do you think that you would ever find any person to say that he did it corruptly? If you do not make the very act of doing it a corrupt measure, it is not worth while to put the oath to him.

I hope that this oath, as reported by the Committee on Legislation, will be adopted without any amendment, and if after we get through this article it is found that it does not bind the legislator strong enough, it can be readily re-considered and amended. I would be willing to vote with any gentleman, who thinks then that it ought to be amended, to re-consider the subject.

I may say further, that as a member of this committee, I agree with the gentleman from York in most of the provisions that he speaks of in regard to the prevention of bribery and the endeavor to abolish the "third house." And I am in favor of a future oath substantially as the amendment was offered by the gentleman from Fayette, (Mr. Kaine,) and will vote for it when it comes up.

Mr. CORSON. Mr. Chairman:—

Mr. KAINE. Mr. Chairman: If the gentleman will allow me, I move that the committee rise, report progress, and ask leave to sit again.

Mr. CORSON. Mr. Chairman: I yield for that purpose.

The motion was agreed to. The committee rose, and the President resumed his chair.

IN CONVENTION.

Mr. ARMSTRONG, chairman of the committee of the whole, reported that the

committee had had under consideration the report of the Committee on Legislation, and had instructed him to report progress and ask leave to sit again.

On the question, when shall the committee have leave to sit again, to-morrow was named and agreed to.

Mr. LANDIS. Mr. President: I move to adjourn.

This was agreed to, and the Convention, at three P. M., adjourned until ten o'clock to-morrow morning.

SIXTY-THIRD DAY.

TUESDAY, *March 11, 1873.*

The Convention met at ten o'clock A. M. Prayer was offered by Rev. James W. Curry.

JOURNAL.

The Journal of yesterday's proceedings was read and approved.

INDUSTRIAL HOME.

The PRESIDENT laid before the Convention an invitation from the Industrial Home for women to visit the institution.

Mr. DARLINGTON. Mr. Chairman: I move that the invitation be accepted, with the thanks of this Convention.

The motion was agreed to.

PROHIBITION.

Mr. JOHN M. BAILEY presented two petitions from citizens of Huntingdon county, in favor of the prohibition of the manufacture and sale of intoxicating liquors.

Mr. WRIGHT presented a petition from certain citizens of Luzerne county upon the same subject.

Mr. CARTER presented two similar petitions from citizens of Juniata county upon the same subject.

Mr. G. W. PALMER presented a petition from citizens of Luzerne county on the same subject.

Mr. HARRY WHITE presented a petition from citizens of Indiana county upon the same subject.

The foregoing petitions were laid on the table.

THE LEGISLATURE.

Mr. RUNCK offered the following, which was referred to the Committee on Legislature:

For determining the ratio of Senatorial representation every ten years by dividing the population of the State, ascertained by the last preceding national census by one hundred, the quotient to be the ratio of representation in the Senate. Counties containing not less than the ratio and three-fifths thereof shall each elect two Senators, and one additional Senator for each additional number of inhabitants equal to the ratio. Counties entitled to

more than one Senator shall be divided into as many Senatorial districts as there are Senators to be elected, from each of which one Senator shall be chosen. Each district shall be composed of compact, contiguous territory, containing as nearly equal population as possible. No election district shall be divided, and no county shall have less than one Senator. The ratio of representation in the House shall be determined in the same manner, except that the ratio shall be ascertained by dividing the population of the State by three hundred instead of one hundred.

IRREDEEMABLE GROUND RENTS.

Mr. BROOMALL offered the following, which was read and referred to the Committee on the Judiciary:

The Legislature shall provide a means, in the nature of a proceeding in partition, for the extinguishment of irredeemable ground rents.

PUBLISHING DEBATES.

Mr. CURTIN offered the following resolution, which was twice read and agreed to:

Resolved, That the Committee on Printing be requested to ascertain the cost for what the reports of the amendments proposed and Debates can be published in two daily newspapers of Philadelphia, and furnish one hundred or a thousand copies of each paper for the use of the members, and make report to this Convention.

ADOPTION OF SEPARATE ARTICLES.

Mr. D. W. PATTERSON offered the following resolution, which was read and laid on the table.

PRINTING REPORTS FROM COMMITTEES.

Mr. BOYD. Mr. President: I move to reconsider the vote by which the resolution to direct the official reporter to furnish reports of standing committees was negatived.

The PRESIDENT. When was the resolution passed?

Mr. BOYD. Last Friday.

The PRESIDENT. Did the gentleman vote in the affirmative?

Mr. BOYD. I did.

The PRESIDENT. Is the motion seconded by a gentleman who voted in the affirmative?

Mr. CURTIN. I second it.

The PRESIDENT. The resolution will be read for information.

The CLERK read:

Resolved, That the official reporter be directed to furnish the State Printer as reported matter, reports of standing and select committees.

The PRESIDENT. The question is to re-consider the vote upon that resolution.

Upon this motion a division was called for, which resulted: Affirmative thirty-seven; negative twenty-four.

So the motion to re-consider was agreed to.

The PRESIDENT. The question is now upon the adoption of this resolution.

Mr. D. N. WHITE. Mr. President: It appears to me that it is necessary to publish these reports in the Debates, in order that the reader may understand what the debate is about. Now, when the report is made to the Convention and published in the Debates, when the subject comes up, the reader can turn back to that report and know what the committee is talking about, and know what relation one part of that report bears to another part. Unless these reports are published in the Debates, a reader of them would often be at sea to know what we were talking about.

Mr. DARLINGTON. Mr. President: When this question was up the other day, we had the matter very fully discussed, and especially by the gentleman from York, (Mr. Cochran,) who gave us the information that we desired, and upon which we thought proper then to vote down the proposition. Now if he will repeat his argument, and let those of us who were not present learn what it is, or if he can give us some reason why we should change from the vote of the other day, I would like to know it.

Mr. ARMSTRONG. Mr. President: It seems to me that there is eminent propriety in this resolution. The various questions that come before the Convention are printed as to the particular matter which is under discussion; but there is no mode of ascertaining the relation of that question to the entire question which may be under discussion, except by referring to the whole report. That report cannot be found except by a reference to the Journal, which is inconvenient, and oftentimes

inaccessible, when the reports might be present.

There are some thirty standing committees, and the entire amount of printing which would ensue upon the printing of all these reports would not, probably, exceed fifty pages in the aggregate. The expense would be comparatively trifling, and the convenience of having them in the reports would seem to me to be very great.

Mr. ARMSTRONG. Mr. President: It strikes me that it is eminently proper that they should be printed in the Debates.

Mr. LILLY. Mr. President: Are they not printed in *this* form, so that all may refer to them? [Referring to the form of legislative bills.]

Mr. ARMSTRONG. Undoubtedly.

Mr. LILLY. Is not that sufficient?

Mr. ARMSTRONG. I think not; because the publication of the debates of the Convention is a permanent record, while *this* form [the form of legislative bills] is merely ephemeral. The reports in that form are not bound, and pass from the knowledge of the members when the Convention adjourns. Gentlemen should remember we are making a permanent record. It ought therefore to be made complete. I do think that it is not worth while, for the trifling expense which will be involved, to make a record of the proceedings incomplete, which we intend to be permanent and to be handed down for many years for the consideration of other persons who come after us.

Mr. DARLINGTON. Mr. President: Is it designed to print these together in a mass?

Mr. ARMSTRONG. No, sir; but to print them, as I understand, as they are reported from time to time.

Mr. DARLINGTON. But we have a thousand pages printed without them already, and we had better find some other plan to relieve us of the dilemma, for how can we go back now and insert the reports as they were presented?

Mr. D. N. WHITE. Mr. President: As a correction of what the gentleman from Chester (Mr. Darlington) has said, I would state that these reports of committees have been published heretofore as they have come from the committees. I would further add that there is only a small edition of the Journal printed, sufficient merely to supply the members, and therefore those who get copies of the Debates will not get the Journals, so that they cannot refer to these documents

at all, unless they are printed in the Debates.

Mr. HARRY WHITE. Mr. President: Inasmuch as I introduced this resolution last week, one word of explanation will not be improper on my part. I have reason to know that great convenience has resulted from the operation of the proposition which is now before you. In the matter of the Debates of the Illinois Constitutional Convention it was said, the other day, that the reports of the committees were scattered all through, article by article, as the sections were brought up for discussion. That is quite true, and if the gentleman will refer to the Illinois Debates, and to the Debates of the other States, they will discover the uniform rule to be that the report of the committee is printed in the Debates as first presented, and it is then analyzed, section by section, as the sections come up for discussion. Under the operation of any other plan, if a gentleman wishes to refer to any part of the report he must turn over page after page, and page after page, until he comes to the particular section under discussion; while otherwise, if printed in the Debates, as I proposed, the whole thing would be together, so that he could see all the bearings of one section upon the other.

In answer to the gentleman from Chester (Mr. Darlington) I would say that all the reports of the different committees have already been printed in the manner indicated, that is, in full, when presented, and this practice was only stopped when the report of the Committee on Legislature was presented. It would be best to have the rule uniform, and extend to all reports of the committees.

Mr. KAINE. Mr. President: I do not know that I understand exactly the object of this resolution. If this plan had been adopted at the commencement of our proceedings, it would have been, I have no doubt, very advantageous, and should have been done. The reports of committees would be printed in the Debates in place of being printed in the Journal. I find in the proceedings of the Convention of 1837-8, that a different course was pursued; for instance, when a particular article was taken up, that article was inserted in full in the Debates. I have the second volume of these debates now before me, and on pages 230-231 I find the following:

"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 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.

"The Convention resolved itself into committee of the whole, Mr. Clark, of Indiana, in the chair."

That second article is then printed in full before the discussion commences. The difficulty that now strikes me is where we should commence to set the thing right. We have a thousand pages of our Debates now printed, and how are we going to get back and put these reports of the committee in their proper places? I have no particular objection to this resolution, but it strikes me that that difficulty is serious.

Mr. LILLY. Mr. President: I think this proposition of printing the reports of committees in the Debates is entirely useless, so far as this Convention is concerned. If you turn to your Debates you will find that we are always ten to fifteen days behind time, so that all action on the article has been disposed of before we get the Debates, which would show the report, and the only thing that we have to refer to consists of these reports as they are printed in the form of legislative debates. It seems to me that if anything is to be done, which looks to the printing of these reports in full in the volumes of the Debates, it would be better to print them as suggested by my friend from Huntingdon, (Mr. John M. Bailey,) at the end of the volume, in an appendix. I think we have the history of the thing in the Debates, section by section, and if any one will follow the Debates through, they will find everything that they need.

I have become sick and tired of listening to statements about the Illinois Convention. What have we to do with the Illinois Convention? We are here as Pennsylvanians, to make a Constitution for Pennsylvania. We have this word "Illinois" put under our noses almost every day. I hope members will have sense enough to determine these things for themselves, without saying anything about Illinois. I think we shall make a great deal better Constitution than ever

Illinois did. I hope we are able to do it, and I hope we will do it.

Mr. KAINE. Mr. President: Since making my remarks a few minutes ago, I have been informed by a gentleman here, who is familiar with this thing, that all the reports heretofore made have been printed in the Debates, and that the resolution was only passed just recently, forbidding anything of the kind being further done; therefore the difficulty in my mind on that subject is entirely removed.

Mr. STANTON. Mr. President: It is very true we are here as Pennsylvanians, but the gentleman from Carbon (Mr. Lilly) will agree with me, that we have referred with very great advantage to the Debates of the Illinois Convention, and that we have got from them a great deal of information. When this Convention passes away we want our record to be as good as that of the Illinois Convention. It may, perhaps, benefit some other State in the future, which shall be endeavoring to amend its Constitution.

If I understand this question correctly, we started out on the plan of printing in the Debates the reports of committees as they were presented, in full, and if we now have this broken into, it will set the whole thing at sea. It will be neither one thing nor the other. I think we had better continue the practice as we commenced.

Mr. J. M. BAILEY. Mr. President: It strikes me that the passage of this resolution will add to the confusion of our Debates. The reports of committees are presented to the body at least three weeks before they are acted upon. It is not proposed, as I understand it, to print them again when we come to consider them in debate, but to print only the particular section under consideration, and that section is always read by the Clerk from the desk, and is reported and printed in the Debates. Now, when we come to consider the report of any particular committee, every member of the Convention, even if he has the Debates printed, before him on his table, will have to look back through, perhaps, two volumes, before he can find the report of that committee. My idea would be, if it is a matter of convenience to have these reports in the Debates, that they should be printed in an appendix at the end of the last volume, and all the reports of the committees would, in that way, be together, and be quite ready of reference.

Mr. SIMPSON. Mr. President: I shall vote for the resolution before the Conven-

tion, because I do not think the Debates will be understood by persons outside, unless they are completed by having the reports inserted in them somewhere. We had a very interesting discussion here, yesterday, but who on earth would suppose that discussion to apply to the important question before the committee? Nobody, and unless the whole report appears somewhere in the volume, the Debates will be incomprehensible. We will have to refer to the Journals or some other documents to ascertain the precise bearing of matters in committee of the whole, upon other matters under discussion. For that reason I shall vote for the making of the Debates complete.

The question being upon the resolution of Mr. Harry White, a division was called for.

Mr. BROOMALL. Mr. President: Before the result of the vote is announced, I desire to ask whether it is the intention of the Convention still to continue to publish these reports in the Journal, as they are published now?

The PRESIDENT. On the question the yeas are sixty-one, and the nays are ten. The resolution is agreed to.

Mr. BROOMALL. Mr. President: I had concluded to call the yeas and nays, and I rose before the vote was announced.

The PRESIDENT. The gentleman did not rise to call the yeas and nays before the vote was announced.

Mr. BROOMALL. I rose before the vote was announced.

The PRESIDENT. To call the yeas and nays?

Mr. BROOMALL. No, sir; I rose before the vote was announced, to ask a question.

The PRESIDENT. The Chair will observe that gentlemen are so much in the habit of standing up in their places, that it is impossible for the Chair to say when persons are up, whether they are there for the purpose of addressing the Chair, or calling for the yeas and nays, or for any other purpose of action. I would ask the gentleman from Delaware, (Mr. Broomall,) whether he rose for the purpose of calling the yeas and nays?

Mr. BROOMALL. Mr. President: I rose before the vote was announced, to make the remark which I tried to make.

The PRESIDENT. It was out of order; but with the consent of the House the Chair will withdraw the decision, and allow the call for the yeas and nays.

Mr. BROOMALL. Then I move to rescind the resolution that has just been passed.

A DELEGATE. Did you vote with the majority?

Mr. BROOMALL. I have a right to move to rescind the resolution, whether I voted with the majority or not.

The PRESIDENT. The Chair withdraws his decision. If the gentleman wants to call the yeas and nays, now is the time for him to do so.

Mr. BROOMALL. Mr. President: Have I a right now to ask a question?

The PRESIDENT. No, sir, you have a right to call for the yeas and nays.

The PRESIDENT. Is the call seconded?

["Yes!"]

Mr. BROOMALL. Mr. President: Have I now a right to debate the question?

The PRESIDENT. Will the House give unanimous consent to the gentleman from Delaware to ask a question?

["No!" "Aye!" "No!" "Aye!"]

The PRESIDENT. Unanimous consent is not given.

Mr. BROOMALL. Mr. President: I give notice to the House now that I intend to debate this question, but not at this time.

Mr. BOYD. Mr. President: I hope the gentleman from Delaware (Mr. Broomall) does not mean to "scare" the members of this Convention. We are not very much affected by scare in this section of the House.

On this question, the yeas and nays were required by Mr. Broomall and Mr. Andrew Reed, and were as follow, viz:

YEAS.

Messrs. Achenbach, Addicks, Alricks, Armstrong, Baer, Baily, (Perry,) Bardsley, Biddle, Black, J. S., Bowman, Boyd, Brodhead, Campbell, Carter, Clark, Corbett, Cronmiller, Curry, Curtin, Dallas, Darlington, De France, Dodd, Dunning, Edwards, Elliott, Ellis, Ewing, Finney, Fulton, Hazzard, Hemphill, Horton, Howard, Hunsicker, Kaine, Lamberton, Landis, Lear, MacConnell, M'Clean, M'Culloch, Mann, Mantor, Mott, Niles, Palmer, G. W., Patterson, D. W., Porter, Pughe, Purviance, Samuel A., Read, John R., Reynolds, S. H., Ross, Runk, Russell, Sharpe, Simpson, Smith, H. G., Smith, William H., Stanton, Stewart, Wetherill, J. M., Wherry, White, David N., White, Harry, White, J. W. F. and Wright—68.

NAYS.

Messrs. Ainey, Andrews, Bailey, (Huntingdon,) Bartholomew, Broomall, Church, Cochran, Davis, Funck, Hall, Knight, Lilly, Long, Reed, Andrew, Reynolds, James L., Smith, Henry W., Struthers, Turrell, Walker, Wetherill, John Price and Meredith, *President*—22.

So the resolution was agreed to.

ABSENT OR NOT VOTING.—Messrs. Baker, Bannan, Barclay, Beebe, Black, Charles A., Brown, Buckalew, Carey, Cassidy, Collins, Corson, Craig, Cuyler, Fell, Gibson, Gilpin, Gowen, Green, Guthrie, Hanna, Harvey, Hay, Heverin, Lawrence, Littleton, M'Allister, M'Camant, M'Murray, MacVeagh, Metzger, Minor, Newlin, Palmer, H. W., Parsons, Patterson, T. H. B., Patton, Purman, Purviance, John N., Rooke, Temple, Van Reed, Woodward and Worrell—42.

Mr. S. A. PURVIANCE. Mr. President: I rise to a question of privilege. I move to re-consider the vote by which this Convention resolved that when it adjourned on the twenty-ninth day of this month it be to the fourteenth day of April.

The PRESIDENT. The resolution will be read for information.

The CLERK:

Resolved, That when this Convention adjourn on Saturday, the twenty-ninth of March, it be to Monday, the fourteenth day of April, at ten o'clock of said day.

The PRESIDENT. Did the gentleman who moved to re-consider vote in the affirmative?

Mr. S. A. PURVIANCE. I did.

The PRESIDENT. Who seconds the motion?

Mr. WHERRY. Mr. Chairman: I second it.

The PRESIDENT. How did the gentleman from Cumberland vote?

Mr. WHERRY. In the affirmative.

The PRESIDENT. The motion is before the House.

Mr. RUSSELL. Mr. President: I hope this resolution will not be re-considered. It is very important to a very great many members of this Convention to be at home on the first day of April. Gentlemen who live in the city can be present here every day and attend to their business also. Gentlemen from the country cannot attend to their business.

The PRESIDENT. The Chair is compelled to state that a motion to re-consider is not debatable. The question is on the re-consideration.

On this question the yeas and nays were required by Mr. Edwards and Mr. Lilly, and were as follow, viz:

YEAS.

Messrs. Addicks, Andrews, Armstrong, Baily, (Perry,) Bailey, (Huntingdon,) Bardsley, Biddle, Bowman, Boyd, Brodhead, Broomall, Campbell, Carter, Corbett, Curtin, Dallas, Darlington, Dodd, Edwards, Ellis, Ewing, Finney, Hanna, Hay, Horten, Howard, Landis, Lilly, Littleton, MacConnell, M'Culloch, Mann, Mantor, Niles, Pughe, Purviance, Sam'l A., Read, John R., Reynolds, James L., Smith, Wm. H., Stanton, Struthers, Turrell, Walker, Wetherill, John Price, White, David N., White, J. W. F., Wright and Meredith, *President*—48.

NAYS.

Messrs. Achenbach, Ainey, Alricks, Baer, Baker, Bartholomew, Black, J. S., Church, Clark, Cochran, Cronmiller, Curry, Davis, De France, Dunning, Elliott, Fulton, Funck, Hazzard, Hemphill, Hunsicker, Kaine, Knight, Lamberton, Lear, Long, M'CLean, MacVeagh, Mott, Palmer, G. W., Patterson, D. W., Patterson, T. H. B., Porter, Reed, Andrew, Reynolds, S. H., Ross, Runk, Russell, Sharpe, Simpson, Smith, H. G., Smith, Henry W., Stewart, Wetherill, J. M., Wherry and White, Harry—46.

So the resolution was re-considered.

ABSENT OR NOT VOTING. — Messrs. Bannan, Barclay, Beebe, Black, Charles A., Brown, Buckalew, Carey, Cassidy, Collins, Corson, Craig, Cuyler, Fell, Gibson, Gilpin, Gowen, Green, Guthrie, Hall, Harvey, Heverin, Lawrence, M'Allister, M'Camant, M'Murray, Metzger, Minor, Newlin, Palmer, H. W., Parsons, Patton, Purman, Purviance, John N., Rooke, Temple, Van Reed, Woodward and Worell—46.

Mr. LILLY. Mr. President: I move to strike out "twenty-ninth," and insert "twenty-eighth," and strike out "fourteenth," and insert "eighth."

Mr. ANDREW REED. I move to amend by striking out "eighth," and inserting "twenty-second."

The amendment to the amendment was not agreed to.

The PRESIDENT. The question is upon the amendment offered by the gentleman from Carbon, (Mr. Lilly.)

The resolution, as amended, will be read.

The CLERK read:

Resolved, That when this Convention adjourns on Friday, March twenty-eighth, it be until Tuesday, April eighth, at ten A. M."

Mr. MANN. Mr. President: I desire to say that this is more objectionable now to members living so far away as those coming from my district, than it was in the first place. It is objectionable in any form that can be named. The proposition is to leave Philadelphia at the most favorable time, so far as weather is concerned, and come back and sit in the heated months of the year. I hope this Convention will have too much good sense to do anything of the kind.

Mr. CURRY. Mr. President: I hope the amendment will prevail, as it will give the Convention ten days vacation, which is long enough to adjourn at any one time.

Upon the amendment of Mr. Lilly, the yeas and nays were required by Mr. Mann and Mr. Corbett, and were as follow, viz:

YEAS.

Messrs. Achenbach, Addicks, Alricks, Armstrong, Baer, Baily, (Perry,) Baker, Bardsley, Bartholomew, Biddle, Black, J. S., Boyd, Brodhead, Campbell, Carter, Cochran, Curry, Curtin, Dallas, Davis, Dodd, Dunning, Elliott, Ellis, Ewing, Finney, Fulton, Funck, Hall, Hanna, Hemphill, Horton, Hunsicker, Kaine, Knight, Lamberton, Lilly, MacConnell, M'CLean, MacVeagh, Mott, Patterson, D. W., Patterson, T. H. B., Pughe, Purviance, Samuel A., Read, John R., Reynolds, S. H., Rooke, Ross, Runk, Russell, Sharpe, Simpson, Smith, H. G., Smith, Wm. H., Stanton, Wetherill, J. M., Wherry, White, David N., White, Harry, White, J. W. F. and Wright—62.

NAYS.

Messrs. Ainey, Andrews, Bailey, (Huntingdon,) Bowman, Broomall, Church, Clark, Corbett, Cronmiller, Darlington, DeFrance, Edwards, Hay, Hazzard, Howard, Landis, Lear, Littleton, Long, M'Culloch, Mann, Mantor, Minor, Niles, Palmer, G. W., Porter, Reed, Andrew, Reynolds, James L., Smith, Henry W., Stewart, Struthers, Turrell, Walker, Wetherill, John Price and Meredith, *President*—35.

So the amendment was agreed to.

ABSENT OR NOT VOTING.—Bannan, Barclay, Beebe, Black, Charles A.,

Brown, Buckalew, Carey, Cassidy, Collins, Corson, Craig, Cuyler, Fell, Gibson, Gulpin, Gowen, Green, Guthrie, Harvey, Heverin, Lawrence, M'Allister, M'Camant, M'Murray, Metzger, Newlin, Parsons, Patton, Purman, Purviance, John N., Temple, Van Reed, Woodward and Worrell.—36.

LANDS OF MINING COMPANIES.

Mr. FINNEY, from the Committee on Mines, Manufactures and Agriculture, requested that that committee be discharged from the consideration of a resolution referred to it, limiting the extent of land to be held by mining companies, which was agreed to.

The resolution was then referred to the Committee on Private Corporations.

PROHIBITION.

Mr. DUNNING presented a petition of 1,000 citizens of Luzerne county, praying that an amendment may be made to the Constitution prohibiting the sale of intoxicating liquors, which was referred to the Committee on Legislation.

EDUCATION.

The PRESIDENT. The next business in order, is the second reading and consideration of the article reported by the Committee on Education. Is it the pleasure of the Convention to proceed to the second reading of that article?

It was not agreed to.

LEGISLATION.

The PRESIDENT. The next business in order is the further consideration of the article reported by the Committee on Legislation.

IN COMMITTEE OF THE WHOLE.

The Convention then, in committee of the whole, Mr. Armstrong in the chair, proceeded to the further consideration of the report of the Committee on Legislation.

Mr. LILLY. Mr. Chairman: I give notice now, that without intending to be at all discourteous to gentlemen who discuss this question, that I intend to keep them to the matter in debate.

The Chairman. The question before the committee is upon the motion of the gentleman from Philadelphia, (Mr. Cuyler,) to amend the motion of the gentleman from Dauphin, (Mr. MacVeigh.)

Mr. D. N. WHITE. Mr. Chairman: I would now call for the reading of the proposition immediately before the Convention, so that the gentlemen may understand what is before us.

The CLERK read the amendment of Mr. Cuyler, as follows:

"And that I will not submit my individual judgment or action to the decision or control of any caucus or combination of members of the Legislature."

Mr. D. N. WHITE. Mr. Chairman: There are four propositions before the committee on the subject of oaths. The first is the short, comprehensive oath reported by the Committee on Legislation. The second, the more diffuse oath, reported by the Committee on the Legislature, and offered as an amendment by the gentleman from Dauphin, (Mr. MacVeigh.) Third, the oath to be taken by members of the Legislature, after that body adjourns, offered as an amendment by the gentleman from Fayette, (Mr. Kaine,) but generally understood to be the production of the distinguished delegate at large from York, (Mr. J. S. Black,) and which, in his view, is to be the panacea for the enormous evils he so glaringly depicted in his speech yesterday. Lastly, there is the caucus amendment, presented by the eloquent gentleman from Philadelphia, (Mr. Cuyler,) to which he attributes great healing virtues.

To all the amendments to the report of the committee I am opposed. The oath presented by that committee is short, but very comprehensive. It covers all the ground that is necessary. It binds every honest man as firmly as if it was ten times as long, and contained clauses on every imaginable subject; and I have no faith in the power of an oath to bind dishonest men. A man whose moral sense is so distorted that he will take a bribe, will laugh at your oaths as so much idle breath. Therefore I consider the amendments of the gentleman from Dauphin, and the gentleman from Fayette, as utterly useless as restraints upon bad men, while good men, sensitive men, could not take them without a feeling of humiliation.

I am opposed to them for another reason. Their tendency is to fix a stigma upon one branch of the government, by requiring its members to take an oath which is not required from any other and co-ordinate branch. The members of the Executive Department, and of the Judiciary, are not required to swear solemnly that they will not commit a misdemeanor in office which will consign them to the cells of a prison, and cover them with perpetual degradation. But these amendments, if adopted, require this of your Senators and your

Representatives, who compose the highest body in the State, and who come direct from the people, and are clothed with the greatest and most important powers which any body of men in a free government can possess. What object can be gained by degrading the Legislature? Can this high court suffer, and the whole body politic not suffer with it?

The Legislature is that body in the State which, more than any other, represents the democratic element. Without it we must go back to arbitrary power, the one man power or the power of a class. Degrade the Legislature in the eyes of the people, destroy their confidence in their own representatives, and you destroy their confidence in republican institutions, and give them up a prey to ambitious, artful and unscrupulous men.

It is fashionable now-a-days to deride the Legislature, and to speak of it with contempt. Every young fledgling who wishes to display his eloquence on the stump, or his flippant smartness in the press, and to air his virtues and his wisdom before a gaping crowd, attacks the Legislature, and no one rebukes, no one comes to the defence of this foundation-stone of all republican governments. Can we do without a Legislature? Is there any possible mode of preserving our free institutions without it? What folly; what madness then, to seek thus, with suicidal hands, to destroy what should be our glory, but which gentlemen assert on this floor is our shame.

I do not deny that members of the Legislature may have been corrupted. I do not deny that that body may have suffered deterioration in latter years. Is it any wonder? Patriotism is not so prevalent now-a-days as to lead the men who fill all the active walks of life, and who are engaged in the mad scramble for wealth and power, to sacrifice their time to fill an office which yields no emoluments, and which, if we can believe what we have heard here, will only cover him with disgrace. Will it ever be any better if it is to be constantly held up to the scorn and detestation of the people?

How does it come that a part of the members of the Legislature are corrupt? Your individual or body of men outside of themselves must bribe them, if they are bribed. Now we know very well, that very few individuals have enough interest at stake, or have money enough to spare, to resort to wholesale systematic bribery. We are shut up then to the con-

clusion, that the main source of this corruption is found in those immense and wealthy corporations, which, as was said on this floor yesterday, have special privileges they want to obtain, or to prevent legislation in favor of other and rival interests. If cajolery or threatening cannot accomplish their ends, they resort to bribery by means of paid agents constantly on the ground. This corrupt and corrupting influence has done more to degrade the Legislature, than all the other means combined. Evil disposed persons, finding that men high in society, controlling immense interests, and claiming the most exalted integrity, systematically resort to corruption to carry their ends, have sought membership in the Legislature, for the purpose of sharing in these golden spoils. Yet these very men, these corruptors, these bribers of the wills of their people, will declare in the most eloquent and saint-like manner of the corruption of the Legislature! If the receiver is as bad as the thief, is not the tempter as vile as the man who yields to the temptation!

It is not by iron-clad oaths you can cure these evils. It is not by degrading the legislative department that you can exalt the character. Treat the Legislature as you do the Governor, the Judge; honor the office as one peculiarly belonging to the people, and lay your iron hand on the foul tempter who is sapping the foundation of our republican government, that he may ride into imperial power on the ruins of an insulted and betrayed people.

Mr. Chairman, I am also opposed to the amendment of the gentleman from Philadelphia, which requires a member of the Legislature to swear that he will not submit his individual judgment or action to the decision or control of any caucus of the members in the passage of any law or resolution.

What earthly good this could do, except to annoy some sensitive conscience, I cannot see. The case would lie altogether in the breast of the member, and no one could say whether he had submitted his judgment to the control of a caucus or not. Parties are necessary for the welfare of the State, and the nearer they are matched the better for the State. Party caucuses are also necessary for the proper concentration of the will of the party. Suppose a party is in power in a Commonwealth, and is responsible for the government, and is watched by a sagacious political foe, ready to take advantage of any mistake or error, is it not entirely

right and proper that such party should meet in consultation to discuss measures, and harmonize differences? And if there is a difference of opinion, has not a member admitted to such consultation a right to submit his judgment to the will of the majority? His judgment may tell him that it is better for the common weal that he should thus acquiesce in the will of the majority, than that he should break up the continuity of his party, and give the advantage to his political foes. Of course no honest man of any party would submit to any outrage or wrong to his moral sense at the dictation of any caucus, but every member of the Legislature represents a party and party principles, as well as the people in their aggregate capacity, and he is under obligations to promote and carry out those principles to the best of his ability, and in doing so he must necessarily some times find himself in a minority and must yield his judgment, or break up all discipline and harmony in the party. Such a clause has no place in an oath to be taken by a member of the Legislature. It is outside the province of such an oath. It is inquisitorial and pernicious. It goes beyond its proper sphere. It seeks to enter into the reasons which control a man's judgment on questions of policy, for which he is accountable only to his own conscience. And I am surprised that the usually clear headed gentleman from Columbia should have given it his support. His great anxiety to introduce reforms must have warped his judgment, or he has been caught napping when this glittering generality was launched upon the Convention. I am sure no gentleman has been more faithful to party, and to party behests, and to party caucuses than he, and no one knows better how necessary it is to maintain party discipline, if the cherished principles of the party are to prosper.

I would enlarge here, but will not longer take up the time of the committee.

Mr. LANDIS. Mr. Chairman: The committee of the whole, I believe, sir, have more immediately under consideration the amendment of the gentleman from Philadelphia, who sits at my left, (Mr. Cuyler,) but I believe that, as a committee of the whole, we have before us generally the subject of oaths, as applied to the two branches of the Legislature. I do not know, sir, that I would have troubled this committee with any observations on this subject, had not my attention, since yesterday morning, been ar-

rested by the statements of members here as to the character of the oath. I have been surprised to hear gentlemen on this floor attribute to it, sir, a want of importance with which I, in my own mind, have always invested it. I have heard gentlemen state here, that in the discharge of official duty there was little or no safeguard in the oath. They have gone so far, almost, as to claim that those who could be guilty of irregularities in other respects could not be restrained by the taking of an oath. When I therefore heard this matter so slightly spoken of, and feeling in my mind the sacred character of the obligation of an oath, I feel constrained to rise this morning and disclaim any sympathy, on my part, with such sentiments, and to enter upon the records of this Convention my protest against their utterance. Why, sir, I ask you, where is the safety for republican form of government, if we have it not in the sacred character of an oath? It is well for men to say that the republican form of government is based upon the democratic idea. That is well, sir, but I ask you what lies at the bottom of it, if it be not upon the enlightened consciences of those who must administer the government? Where is the safety of government found? Where is the safety for society? What have you to ensure you the perpetuity of society and government, if you do not ask that that government will be administered by those who will feel that their consciences are under some restraint? I ask upon what plane those gentlemen walk who do not invest an oath with that religious character which belongs to it? I ask gentlemen upon what meats they feed, who will claim that only those men are to be thought honest who are guided by a feeling of superstition alone, when they assume the sacred obligation of an oath, and not by the convictions and responsibilities of the christian religion?

I stand here then, to-day, in this christian age, simply stating that we are members of a christian community, that we are living in a day of christian enlightened civilization. And when that is said it is all that need be said that this Convention, and the members of it, should attribute to an oath all the importance it demands. Now, sir, we have been told, and it has become a proverb, that those who will lie will steal. I presume they draw from that the argument, *a fortiori*, that those who steal will certainly lie. Well, sir, to a certain ex-

tent that may be true in the every day affairs of life. But I hold that it does not follow, as a logical result, that a man who is prepared to commit peculation, that a man who is prepared to defraud the State, that a man who is prepared to enter into all sorts of combinations and schemes for the purpose of enhancing his own personal fortunes, at the expense of the State or others, is therefore prepared to add to these sins the great sin of perjury, to say nothing about this crime in a judicial sense. I hold, sir, that there prevails in the minds of all men a certain vein of religious sentiment. I hold, sir, that no man can grow up in this day of christian civilization without feeling that there has been educated into him, in spite of himself, a sentiment which shall set at naught all attempts to induce him to commit the high crime of perjury.

It is a principle, sir, if not born in man must, in this day, be educated into him by force of circumstances. A man may be guilty of an offence, of a crime, if you choose, of theft; but, sir, he is not prepared to go so far as to add to it the crime of perjury. If men have no religious profession, or faith of any kind; if they do not outwardly recognize any of the forms of religion, then it's true that they are more or less affected by a feeling of superstition, and that feeling alone may keep many a man from the commission of this great offence, because, where there is ignorance of the christian religion, you will find that, in the majority of cases, it is replaced by that which is one of the elements of ignorance, superstition.

Now sir, with regard to these oaths, I find this, that those who are to take their seats in these two Houses are required to swear that they have made use of no improper means to secure their election, or to secure a false return of their election. Further than that, I see that the oath requires them to swear that they will be guilty of no fraudulent practices. Now, sir, all that is well, but I confess that I would go further than that. I would be in favor of adopting the amendment of the distinguished gentleman from York, (Mr. J. S. Black.) I would require that at the end of the session those who shall have been there acting in the legislative capacity, should swear that they have done nothing to compromise the high position to which they have been called.

I may speak of what might be the feelings of persons under those circumstances. I ask you if a man would not be alarmed

in a moment of temptation when he knew there was, as it were, a lion in the path to confront him at the end of the session. His oath will always loom up before him in the moment of temptation; it will always stand before him as a gaunt spectre that must haunt him. It is as though he were to walk down to the valley of a shadow. When he comes to knock at the portals of exit, in leaving the high plane of his official action, to depart to his home, he finds the judge standing there to administer that obligation. Tell me not that this oath will not accomplish all that is asked for it. Tell me not that men of conscience will not be awakened to the responsibility which is thus devolved upon them, for with this specialized form of oath their consciences and judgments are ever on the alert. Let us, therefore, awaken to the true importance of this matter. Let us not treat this as one of the idle questions to come before this Convention, but let us, one and all invest it with its true significance. And let us remember this, that with all your other methods reform you will bring into the Legislature men who are intelligent and pure, and men who will not shrink from taking the oaths which you require them to take. Thus you will not be doing violence to them, but you will be assisting them, you will be protecting them, you will be supporting and encouraging them in the discharge of their duties, and you will, besides that, have gone a great ways towards the accomplishment of reform.

There is still another amendment pending, the amendment of the gentleman from Philadelphia, (Mr. Cuyler.) If there is any one thing for which I have felt, in times past, a great feeling of dislike, it is this wonderful power of King Caucus. I have felt, sir, that on more than one occasion he has been far more potent than he should have been, and I for one would be willing, if we could do so, in one way or another, to dethrone this airy sort of potentate; but, with all deference to those who think it ought to be done, I find myself in opposition to the amendment. I cannot bring my mind to the conclusion that this Convention, in framing this great State paper—the organic law of the State—should descend below a certain plane of dignity, if you choose so to call it, for the purpose of meeting an evil which has grown out of the usages of the political parties of the State.

I think there are many occasions in which consultation, mutual conference be-

tween those who happen to owe affiliation to one or the other of the great political parties, might be proper enough, and, sir, if you adopt this amendment, I take it that you will prevent anything of that kind. To make the amendment operative, you must make it rigid in its force; you must make it of such grasp and such reach that men cannot possibly elude its intention and its design, or you give to it a fast and loose sort of action, so that it really accomplishes nothing. I therefore feel that I cannot vote for it. I would like to meet the difficulty in some way, but I believe it to be a matter that will have to work out and accomplish its own reform. I therefore feel myself constrained to vote against it, believing that if we adopt it we will defeat the object for which we are laboring.

Mr. CORSON. Mr. Chairman: This amendment which has been interpolated at a late stage of these proceedings is rather an impromptu piece of work upon the part of the distinguished gentleman from Philadelphia, (Mr. Cuyler,) and I do not think at first was received with any sort of serious consideration, but having been handed about for a few moments and received some complimentary notices on the part of gentlemen on the right and the left; it seemed to assume some importance, but I apprehend that when the delegates of this Convention come to consider the full import of these few lines which it is proposed to interpolate into the Constitution of the State of Pennsylvania, they will say at once, "away with it!" If such a clause had been in our Constitution during the last decade, when war threatened to disrupt this government, the loyal people of this land would have had their hand tied and their mouths closed, and war would have run rampant over the good soil of Pennsylvania. I therefore trust, that when they come to vote upon this question, they will say "we will allow the people of Pennsylvania to assemble, we will allow them to lay down a rule of action, and we will allow them to consult," as the committees of this Convention, meet in their committee rooms to frame the work and digest the matter which shall be laid before this Convention. So much for the amendment proposed by the gentleman from Philadelphia, (Mr. Cuyler.)

Now for the other proposition, and we come directly to the question of swearing. Oaths are obnoxious. Why not put into the Constitution, clause after clause, punishing the legislator who commits any of

these crimes against which you make him swear, rather than put it in the oath? You might as well put it in the marriage ceremony. Why was it not put in the oath administered to every man in this Convention? Because oaths are obnoxious.

The people despise them. In olden times the world was ridden with oaths, until Jeremiah, the prototype of my distinguished contemporary, (Mr. J. S. Black,) exclaimed, sorrowfully, "for because of swearing the land mourneth." When the multitude followed Him who spake as never man spake, out of Gallilee and Judea, Decapolis and Jerusalem, and from over beyond the Jordan, as He made His way up into the mount to declare the counsels of God, what did they hear from His lips? Not that form of oath prescribed by Abraham to his servant, "Put thy hand beneath my thigh and swear to me concerning the matter." Nor that other flaming oath of which we read in Revelations, "and the Angel which I saw stand upon the sea and upon the earth, lifted up his hand to Heaven and sware by Him who liveth forever and ever, who created the Heavens, and all the things that therein are; who created the earth, and all the things that therein are; who created the sea, and all the things that therein are; that there should be time no longer,"—not that oath, but what did He say who laid down the law for us? "Ye have heard that it hath been said by them of old time, 'thou shalt not forswear thyself, but shalt perform unto the Lord thine oaths,' but I say unto you, swear not at all, neither by Heaven, for it is God's throne, nor by the earth, for it is His foot-stool; neither by Jerusalem, for it is the city of the Great King. Thou shalt not swear by thy head, for thou canst not make one hair white or black. Let your communication be yea, yea, nay, nay, for whatsoever is more than these cometh of evil." Shall we take inspiration from Christ's Sermon on the Mount, or from the modes proposed by modern men who may claim for themselves superiority to the Savior, but in my view are neither as profound nor as Divine, and I choose to prefer precepts to those of the Committee on Legislation.

Mr. BROOMALL. Mr. Chairman: I desire to express the views I entertain upon this subject, the more because I apprehend from what I have heard around me that I am in the minority, possibly in a very small minority, in this body. I belong to those who have no faith in oaths. I do

not believe that any amount of swearing will make a bad man good, or a good man bad. The good need no obligation, the bad are not bound by obligations. To make the very most of them, they are but traps to catch the weak and unwary who often are more sinned against than sinning, while the great rogues have ingenuity enough to avoid their consequences. We have no special oath prescribed for legislators in the present Constitution. Why that is I do not know. There was none in the first Constitution. Whether that arose out of the habits of our Quaker forefathers, who had the same prejudices against oaths, that some of their descendants have, I do not know, but it is worthy of note that their practice of avoiding the oath was commented upon with favor by a distinguished Frenchman, when he alluded to the treaty with the Indians. He said that it was the only treaty, up to his time, that was never ratified by an oath, and the only treaty that, up to that time, had never been broken. Possibly that is why we have the Constitution as it now stands, without a special oath for the law making power.

Now, the gentleman who has preceded me, (Mr. Corson,) has quoted an essay upon the subject of oaths, worth all that can be said in this Hall. I know it is from an old authority, but it is from an authority that I apprehend some gentlemen in this Hall respect, especially when they can explain its precepts in such a way as not to cross themselves in any way. That essay is contained in the words "swear not at all, but let thy communication be 'yea' and 'nay,' for whatever is more than this, cometh of evil"—and let me add, goeth to evil.

Mr. BLACK. Will the gentleman from Delaware (Mr. Broomall) permit me to ask him a question?

Mr. BROOMALL. If it is not taken out of my time.

Mr. BLACK. We will give you all the time you want.

Mr. BROOMALL. Well, let it be short. I do not wish to exceed my time.

Mr. BLACK. Has the gentleman overlooked the fact, that this provision is for an affirmation that will perfectly accommodate his tender conscience upon the question of oaths?

Mr. BROOMALL. The gentleman has mistaken my position entirely. I want the communication to be "yea" and "nay"—"for more than that cometh of evil." His affirmation and his oath are upon the

same footing, with the exception that one is positively prohibited by the essay I have quoted, and the other is not expressly prohibited. That is all. We took an oath or affirmation, some one, some the other, when we assembled as members of the Convention. Is there a man here who can point to a single act that he has done, or a single act that he has omitted, that resulted from the taking of that oath? Not one. No man here would have behaved otherwise than he has done. I challenge any member of this body to say that he would have done in any respect differently from what he has done, if he had taken no oath at all.

I know gentleman may say that we are patterns of purity, we are perfectly honest; these oaths are only intended for dishonest men. Well, sir, there has been little too much of this thing. I am sick of hearing ourselves self-lauded as being the only honest body that could be raised out of the people of Pennsylvania. I do not believe it, sir. I believe we are like the members of the Legislature. I believe we are like the people that elected us, no better, no worse; and that we are as likely to err as they. I have a great deal of faith in human nature everywhere. I believe the mass of men are good, and that it is only under temptation that they err; and I believe when temptation comes, all the oaths that you can administer will not restrain them.

If I have made up my mind to commit a murder, it will not affect me in the smallest degree that I had before that time sworn I would not do it. If I have made up my mind, as a member of the Legislature, to be guilty of the infamous crime of betraying the interests of my constituents, and of the crime of bribery, it will not hurt me to add the crime of perjury to it. I will not hesitate, because I had sworn that I would not do that thing.

Now, I have said before, on this floor, that the members of the Legislature are not dishonest either when they are elected or when they get through their term. I speak of them as a body. I know there are frequently some who have been misled, some even who have been guilty of crimes for which they ought to be in the penitentiary, but the number of the guilty is small. The manner in which wrongs have been committed in the Legislature is by the body being misled. Why, we had an example of that here yesterday. Did not the gentlemen from Philadelphia, (Mr. Cuyler,) who is not now in his seat,

tell us that the tonnage tax repealed was right? Did he not make an argument that would have misled half the members of this Convention, if they had not known something about the subject. Let that argument be laid before fifty men from any part of our districts, who know nothing about the question, and forty-eight of them who do not hear the other side, would say that the gentleman from Philadelphia (Mr. Cuyler) was right. That is the way men are misled. I am just now told by a gentleman behind me that he (Mr. Cuyler) was right anyhow. There again is a man misled. Do you think that if my friend here had sworn that he would not be misled by the ingenious arguments of the gentleman from Philadelphia, (Mr. Cuyler,) he would have been any less likely to have been misled? Not a bit.

Members of the Legislature are misled, sir. They are not criminals. They do things they ought not to do; but they do them in the best of faith. I speak of the great majority of them.

Now, Mr. Chairman, this is upon the subject, although it is not very close to it; but I ask the indulgence of the Convention in presenting it. It is this: I believe that this wholesale denunciation of public men and public measures, in which we have indulged, in which the newspapers indulge, and in which the country at large seems now to be indulging, is calculated to produce the very crimes it pretends to try to avoid. It is demoralizing in its tendency. When the people come to have a relish for crime in high places, the people are in a fair way of being corrupted; and if there are members of the Legislature who are weak and easily led away, it is often because they are made by men in high places—places such as we occupy, and by the press, to believe that they are surrounded by dishonest men. Once satisfy a man that he is the only honest man in his neighborhood, and if he is not a saint, he will very soon become a rogue.

This thing has gone too far. The tendency is demoralizing. The exhibition we had on this floor yesterday was pleasing. I liked it as well as others. I grant that I have been so far demoralized as to enjoy those things myself, but I am the worst man for it. If I had the right mind I should have avoided the exhibition of yesterday—should have run away from it as a thing calculated to poison me. We will never get better as a community

—never have better leaders, until we learn to have confidence in humanity.

Now, sir, I want a Constitution to be administered by good men. I intend, as far as I can do it, to have this Constitution so framed that it can be well administered, and by good men. I do not pretend, nor ought any body else to pretend, to frame a Constitution that can be well administered by bad men, so as to suit the interests of the country. That thing cannot be done. If we can not get good men to administer the Constitution, the government itself must go down. Hence, I am opposed to all these oaths, and prefer leaving the Constitution as it is.

The provision immediately before the Convention, that a man shall swear that he will not abide the decision of any caucus is amusing. I never attended a caucus with a view of being "bound" by its decision, and I have attended many. I may not accept the decision of a caucus, but I would not say, in advance, that I would *not* accept it. If the gentleman from Philadelphia (Mr. Cuyler) wants to prevent conference among members of the Legislature, probably the safest way would be to put a provision in the Constitution, requiring each member to swear that he would not vote for anything that anybody else voted for. Then there would be no reason for conference or caucus. However, I feel inclined to vote for this, just as I would vote for anything else that would tend to carry the whole weight of these oaths down before this Convention, so that we may leave the Constitution as it is, in that respect. There is more good in it generally, than many gentlemen seem willing to see, not only in this respect, but in others, and I will not change it until a necessity is shown for the change.

Mr. WALKER. Mr. Chairman: On yesterday, in Convention in this Hall, I expressed myself about in the language of the gentleman from Delaware, (Mr. Broomall,) that I would vote for the amendment now immediately before the committee, with a view to kill the whole of it; but a night's reflection and consulting my own common sense have brought me to a different conclusion. I do not think it is the duty of a member of this Convention, on any occasion, to vote for that which he believes to be wrong. I think the amendment of my friend from the city (Mr. Cuyler) is radically wrong, and although I desire to kill all these extra oaths, yet I must vote against it.

While I am up, allow me to say a word or two upon the matter of oaths in general. I never said, as I was quoted as saying by the gentleman from York, (Mr. J. S. Black,) that I considered an oath unworthy of being taken by any man. I never said that there was not good in an oath. I never said that a good man ought not to be sworn as well as a bad man, but I did say, and I repeat it now, that an oath taken by a bad man, such men as have been described in this Convention, has no effect upon him. It produces no good result. I thought so when I spoke as I did, when the gentleman from York (Mr. J. S. Black) misquoted me, and made me seem to say the very reverse of what I intended to say, and what I did say, and what I now repeat, namely: That when a man has acted the villain in the Legislative Hall, on the bench or anywhere else, he will not be likely to be honest merely by the taking of an oath.

Mr. J. S. BLACK. Mr. Chairman: I would like the gentleman (Mr. Walker) to allow me to say, that I did not want to mistake what he said, and I want now to state it as correctly as possible. I think he does not recollect exactly what he did say. He said that he was opposed to the administration of such oaths as that which was proposed in the report of the Committee on the Legislature, because he said—and he appealed to the gentleman from Greene, (Mr. ———,) who was then in the chair, to bear him out, that the experience of both of them would prove that legislative oaths were like custom house oaths—easily taken and easily broken.

Mr. WALKER. I did say that.

Mr. J. S. BLACK. And that would continue to be the case, no matter what oaths be taken.

Mr. WALKER. I did say so, and I said so in application to bad men—in application to men who were not bound by considerations of honor and integrity. I said so in relation to those who were unfit to be representatives of the people.

Mr. J. S. BLACK. No. The gentleman (Mr. Walker) said it in reference to such people as were in the Legislature generally.

Mr. WALKER. The gentleman (Mr. J. S. Black) misunderstood me. I said it not in reference to such men as are generally in the Legislature, for I believed then, and I believe now, that from the year 1832 down to this time, that there have been, and are now, as pure men in the Legislature as there are in this body.

Mr. WALKER. Mr. Chairman: I repeat I did say so; but I said it in application to bad men; I said it in application to those who are not bound by integrity and honor; I said it with reference to those who are unfit to be representatives.

Mr. BLACK. No, the gentleman said it with reference to such people as are in the Legislature; gentlemen—

Mr. WALKER. The gentleman misunderstands me. What I said was said in reference to dishonest men; not such as compose the great majority of the Legislature. For I believed then, and I believe now, that as pure men, from the year 1832 down to this time were, and have been and are, in the Legislature, as there are in this Convention. I will now, Mr. Chairman, while on this point, state that the gentleman from York was unfortunate in the evidences he gave of corruption in the Legislature. He referred to the incorporation of the old United States bank of Pennsylvania, and said that on its face there stood corruption, and that its passage through the Legislature was procured by corrupt means. Mr. Chairman, perhaps I am the only member of this Convention who was a member of the Legislature at the time that bill was passed. I voted for that bill, because I believed it to be right, and I believe it now to have been right. Mr. Chairman, that bank had run its course as a national bank. It had thirty-two millions of money all paid in. It had for the last twenty-five years collected and disbursed all the revenue of the nation without a cent's cost, and without the loss of a dollar. Its charter expired, and it applied to the Legislature of Pennsylvania to be incorporated. The application was received; Nicholas Biddle, together with its cashier, came there as gentlemen representing the bank, and presented it before the Legislature.

Now, Mr. Chairman, if a man should rise up and proclaim that the passage of that bill through the Legislature had been procured by means of corruption, after a silence from the year 1832 down to this day, I would say that that man made an assertion in which there was not a particle of truth. Mr. Chairman, I voted for that bill. I voted for it with as pure motives as those which actuate me in this Convention, where I am endeavoring to do my duty. I know that my motives were pure, and I believe all the rest of the members of that Legislature voted from, and were controlled by, as pure motives as I did. In the Senate there were four gentlemen,

John Dickey, Thomas S. Cunningham, Jesse R. Burden and Charles B. Penrose, who, it has been said, were bought. I know nothing about that. There was no buying in the House. We believed the bill was right, and we voted for it. In the Senate, if those gentlemen were bought, they know. They are all dead but one—Jesse R. Burden is in this city. Talk with him about it, and see whether he says that there was any money spent to procure the passage of that bill. I only refer to this as showing that the gentleman from York is mistaken when he asserts here, as he did yesterday, that there was corruption in the passage of that bill into a law.

But then, again, he said that there was frauds in the disposition of the public works, and that the Legislature was guilty of fraud, and he held its members up before you, and before this body, as utterly unworthy of any consideration. Why, Mr. Chairman, do you not know, do not I know, does not every gentleman in this body know, that Pennsylvania demanded, outside the Legislature, the disposition of the public works, as a matter of economy. It was not a matter which originated with the Pennsylvania railroad. It was not a matter which originated in the Legislature. It originated through the recommendations from the Executive. It originated in and among the people. They desired that the public works should be disposed of, and they were disposed of under the act of 1837. Who was corrupted in the passage of that act? Nobody. Who was? The gentleman behind me, (Mr. Mott?) Not a bit of it. He was not there. They were sold for \$7,500,000, and the State made just that much by the sale—but that was only the disposition of the Columbia road. The canal from Columbia to Hollidaysburg, the Portage railway, the canal from Johnstown to the city of Pittsburgh—these were sold for \$7,500,000, under the act of 1857.

Now, Mr. Chairman, I think in that sale there could be no fraud. It was, to some extent, a conditional sale. The Legislature offered or proposed to sell the main line, as stated, for \$10,000,000, I believe it was, for the title to that improvement, they to be discharged from the three mill tax that was upon them, or \$7,500,000 free from this tonnage tax. The Legislature gave the railroad company the option to take these improvements at that price, \$10,000,000, without the tax, or to take them for \$7,500,000 retaining the tax. The

Pennsylvania railroad company chose the latter. They paid, or agreed to pay, \$7,500,000 with the tax, instead of the \$10,000,000, the tax being taken off. I blamed that company then; I blame it now, after a suit had been instituted and a judgment of \$650,000 recovered against it, and \$150,000 more, by an account settled and standing on the books against it. I blamed, I repeat, that company for going to the Legislature and asking in 1861, the repeal of the tonnage tax, relieving them from the amount for which the company was then in arrears. They did do so and it was granted, whether corruptly or not I do not know. The gentleman who addressed the Convention yesterday, (Mr. Mott,) did not allude to that in referring to the \$25,000 that was offered at one time, and the \$18,000 at another. Why, no, that was a subsequent thing when Mr. Mott was a candidate for the State Senate, and in no way connected with the disposition of the public works. I say, Mr. Chairman, that in his reference to the evidences of corruption in the Legislature, the delegate from York is unhappy and unfortunate. The cases he cites prove neither corruption nor mistake.

But in the year 1868 an act was passed for the sale of the Delaware division, for the sale of the North Branch canal and its extension, and for the sale of the West Branch canal and its extension. They were sold and to whom? Why, they were sold to the Sunbury and Erie railroad company for \$3,500,000—that company giving their mortgage and their bonds for this property. Now, Mr. Chairman, where was there any corruption or injury done to the State by that sale? Where did those bonds go? They went into the sinking fund, and under the act of 1869 they were taken out and transferred to the Allegheny Valley railroad company—that company giving their bonds and a mortgage upon the road for the payment. I ask you, therefore, has Pennsylvania sustained any loss thereby? Why, no. It secured the construction of the Allegheny Valley railroad, which proved a benefit to both the western and interior portions of the State. There was no injury arising from these acts of 1857 or 1858 or 1861 or 1869. In my judgment the delegate from York was unfortunate in instancing this portion of legislation as showing corruption. It has shown anything but that. It has shown wisdom.

Mr. Chairman, the delegate said it was wrong to repeal this tonnage tax. I said

so at the time and I felt so. Not exactly as a Philadelphian—not exactly as a Pennsylvanian. At that time I was a director in a railroad, a link in roads reaching from the city of New York through to Buffalo, on through the town of Erie, on to Chicago, and clear west as far as the railroad extended at that time, and as a director in that railroad we felt opposed and we expressed ourselves against the repeal of the tonnage tax, and why? Because it was three mills on each ton on each mile traveled in favor of the Lake Shore roads. I was a director in that road, a road in which I have to-day more than I have of this world's goods in any other one thing, except in real estate; but, Mr. Chairman, I see now that it was right to repeal that tax. Right, not because it has been decided since to be unconstitutional, but it was right because it was giving an advantage to the Lake Shore road by the amount of this tonnage tax over the roads of this State, taking from Pittsburgh and taking from Philadelphia, while it turned to Buffalo and from that point to Boston and New York, a trade that legitimately belonged to Pittsburgh, to this city, and to Pennsylvania in particular.

I believed then, and I believe now, that the repeal of the tonnage tax was a wise measure, for the reasons I have mentioned. The gentleman from Philadelphia (Mr. Cuyler) said yesterday that it was done in order that the Pennsylvania road could compete with the Ohio and Baltimore road. Then, Mr. Chairman, the trade along the south shores of Lake Erie dwarfed that of the Baltimore and Ohio road and equaled that of the Baltimore and Ohio and the Pennsylvania railroad, both combined. When you take into consideration the Atlantic and Great Western and the Lake Shore road, their trade exceeded that of both these other corporations. I say, then, it was right to repeal that tax, even if the Constitution of the United States did not do it, as now decided by the Supreme Court of the United States.

But then, Mr. Chairman, look a little further. Since that time two roads have been constructed through Canada from the east to the west. One road from below the falls of Niagara, through the centre of Canada, reaching the Detroit river near to Detroit. Another, a competing road to that, has been constructed in Canada. That company has constructed a bridge across the Niagara river at Buffalo, and have constructed along the

north shore, at Lake Erie, another railroad that is a substantial competitor with that on the south shore, and is an efficient competition with the Pennsylvania railroad. It was in order to enable the Pennsylvania railroad to compete successfully with these corporations that I say, it was wise in the Legislature to repeal the tonnage tax. Instead of its being corruption, it was wise in the Legislature to repeal this tax at the time it did. In this, also, the delegate from York is unfortunate.

Mr. Chairman, upon the subject of oaths —

The CHAIRMAN. The gentleman's time has expired.

Mr. STANTON. Mr. Chairman: I move that unanimous consent be given to the gentleman from Erie to proceed —

Mr. LILLY. I object.

Mr. BAER. Mr. Chairman: The discussion on the pending question has become very desultory, embracing not only the railroads of this State and the nation, but even Canadian affairs; and all this upon the adoption of a form of oath.

I am utterly opposed to this manner of debate; if it is continued we shall not get through our labors here for a year.

We can only hope to make progress in our work when delegates are confined to the discussion of the immediate question under debate.

I rise, then, to say a word on the question of the oath which has been so much disparaged by some of the members who have preceded me in this discussion. I am one of those who are anxious to ascertain which of these oaths is the strongest, and whichever is the strongest I am in favor of. If there is any gentleman in this House who is able to make one stronger than that made by the gentleman from York, (Mr. J. S. Black,) let him produce it. I will vote for it, and the great christian heart of this Commonwealth will vote for it, if it is submitted to them. They look upon the matter of taking oaths as not a sacriligious act, as not a profanation of the great and holy name of the Deity, but as a reverential act of homage and worship. All christians must look upon it in that light, and it is only those who are infidels at heart, (except those who have conscientious scruples about the form of the oath itself,) who will array themselves against the taking of an oath, and join in with these men to put it down.

Look over the country, everywhere, and who are the men who are clamoring

against the administration of an oath? Who are they that are asking for the abolition of the oath? Is it the great mass of the christian people of this country, or is it confined chiefly to the men who profess to be infidels, and yet who are so cowardly that they cannot face the presence of Almighty God when asked to take an oath? They cower then, and for that reason they want it abolished. And for that reason I would make it so strong that infidelity should be made to know, before the days of adversity come, that there is a God. There is no man on this continent, none that ever lived or ever will live, who can, when the last hour comes, deny the existence of God, though he may preach it when he is in prosperity; and the great misfortune now is that the gentleman from Delaware (Mr. Broomall) comes up and joins in asking that this oath shall be put down, and yet he does not speak for that class. He is one of those whose conscientious scruples I respect, but he is provided for by this very oath, as provision is made for all christians to exercise their choice, and instead of an oath take a solemn affirmation. This ought to be all that he should ask here. Let him go and take that affirmation. There is no insult there to the christian religion.

It is as much in accordance with Holy Writ to "perform unto the Lord thine oaths" as it is to "swear not at all," because the christian heart of the entire world will assume that no man violates the precepts unless he swears falsely.

The supreme power of the State commands that you shall perform unto the Lord your oaths in the way of a confirmation of the truth; and when the State provides a form of oath, which also includes affirmation, a man should take it because he would be absolved if there were really anything wrong in it, as all men must be subservient to the powers that be. For that reason the stronger the oath can be made the more cheerfully will I vote for it. Yes, I would vote for it if it would raise the hairs on the head of a villain like "the quills on the fretful porcupine." I have seen in courts of justice men who have come upon the stand and claimed the right to affirm, under the pretext that they had conscientious scruples, who neither believed in God nor the devil, and who, when put to the wall and required to take the oath, trembled and turned pale, showing that there is such a thing as men quailing when they are made to con-

front the great Eternal Power. For this reason I hope that this amendment will be adopted.

Mr. LEAR. Mr. Chairman: The discussion seems to have taken a wide range, judging from what I saw in the papers this morning, not having been present yesterday, and the discussion has continued to-day in the same unrestrained manner. A great deal has been said in reference to what has been done in the Legislature in former years, and I suppose that those facts have been brought to the attention of this body for the purpose of showing that members of the Legislature have been suspected of not being pure.

Now, Mr. Chairman, although I have my own opinion about the members of the Legislature, I have that opinion simply because they are taken from the community and are members of this great human family in the State of Pennsylvania. But it is not necessary for the gentleman from York (Mr. J. S. Black) or the gentleman from Erie, (Mr. Walker,) or any one else, to give particular instances of what has been done by the members of the Legislature to prove that human nature is not sufficient always to withstand temptation. We can find from the same authority to which the gentleman from Delaware (Mr. Broomall) refers, that human nature needs all the support it can get for the purpose of keeping it from falling into error, if not into corruption. From the time when our unfortunate progenitor partook

"Of that forbidden tree, whose mortal taste
Brought death into the world, and all our woe,
With loss of Eden,"

down to the period of the speculation in the stock of the Credit Mobilier, there has been every day found abundant confirmation of the Divine declaration that "the human heart is deceitful above all things, and desperately wicked."

The members of the Legislature have, in their bosoms, this human heart thus corrupted by the primal sin, which we carry about with us to this day, and although it has been asserted in this House that we are setting ourselves up for a body of purity, I have never heard it, and I do not understand that such is the case. We all acknowledge our fallen condition, and acknowledge that we are strengthened and supported when we come to the book and appeal to God, that as we shall perform the duty we swear to perform, so may we be helped by that Divine power; and I say that no man, be he christian or

pagan, can fail to feel the solemnity of the occasion when that Divine sentiment, that is in every man's bosom along with this fallen condition, is appealed to in this solemn manner. It does not matter whether a man is a christian or a pagan, with regard to this sentiment of reverence. They all have it.

The gentleman from Dauphin, (Mr. MacVeagh,) in speaking upon this very subject, in the introduction of his report upon the Legislature, spoke of it, I believe, as a prejudice. Sometimes it gets to be a prejudice, because it is the natural sentiment without the information and intelligence of a christian; but whatever country we go to, to whatever age of the world we turn, under whatever kind of government it may be, that sentiment of reverence may be found. We may find it in the barbarians every where—we may find people without clothing, without education, almost without language, people without the implements of agriculture, the conveniences of life, and without houses, but nowhere, at no time, and in no spot on the face of the earth, will you find a people without their altars and their gods—and when appealed to by their reverence for the objects of their adoration, you will find that they are restrained in their conduct from performing the things which they otherwise would do; and even in the South Sea Islands, where they eat christians with the utmost relish, the word "tabboo" will restrain a man from going into the sacred precincts of temples and groves made sacred by their religious rites. You find that these people are restrained by this spirit of reverence, and all people where they have governments, are bound by oaths to the performance of their duties, which are changed and modified according to what they may regard as the object of their adoration, and it is said that the "Heathen Chinese" is sworn upon the bowels of a recently slaughtered chicken, while they are in a quivering state, and if these pagans are subdued into reverence by such a process, those who go to our Legislatures, who have no idea of the Divine presence, which would bring them to a proper consideration of the performance of their duties, so that the ordinary oath would be of no binding efficacy, may be awed into reverential solemnity by an oath on the palpitating viscera of a dissected legislative rooster, and the State might be benefited in two ways by adopting that form of oath. Now I am in favor of these oaths.

It is said bad men cannot be made better. I say that bad men have that sentiment of reverence in their bosoms, and they are restrained by calling attention to their particular acts which they swear they will not do, and to the performance of the particular duties which are required of them, by virtue of their office. Details in oaths are not new. The old oath, by which we swear a grand jury, is very much in detail, as every lawyer knows. The oath by which we swear the jury to try a man for his life, is not to perform his duty as a jurymen with fidelity, but that he will well and truly try, and true deliverance make between the Commonwealth of Pennsylvania and the prisoner at the bar, whom they have in charge, and a true verdict render according to the evidence. The constable that is called up to take the book, is sworn that he will take the jury into some convenient room, in this house, and there keep them, and suffer no one to speak to them, or speak to them himself, until they have agreed, unless it be to ask if they have agreed.

A director in a national bank takes an oath, not only that he will perform his duty as a director, but he takes an oath that he is qualified to serve as a director, by reason of his having the requisite quantity of stock, and that none of it is hypothecated, and that he has not otherwise done such acts as to disqualify him for the office of director of the bank.

I say that this thing then is not new, and the good man, the honest man, the conscientious man, will go back in his mind during the period of his stay in the Legislative body to review his conduct, and look forward to what he had to do to see whether he acts up to the requirements of that to which he was sworn to perform when he first came into that body, and he will be strengthened and enlightened as the juror is, as the witness is, who has sworn to tell the truth, as the constable is, as the bank director is, as all the different officers are, who are sworn to perform their duties in a special and detailed manner. Now, I say, there can be no objection to this. It is not offensive to an honest man. It may restrain some one of the peculiarly constituted men, because while I admit that we all come here under the cloud of the primal sin, and having that defect which has been denounced against human nature, that "the human heart is deceitful above all things and desperately wicked." Yet there are grades of wickedness in the world, and some men, by practice or by

nature, get to be worse than others, and the bad man may be restrained. There may be a sentiment of reverence which is cultivated in his boyhood, and which was taught to him at his mother's knee, and even that becomes debased and corrupted. And the politician, if you please, who is called to take an oath, and who has forgotten the sentiments which were distilled into his mind in early youth, may have them revived by the solemnity of being sworn upon the Gospel to do these particular things, and to leave undone the other things.

That is, with regard to the oath which precedes his entering upon the duties of his office. Whether we should go farther—whether this oath, which I understand is proposed by some gentleman here, but which is not now actually before this Convention, to swear these members at the termination of their official career that they have not done any of those things which they were forbidden to do in the first oath—that they have not taken any bribes, &c., whether that should also be attached to the position of a member of the Legislature, I have some doubt. That might do no good, and might only work a forfeiture of a man's hopes of happiness in a future world, when he takes a false oath; because the man has failed to tell the truth upon his final oath, and only blackens his soul with perjury. I do not know that this Convention ought to prescribe terms by which he should be damned in the future world. It looks like vengeance.

It is true that the Prince of Denmark, when charged with the duty of avenging his murdered father, and when seeking, sword in hand, an opportunity for punishing this great wrong, found his uncle engaged at prayer. The Prince was thereabout to take summary vengeance upon his uncle, but, on reflection, he said in substance: "If I slay him now his soul will take its flight to heaven; I will wait until I find him in his incestuous bed, or in dissipation, or gaming."

"Or some other act or occupation,
Which has no relish of salvation in it,
Then trip him, that his heels may kick at Heaven,
And that his soul may be as damned and black
As hell, whereto it goes."

I always thought that that was a sort of punishment that was beyond the idea of christian retribution. There was too much personal vengeance upon the part of the mad Prince in this act, and that we should have prescribed an oath by which we

could only enforce performance of duties, and restraints upon corruption. But to follow his term in the Legislature with an oath, that he has kept faith in his first oath, and performed his duties, and if he swear falsely in this final oath, it will not undo what he has done, and cannot benefit the State; but can only add the crime of reiterated perjury to the delinquent member, and eternally damn his soul, without purifying or correcting the record of his official term.

Mr. Kaine. Mr. Chairman: I desire to say a few words upon this question of oaths. Other questions that have had nothing whatever to do with the question before the committee have been discussed here at great length, and with great ability. It was done, I suppose, for the purpose of illustrating the points desired to be made by the gentlemen partaking in the debate.

I prefer the amendment of the gentleman from Dauphin (Mr. MacVeagh) to the oath as reported by the committee. The oath, as reported by the committee, is nothing more than the oath required by the old Constitution. If there is any efficacy in it at all, which I believe there is, I am in favor of adopting an oath which shall be as strong as possible. We have always had oaths in Pennsylvania from the formation of the government, notwithstanding the assertion of the gentleman from Delaware (Mr. Broomall) a few moments ago to the contrary. There was an oath embodied in the laws prepared by William Penn, in England, in regard to all officers, great and small, in the State. I read from the twenty-sixth paragraph of these laws:

"That all witnesses coming or called to testify their knowledge in or to any matter or thing in any court, or before any lawful authority within the said province, shall there give or deliver in their evidence or testimony by solemnly promising to speak the truth, the whole truth, and nothing but the truth to the matter or thing in question. And in case any person so called to evidence shall be convicted of wilful falsehood, such person shall suffer and undergo such damage or penalty as the person or persons against whom he or she bore false witness did or should undergo; and shall also make satisfaction to the party wronged, and be publicly exposed as a false witness, never to be credited in any court or before any magistrate in the said province."

That was the oath in regard to officers. Then section thirty-four of the same laws says:

"That all treasurers, judges, masters of the roll, sheriffs, justices of the peace, and other officers and persons whatsoever relating to courts or trials of causes or any other service in the government; and all members elected to serve in Provincial Council and General Assembly, and all that have right to elect such members, shall be such as profess faith in Jesus Christ, and that are not convicted of ill fame or unsober or dishonest conversation, and that are of twenty-one years of age at least; and that all such so qualified shall be capable of the said several employments and privileges as aforesaid."

Under the Constitution of 1776, this was the oath prescribed:

"I,———, do swear (or affirm) that, as a member of this assembly, I will not propose or assent to any bill, vote or resolution, which shall appear to me injurious to the people, nor do or consent to any act or thing whatever, that shall have a tendency to lessen or abridge their rights and privileges, as declared in the Constitution of this State, but will in all things conduct myself as a faithful, honest representative and guardian of the people according to the best of my judgment and abilities.

And each member, before he takes his seat, shall make and subscribe the following declaration, viz:

I do believe in one God, the Creator and Governor of the Universe, the Rewarder of the good, and Punisher of the wicked; and I do acknowledge the scriptures of the old and new Testaments to be given by Divine Inspiration."

Those were the oaths established by William Penn and his immediate successors, and I am in favor of continuing something of the kind, because I believe we need them infinitely more now than we did then.

How did the gentleman from Delaware (Mr. Broomall) become a member of the Bar?—because I believe he is a distinguished attorney of the county which he represents so ably upon this floor. He must have taken a solemn affirmation—if he is opposed to swearing—that

"I do solemnly affirm that I will support the Constitution of the United States, and the Constitution of this Commonwealth, and that I will discharge my duty, as an attorney of this court, with all due fidelity to the court, as well as to my

client; and that I will use no falsehoods, or delay any man's cause, for lucre or malice."

That is a strong oath.

Mr. BROOMALL. Will the gentleman allow me to ask him a question?

Mr. KAINÉ. Certainly.

Mr. BROOMALL. I desire to know whether the same oath which the gentleman (Mr. Kaine) himself took, by which he was admitted to the bar, has ever, in the smallest degree, influenced his conduct?

Mr. KAINÉ. I hope it has; and a man who would not regard an oath of that kind—an attorney who would take an oath such as this, and say that it had no control or influence over him, I should be sorry to employ him as my counsel in any cause.

Now, sir, these are preliminary questions in this investigation. We had these oaths before; they have done no harm, and, I apprehend, they have done some good. They were left out of the Constitution of 1790, but not altogether, as the gentleman from Delaware (Mr. Broomall) says, for he says that no oath at all is required by it. The eighth article of the Constitution of 1790, which is copied precisely into the Constitution of 1837-8, provides that:

"Members of the General Assembly, and all officers, Executive and judicial, shall be bound by oath or affirmation to support the Constitution of this Commonwealth, and to perform the duties of their respective offices with fidelity."

That is the oath under which we are acting now. The oath by which we bound ourselves, when we organized as members of this Convention, was that we would support the Constitution of the United States, and discharge our duties as members of this Convention with fidelity.

As was well said yesterday, I believe by the gentleman from York, (Mr. J. S. Black,) every trustee, every executor and every administrator, before entering upon the discharge of his duties as such, must take an oath prescribed by law, and after he has discharged his duties and fulfilled his trust he must, before being released from his responsibility, take another oath that he has discharged his duties faithfully and honestly; and if he swears falsely in the latter case he can be indicted for perjury.

That members of the Legislature have been unfaithful in times past is not to be denied. I have been a member of the

Legislature of Pennsylvania in company with the honorable chairman. Much has been said against the Legislature here, and it has been asserted that no man had dared to rise in his place and speak in defence of that Legislature. I know that as honorable and pure men as are to be found in this body, or as have ever lived, have been members of the Legislature of this State. I know, too, that weak and corrupt men have been there. I have no doubt that men have not been wanting who have given their honor for a price. I am not going to discuss anything about this corruption, particularly on this question, except simply to say that as a matter of history—no man need attempt to deny it—that when the United States Bank was chartered by the State of Pennsylvania, in 1836, the members of that body were bought with a price to vote for the charter.

MR. DARLINGTON. Who were they?

MR. KAINE. I am not going to be an informer here for the gentleman from Chester. The gentleman from Chester knows as well as I do who they were. He knows it just as well as he knows that George III was King of England during the Revolution. He knows it just as well as he knows any event in history. So does my friend, the gentleman from Erie.

MR. WALKER. I rise to say, Mr. Chairman, that I was a member of the Legislature which passed the United States Bank charter. I voted for the measure, as I have stated, and, as I am to answer to God, I did not know then, nor do I know now, did I believe then, nor do I believe now, that any man in that Legislature was bribed to vote for that bill.

MR. KAINE. Well, the gentleman from Erie is a good deal older than I am, but he has certainly not read the history of this State! for if that fact has not become a part of the political history of this Commonwealth, as much as that we had a war with Great Britain in 1812, and that General Jackson fought the battle of New Orleans; then I am entirely beyond my reckoning. At any rate, I say this, that no matter what may be the belief of the gentleman from Erie, nor the gentleman from Chester, it is the belief of the people of Pennsylvania that such was the fact. But that has gone into history. This is neither here nor there. It is only a matter of illustration, to show that something should be done to prevent things of that kind from recurring in the future, if anything can be done. Why, sir, is it neces-

sary for a member upon this floor to say here that it is notorious, not only in Pennsylvania, but throughout the length and breadth of this broad land, that the Pennsylvania Railroad Company controls the Legislature of Pennsylvania, and that our Legislature acts precisely at its beck and will? Whatever they desire is done, whatever they desire not to be done, is not done. The repeal of the tonnage tax has been referred to; whether that was right or wrong; whether it was a matter of good policy or bad policy, I do not pretend to say; but that that measure was passed through the Legislature by the corruption of members thereof, has also passed into history, and is not to be questioned at this day. Large amounts of money have been expended by corporations, perhaps other than this, and by individuals also, in procuring improper legislation from the Legislature. And that, sir, is one reason, and that is the main reason, that is given by Mr. Secretary Jordan for the calling of this Convention. If we are not able to do something in respect to that matter to restrain the Legislature in the future, the assembling of this Convention has been in vain.

MR. BIDDLE. Mr. Chairman: I desire to say a very few words in explanation of the vote that I propose to give on this subject, and in stating my reasons, and in giving that vote I shall not be influenced in the least by any fear of the imputation which seems to be thrown out by some of the gentlemen who take a different view of the subject from that which I intend to take. I shall not preface what I have to say by any declaration of faith. I consider such things utterly out of place and out of season here. I shall endeavor merely to give a few, a very few, practical reasons why I think the oath submitted by the Committee on Legislature, and the oath submitted by the gentleman from Fayette, (Mr. Kaine,) and advocated so elaborately by the gentleman from York, (Mr. J. S. Black,) are out of place in this Constitution. I believe all such oaths, and when I say oath, of course I include affirmation, to be proffered in ignorance of ethical and political science, indeed in ignorance of the past history of the world. I believe them to be utterly inefficacious, and I am rather surprised when I hear gentlemen say, as many have said with a good deal of emphasis, that they will vote for as strong an oath as can be put. They certainly do not distinguish between mere strength of language and efficacy as to the

result which is destined to be reached by the words employed. If I thought they would be efficacious then, whether the words were strong or weak, I would go for them. But I am entirely satisfied that they are not. If they were, it would be a very simple and a very easy mode of making us all very good, because you would, only at successive stages in the history of each individual, have to swear him or her, as to past and future conduct, to insure perfect virtue. The laws of Providence, the laws of God, are not framed on any such theory; and when I heard the very distinguished gentleman from York, yesterday, referring to the Divine sanction, I wondered that it never occurred to him that Omnipotence should have pre-ordained from the first the plan which gentlemen seize hold of now as a corrective for all the vices of the community. It would have saved a great deal of trouble in this wicked world of ours.

But as I am not yet prepared to believe this, I shall vote against the amendments. I shall vote against them for another reason. I will not undertake to brand, in advance, the representatives of the people as convicted felons, and then expect them to do their duty as honest men. What mean all these provisions, past, present, and future? They mean, in effect, to say, if they mean anything, that the system of republican government is an utter failure; that the men annually or biennially elected; that the men periodically selected from the body of the people to discharge the legislative functions of the government, are so utterly corrupt, that unless they are hedged around by this formidable fence of oaths and affirmations they will depart from their duty in every single particular. I do not believe this, and therefore I shall never say it by any vote of mine. I do believe that much may be done towards the improvement of legislation, both as regards the elector and the elected, by holding each to their proper functions. When you multiply elective offices indefinitely; when you hold up large money prizes to be voted for, you will inevitably corrupt the elector. When, instead of confining the Legislature to the legitimate functions of devising and promulgating laws for the benefit of the whole community, you send them, as they are sent now, for the purpose of conferring special privileges, for the purpose of granting large gratuities to individuals and corporations, the result will inevitably be an injurious one upon the legislator; and

no matter what the sanctions, or supposed sanctions, by which you attempt to bind him, your labor will be but in vain.

Now in this section, in this article, further on, there are, it strikes me, many excellent provisions in regard to the evils which I have just alluded to, that will meet my most cordial concurrence. I think they may require some additions which I shall, at the proper time, suggest; but so far as they go they are most valuable. I do, therefore, beg gentlemen, before they commit themselves to a vote in favor of such oaths as these, to pause for a moment, and think whether, by affixing a stain in advance upon those who are to make the laws under which we are to live, they can expect to produce anything but unmixed evil? I do not object to the ordinary oath of office as I find it prescribed in the existing Constitution. It is found in article eight, and as it consists of but a few lines I will take the liberty of reading it:

"Members of the General Assembly, and all officers, Executive and judicial, shall be bound by oath or affirmation to support the Constitution of this Commonwealth, and to perform the duties of their respective offices with fidelity."

That is enough, and when gentlemen say or argue that it is not sufficiently specific, they lie under a very grave error. It does cover every possible offence which can be committed by a public officer or by a representative; and the statute law defines with sufficient precision what these offences are in detail, and points out the punishment. More is unnecessary. The gentleman from Fayette (Mr. Kaine) fell into an unintentional error, I am sure unintentionally, when he attributed to the gentleman from Delaware (Mr. Broomall) an assertion somewhat different from this. The gentleman from Delaware undoubtedly did say that in the article of the Constitution upon the Legislature, and as he thought in a similar article in the Constitution of 1790, there was no provision for an oath or affirmation; and in saying this he was strictly accurate, as no such provision is there found. The only provision on the subject is the one I have read, which does not assume, as it ought not, to distinguish between members of the Legislature and other officers of the Commonwealth.

Mr. KAINE. Mr. Chairman: I beg leave to explain. I understood the gentleman from Delaware to say that there was no

provision in the present Constitution for any oath whatever.

Mr. BROOMALL. Mr. Chairman: What I said was that there is no provision in the legislative portion, no special provision there in the present Constitution, or the Constitution of 1790,

Mr. BIDDLE. My remarks are about being brought to a close. This subject has been very fully, and very ably discussed on both sides; perhaps with a fertility of illustration by some of the gentlemen who spoke yesterday, which went beyond the immediate range of the discussion, but still in a manner that proved very interesting, and with which we have all been very much gratified.

One thing I would like to say to the gentleman from York (Mr. J. S. Black) before I sit down.

When he undertook to criticise unfavorably, as he did, a man like Jeremy Bentham, he undertook to criticise one of the greatest lights of jurisprudence which this, or any other age, has ever produced. He was a man who worked out theoretically, without the slightest practical knowledge, the whole *rationale* of judicial evidence. Had he lived but a single generation longer he would have lived to find adopted by every civilized country in which the common law of England prevails, every improvement in the law of evidence suggested by him, which is certainly no ordinary triumph for the philosophic inquirer into truth.

Mr. CARTER. Mr. Chairman: This discussion has taken a very wide range. But I shall endeavor, in the few words I say, to speak directly to the point in question. I shall not attempt to answer the gentleman from Montgomery, (Mr. Corson,) and the gentleman from Delaware, (Mr. Broomall,) in regard to the scriptural arguments against oaths; because I do not consider that it is a question or line of argument that concerns this body at all. We have assembled here as practical men to do a practical work; and I cannot believe that any good can arise whatever from examining subjects in that point of view. I think, if it were necessary to go over the arguments of the gentlemen, that they could be refuted, and that it could be clearly shown. The swearing that was then referred to, did not in any form or shape, or in any sense or meaning, refer to the matters such as we are now discussing—I mean judicial oaths, or solemn appeals or statements made in view of responsibility to a Supreme power. It was

from a profane appeal in the semi-barbarous condition of the world at that time to certain powers, and appeals to the earth and to the sun, or against profanity, perhaps. That was the kind of swearing that I apprehend was condemned, and it had nothing to do with the matter that this Convention is now discussing. It is enough for me to know, Mr. Chairman, that for years past, for ages past, there has been held to be a certain sanctity, and a certain solemnity, and a binding force which properly attaches to the position of a man standing up and recognizing the existence of the Most High in some form, no matter how rude, that witnesses his actions and to which he must render a final account. That is all we have now to consider. That this has been recognized as having been of binding force for years past, no intelligent gentleman will deny; but the gentleman from Philadelphia who has just taken his seat (Mr. Biddle) seems to agree with the gentleman from Montgomery (Mr. Corson) and the gentleman from Delaware (Mr. Broomall) in regard to the inefficacy of this matter of oaths. I think the gentleman is under a mistake. I think that to the average mind, be he a legislator, or officer in any capacity, there is a certain binding force in oaths, and this was recognized as much by the great man whose portrait is over your head, Mr. Chairman, as by any of the great legislators of the past. It is true that he, by a technical distinction, rather than one of principle, held that an affirmation should be used as equally binding, being more simple and equally solemn in its character. He recognized it as equally efficacious, and so it has been proved to be for hundreds of years past.

I think the gentleman from Philadelphia (Mr. Biddle) was wrong in the inference that he has drawn in regard to its inefficacy, or rather the inefficacy of all oaths. Why, I might ask the gentleman, are they retained, unless from a belief, almost universal, that they have weight and influence, and determine the conduct of average class of our citizens. He says, further, that he will never vote to say that members of the Legislature are felons, that he will never vote to impose this oath upon them, as it implies that they are felons. It seems to me the gentleman's objection takes too wide a range. The oath was administered the other day to the President of this great nation. Does it imply that he was a felon? Did he probably so consider it?

No, sir; not at all. It seems to me the principle is very nearly identical. It is no implication of the kind. It might not be necessary for the present incumbent, but it might chance to be necessary for some man who was not restrained by equally high moral considerations, but who, to some extent, would be restrained by the solemnity of his oath. I see no force or weight in the views of the gentleman from Philadelphia with regard to its being impliedly an insult upon the Legislature. I think we have had abundant testimony, without going into the question whether the members of the Legislature have been in the past the most corrupt people in the State, to show that some restraint should be imposed upon a certain class, or certain individuals that might become members of that body; and I do solemnly believe that this class will, to a certain extent, be reached.

Now I submit this view, that inasmuch as it has some effect, that it does reach a certain class, and if the thing be not wrong in itself, why should we not adopt it? If its tendency is to do some good, if it would be some restraint, why not, if it is not wrong in itself, and if no harm would probably arise from it, adopt the measure? It is not necessarily a taint upon a man who is required to take the oath; it does not presume that he is corrupt, or that he intends to do a corrupt thing; and there is a certain class of men who do go into the legislative hall, around whom it is necessary to throw all these restraints.

Although I am exceedingly solicitous to pursue every measure that will assist in this great work of throwing guards around the purity of our legislators; yet I cannot see that much benefit which will be likely to arise from the adoption of the proposition of the gentleman from Philadelphia (Mr. Cuyler) in regard to prevent action by party caucus.

Mr. CUYLER. There must be some confusion here in reference to its meaning. If I mistake not, as the Clerk read it this morning, it was in a different form from what it was when offered yesterday. I may be mistaken with regard to that, however, and I thought it was only designed to apply to caucuses of members of a party when a vote was to be taken on a certain measure. If it could be kept there; that is, if it would compel men to sink party whenever they come to legislate for all parties or for the whole State, and if it would have, or if it were calculated to have, any such effect, certainly I should support

it. But it seems to be thought that it simply trammels men in their party sense, and perhaps it would be as well, inasmuch as that it does not seem to be very fully matured, to pass it over.

I shall vote for the amendment of the gentleman from Dauphin, because I think that it goes closer to this evil, if there be any good whatever in oaths, which I still am inclined to believe. I am so old-fashioned as that, and if it can be amended by inserting the well digested thoughts of the distinguished gentleman from York, (Mr. Black,) about which I think there is a certain practicability, that when a man's course is ended, he shall be obliged to take an oath, stating that he has not done such and such wrong, and if he swears falsely he is to be subject to the pains and penalties of perjury—then I think a certain practical end could be gained and I shall vote with much pleasure for such an amendment.

Mr. HUNSICKER. Mr. Chairman: An oath is an obligation which has a two-fold character. It is binding, or supposed to be binding upon the conscience of the person who takes it. And, secondly, we make it binding upon him by adding a temporal pain and penalty to it, in case he violates it.

There is no necessity of justifying an oath by referring to its antiquity, or to its sacred character. To a Convention of intelligent gentlemen, like this, an argument of that kind would be an insult. I have been at a loss to discover from this discussion that there is really much difference between us, because the chairman of the Committee on Legislation (Mr. H. White) contends that his oath covers all that is provided for in the oath reported by the Committee on Legislation, and the gentleman from Philadelphia, (Mr. Bidle,) though he started out with a speech against the sanctity of an oath, yet wound up by saying that he preferred the old form of oath prescribed in the amended Constitution of 1838, which requires that the officers shall swear that they will support the Constitution of this Commonwealth, and perform the duties of their respective offices with fidelity.

Now that oath, in just that language, would cover every part and parcel of all these amplifications. It covers the whole ground, and the man who would take that oath on assuming any office, and then sell his official position for money, or take a bribe, or would betray the trust of his constituents, would be guilty of perjury,

and would make himself liable to the pains and penalties of perjury here, and would close the gates of Heaven against him hereafter; and the only thing that the friends of an "iron-clad" oath, of whom I claim to be one, desire is, that the same form of oath, so well illustrated by the gentleman from Bucks, (Mr. Lear,) that is administered to a grand jury, which contains, in detail, every part and parcel of their duty, shall be administered to a member of the General Assembly when he takes his seat, and that he shall be conscious, at the time he invokes Heaven to witness the sincerity of his vow, that he has still another oath to take, and this will serve to remind him at every step of his progress through legislation, until he concludes, that when he goes home he must go before some judge, or some one competent to administer an oath, and there, again, with his hands upon the Holy Evangelists of Almighty God, swear a solemn oath, that throughout that legislation, and throughout the discharge of his official duties, he has lived up to the oath that he first took.

I do not believe that there lives a man without a conscience, although a man may affect not to believe in any supernatural power, yet he would, notwithstanding, be reminded by that conscience, which is possessed in common by all mankind, that he perils his present or future happiness and peace, by violating the obligation of any oath, no matter in what form it is administered.

The peculiar form of oath assumed by the "Heathen Chinese," is as binding upon his conscience as the form of oath assumed by the christian is binding upon his. It is in each case in accordance with his religious belief. Let this oath be assumed, and let it be assumed with solemnity.

I am very much pleased to find that both these committees recommend that the oath shall be administered by a judge of the Supreme Court. I, sir, would have him, furthermore, clothed in the robes of his office. I would like to see every man coming up, and with the uplifted hand taking the most solemn form of oath that it is possible to frame, and I would have the ceremony as impressive as possible. The reason why so many of our oaths have been disregarded is because of the hurried manner in which they were administered. The conscience of the individual has not been properly pricked, it has not been properly affected by the sense of the ob-

ligation which has been assumed. I shall vote for an efficacious oath, and I certainly believe that that oath is most efficacious which goes to every part and parcel of a man's duty. I shall strike hands with the delegate from Somerset, (Mr. Baer,) and I pledge myself, now and here, to vote for the strongest form of oath which human ingenuity can devise. There is no degradation involved in any oath if a man is honest and means to discharge his duty honestly; he will take a long oath if it be prescribed, and will take it in the most solemn manner, and with a fuller realization of his accountability than if he took a short oath. Why is it that you want a short oath? Is it because a man, after taking a short oath, can argue with his conscience, and persuade his conscience out of the right path? We sometimes see in courts that a man will come up to the witness stand, and when the question is asked whether he will swear or affirm, that he sets up a pretence that he has conscientious scruples against taking an oath. Why is it that, in instances like that, a man will prevaricate and equivocate and avoid the truth, while if he is sworn with the uplifted hand or with the Holy Evangelists of Almighty God in his hand, and which he kisses—why is it that he will then tell the truth? Why is it, too, that in the experience of every member of the bar, and every other person within the sound of my voice, that when a man persistently lies on the witness stand, and you remind him of his oath, he will tremble and turn pale? It is because his conscience has stricken him.

For these reasons I shall vote for the amendment offered by the gentleman from Dauphin, (Mr. MacVeagh,) because I believe it to be an amplification of the same oath which is reported by the Committee on Legislation. I shall also vote for the after-oath submitted by the gentleman from York, (Mr. J. S. Black,) because I believe it will have a wholesome influence by reminding the law-maker all the time that his last duty will be to swear that he has performed his duty to the people faithfully. Thus this first and last oath will act as a guard and shield against every temptation that may assail the integrity of the legislator, and thus restore that public confidence in the law-making power which is now so seriously shaken, if not destroyed.

MR. MANN. Mr. Chairman: I cannot let a subject so important as this be de-

cided by this Convention without expressing his views upon it.

The main object for which we are assembled here is to make such changes in the organic law of the State as shall tend to purify the legislation of the Commonwealth, and I believe that I have as earnest a desire as any member on this floor, to give every vote of mine, and to direct every word that I may utter here, with that special view.

In the interest, sir, of a purified Legislature in Pennsylvania, I appeal to the members of this Convention to vote down these amendments. I was for four years a member of the Legislature of this State, and I was as industrious as my health and physical condition would permit me to be. I believe—I may have been mistaken, but I believe—that for three sessions of the time I was there, I could write the name of every member of the Legislature who had ever been influenced by improper motives in the passage of bills. I believe that number in no one of these sessions exceeded fifteen members, and in some of the sessions it did not come up even to that number. I believe that fifteen was the largest number of members that entered the Legislature during my knowledge of it that, in the passage of Acts of assembly, were ever influenced by improper motives.

A majority may have been mistaken; frequently a majority is mistaken. They may have passed laws which a majority of the conscientious men throughout the State thought improper, but, as firmly as I believe in my own existence, I believe in the entire integrity of the large majority of the Legislature of Pennsylvania, and I as firmly believe that these oaths which you propose to put upon them will increase the number of those corruptible men rather than decrease it. I say further that of those fifteen, the highest number that I can name, I believe every one of them would have taken these oaths, and you may increase oaths a hundred-fold, and they will take them as calmly as they will take a cup of cold tea. The eighty-five honest men would shrink back from these oaths; and the fifteen would not hesitate to take them. The eighty-five honest men will act honestly without them—the fifteen will not act honestly with them. There are a great many men who would adorn the Legislature, and would deem it an honor to be there, who would never take such oaths as these.

Why, sir, you propose to proclaim in advance by these oaths that a man who consents to be a member of the Legislature is presumed to be a rascal and villain. That proclamation is made upon this record, if you adopt any of these amendments as part of your Constitution. If any man, no matter what his character and reputation may have been before, will consent to enter this body, all the people of the State will have the right to presume that he is purchasable, and he must, by taking one of these oaths, proclaim that he is not purchasable.

Sir, I have never more than once or twice been asked if I considered myself an honest man; cannot recall more than a single such occasion. A man came into my office to employ me once, and asked me that question. I showed him the door, and told him he could leave as quickly as possible. I would do the same thing standing before the Speaker in the House of Representatives. I would show myself the door if asked to *swear* that I was an honest man; for that is precisely what the amendment under consideration will require. There is not an honest man that does not feel insulted when such a question is asked of him. Notwithstanding the assertion of the gentleman from Fayette (Mr. Kaine) that he has been influenced by his oath as an attorney, I cannot believe it. I took the same oath which he did when being admitted to practice law in the courts of this Commonwealth, but I say, with all solemnity, that from that day to this it never once influenced my conduct in a single particular, for I felt myself bound to do all that the oath asked me to do, and more too, as an honest man.

Mr. Kaine. I should like to ask the gentleman whether, when he took the oath as a member of the bar, that he "would delay no man's cause for lucre or malice," he considered that oath degrading.

Mr. Mann. No, sir; because it was the ordinary time-honored oath, that had been administered for years and years, so long that the memory of man runneth not to the contrary. But here you propose to inject into the Constitution a new oath, unusual, implying that all legislators are dishonest, and it is that which makes it degrading. The point I am trying to make is that I do not believe the oath which an *honest* man takes affects him or his conduct in any particular, because, without the oath, he would feel bound to

do all that the oath requires of or imposes upon him.

The only effect which an oath has upon any witness in court, or wherever the oath may be taken, is because of the penalty attached to it. You affect no man's integrity or honesty by imposing oaths upon him. You do appeal to his fears when you impose a penalty for swearing falsely. It is the penalty imposed upon the falsehood that affects him, not the oath itself.

Sir, I believe in penalties. If a man commits an offence punish him for it; and the Committee on Legislation have provided amply for the punishment of bribery or corruption on the part of members. They have provided amply that in the passage of bills the Legislature shall observe such forms of legislation as shall protect the interests of the Commonwealth hereafter.

Mr. J. S. BLACK. Mr. Chairman: Since the gentleman from Potter (Mr. Mann) is giving in his personal experience here, I propose to ask him this question: Whether, if there was no prohibition in the Constitution to prevent him from having any intercourse with gentlemen of the "lobby," he would have allowed that intercourse to go on between himself and the "lobby?"

Mr. MANN. No, sir; I would not. In the four years that I had the honor of a seat in the Legislature no "lobbyist" ever addressed me on any subject, and I know a great many other men that no "lobbyist" ever approached. That is the way to purify the halls of legislation. Send honest men there, and your "lobbyists" will go home; their occupation will be gone.

Mr. J. S. BLACK. I want to ask the gentleman this question: Supposing he thought it entirely convenient and right to hear what had to be said in favor of a bill by a party that was interested in it, and would permit private solicitations in the absence of any oath to the contrary. Then suppose he is called upon to swear that he will not listen to any solicitations whatever, would he or would he not keep that oath?

Mr. MANN. I say I would do all that without the oath, and I say that the oath has no binding force upon me, because an honest man is required to do it without the oath.

Mr. J. S. BLACK. Most assuredly an honest man may listen to the solicitations of persons who are interested in bills. They do it every day, do they not?

Mr. MANN. Certainly they will listen to honest men, men who have a proper business to be there; and I do not propose to prevent that. I, sir, do not propose to prevent the proper communication of the constituent with his representative.

Mr. J. S. BLACK. But suppose you are sworn to prevent it, would you not keep your oath?

Mr. MANN. I do not propose to be sworn. I am opposed to any such oath. What I say is that any attempts to prevent "lobby" influence, and all other improper influence by oaths, must necessarily be a failure. It cannot be done. As to the caucus part of the oath I was not speaking. I was making no remarks upon that part of the proposed amendment to the oath which attempts to prevent any communication whatever between the constituents and their representative. I said nothing about that, although I do not believe in that.

Mr. CUYLER. Mr. Chairman: The gentleman refers to his legislative experience of four years. Will he pardon me for asking him whether, under any circumstances, he voted for a bill because a caucus had resolved to pass it, but which his private judgment condemned, and I would remind him in that connection to the amended registry law of the city of Philadelphia?

Mr. MANN. Mr. Chairman: My friend from the city is very anxious about his caucus amendment.

Mr. CUYLER. I am.

Mr. MANN. I was not talking about that. [Laughter.]

Mr. CUYLER. I understood the gentleman's remarks to cover all that ground, the whole ground of legislative oaths.

Mr. MANN. Mr. Chairman: What I said was that I believed an honest man would act honestly without oaths. I was going to say directly that some of these amendments proposed requirements that I think ought not to be asked of a member. They are objectionable on that ground.

Now, since the gentleman from Philadelphia wants me to be diverted from the line of thought I was trying to pursue to the question of caucus, I will willingly gratify the gentlemen. I am opposed to the amendment concerning caucus.

Mr. CUYLER. Mr. Chairman: I would simply add to my question, in that connection, the metropolitan police bill.

Mr. MANN. I do not remember having anything to do with the metropolitan police bill.

Mr. D. N. WHITE. Mr. Chairman—

Mr. MANN. One at a time, if you please.

Mr. D. N. WHITE. Mr. Chairman: If the gentleman will allow me, I only desire to state that the metropolitan police bill never went before any caucus.

Mr. MANN. I do not know anything about that. I was not there.

Mr. J. S. BLACK. About the registry law, then?

Mr. MANN. I do not suppose I am obliged to answer questions that are not pertinent to the matter in hand. [Laughter.]

Mr. Chairman, I would just as soon talk about the amendment of the gentleman from Philadelphia concerning caucuses as not. It proposes to say that there shall be no association or consultation of members of the Legislature that shall affect them one way or the other in the passage of bills.

Mr. CUYLER. I beg the gentleman's pardon for the interruption; I do not so understand my proposition.

Mr. MANN. That is the way I understand it. Perhaps I read it wrong. I am willing to discuss it in the sense the gentlemen understands it. I am opposed to it. It is a poor time, I submit, after a man has received a caucus nomination to the Legislature, after he has been elected by the influence of a caucus, after he has received all the benefits of these influences, to say to him when he gets to Harrisburg, very coolly, "you must not have anything to do with caucuses." If a gentleman were, after being elected by the means I have described, to turn around and say to the caucus of his fellow-members, "I do not pay any more regard to you," it would be a breach of political honor. It would not, at any rate, be my idea of honor. The time to disregard caucus influence is when the convention meets to nominate its candidate. If a man asks for its nomination, if he wants to be a candidate of a caucus, he must be willing to abide by caucus influences. If he wants to be independent of caucus action, let him stand out as an independent man and run on his own strength, and announce himself as the candidate of men who do not believe in caucus. Then, if elected, he can disregard them.

That is my answer to the gentleman from the city. When I make up my mind to disregard caucuses, I will step outside of the influences of caucuses, and not appeal to them. I will do as a friend of mine of other parties, in my district, said

when this question was up. "When the caucuses of my party get so bad that I cannot stand them, I will jump over to the other side." That is what I would do, and if they are so bad that I could not stand them, I will jump out of all party caucuses. For that reason I am opposed to the amendment of the gentleman from Philadelphia. I say it is asking a man to be dishonorable, and I do not like to ask a man to take such a course. I do not believe that the gentleman himself would be willing to submit to his own amendment. If he were elected by the action of his party, he would not want to take any such oath. I am very sorry to differ with the gentleman, because I was very much in sympathy with the tone of his remarks. I understand him to be opposed to this piling up of oaths, and that he is opposed to the pending amendment, and that we are agreed on the main question. Indeed, I am very strongly of the belief that this amendment which he has moved, is just a feeler put out to see how far in the road of foolish action this Convention will go. I do not think he believes in it himself.

Mr. CUYLER. Mr. Chairman: I can assure the gentleman that I believe in it thoroughly.

Mr. J. S. BLACK. Mr. Chairman: I desire to say only a few words.

Mr. MANN. Mr. Chairman: I have not yielded the floor.

Mr. J. S. BLACK. I thought you were through.

The CHAIRMAN. Did the gentleman from Potter yield the floor?

Mr. MANN. No, sir. I desire to pay my respects to the gentleman from York. [Laughter.]

Mr. Chairman, if I had not got entirely beyond that period of time when a person can be very much astonished, I should have been astonished yesterday, very much astonished. We had a line of remarks indulged in yesterday that I cannot comprehend at all, except upon the supposition suggested by the gentleman from Philadelphia (Mr. Biddle) this morning, that the gentleman from York believed republican government is an entire failure. If that is so, then the remarks of the gentleman made yesterday were consistent. If not, I did not understand what the purport of them was. If I believed what he asserted I should vote to abolish the Legislature entirely. Why, it has become a nuisance beyond purification if the statement which he made be

true. But, Mr. Chairman, I believe, with a deep conviction, that what was said yesterday was of as strong a sensational a character as anything George Sands wrote, and as fictitious. It was purely sensational, and the gentleman has become so one-sided on this question, and so absorbed in it, and has been looking so much at the conduct of some of his clients that he can not imagine there are any honest men; and he has just come, as I learn, from the papers, from the successful vindication of a client about whom there has been more allegations of fraud, embezzlement and improper conduct than any other man in the State. And yet, with a little of his learning and his ability, he has brought that man out scot free, and he is as clear as any of us to-day. I do not know how much it would take to have this same ability brought to the vindication of any others charged with fraud and corruption, but I will undertake to say that if they will only secure the gentleman to defend them, they will come out with clean hands and unspotted skirts. Why, sir, the whole community, from Philadelphia to Lake Erie, rung with the charges of corruption, and embezzlement, and crime, in connection with this man. It now turns out to have been pure fiction! There was nothing in it! When it comes to be investigated under the legal ability of my friend from York, there is no crime developed. The man simply made a mistake of a few dollars as to the amount that was due him! Nothing more. Merely a mistake. That is the verdict of the court and the jury, assisted by the legal learning of my friend York, helping to develop that state of things, and to vindicate this much injured George O. Evans from the charges that have been made against him, and I take it that having vindicated the principal in this transaction, all of the accessories have been vindicated likewise.

The CHAIRMAN. The gentleman's time has expired.

Mr. STANTON. Mr. Chairman: I move he have unanimous consent to continue.

Mr. LILLY. I object.

Mr. MANN. Mr. Chairman: I merely wanted to add a passage of scripture. But that, I suppose, would not be palatable in this Convention.

Mr. J. S. BLACK. Mr. Chairman: I am not conscious of having done anything wrong in the course of the trial to which the gentleman (Mr. Mann) alludes. I kept my oath. I used no falsehood. I was true to the court as well as to the client. I

should be very proud of the vindication it gave to an injured man if I had brought it about; but the verdict resulted from the zeal and ability of my colleagues, from the intelligence of the jury and the justice of the great magistrate who presided. But this certainly looks more like a personal controversy than a discussion of the subject before the committee.

He says another thing, however, which is more to the point, when he declares that the tender of an oath to a member of the Legislature is an insult to him, and that he would so consider it in his own case. When the first President of the United States, the greatest man that ever lived in all the tide of time, whose name no true American ever mentions without emotions of respect and reverence, was called upon to take a specific oath that he would preserve, protect and defend the Constitution of the United States, it never struck him that he was insulted. The provision which required it was inserted by himself in the Constitution, signed with his own right hand. But here is a gentleman who, if not greater than Washington, is far more sensitive about his personal honor. He is ready to be insulted—he blazes up with indignation—when you propose that he shall take an oath like that taken by the great Father of his Country. It is not really a question whether a man shall be sworn or not, but whether it shall be modified so as to make it specific, intelligible and binding. It is proposed that if the gentleman from Potter is ever elected a member of the Legislature, he shall declare, on oath or affirmation, that he will *obey* the Constitution, not merely that he will *support* it.

Mr. MANN. Mr. Chairman: I would like to interrupt the gentleman. Does he mean to imply that I object to that kind of an oath?

Mr. J. S. BLACK. You don't object to the kind of oath now required.

Mr. MANN. Not to the ordinary oath.

Mr. J. S. BLACK. No, certainly! Not to the vague, meaningless and flangible oath which is now taken. The gentleman thinks that very good. But when you propose an oath that is unequivocal, and cannot be evaded, then he feels himself aggrieved. He does not object to swearing himself, or making other members of the Legislature swear, provided you don't require them to swear straight up to some point of duty.

Those who think that our rulers should be trusted as we trust nobody else, without

binding them to be faithful, even by an oath, for the violation of which they can be punished, ought to remember the admonition of Mr. Jefferson. He said that the security of our liberties rested upon jealousy, not upon confidence. The people of this country are not worthy to be free if they do not watch their institutions most carefully. We ought to encourage the vigilance of jealousy, not the apathy and negligence which results from confidence. The inheritance of free popular government is so precious that I would double the guards at every available point. Let us take all the chances to save its works, not only from the force that masses upon them by open assault, but from the more dangerous, because more insidious, enemy which undermines their foundations by treachery and corruption. Mr. Jefferson was, unfortunately, absent in France when the federal Constitution was adopted. If he had been at home he would, doubtless, have caused some provision to be inserted against the abuses which have since grown to be so monstrous. If his compatriots in the Convention could have foreseen the fatal degeneracy of their sons, they, without his aid, would have done something effectual to save us from the horrible corruption which now reigns in the federal and in all the State Legislatures.

We are told in some quarters that an oath, no matter how specific and clear it may be, will not influence the conduct of a person who takes it in the slightest degree. It seems to be thought that members of the Legislature are, and will always be, particularly unscrupulous about perjurying themselves. The opinion of Jeremy Bentham, that the religious sanction of an oath never has any effect upon the conscience, is fully adopted by some members of this Convention. Bentham may speak for himself. It is probable that he feared God as little as he respected man. But the gentleman from Potter certainly does himself great injustice when he allows us to suppose that he is in that category. He would most assuredly do whatever he might presume to do on his oath or affirmation. He might haggle about taking the oath—he would not like to walk in the path so straight—but he would keep it if he took it, and do what it binds him to do, though the thing be otherwise indifferent. So would the average run of our legislators. I cannot say that I think much of them in their fallen condition, but brace them well

with an iron-clad oath and they will *not* fall. When a new member of ordinary character takes the gospel of God in his hands, or makes a solemn affirmation that he will not have any intercourse with lobbyists, he will give the back of his hand to that infamous fraternity. The oaths will be ever present to his mind, and when the tempter approaches him he will say "Get the behind me, Satan. I see the bright line of duty stretching out before me. I am sworn to follow it. Shall I lay perjury upon my soul? No, not for worlds."

I admit there may be some who have no conscience, and no fear of the Divine displeasure. We have another way of dealing with them. We will, if this Convention assent, catch them by another oath, to be administered after they go out. They shall swear that they *have not* violated their duty. If they refuse the oath they become incapable of re-election, and we are well rid of them. If they take it and swear falsely, they are guilty of perjury, and may suffer the temporal pains due to that crime. Will not that be effective? Can you conceive of a human being who is at once knave and fool enough to do an act which he must swear he did not do, and take with it the open risk of the penitentiary?

But, Mr. Chairman, the wretches are but few who have no check except human law. Those who deny the general efficacy of oaths ignore the influence and the value of the christian religion. I make no quarrel, at present, with those who dissent from its doctrines, for we are not here to discuss theology. But I take leave to assert, as matter of historical fact, that christianity is not a failure. It has totally changed the moral character of every community that adopted it. The history of its progress through the ages is covered all over with light. Uncounted thousands of men and women have laid down their lives for it. Our fathers came to this country mainly for the purpose of planting the faith which they conscientiously believed to be true. They did plant it. They taught to their children, and to their bond servants, and to the stranger within their gates. It became interwoven with the whole frame-work of their society. It has been propagated over the whole continent, and its principles have everywhere chrystalized into good works. The faith, hope and charity, which are its great elements, exhibit themselves all around. From almost

every hill-top you can see the spire of a church. Schools, alms-houses, hospitals, seem to rise like exhalations from the earth. They are the results of that voluntary, but unostentatious benevolence which refuses to let its left know what its right doeth, a benevolence taught in the New Testament, and taught nowhere else. Is this all hypocrisy? You may call it a superstition, if you will, but is it a sham? In every house you find a Bible, and an overwhelming majority profess to believe every word of it. Their deeds seem to correspond with their words. Is there no security in this? Are they mere whitened sepulchres, goodly on the outside, but filled with dead men's bones and all uncleanness? No; to say that there is not faith enough in the country to bind the conscience of a representative man by an oath, is as comprehensive a slander as the most ribald infidel ever uttered against the Being who made him.

But I repeat that we do not mean to trust the mere conscience of any body. We will take something more than a religious sanction. The representatives spawned upon the Legislature by a stuffed and fraudulent ballot-box might probably defy that. Them we will expose and punish. Their sins shall find them out. We will not be so kind as my friend from Potter has been to the fifteen members whom he knew to be governed by corrupt and improper influences. We will not keep their secrets as he seems to have kept those of his colleagues at Harrisburg.

Mr. Chairman, opposition to this oath and to all measures of defense against corrupt legislation, is to be expected. It is not in the nature of things that men who live and thrive by dishonest practices will quit their occupation because we, the people, don't like it. I have no doubt that the opposition will be very serious. When these provisions were first offered in committee, their friends were warned that they would excite the hostility of a large body interested in the present state of things. It was said that they were strong enough to control fifty thousand votes in this city. They can do more than that—they can add twenty-five thousand to the count by fraudulent returns. What combinations they make with political leaders in the country I do not know. But a dishonest faction, which returns seventy-five thousand votes, can generally make its own terms with a party which cannot maintain its ascendancy without them.

The CHAIR. The time of the gentleman from York has expired.

Mr. HAY. Mr. Chairman: With the permission of the chair, I will yield my time to the gentleman from York (Mr. J. S. Black.)

Mr. LILLY. Mr. Chairman: I object.

Mr. J. PRICE WETHERILL. He can do that.

Mr. WOODWARD. I trust the Convention will allow the gentleman to proceed.

Mr. LILLY. It requires a motion or unanimous consent; and I object.

The CHAIRMAN. The Chair will state, so that the question may be understood by the Convention, the Convention has made a specific order, and it is not competent for the committee of the whole to reverse that order. It is the privilege of any member, sitting in committee of the whole, to avail himself of the order of the Convention; but if, by unanimous consent, opportunity be given for a gentleman on the floor to proceed, the difficulty would be obviated. It cannot, however, be done by a vote, since that would be over-ruling the order of the Convention. The gentleman from Allegheny (Mr. Hay) having had the floor, and having yielded it to the gentleman from York, (Mr. J. S. Black,) the Chair will hold, for the present, that he has a right so to do. The gentleman from York (Mr. J. S. Black) will proceed.

Mr. CUYLER. Mr. Chairman: I move that leave be granted.

The CHAIRMAN. It cannot be done by motion. The gentleman from Allegheny (Mr. Hay) was entitled to the floor for twenty minutes, and he has given his time to the gentleman from York (Mr. J. S. Black.)

Mr. DARLINGTON. Mr. Chairman: Do I understand the Chair to say that one member can give his time to another?

The CHAIRMAN. The Chair may possibly be wrong, but holding it to be the privilege of the gentleman from Allegheny (Mr. Hay) to give his time to the gentleman from York, (Mr. J. S. Black,) the Chair will for the present, unless overruled by the committee, rule that that may be done.

Mr. DARLINGTON. Mr. Chairman: The reason why I asked was that this privilege has been refused this morning to several gentlemen, and I did not want to make fish of one and flesh of another.

The CHAIRMAN. The question had not come up in the form in which it came just now.

Mr. J. S. BLACK. Mr. Chairman: I was about to say that this opposition is one which ought to make every man, who has any regard for the future welfare of his country, more zealous than ever to persist in the reforms proposed, and that the hostility with which we are threatened is in itself a reason for persisting. The honest people of the State must not and will not listen to any protest coming from such a quarter. Rogues are not entitled to a veto upon the means that are employed for their detection. If you want a new lock for your door you do not call a convocation of burglars and ask them how it will suit the conveniences of their trade. The rat-catcher does not consult the vermin which he wants to destroy about the trap to be used in their capture. Why, sir, if the insects that infest the head were allowed to determine how they should be caught and cracked [laughter] there would not be a fine-tooth comb in the world. [Renewed laughter.]

A word or two ought to be said in reply to the gentleman from Erie, (Mr. Walker,) who never speaks without entitling himself to the respect of everybody who hears him. He tells you that the "bank of the United States" was a very good institution; he voted for it himself, and he would do it again. Of course, when he talks that way he is conscientious. But can he say that the charter was honestly passed? I know, of my own personal knowledge, that there were men in that Legislature who voted for it upon considerations which they carried home with them in their pockets. The gentleman who introduced the bill, and whose unexampled skill, wielded the influence which carried it through, many, many times between that time and the time of his death, spoke of the measure as the one which had been carried after a fashion which I need not describe; and he sneered at anybody who, in his hearing, expressed any doubt of it.

Mr. MANN. Mr. Chairman: I should like to know whether I am under any more obligation than the gentleman from York (Mr. J. S. Black) to disclose the "improper influences" that have been used, in connection with legislation. [Laughter.]

Mr. J. S. BLACK. Certainly not. [Laughter.] Neither the gentleman from Potter (Mr. Mann) nor myself make any disclosures; we both keep our secrets. [Laughter.]

But as to my friend from Erie, after all the suffering his bank inflicted upon the people, the disgrace it brought upon the State, the ruin of business men, the plunder of widows and orphans, it seems somewhat late in the day to say that it was right.

He thinks that the repeal of the tonnage tax was all right, also. Strange to say, he was himself a member of the Legislature at the time that measure passed—

["No." "No."]

Was he not? ["No."]

Then he was at some other time when it was proposed. Did he not say he voted against it? ["No."]

Mr. WALKER. I never voted for nor against the tonnage tax. I said I was a director in the Lake Shore road, that the Lake Shore road sympathized with the existence of the tonnage tax because it operated in their favor. I sympathized with them. But I said in my remarks, and I say now, that I was wrong; and that it was, although in favor of the Lake Shore road, against the interests of the State.

Mr. J. S. BLACK. Then the gentleman would have voted probably for that measure if he had been there.

Mr. WALKER. I cannot say what I would have done in that case.

Mr. J. S. BLACK. I totally misunderstood the relation of the gentleman (Mr. Walker) to the subject of the tonnage tax. It seems to me that by being out of the legislature at that time he barely escaped doing a very great wrong. But I have no right to put him in the wrong by supposing a case that never occurred. We will not hold him responsible for hypothetical sins.

But, Mr. Chairman, after the facts that have been stated here, general and specific, and established thoroughly by the history of the Commonwealth for the last twenty-five years, is it any use for either of the gentlemen, whatever may be the respectability of their own character—either the delegate from Potter (Mr. Mann) or the delegate from Erie (Mr. Walker) or the delegate from Delaware (Mr. Broomall), to attempt to say that the rights, interests, wishes and feelings of this people have not been habitually betrayed by the Legislature. The chivalry with which they come up to the support of those who would otherwise be defenceless is certainly a thing to be admired, but it is altogether useless to think of "whitewashing" the Pennsylvania Legislature. [Laughter.] That is past praying for. [Renewed

laughter.] I admire, most particularly, the gentleman from Erie (Mr. Walker) when he is engaged in this kind of business. I give my unqualified admiration to the magnificent dimensions of his brush, and the skill and energy with which he wields it; but I tell him there is not wash enough in his bucket to go over the twenty thousandth part of his job. He may as well give it up. The question remains, what shall be done for a remedy? How shall this cancer be cut out?

If others can invent any better or more efficient mode of doing it than that which has been proposed by the gentleman from Fayette, (Mr. Kaine,) let them come forward with their proposition.

The CHAIRMAN. The Chair will take this opportunity to state that, on reflection, I am satisfied that my decision made a few moments ago was erroneous, and I shall hereafter hold that a gentleman cannot rise, be granted the time of the committee, and then yield it to another.

Mr. D. W. PATTERSON. Mr. Chairman: I move that the committee rise, report progress, and ask leave to sit again.

On the question of agreeing to this motion, a division was called, which resulted: Thirty-two in the affirmative; not being a majority of a quorum, the motion was not agreed to.

Mr. SIMPSON. Mr. Chairman: The discussion with which we have been entertained yesterday and to-day has wandered over such far fields that, perhaps, the Convention or the committee of the whole may be unaware of the precise question that is now before us. We have had railroads discussed, the tonnage tax and everything under the sun except the immediate, direct question before this committee. I purpose to say but a few words upon the immediate question now before the committee as I understand it, which is the amendment of the gentleman from Philadelphia (Mr. Cuyler) in relation to an addition to the oath relative to caucus action, that members of the Legislature will not be bound by any vote or decision of any caucuses.

It has been very wisely said, Mr. Chairman, that laws that are not enforced, burdening the statute books of a people, give contempt for law, and the more there are of them, the greater the contempt of the people for all laws. I think the remark is a true one, and I think the experience of every gentleman in this committee will bear me out that it is true,

that the more laws there are in a government that are not enforced the greater is the contempt of the people for all the laws. I think General Grant very wisely said that he knew no better mode of securing the repeal of an obnoxious law than by enforcing it. Now if this amendment of the gentleman from Philadelphia, should be adopted by the committee and by the Convention, and afterwards be ratified by the people and become a part of the oath of office, I want to know by what power that branch of it is to be enforced? You may prescribe whatever penalties you may please, you may say that a man who violates this oath shall never again be permitted to sit in the legislative halls of the State, you may say that he may no longer occupy any office of honor, trust or profit in the Commonwealth; you may go further, and you may say that he shall not longer have the character of the citizen stamped upon him, but like the Chinese, who has been convicted under a law of that country, he ceases, politically, to exist forever; you may say that he is nothing, that is politically a myth, but how can you enforce it, in what way can you prove the crime? It is utterly impracticable for this Convention or for the people of this State to say to the Legislature when in session: "You shall not consult either with your constituents, or with your friends, or with your immediate neighbors, sitting alongside of you, either in the hall of the House, or in a committee room, or in a caucus." But what effect will it have? Suppose that any man in the Legislature is charged with having allowed his judgment to be swayed by the vote of a caucus that had been called to determine upon some question pending before the Legislature, and he says: "I did not allow my judgment to be influenced. I went into that room, and the vote of that caucus was exactly in accordance with my own sentiments." Can you inflict the penalty upon him? Can you convict him of the offence?

Why, then, the necessity of attempting to put upon the organic law of the State a requirement, and a penalty attached to it, upon which you cannot convict any man, and which you cannot enforce? The only effect of it, it seems to me, is that it would bring contempt upon the whole oath. I care not, individually, what form of oath may be adopted by this Convention, and ratified by the people, if I should be called upon to take a seat in the Legislature of the State, and should agree to go there;

whatever oath you may make I would subscribe to; because, when I accept the nomination, when I accept the result of an election, I expect to perform the duty imposed upon me. But I ask this committee of the whole to stop here and now, and, instead of wandering over the broad fields that we have been taken into, as to the propriety of the tonnage tax, and as to the propriety of this thing, and that thing, and the other thing, to come back to the direct question before us. Is there any necessity of passing any such amendment as has been offered by the gentleman from Philadelphia, and, if passed, can you enforce it when it is put upon your organic law? I submit that you cannot, for it rests in the breast of the individual, and unless you can bring home conviction, unless you can prove the fact beyond the possibility of a doubt, it is utterly worthless, and like "the baseless fabric of a vision."

I trust that the committee will not adopt this amendment, Nay, I go further. I trust they will not adopt the proposition of the gentleman from Dauphin, but that they will take the oath as reported by the Committee on Legislation and adopt it.

I am willing to add to it some words that I think, perhaps, ought to be there. I think that instead of a legislator solemnly declaring to support the Constitution, that there should be added to the oath that he will protect and defend it; and I think, Mr. Chairman, that that is all that may be necessary to require of any member of the Legislature.

The question of legislative corruption has been discussed here almost exhaustively, in connection with the subject of the oath necessary or proper to be taken by members of the General Assembly. One gentleman says he knows of corruption, and another gentleman says that he knows of corruption, but, Mr. Chairman, what is the cause of this corruption? What gave rise to it? Let me say, sir, that at least one of the causes of this corruption has not been mentioned upon this floor, and that cause is: The violation of the statute laws of the State as they exist to-day.

Why does not the gentleman from Philadelphia, who proposes to thus purify legislation by incorporating into the oath this agreement, that he will not be bound by the action of a caucus, go one step further, and let every member of the Legislature be required to swear, in addition thereto, that during the time he holds

office under the State he will keep all its laws inviolate on his own part, and assist in the enforcement of them against others. Sir, I know, and other gentlemen upon this floor know, that the violation of the laws of this State in Harrisburg, whereby men have sacrificed the salary of an entire session in one single evening, not in a committee room, but in a private room, at a hotel, has been the cause of much of the corruption of members, because having lost all their earnings, it was necessary to retrieve from some other source. Why not put in this oath that members of the Legislature shall preserve and keep all the statute laws of the State, and particularly that relating to gambling? It is more pertinent, sir, than to say they shall not be bound by a caucus engagement.

If you want to reach the root of the evil; if, as says the gentleman from York, (Mr. J. S. Black,) you want to cut it up by the roots, eradicate it and destroy it forever, let that be added to the oath, and, perhaps, it may restrain some one individual from a violation of the laws, and be productive of some good. At least it strikes me that that may be enforced, while the proposed amendment of the gentleman from Philadelphia cannot be, because the question as to whether a man's vote has been changed by any influence of caucus rests entirely within his own breast, from which no human being can extract it.

These are the views, Mr. Chairman, that I wish to present to the committee of the whole, to bring them back to the question before them, and to say to them that if I stand alone upon this floor I shall vote against all the amendments that have been proposed, and for the report of the Committee on Legislation as originally presented.

Mr. STRUTHERS. Mr. Chairman: I desire only to say that I believe in the efficiency of oaths. I regard them as sacred things, and they ought not to be used lightly, or trifled with. Perhaps the better way to arrive at what we need in this regard would be to embody, as a section in the Constitution, all the pains and penalties that it is desired to prescribe, and hold it up as a terror to evil doers, and then let the old fashioned general oath be administered to sustain, support and defend the Constitution. You will then have established a general oath that will apply not only to members of the Legislature, but all other officers of the Com-

monwealth, commencing with the Governor and the judges of the Supreme Court, down through all the other officers of the Commonwealth.

But at this period of the proceedings I do not desire to occupy time, because I feel that gentlemen are anxious to adjourn. I wish only to explain, in the presence of the Convention, the reasons why I shall oppose all these amendments that are proposed, and why I shall oppose every kind of addition to the general oath which we have been in the habit of administering. When we come to that, if no other gentleman does, I will move to strike out from this oath all after the usual form of oath we have in the Constitution.

The CHAIRMAN. The question is on the amendment of the gentleman from Philadelphia, which will be read.

The CLERK. "And that I will not submit my individual judgment or action to the decision or control of any caucus or combination of members of the Legislature in the passage of any law or resolution."

On the question of agreeing to the amendment, a division was called, which resulted twenty-one in the affirmative. Not being a majority of a quorum, the amendment was rejected.

The CHAIRMAN. The question is on the amendment of the gentleman from Dauphin, which will be read.

The CLERK read:

Every member of the General Assembly, before he enters upon his official duties, shall take and subscribe the following oath or affirmation: "I do solemnly swear (or affirm) that I will support the Constitution of the United States, and the Constitution of the State of Pennsylvania, and will faithfully discharge the duties of Senator (or Representative) according to the best of my ability, and I do solemnly swear (or affirm) that I have not paid or contributed anything, or made any promise in the nature of a bribe, to corrupt or influence, directly or indirectly, any vote at the election at which I was chosen to fill the said office; and I do further solemnly swear (or affirm) that I have not accepted or received, and that I will not accept or receive, directly, or indirectly, any money or other valuable thing, from any corporation, company or person, for any vote or influence I may give, or withhold on any bill, resolution or appropriation, or for any other official act."

The foregoing oath shall be administered by one of the judges of the Supreme

Court, in the hall of the House to which the member is elected, and the Secretary of State shall read and file the oath subscribed by such member; any member who shall refuse to take said oath shall forfeit his office, and every member who shall be convicted of having sworn falsely to, or of having violated his said oath, shall forfeit his office and be disqualified thereafter from holding any office of profit or trust in this State.

Mr. LILLY. Mr. Chairman: I move to amend the section so as to provide that the oath may be administered by the clerk of the court of common pleas at Harrisburg in the absence of the Supreme Judge.

The motion was agreed to.

Mr. H. W. PALMER. Mr. Chairman: I move to amend, by striking out what occurs between the word affirm, in the seventh line and the tenth line, and insert the following:

"That I have not paid or contributed, or promised any money or other valuable thing to secure my election, or to corruptly influence votes or voters in my favor, nor have I knowingly violated any election law of this Commonwealth."

Mr. PALMER. This is the amendment that I offered when this subject was under discussion before. It is printed in the Debates, and was discussed a couple of days. It is now nearly three o'clock, and I move the committee rise, report progress and ask leave to sit again. At that time the consideration of this subject was postponed, on the motion of the gentleman from Columbia, (Mr. Buckalew,) until the report of the Committee on Oaths of Office should come in.

The CHAIRMAN. The motion to rise is not debatable.

Mr. H. W. PALMER. I understand that. I am only explaining the reason why I make the motion to rise. It would be well to abolish the Committee on Oaths of Office, or give them a chance to present an oath. They have the subject under consideration and, will probably present an oath to the Convention.

The motion to rise was rejected.

Mr. H. W. PALMER. Mr. Chairman: As the committee seems to be averse to rise at this time, I desire to say a word or two in support of this amendment. It seems to me that there is a disposition on the part of the committee to adopt some sort of an oath different from that in the present Constitution. All I desire is, if

there is any change made that it shall be adopted to the exigencies of the case.

Mr. CORSON. Does the gentleman desire to discuss this question?

Mr. H. W. PALMER. I propose to discuss my amendment.

Mr. CORSON. Then I move that the committee rise, report progress and ask leave to sit again.

The motion was agreed to.

IN CONVENTION.

Mr. ARMSTRONG. Mr. President: The committee of the whole have again had under consideration the report of the Committee on Legislation, and have directed me to report progress and ask leave to sit again.

Leave was granted to the committee to sit again to-morrow.

LOUIS Z. MITCHELL.

Mr. J. S. BLACK. Mr. President: A committee consisting of certain delegates-at-large, to whom was referred the duty of appointing a delegate to this Convention in the place of Mr. Hopkins, deceased, have instructed me to report the following:

The Delegates-at-large, to whom it was referred to fill the vacancy in the mem-

bership of the Convention, occasioned by the death of Hon. William Hopkins, of the Twenty-sixth Senatorial district, do report they have come to the following resolution:

Resolved, That Lewis Z. Mitchell be and is hereby appointed a member of the Convention, to fill the vacancy in the representation of the Twenty-sixth Senatorial district, caused by the death of Hon. William Hopkins, the member elect from said district.

(Signed.) R. A. LAMBERTON,
GEO. M. DALLAS,
WM. I. BAER,
WM. T. CORBETT,
JAS. ELLIS,
SAML. H. REYNOLDS,
J. S. BLACK,
GEO. W. WOODWARD,
A. G. CURTIN,
S. C. T. DODD,
JOHN. H. CAMPBELL,
WM. H. SMITH.

The report was laid upon the table.

Mr. DARLINGTON. Mr. Chairman: I move the Convention do now adjourn.

The motion was agreed to.

So the Convention at three o'clock adjourned.

SIXTY-FOURTH DAY.

WEDNESDAY, *March 12, 1873.*

The Convention met at ten o'clock A. M.
Prayer was offered by Rev. Mr. Curry.

JOURNAL.

The Journal of yesterday's proceedings was read and approved.

PROHIBITION.

Mr. JOHN M. BAILEY presented a petition of citizens of Huntingdon county, praying that an amendment may be made to the Constitution, prohibiting the manufacture and sale of intoxicating liquors.

Mr. J. PRICE WETHERILL presented a petition of like import from citizens of Philadelphia.

Mr. CRAIG presented a petition of like import from citizens of Lycoming county.

Mr. WRIGHT presented a petition of like import from citizens of Luzerne county.

Mr. DeFRANCE presented four petitions of like import from citizens of Mercer county; all of which were laid on the table.

REPORT OF THE COMMITTEE ON MILITIA.

Mr. PORTER, from the Committee on Militia, presented the following report, which was read:

The Committee on Militia present the following report:

ARTICLE —

SECTION I. The freemen of this Commonwealth shall be armed or organized and disciplined for its defence when, and in such manner as may be directed by law.

The Legislature shall provide for maintaining the militia by direct appropriation from the State Treasury.

The PRESIDENT. This article has now been read the first time.

METHOD OF VOTING ON NEW CONSTITUTION.

Mr. D. W. PATTERSON. Mr. President: I now move to proceed to the consideration of the resolution offered by me yesterday, proposing to add an additional rule to the rules of the Convention.

The PRESIDENT. The Clerk will read the resolution for information.

The CLERK read as follows:

Resolved, That the following be adopted as an additional rule of the Convention, to be numbered the forty-third rule: That when any article or articles of amendment, proposed to the Constitution, shall have received three several readings, and been finally passed by the Convention, that one-third of all the members of the Convention shall have the right, by motion or resolution, in the usual manner, to require the separate and distinct submission to a popular vote of any such article or amendment, or separable section proposed and finally passed, as above stated, by the Convention.

The resolution was read a second time.

Mr. KAINE. Mr. President: I would like to inquire of the mover of the resolution, what necessity there exists for it? I think there is an act of Assembly which provides exactly for this very thing, without the necessity of creating a new rule. The provision in the fourth section of the act of Assembly says that one-third of the delegates to the Convention shall have the right to require the separate and distinct submission to the popular vote of any change or amendment proposed by the Convention.

Mr. D. W. PATTERSON. Mr. President: I am perfectly aware of the fact mentioned by the gentleman from Fayette, (Mr. Kaine,) and the gentleman from Fayette must be perfectly aware that none of the members of this Convention recognize that act of Assembly. Strange to say I am not one of them, but there are a number of such gentlemen on this floor, and hence if we do not make it the rule of the Convention, it will require a majority vote to submit any separate or distinct article or section to the vote of the people. While some of us, early in the sessions of this Convention, showed by our vote that we did not regard some of the provisions of the act of Assembly of 1872, I myself did not think that the Legislature could restrain this body in any extent or limitation as to how far, or how much of the organic law should be repealed or changed.

I certainly, in this particular, feel that the contents of the fourth section of this act are an indication of the popular will expressed no later than last year, and I think it is an eminently wise provision, and for that reason, because I always submit to the will of the people, I desire that this new rule should be established so that we will not be taken by surprise when we pass through an article which is somewhat doubtful, and upon which the public mind may have a very divided sentiment.

I want to make the rule now so that we will know whether one-third of this Convention shall be able to submit a separate and separable proposition to the vote of the people, particularly an article or proposition that may be very doubtful as to its wisdom, and more particularly as to its popularity and acceptance with the people.

I have felt that we should bow to the indication of the will of the people as expressed by their representatives, and adopt this rule, so that one-third of the members at any time, under the section of the article if passed, may be able to submit it to a separate vote of the people, either an article, a section, or a separable section. That is the object of my offering this rule, and I have thought that we should adopt it so that we may know what this Convention will do, what are the sentiments of the members of this Convention, and whether or not they are disposed to listen to and regard the popular will of the people, as expressed so recently through their representatives.

MR. DARLINGTON. MR. President: I am very glad, generally, to agree with my friend from Lancaster, (Mr. D. W. Patterson,) for I have generally found him to be about right, but upon this question I am convinced that I am unable to agree with him.

I think, in the first place, it is premature for us to fix anything now by rule as to what we will do when we get through with our work. It will be time enough later in the day for us to make any provisions in regard to this. It is a question, as yet, whether we will submit anything to the people at all. It is a question we will have to well-consider and decide when we get through with our work. There are gentlemen who may consider it impracticable or imprudent to submit anything at all to the people. I am inclined to agree with my friend, the gentleman from Philadelphia, (Mr. Woodward,) in regard to this subject. A stage of circum-

stances may arise during the progress of our work which may render it impracticable to submit anything to the people at all, and therefore I am opposed, at present, to the Convention giving any decision upon the subject. I do not, however, regard the expression of opinion by the Legislature as of any validity at all. For the purpose of testing this question I move that the further consideration of this question be postponed for the present.

The question being taken on the motion, the yeas and nays were required by Mr. Corbett and Mr. D. W. Patterson, and were as follow, viz:

YEAS.

Messrs. Armstrong, Bailey, (Huntingdon,) Bardsley, Bartholomew, Biddle, Boyd, Church, Curry, Darlington, Ellis, Finney, Hay, Heverin, Hunsicker, Kaine, Lilly, McCulloch, Minor, Mott, Pughe, Read, John R., Reed, Andrew, Reynolds, James L., Reynolds, S. H., Ross, Runk, Smith, Henry W., Smith, Wm. H., Stewart, Wetherill, J. M., Wetherill, John Price, Woodward and Meredith, *President*—33.

NAYS.

Messrs. Achenbach, Addicks, Alricks, Andrews, Baer, Bailly, (Perry,) Beebe, Bowman, Brodhead, Broomall, Campbell, Carter, Cochran, Corbett, Craig, Cronmiller, Davis, De France, Dodd, Dunning, Edwards, Elliott, Ewing, Fulton, Funck, Guthrie, Hanna, Horton, Howard, Lamberton, Lawrence, Lear, Long, MacConnell, McClean, Mann, Mantor, Niles, Palmer, G. W. Palmer, H. W., Patterson, D. W., Patterson, T. H. B., Porter, Purviance, Sam'l A., Rooke, Russell, Sharpe, Stanton, Struthers, Turrell, Walker, White, David N., White, Harry, White, J. W. F. and Wright—55.

So the motion was not agreed to.

ABSENT OR NOT VOTING.—Messrs. Ainey, Baker, Bannan, Barclay, Black, Charles A., Black, J. S., Brown, Buckalew, Carey, Cassidy, Clark, Collins, Corson, Curtin, Cuyler, Dallas, Fell, Gibson, Gilpin, Gowen, Green, Hall, Harvey, Hazzard, Hemphill, Knight, Landis, Littleton, M'Allister, M'Camant, M'Murray, MacVeagh, Metzger, Newlin, Parsons, Patton, Purman, Purviance, John N., Simpson, Smith, H. G., Temple, Van Reed, Wherry and Worrell—44.

The resolution was then agreed to.

INDEXING THE DEBATES.

MR. HAY offered the following resolution, which was twice read:

Resolved, That the Committee on Printing be requested to have prepared a proper index for each volume of the Journal and the Debates.

Mr. LILLY. Mr. President: I move to amend the amendment, by inserting a proviso at the end of the resolution, that the volumes shall contain at least one thousand pages. I have noticed that one of the volumes of the Debates contains only a little over eight hundred pages, and I find that it makes an exceedingly small book.

Mr. COCHRAN. Mr. President: I wish to state that I think this amendment is impracticable, for the reason that the first volume of the Debates has been concluded, and I think is now in the course of being bound.

Mr. LILLY. Mr. President: I rise simply for the purpose of explaining the amendment which I have offered. It has reference solely to the future volumes which are to be bound by the printer, and not to those which have been already completed.

Mr. COCHRAN. Mr. President: Even in this event it will look very singular to have the volumes of the Debates and Journals bound in different sizes, but if the Convention desire to have it so, I certainly have no objection to it. With regard to the proper index that may be decided upon for these volumes, I would merely suggest to the Convention what has been suggested by others, rather than by myself, that it would be far better to have but one index placed in the final volume for the whole number of books. I do not think there is any necessity for indexing each one of these volumes. I am convinced that one general index will suffice for the whole number. This is the suggestion of other gentlemen, and it is presumed to be a more judicious plan. I am not able to say myself, from the condition of the work at this time, whether or not it would be practicable to index the first volume of the Debates now, or whether it has not been actually bound. If it has been bound, or any portion of the issue has been bound, it will not then, of course, be practicable to make an index for that particular book. I merely desire to call the attention of the Convention to this fact.

The amendment was not agreed to.

Mr. CORBETT. Mr. President: I move to amend the original resolution, by requiring a general index to be made of the

entire number of volumes which are to be published.

Mr. HAY. Mr. President: It certainly seems to me that an amendment of this kind ought not to be adopted. Where the volumes of the Debates are numerous, a general index will be comparatively useless, and, of course, when a single volume is taken up for reference there should be an index to that volume, by which to guide the reader to the different parts to which he may desire to refer. It must be apparent to all that an index is required to each volume, rather than a general index to the entire number, or even if a general index is to be made.

On the question of agreeing to the amendment, a division was called, which resulted: Twelve in the affirmative, and forty-seven in the negative.

So the amendment was rejected.

Mr. RUSSELL. Mr. President: I move to refer this matter to the Committee on Printing.

Mr. HAY. Mr. President: I desire to state to the gentleman that this whole subject has been referred to the committee once, and they have reported this resolution.

The question being taken on the resolution, a division was called, and the resolution was agreed to; yeas, forty-nine; nays, eight.

THE REPORT OF THE COMMITTEE ON EDUCATION.

The PRESIDENT. The next business in order is the second reading and consideration of the article reported by the Committee on Education. Is it the pleasure of the Convention to proceed to the consideration of the article?

"Aye!" "Aye!" "Aye!"

THE ARTICLE ON CITY CHARTERS.

The PRESIDENT. The next business in order is the consideration of the report of the Committee on Cities and City Charters. Is it the pleasure of the Convention to proceed to the consideration of the article?

The question was then taken, and it was not agreed to.

THE ARTICLE ON LEGISLATION.

The PRESIDENT. The next business in order is the further consideration of the article reported by the Committee on Legislation. Is it the pleasure of the Convention to proceed to the consideration of the article?

The question was then taken, and it was agreed to.

IN COMMITTEE OF THE WHOLE.

The Convention then resolved itself in committee of the whole, Mr. Armstrong in the Chair, and proceeded to the consideration of the article reported by the Committee on Legislation.

THE OATH OF OFFICE.

The CHAIRMAN. The question pending before the committee of the whole is the amendment offered by the gentleman from Luzerne, (Mr. H. W. Palmer,) to the amendment of the gentleman from Dauphin, (Mr. MacVeagh.)

Mr. H. W. PALMER. Mr. Chairman: I desire to modify my amendment by striking out what occurs between the word "affirm," where it occurs the second time in the section, and the word "and," after the words, "the said office," and inserting the following: "That I have not paid or contributed, or promised, any money or other valuable thing, to secure my election, or to corruptly influence votes or voters in my favor, nor have I knowingly violated any election law of this Commonwealth." If I can obtain the attention of the committee a minute or two, I propose a short cut in this business. We have been listening for the last two days to the discussion of the general question whether there shall be a modification of this existing oath or not, and I suppose nearly every gentleman has made up his mind with regard to it, one way or another. The question now recurs, what shall be the form of the new oath? And I judge the Convention is not in a condition of body or temper of mind to take up and critically examine this subject. The oaths that have been proposed here are neither of them equal to the exigencies of the case. The amendment offered by the gentleman from Dauphin (Mr. MacVeagh) covers only one phase of the difficulty. It aims at the use of money in elections, and covers only one branch of the disease, to wit: the bribery of the individual voter. It simply provides that the member of the Legislature shall swear or affirm that he has not paid or contributed anything, or made any promise in the nature of a bribe, to corrupt or influence, directly or indirectly, any vote at the election. That is simply one specific branch of the great disease, and it seems to me that if we have made up our minds to make any modification in the oath as it stands now, if we have concluded to ad-

minister any remedy for the disease, the antidote should be as powerful as the complaint.

The amendment of the gentleman covers only one of the multifarious methods in which money is used in the elections. The oath reported by the chairman of the Committee on Legislation, is still more objectionable. That oath simply amounts to nothing. My proposition is, that we shall vote down both these oaths in the same manner as when the same subject was considered in the report of the Committee on the Legislature, when we found that objection was made to the form of the oath reported, and then await the report of the appropriate committee to whom this subject belongs. I think we can then take up this subject of the oath and consider it understandingly. It will not be necessary to go over the entire general debate again, and if this course be not adopted there will result at least four more general debates on this subject, because when the report of the Committee on the Judiciary is made, that committee will report an oath, and we shall be obliged to take up that oath and consider it. When the report of the Committee on Counties is made that report will contain an oath, and we shall have to take up that oath and consider it. When the report of the Committee on Counties is made that will contain an oath for county officers, and we shall then take that up and consider it; and when the report of the Committee on Oaths of Office is made that report will contain an oath covering the whole ground, and it will be necessary to go over the whole subject again.

Why, then, should we not refer the whole matter to the appropriate committee. I believe this course should be adopted for a variety of reasons. The first is, because these oaths which have been reported are not adequate; and, secondly, because the Convention is wearied out by two days' consideration of the subject and are not now in temper of mind to critically examine this matter. The third and last reason is, because it is not right to defraud this Committee on Oaths out of their appropriate duties, and it is not right to relieve them from this labor. I desire to obtain the judgment, skill and knowledge of the chairman of that committee. I do not desire that he should be relieved from the performance of his duty in any such way. By adopting this plan we will save time in debating all these modifications, and any oaths that we may

hereafter adopt will then be worth something. I do not propose to discuss now the general proposition as to whether there ought or ought not to be any modification, but I am in the position of an old Quaker, who was asked to subscribe to a church organ. He was very much opposed to it at first, but finally gave \$500 towards its erection, and when taxed with inconsistency said: "If thou wilt worship God by machinery, I desire that thou shouldst have a good instrument."

Mr. MANN. Mr. Chairman: I hope the amendment of the gentleman from Luzerne will not be adopted, for the same reason which I gave yesterday in opposition to the amendment of the gentleman from Dauphin (Mr. MacVeagh.) The gentleman from Luzerne, (Mr. H. W. Palmer) himself presented a very serious objection to all these amendments and oaths; and that is, that when you undertake to specify in an oath the particular thing which a man should not do, the difficulty is that in having made all the specifications that reasonably ought to be made, you thereby leave it to be inferred that certain other things would be proper to be done, when in fact they would be just as improper as those that are specifically named. Hence, to my mind, the old fashioned oath which our fathers took, and the one that has sufficed from the organization of the State down to the present time, ought to be left in the Constitution as it is.

The argument which the gentleman (Mr. H. W. Palmer) made in favor of his amendment is a strong argument against all these attempts to specify in the oath, things which ought not to be done. But I rise, sir, now, for the purpose of correcting a misrepresentation of my remarks yesterday, than to make any argument upon the amendment of the gentleman from Luzerne (Mr. H. W. Palmer,) for I think that he himself has made a conclusive argument against this whole effort to enlarge the scope of the oath to be taken.

Yesterday, in referring to my knowledge of the improper influences brought to bear upon the Legislature of Pennsylvania, and of the members who had been so influenced, I was very careful to say that I thought I could name the men that had been so influenced, and I was also careful to add to it that I might be mistaken. Now, sir, upon that clear and cautious statement—a mere expression that I thought I could name the men, the gentleman from York, (Mr. J. S. Black,) in

his anxiety to condemn me and destroy the character of the people who have inaugurated a new movement in this country—so anxious was he to destroy every man connected with this new movement, and acting in accordance with it, that notwithstanding he had not the slightest feeling against myself, for we have had intimate and pleasant relations from the time of the calling of this Convention to the present moment, yet he is so determined to carry out his purpose of destroying the character of the people of the country that he represents me as concealing corruption in the Legislature of Pennsylvania, and attempts to hold me up to the gaze of this Convention and to the people of the Commonwealth, who may read his remarks, as concealing corruption, when I did not pretend that I knew anything about corruption there. I said carefully and deliberately, that I believed I could name the men who had been improperly influenced, and there is no shadow of excuse for so misrepresenting me.

I acquit the gentleman from York (Mr. J. S. Black) of any intention to do me, personally, any unkindness. It is simply a part of his purpose. From the time that a majority of the people of the United States refused to accept him and his associates as leaders, he has been determined to represent everybody connected with the new movement as corrupt; and that is the key to all this extravagant denunciation of fraud and corruption. Why, sir, if upon the slight foundation upon which he built, yesterday, his remarks against me, he could charge me with concealing fraud, I ask any candid man what reliability there is to be placed upon his statement when he makes a charge of fraud itself against other people? There was not the slightest excuse for charging me with concealing fraud. I therefore submit it is fair to presume he has no better evidence against men whom he charges with fraud itself. What confidence can be placed in his charges? It is made to carry out a purpose, a determined purpose, and he is so earnest, and has his mind so completely fixed upon that purpose, that he is incapable of fairly representing any individual who does not agree with him in that purpose.

He appeals, sir, to the christian religion also, and represented me as putting myself against the principles and traditions of christian religion. He was as unfortunate in that appeal as in the other. It is

a monstrous proposition to say that the principles of christian religion justify the attempt to put into the Constitution an oath which stares in the face a member who has been elected to the Legislature, and which requires him to swear before entering upon his duties that he has not committed a crime, and that he will not commit one while he is in office. There is nothing between the lids of the Bible that justifies any such proposition as that. I do not profess to know as much upon that subject as the gentleman from York, (Mr. J. S. Black,) but I will read one or two definitions—the grandest that ever were uttered upon this subject—and I submit that they justify my position, and do not justify his, either when he attempts to put me against the christian religion, or when he assaults me with his charges of corruption, or concealing the corruption of others. Of course the italics are my own :

"Though I speak with the tongues of men and of angels, and have not *charity*, I am become as sounding brass or a tinkling cymbal.

"And though I have the gift of prophecy, and understand all mysteries, and all knowledge; and though I have all faith, so that I could remove mountains, and have not *charity*, I am nothing.

"And though I bestow all my goods to feed the poor, and though I give my body to be burned, and have not *charity*, it profiteth me nothing.

"Charity suffereth long, and is kind; charity envieth not; charity vaunteth not itself, and is not puffed up.

"Doth not behave itself unseemly, seeketh not her own, is not easily provoked, *thinketh no evil*.

"Rejoiceth not in iniquity, but rejoiceth in the truth.

"Beareth all things, believeth all things, endureth all things, hopeth all things.

* * * * *

"And now abideth faith, hope, charity, these three; *but the greatest of these is charity.*"

Mr. Chairman. The tendency of the argument and the denunciations of the gentleman from York, (Mr. J. S. Black,) are in direct violation of every one of these precepts; and to these I commend him.

Mr. J. W. F. WHITE. Mr. Chairman: I rise, not for the purpose of discussing these oaths, but to explain the vote that I shall give on this occasion, and to second the suggestion made by the gentleman from Luzerne, (Mr. H. W. Palmer.)

I am in favor, Mr. Chairman, of a more full and stringent oath than is contained in our present Constitution; but I am opposed to these oaths being repeated in the Constitution. I am opposed to having an oath for the members of the Legislature different from the oath required for other State officers. I believe, sir, the better plan is to have one oath for all the State and county officers, from Governor down.

In our present Constitution we have an article—"Article VIII"—especially on the subject of oaths; and I wish to call the attention of the committee to this article. It reads:

"The members of the General Assembly and all the officers, Executive and judicial, shall be bound by oaths or affirmation to support the Constitution of this Commonwealth, and to support the Constitution of the United States with fidelity."

We have no special oath for members of the General Assembly; we have no special oath for other State officers. Let us have in the Constitution one oath for all State and county officers. I apprehend that that was what was contemplated by this Convention when we appointed our committees. We have a Committee on Commissions, Offices, Oath of Office and Incompatibility of Office, of which my friend before me, from Fayette, (Mr. Kaine,) is chairman. I apprehend the intention was to have this committee report an oath to take the place of the one in article eight of our present Constitution applicable to members of the Legislature, to all "executive and judicial officers," and I hope we will go further and say "all State and county officers" throughout the whole State. I can see no reason whatever, if we are to swear the members of the Legislature that they have committed no frauds in their election, why we should not apply the same rule to the Governor and to all other State officers, and to all the county officers as well.

For that reason, Mr. Chairman, I hope that we will pass over these reports by the two committees, which are now before us, or in some way lay them aside until this Committee on Oaths make their report. I think, sir, that we should, in framing a Constitution, try to make that Constitution as brief and express it as concisely as possible, having a place in it for everything, and not repeating the same thing in different parts of the Constitution. If we have in one place this oath applying to the Legislature, we shall

have in another an oath applying to the judges, and another applying to State and county officers, thus increasing the length of the Constitution. I think the better plan would be to make the Constitution brief, everything being in its proper place; and make one oath applicable to all State and county officers, and the same oath applicable to members of the Legislature.

I must confess I do not like this thing of swearing members of the Legislature, particularly, against frauds, and make them swear that they will not be guilty of bribery. I do not like that idea to be embodied in a Constitution. I think the members of the Legislature are as good as any other officers we can have, State or county. I do not like singling them out by a distinctive and exclusive oath, applicable to them alone, thus indirectly impeaching them, and making them less worthy of credit than other officers of the State. I do not like it; but I am willing to go for one of these stringent oaths "iron-clad," if you please to call it so, making it applicable to every officer of the State, and everybody in official station, from the Governor down. Then the members of the Legislature cannot say it is particularly aimed at them. I suppose the only way to reach that object is to vote down these propositions at this time. I shall, therefore, vote against all of them now. At the same time I wish it distinctly understood that I am in favor of a strong oath and a general one, and I hope such an oath will be adopted before we finish this article. If not, when this matter comes up before the Convention on second reading, I shall then move to insert such an oath as that I have referred to.

MR. SAMUEL A. PURVIANCE. Mr. Chairman: We have been discussing this question, now, for two days and I am opposed to a postponement of it. It seems to me that we are prepared now to decide upon it. We have, I think, satisfactory evidence that there is a majority in this committee in favor of an oath. What the character of that oath is to be is a subject of controversy here. I think, sir, and have always thought, that there is no degradation in an oath. Why, your grand jurors, since the organization of your government, have been called and sworn to do nothing out of malice or ill will, to do nothing out of fear or affection, or hope of reward or gain, and yet, was it ever for a moment disputed? Was it ever called in question? Was it ever even im-

plied that it was done for the purpose of preventing anything of the kind? It was considered no degradation to take that oath. Every member of the bar, throughout this and other Commonwealths, are sworn to delay no man's cause for lucre or malice. What does that mean? Does it imply that unless they are sworn they will do so? It certainly does no harm to honest men to take that oath, and if there is a dishonest man, one whose conscience is not entirely lost, he, when attempting to carry out his professional duties, may stay his hand in doing an act which, but for the oath, he might have committed.

Now, as to the character of the oath, a word or two. I look upon both oaths, that reported by the Committee on Legislature and that reported by the Committee on Legislation, as defective; and especially the oath reported by the Committee on Legislature. That oath, sir, is but a copy, *verbatim*, of the oath given in the Constitution of Illinois, and, having examined it some time ago, I was satisfied, as my friend from Luzerne (Mr. H. W. Palmer) said a few days ago, that it is so open that a four-horse team might be driven through it. What is it? In the latter part of the oath it says: "That I have not received, and will not receive, any money or other valuable thing from any person or corporation for my vote or influence."

Now let me say to the committee, that when a man makes up his mind to commit a fraud like this, to take a bribe, he does not do it in the way contemplated in that oath; he does not make it a matter of contract, and this implies a contract; hence it is done by hints, or often without hints; it is done in the shape of presents, after the legislation takes place.

It is done by placing on the pillow of a man's bed an envelope enclosing money; it is done by making presents, sometimes even after he has gone out of office. Unless you guard against all these, you have no oath better than a rope of sand.

Now, sir, I would strike out all that, "for my vote or influence," because that contemplates the commission of an offense to depend upon the consideration of agreeing to give his vote or influence, and I would insert "or their agents or employees having an interest in the subject upon which I may be required to vote." That would guard it entirely, because then it would read: "That I will not accept or receive, directly or indirectly, any money or other valuable thing, from any corpo-

ration, company or person, or their agents or employees, having an interest in the subject upon which I may be required to vote."

That relates to time *before* and time *after*. It embraces presents, bribes and everything of that kind. Unless some provision like that is put into this oath, I regard it as of no binding force whatever. It is a mere copy of the provision of the Illinois Constitution, and was probably taken from it by the committee without proper consideration.

Mr. HARRY WHITE. Mr. Chairman: Before the gentleman (Mr. Samuel A. Purviance) takes his seat, let me call his attention to one thing in that connection. I ask him to turn over the page of the report and look at section thirty-six. He will there discover that:

"A member of the Legislature shall be guilty of bribery, and punished as shall be provided by law, who shall solicit, demand, or receive, or consent to receive, directly or indirectly, from any corporation, company, or person, any money, testimonial, reward, thing of value, or personal advantage, or promise thereof, for his vote or official influence, or with the understanding, expressed or implied, that his official vote or official influence is any way to be influenced thereby."

If the gentleman (Mr. S. A. Purviance) reads that carefully he will understand that that comprehends the receiving of presents for votes already given, as well as votes to be given, and the man who takes the oath to obey the Constitution, takes it, of course, with the understanding to obey that section.

Mr. S. A. PURVIANCE. Mr. Chairman: I would say, referring to that subject, and in answer to the remark of the gentleman from Indiana, (Mr. Harry White,) that that is only a section providing punishment for bribery, and is no part of the oath of the member that he has not been and will not be bribed.

Mr. BOYD. Mr. Chairman: I am one of the Committee on Oaths and Impeachments. That committee is supposed to be competent to discharge the duties devolving upon them, and it seems to me that that committee is the proper committee to report the necessary oaths that, in the opinion of this Convention, ought to be administered to officials. It is eminently fitting, sir, that this whole subject should be referred to that committee. That committee will now have the benefit of all that has been said and done on this sub-

ject, and they will be able to make a report that I have no doubt will be satisfactory to this body. Indeed, sir, it is proper that it should go there at this time, and remain there for some time, for the reason that it is better for them to make that report after the leading articles have been passed upon by the Convention, so that when that committee has before them all these articles, they can frame an oath or oaths that will meet all the articles adopted by this body.

The wisdom of the seeming delay of a report from that committee; the discussion that has taken place here for some days past, shows conclusively the wisdom of that delay. It would show their wisdom still more if they would delay their report until well nigh the close of our labors.

I, sir, for one, came into this body believing in the report presented to us by Secretary Jordan; hence it was natural, in my rural simplicity, to believe in that report, and of course was inclined to think there was some corruption in the Legislature, and that there was corruption elsewhere, and that oaths would be necessary as an aid in our work of reform. But, sir, in the light of recent events, and in the few short months that have rolled around since we have been here, we have it demonstrated beyond a doubt, that there has been no fraud or corruption in this broad land, [Laughter.] We have all read the official evidence from the Congress of the United States, that neither saint nor sinner in that body has been guilty of fraud or corruption, and have all been washed with the blood of the lamb, [laughter,] and have come out pure. The President of the United States has declared that the late Vice President Colfax is clearly guiltless, and that he is a persecuted man, and with him, of course, all the rest in that investigation come out in the same way. And so with regard to the shameless scandal that was entailed upon the State of Pennsylvania during the last fall, in relation to the Evans frauds, when efforts were made to involve other gentlemen with him; it has since been shown before a court of competent jurisdiction, that he, too, was a saint; he has been washed by the courts, and found to be clean, pure and undefiled, and all verified by the most distinguished gentleman in Pennsylvania, the delegate from York, (Mr. J. S. Black.) Now, then, with the fact of that trial, with such an endorsement coming from the source that it does, I am

ready to believe the gentleman from Potter, (Mr. Mann,) when he tells me that there is no corruption in the Legislature of Pennsylvania, and never was, and that it is not likely that there ever will be, if all these things be true.

It may be that the Committee on Oaths will report no oath at all to this body. They may well conclude that all men are honest and pure, and that it is utterly useless to administer an oath, and thus, by that means, we will be able to spare the feelings of my distinguished friend from Philadelphia, (Mr. Biddle,) who considers it an insult to swear a man to perform the duties of his office, and he says that he never will, by any vote of his in this body, put upon a man an oath that he will be honest, because it will imply that he intends to be dishonest. It would follow from this that our judges and other officials should not be sworn for the same reason. And it may be therefore, when we come to consider all these things, we may require no oath at all, or if we want any for forms sake, we can use the old oath, which means nothing, and will not hurt anybody to take it, or in any way effect the most delicate sensibilities. Therefore, without discussing the merits of the kind of oath, if any is needed, I respectfully appeal to this House to refer to our Committee on Oaths this whole question, and that they will wait until that committee reports. That is but due to this committee. It is no more than respectful. Why here we have an oath reported from the Committee on Legislature, an oath reported from the Committee on Legislation, an oath reported from the cities and counties and township officers, and perhaps half a dozen others to come from other committees. Why not, then, leave this whole subject to the Committee on Oaths? Why not allow that committee to have exclusive control of the whole subject? Let them act upon this matter after the reports of all the standing committees have been made, and after the Convention has passed upon the different articles submitted in detail, and then they can shape and form an oath suitable to the articles as adopted. I therefore ask this House, as an act of justice to this Committee on Oaths, who have never done a single thing against any member of this body, (laughter,) and I know they never will; so do not put upon us a slight, and allow our committee to perform its share of labor. If I had time to read the names of the members of this

Committee on Oaths, I could show you that that committee reflects credit upon this Convention, and reflects credit upon the eminent president of this body in appointing it, (laughter.) The distinguished gentlemen that compose it are willing to take this subject under consideration, and that will save you a world of trouble and tribulation.

I therefore shall second the motion made by the gentlemen from Luzerne, (Mr. H. W. Palmer,) one of the Committee on Oaths, that the committee of the whole rise and in some way get rid of this immediate proposition; vote down the proposition or dispose of it any manner whatever, and let it go to the Committee on Oaths. Then we will get on with the other sections and be relieved of the agony of the last two days' debate.

MR. DARLINGTON. Mr. Chairman: I have no desire to trespass upon the time of the committee of the whole. I agree with much that has been said by my friend the gentleman from Montgomery, (Mr. Boyd,) but not for the same reasons. I think we should have some kind of oath administered to all officers of the government, legislative, executive and judicial. I do not think, for my own part, that a different oath should be administered to one branch from that which is administered to another. I would not, at all events, be willing to stigmatize any one branch of the government as any more corrupt than any other. I think we do wrong to ourselves, to the people we represent, to the whole State, and to republican institutions and republican government in general, by this wholesale denunciation of the Legislature as unfit to be trusted. The legislators are chosen from among the best of the people, and very many of them are among the best of the people, as much so as your Governors and judges. Then why single them out for denunciation? If it is necessary to bind one to the discharge of his duty by a stringent oath, is it not just as necessary to bind all the others?

Gentlemen may tell me that no corruption has been seen in any other quarters. I know not. The gentleman from Fayette (Mr. Kaine) told us the other day that it is a part of the history of the State that the Legislature has been corrupted. He alluded to the passage of the United States Bank bill and the passage of the commutation bill. I know it is part of the history of the State that it has been charged that the passage of these acts were secured by corrupt

means. That we all know. Like all other political things it has been charged, but I do not know that it has ever been established. Can any man suppose that the Executive department of the State would suffer such things to pass without saying a word against it? Does not the member from Fayette know that he who sat in the Executive chair of this Commonwealth at the time of the passage of the tonnage tax repeal is now a member of this Convention, and if he had known or seen any corruption in the Legislature that passed that bill, was it not his duty to sound the alarm, and would he not have done so? Could that bill have been passed by corrupt means without Governor Curtin knowing it? I submit it to the gentleman from Fayette, that the then Governor of this Commonwealth does not know now and did not know then that there was corruption in the Legislature in reference to the passage of that act, and has never opened his mouth against it, because he has had nothing to open his mouth against. The very fact that this gentleman was in the Executive chair and preserved silence on this subject is conclusive of the fact of which I speak. He was there to preside over and guard the public welfare, and no one will charge him with dereliction of duty. He was our noble "war Governor," and his name has gone out over the whole land as the famous war Governor of Pennsylvania. He was honest, and I will not hear him traduced, as he is traduced, without endeavoring to defend him. I will not allow him to be traduced by anybody here telling me that the Legislature was corrupt when he signed the bill that was the result of this alleged corruption.

I do not believe these stories. For myself I believe the passage of the tonnage commutation bill was right in itself. I would have voted for it if I had been there, as the result of my best judgment of what the policy of the State required. Why should any one charge a member of the Legislature with being bribed to do that which gentlemen throughout the land thought was right to do without bribe? Where is the evidence? Why do not the gentlemen tell me who was bribed? I ask them, as I asked them on a former occasion, to point out who were the bribed, and who bribed them. If gentlemen know, let us know, but do not cast a stigma upon the whole people of the State. Do not defame your institutions. Remember that it

is our fate to live under republican institutions. Remember that no man here or elsewhere in this Commonwealth expects to change the character of our government. We must still be a republican government, and we will still have a head to that republican government, and we will have legislators. We are a nation of honest men. Say what you will, my experience, however it may disagree with others, has been in all my life, nearly the whole of which has been passed among public men and in public affairs, and which has been now not very short, that the great body of mankind is honest. Honesty is the rule, and dishonesty the exception, every where throughout the land so far as I know it. If other gentlemen have had other experience more varied or different from mine, let them point out the instances, and let us see whether their judgment is founded upon sufficient grounds.

I am opposed, therefore, to fixing any particular oath upon one officer which is not applicable to another. Why should we say to the legislator: "It is not enough that we should swear you to discharge your duty with fidelity. It is enough to swear your neighbor, who is elected to another office, to discharge his duty with fidelity, but your office requires additional obligation." One can be bound by one oath, and the other not by the same oath. Why should the distinction be made? When we elect a judge we say to him, when he is about to be placed on the bench: "We ask no guarantee from you but an oath that you will discharge your duty with fidelity." So with the Governor. So, too, with the Secretary of the Commonwealth, and the Attorney General, and the State Treasurer, whom you propose to elect. The distinction applies to the legislator alone, and to him to say: "You are to be set down as presumptively and *prima facie* roguish, while another man elected on the same ticket with you, is presumed to be "honest and not require the oath which is required in your case." Let gentlemen reflect on this. Let them give me a reason why we should send out this Constitution to one class of our public servants and say, "presumptively you are roguish," and send it out to another class and say, "presumptively you are honest."

Mr. BOYD. Mr. Chairman; I rise to a point of order. The question under consideration is the motion made by the gentleman from Luzerne (Mr. H. W. Palmer.) That is it simply, and the only question

before the House is, whether this section, with its amendment, shall be referred to the Committee on Oaths. I do not understand the gentleman from Chester to be talking to the amendment. I do not entirely understand what he is talking about, [laughter,] but I comprehend that it is something about creation in general, or at least something which has no relation to the question under discussion. I therefore raise the point of order, that the gentleman should confine his remarks to the subject before the committee.

The CHAIRMAN. The Chair cannot sustain the point of order. The question is upon the amendment offered by the gentleman from Luzerne, which is an amendment to the amendment of the gentleman from Dauphin, (Mr. MacVeagh.) It raises the whole question upon the section and its various amendments.

Mr. STANTON. Mr. Chairman: I would ask for information. What report is now before the committee of the whole, the report of the Railroad Committee or the Committee on Legislation?

The CHAIRMAN. The immediate question before the House is the amendment of the gentleman from Luzerne to the amendment of the gentleman from Dauphin, to the first section of the article reported by the Committee on Legislation.

Mr. DARLINGTON. Mr. Chairman: I will detain the committee but a few moments longer, in reference to the amendment of the gentleman from Luzerne. I understand that while in committee of the whole, no motion to refer a subject before this committee to one of the standing committees of the House, can be in order, according to our rules. The only way that it can be reached, so as to meet the views of those who feel as I do, is to vote down the whole of these amendments, together with the first section as reported, with the understanding that the section is not to be killed forever, but that it is to come up again at a more suitable time and a more convenient season.

Mr. KAINE. Mr. Chairman: I propose to reply to the remarks that have just fallen from the gentleman from Chester (Mr. Darlington.) I must believe that the gentleman is sincere in what he has just said upon this question, and if I believe that I must believe further that he has talked about a subject, in part, of which he knows nothing. The gentleman asserts that the Legislature has not been corrupt in the past, that there has been

no corruption there, and he called upon me for the proof.

Mr. DARLINGTON. Mr. Chairman: I rise to explain what I said, or what I meant to say, if I did not, was that I did not believe the majority of the Legislature was corrupt. I said that the great body of mankind are honest, and only a few are not.

Mr. KAINE. I will ask the gentleman if he does not believe that a great deal of corruption has prevailed in the Legislature for the last ten or fifteen years.

Mr. DARLINGTON. I know it is said.

Mr. KAINE. Mr. Chairman: The gentleman's conscience is very tender on that subject, and he has taken occasion here to refer to me, and he has also referred to an honorable gentleman upon this floor, a member of this Convention, who, at one time occupied the Executive chair of this State, and he rises here to defend him. I apprehend that that gentleman is able and willing, at all times, to defend himself, if his character and conduct need any such defense, which I utterly deny. How will the Executive know anything about what has occurred in either hall of the Legislature? He is entirely separate and apart from them, and cannot have any knowledge of anything of this kind. The gentleman from Chester says that he does not believe any of these charges in regard to the repeal of the tonnage tax. All I have to say, if the gentleman knows anything about it, and I apprehend on that particular case he must have some knowledge, because I suppose at that time, as he is now, the gentleman was one of the solicitors of the Pennsylvania railroad company, and as such, if he had been a member of the Legislature, I have no doubt he would have voted in the interest of his client; if the gentleman, I say, knows anything about that transaction, if he has read any of the evidence taken by a committee of investigation upon that case, and he does not believe that there was corruption then and there, he would not believe it, sir, though one rose from the dead.

The CHAIRMAN. The question is pending upon the motion of the gentleman from Luzerne, to amend the amendment.

Mr. H. W. PALMER. Mr. Chairman: I wish to withdraw my amendment. It has not been discussed, and I suppose it can be withdrawn at any time before discussion.

The CHAIRMAN. The amendment to the amendment is withdrawn, and the

question recurs on the amendment offered by the gentleman from Dauphin, which will be read.

The CLERK read: Every member of the General Assembly, before he enters upon his official duties, shall take and subscribe the following oath or affirmation: "I do solemnly swear (or affirm) that I will support the Constitution of the United States and the Constitution of the State of Pennsylvania, and will faithfully discharge the duties of Senator (or Representative) according to the best of my ability, and I do solemnly swear (or affirm) that I have not paid or contributed anything, or made any promise in the nature of a bribe to corrupt or influence, directly or indirectly, any vote at the election at which I was chosen to fill the said office, and I do further solemnly swear (or affirm) that I have not accepted or received, and that I will not accept or receive, directly or indirectly, any money or other valuable thing from any corporation, company or person, for any vote or influence I may give or withhold on any bill, resolution or appropriation, or for any other official act."

The foregoing oath shall be administered by one of the judges of the Supreme Court, in the hall of the House to which the member is elected, and the Secretary of State shall read and file the oath subscribed by such member; any member who shall refuse to take said oath, shall forfeit his office, and every member who shall be convicted of having sworn falsely to, or of having violated his said oath, shall forfeit his office and be disqualified thereafter from holding any office of profit or trust in this State.

Mr. S. A. PURVIANCE. Mr. Chairman: I move to amend as follows: To strike out all after the word person, in the last sentence of the first paragraph, and insert, "or their agents or employees having an interest in the subject upon which he may be required to vote."

The CHAIRMAN. The question is upon the amendment to the amendment.

Mr. J. S. BLACK. Mr. Chairman: I thought that the Chairman of the Committee on Legislature, the author of the amendment, would accept the amendment of the gentleman from Allegheny.

Mr. MACVEAGH. Mr. Chairman: If the gentleman from Allegheny will not strike out the words providing that a member of the Legislature shall not withhold his vote or influence, on any bill or resolution, or appropriation, I would ac-

cept his amendment. The words he has stricken out, it seems to me, are a material part of the amendment I have offered, and strengthen all the rest of it.

Mr. J. S. BLACK. Mr. Chairman: Let us see if we understand the object of the amendment. As I understand the original amendment, it defines bribery so as to constitute that crime only in cases where there has been an actual contract, and not where there has been a mere giving of money or other property. Under this provision it is necessary, in order to make out the offence, that it should be proved that there was a contract between the parties, expressed or clearly implied, that the money or other property should be given for the vote, and that the vote should be given for the money. Now, that narrows the definition of bribery so as to limit it much within the bounds, and that the common law places upon it; and the object of this amendment, as I understand it, is to make the receipt of money or other property from an interested party or his agent, *ipso facto* bribery, without putting the Commonwealth under the necessity of proving the *scienter*, or the express contract to that effect.

Mr. MACVEAGH. Mr. Chairman: I only desire to say to the gentleman from York, in answer to his appeal, that my judgment remains that the amendment weakens the oath in one of its most essential clauses. I cannot, therefore, accept the amendment of the gentleman from Allegheny. I would do so if the clause he desires to have stricken out was allowed to remain.

Mr. J. S. BLACK. Mr. Chairman: Does the gentleman want to define bribery in such a manner that, in order to prove the crime to have been committed, it must be shown that there was an actual contract, and that the money was given for a vote, on a contract that the member shall vote in the way that the giver of the money proposes? Very well. Is it not *ipso facto* bribery to give a member money without saying anything about it; to put it, as the gentleman from Columbia says, under his pillow, or slip it into his pocket the way Sir Robert Walpole did with the members of Parliament? When he wanted to bribe a man he would go to him and, after a little conversation, slip a five hundred pound note into his vest pocket, and the next morning the man voted right.

Mr. HARRY WHITE. I don't think it is done that way now. [Laughter.]

Mr. J. S. BLACK. Perhaps not. Perhaps the gentleman knows better than I do how it is done now. [Laughter.] But, sir, that is one way it might be done, and will the gentleman say that ought not to be considered bribery, or will he define that offence so that you can prove it without showing that there was an explicit understanding between one party that he should give, and the other party that he should vote a particular way?

The CHAIRMAN. The question is on the amendment to the amendment, offered by the gentleman from Allegheny.

On the question of agreeing to the amendment to the amendment, a division was called, which resulted: Thirty-five in the affirmative, and forty-six in the negative. So the amendment to the amendment was rejected.

The CHAIRMAN. The question is on the amendment of the gentleman from Dauphin.

Mr. BUCKALEW. Mr. Chairman: I have a single remark to make on this subject. If I vote for this amendment it will be a vote given conditionally, and my ultimate vote upon this division will depend upon the question whether it shall be amended. I think there is a fatal defect in this amendment. It does not provide at all against the payment of a consideration to any other party beside the member who is to be bribed. By this oath he swears that he will not himself receive, directly or indirectly, any consideration. If the consideration was to be paid to his wife, or to his daughter, or to his son, or to a friend, or to an association, or to a party to which he may belong, his oath will not cover the offence. It will not violate his conscience in this respect, and in the next place it will impose upon him no danger of responsibility to criminal law.

Now, as I do not know where much of the corruption at which this amendment points is to be found, I suppose, and I think it probable, that in a majority of cases the consideration for corrupt votes is not paid to the party himself, but it is paid in some of the directions which I have hinted. Therefore, unless this division shall be amended, I shall not at a future stage of our proceedings vote for it.

Mr. LILLY. Mr. Chairman: I merely wish to say that it must be apparent to every gentleman on this floor that it is impossible to draw an oath that will cover all this corruption, utterly impossible. And I believe that if you go back to the

old oath, as was stated by the gentleman from Columbia, (Mr. Buckalew,) it is all and sufficient to cover every bit of this thing in general terms, and very much better for us to adopt than any of the suggestions offered to take its place. I must say that I have learned some new ideas since I came into this Convention. Being somewhat acquainted with the Legislature, being somewhat acquainted with the degradation of office generally, both in the Legislature and out of it, and having learned on the floor of this body that gentlemen were willing to give \$500,000 for an office if created in a certain way, with certain powers, I am satisfied of the futility of any oaths that can be framed to prevent corruption.

Having listened to all this, and having listened to this elaborate discussion on oaths, I come down to the conclusion that it is all nonsense to undertake to reach it by an oath. If the language of the old oath is weighed judicially, and fairly, and literally, it is broad enough to cover every contingency. Hence, I hope the majority of this committee and the majority of this Convention will see the futility of this whole proposition to take these iron-bound, iron-clad oaths. I hope the committee will vote everything down, and come down to the old oath, which covers every possible point that has been tried to be reached by this elaborate language.

Mr. ALRICKS. Mr. Chairman: When this section was before the committee on the report of the Committee on the Legislature, a very important amendment was made to it. I wish to call the attention of the committee to it now. It is in the tenth line, after the word "well," to insert the word "honestly." I consider that a very important amendment, and I move to amend the amendment by inserting that word.

Mr. MACVEAGH. As that was before inserted I accept it now.

The CHAIRMAN. The question is upon the amendment, as modified, of the gentleman from Dauphin (Mr. MacVeagh.)

The amendment was not agreed to.

Mr. KAINE. I now offer the following amendment.

The CLERK read:

Within twenty days after the adjournment of the General Assembly *sine die*, every member of the House of Representatives and every Senator whose term will expire at the next succeeding election, shall go before the court of common pleas, or some judge thereof, for the county

wherein he resides, and take and subscribe, to be filed among the records of said court, the following oath, or an affirmation to the same effect :

"I, A. B., do solemnly swear that, as a member of the Legislature, I have obeyed and defended the Constitution of this Commonwealth in all things, to the best of my knowledge and ability; I have listened to no private solicitation from interested parties or their agents; I have voted or spoken on no matters in which I myself had, or expected to have, a private interest; I have not done, or wilfully permitted, any act which could make me guilty of bribery, as defined in the Constitution; I have observed the order and forms of legislation prescribed by the Constitution, and I have not voted or spoken for any law which I knew or believed to be inconsistent with it; I have in no case acted corruptly, to serve the interests of private parties or classes, but always with due regard to the honor, good faith, independence and peace of the Commonwealth, and to the just rights and liberties of the people."

If any member shall fail to take the latter oath within the time prescribed, or as soon thereafter as the state of his bodily health permits him to appear at the proper place for that purpose, he shall not afterwards be capable of re-election or of holding any office of honor, trust or profit under this Commonwealth; and if it be false he may be punished for it as perjury, as in other cases of false swearing.

MR. KAINE. As there seems to be a general disposition to get rid of this matter now, I will withdraw that amendment for the purpose of voting the whole thing down.

THE CHAIRMAN. The question recurs upon the section.

The section was rejected.

THE CHAIRMAN. The next section will be read.

THE CLERK read :

SECTION 2. Each House shall judge of the qualifications of its members, but contested elections for members of either House shall be determined by the court of common pleas of the county in which the returned member lives, in such manner as shall be prescribed by law.

MR. MACVEAGH. Mr. Chairman: I desire to call the attention of the committee to the very great importance of this section. It is a grave question, whether the evils of the decision of contested elections by the representative bodies are greater

than the danger of imposing partisan duties upon the Judiciary.

The Committee on the Legislature considered that question at great length, and in their deliberations had had the advantage of the life long experience of the gentleman whose loss we have so recently deplored, Col. Hopkins, of Washington county, and I think we reached an almost unanimous conclusion that it was unwise to burden the judicial department of the government with this duty, and that the evil of contested elections decided by representative bodies was of lesser magnitude than the danger which would menace the judiciary if the labor was imposed upon it. I beg leave to call the attention of the committee to a very important fact in this connection. This whole question received, a few years ago, the most thorough and exhaustive discussion in the House of Commons. It was admitted upon all hands that this was a judicial question, that the title to an office was as judicial a question, when the office was political as when it was of any other character, but the opponents of the measure in the House of Commons took the ground that the judiciary could not safely undertake the burden of deciding questions of a political character, in which the passions of men had been so deeply excited and aroused. Nevertheless the House of Commons, after a more exhaustive, voted that thenceforward, contested elections of members of the House of Commons should be decided by Her Majesty's judges, under the rules of law applicable to other causes.

Very soon after that law went into effect a great election contest arose in Galway, Ireland. It interested every citizen of the electoral district. The ministers of the Catholic churches were supposed to feel a deep interest in the return of a candidate whom they were supposed to favor. The advocates of home rule for Ireland were deeply interested in the contest, and the supporters of the government were, of course, deeply interested upon their side of the question, so that it became a very excited and animated contest. It resulted in a contest after the election for the seat, and that question was referred, under the law, to Her Majesty's judges, and when the decision was announced one universal storm of execration swept over Ireland, from north to south and from east to west, so that the judge who delivered the decision was obliged to take refuge in London from

the populace, and henceforward Mr. Justice Keogh's authority, as a judge in Ireland, is not worth a farthing, and never will be.

That was the result of the measure there. I do not suggest it as conclusive to this committee, but I do suggest that it is well worthy of consideration, and the fact that by reason of that single judgment the Irish judiciary has received a shock from which, in the opinion of competent observers, it will not recover for many years, should be carefully considered by the gentlemen of this committee before they impose such a burden upon the judiciary.

I do not claim that this section is obnoxious to the criticism of putting non-judicial duties upon the judges. On that subject I trust when the time comes this Convention will be a unit, whatever other differences may exist. I fervently trust that we will utterly abolish the patronage of the courts.

This is, however, another question—whether a burden that is so political and partizan in its character, that the common comprehension refuses to consider it judicial, shall be imposed upon the judiciary. If we are making a fundamental law for the common comprehension of our fellow men, it may be unwise even to impose judicial duties which the common mind refuses to recognize as judicial, and I venture to say that the judicial decisions of contested elections, even in this city, have not resulted favorably, have not resulted in such a manner as to cause thoughtful men to care to amplify the jurisdiction of the courts in this regard. I have, however, done all I desire to do, in calling the attention of the committee to the great gravity of the question, and to the fruits which this change has born in that country from which we have derived almost all of our law, and so large a portion of which is best in our civilization.

Mr. BUCKALEW. Mr. Chairman: The Committee on Suffrage, as has been already stated, have been considering this question of contested elections, and they will make a report upon the subject. It is possible that the question of contested elections in the Legislature, may be separated from others and be treated in this article; but my own idea is that a uniform principle can be applied to legislative and to all other contests. Now the member from Dauphin (Mr. MacVeagh) informs us that there was an excitement in a certain Irish contested election case

recently, under an act of Parliament, which extended throughout the British Empire. He did not inform us, however, that the English Parliament had taken any steps to repeal the law. He did not inform us that British experience against the judicial decision of contested election cases was, in the judgment of Parliament, a failure, or that a repeal of the statute had been enacted. Now this law transferring the decision of contested elections of members of Parliament to the judges, was passed some years since, and many cases have been adjudicated by the judges, and the law yet stands, and, for aught we know, it will stand for a century to come, in that country. At all events the general conclusion to be drawn is, that the law has been satisfactory. If it had not been, a repealing statute would have been introduced, and earnest debate would have taken place upon it, even if it had not been passed. A judge in Ireland is not appointed by the people of Ireland as our judges are appointed by the people of Pennsylvania. A judge goes there amongst the people of that country very often an alien, imposed upon them against their will by the imperial power of the empire, and they are to submit to whatever he does without redress, if wrong be done. This may account, to some extent, for the particular case to which the gentleman has referred, and I think every one will agree with me that that is not a case to quote to us in Pennsylvania, where we have a different system altogether, where the judges are inspired by different feelings toward the people over whom they preside.

There is another consideration to be taken into account with reference to this Irish case, and that is, that it was a religious dispute or quarrel. It was a contest between a minority, so to speak, of the people upon the one hand, holding certain religious sentiments, and a majority of the people upon the other. The gentleman has told us that an assault was made upon the Catholic priests, and therefore indirectly, at least, upon the Catholic church for their alleged interference with the election. Briefly stated, it was a dispute between religious sects with a judge imposed upon the people to whom they were hostile. Besides that, sir, a single case in the course of years, under a general statute, is not conclusive against the wisdom of the statute. The statute being general, its operation may be good, upon the whole, though defective in a particular

case. Whatever else may be done by this Convention, I will not agree that contested elections of members of the Legislature shall be determined as they have been heretofore.

Mr. D. W. PATTERSON. Was not the judge in the Irish case a member of the Catholic church himself, notwithstanding his decision adverse to that church?

Mr. BUCKALEW. I have no information upon that subject.

Mr. D. W. PATTERSON. He was, and an Irishman at that.

Mr. BUCKALEW. I will not agree that a committee drawn by lot, and drawn in such manner that the weakest members of the body are to compose it, shall be permitted hereafter to render purely partisan decisions upon all questions of evidence, as they rise in the progress of the trial, as well as upon questions affecting the merits which enter into the ultimate decision. If you are to have a tribunal of judgment, made up of members of the Legislature, I would at least place over them a judge, who should be armed with authority to decide all questions of law that arise during the progress of the hearing. I would give the same guarantee, at least, for justice in the decisions which you have in the ordinary court, where your jury does not decide the questions of law, but the judge, and where they receive his instruction upon all questions of law that are involved. Unless you make the trial of a contested election case in the Legislature, in point of fact as well as in theory, a judicial proceeding, you never can obtain or secure justice.

I am not particularly anxious that these cases shall be sent to the ordinary courts of law; that they shall be sent to the court of the county in which the candidate whose seat is assailed, may reside. I care nothing about the particular form which our amendment shall take; but I insist upon it that it is a necessity, in the interests of public justice, that you shall make trials of contested election cases, that are judicial in character, judicial in fact, and thus secure the just rights of the people, as they may enter into these cases of contested elections. That is all I care to say at this time.

Mr. BIDDLE. Mr. Chairman: I offer the following amendment:

The CLERK read: Strike out and insert: "Each House shall judge of the qualifications of its members. Contested elections shall be determined by the House in

which the contest arises, in such manner as shall be directed by law."

Mr. BIDDLE. I wish to say a very few words. The existing clause is: Each House shall judge of the qualifications of its members, but contested elections for members of either House shall be determined by the court of common pleas of the county in which the returned member lives, in such manner as shall be prescribed by law.

I have modified that so as to leave the ultimate judgment in the House. I deprecate very much the proposed reference of these subjects to a court. I wish to speak most respectfully of the courts of justice of Philadelphia, but I am compelled to say that whenever an election case, so far as my experience goes, is before them, the case is decided—and I have not the slightest doubt, decided conscientiously, according to the political predilections of the judges who sit there.

Mr. HARRY WHITE. Mr. Chairman: In behalf the committee which made this report, I desire to say a word in answer to the alarm sounded by the gentleman from Dauphin (Mr. MacVeagh) against the section, also as to the amendment offered by the honorable and intelligent gentleman from Philadelphia (Mr. Biddle.) No feature of this report was more carefully considered by every member of the committee than the section as you find it upon your files. I say, in all frankness, I was over-ruled in my opinion by a majority of the committee. Since the report has been made, since I have turned it over in my mind and talked with my associates, and viewed this subject in all its aspects, I have come to the conclusion that the majority of the committee was right, and I am earnestly, and with all my heart, in favor of this reform.

Delegates will observe that this merely gives to the Legislature the discretionary power of passing a law to determine the manner in which contests shall be tried. They shall be tried in the county where the returned member lives, in such manner as shall be regulated by law.

Mr. BIDDLE. It shall be "determined," not "tried."

Mr. HARRY WHITE. Shall be determined, I meant to say. It is understood by this that the Legislature has a large discretion in enacting a statute regulating all the details of the trial. This is a radical change and I think it is imperatively demanded by the experience of the times. The eloquent gentleman from Dauphin

(Mr. MacVeagh) has spoken of the experience of England. In echo of that sentiment, allow me to remark that our experience with the statute which we have, being almost a transcript from the English law, and under which our contested election cases are now tried, has not been favorable to the course of justice. When George Granville, in 1770, introduced into the English Parliament the code which we have tried; he thought he had discovered the panacea for every ill attendant upon the trial of contested elections. The experience of more than half a century has convinced us that the trial of such cases by partisan Legislatures has not been fair and even-handed justice to the parties interested or to the people at large. Something must be done, and the question is, will you now adopt the theory suggested by the honorable delegate from Philadelphia, (Mr. Biddle,) or will you trust it to the courts of the locality in which such cases arise.

I approve of the sentiment of the delegate from Columbia (Mr. Buckalew) that these trials should be of a judicial character. Where can we best have it? Undoubtedly in the courts of the Commonwealth. The only argument against placing such jurisdiction in the courts is that they would become partisan. The statutes passed by the Legislature from time to time enlarge the jurisdiction of courts over a great number of cases of the trials of contested elections. Recently, on taking up a daily paper, I discovered that in the trial of a contested election case, for one of the most important county offices, involving large local interests, in the court of Luzerne county, the honorable court rendered a most intelligent decision, which I trust will meet the approbation of all, and I am satisfied that the court has not dragged itself into the mire of politics by having jurisdiction of such a case.

I find in the case of Mann and Cassidy, which established a record of fraud in the elections of this city without a parallel in the political history of the Commonwealth, that it was decided by a majority of the political friends of the gentleman in whose favor the decision was made. From time to time, in different courts of the Commonwealth, this jurisdiction has been exercised in the most valuable and important offices. What creates more excitement in the minds of the people of a county than a contested election case for the office of sheriff or

some other remunerative office in the gift of the citizens of the Commonwealth? And yet the courts are clothed with ample power to try and determine the cases. Why should we not allow the courts to determine the cases of contested elections when the rights of a Representative or Senator to his seat in the Legislature is involved? I am in favor of the section as it is reported, and I trust this Convention will endorse it, leaving the future to determine whether it shall be accompanied by the results the friends of the section now anticipate.

Mr. ELLIS. Mr. Chairman: I have only a few words to say in reference to this subject, and I am impelled to express them, from a deep sense of the importance of the matter. I trust the amendment offered by the gentleman from Philadelphia, (Mr. Biddle,) will not be adopted. It is simply a modification of the existing state of affairs. We have been referred during the discussion of this question to the practice of the British Government. It is well known that our present act of Assembly, framed under the Constitution, is a re-enactment of the Granville act, under which the British parliament practiced in cases of contested election for, perhaps, a century. The experience of that government in these matters, and in judicial questions generally, is of great importance in guiding us to a just conclusion in regard to this matter. The British government prefaces their act with these words: "Whereas, it is expedient to amend the laws whereby elections are held, and to provide more effectually for the prevention of corruption practiced at parliamentary elections," &c. The object of the law was not merely to determine the question as to who was entitled to the seat, but it was intended to go deeper and prevent the corruptions practiced at parliamentary elections.

We are well aware that in the present system of investigation, the question of title to office is the only matter of inquiry in the Legislature of the State of Pennsylvania, and the practice and the method by which the office has been attained, seldom, if ever, reaches the public eye, and in no way is punishment visited, of any kind whatever. From the very earliest times the judges of England have been the creatures of the ruling power. We know that the bar itself must be and is subservient to the strong power that controls the government. The silk gown is conferred upon a subservient counsel, and

a sergeant is created by the will and pleasure of the monarch. Then when the judge is required to render a judgment, we are aware that he is obliged to conform his rulings to the views held by that power that controls in the government, but we will also know that, notwithstanding the monarch and notwithstanding the judges, there is a sentiment in the minds of the British people that can wrest justice from both monarch and judges. In due time the very excitement which alarmed the people, and perhaps to us would cast a finger of warning, is in the British Constitution the very evidence of its life and its power, and that it will create a more wholesome sentiment and a better security for the liberties of the people.

We know that the Wilkes case shook the British empire from centre to circumference, and from that case arose principles which will be eternal in this question of the right to office and of the right of the people to elect whom they please to elect to office. Now this is eminently a judicial question. The gentleman from Dauphin (Mr. MacVeagh) admits that there can be no denial of this fact. When an election has taken place, and the ballots have been deposited, and a man has a clear majority, he has a vested right to the office to which he has been elected, and it is clearly and plainly a simple judicial question, to decide and determine in whom that title has vested.

Now, if we refer these questions to the judiciary, will it necessarily follow that the judiciary will be degraded? It may to some extent have that effect, but is that a reason why these questions should not be so referred? It does not involve a new principle. The judiciary of Pennsylvania have now the right to determine the title to office in a great many instances throughout the Commonwealth, and why should they not have the power to determine cases of contested elections for members of our Legislature? There should be in this Constitution some uniformity in the determination of these questions, and I think it is of the utmost importance that there should be one uniform principle running through the entire Commonwealth, not only with regard to county officers and judges of courts, but also with regard to members of the Legislature and State officers. We would derive great advantages from such practice, and inasmuch as it is a judicial question, it will be determined upon principles that will govern our judges in its ultimate decision.

They will not be allowed one day to make a ruling, and the next day to reverse themselves, if this power is conferred upon the judiciary, for out of this plan for the determination of these questions will grow a system that will be of great value to the people of Pennsylvania in assisting in determining the rights of the electors for all time to come. It will be a system that will be of great value to the State, and the question that it will degrade the judiciary ought not to weigh the slightest against this proposed section. We must elect men who are fully competent to discharge the duties of their judicial positions, and if they do not determine these questions according to law, the remedy will then rest with the people to elevate better and abler men to these positions.

The determination of these questions of contested elections, as now practiced, is a matter of mere thimble-rigging. It depends entirely upon the manner in which the tickets are put in a box and drawn out of the box. A man may know how they were placed in the box, but no man can tell how they will be drawn out, except the man who put them in the box. It is simply a mere game of chance, and while it continues we shall have neither confidence nor principle in the system, and will lose all confidence in the result of popular elections, which it is the utmost importance for us to restore and preserve.

Mr. JOHN R. READ. Mr. Chairman; I am unqualifiedly in favor of the section as reported by the committee. I believe with the gentleman who has just taken his seat, (Mr. Ellis,) that the determination of these questions of contested elections has become a great abuse, and one that is in sad need of correction.

Let us for a moment consider how these legislative committees are constituted. Let us, in other words, make a diagnosis of the disease, which, by this section, we are endeavoring to cure. If carefully made, we shall find that the present system has worked perniciously, and with the light of our experience, seems to have been devised as a method of rewarding political favorites, and men of consciences elastic. The power of these committees is as great and mighty as that of any other tribunal in the State of Pennsylvania, because, sir, they step between the representative and the people who elect him. They can, by a scratch of the pen, reverse the decision of the people. When any tribunal can do this, I assert that it is a

power too great and mighty to be regulated by the doctrine of chances.

These committees sit as a judicial tribunal. They hear evidence for and against the petitioner, but they do not give speedy and exact justice in their deliberations, and justice is frequently denied, and is often for sale. The hearings in these cases of contested elections are often prolonged until the end of the session, and the disappointment of the defeated candidate is then alleviated and assuaged by the payment of his costs and expenses, and the same salary as that allowed his opponent and other members, so that it has become quite common for persons who were fairly and honestly defeated in the elections to inaugurate these contests for the purpose of filching from the treasury of the State the disbursements and expenses made and incurred by them in an unprofitable political campaign.

It is well known, sir, that the justice of these committees is not blind. It winketh its eye and bows its head in meek submission to the mandate of the party caucus, or follows with servile complacency the advice of the party leaders. But if, perchance, there should happen upon one of these committees a man with sufficient independence and virtue to enable him to assert his manhood, and to manifest a disposition to be guided by the evidence, the party whip is cracked loud and long, and descends with wicked cruelty upon the back of the would-be faithful member, and he is then, under threats of expulsion from the ranks of his political associates, forced into abject contrition, and to do meek penitence by signing the degrading verdict, even though he shudders in secret sorrow.

Mr. TEMPLE. I would like to ask the gentleman whether he believes the judiciary, as a class, are more honest in the determination of all election cases, than the Legislature itself?

Mr. JOHN R. READ. I do, most unhesitatingly.

Mr. TEMPLE. Then I can only say your experience has been different from mine.

Mr. JOHN R. READ. I cannot believe that the gentleman was serious in asking this question. If I believed that the judiciary were not more honest in the determination of election cases than legislative committees, then would I fear that the frame work of this government was so rotten and decayed that it would fall to pieces at the first rude shock of contending forces. Now, as was said by the gen-

tleman from Schuylkill, this is a question which is purely one of title. The Judiciary will not be called upon to decide the qualifications of members of the Legislature. They are not to decide whether he is of age, but they are simply to decide whether he has been elected by a majority of the votes of the people who send him to that body, and I believe, as that is a question which depends upon legal and proper evidence, and one which Judicial tribunals can best decide, that it should be submitted to them alone.

Now, then, Mr. Chairman, what is the remedy proposed by the committee? It is, sir, that all these questions should be decided by courts of justice, in the county from which the returned member comes. To enable this to be done, without fear or favor, I would elevate our judicial tribunals so high above the narrow plane of party politics that they could afford to do right and dare to be independent. The Legislature can prescribe such ways and means for the taking of the testimony, and the time at which it shall be taken, so that exact and speedy justice can be done to the contestant and person who has received the certificate of election. The courts can then issue to the contestant or person who claims to have been elected a certificate of election, if that shall decide that he is entitled to the same, and that person can then go to the legislative halls and be received as a member, provided he should be otherwise properly qualified. I am free to confess that, for manifold reasons, I am in favor of making some important changes in the tenure of our judiciary, and, perhaps, in their qualifications. I would make them ineligible to election until they shall have arrived at the age of forty years. I would give them a term of twenty-five years, and make them ineligible to re-election, and I would confer upon them a retiring pension of whatever sum might be deemed proper by the Legislature. By these changes, if it is possible to have an independent judiciary, without adopting the life tenure, we would have gentlemen occupying judicial positions who would dare, if human consciences are not relics of antiquity, to do what seems to them to be right. I believe that the decision of courts so constituted would be received without suspicion, and with a confidence that is most desirable. Entertaining these views, I am, as I said in commencing these remarks, unqualifiedly in favor of the report of the committee.

Mr. TEMPLE. Mr. Chairman: I offer the following amendment to the amendment: Strike out the amendment offered by the gentleman from Philadelphia, and insert the following: "Each House shall judge of the qualifications of its own members, but contested elections for members of either House shall be determined by both Houses of the Legislature, acting jointly in such manner as shall be prescribed by law, and in no case shall a subcommittee of the Legislature determine the said contest."

Mr. BROOMALL. Mr. Chairman: I endeavored a while ago to obtain the floor to offer the amendment which the gentleman from Philadelphia (Mr. Biddle) has offered. I think his proposition is much better than the present law, and greatly better than that reported by the committee, although little can be said even in favor of it. The present mode is a bad one for the reason pointed out, among others, by the gentleman from Columbia, (Mr. Buckalew,) that in drawing these committees, each party endeavors to cut the strong men of the opposite party off from them, and the result is that the committees are ordinarily composed of the weak men of the body, who would be very likely to decide the question in accordance with their party predilections. The usual mode of deciding contested elections—that adopted by Congress, and I believe by most of the States of the Union, is evidently an evil one. This mode allows the body to decide by a majority vote which of the contestants is entitled to the seat. I have witnessed some twenty contested elections and taken part in them, and I am obliged to confess, although it is humiliating, that in almost every instance the votes that were cast were cast according to party predilections. I believe that has been the case in every instance, with an occasional exception, where the members of the majority, perceiving that their votes were not needed to secure their friend his seat, came forward and appeased their conscience by casting their votes for the opposite party. This is simply humiliating. I admit the defects of the present system.

Little can be said in favor of the practice of allowing a legislative body to decide the question of the right to a seat of its members by what is usually a mere party vote, but I do not see at present, that there is any better mode, and even as it is now, I consider it better than the one suggested by the committee. I am afraid

to entrust to the courts of common pleas the decision of questions that I have always seen decided elsewhere upon party grounds. The last thing I desire to see happen to the courts of the country is to make judges political. The decision of these questions has always made the tribunals so deciding them political in their nature and I have no reason to believe they will not produce the same effect upon our judges. The observation of the gentleman who offered this amendment is to the effect that wherever this experiment has been made of trying contested election cases in courts, the decisions either were, or there was reason to believe that they were, of a partisan character. It matters very little whether these decisions were rendered in a partisan spirit, or were supposed to be by the community, the result is the same upon the standing of the court. When the courts are supposed to be political in their feelings and actions they will lose the confidence of the community. They might as well be political as to be supposed to be by the people. Now this question, I am glad to see, is engaging the attention of the Committee on Suffrage. I am in hopes they will devise some plan by which we shall have all questions of contested elections of State officers decided in accordance with some satisfactory plan. Let us create some tribunal somewhere, if it is considered necessary. Let it, of course, be a judicial tribunal, for the questions are in the nature of judicial ones. The Committee on the Judiciary I suppose will report a provision for an intermediate court. Whether that court will be so constituted as to be safely entrusted with these questions I do not know; I have some doubts about it. The only plan I could suggest is the constitution of a special court, the judges of which should hold their offices during good behavior, so as to be utterly independent of party, and so that they could afford to be impartial, and ultimately would come to decide these questions strictly as legal questions.

Now, the importance of creating some tribunal to decide contested elections in a better manner than they have been decided yet, is manifest to every one who reflects upon the consequences of a contest for Governor of the State. If a contest for Governor should be decided by a majority of the Legislature happening to be against the party manifestly elected, and in a case where the contest is made purely because the body deciding the question has the

majority, the consequences would be serious. This will most surely happen if the present plan is continued. Let it be remembered there is now no plan for deciding the right of electors for Vice President and President of the United States to their seats. There is no way to decide those questions, and when the difficulty shall arise in a State like Pennsylvania, in a case in which both parties may with some plausibility claim the election, where both sets of electors meet and send the result of their labors to Washington, and where the question of which set of electors shall be counted, governs the whole question of who shall be President and Vice President of the United States, then there will be revolution. I had my attention called to this peril at the first election of General Grant, when the State of Georgia was ruled out; and it was admitted on all sides, that if the electors of the State of Georgia, being counted, would have changed the result, the consequences might have been terrible.

Now, the States must settle the question of contested elections of electors for themselves; and I mention this as one of the reasons why some tribunal should be constituted that will stand so high and independent in public estimation as to be known by everybody to decide these questions according to law. Such a tribunal as this should be constituted while we are free from the dangers which may come upon us. I trust that the duty of determining these questions will not be imposed upon the courts of common pleas of the counties. I do not wish to see those tribunals made political, and I trust that the Committee on Suffrage will mature and bring forward some plan covering the whole ground. In the meantime, I hope that the amendment offered by the gentleman from Philadelphia (Mr. Biddle) will be adopted.

MR. J. W. F. WHITE. Mr. Chairman: I apprehend that the great difficulty in our present constitution in regard to this subject is, that it strives to point out a specific mode of determining cases of contested elections. The Constitution of 1838 says, "contested elections shall be determined by a committee to be selected, formed and regulated in such manner as shall be directed by law." The Constitution itself requires a committee to be appointed. It was specific in that particular, and made it obligatory upon the Legislature to create a committee to try contested election cases. According to the language of the

Constitution, it would seem that the report of such a committee would be conclusive upon the subject, and I believe that has been the practice in the Legislature. Now, in consequence of that, as a matter of course the committee could not be chosen until the Legislature met, when the contest of one of the members of that Legislature should arise, and in every case in which a contest arose for a member of the Senate or House of Representatives, the committees have to be called, selected and formed out of the very members who compose the Legislature at that time, after the election occurs. Now, sir, I am unwilling to place a provision in our Constitution that might bind us down irrevocably to any plan. It seems to me that this is continuing the very vice now in our Constitution. I am opposed, therefore, to saying in the Constitution we are now framing, that contested elections shall be determined by the courts, and be fixed irrevocably in that form. Why not leave these questions, in the broad language of the gentleman from Philadelphia, (Mr. Biddle,) so that they shall be determined in such manner as shall be prescribed by law, and if the Legislature thinks proper to confer this power upon the courts, let it do so. Let the experiment be tried, and if found to work well it will be continued, but if found to work badly, it may be repealed. If you place the provision reported by the committee in the Constitution it becomes irrevocably fixed, and must always be resorted to.

Now, Mr. Chairman, I hope the gentleman from Philadelphia (Mr. Biddle) will accept the modification that I shall suggest to his amendment, because I am opposed to the amendment which has been offered to the amendment.

I propose to add to the gentleman's amendment these words: "Existing at the time the election took place." The gentleman's amendment concludes with these words: "Contested election cases shall be determined in such manner as shall be directed by law."

MR. BIDDLE. Mr. Chairman: I have no objection to accepting the proposition of the gentleman as a modification to my amendment.

MR. J. W. F. WHITE. Mr. Chairman: The object of the modification which I have suggested to the gentleman's amendment is to prevent the Legislature from passing an act in reference to some special cases that is before them, for the law existing at the time the election occurs must

prevail with reference to the contest arising at that time.

When the act does not apply to any case then existing, when it cannot apply to any contest at that time existing, but must apply to contests in the future, all parties will desire to have a fair and impartial law on the subject. It will cut up this special legislation in reference to any particular contest.

Now, sir, with the gentleman from Philadelphia, (Mr. Biddle,) I stand utterly opposed to giving this power to the judiciary of our State. In my judgment the judiciary of our State is by far the strongest power in our government, the strongest for good and the strongest for evil. We can control and limit the Legislature and the various other departments of our State, but our judiciary, from its very nature, stands almost beyond reach, and I am utterly opposed to conferring anything like political power upon the judges of our Commonwealth. I wish those judges to be removed as far as possible from party influence and from the influence of politics, not only while they are on the bench, but also in their election; and I call gentlemen's attention to this feature of the case. We have had elections in this State when the persons who were candidates of the party opposed to the dominant party in the county have been elected as judges. We can all call to mind instances occurring in different parts of the State where candidates of the minority party have been elected judges. I wish that the judges shall be so far removed from politics that that may be oftener done. But if you put upon the judges of this Commonwealth the decision of contested election cases you make their election a matter of politics at the very outset. Why, sir, if politicians and parties know that the judges are to determine all these contested election cases, and they will arise frequently, under the section reported by the committee here, I ask you if all parties will not look at that question in its relation to the decision of the court? It will decide the election of the judges themselves; it will become an element in their election, the passing upon these political issues. I wish to avoid that. I wish to have the judges, as far as possible, removed from politics and all political influence in their election, as well as when they get on the bench; and I am willing to trust the Legislature to pass a general law and a good law on the subject. Fur-

ther than that, if they feel disposed to do it, as I have said—to confer this power upon the courts—they can do so under the present proposition. They could not do so under our present Constitution, because that says it must be determined by a committee. Under the proposition of the gentleman from Philadelphia, (Mr. Biddle,) as modified, the Legislature may confer this power on the courts, and they could try it.

Mr. BIDDLE. Mr. Chairman: I think the gentleman from Allegheny misunderstands the amendment. I would like to have it read.

The CLERK read:

"Each House shall judge of the qualifications of its members. Contested elections shall be determined by the House in which the contest arises, in such manner as shall be directed by the law existing at the time the election takes place."

Mr. J. W. F. WHITE. I confess that I misapprehended his amendment. I shall not vote for that. I shall not vote for saying that it *shall* be determined by the House, because I wish to leave it open, and I wish the Legislature to have power, if they choose, to try the decision of such cases by the courts. I prefer it as it is, but I am willing to vote for that broader proposition. At the same time I wish to express my conviction of the impropriety of conferring additional powers upon the courts, especially in political matters; and to say here, that unless I greatly change my opinion I shall, on no question, and in no vote, favor an increase of the powers of the courts. I wish them to be purely judicial; and to strip them of everything except judicial powers and duties, and limit them thereto by Constitutional provision.

Mr. HOWARD. Mr. Chairman: I am aware that this matter of deciding a contested election is a judicial one: it is so understood by the legislative committee, sitting as judges, and bound by rules of law, the same as a court of justice. Yet, at the same time, we know that political questions constantly arise in the determination of contested elections; that it has been impossible to exclude them, and they have been decided just precisely as the committee happens to stand—the majority being of one political complexion or another.

Now, sir, I belong to a class of men—perhaps a minority—who believe that the judges are just about as good, altogether as good, as other men—liable to the same

influences and the same temptations when placed under like circumstances. And, sir, if I have read history aright, I have found that political questions have found their way into the highest judicial tribunals of this country—both in our National and State governments. Political questions, every time, have been decided just as the majority of that court happens to be constituted, politically, at the time. We have not to go very far back, either, in the history of this country, or in the judicial or political history of our State, for illustrations. When the question of the draft; when the question of the suspension of the *habeas corpus*; when the question of the payment of bounties; when all these questions, growing out of the great war of the rebellion, were judicially considered, they were decided every time as political questions, and in accord with the political party views of a majority—as the majority of the judges representing one political side or the other.

The chairman of the committee says that the courts now may determine, and do determine, contested local elections; and why not give them the power to determine the question of contested elections of members of the Senate and House? In the contests arising out of local elections there are no questions of political power or political government at all. But the determination of a contested election for a member of the Senate may determine the political power of the Commonwealth one way or the other, and then they would bring to bear upon the tribunal that determines that question the same influences that they would bring to bear upon a committee, or upon any other number of men, in whom this power may be lodged. Gentlemen look at this proposition only from the stand-point of the manner in which contested elections have been determined. Well, we say they have been determined sometimes wrongfully. We know they have been determined just in accordance with the party views of the political majority; and I say, so far as the judgment of the judges can be ascertained, in every question of great political significance, they have decided them precisely in the same way. And, Mr. Chairman, a feeling, somehow or other, has got abroad in the Commonwealth that because the legislative power resided in the Legislature, and because that Legislature had the right, and the privilege, and the power to confer very important favors, that that body has been

corrupted, in a measure, by the great corporations of this Commonwealth.

And, sir, there is another opinion now getting abroad among the people, and that is, that the same great corporations are trying to entrench themselves in the fortress of the judiciary. I once had a little experience, myself, going to prove this idea. I happened to be a delegate to a Convention that met at Keokuk, in the State of Iowa, for the purpose of devising some plan by which to improve the navigable waters of the Mississippi river and its tributaries, and also for the purpose of removing or preventing "obstructions" of those great natural water-courses. The "obstructions" complained of were bridges erected by railroads; and the objection was not to the fact that bridges were erected, but it was to the manner of their erection. In some instances they seemed to have been erected with a view to obstruction, in order to throw the trade and travel on to the railroads, instead of letting them take their course upon the rivers. I know that in that body we had to encounter a judge of the United States Supreme Court, a member of that Convention, who there represented the railroad interest, and opposed the river men. And when his attention was called to the indelicate position he occupied as a delegate there, when he knew the object of that Convention, and that it was called by the river interests, and when it was stated that questions might arise out of their deliberations that might come before the Supreme Court of the United States for decision, he stated in his place what his decision would be. Would I trust such a man as that with any question of this kind? I would not trust him any more than I would trust the lowest whelp that ever had a seat in the Legislature. I know, too, that that was the general opinion of gentlemen that had a seat in that body.

Mr. Chairman, I do not mean, by any word that I have to say here, to cast any reflection upon the judiciary of our Commonwealth. I know they are an able and learned body of men. I would like to keep them pure by not bringing to bear upon them influences that we know have corrupted other bodies of men that were, perhaps, just as good and just as honorable as they are. Contested elections raise difficult and troublesome questions, and gentlemen should look upon it in that light, whether, by creating a different body of men to determine them, they will

really determine them in any different or more satisfactory manner than heretofore. I am utterly opposed to placing this power in the hands of the judiciary. If the candidates whose seats were contested should happen, if seated, to have the balance of power in their hands, so that they would give the majority, one way or the other, a tremendous contest—a fierce fight would be made for the purpose of carrying that election in a particular way, and every power would be brought to bear upon that court to influence them; fairly, if possible, and corruptly if it must be.

We should not place the judiciary in that situation. Let them decide cases arising in the courts between man and man—the ordinary legal business—but these contested election cases, although called judicial, are, we know, decided by the political bias of the men who decide them.

We know, too, after all, that when the party lash is applied, and when political questions have been decided heretofore by the judiciary, they have been decided for their party.

MR. MINOR. Mr. Chairman: I cannot subscribe to the amendment to the amendment, nor exactly to the amendment itself. I think, sir, the true position has been indicated by the gentleman from Allegheny, whose seat is on my right, (Mr. J. W. F. White.)

Now, the grand objection, it will be observed, which has been given in every case where a proposition has been made to refer anything to the judiciary is the fact that heretofore, by purity of character, it has commanded our respect and confidence. That is the reason which is given, and it is the reason which exists. That being true, up to the present time, as a general rule, I think it becomes the duty of this Convention to see to it that it shall leave the judiciary in such a position as that that reason shall not cease to exist. I think, sir, we owe a most solemn duty to the judiciary of this State, and to the people whose judiciary the judges are, that the ermine shall not be soiled, and that no man shall be able to put it in such a position that it can be suspected or charged with being soiled when it is *not*.

I care not how truly, honestly, or correctly a judge may decide a question of this nature, yet if he does decide in the direction of his own political proclivities, though, as I said, honestly so, he will be

charged with having been biased by political influence. There is the difficulty. Now gentlemen undertake to answer this by saying that the act of a judge is a judicial act. That is no answer at all, sir. While the court itself is judicial, the subject is entirely political. The act, of course, is judicial; it cannot be anything else; but the trouble is that the question to be decided is purely political in its nature, and purely political as to the persons affected by it. The judge is really to say which political party shall have an increase in its power and which diminished, as the result of his decision. That result of his decision cannot be escaped. It is the very thing he is asked to decide. "How shall the political power of the State stand," so far as his decision can affect it? The result, therefore, is manifestly political, although the act itself is judicial. Then I will go a step farther. I said we should protect them from being subject to these charges; we should also save them from any possibility of having the reputation of being affected by political influence. Suppose a judge's term of office has almost terminated, and there comes before him a case of contested election, and he has reason to believe from the facts that the contest should be decided in favor of the candidate of the minority party of the county. Yet, in view of his desire for re-election, you place him in the position of being obliged either to decide, according to his conscience, against the dominant party, and thus defeat his own re-nomination and re-election, or to decide according to his interests and against his conscience, in order to secure his own re-election. There are men, I know, that will always do what is right; they will be just though the heavens fall; but suppose the judge decides in favor of the candidate of the dominant party; he is immediately charged with having so decided in order to secure his own re-election, and he is so situated as not to be able to deny it.

I say, then, it is not right for us to put a judge in that position, so that his character may be ruined beyond the power of man to save it, and that often without his fault; and when you ruin the reputation of a judge unjustly, you certainly make a terrible break-in upon the influence and integrity of the judiciary, and the high position that it now occupies in this State, and ought always to maintain. I remember once when at law school, listening to an address delivered there by one of the

professors, and who was a judge of the supreme court, in which he said :

"Young gentlemen, I want to tell you that this State honored me with all the political offices I desired. I aspired to nothing but what they were willing to accord me politically; but I went on the bench in order to be independent of politics, and I have always rejoiced that in my decisions my mind would be free; and I say to you, that in your future labors, in connection with the laws of the country, see to it that the judiciary is left independent, and free from the opportunity of political bias."

That charge, thus given, I have never forgotten. The influence that it made upon my mind exists to-day, and I repeat the sentiment of that eminent jurist, and say: "Let our judiciary be kept so that it shall not be subject to the power of political influences," at all events so that it shall not be ruined by charges against it which are unfounded, and yet which it is so situated as not to be able successfully to meet. For these reasons we ought not to tie up the Legislature, as is done by this section. One word more, and I have done: I admit there are evils in the present plan, and great evils, and we have experienced evils because we have been tied up to one mode in the old Constitution. The other mode would be also full of evils, even greater than those which exist now. We have been tied, unfortunately, in the past, and if we adopt this section we will be tied, unfortunately, in the future. I believe, sir, that wisdom will not die with us. I believe good men are to live after us; and I think we may put in a section leaving it to the Legislature, to the wisdom and experience of the future, to suggest what shall be the best remedy. If one way is not the best, it can try another. I do not believe we can do better than to leave it there. I believe the suggestion made by the gentleman from Indiana (Mr. Harry White) to the Committee on Legislation is right, (contained in "No. 1" of the "suggestions,") and I read it as part of my remarks.

Mr. HUNSICKER. Mr. Chairman: I had not intended to take any part in this discussion. I did not dream that this section would receive any discussion. I presumed it would be adopted unanimously; because, if there is any evil which cries for reform—which *needs* reform, it is the subject of contested elections in the Legislature. The committees are drawn by lot, and as soon as the political complex-

ion of a committee is known, it is determined who will get the seat. And that a man should be seated in the Legislature who has it in his power to pass a law to take away my liberty, my property, my life; that the man who exercises the supreme power of the State should sit there and legislate and enact laws, and yet, have never been elected or called to that place by the voice of the people; that his right to hold that position should be determined by lot, and that the report of a committee should be final and conclusive on the subject, is monstrous. *Gentlemen* seem to be very solicitous about "preserving the purity of the judiciary." Who has assailed the integrity of the judiciary? They have, for these long years past, tried and decided contested election cases. All our county officers; all our township officers; all our borough officers are made the subjects of contest before the judicial tribunals, and I have yet to know of more than a few isolated cases where they were decided according to the political predilections of the judges who happened to preside over the tribunal which tried them. When you come into court, you come into the court of the very county from which the member is elected, and there, in a solemn and judicial proceeding, you proceed to determine who has been lawfully elected. There is a record made. The witnesses generally reside there. The proceeding takes place right in that community having most interest in its result. The witnesses are called up, and after the case has been fairly and thoroughly examined, a decision is rendered by that court, and if there is any error in the decision, any error of law, it may be reviewed by the Supreme Court of the State. Thus, it having been judicially ascertained who shall legislate and make laws for the protection of life, liberty and property of the citizens of the State, the right man will get the seat. And I do not think it is worthy of consideration that we should thus tend to make the judiciary liable to an imputation of being governed by partisan motives. The judiciary are above and beyond that reproach, with all its powers, and for that reason I shall vote against all the amendments offered, and vote for the section as reported.

Mr. LILLY. Mr. Chairman: I am in favor of this section as reported from the Committee on Legislation, for the reason that the judiciary can be so formed as to put them above and beyond parties. But after that is done, after the judiciary have

been placed above and beyond parties, as I hope it will by this Convention, then all the arguments on this point submitted by gentlemen in the Convention, will fall to the ground. It is well known, and it has been said here over and over again, that these contests before the Legislature are perfect farces and no proper results are ever arrived at. It has been said here, and I presume it is true, that in later years, as the committees were drawn in the Legislature, so did members get their seats, the result having been determined according to the political complexion of the committee. I have not, however, known that to be the case in my experience, but it has been said in this Convention over and over again.

It has been said here, also, this morning, that the judges are inclined to decide according to their politics the questions of contested elections brought before them. I may be mistaken, but I think I heard some of our members say so. Now, I would cite the case of a decision that has been rendered in Luzerne county recently, which is a flat contradiction of that statement. The judges of the court are all Democratic, with, I believe, one exception, that one being a Liberal Republican; but they decided to give a Republican his seat to an office claimed by him, because it was right and just that he should have it. This decision was unanimous, as I understand it, and the seat was given to this Republican, because the vote showed that he was entitled to it, and the court did not desire to over-ride the vote.

But I have a plan to suggest that I think can lift the judiciary out of the influence of politics. I do not expect that I can make my opinions on this subject potent enough to carry them through this Convention, but I think that if the judiciary were constituted as my plan would constitute them, they would be taken entirely out of politics, and all these questions of contest would come before the judiciary properly. An office that a person has been elected to is a valuable thing, the title to which is valuable, and the courts ought to decide all questions of property in valuable things. They are constituted to do that, if I understand their functions correctly, and I believe that that is the place for them to go. My idea is to have the judiciary appointed, not elected. I believe that we have seen the error of the elective system as applied to the bench, and I conscientiously believe that if we leave it to the vote of the people, they will

to-day vote against electing the judiciary. There are gentlemen around me who say that they do not believe such to be the case, but I believe it. I may not, perhaps, be able to speak intelligently for other sections of the State, but among my immediate constituents, the people of the Lehigh valley, I have not heard a man express an opinion on this point who is not opposed to electing the judges. I wish to see them all appointed for life. Make them ineligible to appointment of any kind while on the bench, and for two years, or a term of years, after they leave the bench. Take away all party from them by this plan of appointment for life, and you will have pure, and honest, and square men elected, and they will do as the honest men of Luzerne county did in the case I have referred to—decide contests according to their merits.

I hope the committee of the whole will adopt this section just as it came from the Committee on Legislation. The gentleman from Columbia (Mr. Buckalew) asserts that the Committee on Suffrage, Election and Representation have a general section in view for all contested cases. Their report would coincide with this very well, and I trust that this committee will sustain the action of the Committee on Legislation in this matter.

MR. LEAR. Mr. Chairman: I desire to say but a brief word upon this subject. If we change the Constitution in this regard it will be because we believe there are some abuses under the present system of determining the election of the members of the Houses of the Legislature; and if we make that change we simply do it as an experiment, to see whether we can get anything better. Whether we will improve the plan or not is a matter which I cannot tell; but while we try that experiment as to whether the mode will be improved by what we do or not, let us take care that we do not involve another department of the government, about which there is no complaint, in this experiment, and pull that down to a level with the character of the Legislature.

I do not desire to discuss the character of the Legislature. If for no other reason I would abstain from it out of deference to the sensitive feelings of my friend the gentleman from Potter (Mr. Mann); and I do not intend to object particularly to any amendment which will provide a different mode of determining this matter before the Legislature. But I do object

to the question being referred to the courts of the Commonwealth, for the reasons which have been given by several members of this committee, and especially by the gentleman from Crawford, (Mr. Minor,) who has given almost my views upon this subject. But of the effect of this question upon the judiciary there can be no doubt. There is nothing that so stirs up the feeling of the people of any community as a question involving a political issue; and men take sides with more determination upon an issue of that kind than they do upon even the question of religion, and the whole community may be divided upon a question of this kind, with all the bitterness of party animosity, whereas the ordinary contests that come into our courts only involve the parties to the contest and their particular and immediate friends. This, however, would involve the whole community, and could not help but bring the judiciary into suspicion, and thus lower it and its character. Nay, more than that, it would not be long, if it did not corrupt the judiciary, before the people would carry the election of the judiciary into politics and elect the members of the courts to suit the contests which would be likely to come up. I was told, since I have been in Philadelphia, by a member of the judiciary here, that they feel their power weakening under their feet, because so much has been put into the courts. So many duties, inconsistent with their judicial functions, have been assigned them that politicians are organizing for the purpose of selecting a judiciary to suit the parties who have particular interests involved in their appointments.

Now, whatever we have to regret in Pennsylvania—and we have many things—and whatever we may have to humiliate us in this State, there is one thing upon which the people will ever look with gratification and pride, and that is their judiciary. Whatever may be said about the other departments of government, the executive and the legislative, there never has been a breath—to any considerable extent at least, except in special localities—with regard to the official integrity and personal purity of the members of the judiciary; and it is there that we must look at last. It is the last resort to which the people look for their personal rights, the rights of property, and the sustaining of the laws which may be created by the Legislature, and executed by the Execu-

tive. It is there, at last, where we—if we have had our rights invaded—present our claims with confidence, and have those claims allowed. Now let us not try an experiment, because this is but an experiment, by which we will endanger the confidence of the people in the high purity of that department of government about which, at this time, we have no doubt.

Mr. J. S. BLACK. Mr. Chairman: Certain gentlemen near me have asked me how I would vote. I propose now to tell them and the whole committee at once, and at the same time to give a very brief reason for my conclusion. A contested election—the question whether one man or another is entitled to a seat in the Senate or House of Representatives—is, as everybody will admit, a judicial question purely. It involves the determination of matters of fact according to evidence, and the application of the law to the fact, after it is ascertained. Now it is a principle, not only of this government of ours, but of all free governments, that the judicial authority of the State shall be vested in the ordained and established courts. It is not safe anywhere else. The judges sit with open doors. They are obliged to hear a full discussion. They receive nothing but legal evidence. They exclude all evidence that is not pertinent to the subject, or which appeals merely to the passions. They are obliged to give satisfactory reasons for the conclusions that they arrive at, and a violation of their duty in any of these respects exposes them to a very severe punishment.

To take a question like this, or to keep it, out of the hands of the judiciary, and to put it into the hands of any special tribunal, is a violation of this fundamental principle. All the experiments that have ever been made of determining judicial questions, otherwise than by the regular courts, have been failures. That is the reason why the court of Star Chamber and the court of High Commission had to be abolished. That is the reason why military commissions and ecclesiastical tribunals have become infamous all the world over, and it is also the reason why nobody has any confidence in legislative committees.

We have had some experience upon this subject, and we are extremely unwise if we do not profit by it. It is said that "experience is a dear school," but that even fools will learn in that school when they are put at it long enough. The questions of contested elections were tried in the

British Parliament, from time immemorial, until recently, by committees appointed for that purpose; and I need not say to you, nor any body who has read the history of that country, that there never was such a thing as a fair and upright decision in any case except where it accorded with the political wishes and interests of the committees, and the authorities of that country were driven, by stress of actual necessity, to provide some other mode of getting justice done. It is true that excitable population of Ireland—in Galway, the extreme west, where they are more excitable than any where else—charged, truly or falsely, that a judge in an election case had prostituted his official functions to a political purpose. But that was the only instance of dissatisfaction that has arisen since the new arrangement for trying such cases has been made.

Here in the city of Philadelphia, and elsewhere in the State, all contested elections, except for members of the Legislature, are tried, and heard, and determined by the courts. Here, perhaps, the strain upon integrity and the purity of the courts would be stronger than anywhere else in the known world. Yet I think the universal testimony is to the effect that the judges have acquitted themselves like fair and honorable men—not always deciding every question rightly, perhaps, not always able to do it with perfect freedom from some kind of prejudice; but the decisions upon subjects of that kind have been generally as fair as upon other subjects—as fair as you can expect from human tribunals.

But then, on the other hand, Mr. Chairman, look what has happened in cases before legislative committees. Can any gentleman point out a case in which the decision was believed to have been fairly and impartially made? Why, nobody looks for anything of the sort. A committee man who would vote according to the truth, in opposition to his political friend, would be punished by expulsion from his party. Now I don't say this without authority. I don't speak of our own Legislature so much as I do of some others that I have more acquaintance with. A gentleman—a member of Congress, and a very distinguished one—who was for a long time (ten years I think) chairman of the Committee on Elections, delivered an address before a convention, a "social science" meeting, or something of that kind, in New York. He spoke upon contested elections, and of their history for the pre-

vious ten years, (all which he saw and part of which he was,) and he told them, in effect, that there was no such thing as impartial decisions, and gave divers reasons why it could not be expected.

I was concerned once for the sitting member in a contest. The case was too plain to talk about. The simplest exposition of the facts made the case entirely clear; yet there were indications that my client might be deprived of the seat to which he was undoubtedly elected. I met a member of the committee afterward, of the majority party, who undertook to quiet my alarm by telling me that they did not intend to decide against the man who had the right. And he said, "I will tell you the reason why. We have got members enough on our side in this Congress, and we do not want any more. It is not necessary for us to do this wrong for any political purpose, and *therefore* we won't do it." [Laughter.] I am thoroughly persuaded that, plain as that case was, my client would not have stood half a chance if there had been a partisan reason for throwing him overboard.

The ground upon which I put my vote, simply stated, is this: That we have a reasonable assurance that rights will be protected if you try the question before the judicial tribunals, and that if you go before the Legislature itself, the chances are all against justice. Let us try judicial questions before the judicial authorities, and leave to the Legislature no functions but that which ought to belong to it, namely, the making of laws.

MR. DARLINGTON. Mr. Chairman: There is one view of this whole question which does not seem to have been referred to by any speaker that has occupied the attention of the committee thus far. By the constitution of the Senate and House, which I have not heard any one propose to change, the House has the sole power of impeachment, and the Senate to try and adjudge, not only the Governor, but all judicial officers; and the judge to whom you propose to commit the power to decide whether one man or another shall be elected to the Senate may be the very man who is to be tried by your Senate for high crimes and misdemeanors. It might happen that one vote in the Senate would decide the question of the judge's remaining in office or going out. At all events he would have the power of deciding which of the two candidates were elected to the Senate, and his decision

might be in favor of the man who would acquit him, when he comes to be tried before the Senate. Now, is it right to give the power to decide upon who shall be the Senator, to the man who has to be tried by the Senate, or who may be tried by the Senate? Are we not running into utter confusion in this respect? Suppose it be a member of the House—the House has the sole power of impeachment—the man whose seat may be contested; and to whom the judge deciding upon it may grant a commission, may be the majority who will decide upon the question whether he shall be impeached or whether he shall be convicted, or say who shall be the majority in that body, who is to impeach or to try

Now, this is one argument that, it strikes me, deserves the serious attention of the committee. But more, no one has yet suggested any change, as I have said, in the constitution of this high court. It will be sufficient, as far as the integrity and qualifications for the trial of your highest officers, your Governor, your Secretary of the Commonwealth, your Attorney General, all your civil officers. Every judge in the land who may be charged with high crimes or misdemeanors must be tried somewhere. The people have said in all time past that the proper tribunal to try these officers is the Senate. Why? Because you can imagine no tribunal better qualified. The human mind has not devised any better tribunal, and, therefore, the highest tribunal in the land may try your highest officer, and may adjudge him innocent or guilty, as the proof shall be, and yet the gentleman from York (Mr. J. S. Black) would have you believe that nobody is pure but the judiciary. You trust the Senate to try the purity of the judiciary. They are pure enough for that purpose, but not pure enough for any purpose connected with their own organization. Would it not be a strange spectacle if you were to assert that you will trust the House of Representatives with the sole power of impeaching all your officers, and yet deny them the authority, because they are unfit to say whether one of their number, be he who he may, is not elected or qualified to serve. Why should they not be trusted with the lesser function, when they are trusted with the greater?

Now, sir, it is said that this is a judicial function—everybody calls it a judicial function—and yet there is the least possible quality of judicial function about it. Contested elections, in nine cases out of

ten, as the gentleman from York will, himself, concede, are purely questions of fact that any mind, not judicial, is as well qualified to decide as a judicial mind. Questions of law are very rarely presented in these contested election cases, and therefore you might organize a body to decide these questions with or without judges, as you please; they will not be any the less questions of fact. Does not every one know that in the last seriously contested election in Philadelphia, it depended upon a count of votes? And the judges at the first count made some mistake, or some one did who was summing it up, and they were obliged to go over it again. It was decided that that was wrong, and the seat was given to the contestant upon a pure question of addition; and yet you would debase the judicial mind by bringing it down to a question which every election officer is competent to decide. That is precisely where you are attempting to invest the judiciary with a question which is not strictly judicial. You cannot place it in the hands of the judiciary without degrading that office. There is no need of placing it there; it is better without it. It will be more honored and more respected. Besides, highly as I honor the judiciary, judges are but men, and men are necessarily interested in the government of their country, and they will take sides in a question of policy, differing honestly as to what shall be the best means of carrying on the government. We must expect that. We are divided into two well known parties, each having its own views of what the government, State and National, should be; and judges, whether they be elected or whether they be appointed, because, if appointed, they will be appointed by a power which has political proclivities, will have their political tendencies and associations, and although they are, in the main, pure and generally impartial, upon political questions they cannot safely be said to be wholly impartial. Allow me to suggest, that even the Supreme Court are not always impartial on political questions, and I would not trust such questions to them if it could be possibly avoided.

Entertaining, as I do, a very decided objection to imposing any more duties upon the courts, for they are already overburdened; we hear but one voice from all parts of the State, and that voice is, the judiciary are overloaded with business; and we are here to devise ways and

means to relieve them of this burden, by appointing a greater judicial force or in some other way. While this is the case, and it is acknowledged to be so all over the State, why will we increase that burden by casting upon them duties which are not strictly judicial, for which there is no necessity, and which would be much better discharged by other tribunals.

Now, there has never been, in the history of this State, any great wrong perpetrated by either the Senate or House of Representatives, admitting a man to his seat who was not entitled to it. I challenge any gentleman to point out to me any instance in the history of the State where the introduction of a member, supposed not to have been elected, resulted in any great wrong to the State at large. True, it may have deprived one of the honors of the office, and it may have given those honors to another, who was not entitled to them. It may have been that he was the representative of the minority, but some of us are in favor of minority representation, and do not consider that a very great wrong. I do not think that any one can put his finger upon any legislation of the country that ever was influenced for evil by a man who was introduced into the body when he was not elected. Show me any instance; give me a fact; do not rely upon assertions; let us see whether the State has been injured in any time past by an improper decision in either house of the General Assembly in the introduction of a member. I must adhere to my judgment, that it is not wise to commit such power to the judges. I would leave it precisely as the gentleman from Philadelphia (Mr. Biddle) proposed to leave it, to each House of the Legislature, under such regulations as they shall prescribe.

The CHAIRMAN. The question is upon the amendment offered by the gentleman from Philadelphia (Mr. Temple) to the amendment offered by the gentleman from Philadelphia, (Mr. Biddle,) which the clerk will now read.

The CLERK read :

"Strike out the amendment offered by the gentleman from Philadelphia," and insert: "Each House shall judge of the qualifications of its own members; but contested elections for members of either House shall be determined by both Houses of the Legislature, acting jointly, in such manner as shall be prescribed by law, and in no case shall a special committee

of the Legislature determine the said contest."

Mr. TEMPLE'S amendment was not agreed to.

The CHAIRMAN. The question is upon the amendment of the gentleman from Philadelphia, (Mr. Biddle,) which will be read.

The CLERK read :

"Each House shall judge of the qualifications of its members; contested elections shall be determined by the House in which the contest arises, in such manner as shall be directed by the law existing at the time such election takes place."

Upon this amendment a division was called for, and the amendment was rejected; twenty-six members, not a majority of the quorum, voting in the affirmative.

The CHAIRMAN. The question is upon the second section.

Mr. ELLIS. I move to strike out the words "common pleas of the county," and insert "courts."

Mr. BARTHOLOMEW. Mr. Chairman: I move to strike out the words "common pleas of the," and insert "circuit court holden for the."

Mr. HARRY WHITE. Mr. Chairman: I am not going to debate the question, but will merely remind the committee that the question of the court was decided by the committee, and it was thought wiser to give it to the court of common pleas in the county where the returned member lived.

Mr. MANN. It would be a very great hardship, in any county of the State, to send them to the circuit. We have no circuit court in our county, or within a hundred miles of us.

Mr. BARTHOLOMEW. There will be.

Mr. MANN. I hope there will not be.

Mr. ELLIS. Mr. Chairman: I desire to say that the amendment which I offered may lead to confusion, and as an opportunity will be presented to offer it after the report of the Committee on Elections and other committees, I will withdraw it for the present.

Mr. BIDDLE. Mr. Chairman: I offer the following amendment: Strike out, in the second section, after the word "determined," and all after the word "lives," so that the section will read: "Each House shall judge of the qualifications of its members in contested elections for members of either House shall be determined in such manner as shall be prescribed by law."

Upon this amendment a division was called, which resulted: Affirmative, thirty-three; negative, forty-five.

So the amendment was rejected.

The question being taken upon the section it was agreed to.

The CHAIRMAN. The next section will be read.

The CLERK read :

SECTION 3. Each House shall keep a journal of its proceedings, and publish them daily, 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 journals.

The section was agreed to.

The CHAIRMAN. The next section will be read.

The CLERK read :

SECTION 4. Either House shall have power to punish for contempt or disorderly behavior in its presence, to enforce obedience to its process, to preserve order in the House, or in committees, protect its members against violence, or offer of bribes, or private solicitation, and with a concurrence of two-thirds, expel a member for misconduct, not a second time, for the same cause; but a member who has been expelled for corruption shall not be eligible thereafter to either House. Punishment for contempt, or disorderly behavior, shall not bar an indictment for the same act.

The section was agreed to.

The CHAIRMAN. The next section will be read.

The CLERK read :

SECTION 5. No law shall be passed except by bill, which shall be preceded by a preamble, briefly reciting the reason of the Legislature for its passage; and no bill shall be so altered or amended, in the course of its passage through either House, as to change its original purpose.

Mr. LILLY. Mr. Chairman: I move to strike out all in relation to the preamble.

The motion was rejected.

Mr. MINOR. Mr. Chairman: There seems to be a point here that will be subject to difficulty. It provides that each bill shall be preceded by a preamble, briefly reciting the reason of the Legislature for its passage. It occurs to me that that would be a physical impossibility. The Legislature may not know all the reasons. I certainly do not see the object of putting in this clause. I move to strike out that part of the section.

Mr. CORBETT. I rise to a point of order. That the question was just decided, and the committee refused to strike it out.

The CHAIRMAN. The Chair did not so understand it.

Mr. HARRY WHITE. I submit that that question was voted on.

Mr. LILLY. That was my original wording, but it was restricted. The committee did not vote on my original wording.

The CHAIRMAN. The Clerk will read the amendment, that there be no confusion.

The CLERK. The amendment is to strike out these words: "Which shall be preceded by a preamble briefly reciting the reasons of the Legislature for its passage."

Mr. D. N. WHITE. Mr. Chairman: It appears to me that this is a very singular feature to put into a Constitution, that every bill must be preceded by a preamble. I think it would endanger a great many bills if the bill did not accord with the preamble. I see no necessity for it, and I hope it will be voted down.

Mr. J. S. BLACK. Does not the gentleman think a great many bills ought to be endangered?

Mr. D. W. WHITE. That may be, but we do not not mind to endanger them when we pass them.

Mr. J. S. BLACK. Unless the Legislature that passes a law can give a reason for what they do, ought they to do it? If they are not able to understand the grounds upon which they vote, they ought not to pass it at all, and if they are able to understand it they are surely able to state it briefly, in the form of a preamble. This is one of the restraints, that is intended to be put upon the Legislature so as to prevent them from acting hastily.

Mr. D. N. WHITE. I think that all the preamble we want in the bill is the bill itself.

Mr. J. S. BLACK. I am sure if the gentleman himself were a member of the Legislature, and I believe he has been, he would not vote for a bill without being able to give, in a few words, the reasons why he voted for it, stating the mischief of the law as it stands, and the necessity for a change in the law. In times past all the old English acts of Parliament contained preambles, and it lets more light in on the meaning of a law itself than any thing you can do.

Mr. D. N. WHITE. That depends upon who writes the preamble, and how it is written.

Mr. ANDREW REED. Mr. Chairman: I hope the committee will strike this out. We put in here in our organic law, a provision which makes it absolutely necessary that all bills passed must set forth the reason for their being passed. Now, one member may have a particular reason why he votes for a bill which may be directly opposite to the reason which influences another member, and you cannot get both the reasons in, because they are directly opposite to each other. One man may vote for a bill for the reason that he believes the provisions contained in it will promote the interests of a particular class, and another man will vote for the same bill because he believes that it is opposed to the same class of interests, and they will both vote for the bill. How will you fix it in a case of that kind? They will both be in favor of the bill, and yet each will have different ideas of the effect of the bill upon their constituents or the country at large. They will both wish the bill passed, but one will conceive it to have one effect, and the other will conceive it to have a directly opposite effect, and in a case of that kind what will you do with it?

For that reason I shall vote for the amendment of the gentleman from Crawford.

Mr. LEAR. Mr. Chairman: This provision, if put in here at all, must be put in for some purpose. Now if it is absolutely requisite that this preamble should precede every act of Assembly, then if it does not precede the act of Assembly, it is no act, and would be unconstitutional. Then if the matter gets into court, where it must be determined at last, whether it is constitutional or not, the question will be raised, that this act cannot stand because it is not preceded by a preamble containing the reasons upon which it is based, and then will come the question, whether, if it has reasons in this preamble, they were sufficient to authorize the Legislature to have enacted the law. I claim that if that be the case —

Mr. H. W. PALMER. Mr. Chairman: I beg to call the gentleman's attention to the thirty-fifth section of this article of the Committee on Legislation in connection with his argument, which just corroborates his idea.

Mr. LEAR. Mr. Chairman: My attention has just been directed to another sec-

tion, section seven, which I think contains enough to provide against any sort of legislation getting into bills of the character which, in legislative parlance, are called "snakes:"

"No bill shall be passed containing more than one subject, which shall be clearly expressed in its title, except appropriation bills."

That is already in the Constitution, having been put in recently.

Mr. H. W. PALMER. Read the thirty-fifth section.

Mr. LEAR:

"Any bill passed in disregard of the provisions and directions prescribed in this article shall be void and of no effect; and when the validity of any law passed by the Legislature is questioned in any court of record, it shall be competent for such court to inspect the Journals of either House, and if it does not appear thereon that all the forms of legislation, in both Houses, as hereinbefore prescribed, have been observed in the passage of such law, the same shall be adjudged by such court to be void."

Now, then, it seems to me that it must be apparent to every member of this committee that unless this preamble is to the act it is, of course, void, and unless the reasons contained in that preamble are, in the estimation and judgment of a court, sufficient to have warranted and authorized the Legislature in enacting the law, then it is unconstitutional. I say it is well enough, as the gentleman suggests, that acts of Parliament and acts of our Legislature should contain preambles. It is well enough to have these explanations before us, if they set forth the mischief which was intended to be remedied, or why it was that the Legislature was called upon to enact a particular law that they have passed. But, at the same time, when it is required by the Constitution that these reasons shall be contained in the preamble, then there come up the varied opinions of the judges of the courts of common pleas in the first instance, and of the judges of the final power of adjudication in the next instance, to determine whether the Legislature have had good reasons, whether these reasons have been sufficient, whether, in other words, as appears by the preamble, the Legislature was justified in passing the law. Now it seems to me that it must create interminable confusion and raise questions which should not be raised, and which it

is not intended by this committee should be raised before courts of judicature.

Mr. KAINE. Mr. Chairman: I do not think there is any necessity at all for this section. Section five reads that "no law shall be passed except by bill, which shall be preceded by a preamble, briefly reciting the reason of the Legislature for its passage, and no bill shall be so altered or amended, in the course of its passage through either House, as to change its original purpose." Nobody ever thought of passing a bill in any other way under the rules and practice of the Pennsylvania Legislature. Then the seventh section, which, I believe, is a transcript from the present Constitution, reads, "no bill shall be passed containing more than one subject, which shall be clearly expressed in its title, except appropriation bills." Now if this section is voted down, I propose to amend the section, by adding thereto this much of the present section, "and no bill shall be so altered or amended in the course of its passage through either House, as to change its original purpose."

Mr. CORBETT. Mr. Chairman: I did not intend to say anything upon this subject, but I cannot concur in the construction given to this section by the gentleman from York (Mr. J. S. Black.) The thirty-fifth section requires a bill to have a preamble, or it might be void, but I apprehend there is nothing in the report that authorizes the courts to declare a bill void which contains a false preamble. If there are any words in any section of this report, as will allow any construction of this kind, I would like to have it pointed out. The section requires every bill to have a preamble, which is a matter that may be very necessary, because in the construction of an act, if a corrupt reason is assigned to the preamble, it may have great weight in the construction of the law, but there is no portion of this report, or any clause in it, which renders a bill null and void, if it has a preamble. I do not care how false or bad the reason is that may be assigned. If there is any provision of this kind I should like to be pointed to that section or clause.

Mr. HOWARD. Mr. Chairman: I do not know whether I understood the gentleman from York, (Mr. J. S. Black,) but my understanding is that he said if a bill contained a lying preamble, it would be declared void by the courts. If this is the law, I am certainly opposed to this section as it now stands. Suppose that some

falsehood should happen to creep into the preamble of a bill. There might be, as often happens in deciding this question, a difference of opinion, and when that difference was balanced, there might be a majority of the court who would say that the preamble was false; suppose that question did not arise for ten or twenty years, and millions of dollars had been invested under that act of Assembly. Would it be right to give our courts the power to say that because some falsehood had crept into the preamble, therefore the act was null and void? I think we should take care not to vote for such a monstrous proposition as that. I was not aware that it had been held, that because the Legislature may have stated some falsehood as a reason why they passed an act of Assembly, therefore the act should be judicially declared null and void. I am unwilling to see any such provision introduced into the Constitution. It is certainly something extraordinary. We, of course, expect it to have something new, but such a provision is remarkably new.

Mr. J. S. BLACK. As the report now stands, the construction which would be placed upon it is the one which the gentleman from Clarion (Mr. Corbett) says is the true one. That is: That the validity of a bill will depend upon the question whether it contains any preamble at all, false or true; but I suggested that there ought to be an amendment to the thirty-fifth section, and that that could be considered when that section came up, making the bill void, not only for want of a preamble, but for want of a true preamble.

Mr. HOWARD. Mr. Chairman: I understood the gentleman from York (Mr. J. S. Black) to state that an act of Assembly was null and void if it was preceded by a lying preamble. Now, whether that be true or not, if the courts were to decide that an act of Assembly was void, because it contained a falsehood in the preamble, I certainly would not support this section for other reasons. There might be an act of Assembly with one short section, and there might be a preamble as long as this room, because every member of the Legislature has a right to put his reasons in the preamble. Each individual member has a right to insert his reasons in the preamble as fully as the committee that reported it, and the preamble would be just as much susceptible of amendment as the bill itself, and when

the highest law—the Constitution—requires that the reasons and the truth shall be inserted in the preamble, every member that votes for the bill will vote to have his reasons incorporated for voting for the act of Assembly. It may, indeed, be said that it would be a practical impossibility to pass a legislative act under such a provision as this.

Mr. HARRY WHITE. Mr. Chairman: The object of this section is a manifest one. There is no provision in our present Constitution which prescribes the manner in which laws shall be passed. In order to avoid confusion it was deemed proper to provide that no law shall be passed except by a bill. The word "bill" occurs all through the section. With this explanation it is thoroughly understood. If the section is read it will be discovered that the section provides that no bill shall be so altered or amended as to change its original purpose. Now, the suggestion, preceded by the preamble, states, for instance, what its original purpose and object was. Then, furthermore, I call the attention of delegates to the fact that preambles now precede a great many of our bills. There is nothing to restrict the practice but the discretion of the Legislature. This section will increase the volume of our laws, and I remind delegates of the fact that it prohibits special legislation, and that it will largely restrict the amount of legislation hereafter. In addition, I may add this suggestion of preambles to the bills passed in the Legislature is an additional restriction or prohibition against the increase of special legislation. There are some items of special legislation which may not be covered by the prohibitory clause in section eleven, and consequently if a preamble is required there is an additional prohibition not covered by these other prohibitions, if not readily understood by the committee having jurisdiction of the bill. I think, then, the section affords a valuable reform in this respect.

Mr. ANDREW REED. Mr. Chairman: I desire to ask the gentleman a question. Suppose there is a bill introduced in the Legislature to repeal the usury laws, and one member desires the reason to be inserted in the preamble that it will cheapen money, and another member that it will make money dearer. How can the preamble be arranged in such a case as that, and what would be the effect?

Mr. HARRY WHITE. I do not think my intelligent friend from Mifflin intends

that as a serious question. The question carries its own answer with it. There will be no reason at all; the bill will be sufficient. It has been decided in the case of *Gentile vs. State of Indiana*, to be found in 39, *Indiana Reports*, that any bill passed by the Legislature, concerning which the Legislature exercised, the exercise of that power could not be inquired into by another tribunal. Under this view, any reason which shall be given in the preamble for the passage of the bill, will be given after the bill has passed. No other tribunal can inquire into them.

Mr. RUNK. Mr. Chairman: I offer the following amendment: Strike out all after the word "briefly," intervening before the word "and," and insert the following, "and truly recites the purpose for which it is passed."

Mr. BUCKALEW. Mr. Chairman: I am decidedly opposed to the section and the amendment now pending. My opinion is that the section is entirely unnecessary, and that its only practical effect will be trouble, difficulty and embarrassment, both in the Legislature and in the courts. There is now no existing abuse or evil in regard to preambles to acts of Assembly, for whenever they are thought expedient they are inserted, and when they are deemed otherwise they are omitted. Why, then, should a change be desired in the Constitution in this respect? If the section is passed there will be lawyers all over the Commonwealth arguing against the validity of statutes that may be passed because the preamble does not recite the particular purposes which the law is to be construed by the court to cover. Let our laws hereafter be construed upon their text. I am convinced that every gentleman of the bar, in looking at this matter, will be convinced that the only effect of placing such a provision in the Constitution, will be to produce trouble and difficulty hereafter without the slightest practicable advantage in any direction.

The question being taken, the amendment to the amendment was not agreed to.

The question being taken on the amendment, a division was called, which resulted as follows: Ayes, forty-nine; noes, thirty-two.

So the amendment was agreed to.

The CHAIRMAN. The question recurs upon the section as amended.

The sixth section was read:

SECTION 6. Bills may originate in either House, but may be altered, amended or rejected in the other. No bill shall be

considered, unless reported from a committee and printed for the use of the members.

The sixth section was agreed to.

The seventh section was read :

SECTION 7. No bill shall be passed containing more than one subject, which shall be clearly expressed in its title, except appropriation bills.

It was agreed to.

Mr. HAY. Mr. Chairman : Is it in order to move a re-consideration of section four?

The CHAIRMAN. It will be in order to-morrow.

The eighth section was read :

SECTION 8. Every bill shall be read at length, on three different days, in each House. All amendments thereto shall be printed before the final vote is taken, and no bill shall become a law unless, on its final passage, the vote be taken by yeas and nays, the names of the persons voting for and against be entered on the Journal, and a majority of the members elected to each House be recorded on the Journal thereof as voting in its favor.

Mr. LEAR. Mr. Chairman : I move that the committee now rise.

The motion was not agreed to.

Mr. J. M. BAILEY. Mr. Chairman : I move to amend, by adding to the end of the section the words, "and published in the pamphlet laws."

I suppose the object of this section is to place upon each member of the Legislature the responsibility for his vote. That is certainly the principal object of this section. It is proposed to place the name upon the Journal. Now who sees the Journal? It is true you have a section here which says it shall be published daily; but who will see that? Very few, I trow. If the object be, as I take it, to place the responsibility for his vote upon each member, let us show that we are in earnest, and let his name be placed upon the records of the Commonwealth, that the people see, side by side with the statutes, what he should be responsible for. This is the object of my amendment, and I hope the Convention will seriously consider it before voting upon it.

Mr. EWING. Mr. Chairman : I think the gentleman (Mr. J. M. Bailey) is mistaken in regard to the object of this section. It is not particularly to make the members responsible, but to prevent hasty and ill-considered legislation, and to prevent the signing of a bill by the members, or its pretended passage when it is

not actually passed, by having a *bona fide* call of the yeas and nays on the Journal, where it can be found. Most of us never thought of the reason suggested by the gentleman from Huntingdon, (Mr. J. M. Bailey.)

Mr. CORSON. Mr. Chairman : I move that the committee now rise.

Not agreed to.

The question being on the amendment of Mr. J. M. Bailey, it was not agreed to.

Mr. BUCKALEW. Mr. Chairman : I move to amend, by adding after the words "printed," in the second line, the word "of substance." It may not be convenient always to print every little mere verbal amendment.

Mr. HARRY WHITE. Mr. Chairman : I hope that will not prevail. Such a provision as that might give opportunity or excuse for sneaking some bill through that would not otherwise be passed.

Mr. BUCKALEW : Let us not leave our work so that it will be a source of unnecessary trouble to the Legislature. Corrections of grammar or of style may be necessary, and it would be altogether unnecessary to print *them*.

The question being on the amendment of Mr. Buckalew, it was rejected.

The question recurring on the section, it was agreed to.

SECTION 9. No amendment to bills by one House, returned to the other for concurrence, shall be concurred in except by the vote of a majority of the members elected to the House to which the amendments are so returned, taken by yeas and nays, and the names of those voting for and against, recorded upon the Journal thereof, and reports of committees of conference, shall be adopted in either House only by a vote of a majority of the members elected to each House, taken by yeas and nays, and the names of those voting for and against recorded upon the Journals.

Mr. HARRY WHITE. Mr. Chairman : I offer the following substitute: "Neither House shall concur with amendments proposed by the other, or adopt the report of a committee of conference, except by a vote of a majority of the members elected to such House, taken by yeas and nays, and recorded in the Journals thereof."

Mr. MACVEAGH. I think the original section is better.

Mr. HARRY WHITE. I withdraw my substitute.

Mr. J. R. READ. Mr. Chairman: I renew it.

Mr. HARRY WHITE. I would say that my proposition is entirely the same as the section, but in different language. The section as printed is longer, and possibly more explicit. The substitute is short.

Mr. J. R. READ. Mr. Chairman: I concur entirely with the chairman of the Committee on Legislation, (Mr. Harry White,) but I differ with the gentleman from Dauphin (Mr. MacVeagh.) I think the substitute is better than the report of the Committee.

Mr. CORBETT. Mr. Chairman: I move that the committee do now rise.

It was agreed to.

So the committee rose.

IN CONVENTION.

Mr. ARMSTRONG. Mr. President: The committee of the whole has had under consideration the report of the Committee on Legislation, and has directed me to report progress, and ask leave to sit again.

Leave was granted.

Mr. CORBETT. Mr. Chairman: I move that we do now adjourn.

It was agreed to.

The Convention then, at two o'clock and fifty-eight minutes, adjourned.

SIXTY-FIFTH DAY.

THURSDAY, *March 13, 1873.*

The Convention met at ten o'clock A. M., the President, Hon. Wm. M. Meredith, in the chair.

Prayer was offered by the Rev. James W. Curry.

The Journal of yesterday was read and approved.

PROHIBITION.

Mr. DUNNING presented a petition from nine hundred citizens of Pittston, Luzerne county, praying for the insertion of a clause in the Constitution prohibiting the manufacture and sale of intoxicating liquors as a beverage, which was referred to the Committee on Legislation.

Mr. HORTON presented a petition from citizens of Rome, Bradford county, praying for the insertion of a similar provision in the Constitution, which was referred to the Committee on Legislation.

RAILROAD FENCING.

Mr. DE FRANCE presented a petition from citizens of Lycoming county, praying for the insertion in the Constitution of a clause requiring every railroad in the State to be substantially fenced, which was referred to the Committee on Railroads.

FEMALE SUFFRAGE.

Mr. CARTER presented a petition from citizens of Lancaster county, praying that the Constitution be so amended as to secure to women the exercise of the right of suffrage, which was referred to the Committee on Suffrage and Election.

THE SUPREME COURT.

Mr. LILLY offered the following proposition of amendment, which was referred to the Committee on the Judiciary:

"That the Supreme Court shall consist of — judges, learned in the law, who shall be appointed by the Governor, by and with the consent of the Senate; they shall continue in office during good behavior: *Provided*, The said judges shall be retired at the age of seventy-five years, or for mental or physical disability, upon full pay.

"That the State shall be divided into districts, as from time to time shall be necessary, and that a sufficient number of judges, learned in the law, shall be appointed from time to time, as they may be required, to perform the requisite duties; when such appointments are required the Supreme Court shall name to the Governor at least five names of gentlemen learned in the law for each appointment to be made, from which number the Governor shall appoint.

"That all judges, learned in the law, shall hold office during life or good behavior: *Provided*, That all judges shall be retired at the age of seventy-five years, or for disability, upon full pay; no judge of any court of this Commonwealth shall be eligible to any office, either appointed or elective, except in the judiciary, while in commission, nor until after at least two years have elapsed after retiring from the office of judge."

VAGRANTS.

Mr. BROOMALL offered the following proposition of amendment, which was referred to the Committee on the Judiciary:

"That the Legislature shall enact proper laws for the arrest of all vagrants, and the employment of the adults, the compulsory education of the young, and the care and protection of the aged and infirm among them."

LEAVES OF ABSENCE.

Mr. GUTHRIE asked and obtained leave of absence for Mr. Curry for a few days.

Mr. ALRICKS asked and obtained leave of absence for Mr. M'Allister on account of sickness.

Mr. JOHN M. BAILEY asked and obtained leave of absence for Mr. Hall for a few days.

PRINTING ARTICLES.

Mr. LAMBERTON offered the following resolution, which was twice read:

Resolved, That the Committee on Printing be instructed to inquire into the expediency of having printed on the Journal, or in bill form, the several articles of the

Constitution, with amendments in the committee of the whole, and reported to the Convention.

Mr. EWING. I think, if the gentleman will look at his file, he will find that these articles are already printed.

Mr. LAMBERTON. I withdraw the resolution.

SHERIFF SALES.

Mr. LAWRENCE. Mr. Chairman: I hold in my hand a resolution in relation to the publication of legal notices, sheriff sales, &c., which was referred to the Committee on Counties and Boroughs. I move now, that that committee be discharged from the consideration of the resolution, and that it be referred to the Committee on the Judiciary.

The motion was agreed to.

THE ARTICLE UPON EDUCATION.

The PRESIDENT. The next business in order is the second reading and consideration of the article reported by the Committee upon Education. Is it the pleasure of the committee to proceed to the consideration of the article?

["No." "No." "No."]

THE ARTICLE UPON CITY CHARTERS.

The PRESIDENT. The next business in order is the further consideration of the article reported by the Committee on Cities and City Charters. Is it the pleasure of the Convention to proceed to the consideration of the article?

["No." "No." "No."]

THE ARTICLE UPON LEGISLATION.

The PRESIDENT. The next business in order is the further consideration of the article reported by the Committee on Legislature. Is it the pleasure of the Convention to proceed to the further consideration of the article?

["Aye." "Aye." "Aye."]

IN COMMITTEE OF THE WHOLE.

The Convention then resolved itself into committee of the whole, and proceeded to the consideration of the article on Legislation, Mr. Armstrong in the chair.

The CHAIRMAN. The question is upon the amendment proposed by the gentleman from Philadelphia, (Mr. J. R. Read,) to strike out the ninth section, and insert the following:

"Neither House shall concur in an amendment proposed by the other, nor adopt the report of a committee of con-

ference, except it be by a vote of a majority of the members elected to such House, taken by yeas and nays, and recorded on the Journal thereof.

Mr. EWING. Mr. Chairman; I desire to state that the mover of the amendment is not here this morning. The gentleman did not so tell me, but I understood after the adjournment yesterday, that he intended to withdraw that amendment, and perhaps bring it up on second reading. This was done after some consultation with the Committee on Legislation, and I would suggest that for the present it be voted down. It will probably be offered on second reading, according to an understanding made with the Committee on Legislation.

The amendment was rejected.

The CHAIRMAN. The question recurs on the section, which will be read.

The CLERK read as follows:

SECTION 9. No amendment to bills by one House, returned to the other for concurrence, shall be concurred in except by the vote of a majority of the members elected to the House to which the amendments are so returned, taken by yeas and nays, and the names of those voting for and against recorded upon the Journal thereof; and reports of committees of conference shall be adopted in either House, only by the vote of a majority of the members elected to each House, taken by yeas and nays, and the names of those voting for and against recorded upon the Journal.

The section was agreed to.

The CHAIRMAN. The next section will be read.

The CLERK read as follows:

SECTION 10. No law shall be revived, amended, or the provisions thereof extended or conferred by reference to its title only, but so much thereof as is revived, amended, extended or conferred shall be re-enacted and published at length.

The section was agreed to.

The CHAIRMAN. The next section will be read.

Mr. ROSS. Mr. Chairman: I beg to offer the following, to come in at this time as a new section:

SECTION —. The Legislature shall enact no law, the operation, force and effect of which shall be limited or conditioned upon its approval by a majority of the citizens, at a general or special election, or which shall be dependent for its en-

forcement upon the majority vote of the electors of the State, or any of them.

Mr. Chairman, I believe that all the presumptions and *prima facies* are in favor of a report coming from any one of the standing committees. The standing committees are composed of gentlemen who have been selected by the President, and who have given the subject matter before them their due consideration, who have made a specialty of it, and it is presumed, therefore, that their report, under the circumstances, will be better and more reliable than the views of the members who perhaps have not devoted so much time and attention to the subject matter.

But, sir, I have carefully examined the report of this Committee on Legislation, and I do not find that in any of its provisions there is a clause similar to that which is contained in the amendment which I have had the honor to offer. Believing, as I do, that the fundamental law should contain a provision of this character, I have thought it right to offer this amendment to obtain the sentiment of this body in regard to it. The object of this section is simply to impose upon the Legislature, upon the law-making power, a duty which the Constitution necessarily does impose upon them, and a duty which the report of the Committee on Legislation has already imposed upon them. Now, sir, the people are the supreme source of power in this state. The people have delegated the law-making power to the Legislature. They have prescribed three great departments, the Legislative, the Executive and the Judicial, and the powers and duties of each one of these departments are clearly defined; and no one department can trench upon the powers of the other. To the Legislature has been delegated the law making power, and this amendment proposes to compel the Legislature to exercise that power, which the people have delegated to them, and to prevent them from escaping from the exercise of it.

I submit, Mr. Chairman, that when a bill is enacted by the Legislature, when the force and effect of that bill depend upon the vote of the people of any portion of the State, it is no law; it is not an exercise of the law making power, which has been vested in the Legislature; and further, sir, when a bill has been enacted whose enforcement depends upon the vote of the citizens of the State, then I submit that the Legislature have not fulfilled their duties, and have not carried

out the objects and purposes for which they were elected, and are failing to enact laws. Why, sir, it is cowardly upon the part of the Legislature to enact a bill which shall depend for its vitality upon the votes of the people of the State; and it is right and proper that the fundamental law shall impose upon the Legislature the purposes and the duties which they have sworn to assume, and that they should not be permitted to fly from those duties and to throw upon the people of this State the responsibility which they themselves should properly assume. It is a delegation of a delegated power. The people delegate to the Legislature the law making power, and the Legislature have no right to re-delegate that power into the hands of the people to determine whether a law shall become a law or not.

If an act is passed which depends upon the vote of the people, I should like to know when it becomes a law? Not certainly when it leaves the Legislature; not when it passes away from the legislative control; not when it has received the approval of the Governor. It is a dead letter until the people breathe vitality into its inanimate body by the expression of their opinion at the polls. As well might the sculptor point to a block of marble, and say to a person: "There is a statue, you take it and carve out the figure I say it contains," as for the Legislature to enact a law which is dependent upon the vote of the people for its life and for its very existence.

I submit to the committee of the whole, that this is a proper provision to be inserted in our fundamental law; that it does simply nothing more than to compel the law making power to exercise their duties, and to enact and pass laws which shall be complete and perfect laws when they leave the legislative body, and which shall not depend upon the voice of the people in any respect whatever. Why, sir, we are liable to have dangerous and mischievous laws enacted by a process of this character. Public clamor, the voice of fanaticism, the voice of the enthusiast, may call into being a law which the Legislature, if they had acted within their own province, would have failed to have passed. I submit, for these reasons, that this section should be incorporated in the report of this Committee on Legislation.

Mr. SIMPSON. Mr. Chairman: This proposition now before the committee, is very far reaching, and is designed to reach a class of legislation that is now

under consideration in the Supreme Court, having been argued upon at a very recent date. It will prevent the passage of local option laws, giving to the voters of any one locality the right to say whether liquor shall be sold by license or not within their boundaries. It will go further. It will prevent the creation of new counties, dependent upon the vote of either the old county or the portions proposed to be united together to make the new one. It will prevent the change of county seats by a vote of the people, and a variety of questions that naturally and properly belong to the people in a particular locality, who understand their wants far better than the Legislature can do. If this amendment is adopted by the Convention it will prevent all that kind of legislation, and prevent the wants of the people from being satisfied according to their own desires.

I ask the committee of the whole to consider this question in the light of matters now pending, and whether they will engraft it upon the Constitution. The Supreme Court have said that a law that is entirely dependent upon the will of the people is not a law. That is sufficient. It is unnecessary to put any such clause in the Constitution. But if they should pass a law and permit it to be submitted to a vote of the people upon any moral question, or one entirely affecting the people of a particular locality, no such denial ought to be engrafted on the Constitution. I do not think the committee of the whole understood this proposed section when it was read, and that is the reason why I make this explanation, and call their attention to it thus briefly.

Mr. DODD. Mr. Chairman: I had intended, at the proper time, to offer an amendment to the Constitution, exactly the reverse of the one offered by the gentleman from Bucks, (Mr. Ross,) and I intend, if this amendment is voted down, to offer an amendment to the effect that the Legislature shall have power to refer the execution of any law to a vote of all the electors of the State, or to the electors of any portion of the State to be affected thereby. By adopting an amendment of that kind we will not be violating any well known rule of constitutional law. It is true, as has been ably argued here, that the legislative power is a delegated power. It is a well known maxim of law, that a delegated power cannot be re-delegated. But who is principal and who agent in this matter? The power dele-

gated to the Legislature is delegated by the people of the State. Now, while an agent cannot choose another to act for him, and can not place the responsibility of the trust which the people have placed upon his shoulders in any other hands, why cannot the agent refer back to his principal the decision of important questions which affect that principal alone. The Legislature never has, and never proposes to place back in the hands of the people the responsibility of drawing, framing and passing any law. That would be impolitic and unwise. But the Legislature, after it has framed a law, may refer it to the qualified electors of the State, to decide whether that law should take effect or not. I claim that this is wise and just. I claim that it is not only practicable in cases of the erection of new counties; in the removal of county seats; in the creation of election districts, and the hundred other cases in which it has been done in this State; but it is wise in the case of a general law, such as the local option law that is now pending before the Supreme Court. It is clear to my mind that the Supreme Court, in deciding, as it has done in *Pennsylvania*, that such a law is unconstitutional, because it is an attempt on the part of the Legislature to delegate its powers, is incorrect, but such decision renders it necessary for us to put in this Constitution a provision which will bring us back to correct principles on this subject.

I wish to read an extract from an opinion delivered by Ruggles, chief judge in the case of *Barto vs. Himrod*, in eighth *New York Reports*, page 489, which puts this matter on a true basis. He says:

"It is worthy of consideration, however, whether there is anything in the reference of a statute to the people for acceptance or rejection which is inconsistent with the representative system of government. To refer it to the people to frame and agree upon a statute for themselves would be equally impracticable and inconsistent with the representative system. But to take the opinion of the people upon a bill already framed by representatives and submitted to them, is not only practicable, but is in precise accordance with the mode in which the Constitution of the State is adopted, and with the action which is taken in many other cases. The representative in these cases, has fulfilled, precisely, those functions which the people, as a democracy, could not fulfill; and where the case has reach-

ed a stage when the body of the people can act without confusion, the representative has stepped aside to allow their opinion to be expressed. The Legislature is not attempting, in such a case, to delegate its authority to a new agency, but the trustee, vested with a large discretionary authority, is taking the opinion of the principal upon the necessity, policy or propriety of an act which is to govern the principal himself."

Why, sir, if the amendment of the gentleman, as offered, be adopted, we never could call a Convention again as this Convention has been called. The Legislature could not even refer to the people of the State the question whether they should have a Convention to revise their Constitution. All will admit the propriety of such action in such cases. All will admit the propriety of such action in the case of local option laws, and laws of that character, and I am not only opposed to the resolution which the gentleman from Philadelphia has offered here, but I am strongly in favor of a resolution which shall place this controverted question beyond controversy, and give to the Legislature this power which ought to be exercised by them in many cases.

Mr. EWING. Mr. Chairman: I merely wish to state in regard to the action of this committee on this precise subject, that at one time, just the day I believe that our report was made up, the Committee on Legislation agreed to report a section providing for the local option law, making it constitutional, and carrying out the suggestions of the gentleman from Venango (Mr. Dodd.) It was afterwards deemed better under the circumstances, the matter being before the Supreme Court, and for other reasons, that that question should be laid over for a time, with two or three other matters that the committee expect to have before them hereafter. I may say that a majority of the Committee on Legislation were in favor of and did adopt that section, and they expect to have it up and to consider it at some future day.

The CHAIRMAN. The question is upon the section proposed by the gentleman from Bucks (Mr. Ross.)

The section was rejected.

The CHAIRMAN. The next section will be read.

Mr. DODD. Mr. Chairman: I offer the following as a new section, to come in at this place:

"The Legislature shall have power to refer the adoption or rejection of any law

to a vote of the qualified electors of the State, or of that portion of the State to be affected thereby."

Mr. BUCKALEW. Mr. Chairman: My idea is that making this legislative regulation is doing an unnecessary thing. Besides it would invite the Legislature to submit everything of difficulty and dispute to the people of the State, or of divisions of the State, and escape their just and proper responsibility. The submission of questions for popular vote connected with the enactment of law is a power that should be very sparingly exercised, and the placing of such a provision in the Constitution would be to invite its exercise. Therefore, sir, it would be an unwise practice and we should avoid it. For my part I have a general opinion of the power of the Legislature to submit questions for popular decision, and I aver that the courts have not determined that they cannot do that. They have only determined that where the enactment of a law is to be directly determined by the popular vote, that it is inconsistent with the grant of legislative power to the General Assembly. But they have never decided that the Legislature cannot submit any question whatever to the popular vote in order to ascertain the views of the people thereon. When, in a certain way and under certain conditions the Legislature has enacted a law, but made its operation dependent upon popular assent, the law has been held valid.

I hope that in this, and other cases arising upon this article, we may avoid doing anything that does not seem indispensably necessary to reform.

The amendment was rejected.

The CHAIRMAN. The next section will be read.

Mr. BANNAN. Mr. Chairman: I offer the following, to come in as a new section:

"No act of the General Assembly shall take effect until the fourth day of July next after its passage, unless in case of emergency (which emergency shall be expressed in the preamble or body of the act) the General Assembly shall, by a vote of two-thirds of all the members elected to each House, otherwise direct."

Mr. EWING. Mr. Chairman: I move to postpone the consideration of that section or the present.

The CHAIRMAN. That cannot be done in committee of the whole. The committee must vote upon the section.

Mr. BANNAN. Mr. Chairman : I have offered this section, finding that no section of that character had been reported by the Committee on Legislation. In examining the Constitution of Illinois, of 1860, I found that the time fixed for a law to take effect after its passage was three months. They tried that and were dissatisfied with it, and in 1870 they inserted this provision exactly as I have offered it here, with the exception that they specified the first day of July, and I have named the fourth day, because I thought that more proper. The people, if this section be adopted, will become acquainted with the passage of laws, and the time when they will go into effect. It would be known not only to lawyers, but to the people in general. I have had several instances within my own experience where distributions were being made upon decedents' estates when, while the matter was before the auditor, an act was passed in relation to the orphans' court sales, altering the whole law, and before the auditor's report was made the act was again repealed. I recollect several instances of this kind where, before the distribution could be made, the law was changed some two or three times. This, I think, is a difficulty which could be avoided by this section, and I have offered it for that purpose. We should have a general day upon which all our laws should take effect. It is a clause that has been introduced into all the new constitutions recently framed, and I think it is a very serviceable one.

Mr. MANN. Mr. Chairman : In the absence of the chairman of the Committee on Legislation, I submit that we should proceed only to consider the article as reported by that committee. I do not make this suggestion with any desire to prevent the proper discussion of these new sections. There will be ample time after we have gone through with the article, as reported, to put in all the new paragraphs that gentlemen can desire. This one now under consideration, and indeed all of these special subjects, seem to be more appropriate at the end of the article than in the place where they are now sought to be put in. Therefore I ask the gentleman who proposed this pending section to withdraw it, and I appeal to gentlemen to permit the committee of the whole to act upon the article as reported from the Committee on Legislation before offering new paragraphs.

Mr. BANNAN. Mr. Chairman : For

the present, then, I withdraw my amendment.

The CHAIRMAN. The amendment is withdrawn, and the question is upon the next section, which will be read.

The CLERK read as follows :

SECTION 11. The Legislature shall not pass any local or special law—

Authorizing the creation, extension or impairing of liens.

Regulating the affairs of counties, cities, townships, wards, boroughs or school districts.

Changing the names of persons or places.

Changing the venue in civil or criminal cases.

Authorizing the laying out, opening, altering or maintaining roads, highways, streets or alleys.

Relating to or incorporating ferries or bridges.

Vacating roads, town plats, streets or alleys.

Relating to cemeteries, grave-yards or public grounds.

Authorizing the adoption or legitimizing of children.

Locating or changing county seats, erecting new counties, or changing county lines.

Incorporating cities, towns or villages, or changing their charters.

For the opening and conducting of elections, or fixing or changing the place of voting.

Granting divorces.

Erecting new townships or boroughs, changing township lines or borough limits.

Creating offices, or prescribing the powers and duties of officers in counties, cities, boroughs, townships, election or school districts.

Changing the law of descent or succession.

Regulating the practice or jurisdiction of, or changing the rules of evidence in any judicial proceeding or inquiry before courts, aldermen, justices of the peace, sheriffs, commissioners, arbitrators, auditors, masters in chancery, or other tribunals.

Regulating or extending the powers and duties of aldermen, justices of the peace, magistrates or constables.

Regulating the management of common schools, the building of school houses, and the raising of money for that purpose.

Fixing the rate of interest.

Affecting the estates of minors or persons under disability.

Remitting fines, penalties and forfeitures, or refunding moneys legally paid into the treasury.

Exempting property from taxation.

Creating corporations, or amending, renewing or extending the charters thereof.

Granting to any corporation, association or individual any special or exclusive privilege or immunity.

Granting to any corporation, association or individual the right to lay down a railroad track.

Nor shall any bill be passed granting any powers or privileges in any case where the manner, form or authority to grant such powers and privileges shall have been provided for by general law; and in no case where a general law can be made applicable, nor in any other case where the courts have jurisdiction, or are competent to grant the powers or give the relief asked for.

Mr. MANTON. Mr. Chairman: I desire to express my hearty concurrence in this section, as it comes from the committee.

Mr. KAINE. Mr. Chairman: I would suggest that we consider this section by the sub-divisions into which it has been divided by the committee.

The CHAIRMAN. Is that the order of the House? ["Yes, yes!"] The first paragraph is:

SECTION 11. The Legislature shall not pass any local or special law, authorizing the creation, extension or impairing of liens.

Mr. KAINE. Mr. Chairman: The gentleman from Crawford (Mr. Mantor) has undertaken to explain this section. I would therefore ask him what that paragraph means—what evil it proposes to remedy?

Mr. MANTOR. Mr. Chairman: I simply desire to give my views in relation to the section itself—in relation to its subject matter, namely, special legislation. These views shall be brief. I will not trouble the House long.

Mr. Chairman, this section contains so many propositions with relation to restricting special legislation that I feel it my duty to give it my entire sanction. The first paragraph of the section is as follows: Section 11. The Legislature shall not pass any local or special law, authorizing the creation, extension or impairing of liens. The residue of the section, in substance, is as follows, and every sen-

tence should meet with the hearty concurrence of every delegate on this floor. It reads: Regulating the affairs of counties, cities, townships, wards, boroughs or school districts; changing the names of persons or places; changing the venire in civil or criminal cases; authorizing the laying out, opening, altering or maintaining roads, highways, streets or alleys; relating to or incorporating ferries or bridges, except for the erection of bridges crossing streams, which form boundaries between this and any other State; vacating roads, town plats, streets or alleys; relating to cemeteries, graveyards or public grounds; authorizing the adoption or legitimatizing of children; locating or changing county seats, erecting new counties or changing county lines; incorporating cities, towns or villages, or changing their charters; for the opening and conducting of elections, or fixing or changing the place of voting; granting divorces, erecting new townships or boroughs; changing township lines or borough limits; creating offices or prescribing the powers and duties of officers in counties, cities, boroughs, townships, election or school districts; changing the law of descent or succession.

Now, sir, nothing will strike the people of this State with as much force as this question of barring special legislation, that the people feel more interest in this one subject than any other which this Convention will be called upon to decide. I would therefore say that equal privileges for all, exclusive privileges for none, should be the sentiment of every citizen of this Commonwealth. If we depart from this principle we are at sea without a chart or compass. A general law, granting privileges to incorporate companies, is made for the benefit of the people of the State; the privileges granted thereby may be enjoyed by all the people of every locality in the State. There can be no special monopoly created by pursuing this course. No company can be organized under general laws which can occupy any particular locality or carry on any particular kind of business to the exclusion of all other companies for the same purpose. I am in favor of adopting a principle into our Constitution which will permit all people to combine with the same privileges. I would not give to the Legislature, through this Constitution, power to grant privileges to which all persons are not equally entitled under general law. I would place a

restriction on the legislation in this Commonwealth, and say to it, thus far and no farther, so that if one man points his finger at you, and says, "I have a right and privilege under such a law," you can answer him, "so have I." There would seem to be a kind of general fairness in such a principle as this. But when you permit, through a Constitution, a legislative body to assemble, and allow them—with hardly a restraint—to pass any act they may choose, to incorporate any company, to establish any special charter, you at once tolerate arrogant legislation, and the people will sooner or later see and feel such oppression, and for a thorough contention for their rights may seek a different form of political revolution. I would, therefore, restrict special legislation by placing around it a proper safeguard, like that which this section suggests, and also that all laws of a general nature shall have a uniform operation throughout the State; nor shall any act, except such as relates to public schools, be passed to take effect upon the approval of any other authority than the General Assembly except as otherwise provided in this Constitution.

This last suggestion is one of the provisions incorporated into the Constitution of the State of Ohio, (and some other States,) which have felt the weight of local legislation, but has sought to remedy it by careful safeguards in their Constitutions. Our State legislators, in their anxiety to be heard, have at times overleaped all bounds of propriety and equal fairness, with, perhaps, in some few instances, an honest desire to favor local wants. We can readily understand from whence this evil had its origin. Men rarely refuse power, when they are thoroughly backed by privileges, and if we fail to insert in this Constitution, where the power may rest, and trust to legislation to give it its proper interpretation, we may well dread the results of legislative enactments. At the time our Constitution was revised, some thirty-eight years ago, those men who took part in the work had but a very limited idea as to the future of this State, and I wonder not at the latitude given and entrusted to the Legislature, the confidence that those men had, that privileges granted would not be abused, and the abuses that have grown out of such latitude given is but that warning voice that came up to us this day and says to us to make haste and profit by the experience of the past. We have the Con-

stitution of a State before us which seems to checkmate many of the abuses growing out of local legislation. I refer to the Constitution of the State of Illinois. In her revised Constitution of 1870 we find under article four, and section twenty-two, entitled special legislation, prohibited some twenty or more specific subjects that cannot be bartered and traded away at the mere beck or nod of some unscrupulous lobbyist, who lounges about the State Capital, whose business it is to manipulate the foul work of their masters. If we adopt this section as reported in this Constitution, we shall receive the thanks of the many whose eyes are now upon us. We may rest assured, unless we meet the expectation of the people of this Commonwealth in some way of this kind, that the work we are doing here will be repudiated by them, and with the advantages they have, they will not be slow in making up their minds, and will be prepared to give their solemn verdict against our work.

We have grown rich, it is true, under our legislation, as bad as it has been in many things; we have been, so far as special legislation is concerned, acting like so many independent provinces—seeming to care only for special privileges, and thereby gratified special wants—yet the evil has been, and is growing on us day by day, and we stop right here to view the situation, and are preparing the way to check the evil. Why, sir, when we take into account what we ought to have done by way of encouraging reciprocal business relations between different sections of the State, we can conjecture, and without much forethought either, that the interests of the people have been divided by granting to each and every part of the State any legislation it demanded. We aver that it has been this evil of special legislation that has kept back, and is keeping back, that which is always a necessary requisite to a healthy growth and a prosperous future.

We have not been studying the interests of all the people, but through these special grantings we have been widening the breach that has divided us. Philadelphia, the first city in the State, and second to but one in the Union, is beginning to wake up to a broader idea of commercial wealth. So far as this State is concerned, it has been but a few years that she began to realize that, west of the Alleghenies, in this State, were some possessions enclosed in the Commonwealth, of

which she but formed a part, and where there was large business interests in which she should long since have been a partner.

But, as a Pennsylvanian, I take great pride in speaking of Philadelphia as our city, and can but hope that every law passed, after adopting this Constitution, shall be so broad, so completely affecting all interests on every subject of like character over the State, that it will cement our commercial relations, and that in the future we shall act with a oneness of purpose for the good of all.

In looking over the acts which the Legislature has passed for the past few years, say commencing with 1866 and ending with 1872, we find the following results:

In 1866, general laws passed were 50; special laws were 1,093.

In 1867, general laws passed were 86; special laws were 1,392.

In 1868, general laws passed were 73; special laws were 1,150.

In 1869, general laws passed were 77; special laws were 1,276.

In 1870, general laws passed were 54; special laws were 1,276.

In 1871, general laws passed were 81; special laws were 1,353.

In 1872, general laws passed were 54; special laws were 1,232.

So you see that in seven years there were passed 475 general laws, and 8,755 private acts. The number of acts which the present Legislature of 1873 have passed are many, and, I am told, will duplicate the number of the acts of any one former year. This is undoubtedly correct, and is but another proof of the necessity for this Convention of adopting this section with all its paragraphs complete.

From 1866 to 1871 the legislators passed for railroads, and granted them corporate privileges, some four hundred and fifty special acts bearing on railroads alone. These were, perhaps, not all the laws that were passed in which railroads were not directly or indirectly interested.

But, Mr. Chairman, what a fearful comment is this on the abuses of special legislation. By a restrictive section in this Constitution, the best and largest interests of a free and industrious people like ours, in this State, would be protected. Without it we have not much faith in the ultimate results, for as we are carried forward by the political maelstrom, we shall find that our political rights will be swallowed up by granting special privileges to soulless corporations. Now, sir,

what sort of justice, I ask, can there be that will allow the law-making power in this State to change, at each and every session of the Legislature, some act, because a few favored citizens desire it; this ought not to be tolerated for one moment. Necessary legislation is greatly retarded, the expenses to the Commonwealth are greatly enlarged, the assumption of such rights degrades the dignity of any legislative body, and with all impairs the efficiency of legislation for good to the whole people. Now, should we so frame this Constitution that any law made under it should require a change, why change it so that all may be benefited by the change. If you restrict any by law, restrict all under like circumstances.

It is not democratic to give one man special privileges which are denied to all others, whether it is for the purpose of corporations or for any purpose whatsoever. I deny that privileges granted by the legislative body of this State, giving such large scope for corporations, and with hardly a seeming restraint, is just and equitable. The people all over the State are asking that we shall circumscribe the acts of our legislation by incorporating in this Constitution a section like this, that will make all laws general. I am one of those who believe that nearly all objects for legislation can be equally accomplished under general law. The agriculture and mining wealth of our State is large. Generations are to live after us, who will become more and more interested in those grand developments; and let it not be said of us that we chained their energies. It will not be denied that there is a fevered anxiety about the abuses growing out of special privileges. We should meet this matter at the threshold and grapple it with the strong arm of the Constitution, only looking to the best interests of the present and the necessities of the future.

MR. DARLINGTON. Mr. Chairman: I move to amend the paragraph, by striking out the words "or impairing," and inserting the word "or," after the word "creation," so that the section will read, "authorizing the creation or extension of liens."

I do not know what the committee had in view in placing a provision in the Constitution that the Legislature should not impair liens by special laws. I take it that the Legislature cannot impair liens by any law, either general or special. I have therefore moved to amend the paragraph, so that it shall read that the Legis-

lature shall not pass a law authorizing the creation or extension of liens.

Mr. CORBETT. Mr. Chairman: I cannot say that I am very particular about the word "impairing" in the paragraph. I am not aware that there is any great evil that it is intended to reach; but with reference to the creation of liens I think this paragraph is intended to strike at all local laws creating liens in particular localities. I may take, as an illustration, several instances which have occurred in some of the counties of this State. In the western part of Pennsylvania there is a special law for Venango county; there is another law for Butler county, while there is a different law for Clarion county, which is supplemental to the original act, and they are, each and all, the most complicated pieces of machinery in legislation that can be originated. I think this paragraph is intended to strike at all special laws creating liens for particular localities. It does not, of course, increase the power of the Legislature, by general law, to create liens.

The question being taken, a division was called for, which resulted as follows: Ayes, thirty-nine; noes, forty-two.

So the amendment was not agreed to.

The question recurring on the paragraph, it was agreed to.

The CHAIRMAN. The next paragraph will be read.

The CLERK read as follows:

"Regulating the affairs of counties, cities, townships, wards, boroughs or school districts."

The question being taken, the paragraph was agreed to.

The CHAIRMAN. The next paragraph will be read.

The CLERK read as follows:

"Changing the names of persons or places."

Mr. DARLINGTON. Mr. Chairman: I would like to know what reason influenced the committee in denying the right of a place to change its name?

The question being taken, the paragraph was agreed to.

The CHAIRMAN. The next paragraph will be read.

The CLERK read as follows:

"Changing the venue in civil or criminal cases."

The question being taken, the paragraph was agreed to.

The CHAIRMAN. The next paragraph will be read.

The CLERK read as follows:

"Authorizing the laying out, opening, altering or maintaining roads, highways, streets or alleys."

Mr. WHERRY. Mr. Chairman: I desire to ask the chairman of that committee whether the paragraph has any application to turnpikes.

Mr. EWING. I suppose a turnpike is a road or highway.

Mr. KAINE. Mr. Chairman: I doubt very much the propriety of that portion of the paragraph prohibiting the Legislature from passing any special law laying out a road. So far as the residue of the paragraph is concerned, perhaps it may be proper enough. Now far so as the roads in the counties are concerned, there is no necessity for any legislation upon the subject. That is a matter that belongs, and has for years belonged, to the court of quarter sessions of each county, but where a road is wanted from one county to pass through two or three counties, how are you to attain the object without the assistance of the Legislature? We might want a road in the county of Indiana, passing through the county of Westmoreland, through the county of Fayette, to the Virginia State line. Some of these roads have already been established, and acts of Assembly have been passed for that purpose in years gone by. Now how can the courts of Indiana county, the courts of Westmoreland county, and the courts of Fayette county provide for a matter of that kind? How can the Legislature, by a general law, provide a remedy for this difficulty? Why, the Legislature appoints A., B. and C. by a special act of Assembly to lay out a State road through these three or four counties. I think it would be utterly impracticable. I therefore move to strike out the words "laying out" and "opening."

Mr. CORBETT. Mr. Chairman: I hope the amendment of my friend from Fayette (Mr. Kaine) will not prevail. I apprehend there is, and will be, no difficulty in providing such general laws as will meet the cases that are mentioned. If several counties desire roads through their territories, it will be very easy to frame a general law so as to reach the particular case by the joint action of the several courts, or otherwise. They may be empowered to act jointly or severally, and accomplish the object. If the people desire it, of course their petitions will be heard and will prevail. If the people do

not desire it, the application will be rejected.

Now, Mr. Chairman, this clause is designed to meet the very cases mentioned by the gentleman from Fayette, (Mr. Kaine,) and let me say that in portions of western Pennsylvania I have known of some twelve or fifteen bills having been passed for the laying out of as many State roads. Commissioners have been appointed and have performed their duty, and not in one single instance have those roads ever been opened, and it is a crying evil, producing expense to the several counties, and no benefit to the citizens. Parties get up these petitions in particular localities, present them to the Legislature and have a special act passed for laying out a road for many miles through different counties. The road is laid out, but it is never opened. I do not think, within my knowledge, and I think I know of many of these cases, and of many roads located under special acts, of a single one that has been opened through and through. In some instances they are opened for a short distance, and then allowed to remain. Not only that, but frequently we have contests over these matters. Parties procure an act to be passed; other parties go to the Legislature and get the act repealed; the first parties go back and get it re-enacted. Sometimes acts are passed throwing the matter in the courts, and after the courts have decided it, they go back to the Legislature and get the whole thing set aside. It is a crying evil, and this amendment is intended to meet the very cases alluded to by my friend from Fayette (Mr. Kaine.) The committee believed that general laws can be passed, and through the action of the courts any relief that is necessary to the people in the shape of roads can be obtained, and that was the proper mode, and they the proper tribunals through which to seek to obtain it.

Mr. HANNA. Mr. Chairman: I hope the gentleman from Fayette (Mr. Kaine) will not press his amendment. If this is an evil complained of in the interior, I can safely say it is also a mischief and has been productive of serious result in our great cities. I will only instance one case. A square and a half from this spot is a street called Prune street, which runs only to Fourth street. A few interested individuals on the line of that street were anxious that it should be opened eastward to the Delaware river. Instead of

applying to the councils of the city to have the street opened, knowing their petition in that direction would not be granted, because it would involve the city in an expense of half a million of dollars, the individuals interested applied to the Legislature for an act to open Prune street eastward to the Delaware river, and commanding the chief commissioner of highways, within sixty days after the passage of the act, to open, grade and pave the street. Any gentleman familiar with that locality will remember that the street, if opened, would pass through blocks of dwelling houses, stores and ware-houses, requiring their demolition and ruin to a very large extent, the expense of which would mainly be upon the tax-payers. Fortunately the bill was defeated. To prevent such attempts at special legislation is the object of this section and this clause, and to require that parties who desire to have streets and avenues opened in particular localities shall apply to the proper authorities under a general act of Assembly. Now, why cannot a general law be passed giving the local authorities full jurisdiction in regard to laying out and opening streets, roads and highways. I insist that this is a valuable provision which has been carefully considered by the Committee on Legislation, and is intended to meet the very evils complained of by the gentleman from Clarion, (Mr. Corbett,) and I hope it will be adopted.

Mr. PARSONS. Mr. Chairman: I trust the amendment of the gentleman from Fayette (Mr. Kaine) will not prevail. I remember a case that occurred in my county a few years ago, when, during the last days of the session of the Legislature, an act was passed providing for the laying out of a State road, one mile long, from Williamsport to a certain cemetery in Lycoming county, and providing that three commissioners should be appointed to lay out the road, and if the township did not open it and pay the expense, the cemetery company should open the road. The township refused to make the road. The cemetery company opened it, and brought an action against the township to recover the cost. The township was defeated in the common pleas, and carried the case to the Supreme Court, putting their defence upon the ground that the act was unconstitutional. The Supreme Court decided that the act was constitutional, and the township had to pay the sum of eight hundred dollars for opening the road. Such being the law of Pennsylvania

nia, it seems to me that it is our duty to correct it in the fundamental law.

Mr. KAINE. Mr. Chairman: I will withdraw the amendment. I have been so much impressed by the remarks made by the gentleman from Philadelphia (Mr. Hanna) that I am willing to forego any little inconvenience we might suffer in the country for the benefit of the city of Philadelphia. I am willing to yield, and I do it with the greatest pleasure.

The paragraph was then agreed to.

The CHAIRMAN. The next paragraph will be read.

The CLERK read: "Relating to or incorporating ferries or bridges."

Mr. WHERRY. I simply desire to ask a member of the committee what necessity there is for this clause ten in consideration of clause thirty-eight. Does not thirty-eight, being the whole, include ten, which is only a part?

Mr. LEAR. I desire to offer an amendment, to add, at the end of the paragraph the words, "except for the erection of bridges crossing streams which form boundaries between this and any other State."

The object I have in offering that amendment is to leave open the power to pass acts for the purpose of erecting bridges across streams which form boundaries between Pennsylvania and any adjoining State. Now, sir, it is a fact, that if we pass this provision as it stands it will prohibit us from having any other bridge erected across the Delaware river between the States of Pennsylvania and New Jersey. There is a compact between this State and New Jersey, by which it was agreed, many years ago, that the Delaware should always be a highway, and should not be obstructed by bridges or otherwise, except by an act concurred in by the Legislatures of the two States. It must be special legislation, or the power cannot be given. And when we are providing for some special evils which we have, it is well enough to be careful that we do not run to the other extreme. We ought not to tie our hands so that the river Delaware should not be bridged in any place for the convenience of commerce and travel, whether for a wagon road or railroad, whenever the convenience or necessities of the people require a bridge to cross it. I have no objection to this paragraph, so far as it relates to the incorporation of bridges and ferries, that there should be no special law relating to the incorporation of these compa-

nies, and I desire to add the amendment which I propose: "Except for bridges to be erected crossing any stream which forms the boundary between this and any other State," in order that we may meet this difficulty, growing out of a compact between the people of Pennsylvania and the people of New Jersey. There may also be other States with which such compacts have been made. The Delaware river, where it divides Pennsylvania from New Jersey, is directly in the line between the east and the west, and with railroads that may be created by general or special laws—national roads or any other—bridges may be required over this navigable stream, which could not, according to this compact entered into between these two States, be erected except by the concurrent action of the Legislatures of Pennsylvania and New Jersey. Therefore I ask that this amendment may be added, or else that the first words, "relating to," be stricken out.

Mr. JOHN R. READ. Mr. Chairman: I have spoken to a few of the members of the committee, and those with whom I have spoken agree that this amendment is proper.

Mr. TEMPLE. Mr. Chairman: I do not think the gentleman is right in speaking for the committee.

Mr. JOHN R. READ. I have surely the right to say what those gentlemen told me.

Mr. ANDREW REED. Mr. Chairman: I trust the Convention will adopt this paragraph. The gentleman from Cumberland desires to know whether this should be adopted in connection with paragraph thirty-eight. We have an instance in the county which I have the honor to represent which will show the propriety of the present paragraph. Section thirty-eight refers to "creating a corporation, or amending, renewing or extending their charters," while this section reads, "relating to or incorporating ferries or bridges."

There was an act passed for Mifflin county some three years ago by the Legislature, requiring the commissioners of Mifflin county to build a bridge in a certain place in that county; and another section requiring them to buy an incorporated bridge. Now, that act was opposed by nine-tenths of the tax-paying and voting people in that county; yet it was passed through the Legislature by the influence of two or three interested parties. A bridge had been endeavored to be procured through a general law which exists on

the statute books, and the constituted authorities of our county, the grand jury and courts, declared that it was unnecessary, that the public did not require it to be done; and yet, in spite of that, the county commissioners have been compelled by the mandate of the Supreme Court of this State to go on building that bridge, although it would have been better for the county to have bought out, at a fair valuation, the land and everything else intended to be affected thereby.

This section will prevent the happening of such a case, because, under it there can be no special law passed in relation to bridges. There is no necessity for incorporating a bridge company to get a bridge built. There was no incorporation of a company in the act that I have just mentioned; it only required the county commissioners to build it. That is the difference between these two paragraphs. The repeal of the act mentioned is now, and has been, pending in the Legislature, and it is with the greatest difficulty it can be effected. I do not think that there is any other provision that would be more beneficial to the interests of the State than this.

Mr. BEEBE. Mr. Chairman: I hope this paragraph and this section will be adopted. Among those things which it is expected are to assist in destroying this great Commonwealth is special legislation, and the *ipse dixit* has gone forth that it shall be hereafter wiped out. That subject is very fully handled in this section. Let us, therefore, put it through at a "two-forty" pace, word for word, and line for line, and if anything is needed to make it complete, let us add it quickly and cheerfully.

I found, upon calling at Harrisburg last week, the full number of private and special bills on the calendar, and was privately and confidentially informed by members of the Legislature that they were almost daily requested by members of this Convention to hasten the passage of the private bills in which they or their constituents were interested—although they did not desire to have that fact stated, and I therefore state it confidentially, that the high moral prestige of this body may be maintained. [Laughter.] I learned sir, that the general feeling among the representatives of the people there is that all special bills must be quickly disposed of, for where a constituency is interested in a special bill they are urging it as usual, and it is hoped by the advo-

cates of these bills there that by a special effort, and by the grace of this Convention, sufficient time will elapse before the adoption of this Constitution, to enable these little "williams" to go safely through and be duly signed, and conveyed back to the people in accordance with their request.

I am free to confess here, sir, that having been the author of a great deal of special legislation in Venango county, and accused of the authorship of all of it, and having had a special bill before the Legislature very recently, I was careful to anticipate the storm that I saw coming by getting our own little "william" put through, and at the same time intimating to my constituents that they could hold me responsible for no more. It counts nothing now that it was a measure of great importance to the borough in which I lived, and was called for by the unanimous vote of all the tax-payers. It was a bill to enable a much-needed Union school house to be built in Pleasantville, and without which, though already partially built, the structure could not have been completed, and there was no general law authorizing the issue of any bonds for more than one-third of the amount required, or the collection of any taxes more therefor. But while that is all true, the great evil to be corrected in this Commonwealth is special legislation, and we must wipe it out. I trust, therefore, that all factious opposition will be withdrawn, and that this will be put through, word for word, and line for line, and that we will not hesitate to do, and do quickly, as much more as may be necessary to cure this crying evil and to save the Commonwealth.

Seriously, Mr. Chairman, I admit that special legislation has grown to be a great evil by its abuse; but that the interests of many sections of this Commonwealth have been greatly benefited by it heretofore I do most assuredly believe, and that it could still be so used I am equally clear, were it not for its abuse. And much inconvenience will be experienced in time to come, until general laws can be well matured to cover the necessary ground, and the people will certainly feel it.

Mr. MINOR. Mr. Chairman: I would like to say to the committee that this matter was once very forcibly brought to my attention in connection with some property of my own. I was called away for about two months, and when I came back I found there a bridge and a ferry,

the bridge erected and the ferry established, and families living there and doing a thriving business, all on my land. I asked the person in charge how all that came about, and he coolly replied, "I have got a charter from the Legislature." There was my property tied up, without the slightest notice to me, and without redress."

Mr. MANN. Mr. Chairman: I cannot see the propriety of a paragraph requiring anything to be done with regard to "incorporating a bridge." I think we had better make that word "bridge company."

Mr. D. N. WHITE. Mr. Chairman: I move to add, "or to incorporate any bridge company in this State," so that it will read, "relating to ferries and bridges," or, "incorporated ferry and bridge companies within this State."

The amendment was agreed to.

The CHAIRMAN. The question recurs on the amendment as amended by the gentleman from Allegheny (Mr. D. N. White.)

Mr. D. N. WHITE. Mr. Chairman: I think that the amendment itself is rendered unnecessary by the adoption of my amendment, which puts in the words, "within this State."

Mr. STRUTHERS. Mr. Chairman: I think we ought to have the amendment of the gentleman from Bucks (Mr. Lear) incorporated in that paragraph. It may be that New Jersey would be willing, under the compact existing between that State and this, to pass a law with relation to bridges crossing the Delaware river, and that they would say in that law that it shall take effect when similar legislation shall be passed by the State of Pennsylvania. Without this amendment, if you adopt this clause, that legislation by Pennsylvania to correspond with the legislation in New Jersey, could not be had.

Mr. COCHRAN. Mr. Chairman: I understand the amendment offered by the gentleman from Allegheny, (Mr. D. N. White,) which contains the words "within this State," to be intended to meet the objection with regard to this provision interfering with the building of bridges across the Delaware river between the States of New Jersey and Pennsylvania. I understood the idea to be to so limit this paragraph as not to prevent the Legislature from authorizing the building of bridges in common across the Delaware or any other stream which is the common boundary between this and any other

State. If it has that effect the amendment of the gentleman from Bucks is entirely proper.

The CHAIRMAN. The Clerk will read the paragraph, as it will be, as amended by the gentleman from Allegheny, (Mr. D. N. White.)

The CLERK read: "Relating to or incorporating ferries and bridges, or incorporating ferry and bridge companies, wholly within this State."

The CHAIRMAN. Does the gentleman from Bucks accept this as embracing the intention of his amendment?

Mr. LEAR. Yes, sir.

The CHAIRMAN. Then your amendment may be considered withdrawn.

Mr. LEAR. Yes, sir.

The CHAIRMAN. Then the question recurs on the paragraph as amended.

Mr. WHERRY. I move to amend, by adding after the word "to," in the first line, the words "turnpikes or turnpike companies."

The amendment was not agreed to.

Mr. BUCKALEW. Mr. Chairman: It seems to me that this paragraph as it now stands will not accomplish the object in view. It speaks of "bridge companies wholly within this State," and I understand the object is to have this apply to a bridge or bridges over the Delaware river. As drawn it seems to me to apply only to bridge companies. A company may be wholly within this State, and yet be authorized to construct a bridge over in New Jersey.

Mr. CORBETT. Mr. Chairman: Did I understand that the amendment of the gentleman from Cumberland (Mr. Wherry) was adopted?

The CHAIRMAN. It has not been adopted.

Mr. CORBETT. All right. I think, sir, it would be better for us to strike out the words "wholly within this State," and adopt the amendment offered by the gentleman from Bucks, a few minutes ago. I say this because I think there is great force in what the gentleman from Columbia (Mr. Buckalew) has said.

The CHAIRMAN. The words referred to cannot now be stricken out without a reconsideration.

Mr. CORBETT. Then, sir, I move to reconsider the vote upon that amendment.

The motion was agreed to.

The CHAIRMAN. The question now recurs on the amendment.

Mr. CORBETT. I move to strike out the words "wholly within the State," and in-

sert the words offered as an amendment by the gentleman from Bucks (Mr. Lear.)

The CHAIRMAN. The Clerk will read the amendment to the amendment.

The CLERK read: "Except for bridges crossing streams which form boundaries between this and any other State."

Mr. LEAR. Mr. Chairman: Were not the words "for the erection of" in there?

The CHAIRMAN. They were stricken out.

Mr. LEAR. They were in my amendment as offered by me.

The CHAIRMAN. They will be restored.

Mr. LEAR. They formed a portion of my amendment. I do not want to prohibit the restriction of special legislation; that they shall not be incorporated. What I want to provide against is not that we shall have corporations of this kind by a general law, but that the Legislature shall have power when, by this general law, a private corporation is erected to authorize the erection of the bridge; to add that additional power to a corporation created by general law; and that the Legislature shall still have power simply to authorize the erection. That expression was used by me for two reasons.

Mr. MOTT. Mr. Chairman: I am in favor of the paragraph which has been reported by the committee if it affords some protection against the legislation that has already occurred in the State in relation to bridges. I know that in one county railroad companies have bridges which span the waters of the Delaware without the first particle of redress on the part of the lumbering interests of the valley of the Delaware in the event that they obstruct the navigation, and in spite of all I have said and done they were passed over my head, as a representative. I do protest that there should not be an exception made in favor of railroad companies as against any and every other company. Let them take their chance, and let them go to the courts, and then we shall feel that we have some protection against the obstruction of the navigable waters of the Delaware.

The question being taken a division was called, which resulted: Ayes, forty-three; nays, thirty-nine.

So the amendment was agreed to.

The paragraph, as amended, was then agreed to.

The CHAIRMAN. The next paragraph will be read.

The CLERK read as follows:

"Vacating roads, town-plats, streets or alleys."

The paragraph was agreed to.

The CHAIRMAN. The next paragraph will be read.

The CLERK read as follows:

"Relating to cemeteries, grave yards or public grounds."

The paragraph was agreed to.

The CHAIRMAN. The next paragraph will be read.

The CLERK read as follows:

"Authorizing the adoption or legitimating of children."

The question being taken, the paragraph was agreed to.

The CHAIRMAN. The next paragraph will be read.

The CLERK read as follows:

"Locating or changing county seats, erecting new counties, or changing county lines."

Mr. DUNNING. Mr. Chairman: I move to strike out the entire paragraph. In making this motion I desire to say that I am in favor of general laws, or rather in favor of restricting future legislation, as far as practicable, to general laws and the action of courts; but, sir, let us not, in our zeal to do away with special legislation and to invest the courts with authority, forget that it is possible that questions may arise where the same fairness could not be obtained under general laws, or from the courts, that you might have a right to expect from legislative enactments. Now I can well believe that the large majority of the people of the Commonwealth are opposed to the division of counties.

Members of this Convention will doubtless recollect that about sixteen years ago the Constitution of our State was so amended as to amount to an absolute prohibition, or nearly so, of any division of counties in this Commonwealth, and since that amendment, notwithstanding efforts have been made in the Legislature to procure the division of a county or two, and, in one instance, presenting a case of great merit, the provisions of that amendment adopted in 1857 were of such a character as to defeat a most worthy object. Now, sir, notwithstanding that provision still remains as a provision in the Constitution, it now contemplated to place it beyond possibility for any county to be divided in this Commonwealth. It provides also that no legislation shall take

place that can, in any manner, affect the removal of the county seat.

Now, any gentleman will see at a glance that it would be impossible to fix any general law that would cover the interests of all the counties in this Commonwealth in this respect. Will it be supposed that if this authority is vested in the courts of any single county in this Commonwealth, no matter what may be the interests of the case, that the courts would agree either to a removal of a county seat or to a division of the county? That, sir, would be unlike the history of any transaction in connection with these two propositions with which any of us are acquainted. Why, sir, suppose for a moment the instance of a county seat established sixty or seventy years ago, and established, too, in that quarter of a county best calculated at that time to subserve the interests of the people of that county, and since that time developments of its mineral and other resources have occurred in different and in remote parts of the county which have concentrated the business interests in an entirely different section of the county. In such a case as this shall it be said that the county seat shall remain where it was established originally, and in a spot where you hear neither the sound of a hammer, nor the voice of a stranger, except when the courts are in session? Or shall the Legislature have power to make such necessary change when it is patent that the courts will not do it?

I speak, however, Mr. Chairman, more particularly in regard to the division of counties, which is proposed to be cut off in this paragraph. I have distinctly in view my own county, which contains one thousand four hundred square miles, with a population of one hundred and sixty thousand, and for the last thirty years the question of the division of the county has been agitated, and I am satisfied the interests of the county demand that it should be divided. Why, sir, in the county of Luzerne we have three courts, two mayors' courts and a court in Wilkesbarre, with an assistant law judge and the entire year, and yet it is an utter impossibility for the business to be transacted in those courts, and hence there is a discrimination made against that county which could not be made applicable to any other county in the Commonwealth, and I think that no general law could be enacted for the benefit of the county of Luzerne, while the majority of the counties represented in the Legislature conceived themselves to

be all nicely fixed without division. The great majority of the members of that body know that the people of the particular counties which they represent are opposed to the division of their own counties, and hence would not enact a general law favorable to any division, for fear of affecting counties where division is not a necessity.

Therefore, Mr. Chairman, that injustice may not be done to my own, or any other county, I trust this paragraph will be voted down.

Mr. HAZZARD. Mr. Chairman: I hope I may be able to secure the attention of the committee for a few moments, while I express my views upon this subject. I know that I am talking to a Convention composed largely of lawyers, who, for the most part, are comfortably located in their homes, at the county seats of their respective counties, and that there may be a determination upon their parts that there shall be no division of the counties in which they reside. I feel the responsibility of addressing the committee, knowing that I may be in the minority with regard to this matter of counties; but I have a word to say in behalf of my constituents, and while I may know that there is among some a desire that there shall be no division of counties, I flatter myself that at the same time they are gentlemen of great integrity, and that they will recognize the rights of the minority, that I, perhaps, represent, and they will be able to rise far above all selfish considerations when we come to vote upon this paragraph of this section.

It is better for the State that our counties be divided. I have thought more upon this subject than upon any subject I expect to address this committee upon during its session, and I make this assertion, that it is better for the State, and it is better for the individual that there be small counties. This will strike many a mind as perhaps not true, but allow me to bring some facts to the attention of the committee.

If you will take the Auditor General's report you will find that in all the small counties the taxes that are due to the State have been paid in more promptly than from the larger and more unwieldy counties. I have examined that subject, and I know it to be true. It is better, because they collect the taxes quicker and easier. It brings the tax collector nearer to each individual in the county. It is better for the individual in a hun-

dred ways, and some of those ways I will now state to the committee.

Before I go any further I will state that it seems to me that this word "locate" in this section will not allow the State to look for one moment into the place where it is supposed a new county would be located. They shall not even turn their eyes toward it. They shall not look at it at all. They may close their eyes and "go it blind." I say there must be some way worked out by which a new county may be erected, but they must not look at it; it must not be located.

Mr. HANNA. This section reads "locating or changing county seats." It is not "locating counties."

Mr. HAZZARD. The paragraph reads, "erect new counties or changing county lines." It does say "locate." Now are we ready to say that in all time to come, for the next fifty years—for I hope we shall make a Constitution that will last that long—are we willing to say that during all that time there shall be no machinery by which a new county may be erected? I hope that such an injustice will not be perpetrated by the intelligent gentlemen who compose this committee. I said it was good for the State that counties should be small; it is certainly better for individuals. In what way?

It costs less in every respect. It costs less for commissioners. You start a commissioner out to build a bridge. He is paid a *per diem*. In our county he may be fifty miles away from a bridge, and it must take him one day to go. Then it takes one day to contract with a bridge contractor, and he must return on the third day, costing nine dollars. If our county were divided, as which it ought to be—if I had my way I would make four counties out of it—the business could be done, and the commissioner could return the same day, and the cost would be but three dollars.

It would be cheaper in every way. If I am sold out by the sheriff it would not cost me so much to bring the sheriff to sell and cross me out. It would cost me less if I went to prove a will. As it is, I must get out my carriage and horses and trot the witnesses to the county seat, twenty miles. When I reach my place of destination my horses are so tired I cannot come back the same day. If it were not more than ten miles to the county seat, as it ought not to be in any county of the State, I could wait until after dinner and get my witnesses in, and go to the county

seat, prove the will, and come back again without any cost.

It costs less to collect taxes in a small county. In our county, I want to say, that there are twenty-five or more places where our county treasurer goes to collect taxes, and he must be at great cost, and must be paid a large salary in percentage out of what he collects, to go around to these twenty or thirty places to collect taxes. If it were a smaller county we could go to the county seat after dinner, and pay our taxes, and save the expense and percentage of the county treasurer traveling around. If you want to record a deed or to search a record, you must get on your horse early in the morning, by daylight, and trot off, as we have to do in our county, as far as thirty-six miles, in order to reach the records, or you must leave it to an attorney at great expense. If you wish to transact any business in the office, you must travel thirty miles across our county to do it. It is better for the individual in any light that you may please to look at it, and yet you propose to put into the Constitution that it will be impossible to render this aid to or bestow these benefits upon the people who live in remote corners of large counties. Let the population be as it may; let the necessities be as they may; let large communities gather, as they are gathering at this time, as my friend from Fayette (Mr. Kaine) knows, along the river which bounds our county upon the east, no change can be made. There is a population pouring into that valley that is now engaged in the mining business, that will create large communities, that will be denied the privilege of trying their cases in courts only after long delays. I think there are something like fourteen hundred cases upon our docket. It will cost no more; it will cost less. It will cost the individual less to carry on his business so far from the county seat.

Mr. M'CLEAN. I would suggest to the gentleman that the proposition before the committee is not to prevent the erection of new counties.

Mr. HAZZARD. It amounts to that.

Mr. M'CLEAN. It is to prevent special legislation with regard to the location of new counties.

Mr. HAZZARD. It proposes that they "shall not be located." How are you going to erect new counties without locating them?

I hope, sir, that however strong a prejudice may be in this committee against

tearing down old lines, and I know that we adhere to this old line with great tenacity, that whatever antipathy there may be to the enactment of anything of this sort, that it will give way before the majority of the right of the minority in this committee, and that this provision will be stricken out. You cannot fix a law appointing a commission to decide these matters as you can to locate a bridge. It will be unwieldy.

I hope, therefore, this one thing will be left to the Legislature, and that they will not be crippled in this paramount and great interest of very many of our citizens in this State.

M. H. G. SMITH. Mr. Chairman: The changes which have been made in this State from time to time in the formation of the counties have led to disputes in different localities, and to corruption in the Legislature. In order to prevent the abuses which had crept into the practice of the Commonwealth, an amendment was made to the existing Constitution providing "that no county shall be divided by a line cutting off over one-tenth of its population, either to form a new county or otherwise, without the express consent of such county by a vote of the electors thereof; nor shall new counties be established containing less than four hundred square miles." That amendment would seem to be calculated to prevent abuses, and yet, sir, at this very time, in the Legislature of this Commonwealth, a bill is pending which undertakes to evade all the limitations of this clause in the Constitution. A gentleman in this Commonwealth, who has been a distinguished member of the lobby, and who happens to be the owner of a watering place along the line of the Northern Central railroad, in the county of Bradford, desires, for his own personal convenience, and for the convenience of certain of his friends, to make his watering place hotel the centre of a new county. In order to do this he presents to the Legislature of Pennsylvania a bill, carefully prepared. He does not undertake to subtract from any county one-tenth of its population, because if he did that, the people would defeat his project, but he avoids that difficulty by taking portions of four surrounding counties, Bradford, Lycoming, Tioga and Sullivan, containing less than one-tenth of the population of each. Sullivan county is small, containing but a fraction over four hundred square miles. The bill now before the Legislature provides for the

subtraction of a large township from that county. Should it pass the Legislature, and there is nothing in the Constitution to prevent its passage, the little county of Sullivan will be reduced below the constitutional limitation.

For the purpose of preventing abuses of this kind, and avoiding violations of the Constitution by cunning contrivances, such as I have described, the restriction embraced in the pending paragraph has been proposed, and from the fact that a bill is now pending at Harrisburg which is designed to evade both clauses of the existing constitutional provision to which I have referred, the necessity of this amendment ought to be apparent to every member of this Convention. No special act of the kind to which I here referred ought to be passed. But it will be perfectly competent for the Legislature of this State to provide for such contingencies as may arise in the formation of new counties, the change of county seats, &c., by a general law. Whatever is good for the whole Commonwealth, will no doubt be promptly done by the Legislature. While we are amending the Constitution, let us get rid of the evils I have endeavored to point out, among others.

Mr. HAZZARD. Mr. Chairman: Can the Legislature, under this act, pass any general law regulating such a question at all? Let me read: "Locating or changing county seats." It is not a special law for one county, which I admit will be a special act, but this says "there shall be no act passed by the Legislature, locating or changing county seats, or erecting new counties." A general law is disregarded, and we can never have a new county while the Constitution lasts.

Mr. H. G. SMITH. Mr. Chairman: I would reply to the gentleman from Washington that each clause of this section is preceded by a common commencement, which would make the paragraph read as follows: "The Legislature shall not pass any local or special law locating or changing county seats, erecting new counties or changing county lines." A proper general law, providing for the formation of new counties and the locating of county seats, can be passed at the first session of the General Assembly after this Convention adjourns, if its work is accepted by the people; and a general provision can be made which will meet every proper case that may arise, whether it be locating or changing county seats, erecting new counties or changing county lines; and in pas-

sing this section as it is reported from the committee we do but what we ought to do—provide that in this, as in other things, the Legislature shall act by general laws and not by special laws, enacting iniquities such as are proposed by the bill which is under consideration at Harrisburg this day.

Mr. HAZZARD. Mr. Chairman: I move that the further consideration of this section be postponed.

The CHAIRMAN. The gentleman cannot move to postpone in committee of the whole. The committee may dispose of it by voting it down.

Mr. BUCKALEW. Mr. Chairman: I was anticipated in my remarks somewhat by the member from Washington, (Mr. Hazard,) who stated that this whole subject belonged properly to another part of the Constitution. We have in the Constitution at present a provision, which was drawn by me many years ago and adopted by the people of the State, which provides that no county shall be erected containing less than four hundred square miles of territory; nor shall any county be divided by a line which shall cut off over one-tenth of the population, without the express assent of the people by a popular vote. Now, sir, if you desire additional limitations in the erection of new counties, that clause will be the place to put them, and this other subject of changing county lines and the subject of the removal of county seats all belong to the same place. They constitute together one general subject, and ought to be disposed of in that part of the Constitution relating to counties and townships and their organization. Here the subject is interjected in the midst of this legislative article. It is evidently out of place.

Now, sir, I am strongly against the undue increase of counties. The amendment of 1857 has, no doubt, prevented the erection of twenty or thirty new counties in this Commonwealth, and if there is a limitation necessary as to county seats, or county lines, let us add it at the proper time and place.

What is this section? It is, practically, to destroy utterly the whole power in the Legislature, of authorizing the removal of county seats, and making new counties. I will undertake to say that a general law on this subject is impracticable. You will have to lodge your power to make the new county somewhere under the general law. Is the Legislature to lodge it in itself by a general statute? That

would be absurd. The only end that we should aim at is the imposition of some wholesome limitation upon this legislative power, and not to render the Legislature powerless to act upon this subject.

Mr. CORBETT. Mr. Chairman: I hope the limitation which is contained in this paragraph will pass the committee. We know very well that there are squabbles in the Legislature every year about new counties, and about changing county seats. Some members have wholly mistaken the effect of this clause if adopted. It merely prevents special legislation upon this subject. If nothing else is done by the Committee on Counties, &c., as to the formation of new counties, the Legislature would have power, by general law, to prescribe how they should be erected, and how county seats should be changed. I do not apprehend that this is liable to the objection raised by the gentleman from Columbia, (Mr. Buckalew,) that it did not belong to the Committee on Legislation. It certainly did come legitimately within the scope of their power. We have not undertaken to regulate how new counties shall be formed. We have not undertaken to prescribe, by any provision, any mode by which they shall be created. That belongs to the Committee on Counties, and when that committee comes to report, they may report some mode by which this end can be obtained. It is their duty to do it. If they do not do it, it will be left to the Legislature to prescribe by general law.

I hope that this provision will pass, and I apprehend in the case of large counties, where they ought properly to be divided, instead of the limitation operating in such a manner as to prevent division, it will finally aid such division. The Legislature will be compelled, by some general law, to prescribe how new counties may be created, either submitting it to a vote of the citizens or otherwise. The Constitution of Illinois provides that new counties shall be formed by a vote of the people.

Mr. DUNNING. I withdraw my amendment.

The CHAIRMAN. The question recurs upon the paragraph.

Mr. MANN. Mr. Chairman: With all due deference to the gentleman from Columbia, (Mr. Buckalew,) whose views I generally subscribe to, I submit that this paragraph is a proper one in this section, which is treating upon the particular matters of legislation, and is defining the

subjects which the Legislature shall not pass upon by local or special law, and I respectfully suggest to the members of the committee that it, in no manner, interferes with their proper prerogative. It does not undertake to say how many square miles of territory a county shall consist of, or how many people it shall contain, nor anything relating to it. It simply prohibits the Legislature from passing upon questions of that character by a local or special law, just as it does upon all the other questions. I submit to the committee that all these restrictions upon local legislation should be in one article, where the members of the Convention, running down the article, can see this set forth in this article, and not scattered through the Constitution in various articles and sections.

It was for that purpose that the Committee on Legislation went over all the subjects which they thought ought not to be legislated upon by special law. It does not touch the question which properly belongs to the Committee on Counties, in any way. In addition to what the gentleman from Lancaster (Mr. H. G. Smith) said upon this paragraph, I have just this to add, that upon every occasion where the question of changing the county seat, and changing the county line, or erecting a new county, comes before the Legislature, there is more corruption connected with it than with any other one thing that ever comes before it, and if you want to purify the Legislature of Pennsylvania this paragraph ought to be adopted. It does not interfere with the duties of any committee, any more than any other paragraph. It simply proposes to prevent the corrupt influences in the Legislature that are always connected with special legislation upon this question. I submit, Mr. Chairman, that a general bill may readily be passed that will cover all the cases that will ever arise in the Commonwealth, and in the passage of that bill there will be no corruption whatever. It will be passed upon general principles. I challenge any delegate in this Convention to name any general bill in this Commonwealth that was ever passed by corrupt influences. I never knew one. I do not believe one has ever been passed, and there will be no corruption connected with a general bill upon this subject, but upon any special or local bill there will be corruption. I hope, therefore, the paragraph will be adopted.

Mr. W. H. Smith. Mr. Chairman: I

hope this paragraph will pass, and I hope that we shall see no more postponements of any section of an article that may be presented for the consideration of the Convention. I regret exceedingly that so many postponements of the consideration of questions before the Convention have been made. It has only been a few days since the report of the committee on the Legislature was postponed to await a report from another committee, upon the subject then under consideration. I therefore hope that these continual postponements will not be made hereafter.

The question being taken, the paragraph was agreed to.

The CHAIRMAN. The next paragraph will be read.

The CLERK read as follows:

"Incorporating cities, towns or villages, or changing their charters."

Mr. D. N. White. Mr. Chairman: move to amend the paragraph, by striking out the words "towns or villages," and inserting the word "boroughs."

The amendment was not agreed to.

The question being taken, the paragraph was agreed to.

The CHAIRMAN. The next paragraph will be read.

The CLERK read as follows:

"For the opening and conducting of elections, or fixing or changing the place of voting."

The paragraph was agreed to.

The CHAIRMAN. The next paragraph will be read.

The CLERK read as follows:

"Granting divorces."

The paragraph was agreed to.

The CHAIRMAN. The next paragraph will be read.

The CLERK read as follows:

"Erecting new townships or boroughs, changing township lines, or borough limits."

The paragraph was agreed to.

The CHAIRMAN. The next paragraph will be read.

The CLERK read as follows:

"Creating offices, or prescribing the powers and duties of officers in counties, cities, boroughs, townships, election or school districts."

The paragraph was agreed to.

The CHAIRMAN. The next paragraph will be read.

The CLERK read as follows:

"Changing the law of descent or succession."

The paragraph was agreed to.

The CHAIRMAN. The next paragraph will be read.

The CLERK read as follows:

"Regulating the practice, or jurisdiction of, or changing the rules of evidence in any judicial proceeding or inquiry before courts, aldermen, justices of the peace, sheriffs, commissioners, arbitrators, auditors, masters in chancery, or other tribunals."

Mr. HAY. Mr. Chairman: I offer the following amendment, to come in at the end of the paragraph: "Or providing or changing methods for the collection of debts, or the enforcing of judgments."

Mr. EWING. Mr. Chairman: I wish to say that the members of the committee have no objection whatever to the amendment, but I think it should be placed in a better form. I feel satisfied that the section as reported does not cover the ground intended by this amendment; it was not in contemplation. I offer to amend the amendment, however, by adding the words, "or changing the effect of judicial sales of real estate."

Mr. HAY. Mr. Chairman: I desire to request my colleague from Allegheny, the mover of this amendment, to permit my amendment to be voted on before any action is taken upon the amendment which he has offered, which may require discussion.

The CHAIRMAN. That cannot be done unless the amendment to the amendment is withdrawn.

Mr. EWING. Mr. Chairman: I withdraw the amendment to the amendment. The amendment was agreed to.

Mr. EWING. Mr. Chairman: I now renew the amendment to the amendment, by adding at the end of the paragraph the words, "or changing the effect of judicial sales of real estate."

Mr. CORBETT. Mr. Chairman: I would like to ask the gentleman from Allegheny (Mr. Ewing) how he could change the effect of a judicial sale. If a sale has been made, how is it possible to change its effect after it has been made? I must confess that I do not understand the amendment.

Mr. EWING. Mr. Chairman: What I mean is precisely this: I do not propose nor suppose that any court or any person would think that a law passed after a sale has been made would affect it; what I intend to cover is this which is an abuse. There has probably not been a session of the Legislature in the past ten years in which some special law has not been

passed for some county, determining the effect of judicial sales of real estate. An orphans' court sale in some counties will divest all liens, and in other counties it will not divest mortgages which are first liens. In one county an orphans' court sale for payment of debts of a decedent will divest all liens, and in other counties it will not. I am familiar with cases myself in which parties have gotten up a petition for an orphans' court sale and presented it, and had an order of sale made, and afterwards it turned out that a few days before the order of sale was made the Legislature had passed a law changing the effect of that sale.

Mr. CORBETT. After the sale was made?

Mr. EWING. No, not after the sale was made; but I submit that we do not want a special law applying to one particular county that is not general all over the State.

Mr. CORBETT. I now understand the object of the gentleman's amendment, and I certainly shall vote in favor of it; but I suggest that it would be more proper to frame a section incorporating this idea and to offer it separately.

The amendment was agreed to.

The question being taken, the paragraph as amended was agreed to.

The CHAIRMAN. The next paragraph will be read.

The CLERK read as follows:

"Regulating or extending the powers and duties of aldermen, justices of the peace, magistrates or constables."

Mr. HAZZARD. Mr. Chairman: I desire to offer an amendment to this paragraph, but before I do so I should like to understand the exact meaning of the paragraph. I took occasion to write, last year, to various portions of the State in regard to the jurisdiction of justices of the peace. I know very well that they are a class of our communities very much underrated by some people, but the general tenor of the information I received was in favor of enlarging the jurisdiction of justices of the peace to \$300. I am in favor of a law extending the jurisdiction of justices of the peace to \$300, and there is no reason why it should not be, because \$100 in 1810 was just about equal to \$300 now. I desire, however, to amend the paragraph, by adding after the word "constables," the words, "of any single county."

Mr. JOHN R. READ. Mr. Chairman: I think if the gentleman will read the first paragraph in connection with the para-

graph now before the committee, the difficulty which exists only in his imagination will entirely vanish. I think I can answer the gentleman's objection by illustrating one of the evils which this paragraph is intended to correct. Some time in the year 1869, I think, there was an act of Assembly passed, by which the prothonotary of Schuylkill county was authorized to commence suits before the justices of the peace of that county for costs against plaintiffs and defendants in suits that had been instituted in the courts of that county during his prothonotary's term of office. By that act of Assembly, jurisdiction was conferred upon justices of the peace of Schuylkill county to issue writs to any part of this Commonwealth, and by the same act the constables of that county were authorized to send these writs to such persons as they might select in the county of Philadelphia, or any other county in this Commonwealth, who had the power to serve writs of summons. The rules of evidence were also changed by that act of Assembly, so that the books of the prothonotary were made *prima facie* evidence of the costs that had been incurred by the plaintiffs, or that were chargeable to the defendants in these suits. Under that act of Assembly some three or four hundred suits were brought, during a period of less than six months, before the justices of the peace of Schuylkill county, for the sum of one dollar, to which was added ten or eleven dollars mileage. Those writs were sent down to Philadelphia and served upon some three or four hundred different persons, who had in years gone by instituted suits in the county of Schuylkill, and judgments were obtained against them for the sum of one dollar, and eleven or twelve dollars costs, without an opportunity being given to these parties to appear in that county; and it is the purpose of the committee in offering this section to provide for just such cases as these, and to prevent such special and local legislation from being enacted in the future. I do not think the question of the jurisdiction of aldermen or justices of the peace has anything at all to do with the paragraph now before the committee, and I trust the committee will not so consider it.

The amendment was not agreed to.

Mr. DARLINGTON. Mr. Chairman: I move to amend the paragraph, by adding after the word "regulating," the words "the fees."

Mr. EWING. Mr. Chairman: If the gen-

tleman from Chester will turn to section sixteen, he will ascertain the views of the committee in regard to the salary or emoluments of public officers. It provides that the Legislature shall not pass any local or special law which shall operate to extend the term of any public officer, nor to increase or diminish his salary or emoluments after his election or appointment.

Mr. DARLINGTON. I have read that section, and have found it has an entirely different application from the one contemplated in my amendment.

The amendment was not agreed to.

The CHAIRMAN. The next paragraph will be read.

The CLERK read as follows:

"Regulating the management of common schools, the building of school houses, and the raising of money for that purpose."

Mr. WHERRY. Mr. Chairman: I entirely agree with the intention of the Committee on Legislation in reporting this paragraph; but I think it is objectionable, perhaps, in its statement. It will be observed that the paragraph concludes with the words, "and the raising of money for that purpose;" the word "that" evidently referring only to the last purpose named in the paragraph, viz: "The building of school houses," which evidently was not the intention of the committee. I would suggest, as a further amendment, to strike out the word "common" and the words "the building of," and insert the words "public" and "school houses."

Mr. DARLINGTON. Mr. Chairman: I wish to ask the gentleman from Cumberland if his amendment will absolutely prevent the Legislature from creating independent districts. I do not want the Legislature to be deprived of that power.

Mr. WHERRY. Certainly not. They will have the right to create independent districts under a general law.

Mr. CORBETT. Mr. Chairman: They certainly can provide, by general law, for the creation of any school district, but not under any special law.

The CHAIRMAN. The question is on the amendment of the gentleman from Cumberland, which is to strike out the paragraph and insert: "Relating to public schools and the building of school houses."

Mr. J. M. WETHERILL. Mr. Chairman: I suggest the word "common."

Mr. TURRELL. Mr. Chairman: I move to amend further, by striking out the three last words, "for that purpose."

Mr. WHERRY. Mr. Chairman: The Committee on Education have reported against the use of the word "common," as applied to our schools. If the gentleman from Schuylkill will refer to the report of that committee he will find that they have used the word "public schools" everywhere.

Mr. TURRELL. Mr. Chairman: I have been laboring under a misapprehension. I did not understand that the amendment was a substitute for the paragraph, and I ask that the amendment be read for information.

The CLERK: The gentleman from Cumberland moves to strike out the paragraph and insert, "relating to public schools and the building of school houses."

Mr. TURRELL. Mr. Chairman: Then I will withdraw my amendment, to allow action on the substitute.

On the question of agreeing to the amendment, a division was called, which resulted thirty-one in the affirmative. Not being a majority of a quorum, the amendment was rejected.

The CHAIRMAN. The question recurs on the paragraph.

Mr. TURRELL. Mr. Chairman: I now move to amend, by striking out the words, "for that purpose," at the end of the paragraph.

Mr. Chairman, the paragraph as it stands limits the raising of money for the management and building of schools and school houses. I would not limit the raising of money to the buildings, because from what I have seen in practical life, if limit be imposed, no good will come from it. I have seen a school house repaired at a larger expense than the original building cost, and then an application made to the Legislature, by the school directors, without the citizens knowing anything about it, to give them the power to borrow money, at a high rate of interest, to meet the expense of such repairs.

Mr. CORBETT. I desire to ask the gentleman from Susquehanna if he will not accomplish his purpose better by not striking the words out, but by making them read, "for such purpose."

The CHAIRMAN. Does the gentleman from Susquehanna accept the modification?

Mr. TURRELL. I think it would be better to simply strike the words out, but I will partially accept the suggestion of my friend from Clarion, and will modify my amendment so as to propose to insert, after the word "building," the words "and

repairing," and to strike out the word "that" and insert "such." The paragraph will then read: "Regulating the management of common schools, the building and repairing of school houses, and the raising of money for such purpose."

Mr. HAY. Mr. Chairman: I suggest to the gentleman from Susquehanna, to see if it meets his approval, that he make another change, so that instead of the section reading as it does now, it may read as follows: "Relating to common schools and school buildings, and the raising of money for such purposes."

Mr. TURRELL. Mr. Chairman: I think it is preferable as it is now.

The amendment was agreed to.

The CHAIRMAN. The question recurs on the paragraph as amended.

Mr. WHERRY. Mr. Chairman: I am satisfied that if the committee had given careful consideration to the amendment that I offered, it would have been adopted. It is plain to my mind that the section, as it now stands, does not meet one of the greatest evils that we have to cure. One of the greatest evils—

Mr. MANN. Mr. Chairman: I rise to a point of order. There is no question before the House.

The CHAIRMAN. The paragraph is before the committee, and the gentleman is addressing the House on the paragraph.

Mr. WHERRY. One of the greatest evils of the school system as it exists to-day is the creation of new districts, and the alterations made in the old districts.

Mr. HANNA. Mr. Chairman: If the gentleman will allow me, that is provided for in the fifteenth paragraph of the printed report.

Mr. WHERRY. That relates to officers alone. It relates only to certain officers, and has nothing to do with the creation or alteration of school districts.

I now move to amend this paragraph as it stands, by adding to the end thereof the words: "Or creating or changing school districts."

Mr. DARLINGTON. Mr. Chairman: I fear we are acting hastily on this whole subject. There are instances in my district in which it was absolutely necessary to establish an independent school district. The same cases have existed all over the Commonwealth. Population changes. School houses that have been erected years ago are not sufficient to-day, either in point of location, or in their size, and as these accommodations fail it is necessary

to establish new ones. On the line of two counties there may be no school district on either side, but join them and you can form an independent district. This requires special legislation, and it requires also that the citizens affected by the creation of these independent districts have the power to raise money, either by taxation or effecting loans to establish their school houses. Now, is it improper to go to the Legislature to authorize the establishment of independent school districts, with the power to build houses of a better class than are usually called for, and either borrowing money, or paying it themselves to do it? What is the objection to it? I fear that by the general sweeping terms of this clause, as you have it now, you would prohibit all advantage now derived by the creation of independent school districts and the erection of independent school houses, and I do not want this admirable system restricted.

Mr. EWING. Mr. Chairman: I think the purpose the gentleman from Cumberland has in view is already provided for in section eleven, in the second paragraph.

Mr. WHERRY. Mr. Chairman: Will the gentleman allow me to answer that the paragraph relates only to the "affairs" of school districts?

Mr. HANNA. That covers it.

Mr. WHERRY. Mr. Chairman: There can be no "affairs" of a school district until the district is first constituted. Now, the constitution of a district, and the management of its affairs after its constitution are entirely different things.

Mr. J. M. WETHERILL. Mr. Chairman: I would like to ask a question of some of the gentlemen having this matter in charge. We have in the State an agricultural college which seems to be maintained by some special laws, and which may in the future require additional special laws. I would ask whether it is considered that this section effects that?

Mr. EWING. Certainly not.

Mr. BIDDLE. It relates only to common schools.

The CHAIRMAN. The question is on the amendment of the gentleman from Cumberland.

The amendment was rejected.

Mr. CORBETT. Mr. Chairman: If it be the fact that the committee having the subject in charge have denominated "common" schools "public" schools, I will suggest that we here change "common" to "public."

Mr. WHERRY. That is the fact.

Mr. CORBETT. I then move as an amendment, unless it can be done by common consent, if that be so that word "common" be stricken out, and the word "public" inserted.

Mr. BARTHOLOMEW. Mr. Chairman: I would suggest to the gentleman from Clarion that he make his motion so that it will apply to the whole report, wherever the words "public schools" occur.

The CHAIRMAN. That would not be in order at this time.

Mr. BARTHOLOMEW. Mr. Chairman: Can it not be done by common consent?

Mr. CORBETT. I will modify my amendment so that it change the word "common" to "public," wherever it occurs in the sections that have been already adopted.

The CHAIRMAN. That motion is not in order.

Mr. DARLINGTON. It can be done by common consent.

The CHAIRMAN. It cannot be done by common consent, because the sections are not before the House. The only question before the House is this section.

Mr. CORBETT. Mr. Chairman: I suggest that the change be made in this paragraph by common consent.

The CHAIRMAN. The gentleman from Clarion proposes, by common consent, to change the word "common" to "public." Shall the change be made? [No! No!] It is objected to.

Mr. CORBETT. Then I move to amend, by striking out the word "common" and inserting "public."

The amendment was agreed to, there being, on a division, ayes forty-two, noes thirty-eight.

Mr. WHERRY. Mr. Chairman: Allow me to offer another amendment to this paragraph: To strike out the words "regulating the management of," and insert the words "relating to." My object simply is this: The word "management" is too restricted in its sense, and it does not at all cover the ground which the Committee on Legislation intended it to cover.

On the question of agreeing to the amendment a division was called, which resulted twenty-nine in the affirmative. Not being a majority of a quorum the amendment was rejected.

The CHAIRMAN. The question recurs on the paragraph as amended.

The paragraph as amended was agreed to.

The CHAIRMAN. The next paragraph will be read.

The CLERK read as follows: "Fixing the rate of interest."

Mr. DARLINGTON. Mr. Chairman: I want to know from the Committee on Legislation what that means?

Mr. CORBETT. Mr. Chairman: It means to prohibit all special laws fixing a special rate of interest, not to allow interest to be fixed by anything except a general law.

Mr. DARLINGTON. Mr. Chairman: I want still to inquire whether the purpose is to prohibit a city, county or borough from borrowing money at one rate of interest, where they can get it at that rate, and allow another city to borrow at another rate of interest.

Mr. CORBETT. Mr. Chairman: I apprehend it applies to a city, corporation or person, to every person alike, and to every person, corporation, city or borough; it says no rate of interest shall be fixed by special law. The law must be general.

Mr. DARLINGTON. Mr. Chairman: Then I submit that it is impracticable in its operations, and for this reason: You cannot obtain money for a city like Corry or like Pittsburg, even, at the same rate at which it can be obtained in Philadelphia. This is an attempt, it seems to me, to deny to a city or town with less ability, and less power, and less capacity to borrow money at all, unless it can do so at a rate at which it is impossible to obtain it.

What is the use of such a clause? What good is to be attained by it? Why should not any community be allowed to borrow money from its citizens, and why should not the citizens be allowed to loan it to that community at any rate of interest they can agree upon, whether it is five, six or seven per cent? Why should we prohibit them from borrowing at all because they cannot get it at the same rate that other cities can?

Mr. W. H. SMITH. Mr. Chairman: This section says that the Legislature shall not pass any local or special law fixing the rate of interest. That does not interfere with the boroughs borrowing money, except to say that the rate of interest shall be fixed by a general law, affecting all equally, and not any one specially. Now there are institutions all over the Commonwealth whose charters allow them to loan money at widely different rates of interest. Some chartered institutions are allowed to charge six per cent., while others are allowed to charge ten per cent., the power being conferred by special charter. It is to prevent any special enactments of this sort that this clause is de-

signed. There exist in our city of Pittsburg, and I have no doubt all over the State, institutions that have the right to loan money at ten per cent. under a special law, and I hope this paragraph will be adopted to prevent such a thing as this.

Mr. MANN. Mr. Chairman: I desire only to say one word in addition to what has been said by the gentleman from Allegheny, and that is that this clause was agreed upon by the Committee on Legislation to prevent the very thing that the gentleman from Chester (Mr. Darlington) advocates. The committee thought that it was better that the Legislature, by a general law, should allow any city to contract such rates of interest as it has authorized them to do under a general act, and not to allow one city to pay one rate of interest, and another city a different rate. That was the very purpose we designed to prevent. We want, by a general act, to define this whole question of interest upon some sensible plan, which has yet never been done. There are now in this State saving funds and banks having rates of interest from six all the way up to ten per cent., according to the charters granted by the Legislature. One year the Legislature will pass these charters and allow the banks to charge ten per cent. interest per annum, and the next year pass another law, restricting them to six per cent. Such banks are in existence in this State, and it should be remedied, and it cannot be remedied by any other provision than just this one. I have heard it stated that we are to have a report from another committee which will supplant this; but until we have it, let us adopt this paragraph as it stands.

Mr. KAINE. Mr. Chairman: Before the gentleman from Potter sits down, I want to ask him a question, whether it is the intention of the Committee on Legislation to allow the Legislature, in pursuance of this provision of the Constitution, to permit persons or corporations to make any contract they please in regard to the loan of money?

Mr. MANN. No, sir. They propose that the Legislature shall regulate this subject by a general law.

Mr. KAINE. Mr. Chairman: The gentleman misunderstands me. I desire to know whether the Committee on Legislation expect that the Legislature will pass a general law, allowing parties to make any contract which they please in regard to interest?

Mr. MANN. Mr. Chairman: I am not authorized to say what the committee expect beyond what I have already said, that the view of the committee was that it worked injuriously to have this special legislation on the question of interest, and it ought to be eradicated.

Mr. KNIGHT. Mr. Chairman: For the information of the committee of the whole, I beg to state that the Committee on Agriculture, Mining, Manufactures and Commerce proposes to offer a clause, something as follows: "In the absence of special contracts the legal rate of interest or discount shall be seven per cent. per annum. But special contracts for higher or lower rates shall be lawful. All national and other banks of issue shall be restricted to the rate of seven per cent. per annum." This we propose, when our committee reports, to offer to the Convention, and it will be a general law, not fixed by the Legislature, but fixed by the Convention itself, legalizing the rate of interest to be charged by banking institutions of issue at seven per cent, and leaving the rate of interest where contracts are previously made at a higher or lower rate, but to be binding and lawful.

Mr. STANTON. Mr. Chairman: Do I understand my colleague to say that such a proposition is now pending before the Committee on Agriculture, Mining, Manufactures and Commerce?

Mr. KNIGHT. Yes, sir; I do.

Mr. STANTON. Then why should not the committee of the whole vote this paragraph down, and wait until the proper committee reports?

Mr. KNIGHT. Mr. Chairman: We do not see that this paragraph at all interferes with our report.

Mr. CORBETT. Mr. Chairman: I hope that this committee of the whole will pass this paragraph as it stands. It is possible that something may be reported from the Committee on Agriculture, Mining, Manufactures and Commerce, to which the gentleman from Philadelphia (Mr. Knight) belongs, that will obviate the necessity of it altogether, and, if so, there will then be no objection to striking it out. But we cannot anticipate what this Convention will do, even after the committee to which the gentleman belongs reports. Therefore we ask that this be now adopted by the committee, and reported to the House, and if the necessity of it is obviated it then can be struck out.

The paragraph was agreed to.

The CHAIRMAN. The next paragraph will be read.

The CLERK read as follows:

"Affecting the estates of minors or persons under disability."

Mr. WOODWARD. Mr. Chairman: It sometimes happens that in the examination of titles, a defect, real or apparent, is discovered which prevents an advantageous sale of an estate, and then there is no so convenient remedy as to go to the Legislature and get an act of Assembly to cure that defect. Now I must remind the legal gentlemen, by whom I am surrounded, that Blackstone tells us that acts of Parliament are one of the forms of conveyance sometimes resorted to, and resorted to with good effect. When designing men undertake to obtain an act of Assembly to take away from minors, women, and others under disability, their estates, I agree that the Constitution should restrain them, if possible; but we should not make that restraint so general in its terms as to prevent the occasional necessary interpositions of the legislative power which are quite according to the common law, and according to the practice of Parliament.

Therefore I propose an amendment to this paragraph. I would strike out nothing in the section, but I would add these words to the end of the clause, with a view of accomplishing the special end I have in view:

"Except after due notice to all parties in interest, to be recited in the special enactment."

The purport of that amendment is to qualify this restraint upon the legislative power by requiring, in case of any such special act of Assembly, full notice to all parties in interest before the act is passed, to be recited in the special enactment itself. I think that that will guard the interests of the defenceless, and those under disability, while it will not take away the power to relieve families and individuals in cases of extreme hardship. Take the case of an estate about to be sold for a valuable sum of money, and a defect is discovered in it which no court under any general legislation has power to remedy. If that defect can be promptly cured, the family is benefited by the price that can be got. If that defect cannot be cured the family is deprived of that price. Now there is no power in the Commonwealth that I know of that can remedy such a defect, except it be the legislative power.

I would restrain it to that class of cases. I would require the applicants to prove full notice to all parties in interest which should be recited upon the face of the law, and if not so recited, or if the notice was not competent, a court could hold the law invalid for that reason.

Mr. MANN. Mr. Chairman: If the gentleman from Philadelphia will modify his amendment slightly, I can see no objection to it. If he will modify it so as to make it read that the application shall be by guardians or trustees of estates, it will meet my views.

Mr. WOODWARD. Mr. Chairman: I would have no objection on point of principle to such a modification, but it does not exactly reach the case. The application to the Legislature may come from any parties. It may come from a proposed purchaser, as well as from guardians of minors or trustees. The suggestion of the gentleman from Potter would narrow it too much, but from whomsoever it came, full notice is required to be given before the Legislature can act upon it. If that is done, then I cannot see how any evil could result.

Mr. HANNA. Mr. Chairman: I would like to ask my honorable colleague from the city, whether or not such a case as he refers to could be provided for under a general law. I would remind him of the act of 1853, called the Price act, which provides for every supposable case which can arise under a settlement of a decedent's estate, and for all persons under disability, lunatics and everybody else. Why cannot some general act be made to cover the point?

Mr. WOODWARD. Mr. Chairman: It is not competent for the wit of man to provide for every case which will occur in human affairs. It is impossible that any one act shall comprehend all things. On the contrary, the next day after the law is enacted, a case will arise which is not within it. Such is the character of human affairs, that to attempt to adjust a statute to all possible cases, is to remind me of Judge Gibson's figure of a mantua-maker, who would prepare a dress for a lady before the customer came into her shop. It cannot be done; we cannot tell what cases are going to arise. But we all know, that in point of fact, these sporadic individual hardships do occur. We cannot anticipate them; we do not know when they will arise, and that is the reason why power to relieve them must reside somewhere in the State, if you mean

that the people shall be a free people. That is exactly the reason why Parliament possesses it in Great Britain, and our Legislature ought to possess it here.

Mr. CORBETT. Mr. Chairman: I do not exactly see the cases for which the gentleman from Philadelphia (Mr. Woodward) wants to provide for. This section itself is intended to prevent the Legislature from passing special acts by which the estates of minors shall be converted. It intends to limit those cases to general laws under the action of the courts. Now if a sale takes place, and there is a defect in the proceedings such as renders it void, and if it has not the effect of rendering it void the estate passes, but if the defect be such as renders the title void, I apprehend no Legislature now can cure it. They cannot divest an estate. It is only by a sale under regular proceedings, either by special or general law, that they can divest a minor's estate now.

This is intended to strike at special acts by which the estates of minors are converted. It intends to confine this class of estates to general acts; and I apprehend that we cannot cure a defect now by which the estate can be converted. I am opposed to any exception or limitation of this section, and I hope the committee will adopt it as it stands.

The amendment of Mr. Woodward was agreed to.

The question recurring on the paragraph as amended, it was agreed to.

The CLERK read the next paragraph:

"Remitting fines, penalties and forfeitures, or refunding moneys legally paid into the treasury."

It was agreed to.

The CLERK read the next paragraph:

"Exempting property from taxation."

It was agreed to.

The CLERK read the next paragraph:

"Creating corporations or amending, renewing or extending the charters thereof."

It was agreed to.

The CLERK read the next paragraph:

"Granting to any corporation, association or individual any special or exclusive privilege or immunity."

Mr. W. H. SMITH. Mr. Chairman: I desire to amend, by adding at the end of the forty-first line, "or giving to contractors, builders, landlords, or any other class of creditors preference or priority of liens against the personal or real property of any debtor, except for wages."

I do not see any better place for this

than here. I offered this as a suggestion some time ago, and it will be found on page twenty-four of the suggestions. I have been looking for the proper place to put it in, and presume this is it.

Mr. T. H. B. PATTERSON. Mr. Chairman: I would call the attention of the gentleman from Allegheny to the second paragraph of this section, prohibiting special legislation, "authorizing the extension, creating or impairing of liens." It seems to me that covers the point. Certainly that was the idea of the committee in adopting it. I think the amendment ought to be voted down.

The question being on the amendment of Mr. W. H. Smith, it was rejected.

The question then recurring on the paragraph, it was agreed to.

The next paragraph was read:

"Granting to any corporation, association or individual the right to lay down a railroad track," and it was agreed to.

Mr. BROOMALL. Mr. Chairman: I move to insert immediately after that paragraph the following:

"Nor shall the Legislature indirectly create such special or local law by the repeal of any general law."

I apprehend that when this local legislation shall be stopped a greater evil will probably be attempted to be perpetrated on the State by individuals, who, wanting to get a local or special law, get a general one, and have it repealed, as to all except the thing they want. I therefore propose this as an amendment at this point, so as to guard against the class of cases referred to.

The question being upon the amendment of Mr. Broomall, it was agreed to.

Mr. KAINE. Mr. Chairman: I offer the following amendment, to come in as a new paragraph, after the one just adopted:

"Regulating labor, trade, mining or manufacture."

The amendment was agreed to.

The next paragraph was read, as follows:

"Nor shall any bill be passed granting any powers or privileges in any case where the manner, form or authority to grant such powers and privileges shall have been provided for by a general law, and in no case where a general law can be made applicable, nor in any other case where the courts have jurisdiction, or are competent to grant the powers or give the relief asked for."

Mr. BAER. Mr. Chairman: I offer the following as an amendment:

"Nor shall any law be passed empowering courts to grant a divorce, a *vinculo matrimonii*, for any cause, arising after the marriage took place, except adultery."

In doing this I feel that I have entered grounds that may possibly be hard to maintain, but the greater reason exists for the effort. I shall at least not die without a struggle. All I ask of this Convention is an open field and a fair fight.

As, however, this subject is a comprehensive one, it will be impossible for me to give my views upon it inside the twenty minutes allowed by rule to members addressing themselves to the discussion of any question. I would, therefore, ask leave, at this time, to have an extension of time in advance. I would ask the Chair to take the decision of the Convention, as to that point, before I begin.

Mr. BIDDLE. It is certainly a very important subject. I hope the time will be extended.

The CHAIRMAN. Unanimous consent is necessary. Shall the gentleman (Mr. Bear) have unanimous consent? ["Aye!" "Aye!" "No!"] Unanimous consent is not given.

Mr. DARLINGTON. The time can be extended if the gentleman (Mr. Baer) should not get through in twenty minutes.

Mr. BAER. Mr. Chairman: I rise with great diffidence to defend the amendment just offered. I know that it is radical, but founded in truth and justice; and I believe that now is the time and here the place to introduce it; but I am overawed by the consciousness that I am wholly unable to do justice to the subject.

That the proposition, in the present state of society, will not only meet with much favor, but would be endured by a overwhelming majority of the electors of this State if submitted to them, I have no doubt. But I fear I shall be unable to win much favor for it in this Convention, and will possibly succeed in verifying a prediction made by one of our members early in the session, when the question of publishing the Debates was under discussion, that it would be quite likely more than one of us would, during our discussions, write himself down an ass.

Did I not, therefore, deem it an imperative duty imposed upon me by an innate sense of right, and a consciousness that I would fail to do my whole duty here, if I failed or neglected to urge such amendments as I believed would tend to the

general welfare of the people of the State, and would make our fundamental law entirely consistent with the great and eternal principles which underlie all good government, I would hold my peace—for "it is hard to kick against the pricks." But having introduced the amendment early in our session, and finding that it had found no favor in committee, I am compelled to offer it here where I may give such reasons as I can for the faith that is in me, and establish, if possible, that it is at least worthy of consideration. The principal involved in the amendment is, that marriage, which is the very foundation and life of society, from which spring all the joys and happiness of mankind, and upon which are based the hopes and well-being of a nation, *is not a civil contract, but an institution arising out of the nature of man and society.*

Very many men I know flatly deny this, but they do so, in my opinion, in consequence of what I deem a false sentiment of this and previous ages, created by those who, though they succeeded in moulding public sentiment, did so in virtue of their acknowledged intelligence, but not upon the plain principles of common sense, as found dwelling in the average human mind, and as applied to the nature of man's being and his relation to God, but upon some fancied theory of the prime original state of man antecedent to all society, and independent of the law of his being, or of his relation to that great and holy being, who created man in his own image, and that, therefore, both *society and marriage are founded on contract.*

The two theories indicated raise the whole question involved, and upon the adoption of either depends the truthfulness or untruthfulness, the vice or the virtue of the principle embraced in the amendment. If one theory is adopted, my amendment is founded in error and should fall. If the other is adopted my amendment is founded on the eternal principles of truth, co-extensive with man himself, and with him must stand. And in order to determine the question intelligently and correctly we should examine both theories and see which is true.

Now, I call upon the one hundred and one lawyers in this Convention, who are ready to proclaim law a science, and the common law the perfection of human reason, to rise up to the full standard of their professional dignity, and meet this question upon its merits—to analyze it as they would any other great fundamental principle—to

leave out of consideration exceptional consequences and statutory enactments of mere human origin—go back to the source and fountain of society—survey the whole field of laws, human and divine, and see whether, in all its proportions, the laws of marriage and divorce will square with first principles, which are eternal and underlie all sound laws.

And I call upon the thirty-two very learned and intelligent lay members of this body, to examine the question involved, carefully and conscientiously—free from all previous prejudices or convictions, arising from existing customs or existing laws, but in the light of reason and the well-being of society.

In order fairly to discuss and understand the length and breadth and depth of the question involved, it is necessary to go back to the beginning of all things—to the days when man first appears upon the stage, and ascertain what was his condition then.

There are those, and in vast numbers, who teach and believe, "that society exists by virtue of a social compact, and that prior to the formation of this social state, man was found in a state of nature, when, as the poet says,

"Wild in the woods, the noble savage ran,
Ere arts and manners first corrupted man."

"That in those days man appeared upon the earth as does the brute or the beast of the field—going where, and doing as he would—existing as an individual, independent of all other men—having nothing to do but to eat and drink, and do whatever his heart moved him to do, in which state of nature there were no husbands—no wives—no property—no family—no nation—no rights—no wrongs—no worship. Nothing but the individual man on the same plane with the beasts of the field."

That therefore his rights were unlimited and *man was supreme.*

They would have you believe that from this state of nature men came voluntarily together and constituted society by compact, each renouncing a portion of their original rights as a price to society for securing others.

This theory, I am sorry to say, is advocated, directly or indirectly, by a great mass of mankind, who would consider it a very great insult to be called anything else than christian.

Another theory, not more heathen to my mind, than that just mentioned, assumes, "that at first men crawled out of the earth

as worms, which gradually and constantly developed from a lower to a higher order of creation, and in due time appeared upon the stage as brutes and dumb animals, fighting, at first, with fists and scratching with nails for acorns and wild fruits, and finally with arms which necessity invented; their rude cries they gradually formed into articulated language; and then having gradually ascended in the scale of being, and having assumed an erect form they came together; by means of their crude language they made a social compact, which constituted their first and fundamental law and in it provided for marriage."

But what evidence, I ask, exists anywhere that sustains either of these fancied prime original states of man, antecedent to all society and independent of the inherent law of man's being? Search the traditions of earliest days; examine all records, sacred and profane, and where do you find the evidence of such a state? Writers on christian ethics may well exclaim: "Lo! in the historical records of the whole world there is no record of such a state or such a compact." It exists only in fiction and theory, and has no foundation in fact.

Go to the orient and get the first glimpse of man, and tell me how do you find him there? Tell me, does he roam in the forest with nothing but instinct as a guide, in the capacity of individual man, or as a being possessed of reason, and in society? Your answer can only be: We find man, wherever he is found, even in the fewest numbers, whether in the orient or occident, in the state of society; and on pushing the investigation still farther, you are compelled to acknowledge that man enters society as a member of a family. Adam and Eve are the first male and female man we have any record of. They are the source or root of all human beings, if the records are true, and their first appearance is in society, "male and female made he man," and every subsequent human being was *born* into society. But if you will not concede the Adamic origin of man, and deny the truth of the statement, will it follow that upon the mere denial thereof the converse is proven?

Let us see. Take me to any place upon this globe, "where from newness of a country—famine, war, pestilence, desolation or emigration—only one family is found, and can you show me man in the independent a individual state roaming at pleasure and doing as he will? No, you cannot; for,

whether you go to the old or the new world to demonstrate your theory, everywhere you will be confronted by the presence of man as a member of society. Wherever he has first been seen he has been found in society, and though you may find a spot on this earth, remote enough from all other places, and find upon it a human being at all, it will be at least "one family, a man and wife; a social organization, which is at once a family; a nation in embryo, and a church, and the head of it, at once the father, the king and the priest," with no evidence of origin; and you only know, but your thereby know it truly, that this organization is coeval with man. Assuming, now, that you find these relations existing, how then do you find man? Does the condition you find him in warrant the assumption of the heathen story "that man surrendered part of his natural rights to society in consideration of his being made more secure in those that were left him?" What rights in the fancied natural state could man possibly have had that were at all commensurate with his rights in society? Has not a man in society ten thousand rights a savage never dreamed of?

Suppose it were true that man in his natural or savage state could do as he pleased; was he not restricted by his power and ability? Surely he was not omnipotent. It at most could mean that he could do as he pleased within the limits of his ability; and does not the history of the world, and of the human race, prove, conclusively prove, that man only becomes powerful in society, and that the higher a nation attains in the scale of intelligence and civilization the more powerful it becomes?

Aye, "a mere glance at man in his fancied state of nature, and at civilized man in society, will satisfy any man that society enlarges, develops, secures and defends the rights of man; and that unless murder, robbery, theft, lying, contempt for the marriage bond and all crimes, *melum in se*, were prime original natural rights, he has surrendered none," and this feature in the social compact theory falls.

If this theory were true; if it were based on incontrovertible facts, not assumed but proved; then indeed would society depend upon contract, and marriage be an institution of society; and the conclusion would be irresistible that marriage is a civil contract, and may be annulled for any cause, and if the argument was carried to its utmost limits, might be annul-

led for no cause at the mere pleasure and will of the parties. For it is a principle of law and of common sense, that they who can make a contract can also unmake it, as will be seen by the following definition of a contract:

"A contract is a convention or agreement by which two or more persons consent to form between themselves some lawful and binding engagement, or to rescind a preceeding one or modify it."

Are you ready to endorse this civil contract theory, and destroy the family, undermine society, degrade public morals, and out of the marriage bond make a mere rope of sand? Consequences that would necessarily follow.

Nay, you would not; but, as men, you throw yourself back upon the State, and console yourself with the solacing conclusion, that as the State adopts the heresy, your skirts are clear.

But, sir, to-day, and now, this body represents the State, and in the future the State will just be what this body makes it to be, and for all iniquities which shall be crystallized knowingly, into the fundamental law, this body is responsible.

The State proclaims marriage a civil contract. But behold the sovereignty of the State, after having violated the very nature of man's being by proclaiming marriage a civil contract, resorting to a miserable subterfuge to shield herself from the dreadful disaster which is sure to follow the monstrous heresy, by a principle of law of her own creation, and declares, that a contract between the parties to a marriage, to annul the same at pleasure, or for any cause whatever, is against public policy, and therefore void.

Why against public policy? and why void? Let the champions of the civil contract theory answer.

Sir, I assert that it is against public policy, because it is against the law of nature and the law of man's being, and is void, not because it is against public policy, but because it is in conflict with the laws of *nature, and the revealed law of God*, and that the restriction against the annulling of a marriage by agreement of the parties, is an unwilling recognition by the State, that marriage is not a *mere civil contract*, but has its existence as an institution of the law of nature, which law itself proclaims that any dissolution of the marriage bond, except for the *cause of adultery*, is not only against public policy, but void, "inasmuch as by it no injustice—

no immorality—no wrong to individuals, or society can be justified or excused."

Go back as far as historical research will carry you, examine the lives, the history, the customs and the habits of all nations, communities and peoples, from the most civilized, refined and intelligent, down to the rudest, most barbarous and savage.

Aye! go back, view man as he emerges out of chaos, at the fiat of *Almighty power*, or as he gradually develops from a creeping thing in the proud stature of an erect intelligent being, possessed of God-like faculties, and show me where is the evidence of the institution of marriage as a mere social contract? Who were the first parties to it? where was it consummated? and what were the terms?

Failing to adduce any evidence of the fact, by direct proof or by implication, don't ask intelligent men to believe it on mere bold assertion, or as a deduction from premises, assumed by an infidel philosophy.

The fact that marriage is found existing from earliest days, and among all nations and people, affords no presumption that its institution was by contract. As well might you ask us to presume, that because the beasts of the forest, the brutes of the field and the birds of the air, though destitute of reason, and lacking all the elements which enter into the making of a contract, do nevertheless mate and in couples agree, such mating is based upon contract.

As the common intelligence of man must revolt at such a conclusion, I ask, sir, to what conclusion does it unerringly point? I answer it myself, because it is the voice of the ages. All animated nature do so mate and in couples agree, by virtue of a law of their being, and not by virtue of a contract. For bears and lions to mate and in couples agree, is quite as much a part of their nature, as it is for them to growl and fight.

And if the history furnished us by naturalists, has any truth, many animals can be found from whom lessons of duty and fidelity might well be learned by man.

The lion, by instinct led, will not forsake his bride. Nay, while the lioness nurtures and cares for the young ones in the den, the noble giant of the forest roams at large in quest of food for this royal family. And woe betide the rival who, at any time, dares to enter his paradise uninvited.

So while the female bird sits upon the nest, and attends to the family duties at home, her mate is out in search of food for

both; and nobody ever heard of the gentleman bird playing false to his bride.

Man only descends so low in the scale as that. In the absence then of all proof of a contract, the existence of the fact of marriage and the mating in pairs in man and beast from earliest days, is a conclusive proof, that the institution is one of nature and not of contract.

If by contract, there must have been a time where man and woman roamed as individuals—man being the strongest, was lord of the forest and “might making right”—he would seize upon every woman in his way—there being no eternal fitness of things, and man not led by instinct, as the balance of animated nature, and unable to subdue the flesh, as has always been his history, would make the life of woman intolerable. She would be at the mercy, not only of a man, but of *all men*.

Behold her in the days of gestation—the hours of parturition—the months of nutrition, weak, but lovely—how is she to be protected from the fiery passions of man, roaming where, and doing as he pleased? How is she to be nurtured when days of travail are over? Could she, like the hen, run clucking, her brood following her with the shell yet on their backs?

Oh! the deep damned infamy that would rest the foundation of society on such a hell-born basis!

Stop for one moment! annul with an Omnipotent fiat, all laws human and Divine—resolve society into the original elements of individual man and individual woman, independent of any natural and revealed law; let loose the reins of passion and lust; sever the domestic and family tie; turn loose the libertines and lascivious devils, who but wait to lay hold of the most virtuous and beautiful woman that passes their way; and a score of them will, against her will, know her in an hour. Like the wandering jew, she could have no rest day nor night.

Imagine all laws and restraints removed and set aside in this city. *Ye gods!* who could contemplate the scene.

Is it possible that any sane man believes such a state ever existed? Will you still insist that such a state as we find the other animals now exist in, may at one time have existed for man?

I tell you, sir, all nature gives it the lie. For all animals, except man, are guided by instinct, which never *errs*—it is true and constant as the needle to the pole. While man having the god-like faculties

of reason, knowing good from evil, and having the power to choose, is not led by instinct, which, in him, is very weak, but acts independent of instinct, and without regard to any imperative law of his being. And while instinct always leads animals of the same class and genus in the same direction, reason, operating in the minds of individuals, excites, impels, moves and determines each man differently; and as the powers and lusts of the flesh are stronger than the powers of the will, as the history of man fully demonstrates, he is led by them, as by an *ignis fatuus*, into all sorts of absurdities and crimes. All animals, except man, are to-day what they were originally, and man, occupying a higher sphere than that afforded by instinct, alone fell. Having, I think, shown that neither society or marriage are creatures of contract, but that they are institutions arising out of man's nature, it is necessary to go farther before we can determine the question at issue.

From the premises established, how far can the civil or municipal law go in enlarging or restraining the original institution?

The acknowledged doctrine of this State is: That sovereignty, or the supreme power of the State, is inherent in the people. If therefore, the absolute sovereignty is in the people; if society was originally formed by man in a state of nature, where they were free and untrammelled by any law; coming together and forming a compact, then the laws passed and ordained by such society would, indeed, be supreme. And if it should enact that murder is a virtue, stealing honest, lying honorable, promiscuous concubinage right, and marriage a civil contract, so they would be, whatever consequences might follow. And we to-day, being here by express delegation, representing every human being in this State, would be, for the specific purpose of framing a fundamental law, the supreme power of the State. If we enacted the section, as it stands, it would be the law. If we rejected that, and adopted the amendment, it would be the law—assuming, always, that our work would be ratified by the people.

If there were no other questions or principles involved, it would follow that whatever this Convention enacted as law, would on the particular subject matter be the law; whether wise or unwise, beneficial or injurious to man or society. But our enactments cannot become anything more nor stronger than municipal law,

which is "a rule of civil conduct prescribed by the Supreme power of a State, commanding what is right and prohibiting what is wrong;" and within this rule is found another recognized principle, which declares that all governments are founded by the people and for the people, for the purpose of promoting the general welfare and greatest happiness of the greatest number "*salus populi supraemallex*" has come down from the ages, and is as much an axiom to-day as at any previous period. Our enactments must, therefore, be strictly in accordance with public policy; and if this were the only limitation upon our power we should content ourselves with the inquiry: Does the section, or the amendment, or either or both, accord with the principles of public policy? But we can best solve this question by going a step farther.

For on the examination of the true spirit and essence of municipal law, we find that the supreme power of a State which establishes and ordains municipal law, is, in its sovereignty, limited by the law of nature and the revealed law of God, which are not only superior laws, but are the ultimate abodes of sovereignty. And therefore our fundamental law, when we shall have done with it, will be supreme only, in so far, and no farther, as it is in harmony and consistent with the principles of public policy, the law of nature, and the law of God. And as the law of nature and the revealed law of God are the Supreme law, and all other laws or rules are subordinate, the only inquiry necessary for us to make is, are our enactments in harmony and consistent with this Supreme law, for the principles of public policy themselves are founded on the same great law, and the moment we establish any subordinate rule or law to be consistent with the Supreme law, that itself also establishes its harmony with all valid subordinate laws.

What is this law of nature? Our best and wisest authors define it to be:

"A law prescribed by God to all men, not by formal promulgation, but discoverable by the light of reason—it comprehends all the duties we owe either to the Supreme Being, to ourselves, or to our neighbors. It is superior to all others, binding in all countries and at all times; all laws and constitutions which are valid derive their authority directly from it and from the revealed law of God, (the Bible,) and all in violation of either, or both, are void."

So we read as lawyers, and so we profess to believe. Does our faith and practice agree? Let me suppose a case. Suppose a man and a woman of full age, and free from any of the legal bars or restraints which would make the marriage void, mutually agree that they will unite as man and wife, but that the being of the husband, for the most purposes, shall be merged in that of his wife, and that under her protection and cover he shall perform everything. In short, that the wife shall be head of the family, and the husband shall be *baron covert*, as by the existing rule the wife is *feme covert*, that she should be clothed with the governing attributes of the man, and that the husband, in the family, should obey the wife. That, as part of a marriage contract, they mutually agree that the man shall not take the woman away from the neighborhood of her mother without the consent of the wife, and that the marriage was solemnized by incorporating this agreement in the ceremony. Will the advocates of the civil contract theory tell me whether this contract is *valid or void, and if void, why?* I answer, the contract is void, but the marriage is nevertheless valid, and this, because marriage is not a civil contract, but an institution of the law of nature, which law can not be modified by any contract or condition which man and woman or society can make. I assume now, from all that has been established, that marriage is an institution of the law of nature, and as such I assert it can not be annulled; because,

1st. "Marriage, as defined by the Roman law, and the definition everywhere accepted, is the union of a man and a woman, constituting an united, habitual course of life, never to be separated; a partnership of the whole life, a mutual sharing in all rights human and Divine;" and the common law goes farther and treats them, for many purposes, as one person.

2d. Independent of this definition, which accords with the nature of the institution itself, it is plain that inasmuch as the institution is not by contract, it cannot, like a contract, be rescinded by the parties to the marriage; for that only may be rescinded which was made a contract by competent parties.

3d. As it is an institution of the law of nature, it is therefore a part of that law; and as, under our theory of government, no law, in whole or part, may be annulled or repealed except by the supreme power,

and as the sovereignty of this State is only supreme when it acts in harmony with the natural and revealed law of God, and is to all intents and purposes subordinate to that law, and as the annulment of marriage would, to that extent, be equal to an annulment or repeal of the law of nature, it follows that all contracts or laws having for their aim the granting of divorces, by which the marriage bond is annulled, are void, as it would in effect be the elevating of a subordinate power over the supreme power. The declaration of Holy Writ is therefore a mere reflex of the law of nature: "What God has joined together let no man put asunder."

Is this a mere figment of the imagination? Let us see. "A man and woman unite in marriage, become one flesh, sharing in mutual joys. One of the ends of marriage is to pro-create children and propagate the species. A new era and new life dawns upon them—the man becomes father, the wife mother; and this new relation is like the perpetual union itself; it runs through the whole life. Nothing but death destroys the relation of father or mother—nay, not even the death of the offspring—nothing short of the death of the father and mother themselves; for once having become a mother, though her child die, and though her husband desert her, yet can she not bring herself back to the ante-nuptial period, before the womb was opened. It has become a part of her nature, is co-extensive with her life. Can you dissolve the bond and put the parties in the same condition they were before? If so you would have some reason for claiming to deal with it as a civil contract. If you cannot, and who is there here bold enough to maintain such a doctrine, then only can you act through violated law.

Up to this point in the argument I have endeavored, though in a disjointed and rambling way, to prove the truth of my position, outside and independent of Holy Writ, using whatever I could find in legal and moral science, which bore upon the question, in order, if possible, to convince those, if any there are, who do not believe that the Scriptures are divinely inspired and binding upon the consciences of all men, that the principle involved in the amendment is founded on truth, and has been established independent of the laws of Moses or of Christ.

And I am bold enough to assert, that no matter how illogically and awkwardly expressed, the great truths of the argu-

ment do nevertheless establish the fact that marriage is an institution of natural law, which law binds all men whether they will be bound by it or not, independent of any religious belief; and that man, willing or unwilling, must by his own inherent nature, if true to himself, acknowledge that the marriage bond is perpetual, that only one woman was born for one man, and one man for one woman; that husband and wife are so essentially one.

That on the plain principles of common sense, no human power is strong enough to annul it by contract or legislation; and that though you should separate the parties, the union in its mysteriousness continues to exist, and will continue to exist until death or adultery dissolves the tie.

But, may I not hope, that for this Convention, there is an irresistibly conclusive argument in favor of my amendment, found in that Book of books—that living word which is the reflex of Jehovah himself, and which to us and all men is the supreme law, pointing out to us the way of life and holding forth the hope of glory.

Its utterances are the way, the truth and the life—accepted by us all without reasoning or demonstration. All christians receive it as the oracles of the living God, and to us all it is a thus saith the Lord of Hosts.

Let it testify in this cause.

On this plain we have no grappling in the dark to discover the origin of man. The Record proclaims, and on the sixth day the Lord God made man; out of the dust of the earth made He him; male and female made He them. Man, as made, was one at first; but when the Lord God said it is not good that man should be alone—from his flesh and bone He made a partner for him.

Man was the original creation; and woman was made out of the substance of the man; flesh of his flesh and bone of his bone; adapted by their very nature and constitution to union in marriage; the one for the other.

And to establish for all time the certainty of the divinity of the institution—the union of the man and the woman—God made but *two*, one man and one woman, the one for the other as a necessity of their creation; the man out of the dust, the woman out of the flesh and the bone of the man, so that the two contain but the flesh and the bone of the original man, and hence the two were, and were so declared, one flesh, henceforth existing as male and female man. Making them

one flesh, so that no contract or choice could intervene; neither could do without the other, if either would—the very law of their being impelled their union as husband and wife.

There was no formula used in that original marriage, nor was there any occasion for Adam's saying, "I take you, Eve, for my wife, as long as we shall live or agree, or for good and for worse, in sickness and in health, in adversity and in prosperity, to support and protect." Nor need Eve reply, "I take you, Adam, as my lawful husband, as long as we both shall live or agree, for good or for worse, in adversity and prosperity, in sickness and health, to love and obey, until such time as you, Adam, shall look smilingly upon some other fair dame.

But it is a fair implication, from all that is recorded of this primitive marriage, that Adam, looking lovingly upon Eve, and finding her the most beautiful and lovely being upon all the earth, did not go through the tedious modern custom of courting; but at a single bound, rushing to her side and embracing her, says, as he had the right to say: "*I am no longer myself—no longer a man; I am only the greater fraction of a man; I am utterly and hopelessly ruined for all time to come, unless the other fraction be restored again. Oh, me! How can I be lord of creation, short of a perfect man?*" And addressing Eve, says: "The Lord God, when I was asleep, took one of my ribs, bone of my bone and flesh of my flesh, and made you, my darling Eve. You are the other part of myself—the fraction taken from me, as man—nothing entered into your composition but bone of my bone and flesh of my flesh; you, in your *entirety*, are only the rib which was taken from my side; together we represent the sum of *all* the parts of the original man. The sum of *all* the parts is only equal to the whole—the whole was man, and any fractional part is less than man—without you, then, I am not man, and you not man; *but with you, I am myself again*, lord of creation, and head of the race. Henceforth you are mine and I am thine, and together we are man."

Because of this mysterious union of husband and wife, a man shall leave his father and mother, and shall be united unto his wife, and they two shall be one flesh. "The natural tie of parent and child, close and tender as it is, and far exceeding any mere contract alliance, shall be superseded by one infinitely closer and

dearer, in the relation of husband and wife. So closely and truly shall man cleave and be united to his wife, that they too *become one flesh*. And though a son partakes of the elements of his father and his mother, which in him are inseparable, and make the relation of parent and child one of the closest ties imaginable, yet this is far excelled by that mysterious union of husband and wife, whereby they become one flesh.

Is the injunction, then, a strange or unnatural one which proclaims: "What God therefore joined together, let not man put asunder?" Not in the least. It follows logically from the relation established; for if husband and wife are once made one flesh—one life—then nothing but death can destroy the relation. Death, alone, is an extinction of life. Hence, though you may separate the parties, the oneness continues—the union is perpetual, and has become a part of their nature, which death alone can change or modify.

The Scriptures teach that husband and wife are one flesh, so one that, by Christ's law, nothing but death can disunite them. One, so that the unbelieving husband or wife is sanctified by the believer. One, as Christ and his church are one. One in a mysterious union, incomprehensible to us, but true, because revealed as a truth in God's holy word.

St. Paul, in Eph. v, 22, says: "Wives submit yourselves unto your own husbands, as unto the Lord, for the husband is the head of the wife, even as Christ is head of the church, and he is the Saviour of the body." * * * *

"So ought men to love their wives as their own body, for he that loveth his wife loveth himself; for no man ever yet hated his own flesh." * * * *

But close as is the union of husband and wife, though they have really become one flesh, and are, jointly, but one perfect man, by a union, for the whole life. Yet it is clear, from the Scriptures, that the tie, strong as it is, may be dissolved; but for one cause only, and that the foulest, meanest, most infamous and degrading, yet least punished of all crimes, adultery.

This is plainly asserted in the nineteenth chapter of the Gospel of St. Matthew: "The Pharisees also came unto him, tempting him, and saying unto him, Is it lawful for a man to put away his wife for every cause? And he said unto them, have ye not read that He which made them at the beginning, made them male and female, and said for this cause shall a man leave

father and mother and shall cleave to his wife, and they twain shall become one flesh. What, therefore, God hath joined together let no man put asunder. They say unto him, why did Moses then command to give her a writing of divorcement, and to put her away? He saith unto them, Moses, because of the hardness of your hearts, suffered you to put away your wives; but from the beginning it was not so. And I say unto you, whosoever shall put away his wife, except it be for fornication, and shall marry another, committeth adultery; and whoso marrieth her which is put away, doth commit adultery."

Here, then, is the conclusion: You may permit husband and wife to live separately, as under our divorce, *a mense et thoro*, they now may do. If, for any good reason, it is impossible to live harmoniously together, but they shall continue to be one person, and the relation still existing, they are bound to fidelity to the marriage bond. But the bond itself, which is a part of their nature, you shall not destroy, nor permit it to be destroyed, so that the parties become disunited, with all the powers and immunities of anti-nuptial contract again attaching, including the reciprocal right of marrying again, except for one cause only, and that adultery.

This crime is so enormous in the eyes of humanity and of God, that all the essential elements originally entering into the marriage union are destroyed, and that as effectually in regard to its operation on the innocent party as by the death of the guilty party.

Love, affection, trust, confidence, fidelity, all have disappeared. Mutuality of the marriage joys has flown, one of the parties to the original marriage, with a broken heart, is made miserable for life, while the other, the guilty cause, having severed the most sacred earthly tie, by defiling himself in a foul nest, soon finds the gates of hell ajar, ready to receive him into the final abode of all the damned.

Now, sir, in this day and generation—in the light of the law of nature, and with the revealed law of God before us—with the municipal law as our guide in what is right and what is wrong—and it declaring that all laws inconsistent with the natural and revealed law are void. I ask, will you vote down this amendment, and crystallize the iniquity into the fundamental law?

Don't excuse yourselves by any mere subterfuge, such as, that the section as it stands, don't violate the principle. I charge that it does, because it recognizes

the right of granting divorces by courts of record or other tribunals by virtue of general laws, and that without any limitations whatever.

And it must be plain to the common sense of all men that the evil that the people are complaining of is not that the Legislature, like the courts, grants divorces, but that both the Legislature and courts grant divorces in violation of the christian law and of municipal law. And that it is quite as degrading to the public morals, to have illegal and unwarranted divorces granted at one place than at another.

To-day, sir, I am informed there are no less than forty cases pending at Harrisburg; add to these the number pending in the courts of each county of the State, and you will swell the list to such monstrous proportions that even the champion State of Indiana will pale before it, although in its capital town last year, one divorce was granted for every six marriage licenses issued.

No one dreams of the extent of the iniquity, without specially investigating the matter.

A friend cites me to Connecticut, where last year nearly five hundred divorces were granted.

And Ohio, the *Quasi* Yankee State, furnishes one county where the proportion of divorce to marriage was as one to nine.

Now, Mr. Chairman, I find, sir, in looking over the files of amendments proposed, that propositions have been submitted to this Convention contemplating a provision in the preamble of the Constitution, recognizing Almighty God as the Supreme Being and Ruler of the universe, and acknowledging our dependence upon Him. I take pleasure in saying now and here, that no man will more cheerfully vote for such a proposition than I will, if it is presented at the proper time, and shall be found, when presented, to be entirely and fully consistent with all our work, so that the whole may, without spot or wrinkle, and entirely free from blemish, be dedicated to Him who holds in His hands the destinies of nations and of men. And I am very sure the great christian heart of this good old Commonwealth is in entire harmony with our good designs.

But I must be permitted here to call earnestly and pleadingly upon all the true friends of that proposition to rally in support of the amendment I am advocating,

as one infinitely above and beyond that they are seeking to establish, in its bearings upon society, and without the adoption of which, with some kindred propositions that will yet arise in this Convention, all these labors, though they should succeed in accomplishing their purpose, would not only be inconsistent, but to the minds of intelligent men would appear hypocritical, unchristian and absurd, and possibly not very far removed from blasphemy. They want to have the world believe that we, as a people, recognize Almighty God as the great and Holy Being, existing from all eternity, Creator of all things, Ruler of all nations and Judge of all men. I agree with them, this is well. But is this all that is intended by the proposition? Do they want it merely as an advertisement of the theology of this State, to draw the kindest sympathies of the wise and good of all nations towards it? Or is it proposed as a public profession of the faith of the State, as one great perennial and perpetual act of worship—a great and glorious *Te Deum Laudamus*, which shall ascend constantly and unceasingly to the Throne as the voice of a mighty people, saying: We praise Thee, O God; we acknowledge Thee to be the Lord. All the earth doth worship Thee, the Father everlasting.

If its purpose is to recognize the sovereignty of God, and acknowledge a nation's dependence upon Him, whereby the natural and revealed law are proclaimed supreme, and as a consequence municipal law subordinate, I am with you with all my soul. But let me say to the friends of that great measure, while their cause is just, their labors are herculean, and must be consistent.

It is manifest from some amendments, or propositions offered, that an effort will be made to remove all disability, ostensibly on the ground of religious belief, but in reality to make men eligible for office, and eligible as witnesses and jurors, who have no religious belief at all, and who deny the very existence and being of God, although the Scriptures declare that "the fool only in his heart says there is no God." When this proposition comes up, how will you vote then?

Propositions will be made to exempt men from military service on account of conscienceous scruples against bearing arms, based upon the teachings of the Master whom we profess to follow. When it comes before us, how will you vote then?

And in the proposition now pending, you have before you the great evil of modern society, an evil whose existence is a disgrace to the State and the age, and an insult to the christian sentiment of all the good people of this Commonwealth. You have here and now an opportunity to show your zeal and your faith by your works. Will you stand up and help to fight on the side of the Lord of hosts? Will you help to lead the van in all these States, asserting, by your votes to-day, that marriage is not a civil contract, but an institution existing in the very nature and being of man and his relation to God, and recognized and proclaimed in the revealed law? That husband and wife are one flesh, joined together by God himself, and may not be dissolved for any cause arising after the consummation of the marriage, except for adultery?

If you do all this, you will do all that in this regard is asked or looked for. Your work will be consistent, and you can safely unfurl the doctrines of the preamble at the head of the instrument, and it will be a true emblem of the character of the instrument itself. But if you want to emblazon this great principle of the preamble at the head of the instrument, without caring what the instrument itself shall contain, you will have put yourselves in the position of the skillful painter, who, too, professed that he was master of his profession, and his work gave rise to a story which I shall relate, as it contains a stronger argument for my cause than I can make. In times gone by, when swinging signs were the last and best thing out, a landlord in a thriving town was prevailed upon to have a sign painted, that should, to some extent, indicate the leading trait of his business. And as his was the headquarters for horse drovers, and the place where persons in search of a good horse invariably came, he was easily persuaded to have the noble animal painted on his sign.

The artist who claimed to be master of his profession, went vigorously to work, and in a few days his work was swinging as a sign at the village inn. It was a wonderful picture, painted in the most gorgeous colors, and dazzling in the sunlight like a constellation of diamonds. It soon drew the villagers together, who stood in awe, gazing at the painting. But unable to decide what it was intended to represent, the inquiry became universal, what is it? What is it?

It happened the picture had been painted to fill the imagination of the painter, and was not understood by anybody else, and it became necessary for him to print below the picture, in letters large and brilliant: "This is a horse."

Now if this Convention wants to make terms with the devil in the body of the Constitution, by adopting the licentious and infamous doctrine of marriage, which nature, God and christianity unite in denouncing, then vote against this amendment, which denounces the christian and natural law doctrine, that marriage shall not be annulled except for that foul, unnatural, rope and hell-deserving crime of adultery; and assert, by your votes, that the civil is above the natural and revealed law, and you will have succeeded in painting a picture that does not express the true, christian sentiment of this State, and like the painter, you will be compelled to print in large letters the name of the image which you were expected to paint, but which can't be discovered in any other way. By dedicating it in the preamble to that great and Holy Being in whom the people of this great Commonwealth trust.

If, however, you are in earnest, if this Convention does really represent a christian State, and if the effort to adopt such a preamble is intended to afford a true expression of the faith of the State, then embrace this amendment in the Constitution, and make it possible honestly to use the preamble. We will thereby reflect the will of a vast majority of the people of this State—will make the provisions of the fundamental law consistent with the natural and revealed law as well as with itself.

We will purify society; will remove a stain from our fundamental law; will reflect honor upon the marriage state; will do justice to the pure wives and daughters of the Commonwealth; will assure them that the marriage bond is not a mere rope of sand, which may weaken with failing health and decaying beauty; will reconcile discordant elements in families where love does not reign; will convince the world that it is quite possible and agreeable for some husbands and wives to live together and enjoy all the blessings of a married life, who before could not tolerate one another's presence. But not only this; home will be the dearest place on earth—a perfect paradise for husband, wife and children—in which the wife will pull through love—and Constitutional

Conventions will not soon be troubled again by advocates of woman's rights, all having been restored by declaring the true character of the marriage union.

And, inaugurating this great reform, what State more able or more worthy to lead the van than this land of steady and conservative habits founded by the immortal Penn?

We will thereby elevate our wives and daughters; make them feel that husband and wife are not joined together by a mere rope of sand, that may weaken with decaying health and fading beauty. That having become one flesh by marriage they have entered a perpetual union, extensive with the whole life so mysteriously yet truly united and made one, that nought but death or the foul, unnatural, soul-destroying crime of adultery can dissolve it.

Woman will thereby appreciate her true sphere in society; will fill the mission of her being; will realize that she is a queen in the family, and will there rule through love. Strong-minded women will disappear from the stage, and woman's rights, having been restored by conforming the civil to the natural and revealed law, will not trouble a Constitutional Convention again.

And we, as a State, will lead the van in a reformation that no state in the Union can lead better, with more consistency or greater prospect of ultimate success, than this State of steady and conservative habits, founded by the immortal Penn.

The amendment of Mr. Baer was not agreed to.

Mr. T. H. B. PATTERSON. Mr. Chairman: I move to amend the section, by adding to the end the following: "*Provided however*, That bills may be passed repealing local or special acts."

I would state that this matter was the subject of consultation in the committee, and it was the general understanding of the committee that this provision would appear in the report, but, by some misunderstanding or other, it did not.

It is evident to anybody, on the simple statement of the matter, that without this provision we would fasten upon the people of the State all the special acts—all the local legislation—that have been passed, because there is scarcely any subject on which you could get the members from all the sections of this State to agree in passing a general repealing act, and as the paragraphs of this section are general in their terms, and provide that no special

act shall be passed upon the subjects enumerated, of course one of the effects would be to prevent all special or local repeal. Hence I offer this proviso. It is the general understanding of the Committee on Legislation that it should be adopted.

The question being on the amendment, it was agreed to.

The question recurring on the paragraph, it was agreed to.

The CHAIRMAN. The question is now upon the section as amended.

Mr. DARLINGTON. Mr. Chairman: I move a re-consideration of the paragraph, beginning at line twenty-five. I am apprehensive that it may not be understood, and merely desire that it should be. It is that as to "regulating the practice or jurisdiction of courts." I voted in the majority.

The question being upon the motion, it was not agreed to.

Mr. J. M. WETHERILL. Mr. Chairman: It would be an advantage to have these paragraphs numbered "first," "second," "third," &c. I propose to add to the first line the words, "upon the following subjects," and then number the paragraphs.

Mr. CORBETT. I submit that that cannot now be done. We have passed that some time.

The CHAIRMAN. Now that the section has been gone through with, in detail by paragraphs, any member can move to amend the section.

Mr. J. M. WETHERILL. If there is any objection, I withdraw my amendment.

The question being upon the section, it was agreed to.

The twelfth section was read as follows:

SECTION 12. No local or special bill shall be passed, unless public notice of the intention to apply therefor shall have been published in the locality where the matter or thing to be affected may be situated; which notice shall be at least sixty days prior to the introduction into the Legislature of such bill, and in the manner to be provided by law. The giving of such notice shall not be waived by any person or interest, and the evidence of such notice having been published, shall be exhibited in the Legislature before such act shall be passed.

Mr. PARSONS. Mr. Chairman: I offer the following as an amendment:

"No local or special bill shall be passed, unless notice of the intention to apply therefore shall have been published in two newspapers printed nearest to the lo-

cality where the matter or thing to be affected may be situated; which notice shall be published at least eight times in each of said newspapers prior to the introduction into the Legislature of such bill. Such publication shall not be waived by any person or interest, and the evidence of such notice having been published in the regular editions of such newspapers as aforesaid, shall be exhibited in the Legislature before such act shall be passed, and shall be filed in the office of the Secretary of the Commonwealth."

Mr. PARSONS. Mr. Chairman: I have no disposition to debate the amendment, but I think it would be unwise to leave this section as it is reported by the committee. This provides that notice of a bill shall be published in the locality, without providing how that publication is to be made. It is true that a subsequent line of the section provides that notice shall be published in a manner to be provided by law; but I submit that is giving too much power to the Legislature. There is a certain class of gentlemen there known as "roosters," and they will endeavor, in every possible way, to avoid this provision, and any other judicious one that we may adopt.

In addition to that, the section provides that evidence of such notice having been published shall be exhibited in the Legislature, but it is not provided what that evidence shall be, nor what shall be done with it. My idea is that the evidence shall be filed in the office of the Secretary of State. Then when the act comes before the House, the fact of publication can be examined properly.

In the locality in which I reside we have had special legislation until we are sick of it. There are a few persons who go to Harrisburg every winter, and before anybody is aware that they have left us, a special bill of some sort is passed. An act was passed in that way two years ago, abolishing our judicial district in two hours. If the provision be inserted in the Constitution that notice of special legislation shall be published in two newspapers nearest the place to be affected, it will cover the objections made by the gentleman from Carbon, (Mr. Lilly,) that there may be no newspaper published in the county.

Mr. DALLAS. Mr. Chairman: I offer the following amendment:

"No local or special law shall be enacted until after notice thereof, and of the proposed application therefor, (with the name

or names of the person or persons intending to make such application) shall have been printed in two newspapers at least six times, the first of which times shall be not less than sixty days prior to the introduction of the bill into the Legislature, which two newspapers shall appear by affidavit, to be made by an applicant for the bill, and filed in the office of the Secretary of the Commonwealth, to be those published in or most nearly to the locality in which such law may be intended to operate or to apply."

In looking at this section it has struck me, as it has the gentleman from Lycoming, (Mr. Parsons,) that it is crude and incomplete for the purpose it contemplates. The amendment which he has offered to the section is, in many respects, in my judgment, better than the section itself. But, as I heard it read, it did not cover all the ground that I desire to have covered by the section as I would amend it. The section reported by the committee provides that no local or special bill shall be passed, unless public notice be given, and that is the end of it. How notice is to be given it is not stated, except that it is to be provided for by the Legislature.

I see no reason why this Convention should not fix the manner of that notice, and put it beyond doubt. The purpose of this section is a restriction upon the Legislature, and, certainly, it is not reasonable to provide that the Legislature shall be restricted in a manner to be fixed by itself.

I have provided, therefore, by my amendment, that this public notice shall be given in two newspapers, published in the locality to be affected, or two papers most nearly located thereto; and that it shall appear that such notice has been given in the manner suggested by my amendment, I would further provide that an oath, by an applicant for the law, shall be taken, and the affidavit be filed in the office of the Secretary of the Commonwealth, so that it may become a record of the State—filed amongst its archives—and may be there, at any time, found. The section, as reported, provides that the giving of such notice shall not be named by any person or interest.

Now, sir, I cannot understand, and am quite ready to be informed, how this committee supposes that a constitutional provision could be waived. The fact that the

Constitution provides that no law shall be passed without a certain prerequisite, it seems to me, is enough to render the waiving of such prerequisite impossible. There is no more reason for putting that provision here than in any other section of the Constitution. We might, with equal propriety, wait until we get to the end of it, and say no part of the Constitution shall be waived. I think if this Constitution is adopted by the people of Pennsylvania, it is not in the power of any person or interest to waive any part of it, and that no law, not passed in conformity with it, can be a good law.

The section then continues: "And the evidence of such notice having been published, shall be exhibited in the Legislature before such act shall be passed." Now, sir, I suppose there can be no possible necessity for that. If an affidavit showing compliance with this section shall be, in every case, filed, as it ought to be, in the office of the Secretary of the Commonwealth, it will be always there for reference. But to exhibit the evidence in the Legislature cannot serve any good purpose, and is not necessary, because persons applying for an act will always want it passed in such a manner as to assure its validity, and they will not ask its passage in violation of the Constitution, for it would be void and of no avail.

In one other thing my amendment to the amendment differs, both from the section and from the amendment. I would require the parties applying for the law to publish, not only notice thereof and notice of the application, but of the names of the persons who are applying. In a great many instances that would be very valuable information to the people of the locality to be affected by a special law.

Mr. EWING. Mr. Chairman: I move that the committee rise, report progress and ask leave to sit again.

The motion was agreed to, and the President having resumed the chair, the committee of the whole, by its chairman, (Mr. Armstrong,) reported that it had had under consideration the report of the Committee on Legislation, and had directed him to report progress and ask leave to sit again.

Leave was granted the committee to sit again to-morrow.

On motion of Mr. Stanton, at two o'clock and fifty-five minutes P. M. the Convention adjourned.

SIXTY-SIXTH DAY.

FRIDAY, *March 14, 1873.*

The Convention met at ten o'clock A. M., the President, Hon. Wm. M. Meredith, in the chair.

The Journal of yesterday was read and approved.

SESSIONS OF THE CONVENTION.

Mr. PORTER offered the following resolution:

Resolved, That on and after Monday next the sessions of this Convention shall be held from ten o'clock A. M. to one o'clock P. M., and from three o'clock P. M. until six o'clock P. M., except on Saturday, when only one morning session shall be held.

On the question to proceed to the second reading and consideration of the resolution, a division was called, and it was decided in the negative. Ayes, twenty-eight; noes, forty-six.

Mr. J. M. WETHERILL offered the following resolution:

Resolved, That when the Convention adjourns to-day it will be to meet on Monday next at eleven o'clock A. M.

On the question to proceed to the second reading and consideration of the resolution, the yeas and nays were required by Mr. Mann and Mr. T. H. B. Patterson, and were as follow, viz:

YEAS.

Messrs. Ainey, Armstrong, Baer, Baker, Bannan, Bardsley, Bartholomew, Black, J. S., Bowman, Brodhead, Broomall, Carter, Clark, Cochran, Curtin, Dallas, Davis, Dunning, Elliott, Ellis, Ewing, Hemphill, Hunsicker, Kaine, Lamberton, Lilly, M'Camant, Newlin, Niles, Palmer, H. W., Parsons, Pughe, Rooke, Runk, Sharpe, Simpson, Smith, H. W., Stanton, Stewart, Van Reed, Wetherill, J. M. and Wherry—42.

NAYS.

Messrs. Achenbach, Alricks, Andrews, Baily, (Perry,) Bailey, (Huntingdon,) Beebe, Biddle, Boyd, Campbell, Church, Corbett, Craig, Darlington, De France, Dodd, Edwards, Hall, Hay, Hazzard, Horton, Howard, Lawrence, MacConnell M'

Clean, M'Culloch, Mann, Mantor, Patterson, T. H. B., Porter, Purviance, Sam'l A., Russell, Smith, Wm. H., Struthers, Turrell, Walker, Wetherill, John Price, White, David N., White, J. W. F., Wright and Meredith, *President*—40.

So the resolution was read a second time.

ABSENT OR NOT VOTING.—Messrs. Addicks, Barclay, Black, Charles A., Brown, Buckalew, Carey, Cassidy, Collins, Corson, Cronmiller, Curry, Cuyler, Fell, Finney, Fulton, Funck, Gibson, Gilpin, Gowen, Green, Guthrie, Hanna, Harvey, Heverin, Knight, Landis, Lear, Littleton, Long, M'Allister, M'Murray, MacVeagh, Metzger, Minor, Mott, Palmer, G. W., Patterson, D. W., Patton, Purman, Purviance, John N., Read, John R., Reed, Andrew, Reynolds, James L., Reynolds, S. H., Ross, Smith, H. G., Temple, White, Harry, Woodward and Worrell—40.

The CHAIRMAN. The question is upon the adoption of the resolution.

The yeas and nays were required by Mr. Joseph Baily and Mr. Corbett, and were as follow, viz:

YEAS.

Messrs. Ainey, Armstrong, Baer, Baker, Bannan, Bardsley, Bartholomew, Black, J. S., Bowman, Brodhead, Broomall, Carter, Clark, Cochran, Curtin, Dallas, Davis, Dunning, Elliott, Ellis, Ewing, Hemphill, Hunsicker, Kaine, Lamberton, Lilly, M'Camant, Newlin, Niles, Palmer, H. W., Parsons, Pughe, Rooke, Runk, Sharpe, Smith, Henry W., Stanton, Stewart, Van Reed, Wetherill, J. M. and Wherry—41.

NAYS.

Messrs. Achenbach, Alricks, Andrews, Baily, (Perry,) Bailey, (Huntingdon,) Beebe, Biddle, Boyd, Campbell, Church, Corbett, Craig, Darlington, De France, Dodd, Edwards, Hay, Hazzard, Horton, Howard, Lawrence, Lear, MacConnell, M'Clean, M'Culloch, Mann, Mantor, Patterson, T. H. B., Porter, Purviance, Samuel A., Russell, Simpson, Smith, Wm. H., Struthers, Turrell, Walker, Wetherill, Jno. Price, White, David N., White, J.

W. F., Wright and Meredith, *President*—41.

So the resolution was rejected.

ABSENT OR NOT VOTING.—Messrs. Adicks, Barclay, Black, Charles A., Brown, Buckalew, Carey, Cassidy, Collins, Corson, Cronmiller, Curry, Cuyler, Fell, Finney, Fulton, Funck, Gibson, Gilpin, Gowen, Green, Guthrie, Hall, Hanna, Harvey, Heverin, Knight, Landis, Littleton, Long, M'Allister, M'Murray, MacVeagh, Metzger, Minor, Mott, Palmer, G. W., Patterson, D. W., Patton, Purman, Purviance, John N., Read, John R., Reed, Andrew, Reynolds, James L., Reynolds, S. H., Ross, Smith, H. G., Temple, White, Harry, Woodward and Worrell—50.

PRINTING THE DEBATES.

Mr. CURTIN. Mr. Chairman: I beg leave to ask if the Committee on Printing is prepared to report on the resolution which I offered a few days ago, and which was passed by the Convention, in reference to the publication of the debates in the Philadelphia papers.

Mr. NEWLIN. Mr. Chairman: I was about to ask leave of the Convention, for the Committee on Printing to sit during the session of the Convention. I make that motion.

The motion was agreed to.

LEGISLATION.

The Convention then, as in committee of the whole, Mr. Armstrong in the chair, proceeded to the further consideration of the report of the Committee on Legislation.

The CHAIRMAN. The question before the committee of the whole is the amendment proposed by the gentleman from Philadelphia (Mr. Dallas) to the amendment proposed by the gentleman from Lycoming (Mr. Parsons) on the twelfth section, and upon this question the gentleman from Philadelphia (Mr. Dallas) had the floor.

Mr. DALLAS. Mr. Chairman: I desire to say to the committee that the gentleman from Lycoming, (Mr. Parsons,) who offered the amendment to which my proposition was an amendment, and myself, have agreed upon a substitute for the amendment. I therefore withdraw my amendment, in order that he may have an opportunity to present a modification of his amendment.

The CHAIRMAN. The question recurs upon the amendment of the gentleman from Lycoming (Mr. Parsons.)

Mr. PARSONS. Mr. Chairman: I withdraw my amendment, and offer this in lieu of it: "No local or special bill shall be passed, unless notice thereof and of the intention to apply therefor shall have been published in two newspapers published in or nearest to the locality where the matter or thing to be affected may be situated, which notice shall be published at least eight times in each of said newspapers, the first of which shall be no less than sixty days prior to the introduction of such bill into the Legislature. Affidavit of such notice, having been published in the regular editions of such newspapers, shall be exhibited in the Legislature before such act shall be passed, and shall be filed in the office of the Secretary of the Commonwealth."

Mr. BARTHOLOMEW. Mr. Chairman: I propose this as an amendment to the amendment, to come in at the end:

"*Provided*, That the certificate of the Secretary of the Commonwealth shall be conclusive evidence that the publication required by this section has been duly made."

Mr. Chairman, I simply desire to say, in behalf of this amendment to the amendment, that without some such provision as the one which I have offered, after a law has been enacted and approved by the Governor, unless there is something which renders it beyond a doubt a valid enactment, no person would feel safe for one moment, no man could invest money or put his interest into any proposition if it were possible, fifteen or twenty years thereafter, that an act of the assembly could be attacked for want of constitutionality by reason of the fact that the evidence required was not exhibited to the Legislature. That would be a matter that would depend entirely upon the proof, and the character of the proof would necessarily make it subject to destruction and loss. There must be something beyond the mere preserving of the publication, because that is liable to destruction by fire or loss, or a thousand other means.

Mr. PARSONS. Mr. Chairman: I will accept the amendment of the gentleman from Schuylkill (Mr. Bartholomew.)

Mr. LILLY. Mr. Chairman: I move to strike out "sixty" days, and insert "thirty" days.

The motion was not agreed to.

Mr. MANN. Mr. Chairman: I think a little reflection will satisfy the members of the committee that none of these

amendments are needed. The Constitution, as it now stands, has a similar provision in relation to charters of banks, and I ask the attention of the committee to its language: "No corporate body shall be hereafter created, renewed or extended with banking and discounting privileges, without six months' previous public notice of the intended application for the same, in such manner as shall be prescribed by law."

Can any gentleman point to any inconvenience, or any doubt, or difficulty that has ever arisen under this provision? The Legislature might, after the adoption of this clause, provide by law for the proper manner of giving notice, and I believe that no company has ever been incorporated under that act, unless the proof of the notice was submitted first to the Legislature and then to the Governor, and several vetoes have been sent in to former Legislatures, and some to the present one, vetoing bills because the notice was not given to the Governor that this provision of the law and the Constitution had been complied with. Now, gentlemen, the committee, in preparing the section under consideration, followed the language of the present Constitution, because no evil had ever resulted from it. It contains precisely the old requirements, that six months' notice shall be given, not only for these corporations, but for all special laws, following the exact language, only making it cover all special legislation. I appeal to you, if the Legislature cannot be trusted to determine the method and kind of notice to be given, what in Heaven's name can it be trusted with? I hope the committee will not put into this section of the Constitution proper and legitimate legislation.

Mr. DALLAS. A single word in reply to the gentleman from Potter (Mr. Mann.) The section of our present Constitution to which the gentleman has referred applies only to banks; nor is its language precisely that of the section now under consideration. This section, as it came from the committee, provides that "no local or special bill shall be passed unless public notice of the intention to apply therefor shall be published in the locality," but it does not say, however, where, or how, or when, or how often such notice is to be published; and there is no reason why we should leave our own work only partially done. There is also a provision that this section, if adopted, shall not be waived by any person or interest whatever; and the

amendment that I have offered proposes to omit such proviso, because I have assumed that a constitutional provision cannot be waived, and that we should not suggest or imply that it is possible that it can be done. Those are the only changes which I propose, except some few alterations in language merely, which, I think, if gentlemen will read the section as reported in connection with the amendment as it will be read from the Clerk's desk, they will think it prudent to adopt.

Mr. EWING. Mr. Chairman: I was not present when this section was adopted in committee, and I have no feeling about it, but the very amendments which have been offered here, and the discussion of them, would satisfy me that it is altogether improper to undertake, in a constitutional provision, to determine the precise manner in which the notice should be given. That is a matter of detail which may require change. It is a matter of detail which is properly and fairly left to the Legislature. It has, I believe, never been abused, and the section as reported by the committee, I think, properly leaves the proof of that notice to the House. As I understand the amendment the proof of notice is simply to be filed with the Secretary of State. An affidavit is to be made. It provides for the evidence which shall be conclusive. I do not know that under that provision the House could go back of the affidavit and inquire whether or not that was correct. I take it that a law fixing the manner of this notice ought to go more into detail than the amendment here offered does.

I think the provision with regard to notice not being waived is a proper one. The section without that might be construed as merely directory. Such interpretations have frequently been given to such provisions in the Constitution; and if there were added to this section a provision that this proof of the publication should be spread upon the Journal of the House, I think it would cover everything that the gentleman proposing the amendment wishes to have in it.

Mr. PARSONS. Mr. Chairman: I am aware that under the old Constitution there was a proviso requiring that notice of applications of charters for banks should be advertised, and the wording of the old Constitution was that it "shall be advertised in such manner as shall be prescribed by law." Now the object of the amendment that I have offered is to prevent the Legis-

lature from passing such a law as they did after this section of the old Constitution was adopted. They passed a law requiring notice of application for charters of banks to be published in newspapers in Harrisburg. The consequence was that, very few persons taking those papers throughout the State, it was not known when there was an application to be made and the expense went for nothing.

Mr. MANN. Mr. Chairman: The gentleman is mistaken. The requirement of the law was that the notice should also be published in the paper where the bank was to be located, so that the people, not only where it was to be located, but all over the State, had notice.

Mr. AINEY. Mr. Chairman: I would ask if it is not notorious that banks have been chartered under this provision of the Constitution, and under the law regulating the advertisement, without having been legally advertised.

Mr. MANN. Mr. Chairman: I answer that I do not believe such a thing exists. It may, but if it does, will the amendment prevent it? All the amendment proposes is to require notice to be published in the newspapers. The present law requires that, and if the one can be evaded the other can be.

Mr. AINEY. Mr. Chairman: I am aware, if the gentleman is not, that banks have been incorporated in this Commonwealth under this provision of the Constitution without any notice whatever, either at Harrisburg or at the locality it was to go. It is a fact, and I state it with regret, that charters have been passed by the Legislature without any advertisement, and sold—huckstered about to any who would buy them. Such charters have been passed in our county and in adjoining counties. Now I understand that the Legislature construes that because they provide the manner of advertisement, by statute law, they can set it aside, and ignore it. If we put it in the fundamental law it will be binding upon the Legislature, and they cannot set it aside. I am in favor of passing the section in a positive, certain form, and shall vote for the amendment for that reason.

The CHAIRMAN. The question is upon the amendment proposed by the gentleman from Carbon (Mr. Lilly.)

Mr. LILLY. My amendment was voted down.

The CHAIRMAN. The question recurs on the substitute offered by the gentleman from Lycoming (Mr. Parsons.)

Mr. T. H. B. PATTERSON. Mr. Chairman: I ask that the section, as amended, be read.

The CHAIRMAN. The question is on the substitute for the entire section, which will be read.

The CLERK read as follows:

SECTION 12. No local or special bill shall be passed, unless notice thereof and of the intention to apply therefor shall have been published in two newspapers published in or nearest to the locality where the matter or thing to be affected may be situated, which notice shall be published at least eight times in each of said newspapers, the first of which times shall be not less than sixty days prior to the introduction of such bill into the Legislature. An affidavit of such notice, having been published in the regular editions of such newspapers, shall be exhibited in the Legislature before such act shall be passed, and shall be filed in the office of the Secretary of the Commonwealth.

Mr. T. H. B. PATTERSON. Mr. Chairman: Before the vote is taken I would like to know whether that word in the substitute is "affected" or "effected."

The CHAIRMAN. The word is "effected." It is evidently intended to be "affected."

The substitute was agreed to, there being on a division, ayes fifty-one, noes twenty.

Mr. DARLINGTON. Mr. Chairman: I move to amend the section, by inserting after the word "published" the words "with the names of the applicants." I think the members of this Convention are cognizant of the fact that the newspapers of the State are always full of notices containing applications to be made to the Legislature for the charter of certain banks. These notices are published without containing any information as to the locality where the bank is to be situated, and without the names of the parties who are interested in its incorporation. I think that the public ought to know the names of the applicants who desire the charter to be passed by the Legislature; and also whether they are bankrupt men or men who possess sufficient capital to enter into the banking business.

Mr. DALLAS. Mr. Chairman: I desire to say the amendment now proposed, that the names of the applicants should be published, was included at one time in this section, but upon consideration, however, with some of the friends of the measure, it was ascertained that this sugges-

tion was not approved of by them, because instances might arise by which the Legislature would be imposed upon by the insertion of false and fictitious names in the application. I became convinced by this argument, and subsequently withdrew the words from the section which the gentleman has suggested.

The amendment was not agreed to.

Mr. BRODHEAD. Mr. Chairman: I move to amend the section, by adding the words "and the enrollment of any law shall be conclusive evidence, in all courts of justice, that such publication has been made." I offer this amendment for the reason that the certificate of the Secretary of the Commonwealth might not be conclusive evidence of the passage of an act ten or twenty years afterwards, if his authority was disputed by the courts.

Mr. BUCKALEW. Mr. Chairman: The Convention will perceive the difficulty that will be occasioned by the adoption of this amendment. The ordinary mode in constitutions is a provision which requires applications for private bills to be published in the locality from which the application shall come, leaving the Legislature, as in ordinary cases, to pass a statute providing all the machinery necessary for the success of the provision. A provision has already been adopted by the Convention, prescribing what evidence shall be introduced into the House, and into the Senate, of the publication of a notice to introduce these bills, and that evidence is to be the certificate of the Secretary of the Commonwealth. The gentleman who offered the amendment points out a difficulty, and suggests a remedy, but I think all these details are quite improper in the Constitution of the State, and if we undertake to go through every amendment that we propose, and provide the details and machinery for their application in this manner, we shall have a Constitution of the most fearful length, and, presently, we shall find, in practice, that a thousand things we have not foreseen are injuriously affected by our details. I think that we should leave the moulding of general principles, contained in the provisions to the Constitution, to the ordinary legislative power. I regret that the House has adopted any amendment to this report. The committee has provided that public notice shall be given in all the localities of these applications, and I think the details should be left to the Legislature.

Mr. BRODHEAD. I would like to ask the gentleman whether, if the validity of such a charter is disputed, ten or twenty years afterwards the certificate of the Secretary of State will have to be introduced into courts to sustain that charter as evidence that the publication was made?

Mr. BUCKALEW. The gentleman seems to suggest a difficulty in his question that I do not propose to answer off-hand without time for deliberation. I cannot perceive the necessity of incorporating all these details into constitutional provisions. We are engaged in establishing immutable laws, and we do not know where they may strike; whereas if a mistake is made in questions of details in one session of the Legislature it can easily be corrected in the succeeding session.

Mr. BIDDLE. Mr. Chairman: I merely wish to say that I concur in all that has been said by the gentleman from Columbia, and I trust this section will pass as it has been reported. It gives all the securities that are necessary in regard to the passage of local laws.

The CHAIRMAN. The Chair will state to the gentleman that the section, as reported from the committee, is not now before the committee of the whole. It has been amended by the adoption of the substitute of the gentleman from Lycoming, (Mr. Parsons,) which is now open to amendment.

Mr. DARLINGTON. Mr. Chairman: I move to re-consider the vote taken on the substitute.

Mr. BOWMAN. I desire to suggest to the gentleman that his object can be reached when the vote is taken upon the substitute offered in place of this section.

The CHAIRMAN. The Chair will state that the substitute has already been adopted, and now takes the place of the section reported by the committee.

Mr. J. W. F. WHITE. Mr. Chairman: If it is in order, I move to re-consider the vote by which the substitute was adopted. I voted in the majority, and I will just say that I voted for the substitute hesitatingly.

The motion to re-consider was agreed to.

Mr. J. W. F. WHITE. Mr. Chairman: I will state that I voted for the substitute, supposing it would be acceptable to the committee, but from the discussion that has arisen since, and from the various propositions which have been offered to amend it, I am convinced of the impropriety of endeavoring to legislate in the Constitution. I believe myself the sec-

tion as reported by the committee is sufficient for all purposes, and we had better leave it in that shape.

Mr. BUCKALEW. Mr. Chairman: I move to amend the section, by striking out the words, "the giving of such notice shall not be waived by any person or interest."

The amendment was agreed to.

Mr. DARLINGTON. Mr. Chairman: I would like to ask the members of the committee who reported this article whether there is any objection on the part of anybody to the names of the applicants being published with the notice.

Mr. CORBETT. I answer that I do not think the committee has any objection whatever to the amendment.

Mr. DARLINGTON. Mr. Chairman: I then move to amend the section, by inserting after the word "therefor," in the first sentence, the words "with the names of the applicants." I have endeavored to state before the evils which have arisen, and are constantly arising, in the case of bank charters. A bank charter is applied for without the public knowing in any way the parties who make the application. I remember an instance in which parties made an application for the charter of the bank of Brandywine. Although considerable inquiry was made it was impossible to ascertain where that bank was to be located, whether at the lower or upper end of a stream forty miles in length. The object of the notice, I think, certainly ought to be to convey information as to the parties who make the application for the charter, so that some idea can be formed in regard to where the bank is to be located.

Mr. CORBETT. Mr. Chairman: I have found, in conversation with the friends of this section, that it would perhaps be better not to incur the section with the amendment. Of course the committee has no objection to the section being perfected, as far as possible. I presume this is a matter that can be provided for by legislation, and under such restraint as the Legislature may see proper to adopt. I think, therefore, it probably would be better if this matter was left entirely to the Legislature.

The amendment was rejected.

Mr. BRODHEAD. Mr. Chairman: I now renew my amendment, to be added at the end of the section, viz: "And the enrollment of any law shall be conclusive evidence in all courts of justice, that such publication has been made." The objection I desire to overcome in offering this

amendment is the want of ample evidence of this publication. The fact is that a large number of banks have already been chartered in this State, and, I am credibly informed, without any publication of the notice of the charter having been made. Now if the charters of those banks are attempted to be invalidated, nothing can save their charters from being revoked, because under our present law there is no place to find the necessary evidence. If a charter, passed under this Constitution, is attempted to be invalidated, I ask this Convention where the evidence of the publication of the notice for the charter could be procured? I think the State should certainly do something to protect the stockholders of these corporations, and after the act has been signed by the Speakers of both Houses, and signed by the Governor, I think it very proper that the enrollment of that law should be conclusive evidence of the validity of a charter in the courts of justice hereafter.

Mr. J. S. BLACK. Mr. Chairman: I desire to call the attention of the gentlemen who are in favor of having some provision of this kind, if it is absolutely necessary in the Constitution, to such a modification of the section as this. It will read, if adopted thus, in the following manner: "No local or special bill shall be passed unless upon petition of which public notice shall have been published in the locality where the matter or thing to be affected may be situated, which notice shall be at least sixty days prior to the introduction into the Legislature of such bill, and in the manner to be provided by law, and the fact of such notice shall be conclusively proved by the certificate of the committee which reports the bill, endorsed on the petition."

The CHAIRMAN. Does the gentleman offer that as a substitute for the section?

Mr. J. S. BLACK. I offer it as a substitute.

The substitute was not agreed to.

The CHAIRMAN. The question recurs on the section as amended.

The question being taken, the section, as amended, was agreed to.

The CHAIRMAN. The next section will be read.

The CLERK read as follows:

SECTION 13. The Speaker of each House shall publicly, in the presence of the House over which he presides, while the same is in session, sign all bills and joint resolutions passed by the Legislature.

Mr. CORBETT. Mr. Chairman: I believe the title of "presiding officer of the Senate" has been adopted by the Convention. The word "Speaker" is used in this section, and I therefore move to strike out the word "Speaker" and insert the words "the presiding officer."

Mr. LILLY. Mr. Chairman: I offer the following amendment to the amendment:

"The presiding officer of each House shall, in the presence of the House over which he presides, sign all bills and joint resolutions passed by the Legislature, after their titles have been publicly read, immediately before the signing."

I desire to state that the reason I have offered this amendment is if this section is intended to be of any use at all it should require the presiding officer of each House to sign all bills at the time of their publication. I have sat in the Legislature time after time when I have seen the Speaker, with a file of bills before him, busily engaged in signing his name. I think the presiding officers of the Legislature might as well sign bills and joint resolutions in his chamber as to be required to sign them publicly.

Mr. BOWMAN. I would like to ask the gentleman if he ever heard of a presiding officer of either House signing a bill that had not been duly passed by both Houses?

Mr. LILLY. I do not know such to be the case, but I have heard it said, and I know that charges to this effect have been made, time and time again. I remember one case where the gentleman from Columbia (Mr. Buckalew) endeavored to have a certain bill repealed, because it had been signed by the Speakers of both Houses without going through the legislative body at all. I think if there is any use at all in the section which has been reported by the committee, that the chairman will accept the amendment I have offered.

Mr. HANNA. Mr. Chairman: I am surprised at the amendment which has been offered by the gentleman from Carbon, (Mr. Lilly,) and particularly since he has been a member of the Legislature he certainly ought to know that a suggestion like this can have no other effect than to obstruct public business; and the idea of requiring every bill, after it has been read three times and passed both Houses, to be publicly read during another session of the Legislature, I think is entirely impracticable. Such a provision as this would require a longer session of the Leg-

islature than is deemed necessary by the public.

Mr. LILLY. The gentleman either does not correctly represent or correctly understand this. He does not want the bills read before signature; but the gentleman from Columbia (Mr. Buckalew) will tell you that many a time bills have been so signed that had never been passed.

Mr. BUCKALEW. Over and over again.

Mr. HARRY WHITE. Mr. Chairman: The object of the section is to do away with what has been, in some instances, a flagrant evil in legislation. From time to time gentlemen of the Senate, and of the House of Representatives, have arisen in their places and complained that some bill which the Governor had signed, and which they understood to have become a law, was never passed by the Legislature, and the consequence is, very frequently, the appointment of a committee of investigation and the delay of legislation. The subject has been a prolific source of scandal upon the Legislature. There is a very important bill upon the statute book—the act preventing railroads from crossing at grades—which, it is said, never passed the Legislature, and I believe myself it never did pass. The object of the present section is to make the act of signing a public act, so that there can be no mistake about it.

Mr. AINEY. Mr. Chairman: I would like to ask the gentleman from Indiana (Mr. Harry White) whether such a thing would be possible under the provisions of the report of the Committee on Legislation now, requiring that every vote shall be taken by yeas and nays, before the bill be passed, and that that vote shall be printed in the Journal.

Mr. HARRY WHITE. Mr. Chairman: I can hardly imagine that which could not be possible. I am not prepared to say, at a moment's notice, whether it is possible or not; but, it occurs to me, that it might take place. If the gentleman (Mr. Ainey) will reflect a moment, he will discover that the details of a bill are not entered on the Journal—it is only the manner of the passage—and a different bill, perchance, may be presented to the Speaker, and signed, from that which was actually passed. As we propose, the form of expression will be something like this: "The following bills have been presented for signature, and will be signed." That is then done in the presence of the House. I do not imagine it is cumbersome at all, and I think it is wise to at-

tempt to save the Legislature from the scandal which has come from the signing of bills which never passed.

Mr. MACCONNELL. Mr. Chairman: I consider this a very important matter, and I will state my reasons for so thinking. A case involving this principle came within my observation some years ago. An act was presented in the borough of Manchester, authorizing a plank road company to erect a gate on one of the streets of that borough. It was opposed very strongly by the inhabitants of the borough, and when the pamphlet laws came to be published, the act appeared among the acts without the name of the Speaker of the House or the President of the Senate to it, but it had the name of the Governor approving it. We were very well satisfied that it had never been passed, and I am satisfied now that it had never been passed. We contested the right of the company to keep up their gate; it was carried into the court of common pleas; the court decided that the act was valid, although not signed by the President or the Speaker of either House. It was taken to the Supreme Court, and it was there held that it was not necessary to the validity of an act that it should be signed by the Speaker of either House. Now, in that case, I am satisfied, and very many in the neighborhood were satisfied, that it never had passed into a law. I, therefore, believe that it is a matter of great importance to make the validity of a bill depend upon its being signed by the Speaker of each House, and also that the signing should be done in public.

Mr. MACVEAGH. Mr. Chairman: It is not clear to my mind, I confess, that this section is absolutely necessary, with the previous guards we have been providing; but if the section is necessary, then, I confess, I cannot see the grounds upon which we are to decline to accept the proposition of the gentleman from Carbon (Mr. Lilly.) The object certainly is to have the bill signed as a public official act, and if it is intended that the signature of the bill shall be an official act, and done in the presence of the Legislature, surely it is proper to call the attention of the body to the bill that is being signed, by the reading of its title. That is all. It will take but very little time. If, therefore, the section is to be adopted—and certainly, as the committee has fully considered it and reported it, I suppose it will be adopted—then I trust the proposition of the gentleman from Carbon will be adopted also.

The amendment of Mr. Lilly was agreed to.

Mr. HARRY WHITE. Mr. Chairman: I move to add at the end of the section the words, "and the fact of signing shall be entered on the Journal."

The amendment was agreed to.

The section, as amended, was then agreed to.

The CHAIRMAN. The next section will be read.

The CLERK read as follows:

SECTION 14. The Legislature shall prescribe by law the number, character, duties and compensation of the officers and employees of each House; and no payment shall be made from the State Treasury, or be in any way authorized to any person acting as such officer or employee, except they shall have been elected or appointed in pursuance of law.

Mr. LILLY. Mr. Chairman: I move to amend, by adding at the end of the section the words, "and shall have actually performed the duty of the position."

The reason why I desire to add that is that there has grown up at Harrisburg a very reprehensible practice. When I was a member, twenty-two years ago, we had but nine employees, and we were well served. Everything that the members desired was done efficiently, and we got along entirely well. That number included the firemen, pasters, folders, sergeant-at-arms, doorkeepers and their assistants. Now, I understand there are between fifty and sixty employees there. Each man of the dominant party who has influence will get some friend appointed. This friend's name is then placed on the roll, and he goes home, and does not present himself again, except, perhaps, once a week, until the end of the session, when he draws his salary.

I desire that no man shall be employed in either House, nor draw pay, who is not needed there. Some members of the Convention with whom I have talked on this subject seem to think it is rather a small thing to put into a Constitution; but the evil is so great that I think a few words in the Constitution would be of great service, as it is very important we should put an end to that practice.

Mr. ALRICKS. Mr. Chairman: The principle objection to the gentleman's amendment is that it is entirely too long. The same end could be accomplished by striking out some words from the earlier portions of the section, and striking out the words "as such," where they occur in

the fourth line; and also striking out the words "except they have been," in the fourth and fifth lines, and inserting the words "except to an officer or employee," so as to make the section read, if my amendment is adopted: "The Legislature shall prescribe, by law, the number, character, duties and compensation of the officers and employees of each House; and no payment shall be made from the State Treasury, or be in any way authorized, to any person, except to an acting officer or employee elected or appointed in pursuance of law."

Mr. LILLY. Mr. Chairman: I accept that.

The question being on the amendment of Mr. Lilly, as modified, it was agreed to.

Mr. DARLINGTON. Mr. Chairman: I would like to ask what meaning they propose to give to the word "character," in the second line. "The Legislature shall prescribe by law the *character* of an employee." Of course they shall prescribe the number, the duty and the compensation. Is not that all the law requires, and should not that be sufficient?

Mr. HARRY WHITE. Mr. Chairman: In answer to that I would say that "the character" of course means the kind of office—it is the *designation*; it is the *name*.

Mr. MACVEAGH. Mr. Chairman: That matter, I suppose, can be corrected hereafter. I confess I do not agree that the character of an officer is necessarily the *kind* of office he fills. I trust the chairman of the Committee on Legislation will re-consider that *dictum*. It is very often necessary to distinguish between the kind of office a man fills and the character of the man that fills it. I think it will be well if the chairman would see whether he cannot frame the paragraph so as to cover the point without the use of the word "character."

Mr. HARRY WHITE. Mr. Chairman: To avoid the possibility of misunderstanding, and as I have no objection to striking out the word "character," I move that it be stricken out.

The amendment was agreed to.

Mr. HOWARD. I move to amend the section by adding, "and have performed the duties of said office."

I do not know whether the section as read covers precisely what is covered by my amendment; but I have personally known of officers having been frequently appointed at Harrisburg, and perhaps discharged some very slight duty, and have never been seen there during the

rest of the session; yet they have drawn their full pay.

Mr. ALRICKS. Mr. Chairman: The word "acting" covers that—"an acting officer." He must *act* in the capacity for which he was paid.

Mr. HOWARD. Well, I withdraw my amendment.

Mr. HAZZARD. Mr. Chairman: I move to amend, so that it will read, "the Legislature shall prescribe by law the number and kind of offices and the duties and compensation of the officers and employees of each House." The object is that the number and duties of the officers shall be prescribed, and that the duties pertaining to each of these officers and employees should not be distinctly stated. I do not know that anything ought to be put into a Constitution about the character of the officers; but, certainly, the character of the duties ought to be included. I understood a few days ago that there were six door-keepers at Harrisburg. It seems to me that is rather too many.

The amendment was not agreed to.

The question recurring on the section as amended, it was agreed to.

The CHAIRMAN. The next section will be read.

The CLERK read, as follows:

SECTION 15. All stationery, printing paper and fuel used in the legislative and other departments of government shall be furnished, and the printing, binding and distributing of the laws, Journals, department reports, and all other printing and binding, and the repairing and furnishing the halls and rooms used for the meetings of the Legislature and its committees, shall be performed under contract, to be given to the lowest responsible bidder, below such maximum price, and under such regulations as shall be prescribed by law. No member or officer of any department of the government shall be in any way interested in such contracts; and all such contracts shall be subject to the approval of the Governor, Auditor General and State Treasurer.

The fifteenth section was then agreed to.

The CHAIRMAN. The next section will be read.

The CLERK read, as follows:

"No law shall be passed which shall operate to extend the term of any public officer, nor to increase or diminish his salary or emoluments after his election or appointment."

Mr. MACVEAGH. Mr. Chairman: Does the Chairman of the Committee on Legislation think that the words "which shall operate" are desired to apply to the operation of law? Would it not be better to say that "no law shall be passed to extend the term of any officer," &c. The expression, "which shall operate," is a phrase used rather as applied to *medicine* than to law.

The CHAIRMAN. Does the gentleman from Dauphin move an amendment?

Mr. MACVEAGH. I should like to strike out the words, "which shall operate," in the first line, and let it read: "No law shall be passed to extend the term," &c.

Mr. EWING. Certainly the gentleman has not considered that amendment. It no doubt would be interpreted to mean what *this* does mean—or *probably* would; but the law may be passed ostensibly for some other purpose, and yet it would incidentally operate to extend the term of office.

Mr. MACVEAGH. Is not that a matter of construction by the courts?

Mr. EWING. Perhaps so.

Mr. MACVEAGH. And if the object of it be put in the title, and it has to be read three times, ought we to put a phrase in about how it should "operate?" It will operate as the courts construe it.

Mr. EWING. But it will apply to any act which would indirectly affect the matter intended to be reached by the section.

Mr. MACVEAGH. You may use the word "operate" if you choose. I do not think it is good English in this connection. Should any constitutional provision furnish a standard of construction for the courts? Is it not clearly a question of judicial construction? When we prohibit the passage of a law for this purpose, we prohibit everything we ought to prohibit.

Mr. EWING. What is the effect of a constitutional amendment passed at the last election? It is an amendment to authorize the people to elect a State Treasurer. Its operation is to extend the term of the State Treasurer. There might be a great many cases of the same kind.

Mr. MACVEAGH. Can you prevent that if the court so construes it, by putting in a clause that it shall not operate in a certain manner.

Mr. EWING. That is not the question. The point is that it shall not indirectly do so.

Mr. MACVEAGH. Do you not effect your purpose when you say that they "shall not pass any law to," &c.?

Mr. AINEY. Mr. Chairman: I would suggest that it would read better if you strike out the words "operate to," and leave the word "shall" in. Make it read: "No law shall be passed which shall extend the term," &c.

Mr. DALLAS. Mr. Chairman: I do not know that a further amendment is in order now; but I would suggest that the whole purpose can be effected by striking out more words than anybody has yet suggested. Strike out the words "be passed, which shall operate to," so that it shall read: "No law shall extend the term," &c.

Mr. MACVEAGH. I agree fully with the gentleman from Philadelphia, (Mr. Dallas,) but I think the phraseology of the other sections of this report is of such a character as to need that some of these words be left standing to preserve the symmetry of expression.

The CHAIRMAN. The gentleman from Dauphin accepts the amendment of the gentleman from Lehigh, (Mr. Ainey,) and the question is on the amendment.

Mr. DUNNING. Mr. Chairman: I move to further amend as follows: To insert after the word "extend," the words "or shorten."

Mr. DARLINGTON. Mr. Chairman: I ask the gentleman from Luzerne whether it is possible for the Legislature to reduce the term of office after a man is elected and in possession?

Mr. DUNNING. Mr. Chairman: I think it has been done. A law has been passed, for instance, abolishing an office, and men have been legislated out of office.

The amendment to the amendment was rejected.

Mr. STANTON. Mr. Chairman: How does the precise question before the House now read?

The CLERK: It is proposed to strike out so as to make the section read: "No law shall be passed which shall extend the term of any public officer, nor to increase or diminish his salary or emoluments after his election or appointment."

Mr. HOWARD. Mr. Chairman: I hope the amendment will not prevail. It has been the common practice to get a law passed to simply change the time of holding an election, in order that the term of certain officers might be extended another year. Now, although that would not be a law passed to extend the term of any officer, yet the law would operate to carry the terms of these officers over. If I understand the object of the Committee on

Legislation in reporting this section, it was to provide against just such cases as this. Therefore I think the amendment of the gentleman from Dauphin will not be adopted.

Mr. MACVEAGH. Mr. Chairman: I submit that the proper way to reach that end would be to say that no election shall be postponed. That is one thing, and if the fact be as stated by the gentleman from Allegheny, it can be met in that way, but not in any other. I venture to say that the evil will not be reached in the way the gentleman indicates by leaving in the words "operate to." No court can declare an act unconstitutional that is not forbidden, because one of its indirect consequences will be that some man will hold office longer than he otherwise would, if that is not the object of the law. If it is constitutional otherwise, the fact that it permits an increased term of office in one or in a few cases will not make it unconstitutional under this provision. Let us understand this thing. Is there any lawyer now here who hold that if it is constitutional for the Legislature to postpone an election, and one of the incidental consequences of postponing the election a circumstance not mentioned in the bill, and having no necessary relation to its text, is that a certain man will hold a certain office for a year longer than he otherwise would, that the Supreme Court would declare such a law to be unconstitutional, under any such clause as this, that a law shall not be passed to operate to extend the term of any public officer? The way to make that unconstitutional is to say that no special law shall be passed changing the time of elections, and I think that we have done that already.

Mr. BIDDLE. Mr. Chairman: I desire simply to suggest to the gentleman from Dauphin that he draw his amendment so as to read in this manner, which I think will, in part, cure the difficulties suggested by the gentleman from Allegheny (Mr. Howard:)

"No law shall extend the term of any public officer, nor increase or diminish his salary or emoluments after his election or appointment."

Mr. DALLAS. That is my suggestion; I was going to move it as an amendment.

Mr. MACVEAGH. Mr. Chairman: My friend from Philadelphia (Mr. Dallas) suggested that, but I think the previous clause is in this form. If not, I will accept that.

Mr. CORBETT. If you strike out the word "to" in the phrase "nor to increase or diminish," it will be all right.

Mr. MACVEAGH. Mr. Chairman: Very well. I will do that.

Mr. BIDDLE. Will the Chair have the paragraph read as amended?

The CLERK read, as follows:

"No law shall extend the term of any public officer, nor increase or diminish his salary or emoluments after his election or appointment."

Mr. HARRY WHITE. Mr. Chairman: I have no objection to abbreviate any section, so far as I am concerned, and I always receive with great deference any amendments proposed by the gentlemen who have been proposing this. But it occurs to me that the section, as reported, will relieve the courts possible, and the Legislature certainly, from applications in regard to the very difficulty that has been named here and which we are all desirous to avoid. This question was considered carefully by the Committee on Legislation in that regard, and the words, "shall operate to," carefully weighed. I can well imagine how that may be done by indirection, which cannot be done directly. For instance, the charter of a city may be modified, and the effect of it, indirectly, may be to extend the term of an official. The courts and the Legislature may be relieved from difficult applications made to them from time to time, if the words "shall operate to" are left in. That is the reason why it was so worded.

Mr. BIDDLE. Mr. Chairman: I think that to leave in the words "shall operate to" will make it less specific. I do not see that anything which it is intended to imply by the section, as reported, is not implied in its amended form, and the clause seems to me to be much more precise, as it stands in the amendment of the gentleman from Dauphin.

The amendment was agreed to.

Mr. BUCKALEW. Mr. Chairman: The amendment which has just been added here, I understand simply was intended to relate to the term of office of any public officer. But the language of the clause makes it also apply to the increase or diminution of his salary or emoluments. I do not apprehend that such was intended, yet it seems to be the inevitable effect. The truth is, a general clause of this kind, universal in its application, that no compensation of anybody shall be increased or diminished, is one of some tenor, and

we had better know how it is going to operate before we take final action on it.

Mr. MACVEAGH. Mr. Chairman: As I understand it, the purpose of this Convention is to abolish fees and perquisites, and to fix salaries for public officers, and I do not think that these salaries ought to be increased or diminished after a man has been elected to an office for a definite term of years.

Mr. BUCKALEW. Mr. Chairman: Take the case of the office of justice of the peace, an office that lasts five years, and various other offices of high emolument. I suppose, at all events, that the term emoluments had better be stricken out.

Mr. CORBETT. Mr. Chairman: I move to amend as follows:

To strike out the word "emoluments."

The amendment was rejected.

The CHAIRMAN. The question recurs on the section as amended, which will be read:

The CLERK read as follows:

SECTION 16. No law shall extend the term of any public officer, nor increase or diminish his salary or emoluments after his election or appointment.

The section, as amended, was agreed to.

The CHAIRMAN. The next section will be read.

The CLERK read as follows:

SECTION 17. All bills for raising revenue shall originate in the House of Representatives, but the Senate may propose amendments as in other bills.

Mr. MACVEAGH. Mr. Chairman: Why not use the word "to" instead of "as in other," at the close of the clause. My friend from Philadelphia (Mr. Dallas) makes the suggestion, and I think it proper. Is not this a clerical error?

Mr. DALLAS. Mr. Chairman: If the gentleman will allow me to explain, I find that this is an exact copy of the clause in the Constitution of 1838.

Mr. MACVEAGH. Then I withdraw the suggestion.

The section was agreed to.

The CHAIRMAN. The next section will be read.

The CLERK read as follows:

SECTION 18. The general appropriation bill shall embrace nothing but appropriations for the ordinary expenses of the executive, legislative and judicial departments of the Commonwealth, interest on the public debt, and for common schools; all other appropriations shall be made by separate bill, each embracing but one subject.

Mr. EWING. Mr. Chairman: I think the word "for," before "common schools," is superfluous, and should be stricken out. I ask that it be done by common consent.

Mr. DALLAS. Mr. Chairman: That would make it read "interest on the common schools."

Mr. EWING. Mr. Chairman: I thank the gentleman from Philadelphia. I withdraw my request; I see I was mistaken.

Mr. WHERRY. Mr. Chairman: I move to amend, by striking out the word "common" and inserting the word "public," to make the section harmonious with the report of the Committee on Education.

Mr. HARRY WHITE. Mr. Chairman: I accept that to make it agree with the report of the Committee on Education.

The amendment was agreed to.

The CHAIRMAN. The question is on the section as amended, which will be read.

The CLERK read as follows:

SECTION 18. The general appropriation bill shall embrace nothing but appropriations for the ordinary expenses of the executive, legislative and judicial departments of the Commonwealth, for interest on the public debt, and for common schools; all other appropriations shall be made by separate bills, each embracing but one subject.

The section as amended was agreed to.

The CHAIRMAN. The next section will be read.

The CLERK read as follows:

SECTION 19. The general appropriation bill shall, before it becomes a law, be presented to the Governor. If he disapprove the bill, or any item or appropriation therein contained, he shall communicate such disapproval, with his reasons therefor, to the House in which the bill originated, who shall enter such reasons at large upon the Journals thereof, and immediately proceed to re-consider such bill, or the separate items thereof disapproved. All items in said bill not so disapproved shall have the force and effect of law. Any item so disapproved shall be void, unless re-passed by two-thirds of each House. And as to such bill, or any item disapproved, the vote shall be taken by yeas and nays, the names of the persons voting yea and nay to be entered on the Journals of each House, according to rules and limitations hereinbefore prescribed as to other bills.

Mr. BOWMAN. Mr. Chairman: I move to strike out the section entirely. It is already provided for in the sixteenth and seventeenth sections of the report of the

Committee on the Executive Department, which has been adopted in committee of the whole.

Mr. MANN. That is correct.

Mr. HARRY WHITE. Mr. Chairman: I will be glad if the gentleman from Erie (Mr. Bowman) will send the sections he refers to to the desk to be read.

Mr. BOWMAN. Mr. Chairman: The gentleman from Indiana will find the sections on page five of the report of the Committee on Executive Department.

Mr. HARRY WHITE. Mr. Chairman: I have not a copy of that report. Let the section be read.

Mr. MANN. I will read them if the committee will allow me.

Mr. CORBETT. Mr. Chairman: I desire to say that the sections already adopted, as reported from the Committee on Executive Department, cover this case entirely.

Mr. HARRY WHITE. Let them be read by the Clerk.

The CLERK read as follows, from the report of the Committee on Executive Department:

SECTION 16. Every bill which shall have passed both Houses shall be presented to the Governor; if he approves 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, which shall enter the objections at large upon their Journals, and proceed to re-consider it. If, after such re-consideration, two-thirds of that House shall agree to pass the bill, it shall be sent with the objection to the other House, by which, likewise, it shall be re-considered, and if approved by two-thirds of that House, it shall be 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 have been presented to him, the same 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.

SECTION 17. The Governor shall have power to disapprove of any item or items of any bills making appropriations of money, embracing distinct items, and the

part or parts of the bill approved shall be the law, and the item or items disapproved shall be void, unless re-passed according to the rules and limitations prescribed for the passage of other bills over the Executive veto.

Mr. HARRY WHITE. Mr. Chairman: It is the last section which supplies this. I have no objection to section nineteen being voted down. The section just read is the same in substance.

The section was rejected.

The CHAIRMAN. The next section will be read.

The CLERK read as follows:

SECTION 20. No appropriation shall be made to any charitable or educational institution not under the absolute control of the Commonwealth, except by a vote of three-fourths of all the members elected to each House.

Mr. MACVEAGH. Mr. Chairman: Before adopting this section I desire to say that I think one of the most beneficent matters of modern legislation has been that which links the charity of the State to the assistant charity of individuals. I think that it is one of the very best uses that can be made of the public money, and as now the English speaking people everywhere are studying the best method of dealing with distress, with pauperism and with misfortune in the different forms in which it afflicts humanity, I submit that it is not wise to limit the Legislature by the terms of this section. Wherever you can secure of the wealth of any man a considerable proportion for really worthy and charitable purposes, I think it is always wise to supplement it with the charity of the State. Therefore the committee of the whole ought to consider this subject carefully, and not adopt this section as matter of form. It appears to me now that the section should be voted down, although I shall be very glad to hear from the gentleman from Columbia, (Mr. Buckalew,) and others upon it. As at present advised, I would not put any obstacle in the way of the Legislature which would prevent it from meeting the wishes of charitable citizens who come before it, and saying to those who are doing all they can to relieve want, "the State will give you \$50,000 or \$100,000 to assist in taking care of the orphans, of the destitute, of the insane, of the halt, the lame, the blind, or of any of the forms of suffering in which charity is so urgently needed in all modern societies."

Mr. BUCKALEW. Mr. Chairman: I move to amend as follows: To strike out "three-fourths" and insert "two-thirds."

Mr. MACVEAGH. Why not let a majority do it?

Mr. BARTHOLOMEW. Mr. Chairman: I move to amend the amendment, as follows: By adding after the word "except," the words "under the rules and limitations prescribed for the passage of other bills over the Executive veto."

Mr. BARTHOLOMEW. Mr. Chairman: I will simply show the inconsistency of this proposition. Here they say that the Governor shall have the right to veto any particular item of the appropriation bill, but if that appropriation shall be passed by two-thirds of the members of either House then it shall become a law, as other bills that are subject to veto. Then in this section on the appropriation to charitable purposes, or for charitable institutions, they fix the limit at three-fourths. Now I take it that the appropriation that shall be made to a charity will be in the appropriation bill, and therefore will pass under the general rule. Yet if the Governor should veto such an appropriation as that in the general appropriation bill, under that section it would pass by a two-thirds vote.

Mr. MACVEAGH. Mr. Chairman: It cannot be in the general appropriation bill under the section. The appropriation bill is the subject of a separate section.

Mr. EWING. Mr. Chairman: I merely wish to call the attention of the gentleman from Schuylkill to a section already passed, which would require an appropriation of that sort to be made a special bill.

Mr. BARTHOLOMEW. Mr. Chairman: I see by section eighteen that my point is not well taken, and I withdraw my amendment.

Mr. BUCKALEW. Mr. Chairman: I submit this amendment as preliminary only to the general question upon this section. If we are to have a limitation at all, it ought to be the usual, ordinary limitation of the two-thirds vote. The Convention will observe that by it the absent members are counted in the negative, in this case, or in the case of all other bills under the provisions of this report, so that the two-thirds limitation is much more stringent under this proposed article of the Constitution than under the existing Constitution. Now, sir, I desire, at all events, to have a change in favor of a two-thirds limitation, if the limitation is to be retained, and then afterward, on the general

question of whether such a limitation is to be retained in the Constitution or not, when we come to consider it, I may have something to say.

Mr. BIDDLE. Mr. Chairman: I hope that three-fourths and two-thirds will both disappear from this section. I know that some of the most meritorious charities in this community, which are very largely supported by private beneficence, receive annually moderate assistance from the State. Amongst others, I enumerate the Deaf and Dumb asylum, the House of Refuge, the Orphan asylum, and institutions of that sort, which are for classes of persons who are in absolutely destitute circumstances, and which classes cannot be increased by charitable aid. You do not make people deaf and dumb, you do not make people blind, by the misapplication of charitable assistance and a community that does not take care of such persons does not deserve the name of a civilized community. Now do not let us throw any impediment in the way of such institutions, obtaining moderate aid from the State, simply because they are not under its absolute control. None of the institutions named by me fall under that category. They are under some State control, but not under its absolute control. There is no fear of money being thrown away in that direction, at least I have never heard it suggested that such appropriations were misused, and there is great danger of doing harm by leaving the section as it is. I hope, therefore, the whole section will be stricken out.

Mr. LILLY. Mr. Chairman: I perfectly agree with what the gentleman from Columbia (Mr. Buckalew) has said on this question. I would not desire the limitation contained in this section retained at three-fourths, but I hope it will be fixed at two-thirds. Such a limitation is necessary to protect the treasury of the State from organized combinations, that under the cover of charity claim large donations of public moneys. It is not only the honestly-deserving association which asks aid from the State, but new-fangled institutions send representatives to Harrisburg to demand relief, and some of these things are got up only to make positions for somebody, and to make a splurge in the world. Nay, I am informed that in some cases—and I believe my information is correct—that out of these very appropriations that the State makes for these charitable purposes, the men who go to Har-

risburg to get these laws through, receive ten per cent. of the gross amount, and this business has grown to be a profession. There are persons who go from member to member in the Legislature, and from office to office in the State department—men of polished address and women of culture, who dress elaborately—and solicit for these charities at the time the appropriation bill is before the two Houses of the Legislature. I have no doubt, that in some cases at least, ten per cent. of the sums donated to these charities is kept out of the treasuries in this way. This is an evil we ought to cure, and the two-thirds vote, if it is kept at two-thirds, will be a security that the charity will be bestowed wisely, and that all really necessitous cases will be provided for. But it would be equally proper to ask for aid for our county poor houses as to ask for appropriations for many of the institutions that claim it. We in Carbon county, as in many other counties of the State, pay a poor tax, and we do not ask the State to help us, and while some of these institutions are worthy, others are made to order, for the purpose of receiving public appropriations, and it is to guard against them that the two-thirds vote ought to be left in. I am willing to strike out the three-fourths, but the two-thirds ought to remain to protect the treasury, and protect the people from these organizations that without merit in themselves always have received public appropriations and probably always will.

Mr. DARLINGTON. Mr. Chairman: What a spectacle would we not present to the world if we would here deny to our Legislature the power to assist the individual charity of this or any other city, or community, with the public money of the State. We all know that these noble charities are to be found in and about the large cities, because of the aggregated wealth and the munificence of those endowing them. It is there that these institutions most ordinarily grow and flourish. But they are not exclusive. Our insane and our deaf and dumb from all parts of the State are admitted to the benefits afforded by these institutions in the cities. It is not alone the locality in which these institutions happen to be that is interested in them. All parts of the State are benefited by them. The people of all parts of the State have admission to them and are interested in their prosperity.

Is there any more noble use to which we can devote a small portion of our pub-

lic funds than to the aid of these charities to assist in taking care of those, who all acknowledge, we must take care of, and who we must take care of as amply as it is possible for us to do? It would be a crime for us to take a step backward in a direction like this. If we are in danger of having some money misapplied, if we are in danger of giving our charity to some unworthy object, far better is it to err on that side than not to reach out at all a helping hand to those who stand in need of assistance. We had better permit some of the public money to be given in charity, even if it does not go to worthy objects, than to dry up the stream of benevolence which has honored and elevated us as a christian people. It will not do, in my judgment, to say that because a charity is under the control of a religious society, it therefore must not have a share of the public funds.

I belong to no religious society asking aid from the Commonwealth. My Quaker education, fortunately for me, was in a society where we take care of all our own poor, of all our own insane, of our deaf and dumb, and blind. We do not call for the aid of the State in anything. But this is not the case with everybody else, and I am willing that a portion of the public funds in which I am interested, shall be given in aid of those charites, although they may be maintained and controlled by benevolent people of other societies.

Now I am in favor of striking out this whole section and leaving the Legislature in that position where it has always been.

There is no danger of any abuse there is no danger of any money being appropriated improperly to these objects. Guard the treasury against plunderers, but give freely to charity and with a liberal hand.

Mr. W. H. SMITH. Mr. Chairman: I want to say two words on this subject. I think there should be a restriction to this indiscriminate voting of money to charitable institutions.

The gentleman from Carbon (Mr. Lilly) has said that he believes it is a business to "lobby" for these bills at Harrisburg, and that the average price is ten per cent. I believe, sir, that the price is more than that. I know of a single instance myself where there was an amount of \$8,000 asked on behalf of a charitable institution to be appropriated by the Legislature. It went to a committee of conference, and there the members of the committee were divided, and it became necessary, in order

to get that item put through, that the man who was "engineering" for this charitable institution to pay \$4,000 to get the appropriation made, and he paid it, as he alleges, and as I believe. The institution knew the money was coming, and as the slang phrase is, they "went back" on this man they had hired. He handed them \$4,000, and when they asked him where the rest of the money was, he said he had given it to the members of the committee on conference, and that he did not have it. They said it must be produced, and they sued him for it. It was afterwards paid for him by a request of one who was a friend of his, and also a friend to the institution.

That is only one of probably a number of cases in which that sort of thing has been done.

I believe, for my part, in giving to some—only a few—of these charities. I believe, as was said by the gentleman from Philadelphia, (Mr. Biddle,) that it is the system, that is the circumstances connected with the system, that are wrong. It is not the fault of the children that they are born blind and lame, insane and idiotic. There ought to be some restriction—some discrimination. I do not believe the Legislature has a right to tax the people heavily and then give away the money they extorted, without just discrimination. A mere reckless system by which excessive appropriations are made is what should especially be guarded against.

Mr. HAZZARD. Mr. Chairman: In these educational matters I am very much interested. I am somewhat afraid that by this provision we should endanger Pennsylvania in her educational interests. It is well known by every delegate on this floor that these Normal schools are favorite schools of Pennsylvania. They are not under the exclusive control of the State, but they are doing a great work. They are beginning at the very foundation; they are educating the teachers. They are preparing for the education of all the rising generation of this country, and if we pass that section we strike all these down. We have an institution of that kind in our county, which is the pride of the county. We feel its benefits in the proportion of teachers that go out from it into the schools of the Commonwealth. The State of Pennsylvania has liberally contributed to the struggling people of a little borough of not more than three thousand inhabitants, perhaps not so many, that has expended

over one hundred thousand dollars, and are building—

Mr. MANN. Let me interrupt the gentleman, to say that the committee do not propose to cut off the appropriation for the Normal schools of the State.

Mr. HAZZARD. I do not know anything about what is to come; I only know what is before us. If it is proposed to except them, I do not know that I have anything further to say.

Mr. CLARK. Mr. Chairman: I offer an amendment to the amendment, to insert after the word "Commonwealth," in the second line, these words: "Other than Normal schools established by law, for the professional training of teachers for the public schools of the State."

Mr. J. PRICE WETHERILL. Mr. Chairman: I hope the Convention will vote down this entire section. I have heard no good reason given why it should be adopted. If there is any reason in the argument of the gentleman from Allegheny, (Mr. W. H. Smith,) that because it costs money to secure these appropriations, therefore some of them should not be made, I would ask if it costs a certain sum of money to pass a bill by a bare majority, how much more will it cost to pass that bill by a three-fourths or two-thirds majority? If you look carefully over these charities you will find that to restrict them by such a veto as this is very improper. We appropriate to the charitable institutions of the State about \$500,000, annually, and of that amount eighty per cent. will, if gentlemen will examine the matter, be found to be devoted to the clearest and truest objects of charity, a charity broad and comprehensive, a charity which will be of incalculable good to the afflicted throughout the State. It will not do for gentlemen to say that they themselves take care of the poor in their counties. Do they do it? They certainly do not, for instance, take care of the blind, or the deaf and dumb poor as they should be taken care of. They cannot do it. This class of people must, of necessity, be kept and cared for differently from the class that is kept in county poor houses. I hope the gentleman from Carbon (Mr. Lilly) will, on reflection, see that there is but little force in his own argument in that respect.

In regard to the Soldiers' Orphans' schools, it will cut off some of the appropriation from them, because the State has not absolute control over them. It will cut off, probably, thirty or forty per cent.

of their annual appropriation. Surely it is not desirable to do this. But, sir, do we want a check of a three-fourths majority in this matter? Have we not a sufficient check already? Have we not the Governor as a check? If an excessive or unreasonable appropriation is asked for, will not this power, properly evinced, restrain excessive appropriations? This power is the only check we need or should desire in this matter. Do not let us by an action secure a reputation for being less liberal than heretofore, when all admit that these charities are of the most deserving character. I hope the Convention will not disturb the present status of that question.

MR. HARRY WHITE. Mr. Chairman: I have a few words to say on this section. The object of the section is one exceedingly valuable and useful to the Commonwealth. Its necessity, or the necessity of a section somewhat like it, has been demonstrated by the experience of the past. The object of the section is to keep the Commonwealth as near to a plain political corporation as possible. For years there has been a conflict between private or local, and general and public charities. No one complains against the reasonable appropriation of the public fund to what are known as the State charities. Among such are the asylums for the insane, located in different parts of the Commonwealth; the asylum for the blind, and the asylum for the deaf and dumb. Nobody in the Legislature or out of it, in this enlightened age, disputes the propriety of these appropriations. A gentleman, who was formerly the Executive of the State, and now occupies a seat in this body, (Mr. Curtin,) sent a message to the Legislature of 1833, in which he expressed, more forcibly than I can do it, the bearings of this question, and from that time forward there has been a conflict between private and public charities. Yet no gentleman who lived in the locality of the blind asylum or the asylum for the deaf and dumb, or the insane, are disturbed on this section, because these institutions are regarded as State charities.

MR. J. PRICE WETHERILL. Mr. Chairman: I would like to ask the gentleman this question: Whether the Pennsylvania Deaf and Dumb asylum, in the city of Philadelphia, is under the absolute control of the Commonwealth?

MR. HARRY WHITE. Mr. Chairman: The intelligent gentleman from Philadelphia (Mr. J. Price Wetherill) knows the

situation of that as well as, and better, possibly, than I do. I merely say that it is regarded as a public institution, and that no difficulty whatever has been found to exist in relation to getting a two-third vote, or a three-fourths vote, or, indeed, a unanimous vote for its appropriation.

MR. MACVEAGH. I would like to ask the gentleman from Indiana (Mr. Harry White) on what grounds he asks this Convention to make it more difficult to pass a law in aid of a charitable purpose, than to pass an ordinary law in aid of an ordinary selfish purpose?

MR. HARRY WHITE. Mr. Chairman: The object of the Legislature, the object of the government of Pennsylvania, should be to make our laws uniform, to make the benefits of the government uniform, so that the rich and the poor, the sparsely populated and the more thickly populated sections of the State may have the equal benefit of them. That is the reason why we should have some reform in this respect. What is the situation to-day? The great Commonwealth of Pennsylvania is building institutions for the insane in different parts of the Commonwealth. There is a lunatic asylum established at Harrisburg; a lunatic asylum has been established, at an expense probably of a million of dollars, in the town of Danville; and but the other day the Legislature passed a joint resolution providing for the location of another insane asylum up in the north-western section of the State.

These institutions will be State charities, and under the control of the State. What is the situation of Dixmont to-day? It is a private corporation. The State annually appropriates about \$250,000 for it—a large amount—yet, being a private corporation, a lien or judgment creditor can sell out its corporate franchises, and deprive the institution, and the public, and the State, of the benefits of the appropriation. It should not be so. That institution, and others like it, should come under the control of the State.

There is no objection whatever to enlarging the power of the Legislature, in relation to granting aid to the Normal schools, which are part of the common school system of the Commonwealth. I think the time is coming when the State itself should and will take charge of its common school system in every department. Reason and experience have demonstrated the necessity of something of that kind. In the town where the honor-

able gentleman from Columbia (Mr. Buckalew) resides, there is a Normal school. Last year the Legislature appropriated \$10,000, in addition to the \$15,000 which were already appropriated to it. Yet it was and is a private corporation. The institution is about bankrupt, and about to close; the writ of *levari facias* is now in the hands of the executing officer, and it and the State will lose the benefits of the money already gratuitously given it. The object, then, is to have this and other institutions become exclusively of a public character. They should be absolutely under the control of the State. I have no objection whatever to the amendment in regard to Normal schools, for they are such a character of institutions as should be provided for from the public fund. But, sir, appropriations to them should be made in such a way as to save the rights of the Commonwealth therein. These, sir, are the reasons that induced the committee to report the section as submitted.

MR. HANNA. Mr. Chairman: I have given this subject of appropriation for educational and charitable purposes by legislative and municipal bodies considerable attention, and I have become fully satisfied that the whole system of donating or giving away public money in charity is radically wrong. I am opposed, not only to all union between the church and State, but also between the State and private charities. I maintain, as a principle, that no legislative body—no representative body of the people has the right to give away the public moneys raised by taxation for specific purposes to any charitable purpose whatever. I contend that these bodies have no right to divert the public money raised for one purpose to another. Now, sir, in connection with this subject, I would state to this committee a remark made in the Committee on Legislation by a distinguished member of this Convention. He remarked to me that "one of the most rascally virtues of mankind was generosity with other people's money," and is not that true?

How easy it is for any member of a legislative body on a mere pretence of charity thus to vote away the money belonging to the people, without assuming any direct responsibility. It does not affect him directly, and therefore he can afford to be generous. Now will any gentleman in this Convention say that this system in itself is right and proper? Why, sir, I submit that private charities should de-

pend upon the sympathy and the generosity of private individuals. They are organized for a private and special purpose, and are not controlled by the State at large, and no portion of the money in their possession has been raised from the pockets of the tax-payer to be given to private charities. I therefore submit that no legislative body has the right thus to divert the public money from its proper channel. This subject received very careful consideration, and while the committee was not willing to go, perhaps, as far as I would go in this particular, they have submitted this proposition, and have thrown a safeguard around it, which will protect the Commonwealth. Now, sir, this proposition does not go so far as to say that hereafter no special appropriation, or any gift or donation shall be made, but it provides that no appropriation shall be made to any charitable or educational institutions except by a vote of three-fourths of all the members elected to each House. The chairman of the committee has well remarked if any special subject is brought before the attention of the Legislature, and it is a meritorious one, it will receive the necessary support, and will commend itself sufficiently to the members of that body. Why, sir, let us see to what extent appropriations are carried. Private charitable institutions have frequently been brought to the attention of the Legislature and have procured large appropriations when they have owned extensive and valuable real estate. What do they then do? They ask not only for a donation from the Legislature, but also to be exempt from taxation. In the city of Philadelphia, to-day, real estate belonging to private charitable institutions, whose assessed value amounts to twenty-five or thirty millions of dollars, is thus exempt from municipal taxation. Why should not these institutions pay their quota of the municipal taxation? Why, I say, should they not pay their quota, at least for the police protection of property, and the paving and lighting of the city? Why should they not contribute towards the improvement and prosperity of our city?

It has been well remarked that the very moment these institutions are exempted from paying their proportion of the taxation, an additional burden is at once cast upon the remainder of our tax-payers. Now, sir, I do submit—

Mr. LILLY. I would like to ask the gentleman whether he is in favor of the appropriation for the centennial?

Mr. HANNA. That is a foreign question entirely. I was about to remark, Mr. Chairman, when interrupted by the gentleman, that I fully concur in the section containing, as it does, a certain safeguard which will be thrown around these appropriations, and fully approve the idea that provision should be made for meritorious questions that may be submitted before the Legislature, in order that they may receive proper consideration. I submit, however, that the State of Pennsylvania cannot afford to be charitable and the Legislature ought not to be charitable with other people's money. But, sir, when these cases are brought to our notice that should depend entirely upon private sympathy and charity, the people of the State at large should not be asked to divide the money which has been raised to carry on the business purposes of the Commonwealth for the support and encouragement of these private charitable and educational institutions. Now, sir, I am willing to vote for this section as reported by the committee. If it is thought proper and advisable to alter the qualification or limitation by changing the vote of three-fourths to two-thirds of all the members of each House, I shall entertain no particular objection; but I do insist that while we leave the door open for these appropriations or donations, we should at the same time throw every safeguard around the exercise of this power conferred upon the Legislature, as shall ensure the protection of the people of the Commonwealth in all future time.

Mr. LILLY. Mr. Chairman: If the Convention is ready to put into the Constitution a provision that all county lines shall remain, from this time forever, as they now are, and determine that there shall be no alteration whatever in changing the county seat, or otherwise, they will vote for this provision, as reported by the committee, because this, certainly and surely, will be the result of the whole thing; but if there is to be no change in population, or in business, and it is desirable or necessary to change the county line, then this provision should be stricken out. I think the world moves, and I hope the Commonwealth moves, and I hope the population of the State will go on increasing, and, I presume, the time will come when we will, probably, have twice as many counties as we have now,

to be able to have our courts so arranged as to do the business required by the people.

Mr. WHERRY. Mr. Chairman: I desire to enter my most solemn protest against the adoption of this section, as it is reported by the Committee on Legislation. I trust the Commonwealth of Pennsylvania will never depart from that high standard of charity to which she has held hitherto from the very foundation of our government, and I trust that her arms will never be shortened, but that her hands will ever be stretched out to aid the unfortunate, and those who may be deserving of her charity. Gentlemen, in speaking of these appropriations for charitable institutions, have endeavored to make the impression that they are easily obtained from the Legislature. I have had considerable experience in these matters, and I know, Mr. Chairman, that it is one of the most difficult things in the world to procure an appropriation for a charitable institution from the Legislature of Pennsylvania. I can enumerate more than a dozen instances, in which the most worthy institutions have presented their petitions in the halls of the Legislature, year after year, which have been finally rejected, and various communities in the State have suffered in consequence. The gentleman from Indiana (Mr. Harry White) has referred to the case of the North-western Insane asylum, and I wish I only had the time to give a history of that institution. For three years have the good people of the community in which it is projected, backed by the best men of the Commonwealth, been asking for an appropriation sufficient to build an institution upon a decent foundation, and they have not been successful to this day.

Mr. HARRY WHITE. I would like to ask the gentleman what he means by the North-western Insane asylum.

Mr. WHERRY. I was saying that there has been an application made to the Legislature for a sufficient appropriation for the building of an insane asylum, in the northern part of this State, and it was not yet granted.

Mr. HARRY WHITE. I think the gentleman from Cumberland (Mr. Wherry) has misunderstood my remarks. I meant to say that the State was taking charge of all these insane asylums, and had appointed commissioners to locate an insane asylum in the north-west. I do not refer to the one at Erie. It is possibly to be located in Crawford county.

Mr. WHERRY. Mr. Chairman: I believe that is the fact so far as the gentleman states it, but the friends of that institution have been for the last three years endeavoring to obtain such an appropriation from the Legislature of our State as would enable them to erect a suitable and commodious building, and to furnish it for the accommodation of patients. In consequence of their inability to obtain that appropriation, the State has been compelled to rent a miserable hovel, in which to confine the insane people of that section of the State. In my own county today, there is a miserable hovel rented by the State, in which a number of our insane population are confined.

Mr. D. N. WHITE. I would like to ask the gentleman where that North-western Insane asylum is situated?

Mr. WHERRY. It is not yet located; as the gentleman from Indiana (Mr. Harry White) has said.

Mr. HARRY WHITE. Is there any such institution at all?

Mr. WHERRY. It is not yet located, but I was remarking that the friends of the institution have been endeavoring to obtain an appropriation from the Legislature for its location and completion, and that they have been entirely unsuccessful. That is all I was saying. Now, Mr. Chairman, I submit again that gentlemen are entirely mistaken if they suppose it is an easy matter to procure these charitable appropriations from the Legislature. I tell you that legislators are not distinguished for their charitable deeds, and they are not a class of men likely to dispense charity. On the contrary they are mostly local politicians who look to their own interests, and their own advancement, who will vote against any appropriation of money for any purpose excepting where their own elections and party interests are advanced thereby. This is notorious, and it must be palpable to every man in this body, who has had any experience whatever in these matters, that it is the most difficult thing in the world to obtain an appropriation for a charitable purpose from the Legislature of this State.

Mr. COCHRAN. Mr. Chairman: I concur in the sentiments entertained by the gentlemen who have advocated the total striking out of this section from the report of the Committee on Legislation. I believe the section is very objectionable, and that it would be a very great reproach to the Convention if we were to determine

or fix such a limitation as this to any appropriation of money for charitable purposes. We have all guarded against, as I apprehend, the danger of log-rolling together on this subject, so as to combine influence in favor of any institution which might not possibly be content to stand on its own merits. We have already passed a section which provides that no bill shall contain more than one object, which shall be distinctly stated in its title. Now, when an institution of a charitable nature comes before the Legislature for an appropriation, it must stand there on its own merits. It cannot combine with any other institution, and it cannot receive an appropriation, simply because it deserves it and commends itself to the judgment of the Legislature; and I think when we have fixed such a restriction as this, in itself a wholesome restriction, that we may well submit this question of public charity to the judgment and feelings of the members of the Legislature themselves.

These charities have nothing in them to arouse a feeling of greed, or to excite a selfish or pecuniary disposition in the minds of the members of the Legislature. These institutions do not belong to that class, but they do belong to the class which is supposed as proper and necessary to the due administration of the affairs of this Commonwealth, and the maintenance of its public reputation and character, as any other class. They range themselves right along side of your public school system, and they stand, in fact, upon the same principle, because this Commonwealth has a great necessity in providing for the charitable objects which exist within its bounds as it has in the education of its youth. It has a great necessity in restoring sanity to the insane, and strength to those who are decrepit and broken down in life, and in all the other forms of public charity it has as great a necessity in restoring them to usefulness in the community as it has in educating and bringing up its youth to be useful and beneficial citizens of the State. And, sir, on that ground I submit that this matter of public charity is a matter of public concern, and should be favored and promoted just as much as we would favor and promote the cause of public education. For this reason and others that have been stated by other gentlemen in the Convention, and which I do not desire now to repeat, I hope this section and the amendment will finally be stricken out of the report of the committee, and that we

will leave the subject of public charity remain in the hands of the representatives of the people and the Governor of the State.

Mr. AINEY. Mr. Chairman: I agree entirely in the remarks that have fallen from the gentleman from York, (Mr. Cochran,) but if I understand the matter correctly, the State has already provided for the promotion of charitable institutions, as far as the judgment of its representatives in the Legislature have deemed necessary. This section, I apprehend, was intended by the committee only to provide for exceptional and extraordinary cases that may arise, and I think when such an appropriation is asked at the hands of the Legislature, its propriety ought to be so apparent, so clear and so unquestionable, that it would commend itself at once to a two-thirds or three-fourths vote of each House. I am in favor of limiting it to three-fourths vote, and I fully concur in the remarks made by the gentleman from Philadelphia (Mr. Hanna) on the subject of charitable appropriations. I believe that gentlemen are too often willing to be more liberal with other people's money than with their own, and I think we should hedge around the Legislature in this respect, and adopt tangible and proper limitations for their protection from too frequent importunities in behalf of charities of doubtful character, as well as the State from these raids on its treasury. I am, therefore, in favor of the section as reported by the Committee on Legislation.

The CHAIRMAN. The Chair will state the amendment offered by the gentleman from Indiana (Mr. Harry White) is not germane to the amendment now pending, and it will be held, therefore, that it is not in order at this time. The question is on the amendment of the gentleman from Columbia, (Mr. Buckalew,) striking out "three-fourths" and inserting "two-thirds."

Mr. H. G. SMITH. Mr. Chairman: I do not feel desirous of occupying the time of the committee, but there has been so much said in the Convention during its session respecting the corruption prevailing in the Pennsylvania Legislature that I beg leave to point out what I have discovered, by observation, to be, perhaps, the most fruitful source of corruption in this Commonwealth. I do not believe that the Legislature of Pennsylvania is bought up by the direct use of money as often as some seem to imagine. Instances of notorious and unblushing corruption have un-

doubtedly occurred, and great evils have sprung from that source, but I say to gentlemen of this Convention that, so far as I have been able to ascertain, greater evils have arisen from combinations made by members from various portions of the Commonwealth for the purpose of carrying out certain designs than from any direct influence of money that has been brought to bear upon the Legislature. This has been the case in regard to almost every species of legislation. You find men in your legislative body actuated by selfish purposes and sectional feelings from which they cannot be expected to free themselves while human nature remains what it is. The members being thus actuated, combinations are formed for the purpose of carrying out sectional and selfish designs, and those who are reaping in the field of public largess are willing to condone in others those offences against the public from which they expect to glean private profit. The influence of such combinations, or conspiracies, for we may properly call them such, has been frequently seen when general appropriation bills have been under consideration. Appropriations for this and that private purpose, for this or that local charity, are proposed. A small body of members favor one provision, a large number favor another, and each is willing to aid the other in depleting the State Treasury. Thus do a number of small rings make up a majority of the Legislature, and thus are improper appropriations of public money frequently made. Gentlemen need not fear that the Legislature will fail to pass any proper bill for the appropriation of public money. Every proper charity will be properly sustained in the future, as it has been in the past.

Mr. WHERRY. I would ask the gentleman if this section does not apply only to educational and charitable institutions? And if it does, I do not think the gentleman has a right to include other institutions.

Mr. H. G. SMITH. My remarks are intended to apply to the system that prevails in the Legislature of the State, and if the gentleman has heard what I said he could not readily have misunderstood me. I am arguing, Mr. Chairman, in favor of the insertion of a section in the Constitution that will strike at the root of one of the evils which this Convention has been assembled to destroy. Combinations, I repeat, are formed in the Legislature of this State, year after year, for the purpose

of obtaining appropriations for charitable, educational and other purposes. Every year, when the general appropriation bill comes up for discussion and consideration, the same scene occurs. Small combinations of men, forming, when fully united, a majority of the Legislature, urge the passage of appropriations for charitable institutions in different parts of the Commonwealth, and it has not unfrequently happened that money has been improperly appropriated. It is to prevent this abuse that the pending paragraph has been prepared and presented.

Mr. JOHN M. BAILEY. I would like to ask the gentleman if those poor unfortunates, the deaf and dumb, the blind and halt, are at fault if these combinations are made in the Pennsylvania Legislature?

Mr. H. G. SMITH. Nobody makes any objections to such appropriations, nor ever did, as the gentleman to my right, (Mr. Mann,) who has had very considerable experience in the Legislature, has just remarked. Nor will any man, who fairly represents the Commonwealth of Pennsylvania in the Legislature, ever make objections to proper objects of charity. The design of this section, as reported by the committee, is to strike at the root of a great evil that has crept into the legislation of Pennsylvania, the formation of combinations which annually take large sums from the treasury of the State in an improper manner.

Mr. H. W. PALMER. I would like to ask the gentleman if he knows of any instance wherein one dollar of an appropriation made for a charitable purpose has ever been misappropriated?

Mr. H. G. SMITH. If reports be true, if what I have heard upon the floors of the Legislature when the appropriation bill was under consideration was to be credited, and if I understood the legislative proceedings as I witnessed them, there have been great wrongs perpetrated in the manner which I have attempted to describe. In the passage of every general appropriation bill through the Legislature for some years past, these combinations have been formed. If the proposed paragraph is placed in the Constitution, so that appropriations of the character named shall not be passed, except by a vote of three-fourths, or, if you please, two-thirds of all the members of each House, the evil which I have tried to portray will be nearly, if not completely, eradicated. There can be an exception inserted with

regard to Normal schools, and properly so, because they are a recognized part of the common school system of the State; but I do hope this Convention will sustain, by a large majority, this wholesome provision, which has been carefully considered by the committee from which it has been reported. In my judgment it is one of the very best paragraphs contained in the report of the Committee on Legislation.

Mr. CARTER. Mr. Chairman: I am fully convinced, after mature consideration, that the section reported by the committee, when amended by the substitution of two-thirds for three-fourths of both branches of the Legislature, is required and will be found eminently useful to correct abuses in the past, when a bare majority could make these donations.

I differ entirely from the gentleman from Dauphin (Mr. McVeagh) and the gentleman from York (Mr. Cochran) in the general idea they hold or the principle they advocate in regard to the almost indiscriminate charity. They seem to think it is the duty or province of that body to bestow. That is the radically wrong idea I would combat. In my humble judgment I do not think it is the duty of the State to respond so promptly to all these appeals for aid from the various charitable institutions in the State. I do not conceive that this duty comprises any very important part of the functions of the legislative body, in whose power is placed the normal and proper disposition of the funds of the Commonwealth. There are certain great objects of charity, such as the deaf, the dumb and the blind, that appeal to the heart of every man. The State recognizes their unfortunate condition and provides for them with a liberal hand; but there are numberless charities which, perhaps, have but small foundation for soliciting the assistance of public generosity, or, at least aid from the public coffers. The argument of the gentleman from Dauphin, (Mr. MacVeagh,) if it was followed out, would lead to continual solicitation by every man in the community, who felt benevolently inclined, to proceed to the Legislature, and ask the State to extend a helping hand to the almost innumerable charitable projects. I think, therefore, this section is wise, as it will have a tendency to lessen the number of these annual appropriations for purposes which may not be, perhaps, strictly meritorious. I do not consider it to be the duty of this Commonwealth to

adopt the views entertained by the gentleman from York, (Mr. Cochran,) for I think they would be found in the future as they have been found in the past—a wrong committed against the interests of our citizens.

Mr. MACVEAGH. I would like to ask the gentleman, and I only ask for information, whether he is aware of a single appropriation made by the Legislature for a charitable object that was either misappropriated or that ought not to have been made.

Mr. CARTER. I do not propose to discuss that question, simply because I have no list thereof on hand or memorandum, or anything of that kind before me, but I assume as a fact that there can be no question about it, and no candid intelligent man will deny it. But my main objection is, that the taxes are levied, and treasury kept replenished, for the purpose of defraying the legitimate expenses of the government. There cannot be a greater error than the gentleman from York (Mr. Cochran) that these donations rested on the same grounds as the aid the State gives to the public schools. When the Legislature gives public aid to other than those indicated in the first part of my remarks, the necessity should be made so plain as at once to command a two-thirds vote.

Mr. H. W. PALMER. Mr. Chairman: I hope this whole section will be voted down. It is designed to strike dead the public and private charities of the State. It is alleged that great abuses have crept in under the cloak of obtaining aid for meritorious charities. I hold in my hand the appropriation bill, as reported to the Legislature for the present year, and I find the sum total of all the moneys given by this magnificent Commonwealth for charitable purposes of every nature, including the salaries of the officers, of the officials of the Eastern and Western penitentiaries, and \$100,000 each for the Pennsylvania university and Jefferson college, is only \$727,000. We spend \$7,000,000 to educate the children, and less than one-half a million for the care of the insane and helpless. The charities of Pennsylvania have ever been the pride and boast of her citizens. Few States can exhibit a record so fair and large. I am unwilling to tarnish a reputation gained by a century of giving by any such provision. Until some instance of misappropriation of money, some case of mistaken charity, some allegation of wasted funds is made,

it seems cruel to shut the bountiful hand of public alms-giving and forbid the State to extend the mantle of her protection over the weak and helpless. For the sake of the multitudes bereft of the light of reason, of the aged and infirm, smitten in the winter of life with cruel destitution, and the hapless little children, out-cast and shivering on the threshold of a cold and cheerless life, now and here after to become the objects of public and private charity, I beseech you to pause before inserting this forbidding and heartless section.

Mr. HUNSICKER. Mr. Chairman: I think the passage of this section will have a tendency not only to dwarf the character of this Convention, but to degrade the State of Pennsylvania. It is the duty of the counties composing the State to provide for their poor, insane and infirm, and if private charities, prompted by religious and charitable motives, relieve the counties of a portion of that burden, I think it is a worthy object, and one which should be encouraged. Gentlemen grow very economical, and say that it is robbery to vote away the money of the people for charitable purposes. They seem to forget that the Legislature represents the people, and that the people are voting away their own money. They certainly are voting away their own money. The funds which the people of the State contribute under the forms of law, and pay into the public treasury, the people of the State may appropriate, unless you tie their hands by a constitutional provision.

The proudest ornaments of which Pennsylvania boasts are her charitable and educational institutions, and I trust, therefore, that this section and the one that follows it, which is even worse than this, will be voted down, and that this matter will be left to stand as it stood before; and I will add that, in my judgment, the sum of money which has been heretofore appropriated for the support of educational and charitable institutions has been a contemptible sum, considering the wealth and the greatness of this Commonwealth.

Mr. WALKER. Mr. Chairman: I am in favor of the purpose of this section as it came from the committee. True, I would not regret the change from the three-fourths to the two-thirds. I think the intention of the section is a proper and benevolent one. No gentleman in or about the city of Philadelphia need fear

that an appropriation cannot be obtained for any of her institutions from the State. That has never been denied. It never will be denied. It will be given not only by a two-thirds or a three-fourths, but by an almost unanimous vote. As long back as I can remember such benevolent institutions have been sustained by the Legislature. It is in the human heart to do it. You must make that heart as bad as some gentlemen here think it is before it will refuse to support those institutions.

Mr. Chairman, this section, as I learn—for I am learning as I go along, or am endeavoring to do it—is to guard against improper, injudicious and ill-advised legislation. It is to guard against giving away the public money for sectarian purposes, not to guard against giving to the well established benevolent non-sectarian institutions of the State that the committee had in view in this section. I am for that reason in favor of the section, as it came from the committee, though its purpose might be more clearly expressed. I could not be otherwise. Always, when in the Senate and the House, I voted freely and willingly, and I never heard it contested, that these institutions should not be sustained, and sustained amply up to the requirements.

The gentleman from Dauphin, (Mr. MacVeagh,) in his remarks just now, alluded to the poor of the county of Erie, stating that the insane there were running the streets, shivering and naked. If I understood the gentleman—

Mr. MACVEAGH. I understood that the physicians of the north-western part of the State are now demanding an insane hospital to be built there by the State, on the ground that their insane poor have no refuge, winter nor summer, but are running the streets uncared for.

Mr. WALKER. The physician in the north-western part of the State, or any other part, who communicated that information to the gentleman has communicated a falsehood, clearly and distinctly. I so brand it. For near fifty years I have lived in the city of Erie. Her poor and her insane, her blind and her sick, are as well cared for as they are in this city or in any county in the State.

Mr. WHERRY. Does the gentleman mean to affirm on this floor that application for reception of insane at hospitals have not been denied?

Mr. WALKER. I do not know whether an insane person from the county has or has not been denied at an insane hospital.

Mr. MACVEAGH. Has not the medical society of Erie specially demanded a State Insane hospital?

Mr. WALKER. Unquestionably. That is not what the gentleman said. As I understood it he said that the poor and insane of Erie county were shivering in the streets of Erie, for the want of protection and proper care.

Mr. MACVEAGH. So I am told.

Mr. WALKER. If the gentleman was told so, he was told an untruth. The insane poor are as well cared for in the county of Erie, as the records of that county will show, as in any other locality of the State. We send them to the asylum at Dixmont; we pay for them there, and our yearly expenditures show that they are well cared for, or, at least, that Erie county pays for good care. I know that we have at Erie a Marine hospital, built at a large expense. I did not know how much until one gentleman mentioned some \$200,000. Those \$200,000 have been thrown away. We knew it there. It was not because Erie county demanded it. It was not because an institution of that kind was specially wanted there, but because we were then represented in the Legislature by one who cared more for carrying out his own opinions than serving the best interests of his constituents. And, in this instance, it has happened that a friend in Erie made some money and cheap glory out of it, than it has done good to the State or the citizens of Erie.

We, in the north-west know that the State has, in this instance, been imposed upon. We know that it will be imposed upon again if an appropriation is given to that as a benevolent institution. It is to guard against just such villainy as that, to guard against just such injudicious appropriation of money as that, that I will vote for this section now before the committee. I know what I am affirming, when I state that this Marine hospital has proved thus far, and promises to prove, a failure as such hospital. If you turn it into an insane asylum, and put the gentlemen in there who obtained the appropriation for it as a Marine hospital, and then maintain it as an insane asylum, it will be an institution deserving the aid of the State.

Mr. HARRY WHITE. I have no objection to accepting the amendment of the gentleman from Columbia (Mr. Buckalew.)

The CHAIRMAN. The gentleman cannot accept it. The amendment is to strike

out "three-fourths," and insert "two-thirds."

The amendment of Mr. Buckalew was agreed to.

Mr. CLARK. Mr. Chairman: I now renew my amendment.

The CLERK read:

Insert after the word "Commonwealth," in the second line, these words: "Other than Normal schools established by law, for the professional training of teachers for the public schools of the State."

Mr. DARLINGTON. Mr. Chairman: It is obviously proper that this exception should not be made, if it is the intention of the committee to adopt the section. The State has already aided Normal schools in several portions of the State. It has aided the Normal school at Westchester. We ask nothing more, but there are other Normal schools which ought to be aided.

Mr. HAZZARD. Mr. Chairman: The gentleman from Indiana (Mr. Clark) offered the amendment while I was speaking before, and I was not quite done. I hope the section will now pass with this provision, because Legislatures are very apt to make charitable appropriations in order to carry some other infamous thing, and if we pass this, these charitable measures will be voted for on their own merits, and they will be careful not to encumber their favorite bills for appropriations, by putting it in the general appropriation bill in which these charitable appropriations are made, for that will injure it.

The amendment of Mr. Clark was agreed to.

The CHAIRMAN. The question recurs upon the section as amended.

A division was called for, and resulted: Affirmative, fifty-one; negative, thirty-three. So the section as amended was agreed to.

The CHAIRMAN. The next section will be read.

The CLERK read:

Mr. HAY. Mr. Chairman: I offer to amend, by striking out the section and inserting —

The CLERK read:

"No appropriation shall be made for any denominational or sectarian purpose, or to any institution, corporation or association, created and maintained for objects limited or restricted by any particular religious denominational or sectarian views."

Mr. HAY. Mr. Chairman: The section under consideration, it seems to me, goes

further than is wise or prudent. It prevents any appropriation to any institution, corporation or association for charitable, educational or benevolent purposes, which is managed or controlled by any religious society. That would prevent the granting of State aid to any hospitals or orphanages, which were originally established and are most largely maintained by religious societies. It seems to be the settled policy of the State to encourage private benevolence, and to grant its aid to private institutions of this kind. And if such is to be the future policy of the Commonwealth, the section under consideration should be somewhat amended. I do not know, for myself, that I would be always in favor of State aid to private charities, or in favor of the State acting as a benevolent society at all; but if this is to be the course of events, then I think it would be well, and that it is necessary, to restrict the power of the Legislature in this matter to some extent; and that the restriction should be substantially that incorporated in this amendment.

Mr. DALLAS. Mr. Chairman: I would like to call the attention of the chairman of the Committee on Legislation to the language of this section as reported. It is written: "No appropriation shall be made to any person." Much depends upon what you may imagine as to its punctuation in determining how it should be construed and understood; but, certainly, it is not intended to provide that no appropriation shall be made to any person. The rightful salaries of State officers, I believe, depend on appropriations, the propriety of which nobody can doubt. But here is a section that might be understood to mean that no appropriation shall be made to any person or community, for any purpose, nor to any denominational institution, corporation, or association, for charitable purposes.

Mr. HARRY WHITE. The whole section, I think, is clear and explains itself, that "no appropriation shall be made for charitable, benevolent or educational purposes to any person, community or any denominational institution."

Mr. ANDREW REED. Mr. Chairman: I do not think there is any necessity for this section. If the committee will turn to section five of the report of the Committee on Education they will find, I think, that it embraces all that is intended to be covered by this, and that has already been passed.

Mr. CORBETT. Mr. Chairman: It does not cover all. With reference to sectarian institutions, the adoption of the fifth section of the report of the Committee on Education does cover that. But there is another class of appropriations that this is designed to strike out, and which are peculiarly private charities. We have made appropriations to communities, to towns destroyed by fire, and this section is intended to strike at such appropriations, to apply the knife to the very core and eradicate such appropriations altogether. Now, for myself individually, I have no objection to any amendment of this section, so that it will reach that object. As to the other portion, that as to sectarian institutions, it is already provided for and adopted by the committee of the whole on the article on education.

Mr. MACCONNELL. Mr. Chairman: I desire to ask the gentleman a question, viz: Whether the committee intended, by this section, to prevent the State from giving pensions to wounded soldiers?

Mr. CORBETT. All that I can say is, that it was not intended to reach any case such as the member proposes, but it was intended to reach the case of appropriations to merely private charities.

Mr. LILLY. Mr. Chairman: I move to amend, by striking out the word "community." My reason for that is that it is contrary to what the gentleman from Clarion says. I can conceive there can be a fire which may involve everybody in a community in suffering. A conflagration in a city or large town may destroy a large portion of the place, and that during the sitting of the Legislature.

The CHAIRMAN. The gentleman from Carbon will permit the Chair. The gentleman offers an amendment to the amendment, to strike out a word which is not in the amendment.

Mr. LILLY. I beg pardon of the Chair. I did not know there was an amendment pending. I ask for its reading.

The CLERK read as follows:

"No appropriation shall be made for any religious denomination or sectarian purpose, or to any institution, corporation or association created or maintained for objects."

Mr. LILLY. Mr. Chairman: I think that is governed by the article alluded to by the gentleman from Mifflin, (Mr. Andrew Reed,) but I withdraw the amendment I offered.

Mr. HARRY WHITE. Mr. Chairman: At first sight it does not strike the com-

mittee of the whole what is the distinction between this and the preceeding section. Now section twenty-one is as follows:

"No appropriation shall be made to any person or community, nor to any denominational or sectarian institution, corporation or association, for charitable, educational or benevolent purposes."

This section is very comprehensive, and the purpose of it is to stop appropriations to sectarian institutions. That is the policy of the committee. Furthermore, the policy has obtained, or the precedent has been established in some instances, of appropriating to communities where there has been destruction by fire. An appropriation was made to the town of Mifflin for \$20,000. An appropriation has been made to the town of Somerset of \$75,000. I am not complaining of these, nor do I speak of them as abuses. Let them stand upon their own merits. But I do not think, for one, and I believe that this committee will agree with me in that opinion, that the Commonwealth of Pennsylvania should turn itself into an insurance company. These precedents have been established, and if a fire occurs in a rural district or in a town, and an appeal is made to the Legislature for assistance, in view of these precedents how can it be resisted.

Application was made to me once by a gentleman who had a valuable piece of property burned because he had prosecuted certain liquor sellers, and he alleged that, in vindicating the laws of the State, he had been punished by those who had been convicted, and that the State should reimburse him. Well, that was a fair case; certainly quite as fair for reimbursement, or quite as worthy, as the cases of communities which have been relieved when they have suffered loss by fire. The only way to cut these off is by a constitutional provision such as this. I don't intend to reflect upon any body, or to reflect upon any interest; but this policy is unwise, and I think it ought to be restricted by the organic law.

Mr. MACVEAGH. Mr. Chairman: Would it not relieve the committee of a great deal of embarrassment about the true construction of this section if it should read:

"No appropriation for charitable, educational or benevolent purposes shall be made to any person or community, or to any denominational or sectarian institution or association."

Mr. HARRY WHITE. I do not object.

The CHAIRMAN. Does the gentleman from Dauphin move that as an amendment?

Mr. MACVEAGH. Yes, sir.

The CHAIRMAN. Is there any objection to transposing the words as suggested by the gentleman from Dauphin?

Mr. DALLAS. Mr. Chairman: I will have to interpose an objection at this time, because I do not think the suggestion meets the difficulty.

Mr. HAY. I desire to suggest to the chairman of the Committee on Legislation that the differences between the section as reported by that committee and the amendment which I offered, are these, and I will state them very briefly:

In the first place, the amendment offered provides distinctly that no appropriation shall be made for any religious, denominational or sectarian purpose. This is not provided for in the section reported from the committee. I should think there would be no difference of opinion in this Convention upon that subject. That certainly ought to be adopted. The section as reported from the committee provides, further, that no appropriation shall be made to any denominational institution at all, even if its objects be entirely general and undenominational. I take it that a hospital, for instance, which is under the control of, which is maintained and managed by, one religious denomination, such as the Presbyterian hospital, existing, as I understand, in the city of Philadelphia, is a denominational institution, because it was established and is managed and controlled by a particular denomination of christians. Yet its objects are not confined to the Presbyterian denomination at all. Its objects, as are the objects of many other such institutions in this Commonwealth, are as wide as the world. It gives and extends its aid and benefits to all who need them, without regard to their religious belief or their nationality. I think, therefore, that an institution such as that ought not to be excluded from receiving the benefit of State aid, if aid is to be extended by the State to any charities whatever.

Mr. LILLY. I would like to ask the gentleman a question.

Are there any institutions which confine their aid to persons of the one religious belief?

Mr. HAY. There are charitable institutions of various kinds, the sole object of which is the relief of the distresses of per-

sons professing the religious belief of their founders.

Mr. LILLY. Of what sort?

Mr. HAY. There are orphan asylums and homes for aged men and women, for instance. I could mention others.

I think that the State ought to be permitted to help institutions which extend their benefits to all, without regard to religious views, notwithstanding the fact that they may be managed by one religious denomination alone. The difference, therefore, between the amendment and the section as reported is just this: That the amendment does not prohibit the extension of State aid to institutions which may be managed by one religious denomination for the benefit of the public, and whose benefits are not confined to persons of the particular religious views of the founders of the institution. I may also suggest that the amendment does not cover the case of communities which may need or desire State aid on account of conflagrations or any such extensive misfortune. I purposely omitted including any reference to such cases in the amendment, in order, if that question was raised, that it could be voted upon separately; in order that it might be raised distinctly, and voted upon separately upon its own merits. I suggest that if an amendment should be offered to the amendment offered by myself, adding to the end thereof these words, "nor to any person or community for charitable, educational or benevolent purposes," that this object would be secured and a vote could be taken upon the question whether State aid should or should not be extended to charitable institutions, created and maintained for public benefit, without complicating that question with the entirely distinct and different one—whether or not State aid should be permitted to be extended to communities suffering under extensive calamities.

The CHAIRMAN. Does the gentleman from Allegheny move that as an amendment?

Mr. HAY. No, sir.

Mr. H. W. PALMER. Would this section cover the case of a town destroyed by a raid of a public enemy?

Mr. BIDDLE. Certainly. It covers every case.

Mr. H. W. PALMER. Mr. Chairman: Then I am against the whole section. Shall it be said that when by the "act of God or the public enemy" the people of a whole community are stripped of homes and property, the hand of State charity

shall be closed to them forever? If that be the meaning of this section, I am against it.

A citizen might lose his limbs in the service of the Commonwealth, and this section would prevent the State from appropriating a dollar to his relief. No pension, gratuity, perhaps not even a debt, can be paid when this shall become a part of the Constitution. I submit that it is an unwise and niggardly provision.

What evil has been suffered that is to be remedied by a section like this? Can any gentleman name an instance?

If a conflagration sweeps away a whole village, and impoverishes a whole community, and if the representatives of the people of the State are willing to extend the public bounty, why should they be forbidden the privilege? Who are the persons that compose the Legislature but the chosen representatives of the people, vested with authority over the finances of the State, and whose money is it they vote away but the people's money? And shall not the people, through their representatives, bestow their charities and do what they will with their own?

To appropriate money for the propagation of any particular religion would violate the fundamental principles of our government, and such power I do not ask to have conferred upon the Legislature; but before we paralyze the hand of public charity so that the needs of a suffering people stripped by unavoidable calamity may not be relieved, let us pause and in the name of humanity consider well.

MR. STEWART. I confess, sir, to no little surprise, when, upon reading this section, I discovered it contained the limitation which is now being discussed. I regret that this Committee on Legislation saw fit to make any such report, for I have the profoundest respect for that committee, and I am satisfied in my own judgment that the section, as it stands, does justice neither to its intelligence nor to its liberality. For, sir, why? It proposes to deny to this Commonwealth the high privilege of doing that which, if well done, magnifies and makes honorable. I am at a loss to understand what reasons governed the committee and induced their action. If I were called upon to defend this section as it stands, I would feel myself shut up to one of two theories, either that the State, as a State, has no right to be an almoner, or that our experience in the past has been such as to make us dread the exercise of any such power by the Legislature. In

other words, either that it does not comport with our understanding of what a State is for her to distribute charity, or that the exercise of this power has been so abused as to put it beyond human ingenuity properly to regulate it.

Now I submit to this Convention, is either of these considerations worthy of discussion? What delegate will rise in his seat and say that the State of Pennsylvania has no right to be bountiful, no right to be charitable? What public teacher ever proclaimed any such doctrine? What State ever practiced any such doctrine? If such a doctrine has ever been proclaimed or practiced, I know not of it. I speak now from conjecture, and not from research, because I have not had the opportunity to make an examination; but I dare to say that in all the United States there is not a Commonwealth that has a similar provision in her Constitution. I am willing to be corrected. I am speaking, as I said, from conjecture. I have no actual knowledge of the fact, because I have not had the time to make the examination. But if there be any such Commonwealth, it should not be conclusive upon our action here, because we of Pennsylvania regard Pennsylvania as something more than a mere State, as a mere organized government. We are a Commonwealth, not simply a people closed in by certain geographical lines. We are a people united by a common sympathy in a common interest, and have a common political weal, and shall it be said that this Commonwealth must say to any one portion of its people, overshadowed by a terrible calamity, that while she failed to be their protector, she dare not be their benefactor? I utterly repudiate any such doctrine as that. It is inconsistent with the high office of a State not to be charitable.

Now, sir, can it be said that the exercise of this power by the Commonwealth has been abused in times past? Let any delegate rise in his chair and point me to a single instance. The distinguished chairman of this committee, the gentleman from Indiana, (Mr. Harry White,) has cited two instances in which the benefactions of this Commonwealth have been extended. He has told you of a little town which was almost destroyed by a terrible calamity, and its people made homeless and dependent upon the charities of the world. Was it an abuse of this power in the Legislature to extend a helping hand to that people bowed down with misfor-

tune? Was it an abuse of this power in the Legislature to say to that people, "despair not, but re-build your homes with the bounty of a generous State." He cited another instance, the town of Somerset. The same misfortune befell the people of that village, and was it an abuse of this power for the Legislature to extend a helping hand to that people? I submit that, unless the gentleman can point us to some circumstance in which this power has been abused by the Legislature, this section ought not to be insisted upon as it stands. I repeat, that if I were called upon to defend this section I would feel myself shut up to one of these two theories. Either one, if found to be true, would justify this measure. But I submit here that neither of them can be defended as true in fact, and unless gentlemen can fortify themselves by some undeniable truths like these they ought not to insist upon the adoption of this section by the committee of the whole.

I trust, therefore, that it shall be voted down, or at least that the amendment of the gentleman from Allegheny (Mr. Hay) shall be accepted by the committee.

Mr. HOWARD. I hope this section will not be voted down. Instead of that I hope it will be made stronger and clearer. I was not aware, until after I had read it over carefully, of the meaning of the section. At first I could hardly comprehend what the committee had intended, and I hope it will be made clearer, so as to express that this State shall never "loan, or otherwise appropriate, the public money for or on account of any damage caused by the public enemy, or the troops of the United States, in time of war." Nor would I have it construed so that they could not pay pensions on proper application. I have listened to the arguments of the delegate from Franklin (Mr. Stewart.) I have heard these arguments before. I have heard the parallel drawn here between the cases of Chambersburg and Somerset, and in the case of Chambersburg—

Mr. STEWART. The gentleman will pardon me: I made no reference to Chambersburg.

Mr. HOWARD. I understand the gentleman did not name Chambersburg, but the remarks of the gentleman certainly had allusion to Chambersburg, and such communities as suffered by the war.

Mr. STEWART. The gentleman will allow me; they had no such reference whatever.

Mr. HOWARD. Well, perhaps, they had not; I can give them the benefit of it. Perhaps they would not apply to such a case; but I can use them as having some similar application to illustrate my meaning. The gentleman has no objection?

Mr. STEWART. Certainly not; I simply wish that the gentleman shall not misconstrue anything I said.

Mr. HOWARD. Unless he has a patent right for them. Mr. Chairman, this matter has been annually before the Legislature. The people of the Commonwealth never objected to the first half million of dollars that was appropriated for this purpose. They thought, under all the circumstances, that it might be right, as an urgent charity, but they always thought that the proper place to apply was to the national government. In the first place, the State of Pennsylvania, in time of war, is not the military protector of her people, and these damages, caused in time of war, if they are a proper claim, belong to the national government to pay or satisfy. The gentleman has asked the question, whether the Commonwealth, being the protector, should not be the benefactor. The Commonwealth, in time of war, is not the protector in a legal sense. The power that is bound to supply protection is the power to appeal to, in case of injury or damage, either for compensation or benefaction. There can be no question that the damages for which these moneys have been appropriated, from time to time, were caused in time of war, flagrant and public war. I understand that in the case of a riot, or in the case of mere rebellion that is confined to the boundaries of the State, to be a legitimate State affair, and I understand what is the duty of the Commonwealth in such case. I apprehend that the citizens of this Commonwealth, even if it were not a proper claim against the State, would not hesitate to be charitable in a proper case. But, in every instance, these pretended war claims have been presented to the State of Pennsylvania as proper and legitimate claims upon the national government. Whenever an appropriation has been made by the State, the State has made appropriations as though she were buying up these claims. I find in the pamphlet laws of 1871, page 224, where an appropriation was made of three hundred thousand dollars, in certificates payable by the State in five years, with eighteen thousand dollars to pay the first year's interest on them. This provision:

"Upon payment of these certificates, the State shall become the holder of such claims, and the Governor shall demand the payment of the amount heretofore paid, and hereby appropriated to such claims from the general government, and appoint such agents for the purpose of collecting the same as may be deemed necessary."

Now, if any portion of the people of this Commonwealth have got claims against the government of the United States, and we buy them up with the funds of the people of the Commonwealth, we must take our chance of collecting them; that is precisely the transaction that has been going on at Harrisburg from year to year in regard to this class of claims. Now, Mr. Chairman, I am wholly opposed to this. If they have got a legal claim let them present it at Washington. If it is a proper claim for charity let them present it there, because the United States certainly owe protection to the people of the Commonwealth of Pennsylvania in time of war. They owe protection to every community and to every individual in this Commonwealth, for during that great war the United States claimed and did exercise the entire war power of the whole government. The Commonwealth, as it were, was powerless. She was stripped of her military strength, which was all mustered into the service of the United States.

The United States government is the proper place to look for charity or for compensation. I know that very great corruptions have been connected with these claims. I remember very well, at Harrisburg, in 1870, when an agent of what were called the border raid claims came there, opened up shop in one of the committee rooms of the House, and there undertook to set up his three million bill to make a raid upon the Treasury of the Commonwealth, having first made a contract with all these different persons who pretended to have, or who may have had, these claims. He had a bargain for fifteen or twenty per centum of the amount, and he came to Harrisburg to buy up the representatives of the Commonwealth, and boldly and openly this man took charge of one of the committee rooms. Into that room members was taken one at a time, their names put down, and the amount arranged which they were to receive for voting for these bills.

MR. H. W. PALMER. Mr. Chairman: I would like to ask the gentleman whether

he raised his voice about the appropriation to Pittsburg after the calamity of 1844?

MR. HOWARD. I remember the occasion, for I was there. If there was an appropriation to Pittsburg, however, I am not aware of it; but if the appropriation was made, it was properly a charity, and it was not caused by the public enemy, and we had no claim upon the United States. If the gentleman (Mr. H. W. Palmer) understood me at all, he will remember that I stated the difference when I started, between the case of Somerset and these claims that grew out of the act of the public enemy.

MR. SHARPE. Will the gentleman from Allegheny (Mr. Howard) permit me to ask whether, in the case of Pittsburg, the people did not have their policies of insurance to fall back upon?

MR. HOWARD. I am not talking about Pittsburg.

MR. SHARPE. Well, I am.

MR. HOWARD. I know; but, I say, in a case of that kind, the Commonwealth heretofore has afforded relief. I have not objected—I am objecting to this class of claims on another ground.

MR. WHERRY. I would ask the gentleman whether a calamity is any the less a calamity because it is perpetrated by the public enemy?

MR. HOWARD. Well, there are *proper* places to go for redress for certain calamities. I was making the distinction that this is a class of claims that properly belong to the government of the United States. I was making the further point that there was corruption in the claims to which I referred, for I got a member of the House to go into that committee room, under the idea that he would take part in that game that was being played, to plunder the treasury of the Commonwealth. He ascertained the names of some who were to vote for it, and the prices that were to be paid therefor. And when he came out of the committee room, and the man having the matter in charge asked him if he was not going to sign his name and pledge himself to put that thing through under a suspension of the rules—they would not even print the bill—he said "No; he would take a little time to think over it." This member came immediately to the Senate chamber and told me what had occurred; he was followed into the House of Representatives by another person, and the question was put to him, "Are you dissatisfied with the amount

that you are to get? If you want a higher sum for your vote you can have it." "No," he said, "I am not dissatisfied; but I have concluded not to go into the transaction at all."

I have mentioned this merely as one circumstance connected with this business of settling up this class of claims. They are not claims against the Commonwealth. The claims had been gobbled up by the speculators who took them to our treasury to get the money, and leave their certificates for the State of Pennsylvania to collect from the government of the United States, when they knew well that the government of the United States, in all probability, would never recognize them as lawful or legal claims. Let such claims as these go direct to the United States. The United States should be charitable if any charity is due; and if there is no valid legal claim, let them ask of Congress what they are importing the members of the Pennsylvania Legislature to do for them. We should particularly insist upon this course when we know that these claims have fallen into the hands of the class of men that I have described, if not altogether, at least in a very large measure.

For these reasons I hope that this section, if it is broad enough to cover that class of claims, and drive them out of this State, to Washington city, will be adopted; and if not strong enough to answer that purpose, I hope it will be made stronger.

Mr. DALLAS. Mr. Chairman: I offer an amendment to the amendment, as a substitute:

"No appropriation shall be made to any denominational or sectarian institution, corporation or association, nor to any person or community for denominational or sectarian objects."

The twentieth section, which the committee have already agreed to, distinctly applies to charitable and educational institutions, and upon receiving a two-third vote in the Legislature they may have appropriations made in their favor. I suppose it cannot be the intention of the committee who reported this article to make a discrimination in favor of institutions and corporations and against persons. It is said that "a charitable institution may, upon receiving a two-third vote, have an appropriation," and still, in the section now under consideration, they would say that no *person* shall, with *any* vote, have an appropriation for a like purpose, namely: An educational or charita-

ble one; and I do not suppose it to be the purpose of the Committee on Legislation to discriminate against individuals and in favor of societies and corporations.

The evil which I would correct by such a provision as that we are now discussing is one and only one, and that is the evil of different religious sects and denominations going to the Legislature for appropriations in aid of their special purposes, and for the advancement of their particular doctrines. It always happens that some one sect acquires an advantage over the rest. My amendment limits the prohibition simply to all denominational or sectarian appropriations, and I think that every good purpose proposed by this section will be met by adopting my proposition.

Mr. WOODWARD. Mr. Chairman: Since this debate has taken a somewhat wider range than at first, and especially since the attention of the committee has been called to the proposition to strike out this section altogether, I confess it has interested me, and some of the remarks that have been made on the other side of the Hall seem to me to be worthy of notice. It has been suggested by the gentleman from Philadelphia (Mr. Hanna) that the State ought not to appropriate money to charitable, religious and educational objects, because it is the money of the people.

There are several forms of reply to such an observation, but the one that I choose to adopt is this: At this time, in Pennsylvania, most of the revenue of the State comes from the corporations of the State. Our banks, our railroads, our insurance and mining companies, and other corporations, are taxed as no other forms of property have ever been taxed in Pennsylvania, and the aggregate of the corporation taxes is a very large revenue. Now, sir, if you go to any one of these corporations to subscribe to, or assist in building or maintaining a hospital or a home for friendless children, or for any other of these various charities, you will be politely received, and informed that it would be submitted to their board of directors, and when it is submitted to them, my experience has been that they refer it to their lawyer to advise them whether they may appropriate corporate funds in that way; and when the question comes before that lawyer he says to himself: "If I advise this, it will diminish my fees; if I advise against it it will increase my fees," and, sir, the charity never gets the aid from the corporation. I speak what I know,

for I have seen it tried, accompanied with the offer to obtain legislative authority for what was asked for.

Now, sir, we live in a State governed by corporations, *possessed* by them, almost swallowed up by them. How shall we make them contribute to these charities? Not by direct appeal; that cannot be done. Why we will do it through the State. The State can enforce the payment of large taxes into its treasury, and then the State, acting upon a sentiment that is worthy of the State and every individual in it, may appropriate a reasonable amount of these revenues to charitable and religious objects; and thus the money of these corporations, through the treasury of the Commonwealth, is made to contribute to the relief of suffering humanity. If you tell me that the corporation charges this money upon the people again, through its freights or its insurance, so that the people, after all, have to pay it, I answer that I admit that. It is true; but then that is a consequence of our condition. We are governed by corporations. All their profits are derived from the people; but in the great power they possess, and the exclusive control they have over affairs in Pennsylvania, you cannot make them *feel* for the poor and the suffering; they cannot feel if they would try to, for they have no heart; and they certainly do not try to feel, nor can you make them feel.

When can you make them contribute any essential portion of their wealth unless it is done through the power of the Commonwealth? I ask if it is unreasonable that the State should take some of the money of these corporations and give it to these beneficial institutions? But the gentleman from Allegheny (Mr. Howard) says that the general government ought to take charge of these matters. I am of the opinion that the general government should keep its hands, as far as possible, off of the domestic affairs of the people. I think, with Fisher Ames, that the State government was a beautiful fabric, but that it was situated on the naked beach, and the Union was the dyke around it to fence out the flood.

Mr. HOWARD. I desire to remind the gentleman that I only alluded to that class of claims that grew out of the war.

Mr. WOODWARD. I believe that the government did appropriate something when Chambersburg was destroyed by a common enemy, but I do not know if Chambersburg would not have fared better

if she had been left to herself and to State charities. What I wish, however, to meet is this idea of looking to the general government for appropriations for charitable purposes. It was never intended for any such purpose. There is a document that possesses such importance in our country's history that I think I will be pardoned for referring to it, for it lies very much out of the line of reading of many men. I mean the Declaration of Independence. That document undoubtedly contains some absurd recitals in its beginning about the equality of men, but it is full of the most salutary teachings. I have never seen such an excellent definition of a State as is contained in that instrument. After setting forth the reasons that lead to the formation of the government, and declaring that the States composing this unit of government ought to be free and independent, Mr. Jefferson proceeds to define what a free and independent State is, "and that as free and independent States they have full power to levy war, conclude peace, contract loans, establish commerce and perform all other acts and things which independent States may of right do." "All other things" include christian charities—a declaration that has never been made by any intelligent man in regard to the federal government of this country. That government is one of limited powers, expressly delegated or necessarily implied, and is not empowered to do all other things that free States may do. Pennsylvania has.

Now this visible corporation that we call a State—this essential entity—proposes to contribute out of her treasury, and out of the taxes of corporations, sums of money for the promotion of the charitable institutions of the country. And what does this article in the Constitution propose? To make these appropriations in behalf of any institution that is denominational in its character? Listen to the reading of the section:

"No appropriation shall be made to any person or community, nor to any denominational or sectarian institution, corporation or association, for charitable, educational or benevolent purposes."

This sovereign, free and independent State, which has the right to do all things which other free and independent States may do, is to be tied down, restrained and prevented from doing that which every benevolent man in the State would wish her to do: Contribute to the relief of the suf-

ferings occasioned by calamities that sometimes befall towns and cities, and contribute to the aid of hospitals that relieve the sufferings of our common humanity. Mr. Chairman, this disposition to relieve the sufferings of our fellow-man is one of the distinguishing characteristics of the age, and we sometimes hear it said, in the pulpit and in our fourth of July orations, that the ancients had no hospitals and infirmaries. Now, I think, we do not quite do justice to antiquity by that line of remark, because there was a time when every castle was a hospital, and every monk's cell an infirmary; and under the feudal system there was as much care taken of the tenantry as there was under the slave system in our Constitution. The tenantry, in those days, received instruction and relief, and there were as many benevolent institutions, in proportion to the population, as there are to-day in this country, and in this christian age. I know that the charitable enterprises of this day are undertaken in a more ostentatious manner, and large buildings are erected, and many of our citizens become interested in their welfare. We make loud proclamations of all we are doing in the way of charity. I do not say it is wise, but this is the form in which our charity manifests itself, and, I must confess, that we are not apt to follow the Scriptural teaching, not to let our left hand know what our right hand doeth. We do not conceal our deeds of charity from anybody, but we take pleasure in letting the world know of them. We put up large hospitals, in the most conspicuous places, and surround them with all the ornamentation that is calculated to attract the attention of the stranger or the passer by, and we tell the world what the fact is, and I rejoice the fact is so, that we are a benevolent people, and that we live in a charitable age. Charity is one of the attributes of our nature, and it is better it were dispensed in our way than not at all.

The world has long since passed from the feudal age, and this country has extirpated its slavery, and I am glad of it, and we must now confer our charities on another, though more ostentatious form. I say that this Convention will be very cruel to the people of this great Commonwealth if it does not encourage charitable objects that are educational, benevolent and religious, and the reason is monstrous that all encouragement is to be refused because these institutions are generally founded and built up by denominational

influences. Why, Mr. Chairman, of what value is a man in Pennsylvania who does not belong to some denomination? If you subtract the denominational class of our citizens from the population of Pennsylvania, what do you say of the residue? Do they ever build hospitals or encourage charities in the State? I tell you no; the people of Pennsylvania are a denominational and a sectarian people. They all belong to some class of religious belief. Why, even my friend from Chester (Mr. Darlington) belongs to a religious sect, and in fact I believe he claims to be a Quaker, [laughter,] and yet he, too, is a denominational man, and belongs to a sect that is distinguished above others for charities. Would I not trust Presbyterians to dispense charities? Certainly I would; and then there is another denomination that I certainly would trust in dispensing charity, and it is the Episcopalians, to which sect I have been long attached. The Episcopal hospital, of this city, has never, to my knowledge, received one dollar of assistance from the public treasury, and yet it is an invaluable institution. Its doors are always open, and when relief from suffering is sought, it never stops to inquire the religion of a person. It is enough for its officials to know that the sufferer is one of our fellow-men, and that he needs relief, and they relieve him. Shall it be said that Pennsylvania is not a denominational Commonwealth, and that this provision shall be placed in the Constitution, in order that it shall not dispense denominational generosity? I do not believe there is a denomination in the State of Pennsylvania that does not provide some mode for the relief of suffering humanity. I do not know of a church, sect or denomination that ignores these words of our Saviour: "The poor ye have always with you." The church, sect or denomination that has no poor, or neglects its suffering, possesses no religion. That church, you can be sure, has no Christ, because Christ was the friend of the poor.

Now, Mr. Chairman, does this Convention consider what they are asked by the Committee on Legislation to do when they are asking that the Legislature of Pennsylvania shall be denied the power to aid and assist denominational and benevolent charities throughout the State? Why, sir, I would be ashamed to see such a provision in the fundamental law of Pennsylvania. If a certain denominational institution asks an appropriation from

the Legislature for a special purpose, and present the objects and necessities of their institution before the members of that body, they will be refused, and the only reason given for the refusal will be that that some benevolent man in that denomination originated this charity, laid its foundation and built a hospital for the care of the sick and the infirm, and therefore for this free and independent State of Pennsylvania, with money in her treasury, extracted from the pockets of the people, will not lend its hand in encouraging and promoting this noble and worthy object.

This is the philosophy of the section which has been reported by the Committee on Legislation. If it rests upon any philosophy whatever, it rests upon the philosophy of denying to aggregated Pennsylvania the right to perform a duty that would be honorable to each and every one of that aggregate. We mean to do in our aggregate capacity that which would be honorable and proper for any of us to do in our individual capacity.

Suppose the chairman of the committee who presented this amendment would patronize a Presbyterian or Quaker hospital. I do not suppose that this section contains anything that denies him that right, but when a unit of the people in this creature that we call a State, although endowed with powers vastly beyond those of all the individuals composing it, proposes to do the same thing, then this fundamental law shall step in and prevent its accomplishment.

Well, sir, if the State does not do it, it will not be done. If the State does not patronize these institutions, they cannot be built and sustained.

The chairman of the committee mentioned the deaf and dumb asylum of this city this morning, in some of the remarks that he made. I have some knowledge of that institution. I have been a very unworthy member of its board for some twenty years, and I know that it is a well-conducted institution, and that the Legislature appropriated only twenty thousand dollars to its support, and the institution educates, upon the State foundation, more boys and girls than those twenty thousand dollars pay for. So the State gets, in the educated mutes of its population, from that institution, more than it renders. It has some endowments beyond this State appropriation, or it could not exist. It has been patronized by denominational men, and I imagine that ev-

ery man who has given a legacy or contributed to its endowment has been a denominational man of some sort. It has considerable endowments of this kind, which, with the inconsiderable contribution from the State, enables it to educate all the mutes of our State and some from the State of Delaware, and I believe some from the State of New Jersey. It is the most efficient charity of any in our midst. The "blind institution," I believe, is also in the same catalogue, although I have not the same personal knowledge of that that I have of the deaf and dumb.

The gentleman from Luzerne (Mr. H. W. Palmer) proposed to strike out this section. The gentleman from Franklin, (Mr. Stewart,) who made an excellent speech in support of that motion, has given good reasons for striking it out. The gentleman from Allegheny, (Mr. Howard,) it seems to me, has offered no satisfactory reason for retaining it, and I confess that I am prepared to vote for striking out this and all similar provisions. My friend from Philadelphia (Mr. Dallas) proposed to modify it, but I do not care about the modification. I prefer to strike out the clause entirely. I conceive, sir, the thing is wrong in itself, and that it is, in some sense, while it is not so intended, an insult to all that class of our population who are sectarian, who belong to one or another of the religious denominations. I see no occasion for condemning them. These divisions and schisms in the church are matters and things to be lamented undoubtedly. I think the church greatly weakens herself in the popular estimation by dividing her forces and fighting each other instead of the common enemy. I would that all men were of one mind upon this subject, but I see no prospect of uniting men in their opinions on this or any other subject. We are to have as many minds as we have men, and whilst we have them, and whilst we have these different jarring denominations, all coming, however, to a common point, I certainly would not discourage unity by preventing their contributing to and sustaining common charities. While they dispute about doctrines endlessly, and the longer the war of words is waged the less is learned, yet they agree in this, that the poor shall be cared for, the hungry shall be fed and the naked shall be clothed. Now here is a ground of unity. This constitutional amendment proposes to take away that ground, and leave the denominations to wage this unmitigated warfare

with each other. Sir, I have said enough to indicate my reasons for intending to vote for the motion of the gentleman from Luzerne, (Mr. H. W. Palmer,) to strike out this provision from the report of the committee.

MR. CURTIN. Mr. Chairman: It is impossible for us to do without a Legislature. It is the highest and most useful branch of our government, and yet this Convention seems to have been struggling, from the first day of its session down to this day, to abolish that useful branch of our government, through and by which the will of the people is expressed, and the long discussions on the subject of the action of the Legislature on granting corporate powers generally, and the contractions of the powers of that body proposed by this committee, had seemed to me to have gone so far that it was scarcely necessary that this Convention should put a restraint on charities of the State. Until you can form different men for electors, and send an entirely different class of men to the Legislature, and that inspiration from the Almighty taught in the Scriptures, and which every man finds in his heart, will lead the members of the Legislature to do charity, and to do it at the public expense, when it is judicious and proper, notwithstanding what has been said here, of the means by which the State has been induced to do charity through the Legislature, I confess I have some doubt of it.

It is said that in order to get an appropriation of money for a charity from the Legislature, it is necessary to pay money; and yet gentlemen who have had the honor of seats in the Legislature complain here of the presence and importunities of committees. If to pay money is all that is necessary, why do the committees of benevolent women and men importune honorable members of the Legislature in their seats and their homes, for appropriations of the public money? If they pay money for legislation, and if it is true that legislation of such a character can be procured only in that way, they could find men who would take the contract for all the charities in this State, and attend to it professionally and with more certainty of success than the importunate men and women who give their time and energies to such work of benevolence.

I am opposed to the whole section, and approve much that has fallen from the lips of the distinguished and learned delegate from Philadelphia (Mr. Woodward) upon

the subject. There never has been in Pennsylvania a more beautiful charity and a higher justice than that which induces the people of this great State to protect the orphans of the men who have fallen in the war to save the government from destruction, and yet, sir, when the power was given to the Executive, in a single section, to form a plan, as suggested in a message to the Legislature, to educate and nurture the orphans, his plan was to put the child of every man that fell, into a sectarian institution of the same denomination of his father, for the reason that no institutions were in the State for this nurture and education, except sectarian; and I never heard any complaint that that charity was not proper and good. It grew and enlarged until it became a department of the government, and that feature is not yet entirely abandoned. The boys on the streets of this city, now in blue clothes, the children of the men who died that this country might live, are in a sectarian institution, and money is paid by the State in support of the institution they are in. The gentleman had better take care, or he will cut off the Lincoln institute from all appropriation of money.

It is distinctly and clearly a sectarian institution, and it is provided that the children in that school should be raised and nurtured and taught in the Episcopal church, and the Executive, although not an Episcopalian, but a Presbyterian, of the sternest sect, to protect these orphans, gave a full share of the sacred fund to the good men and women who manage this institute; and notwithstanding they propose to instruct the pupils in the Episcopal faith, and he feels none the worse for having done so. But it is said, unless we restrain and restrict the Legislature, they may make an appropriation, such as they made to Somerset or Juniata counties, following the example of an appropriation when a great calamity befell the city of Pittsburg in 1845, the city so ably represented by the eloquent gentleman (Mr. Howard) who makes such serious objections to an appropriation of that character. Since that time various occasions have occurred on which the state has lent a helping hand to relieve the people from great calamities.

MR. HOWARD. Mr. Chairman: I do not like to be misunderstood. I was speaking only of this other class of appropriations. I gave my entire argument to them. I stated that the appropriation to Somerset was proper.

Mr. CURTIN. I accept the explanation; but the other instance he gives is still worse, the payment of the people of Chambersburg who suffered, and I understand it if such a calamity should occur again, if we adopt this section as it comes from the committee, the Legislature would have no power to do anything to relieve the suffering of those who have lost their property.

During the war the people of Pennsylvania were, from time to time, called to defend the border—this same border—and the wonderful spectacle occurred of thirty-six thousand men appearing at the capital in ten days, in answer to one of such calls, and when the enemy were driven beyond the border, and the people returned to their homes, it was found there was no appropriation of money at Washington out of which they should be paid. The Legislature was not in session, and there seemed to be no means of discharging the just obligation to these men who left their homes to defend the State. The Executive of the State came to this city and assembled the presidents of the banks, and on the mere promise that the Legislature would be asked to refund the money, they gave him six hundred and forty thousand dollars, with which the troops were paid, and it is proper to say, in this connection, that the endorsement of the note by the Executive would have embarrassed him very much if he had been liable personally. When the time arrived, and Congress failed to pay the money, he communicated the fact to the Legislature at ten o'clock in the morning, and at three o'clock in the afternoon he signed a bill unanimously passed by both branches of the Legislature, refunding the money. Prompt action to maintain the honor and good name of our Commonwealth by the Legislature so much abused on this floor.

Now the calamity at Chambersburg presents to my mind the strongest reason why we should put no such feature into our Constitution as this. In the beginning of that terrible conflict we raised in Pennsylvania an army intended for the domestic protection, but the defeat of the armies of the federal government required their presence out of the State, and they were immediately surrendered. At various times during the war, troops were raised in Pennsylvania to protect the border, but were demanded by the national necessity and went forward. In 1864, by an arrangement with the federal

authorities, seven regiments were raised in Pennsylvania for border protection. Care was not taken as to the selection of the men; many were older than generally required for military service. Many were not in wealth; some had been in the service and had contracted the diseases which many of our gallant and true men suffered in the south, and not a few had been wounded and discharged as unfit for military service. These seven regiments were all that were necessary for the protection of the State. The rebel armies advanced north in the summer, as we all know, and the seven regiments were called for, for the protection of the Capitol at Washington.

At first it was declined. The battle of Monocacy resulted in a defeat of the army under General Wallace, and the armies of Breckenridge and Ewell approached the national capital, and then it was declared that the presence of these troops from Pennsylvania might be a positive necessity to the safety of the federal capital, and the whole force was sent forward, and three days after they were sent from Pennsylvania; many of them died in defence of Washington. The rebel army burnt Chambersburg; and will any American citizen tell me that it is not proper to relieve these people? Why, in the brilliant record made in that State during that terrible struggle, her fidelity was never more illustrious than in uncovering her own border in order to protect the capital of the nation. In doing that, the beautiful town of Chambersburg was exposed and burnt, and the country around it was ravaged by the enemy. And, houseless and homeless, without food or raiment, cast into the field, where private charity could not reach them, they were succored by the State. Will any man desire to put in the Constitution of the State a section declaring that the people shall be debarred from assisting their fellow-men in such a time of calamity and distress? Go to Washington for charity, the delegate from Allegheny says. That, sir, is the wrong place to go to for charity. They are not your brothers, they are not your friends and kindred, at Washington. They are from all over this vast continent. It is a severe and a close government, at Washington, and it ought to be such, and only give according to national law; all the people of the country ask only the administration of law there. We are a State. Our government is domestic, and our institutions are equally so. Our gov-

ernment should act like an individual or community—like a town, or city or county, under like circumstances. And when you find a part of your people distressed, by such a calamity, when private charity alone cannot succor them, the public treasury must—according to some gentlemen here—be closed against your brother when his property is thus destroyed, not by his own act, but by the public enemy; and destroyed, too, when the State shows its loyalty for the nation, by uncovering its own border to save the nation's capital. My friend from Allegheny (Mr. Howard) was unfortunate in his illustration, and surely this Convention will not deny a member of the Legislature the power of giving the charity of the State on such an occasion.

It is painful, sir, to hear so much said of the Legislature of the State. I am sorry we so defile ourselves by telling all these painful histories of bribery and corruption on all occasions. Is there no honesty left? Can we find men in Pennsylvania who will administer the government faithfully? I have never have had the honor of sitting in the Legislature, but I have been by the side of that department of our government for several years, and I must confess, in the presence of all the evidence as to the corruption of the people sent there, that I do not think it is all reliable. My friend from Potter (Mr. Mann) says fifteen was the number of corrupt men he believed *he* knew and could name in the House of Representatives. Sir, the men at Harrisburg who would be bribed or corrupted are as well known as their names to the public.

It is not a majority of the Legislature, but an abandoned few. And you must remember that there is the giving and taking of interests; there are the various local laws in the passage of which reciprocal votes are given; there are some members, doubtless, who take money for their votes. But if it be true that the Legislature is as bad as we make it out to be, then what are we to do, for we must have a Legislature? We may sit here for five years; we may put in our Constitution articles, and sections, and amendments to restrain the powers of our government, to limit the action of the Legislature, yet we must trust men. We must have a Legislature, and we must have a Governor, and we must have State officers. We must put men into office. Do what you may, you must have your government administered by men; and in

my judgment men are just about as good now as when the Declaration of Independence was promulgated. My experience of life is not that all men are dishonest, but, on the contrary, that very few of them cannot be trusted, compared with the vast multitude now in our country. There are more people in our country now than there were at the period when gentlemen claim so much virtue, and I suppose there are, therefore, more corrupt men. But, today, in all trades and occupations, you find the majority of men whose word is as good as their bond. Unfortunately, however, many of the men who are not of that character, if it be conceded that what is said here is true, and I accept the declaration of gentlemen who must know more about it than I do, many of these men get into office.

I am very thankful to know that there is a different class of men in this Convention however. I am exceedingly glad to find that this Convention is without taint.

I speak in all seriousness when I say that no body of men ever assembled in Pennsylvania who had to sustain them, a stronger, a better defined, and a larger measure of public confidence than this Convention, and the people of Pennsylvania are looking forward to judicious and prudent reforms in our organic law. If we make these reforms wisely, honestly, and fairly, depend upon it they will be accepted by the people. I do not think that the good people of Pennsylvania desire that we should put a section in our organic law in restraint of charity; and certainly not for the reasons given here by the gentleman from Allegheny, (Mr. Howard,) and some others who have advocated it.

Mr. HUNSICKER. Mr. Chairman: I am satisfied that this most proscriptive and intolerant section will not be able to stand the test of discussion. I have very little to add to the analyses of the section so well made by the gentleman from Philadelphia (Mr. Woodward) and the gentleman from Centre, (Mr. Curtin,) because they have ably exposed its faults, and have completely demonstrated that it would be, as I have already said, dwarfing the proportions of this Convention, and it would be dwarfing the Constitution of the State of Pennsylvania to place in the fundamental law a provision that, in effect, means that so soon as a charity is instituted by a church it becomes connected with something wicked, and is no longer worthy of the charitable aid of the State. The sec-

tion that we have just adopted allows the Legislature to appropriate to charitable and educational institutions. An educational or charitable institution, not under the sanction or direction of a religious institution, can receive charitable aid from the State; but the moment a charitable association becomes fostered or encouraged, or is upheld and maintained by people who worship God in conformity with a creed, and according to the dictates of their own consciences, then the arms of the Legislature are tied, and when these charities call for aid they are told, "we cannot aid you because you worship God in a particular way."

I do think, sir, that the proposition is monstrous. There is a want of conscience in it. Let me go a little farther. If this Convention cannot be reached by an appeal to its conscience, let me appeal to its *fear*. As the gentleman from Philadelphia (Mr. Woodward) so well said, strike out from the population of Pennsylvania those who belong to churches, and what portion of the population have you left. Array, if you please, the denominations and the sects against the work of this body, and what becomes of it? It will be buried so deep by an indignant people that it can never be resurrected. It will never be ratified by the people of Pennsylvania.

I have been quite surprised to hear the arguments of the gentlemen who favor this section. I have not yet heard a single word, or line, or sentence, in favor of it, which has any convincing force whatever. Why such a proscriptive and intolerant section as this should have been reported I am at a loss to conceive. We are accustomed to being scared by stories of the corruption that exists, or existed, at Harrisburg. But you have "bottled up" the Legislature already. You have tied them hand and foot. Do you propose to adopt here a code of laws that shall last until the end of time, or do you propose simply to erect a frame-work of government? Why cannot the Legislature be trusted as well with the work of aiding the charities of the State, as they can be with the making of the laws which regulate the manner and mode by which you shall enjoy your liberty and your property?

I do submit that this section is wholly unnecessary, and that if there have been any abuses in times past in the disposition of public funds the difficulty can be corrected by an appeal to the people. The

Legislature represents the people. It comes fresh from the people. If the people make any complaint and elect representatives upon that issue they will vote as the people desire them to do. Let me ask gentlemen who have had more experience than myself where has there been a candidate for either branch of the State Legislature who has run upon the issue that there should be no appropriation to a charity or sectarian institution for charitable purposes? Where has there been a man who has been opposed because he would aid Somerset or Chambersburg? Has there ever been such a case? Not to my knowledge certainly. I trust the good sense of this Convention will prevail, and that the hateful section will be voted down.

MR. EWING. Mr. Chairman: For one I have been very much entertained by a considerable portion of the discussion, and by some of the speeches of the learned gentleman, and also very much gratified with some of them. I am exceedingly glad that the distinguished gentleman from Philadelphia (Mr. Woodward) has got to examining the Declaration of Independence. There are some excellent truths in it; though how he deems the doctrine of sectarian charity from the definition of a State contained in that declaration, I was unable to see. I was also very much entertained and gratified with the eloquent speech made by the distinguished gentleman from Centre, (Mr. Curtin,) who gave us an account of the war and the payment of the troops, and all that sort of thing. It is good history and it is entertaining, and there are certain gentlemen who are entitled to a great deal of credit for the part they took in those transactions, but what these things had to do, or in what way they bear on the section under discussion I have been unable to see. I was also gratified to learn from the distinguished gentleman from Philadelphia (Mr. Woodward) that so large a portion of the people of this Commonwealth were religious people—denominational people, and really, if I had not examined the section and known what it meant, I should have thought it was an attack upon the churches of this State and the church-going people.

I do not so understand it. Now, charity is a noble thing—a grand thing, and it is a most magnificent subject to *talk about*. It is a wonderful easy thing to go round and get subscriptions from *others* for a charitable purpose, if you do not have to

subscribe for it yourself. Most of us have seen a little of that. It is a very grand and an equally easy thing to vote away other people's money. Now for one, I think I feel just as charitably disposed as any of the gentlemen here, under circumstances of that sort.

Mr. STEWART. How does the gentleman apply that to legislative action? He says it is a very easy matter to be charitable with other people's money.

Mr. EWING. If the gentleman will wait he will hear about it. This section is not aimed at the charities of the State at all. I do not see how the question of the State being charitable comes up here at all. The question here is, what is the proper direction to give to the charities of the State. Who are the proper objects to receive the charities of the State, and who should be the almoners of the State. This section may fairly be divided into two portions. There is one that refers to the charitable donations of the State, to particular communities that may fairly and properly be separated from the balance of the section.

I do not propose to discuss at any length the subject of the State appropriations to communities or persons, and on which there have been some magnificent speeches made. I have to say, for one, that, notwithstanding the denunciation of all who are so uncharitable as to think that the State should not vote money to communities for these purposes, I think that the appropriations spoken of here—I refer to Chambersburg, and Somerset, and Pittsburg—if it got an appropriation—were improper, and did not fall within the line of the legitimate business of the State.

But there has been a great deal said here with regard to the denominational question, and I have no doubt as to the meaning of this section as reported by the committee upon that point. It means precisely this, that the Presbyterian hospital that my friend from Allegheny (Mr. Hay) talks about, is just the thing that *should not* have an appropriation from the State, nor the Episcopal hospital, if there be such a one. I do not think that the Presbyterian hospital is asking for an appropriation from the State, nor is it likely to ask for one. The gentleman tells us that the Presbyterian hospital and the Episcopal hospital are open to all the world. I presume that if some sick, lame or diseased person, with proper recommendation, should come to one of those hospitals they would not turn him out

simply because he happened not to be a Presbyterian or an Episcopalian as the case may be, but does not every man, woman and child know that the Presbyterian hospital is for Presbyterians alone? ["No!"] Do they not know that the Episcopal hospital is for Episcopalians? ["No! No!"]

True it may give its charities to others, but that is what it is intended, what we all mean by it, it is for denominational effect. It is no more a public charity than are the contributions made in a particular church to build a mission church, or to support the poor. I am a denominational man. I belong to a denomination myself, and believe in it.

Mr. AINEY. Does the gentleman understand that the purpose of this section is to prevent any discrimination or preference being given to any religious or denominational institution?

Mr. EWING. Yes, sir.

Mr. AINEY. Then I would ask the gentleman whether that is not sufficiently provided for in the bill of rights in section three: "No preference shall ever be given by law to any religious form or mode of worship."

Mr. EWING. If he means it in that limited sense, that is not the object of this section. They talk in this amendment offered about refusing appropriations to churches and other societies for denominational purposes. I see no use in that—it don't strike at the way the thing is done. I cannot see any reason for a denominational institution of charity or of education, unless to support the poor of its own church, or to extend the church. If it is for the general public why not make it a public charity? Why cannot Episcopalians, and Presbyterians, and Methodists, and Catholics and those who are not such join and erect a common hospital? That would be free from the objection of sectarian; but just because our people are divided into denominations you cannot make an appropriation to charitable institutions that are strictly denominational without giving preference to one over the other.

But we are warned that the limitation contained in this section is unpopular. This proposition is one instead of being unpopular would be rather popular in the State. I am not afraid of the people voting against that, as the gentleman from Montgomery (Mr. Hunsicker) is.

I do not think the people approve of appropriations to strictly denominational

institutions, whether they be charitable or educational; and if, as the learned and honorable gentleman from Centre (Mr. Curtin) says, that it would cut off the appropriation from the Lincoln hospital, which, he says, is a denominational institution, if it be such, and provides that all its pupils shall be brought up and educated in the Episcopalian faith, as he says it is, I think the appropriation ought to be cut off from it.

Mr. BARTHOLOMEW. Will the gentleman give way until I make a motion for the committee to rise at this time?

Mr. EWING. Certainly.

Mr. BARTHOLOMEW. Mr. Chairman: I then move that the committee rise, report progress and ask leave to sit again.

The motion was agreed to.

IN CONVENTION.

Mr. ARMSTRONG. Mr. President: The committee of the whole have again had under consideration the report of the Committee on Legislation, and have instructed me to report progress and ask leave to sit again.

Leave was granted to the committee to sit again to-morrow.

REPORT OF COMMITTEE ON AGRICULTURE, MINING, MANUFACTURES AND COMMERCE.

Mr. FINNEY. Mr. President: I ask unanimous consent of this Convention to present a report from the Committee on Agriculture, Manufacture, Mining and Commerce. I would like to have it read, as it is very short.

Unanimous consent being granted, the Clerk read:

SECTION 1. In the absence of special contracts the legal rate of interest and discount shall be seven per centum per annum, but special contracts for higher or lower rates shall be lawful; all national and other banks of issue shall be restricted to the rate of seven per centum per annum.

SECTION 2. The Legislature may provide for the establishment of mining schools, to be located in the coal regions of Pennsylvania, for free instruction in mining and the mechanic arts and sciences.

SECTION 3. No combinations of employers or employed, to enable the one to control the business operations of the other, combinations to maintain arbitrary prices for manufactures, merchandise or the products of labor of any description, or for labor itself (including professional ser-

vices) shall be allowed; nor shall any combinations of individuals, associations or corporations, to obstruct the free course of trade, or to make or maintain arbitrary rates for freight or passage on rivers, railways or canals, be permitted, and the Legislature shall pass laws to prevent and punish such combinations.

SECTION 4. The Legislature shall provide by law for such appliances and regulations in mines, manufactories and workshops, and in the erection of buildings, as may be necessary to protect the health, and secure the safety of the operatives, and shall by law regulate, and may prohibit, the employment of children under the age of ten years in mines and manufactories.

SECTION 5. The Legislature shall regulate by law the manufacture and sale of carbon oil, so as to insure the safety of life in its use for light.

SECTION 6. The Legislature shall provide by law for an equitable assessment of benefits in favor of mine owners and operators whenever, by works and expenditures in mines, draining or tunneling, they produce results which inure, directly or indirectly, to the benefit and advantage of any contiguous or adjoining mines.

Said article was read the first time and laid on the table.

The PRESIDENT. This article has been read the first time. It will be laid upon the table and printed.

PROHIBITION.

Mr. CORSON, by unanimous consent, presented a petition from citizens of Montgomery county, in favor of the prohibition of the manufacture and the sale of intoxicating liquors, which was laid on the table.

ADJOURNMENT.

Mr. HARRY WHITE. Mr. President: At the request of several friends about me, I move that when the Convention adjourns to-day it will adjourn to meet on Monday next at ten o'clock.

Mr. CORBETT. I make the point of order that that has been passed upon.

Mr. KAINE. No, the resolution passed this morning was to meet at eleven o'clock, not ten.

The PRESIDENT. It is not in order to make that motion at this time.

Mr. CORBETT. Mr. President: I move the Convention do now adjourn.

The motion was agreed to.

So the Convention, at two o'clock and fifty-seven minutes, adjourned.

SIXTY-SEVENTH DAY.

SATURDAY, *March 15, 1873.*

The PRESIDENT called the Convention to order at ten o'clock, and announced that there was not a quorum of members present.

Mr. WORRELL. Mr. President: I move that the roll be called.

The PRESIDENT. The Clerk will call the roll for the purpose of ascertaining whether or not there is a quorum present.

The roll being called, the following named members answered to their names:

PRESENT.—Messrs. Achenbach, Alricks, Andrews, Armstrong, Baer, Baily, (Perry,) Bailey, (Huntingdon,) Baker, Barclay, Bartholomew, Biddle, Bowman, Brodhead, Campbell, Carter, Corbett, Craig, Curtin, Dallas, Darlington, Davis, De France, Dodd, Ellis, Ewing, Guthrie, Hanna, Hay, Horten, Kaine, Knight, Landis, Lawrence, MacConnell, M'Cleane, M'Culloch, Mann, Mantor, Mott, Newlin, Parsons, Porter, Purviance, Sam'l A., Russell, Sharpe, Smith, Wm. H., Stewart, Struthers, Turrell, Walker, Wetherill, John Price, Wherry, White, David N., White, J. W. F., Worrell and Meredith, *President*—57.

ABSENT OR NOT VOTING.—Messrs. Addicks, Ainey, Bannan, Bardsley, Beebe, Black, Charles A., Black, J. S., Boyd, Broomall, Brown, Buckalew, Carey, Cassidy, Church, Clark, Cochran, Collins, Corson, Cronmiller, Curry, Cuyler, Dunning, Edwards, Elliott, Fell, Finney, Fulton, Funck, Gibson, Gilpin, Gowen, Green, Hall, Harvey, Hazzard, Hemphill, Heverin, Howard, Hunsicker, Lamberton, Lear, Lilly, Littleton, Long, M'Allister, M'Camant, M'Murray, MacVeagh, Metzger, Minor, Niles, Palmer, G. W., Palmer, H. W., Patterson, D. W., Patterson, T. H. B., Patton, Pughe, Purman, Purviance, John N., Read, John R., Reed, Andrew, Reynolds, James L., Reynolds, S. H., Rooke, Ross, Runk, Simpson, Smith, H. G., Smith, Henry W., Stanton, Temple, Van Reed, Wetherill, J. M. White, Harry, Woodward and Wright—75.

Mr. BARTHOLOMEW. Mr. Chairman: I move that the Convention now adjourns until Monday at ten o'clock.

The yeas and nays were required by Mr. Darlington and Mr. Dallas, and were as follow, viz:

Y E A S .

Messrs. Bartholomew, Carter, Curtin, Ellis, Ewing, Hanna, Kaine, Landis, Parsons, Porter, Struthers and Worrell—12.

N A Y S .

Messrs. Achenbach, Addicks, Alricks, Andrews, Armstrong, Baer, Baily, (Perry,) Bailey, (Huntingdon,) Baker, Barclay, Beebe, Biddle, Bowman, Boyd, Brodhead, Campbell, Corbett, Craig, Dallas, Darlington, Davis, De France, Dodd, Guthrie, Hay, Horton, Howard, Knight, Lawrence, MacConnell, M'Cleane, M'Culloch, Mann, Mantor, Minor, Mott, Newlin, Purviance, Samuel A., Russell, Sharpe, Smith, H. G., Smith, Wm. H., Stanton, Stewart, Temple, Turrell, Walker, Wetherill, Jno. Price, Wherry, White, David N., White, Harry, White, J. W. F. and Meredith, *President*—52.

So the motion was determined in the negative.

ABSENT OR NOT VOTING.—Messrs. Ainey, Bannan, Bardsley, Black, Charles A., Black, J. S., Broomall, Brown, Buckalew, Carey, Cassidy, Church, Clark, Cochran, Collins, Corson, Cronmiller, Curry, Cuyler, Dunning, Edwards, Elliott, Fell, Finney, Fulton, Funck, Gibson, Gilpin, Gowen, Green, Hall, Harvey, Hazzard, Hemphill, Heverin, Hunsicker, Lamberton, Lear, Lilly, Littleton, Long, M'Allister, M'Camant, M'Murray, MacVeagh, Metzger, Niles, Palmer, G. W., Palmer, H. W., Patterson, D. W., Patterson, T. H. B., Patton, Pughe, Purman, Purviance, John N., Read, John R., Reed, Andrew, Reynolds, James L., Reynolds, S. H., Rooke, Ross, Runk, Simpson, Smith, Henry W., Van Reed, Wetherill, J. M., Woodward and Wright—65.

PROHIBITION.

The PRESIDENT laid before the Convention a petition from the Philadelphia Methodist conference, praying for the insertion of a clause in the Constitution prohibitory of the sale of intoxicating

liquors as a beverage, which was referred to the Committee on Legislation.

Mr. DODD presented a petition from citizens of Venango county, praying for the insertion of a similar provision in the Constitution, which was referred to the Committee on Legislation.

FENCING RAILROADS.

Mr. ARMSTRONG presented a petition from citizens of Lycoming county, praying that railroad companies passing through that county be required to fence their roads, which was referred to the Committee on Railroads.

RESCINDING THE XIII RULE.

Mr. LAWRENCE offered the following resolution, which was laid on the table:

Resolved, That the XIII rule for the regulation and proceedings of the Convention, requiring a member to be at his desk when he makes a motion or addresses the Chair, be rescinded.

THE HOPKINS'S MEMORIAL.

Mr. KAINE offered the following resolution, which was twice read:

Resolved, That the Committee on Printing is hereby directed to have the proceedings of the Convention on the death of Hon. William Hopkins—heretofore ordered to be printed—printed in this city, in pica type, double leaded, with black rules around each page, carefully printed on superior tinted paper, and bound in fine cloth—octavo form—with a portrait and autograph of the deceased.

Mr. KAINE. Mr. Chairman: After consultation with the Committee on Printing, I have concluded to offer this resolution. I was not present in the Convention, on the occasion of the announcement of the death of our friend, the late Colonel Hopkins, nor was I present when a resolution was passed, upon the following day, which is to be found upon page 396 of the Journal of the Convention. The resolution, as adopted by the Convention at that time, reads as follows:

Resolved, That the Committee on Printing be instructed to procure the printing of the proceedings of the Convention on the occasion of the death of Hon. William Hopkins, in memorial form, and that five hundred copies be furnished the members for distribution.

The Committee on Printing do not feel authorized, under the resolution referred to, to have a portrait engraved, and desire the Convention to indicate the manner and style in which it wishes the work done.

As a friend of the late Colonel Hopkins, I desire a memorial offering worthy of the Convention, and of the memory of the man whose past services and life it is intended to commemorate. Colonel Hopkins was a member of nearly every public body in this Commonwealth, from the year 1834 down to the day of his death. He filled many important offices, with credit to himself and honor to the Commonwealth, and now let this Convention honor his memory in the publication it is about to make.

Mr. NEWLIN. Mr. Chairman: I desire to say that the resolution in regard to the printing of the memorial proceedings of the Convention, upon the announcement of the death of Colonel Hopkins, which was referred to the Committee on Printing, was very vague, and left a very wide margin as to the manner in which it should be carried out. In view of the fact that this matter of printing has always been a very sore subject to the Convention, and inasmuch as it is difficult to harmonize the views of gentlemen upon this subject, the Committee on Printing thought it would be more satisfactory to the Convention, and certainly more satisfactory to the committee itself to have something definite by way of resolution as to the manner in which this publication should be made. I entirely concur in the views of the gentleman from Fayette, (Mr. Kaine,) that this publication, if it is made at all, should be made in a proper manner, and the manner indicated in the resolution is perhaps the best that could be adopted.

The question being taken, the resolution was agreed to.

THE ARTICLE ON LEGISLATION.

The PRESIDENT. The next business in order is the further consideration of the article reported by the Committee on Legislation. Is it the pleasure of the Convention to proceed to the consideration of this article?

["Aye." "Aye." "Aye."]

IN COMMITTEE OF THE WHOLE.

The Convention then resolved itself in committee of the whole, Mr. Armstrong in the chair.

The CHAIRMAN. The question is upon section twenty-one of the report of the committee. The pending question is upon the amendment to the amendment, offered by the gentleman from Philadelphia, (Mr. Dallas,) which will be read.

The CLERK read as follows :

"No appropriations shall be made to any denominational or sectarian institution, corporation, or association, nor to any person or community, for denominational or sectarian objects."

The CHAIRMAN. The gentleman from Allegheny (Mr. Ewing) has the floor.

Mr. EWING. Mr. Chairman: I remarked yesterday, and I desire to call the attention of the committee to it again, that the amendment of the gentleman from Philadelphia (Mr. Dallas) is a material and vital change of the section as reported by the Committee on Legislation. That amendment of the gentleman from Philadelphia appears to have been drawn with his usual skill, to effect the object which, I presume, he has in view, and that is, to completely emasculate the section and render it worthless. The amendment provides that "no appropriation shall be made to certain institutions and persons," and so on, "*for denominational or sectarian purposes.*" Now, although the section of the existing Bill of Rights, referred to yesterday by the gentleman from Lehigh, (Mr. Ainey,) I suppose was intended merely to indicate that there should be no State church in Pennsylvania, yet I apprehend that that section would prevent any such appropriation as would be covered by the amendment offered by the gentleman from Philadelphia (Mr. Dallas.) I presume there never has been a time, in the history of this State, where there was an attempt made to obtain an appropriation of money for any society, *ostensibly* for denominational and sectarian purposes. Although some members of the Convention intimated yesterday that it had been done in New York, I think, however, that a reference to the appropriations, made either by the city or State of New York, will show that they were made in the same manner in which they have been made in this State, and that where an appropriation has been actually made for denominational and sectarian purposes, it has been made under the *form* of an appropriation, not for "*sectarian and denominational purposes,*" but for *educational or charitable purposes*. That is the form such appropriations have uniformly taken, and I think the power has been greatly abused, and is likely to be abused in the future. I conceive it to be an objectionable practice, and that it should be entirely prohibited. I regard the amendment which has been offered as entirely useless, and as superfluous as

it would be to insert a provision that would prevent the Legislature from legalizing theft.

No one has attempted to obtain an appropriation from the Legislature directly for a denominational purpose, nor is it likely to be attempted in future. This question it seems to me has been very fully and erroneously argued by gentlemen in the Convention, as though it were a question of charity and a question of humanity, and a question of religion. I conceive it to be nothing of the kind. While some gentlemen think that the State should not be permitted to make appropriations for charitable purposes, some of us entertain a contrary opinion, and believe that it is entirely a question of the *direction* which the charity of the State shall take. Those of us in favor of the proposition as it came from the committee, think that its charities should be directed by the State for certain specific objects. We believe that asylums are necessary for the relief of the insane—the deaf—the dumb—the blind, and other infirmities to which humanity is subject, and which the smaller communities cannot be expected to fully relieve. But we believe that this charity should not be dispensed *through denominational institutions*. I was yesterday approached in a very friendly manner, at the close of the Convention, by a gentleman who told me that I was mistaken in supposing that the Presbyterian hospital or Episcopal hospital, I do not know which, refused admittance to persons belonging to an entirely different denomination. Why, I never supposed for an instant that these hospitals were closed against sufferers of other denominations any more than I supposed that the Presbyterian church is closed against all persons except Presbyterians. I have supposed that churches are built to receive every person who was willing to attend the service, no matter to what denomination they may belong.

Mr. HAY. I desire to ask the gentleman if he does not know that there are many charitable institutions in this Commonwealth in whose benefits persons belonging to their respective denominations can alone participate.

Mr. EWING. I can answer that; I know of two or three instances of that kind, but they are rare. By denominational institutions I understand institutions whose management and control is necessary, by their constitution, to be confined to members of a particular denomination. Now,

I take it that such institutions are just as much denominational as a church; they are instituted and maintained for some denominational or sectarian purpose, and conducted, perhaps, merely for denominational glory, perhaps to make proselytes, but always for a denominational purpose. It may be that the donors think that this is the best way in which they can bestow their charities. Very well, I certainly shall make no objection. They are grand and noble institutions, and confer honor upon the churches that sustain them, and upon the members who contribute, but they are nevertheless sectarian, and are therefore improper objects to be the recipients of the bounty of the State. In this matter of charity and contributions to institutions I maintain that all the people of the Commonwealth stand on an equality. If an association of infidels proclaiming their doctrines organize an association for charitable purposes, providing that their association shall be wholly controlled by infidels in all times, they would be a sectarian association. I would bid them God speed in their work of charity for the sake of humanity, but I would never consent to allow the State to contribute anything to their assistance, nor would I any more have the State contribute to an Episcopalian or to a Presbyterian or other denominational institution of the same kind. I maintain that all these institutions are built for denominational purposes, and I think it is an admirable plan in which the charity of our churches can be bestowed.

I had occasion, a few days ago, to visit the "Friend's Hospital for the Insane," in the north-western part of the city. I found it to be an admirably managed institution, and I do not understand that it has ever asked any aid from the State. There are many of these private institutions throughout the State, and they are managed well. They are a credit to their supporters, and should be encouraged by all charitable people of the particular denomination, but they need no State aid. Now, a word in regard to the other portion of the section. I remarked yesterday that it is fairly divisible. There is a marked distinction between appropriations for the aid of sectarian or denominational institutions and appropriations to "persons and communities." I can very well understand how gentlemen can argue that the Legislature should have the right to make appropriations to communities or persons for charitable purposes, and not

to contribute anything to sectarian or denominational institutions. I think, myself, that they stand on different ground. I do not think that at this time there is any necessity for leaving that power in the hands of the Legislature, to be abused as it is likely to be, and as it has been in the past. I was not aware, when this subject was first under discussion, that there had been, what seems to me, abuse of that very power to so great an extent. I understand that the Legislature of this State made an appropriation to Pittsburg. I have nothing to say upon that subject. I also understand that the State made an appropriation to the town of Mifflintown, or Lewistown, I do not recollect which, and I am also informed that the division of this appropriation, which was made for the restoration of property that had been burned, has been a subject of discord and heart-burnings in that town from the period of the appropriation, and that the dispute remains unsettled until this day.

I also understand that the Legislature has made appropriations to Chambersburg in 1864, \$100,000; in 1866, \$500,000 more, with a pledge that no more should be asked from the State. In 1866-8, \$300,000 more was appropriated. All this was paid out in money. If I have been misinformed, I desire to be corrected. A year or two ago, under pretence of obtaining proof, and establishing the claims to be presented to the United States Government for payment, an act of Assembly was passed creating a commission (at an expense of some \$50,000 more) to take proof of claims for property destroyed by the rebels in the "border raids," and issue certificates to the parties. This, under the stipulation that the State should not in any event be liable for the payment of such claims. Under this commission certificates have been issued to an amount over \$2,000,000. And now the parties, or their assigns, are with the lobby knocking at the legislative door for another appropriation to pay the interest on these certificates. What a powerful lobby, with a large corruption fund, may accomplish in future, we can guess at from the past. The town of Somerset is also asking for an appropriation of \$100,000 to repair the ravages of fire. Many other towns have equal claims on the benevolence of the State.

I have no harsh word and no unkind thought for these people, who, by the visitations of Providence, or by the ravages of war, have lost their property, and have

besought and received the bounty of the State.

If the people who actually lost their property have received a fair division of the money appropriated, or if the appropriations were obtained by honest means, the public opinion in the Commonwealth is sadly at fault in regard to the facts. But granting that no dishonest means were used in obtaining the appropriations, and that the money was fairly and honestly distributed among the unfortunate sufferers. I, for one, believe all such appropriations to be outside the legitimate scope of legislative authority, not proper cases for charitable appropriations. If there is any legal claim for compensation in any case, it would not be affected by this section. I believe the power of the Legislature, in this matter of appropriations to communities and persons, has been abused; that it is a power likely to be abused in any case of its exercise, and that it should be restricted by the Constitution.

Mr. SHARPE. Mr. Chairman: I am so entirely averse to obtruding myself upon the attention of the Convention, and feel so diffident of my ability to influence the opinion of a single delegate, that I am quite sure that I would have remained silent during this discussion, had not certain remarks been made which seem to require my notice. I voted against the twentieth section of this article because I believed it to be uncalled for by any consideration of public welfare, and because it is wrong in principle, and I shall vote against the section now under examination, for the same reasons. Some short time ago, when we were considering the report of the Committee on Legislature, I took occasion to make some observations about the dignity and value of the law-making power of our State. The immediate subject then before the committee involved the qualifications of legislators, and how the constituent membership of the legislative body should be made up and apportioned throughout the State.

But, sir, we are now engaged in the examination of an article reported by the Committee on Legislation, which rises in importance far above every other question or matter appertaining to this branch of our government. Whilst it is certainly of great moment that the Legislature itself should be judiciously and properly constituted, it is still of much greater moment that its functions and powers should be so prescribed and defined, as that it

shall be able to do injustice to no citizen, but equal and impartial justice to all.

It should have all the authority which a great State needs for the development of its material resources, for the education of its people, for the security of their lives, liberty and property, for the relief of the suffering, for the advancement of art and science, and for the cultivation of those moral sentiments and christian virtues which ennoble society and adorn human character. A Legislature possessing such authority, in as high a degree, and hedged in by as many safeguards against abuse of its high functions, as man's ingenuity can devise, would be as perfect a human institution as is now attainable, and could be productive of very little that would not be for the advantage of the people.

But a Legislature with its hands tied, with its feet wearing chains, with a load of jealous restrictions upon its back, is an anomaly in a free government, and will be a spectacle for the world to point its finger of scorn at.

Mr. Chairman, I am for reform; I loathe corruption with an intense loathing. I despise the public functionary who barter away his honor and the rights of the people for filthy lucre. I know quite well that laws have been passed in the Legislature which ought not to have passed, and that influences have been habitually used there to tempt the avarice of legislators, and sap their virtue. But, sir, I would not begin the redress of this enormous wrong. I would not attempt to purify the legislative halls by destroying the dignity, functions and august beneficence of the law-making power of our State.

Let the people purge the Legislature of bad men, and bad legislation will cease. From this soil the upas tree has grown, and not from the chart of legislative power found in our present Constitution.

We are just now engaged in framing and perfecting an article containing the powers which the people are willing to delegate to the Legislature.

I am absolutely sure that every gentleman on this floor is anxious to do exactly right, and to reach a correct conclusion in this business.

I will not arrogate to myself the assertion, that during our progress in the consideration of this article, we have already made some fearful blunders, but I am greatly apprehensive that we have.

The limitation of legislative power, under all circumstances, is an exceedingly *delicate* operation. But the limitation of legislative power in a great Commonwealth like Pennsylvania, traversed by stupendous lines of public improvements; with vast resources; with ever shifting interests, and ever increasing wants; with a people of varied language and race, is an experiment of extreme hazzard.

We must recognize the fact that all innovations in the science of government are not reforms, but often prove disastrous to the prosperity of the State. Now, sir, a reference to the eleventh section of this article will show that in that single section we have taken from the Legislature the power to pass local or special laws, on twenty-six distinct and separate subjects.

I lay no claim to the possession of prophetic ken, but I predict that the oldest member of this Convention will live to see the day when bitter experience will teach the people that this has been a mistake.

It can hardly be possible that in the future, special or local legislation about some of these twenty-six subjects will not become an absolute necessity.

Let us remember what we are doing. We are not passing acts of legislation which can be repealed as soon as they are found to be mischievous, but we are framing an organic law which, if accepted by the people, must stand, unchanged and unchangable, until its oppressions become so grievous as to compel the calling of another Convention, to undo the wrong which we have done.

I have sat silent whilst all these manacles were being forged for the Legislature.

When the twentieth section was under consideration, which provides: "No appropriation shall be made to any charitable or educational institution not under the absolute control of the Commonwealth, except by a vote of three-fourths of all the members elected to each House," I still remained silent, although I was amazed and mortified that the delegates of a civilized and christian people should think it proper to place greater restrictions upon the Legislature in dispensing charity to suffering humanity, than in forwarding the selfish schemes of individual and corporate cupidity and of aggrandizement.

But I was content to demean myself thus, because I observed that while State

charity was hampered, it was not wholly destroyed.

But, sir, when the twenty-first section was reached, which provides: "No appropriation shall be made for charitable, educational or benevolent purposes, to any person or community, nor to any denominational or sectarian institution, corporation, or association;" and when I heard from gentlemen on this floor, the wide sweep which they propose the section shall have, and the special, imaginary evils, which it is intended to prevent and eradicate, I felt that further silence would be a wrong to myself and an insult to my constituents.

The section has two distinct branches. The one prohibits the appropriation of money to any denominational or sectarian institution or corporation for charitable, educational or benevolent purposes; the other prohibits the appropriation of money to any person or community for like purposes.

The first branch announces a proposition of astounding novelty. It contemplates nothing less than the damming back the stream of State charity, unless it flows through a non-sectarian channel, to relieve non-sectarian suffering. It goes even beyond this, for it declares that the bounty of the State shall not be used to educate any but the non-sectarian mind, and that it shall exercise no benevolence that shall not be free from the taint of sectarianism.

Now, happily for us, the State and church are divided in this Commonwealth. We have no established State religion, no State formula in sacred things, no State ecclesiastics, and no test oaths.

Every man's religion is a question between himself and his God. No one would wish to change this, even if it were possible to do so. But is it a fair and proper conclusion, from these premises, that the State should withhold all aid from every institution or corporation that is under sectarian government, or cherishes sectarian religious trusts? I grant that it would be wrong for the Legislature to appropriate money in aid of one particular sectarian institution or corporation, to the exclusion of all others, for this would lead, in the end, to the establishment of a State religion. All discriminations between sectarian institutions or corporations are forbidden, alike by our sense of justice, by the Constitution under which we now

live, and by the genius of our government.

But this is quite a different question from that which we are now considering. It is said the State ought not to aid sectarian schools and hospitals. Why not? Is an institution, established for the most beneficent objects, to be ostracised, and put beyond the pale of State assistance, because its managers are Presbyterians, Episcopalians, Methodists, Lutherans, Baptists, or Catholics? What is ~~the~~ *the rationale* for this condemnation? Are the good works of sectarian enterprise to go for nothing, because of an insane bigotry which distrusts all sects alike? One of the first and noblest duties of a State is to relieve suffering. The great heart of the people declares that this relief shall overleap all sectarian barriers, and feed the hungry, minister to the sick, and clothe the naked, of whatever faith, and wherever found. Whatever is given for the love of God, and the love of man, is charity. In this love of God, and love of man, all creeds harmonize. They may quarrel about forms and about doctrines, and about ecclesiastical government, but in this common love of God, and love of man, they are a unit.

To what charity will the State make appropriations, if it excepts everything that is sectarian? It is doubtful whether the gift that is laid upon a non-sectarian altar is sanctified.

The people understand these things better than we do. Their moral perceptions are always about right. They appreciate the blessings that flow in almost every community from the good works of sectarian institutions. And when misfortunes overtake such institutions, when their means become straightened, and their circle of usefulness narrowed, the people have always been willing, and always will be willing, that the State shall grant proper aid. No abuses have appeared in the past, growing out of such appropriations. Nothing but good has resulted from them, and the probability is that nothing but good shall hereafter proceed from them.

At all events the people have not demanded this restriction upon legislative power. They have not asked us to dry up the fountain of State charity so that it may not hereafter run in a sectarian stream. They have not asked us to take away from them the power to bestow their bounty upon whom they please. Until they do ask it, and upon sufficient grounds, I shall never consent to do so.

It seems to me that this attempt to hide a niggardly State policy behind the antipathy which is supposed to dwell in the vulgar mind against everything sectarian can never be a success if the people get to understand the matter. Should it become a part of our organic law it will invite the people to a wide-spread contempt for sectarian institutions, and a deep-seated skepticism about sacred things, which none will deplore more than the intelligent gentlemen who have been instrumental in its consummation.

But the other branch of this section forbids the appropriation of money "*to any person or community for charitable, educational or benevolent purposes.*"

This steers clear of the sectarian aspect of the other branch of the section. We are informed that its purpose is to prevent, in all cases and under all circumstances, gratuities to individuals or communities.

This kind of relief has been sparingly but very beneficially exercised in the past by the State in relieving individuals and communities suffering under some overwhelming calamity. Are we prepared to say that no such relief shall hereafter be granted? Are we afraid to trust the integrity of the Legislature in a matter of this kind? When has the bounty of the State ever been abused in this direction? Turn over your statute books, gentlemen, supporters of this proposition, and point out to me in whose behalf the Legislature has done wrong? Tell me, if you can, of an appropriation that has ever been made by the State Legislature to a stricken community that ought not to have been made.

Let me suppose that a conflagration shall sweep over this magnificent city, leaving its stately buildings a heap of ashes; its marts of trade a desert; its business men bankrupts; its citizens houseless and homeless. Let me suppose that a pestilence shall walk through its streets, destroying at night, and wasting at noon-day; what christian man will say that the State ought not to grant immediate and liberal relief to the suffering and afflicted? Let me suppose, again, that this stupendous calamity falls upon a rural district, crushing its people to the earth, what man of proper sensibility will say that the State has no business to alleviate such distress? We are told that private charity is always prompt enough, and generous enough, for such cases. He who asserts this has but little experience

in such affairs. May my right hand forfeit its cunning, and my tongue cleave to the roof of my mouth, if I ever assist in incorporating into the Constitution a proposition to dam up the charities of the State, within any bounds whatever. There is not a particle of danger that the Legislature will ever become too charitable. I will leave this question with the law-making power, just as those who have gone before us left it, and may God defend the right. But, sir, I suspect that this provision would not have found its way into this section were it not for the intense dislike which seems to be lurking in the minds of certain gentlemen on this floor, against what are commonly known as the "*border claims*."

The distinguished gentleman from Allegheny (Mr. Howard) has given expression to his feelings. He has stigmatized these claims as frauds, which are seeking to deplete the treasury of the Commonwealth. He says that they have been bought up and transferred to a lobby, which has for years been attempting to procure the payment of them, by corruption and other foul practices. That the demand upon the State by the claimants is preposterous and without the slightest merit, and that he advocates the proposition now under consideration, chiefly because it will have the effect to debar the State from ever paying these war damages, and he avows himself ready to support a still more stringent restriction, if the present one is not sufficient for that end.

Mr. HOWARD. Mr. Chairman: I did not say that they were frauds nor without merit. But I stated distinctly, positively, earnestly, that they had no right to be presented to the State of Pennsylvania, but that if they are proper claims they ought to be presented at Washington city.

Mr. SHARPE. Did not the gentleman from Allegheny state that money had been used to secure their passage?

Mr. HOWARD. I stated that an attempt was made most fraudulently and most rascally—and I know it personally—to set them up and corrupt the Legislature of this Commonwealth.

Mr. SHARPE. Mr. Chairman: If the gentleman knows personally, he knows more than I do.

Mr. HOWARD. Well, I do. Understand me when I say a thing distinctly.

Mr. CUYLER. Mr. Chairman: I would like to understand how the gentleman knows it.

[Here the hammer fell.]

Mr. BIDDLE. Mr. Chairman: I move that the gentleman be given unanimous leave to proceed.

This was unanimously agreed to.

Mr. SHARPE. Mr. Chairman: Now, sir, let me tell the gentleman from Allegheny some facts which may shed a few rays of light even upon his prejudiced judgment, in regard to this subject.

On the morning of the thirtieth of July, one thousand eight hundred and sixty-four, Chambersburg was a prosperous and thrifty town. At dawn of that eventful day, a thousand rebel incendiaries, under command of General McCausland, entered it, and in two hours left it, a smouldering heap of ruins. About two millions of property were destroyed; hundreds of its citizens, who rose from their beds in comfortable circumstances, before noon were beggars. Hundreds of families wandered away, houseless and homeless, old age upon its staff, infancy in its mother's arms, and the sick carried upon their beds of pain. The earnings of a lifetime were licked up by the relentless demon of flame. Would that I could transport the gentleman from Allegheny, and set him down amid the smoking ruins of those devastated homes. Had this scene of desolation ever fallen upon his vision, I am very sure that his kindlier feelings would have been aroused, and he would have commended the wisdom that put it in the power of the Legislature to grant relief. Who, sir, were these people that were ruined by the casualties of war? Were they rebels? No, sir. Were they of doubtful loyalty? No, sir! Were they lukewarm in their support of the government? No, sir! They sent more than a regiment of gallant soldiers into the field. They invested their money in government securities; they nursed the sick and wounded that were carried from the battle fields of Antietam and Gettysburg to their hospitals; they were in all respects loyal and true citizens. The blow that laid Chambersburg in ashes, was aimed at the whole north. Chambersburg was the break-water that stayed the wave of rebel vengeance and hatred from overflowing the State. Why should her citizens, who shared the common calamities of the war, be subjected to these extraordinary damages which were not experienced by other portions of the State?

The injuries having been inflicted by a public enemy, all the policies of insurance on the destroyed property were worthless.

Will any gentleman rise in his place and say that the Legislature did wrong in appropriating money for the relief of Chambersburg.

It cuts me to the quick, sir, to hear gentlemen sneer at the calamities of my constituents. It pains me to hear them assert that they especially want a constitutional provision, that will debar the payment of these losses.

The claims are honest in amount, and have been adjudicated by a commission of upright gentlemen of which the gentleman from Centre, (Mr. M'Alister,) and John Briggs, Esq., and Colonel Jordan, of Harrisburg were members.

I totally deny, sir, that any improper means have ever been used to procure the appropriations that have already been made; I totally deny that a single one of these claims has been bought up and transferred to a third party; I totally deny that any lobby has ever been authorized by the claimants to use improper means to secure payment.

Mr. HOWARD. Mr. Chairman: If the gentleman will allow another interruption, I desire to ask him: Have there not been contracts made with agents in consideration that they would use their services as representatives or otherwise to get the State to assume these claims, by which they would receive a certain percentage, twenty or twenty-five per cent.?

Mr. SHARPE. Who did that?

Mr. HOWARD. I ask you if it has not been done. Have not the owners of the claims generally made contract with persons by which they have agreed to pay a certain percentage of the claims, if allowed, in consideration of these persons getting the State of Pennsylvania to assume them?

Mr. SHARPE. There has been an arrangement made by which certain moneys have been appropriated to defray certain necessary expenses in getting up the papers, in getting out powers of attorney, and for work of that kind, but none for any purpose such as the gentleman suggests.

Mr. HOWARD. Mr. Chairman: I am sorry the gentleman does not understand the subject better.

Mr. STEWART. Mr. Chairman: Will you allow me one word? The gentleman from Allegheny asserts that the gentleman from Franklin, who addresses the House, does not understand his question. I hope the gentleman will repeat it and elicit all the information he desires.

Mr. HOWARD. I said that the gentleman from Franklin did not understand the subject in relation to which I asked.

Mr. SHARPE. Mr. Chairman: The sufferers have never regarded this as a matter of grace; they have always insisted that the duty of the State to pay them was imperative.

Did time permit, I think I could prove that it was the duty of the State to protect her citizens against rebel invasions, and failing to do so she is bound to reimburse their losses.

The gentleman from Allegheny admits that the general government ought to pay these claims, but asseverates that it never will. I presume he is right in his last assertion, so long as they remain in the hands of their present owners. But let the State pay them as she ought to do, and then let her carry them before the tribunal of the nation; let her hold there, that the regiments raised for the protection of her borders were yielded to the government in its extremity of peril. Let it be proved there that these regiments could have prevented the calamities that fell upon Chambersburg, and I believe the United States will recognize the justice of the demand and satisfy it promptly.

But, sir, this is not the day nor the occasion to discuss the liability of the State to pay these claims. Should that question legitimately arise at some future time during our deliberations, I may then speak to that end; but now it is enough for me to ask gentlemen whether they are ready to vote this proposition into the organic law to meet a special case? Are you ready to say that under no circumstances, individuals or communities shall receive help from the State? Will you stay the beneficent hand of the Commonwealth lest its touch may heal the wounds of Chambersburg? Will you dare go back to your constituents and say to them, we were afraid that your sense of justice would some day impel you to pay the sufferers of Chambersburg; we distrusted the Legislature, and have, therefore, so fixed it that you cannot satisfy these claims, although you desire it over so much? Will this great Commonwealth tie a constitutional ligament about its heart which, in all future time, will hinder the out-pushing of its streams of benevolence—lest a small portion of their invigorating influences may send joy and plenty along its borders? Until I see it done, I will never believe such a consummation possible.

Mr. J. S. BLACK. Mr. Chairman: My friend and colleague, Mr. Woodward, objects to that part of the section which prohibits the appropriation of public money to sectarian purposes, and he certainly did prove it to be very unwise.

All or nearly all the great charities of the country have been founded and conducted by the spirit which animates the various christian churches. If a meritorious institution be Methodist, or Presbyterian, or Catholic or Episcopalian it is none the worse on that account. Such things do not, as a general rule, come from any other quarter. And if you say that you will not recognize the charity which they teach and practice, you must ignore all the good that there is in the world, and give yourselves up to the undisputed dominion of Satan.

But that is not the serious question in this case. You cannot avoid a controversy between the different sects, which will be injurious to them as well as to the general interests of the community, if you allow appropriations to be made for any of these purposes. If you make members of the Legislature the distributors of your charity they will give what you put in their hands to those institutions which are carried on under the auspices of the largest church, and the weak and the unpopular will stand no chance at all. Before a Protestant Legislature what chance would a Catholic institution have? And what show for a donation would be given to the sect everywhere spoken against—the people first called christians at Antioch? Why they could not muster a thousand votes in the State, while their enemies could pay a premium of a hundred thousand without any trouble.

Shall you under any circumstances put the charities of the country into the keeping of the public authorities of the State? The State has one function to perform; the church has another, and a totally different one. The faith and charity, as well as the hope, of the christian church will be polluted and mutilated by any kind of connection that you can possibly contrive with the coarse and vulgar machinery of the State government. The founder of christianity and all His apostles declared that they came to establish a kingdom which was not of this world. The men who settled our institutions and achieved our independence determined that they would build up between the church and the State a wall of perfect and complete partition, so that the organization of one

could never be used for any purpose of the other. The reason which they gave, and to which every man sensible has always assented, is that they cannot be combined for any common purpose, without doing excessive injury to both. The history of the whole world makes it perfectly clear that the church is more successful when it stands entirely alone and unaided. The voluntary benevolence of those who belong to it is worth a thousand times more than all the legal contributions which can be made to its power. It would be far better for the church, and everything that concerns the church, that it should encounter the fiercest persecution of the State, than to languish under the patronage of political power. The christian religion is as hardy as the mountain oak, when planted in the open air, where the sunshine of heaven can settle upon it, and the free winds can blow among its branches. But it is no hot-house plant. It withers and dies when you place it under the forcing glass, and subject it to the stimulus of an artificial heat.

My friend, to whom I have already referred, (Mr. Woodward,) is in favor of patronizing sectarian charities because he cannot patronize christianity without patronizing the sects into which it is divided. He would not make any distinction between them, or do more for one than another. But how will he help it if he leaves it to the discretion of the Legislature? That is probably the last body on earth whose impartiality in a matter of that kind could be trusted. I would confine them to secular duties, and give them as little rope as possible even in that department. I am, therefore, in favor of the section without the anti-sectarian qualifications, and would prohibit *all* appropriations of public money to charitable or pious uses.

But my brother (Mr. Woodward) thinks it would be right to tax the corporations, and apply the proceeds to pious purposes. I like his ingenuity. The arrangement he proposes would do good both ways. It would punish the sinners by taking their property without their consent and at the same time reward the virtuous and enable them to multiply their good works. It would much improve the spiritual condition of the corporations, while it would fill the treasury of the Lord. But is not this doing evil that good may come? Have we—has anybody—has the State, a right to plunder with one hand in order

to be charitable with the other. Is it charity to transfer property from one person who owns it to another who don't? Is it for the honor of the church or its members to be the recipients of a forced benevolence, or creditable to the State to be the instrument of a pious fraud?

My friend mentions a particular case, which, he says, did actually occur. An application was made to one of these soulless corporations for a donation to some charitable purpose. Instead of responding, as was expected, without hesitation the directors referred the subject to their counsel, and the counsel failed to advise them that they had a right to do what was asked. I think that the counsellor was right in declining to give the advice which seems to have been expected; as a matter of law and conscience he acted properly; his conduct is not at all open to the condemnation which my friend pronounces.

MR. WOODWARD. Will the gentleman allow me to explain? I do not know that I did state, but I, perhaps, ought to state, that the counsel was told that legislation could be obtained. That, if the company had not the power, that legislation could be obtained to give them the power. That was part of the case.

MR. J. S. BLACK. That does not help the case one whit. Neither the Legislature, nor the board of directors, nor the counsel, nor anybody else, could honestly appropriate money to charitable purposes that was in the hands of the corporation, in trust, for another use. Would the gentleman himself, even with an act of Legislature directing it, advise an application of corporate money or property to any purpose, however meritorious, in conflict with the object for which it was committed to its charge? If it was a railroad company, as I suppose it was, (because they are the chief sinners in this country,) the funds were donated to public use—the building of a public highway for the Commonwealth. If the road was already built the surplus was held first for the creditors, and next for the stockholders. No matter how you look at it, you must see that what the counsel refused to advise was simply a breach of trust. To me it seems that the charitable gentleman who made that request might have been better employed than in going about tempting trustees to cheat their beneficiaries, and promising that the Legislature should be made (or got) to assist in the wrong. Cer-

tainly they did no honor either to church or State.

But again; are members of the Legislature fit to be the almoners of the people? Those men who, according to what seems a prevalent notion here, have so little conscience that they can't be bound by an iron-clad oath, are they to be trusted with the distribution of our charities? I am charged with having too little charity, and I confess I have it not in super-abundance, but I would be unfaithful to my own convictions if I did not answer this question in the negative. The claim of the border counties, for injuries by the invasion, was perfectly clear, legal and just. But there is a very strong suspicion entertained by a great many persons, and by the gentleman from Allegheny, (Mr. Howard,) there is something more than suspicion, that a fund had to be raised for the purpose of paying the black mail which they know would be levied upon them. I do not like to say this if it hurts the feelings of my distinguished friend from Centre, but still I do not know how to avoid it, unless I say what I do not believe.

MR. CURTIN. Just put anything you have to say about me in a parenthesis and go on. [Laughter.]

MR. J. S. BLACK. Yes. [Laughter.] You shall have it any way you want it. I desire merely to deprecate the gentleman's displeasure. He has told us that he does not like to hear any evil spoken of the Legislature or its members, whereas I find it somewhat difficult to speak well of them. He may think it right to cover up their misdeeds, but I entreat him not to be offended if, upon proper and necessary occasions, I say what I verily believe to be true.

One word about the "raid." The claim that was made by the people of the border counties was as just, as honest, as fair and as legal against Pennsylvania and the United States, both, as ever was made by man against man.

It is a just debt, and if the Legislature (or the lobby) refuses to pay it that refusal will be repudiation, as base as ever blackened the brow of any government in the world. The people of that region were entitled to protection; they were promised protection by the compact expressed in the fundamental law of the State and the Union, both upon the sole condition that they would be obedient to the constituted authorities. They were obedient, and it was that obedience that caused their frontier to be left open and exposed.

In consequence, the tide of invasion rolled over them and covered their country with blood and ashes. Both governments having failed, either because they were not able, or because they were not willing to give them protection, there is no way of making a proper reparation except to pay them to the uttermost farthing for the losses that were thereby caused.

[Here the hammer fell.]

Mr. CORBETT. Mr. Chairman: I move that unanimous consent be given the gentleman from York to proceed.

This was agreed to.

Mr. J. S. BLACK. Mr. Chairman: I only want to refer to another case that has been mentioned here. The people of the town of Somerset made a claim upon the Legislature for a donation. I cannot help wishing that they would succeed; but my wishes are not based upon my patriotism, nor upon my convictions that they ought to succeed, but because I have a clannish love for my relations, and for the little town in which I was brought up. As matter of public and elementary law, if I must speak conscientiously, I can only say that the State of Pennsylvania is not an insurance company, and not bound to pay the loss that a man suffers when his house is burned down.

Mr. BARTHOLEMEW. Mr. Chairman: I desire to say a word or two upon this subject, not that I will give any new views to the committee, but, perhaps, I may enforce an idea or two that has been referred to in the argument. Now, sir, I yield to no man in a devotion to well directed charity. I believe that it is the duty of the government to lend a helping hand to the afflicted where, by reason of poverty, they have not, nor have their friends, sufficient to maintain and support them. I believe it proper and right for the State to uphold public institutions for the maintenance and for the restoration of those who are afflicted in all cases where private enterprise cannot furnish the necessary means to carry into effect the purposes of those institutions. But I do not agree with my friend from Philadelphia, (Mr. Woodward,) that charity is the result of the christian religion, and that the non-professing of this earth possess no charity. Nor do I believe that without the aid of sectarian organizations, charitable institutions would not be. I believe that charity was before Christ. I believe that charity was when the Israelitish religion was confined to the borders of the Mediterranean. I believe that charity existed wherever

man existed, either in the colds of the Frigid, or upon the sands of the Torrid. I believe that it was just so expanded as man was cultivated, and elevated, and enlightened. I believe that it progressed as man progressed, and as man became enlightened, so his charity became enlightened; because thereby he had a realization of his duties to his fellow-men.

Now upon the question immediately before this House, it strikes my mind just as it struck the mind of the gentleman from Franklin, (Mr. Sharpe,) that it is susceptible of two divisions. The first division relates to the appropriations to persons or communities; the second, to the institution, religious or charitable, which is controlled by a denomination.

On the first branch of this proposition I am opposed to the report of this committee. I am opposed to it, first, because I believe it to be the duty of a State to do that which is right to those who sustain her interests. It is right to give to the individual who leaves his home in time of peril and danger, and offers his life for the safety of the State. I believe that pensions should be given to individuals; I believe that bounties should be given to individuals; I believe that as long as national existence depends upon force—and until the millennium shall come it will—there should be a proper and exact reward for individual bravery, courage and devotion. I believe, also, in giving to a community where, by reason of the extent of the disaster, it becomes more than a particular municipality can bear. A riot may be suppressed by the sheriff by the aid of the *posse comitatus*; but if it extends and grows in proportion, the State is called upon. It is the protection to the individual; and while there may not be the same legal liability for protection to the individual in the case of a calamity, that there is in the case of force and lawlessness; yet, I say, it begets an equity, because this government, to a certain extent, is parental in its character, and stands *loco parentis*. Therefore, on that very proposition, when calamity spreads itself broadcast, and covers the whole community, and when there is no helping hand but that of the State, I say that the duty and the obligation of the State to the individual demand that it shall extend relief—that it should grant relief from the public purse, and I do it upon the proposition that such a grant is general in its character. It discriminates not between Presbyterian and Methodist; not between

Baptist and Catholic; not between black and white; not between the European and the Esquimaux; but is given to all men alike in that community who have suffered. Upon that branch of the question I stand, and have stated my position but it is the least important.

The more important branch of this question comes upon the appropriation of moneys from the public treasury to denominational and sectarian associations. I say that this is against the policy of this government. I say it is against the principle upon which it was organized. The public fund is the result of taxation. Taxes are not levied upon Presbyterians as Presbyterians, nor upon Methodists as Methodists, nor upon Catholics as Catholics; but they are levied alike upon all, and upon the property that the citizens hold without respect to color, creed or faith.

The gentleman from Philadelphia (Mr. Woodward) says, and I do not say that I could understand his logic, that because the great bulk or a large proportion of the taxation of this Commonwealth is obtained from corporations, and it goes into the treasury from corporations, therefore we might take that fund and appropriate and apply it to sectarian gifts and bequests; but he tells us in the breath after that if we do take from these companies it comes ultimately from the people. The people, he says, will have to stand it at last—that that is the ultimate source from which the wealth of the corporations comes, and if we take the corporation taxation and give it to these institutions they will only get so much more from the people. Therefore, I take it, it comes from the people. The gentleman should at least have alleged, or asserted, to make his arguments at all complete, that these corporations were Presbyterians, or Methodists, or Baptists, so that there would be some legitimate thing to put a sectarian hand upon to take the fund from the treasury. He does not do it. He leaves the taxation raised by the State in the treasury of the State. For what? Why for the purposes of government—for temporal government, and not for spiritual government. It is the old doctrine. If we once concede that the highest object of man is spiritual welfare, and that the State was organized for the highest interests of man, then it is the duty of the State, to make a man religious, and have the citizens baptized by the townships. It becomes the old doctrine of church and State. I say that the only proposition is that this fund is a State fund

—belonging to all the citizens of this Commonwealth alike. They are not stockholders in a corporation, holding so much stock; they are not Methodists dividing and holding Methodist stock; or Presbyterians holding Presbyterian stock, but the fund was raised by taxation for the purposes of government.

It is true that it is the duty of the government to care for the helpless, the sick and the weak. Mere motives of self-interest would impel us to do that, because those who are unable to work may be able enough to steal; those who are fit for a hospital would disgrace civilization upon your public highways, and shame alone would make us shield them from the public gaze.

Now this question of charity being a common duty, not confined to religion; religion not begetting it; no faith bringing it into existence, but a common blessing—a blessing as common to man as the blossom to the tree or the rose to the bush; not to be divided, but a duty, a gift, given to us by God, an attribute of God himself, and He therefore having given us, that it is a duty that we must exercise without restriction and without regard. Is it to be said that because I am a non-professing christian I am therefore without charity? Is that the rule of my life, or is it the rule of life of any intelligent man? Is it the rule of life of any decent man? No; not so. Organizations of charities have been founded not through sectarian parties. Gaze on this State; look at Philadelphia; look at your Girard College; look at the thousand institutions that are spread over the land. Did they spring from a sectarian source? No. Some of them have come not only from non-professing men, but certainly one of them, as I have been informed, not even from an orthodox believer.

I come, then, to this fact and this proposition, that it is the duty of the State to take care of her helpless, her infirm, her blind, her insane and all those that have suffered or are heirs to such calamities as prevent them from taking care of themselves. This is a duty that is imposed upon the State, because she has that paternal care over her people, and for a thousand reasons that I can suggest. Therefore it becomes a public duty imposed upon the State to exercise charity, and that charity runs through the channel of the State officials. I am, therefore, in favor of public institutions and such charities as shall, in the wisdom of the

Legislature, be established to carry out all the purposes which the government may think fit to give it for the care of those who cannot care for themselves.

When we come to the other question, the sectarian applies for charity. What right has he to apply? "I come," he says, "asa Presbyterian. I want fifty thousand dollars from the State treasury." "What for?" "A charity." "Aye, a charity!" "A charity" is a well-sounding phrase. Men sometimes forget what charities there have been in the history of the world. "Charity" is a word that appeals to the heart. It makes the feeling of men spring out, anxious to cling to that and do good. Every good nature is affected by it; every good nature should be affected by it. But there is no fund in this treasury that is a Presbyterian fund; there is no fund that was raised by Presbyterians. The taxation of this State was upon all, without regard to sect; and, therefore there can be no division of the fund of this Commonwealth for special, particular purposes. "Yes, but you forget your charity." I say we do not forget the well-directed charity that is in accordance with the principles of our government. We say the State shall care for its helpless. Charity shall be exercised, and State charity, like the law, is general in its application, and particular charities shall be attended to by the benevolent individuals. There are cases that public charity cannot reach; there are cases where it requires a private charity to allow a man to take the advantage of a public charity. These private charities should be encouraged—encouraged by the christian churches. I am opposed to the idea spoken of by the gentleman from Philadelphia, (Mr. Woodward,) that we are ostentatious in our charities; that the Presbyterian or the Methodist shall erect the hospitals or build up their magnificent pile of buildings, and claim, "this is our place, we give here to the poor and needy, and we aid and relieve the afflicted," when the means whereby that aid is given comes, not from the Presbyterian or the Methodist, but comes out of the public coffers, and it is my tax and every other mans' tax in the Commonwealth. I say that ostentation of that kind, at the expense of the State treasury, I utterly denounce, and I am opposed to. I am opposed to it for the reason that it cramps and chills private charity. Instead of opening the heart to let all that is generous pour forth, it cramps it, because it says in effect that "charity shall not de-

pend on the individual, but on the public coffers." Nay, more.

We have a clause in the Constitution of 1838, which prevents the giving of any preference to any religious organization. Now, it may be true that the construction of that article of the Constitution would simply apply to a place of worship; but let us look into the history of the past. Will you tell me that that society which has control of the coffers, and the public funds, founding her charities, and spreading them broadcast over this land, is not the most powerful for proselytism, is not the most powerful for extension, will not build her power and lay her foundation as strong as adamant, and that she will grow in greatness by reason, not of her faith, but by reason of power which she draws from the Commonwealth. Therefore, when I see a charity which is denominational, as *this* sectarian charity, and *that* one, and I know that they draw from the public coffers, I say it is not their charity; it is a lie upon its face; it is the charity of the people; it is the charity of the public, and to the public it should belong.

The policy of this Government from the beginning has been what? Look at the Constitution of this State, and at the Constitution of every State, and it will be observed that the framers thereof were anxious in their formation to be specially and particularly tenacious upon this subject of freedom and liberty of conscience, and the positive enactment that there should be no preference, the one over the other.

I do not care how you place it, whether you build a church or whether you build a charity that should be under the control of that church, it is one and the same thing. It is a violation of the principle of liberty, of conscience, for which this country has been so pre-eminently distinguished above all other lands.

[Here the hammer fell.]

Unanimous consent was given for Mr. Bartholomew to proceed.

Mr. BARTHOLOMEW. Gentlemen, so tenacious was was one of the founders of this government, upon this subject, Mr. Thomas Jefferson, that he left his seat in the Continental Congress and went to Virginia, for the purpose of taking a position upon the floor of the House of Delegates, that was then framing a State Constitution, for the very purpose of dismembering the church and the State. I say it is in the line of our teaching that there

should be an absolutely equality of all sects and denominations; that they shall not appear above the surface one above the other; that there shall not be a recognition of such a thing as a sect in any official or governmental proceedings; that men shall stand alike before the law, and the Constitution, so far as their consciences and their religions are concerned; that there shall be no recognition whatever of a denomination; and I say woe to the day when this State, by her Constitution or by her legislative enactment, shall recognize sects at all, by dragging them into politics and permitting them to be the bases of political power. The reason for this is manifest. The moment that appropriations depend upon, or religious societies find that they can take from the treasury, appropriations of money, the means whereby they can effect that purpose are perfectly plain. They accomplish it by a cast of political power, by organization among themselves, by religious bodies loading down their spiritual welfare and attempting to enforce an organization of their temporal welfare, forgetting the teachings of Christ and turning after mammon and gold. That will be the result. Religious societies have done it in time past, and we are not now making a law for times of peace and apparent calm. We know from the history of the past that the conflicts between religious societies have been of the fiercest character. They have engendered the worst of passions and feelings, and have resulted in more bloodshed than any other cause, and they may again.

Let us, so far as we can at least, put the seal of condemnation upon such a course; let us follow the teachings of the past; let us live in the light of our own history; let us follow the guides who made this land a land of freedom of conscience, without recognition of condition or sect, and place all men, christian or unchristian, alike before the Constitution and the law. Let us not take that which belongs to the Presbyterian to give to the Methodist; let us not take that which belongs to the Jew to give to the Catholic. Let them all stand alike, without official recognition; let us not do that which will stamp charity as a public act when it claims to be a private one. I do not ask that the wells of private charity shall be dammed up, but I ask to let it be poured forth. There are occasions enough for it, but I do believe that public charities, under the control of the State, are the only

legitimate recipients of the taxes of the people of the Commonwealth.

Mr. M'CLEAN. Mr. Chairman: It occurs to me that the necessity for the amendments offered by the gentleman from Allegheny (Mr. Hay) and the gentleman from Philadelphia (Mr. Dallas) is obviated to a very great extent by the report of the Committee on Education, which has been adopted in committee of the whole. The final section in that report provides:

"Neither the Legislature nor any county, &c., shall ever make any appropriation, grant or donation of land, money or property of any kind to any church or religious society, or to or for the use of any university, college, seminary, academy or school, or any literary, scientific or charitable institution, or society controlled or managed, either in whole or in part, by any church or sectarian denominations."

Now it seems to me that the object of these gentlemen who are contending against appropriations by the Legislature for entirely sectarian or denominational purposes, is entirely reached by this section already adopted by the committee of the whole. It is general and comprehensive in its purport; too much so, it would seem, to be embraced in a report of the Committee on Education; nevertheless it has been adopted, providing that the Legislature shall not make any appropriations to any charitable institutions or societies controlled or managed, either in whole or in part, by any church or sectarian denomination. For that reason, sir, I consider that the amendments offered by both these gentlemen are unnecessary, and that they have been already passed upon and adopted by this Convention in committee of the whole.

Now, sir, I desire to direct the attention of the committee to this section itself, and not so much to the whole section as to the first and last lines of the section, taking them together, they being so framed as to be made a whole: "No appropriation shall be made to any person or community for any charitable, educational or benevolent purposes." This part of the section does not raise the denominational question at all; and it is to this view that I propose to direct my remarks.

It is surprising to me, sir, that any committee of any Constitutional Convention should ever report such a measure as that in its full significance and import. The proposition that you offer to present to the

people of this christian Commonwealth, that no appropriation shall be made to any person or community for charitable, educational or benevolent purposes, is, I fear, not considered in its full signification and import. I submit, sir, that this proposition is hostile to christianity. It is intended to adopt a preamble to the Constitution which we are about framing, acknowledging the existence and sovereignty of Almighty God, Father of men, and seeking His guidance in our work.

It is a principle that no gentleman on this floor will deny, that all human laws are based upon the Divine, and from that derive all their force and validity, and yet what the christian religion and the law of God, and the better instincts of our nature prescribe to us as our duty—the great duty of charity, this committee, in this section, would prohibit. What is right in the individual they would not have done by the entire community, by the Commonwealth? It matters not that charity and mercy are prescribed to men; their existence and their obligation must be ignored and denied by the body politic, by the State. When faith, hope and charity are held up to us, and it is declared that the greatest of these is charity, this Convention, representing the people of the Commonwealth, is asked to wipe out from its organic law every trace of this great virtue.

I believe if the gentlemen who compose this Convention only gave this proposition full and careful consideration that they would not assent to it. It will certainly belittle the Commonwealth. How numerous are the instances that can be enumerated of the wrong that will be effected if this section is adopted. The State in this event shall never have the right to appropriate any money for any of the worthy purposes designated in the section. The State of Pennsylvania, for instance, could not vote a sword in recognition of the services of such a man as a Gen. Anthony Wayne, of revolutionary fame, or General George G. Meade, of recent time, or pension the crippled and wounded Pennsylvania soldiers who served their country during the time of our national troubles. Is it the intention to deny to the Commonwealth of Pennsylvania the right thus, and in similar ways, to recognize the services of those who have rendered our State illustrious and glorious in the history of our nation? Are we going to deny the right of the State to be grateful to its faithful and gallant men? Are we going to deny the right of a pen-

sion to a poor widow of a soldier who may have fallen in the defense of his State and country? Suppose the visitation of a famine is apprehended throughout a portion of our State and country; should not the Commonwealth of Pennsylvania be permitted to imitate the government of Egypt in preparing to meet the wants and alleviate the sufferings which would be produced by such a fearful calamity? Numberless are the instances that might be detailed which would put the Commonwealth to shame if such a provision be inserted in the Constitution, and which would forever prevent the extending of her charitable hand in times of necessity and suffering.

The gentleman from allegheuy (Mr. Howard) has seen proper to indulge in a fierce and bitter attack against claims for compensation, for the loss of property sustained by a portion of our citizens during the invasion of the State by a common public enemy. I submit, sir, that this attack has been too fierce and bitter to be either wise or just. I propose to refer to his argument, and what is it? First, he states that improper measures were used to obtain an appropriation from the Legislature for the purposes referred to. I contend that an assertion like this is no answer to the object of this legislation, and because improper means may have been employed to procure this legislation, does that render any the less worthy the object of the legislation? I do not justify the employment of any improper means to influence the Legislature of our State in securing appropriations for such a purpose, but that is no reason why the State should deny justice to these claimants. Then the gentleman makes the amazing statement to this Convention that the Commonwealth is not the protector of its citizens.

Mr. HOWARD. The gentleman certainly misunderstood me.

Mr. M'CLEAN. The gentleman certainly said so, for I took down from his lips his identical words. Notwithstanding the citizen contributes his taxes, his property, his patriotism and his blood in the defence of the State, the Commonwealth owes him absolutely nothing in return, and although an enemy may invade his hearthstone and sweep away his property, he ought not to look to the State for compensation. Such a doctrine is incompatible with the spirit and the letter of the bill of rights of Pennsylvania, which provides in the tenth section that no man's

property shall be taken for the public use without the consent of his representatives, and without just compensation being made. The gentleman from Franklin (Mr. Sharpe) eloquently remarked that he wished the gentleman from Allegheny (Mr. Howard) could have been with him amidst the burning ruins of Chambersburg, and I, too, wish he could have stood with me in the battle of Gettysburg, that raged around my own fireside and my own native home, and witnessed that storm of fire and blood that laid waste our fields, destroyed our property and rendered our citizens poor, in some instances, for the remainder of their lives. The people of those devastated sections of our State were loyal to the core. They contributed a regiment and company after company to the defence of the government, and their fair daughters and mothers nursed the wounded and dying soldiers of the republic. Yet the gentleman from Allegheny would deny justice to these unfortunate people. He tells us what the State cannot do, or ought not to do, the United States government will do, and yet he mocks us and mocks these claimants for indemnity and compensation from the Commonwealth, by saying almost in the same breath that he knows the United States government will not recognize these claims. "The United States government never will recognize them," were the gentleman's own words. The gentleman not only proposes to deny justice to these sufferers, but he adds insult to their injuries. It is principally, Mr. Chairman, for the reasons which I have hastily and imperfectly presented, that I hope the Convention will not endorse such a wrong as is embodied in this twenty-first section reported by the committee, but that we will consign it to that oblivion which it so justly merits.

Mr. W. H. SMITH. Mr. Chairman: I do not desire to occupy the time of the Convention; but this section which is now under consideration leads me to make a few remarks upon the practice of European governments in dealing with this question. The greatest evil which has existed in regard to the governments of Europe is that they interfere entirely too much with the people. They have established in that part of the world what is known as paternal governments, and although they have been so styled the people who live under them call them despotic. William the Conqueror established just such a government as that.

The French people have lately witnessed the destruction of probably one of the best "paternal" governments that has ever existed, because it was administered by intelligent men, and at its head was one of the most remarkable men of the age—Louis Napoleon. That government meddled with almost everything. It laid out important public works, and taxed the wealthy classes of its citizens for the means to carry out its designs, in order that the poorer classes of the Empire could be furnished with employment. A tax was fixed upon every man and upon every loaf of bread that was manufactured. The very kind of reading published in the newspapers passed under the eyes of a censor appointed by this paternal government. Before the overthrow at Sedan that paternal government was administered as well as any government of the kind.

The principle of a paternal government, Mr. Chairman, seems to be this: It assumes the control of all your money, and the entire control of the public purse, and furnishes its subjects all that they require; but the subjects are compelled to keep the purse well filled. There is nothing more, or less, in that government. But the idea of comparing this sort of government to a paternity existing in a family, is simply absurd, because the head of a family exercises a different authority from that exercised by the head of a paternal government. The head of a family maintains his offspring, and relieves them according to their necessities out of his own resources. He builds a house for them, and protects and shields them from all danger; but a paternal government assumes to carry on its affairs out of the means furnished by its subjects, or its children.

I am sorry, Mr. Chairman, that any allusion has been made to the fire at Pittsburgh. To the honor and credit of that city, it can be said that she refused the fifty thousand dollars which was voted to her some twenty-eight years ago. I remember well the incidents that transpired after the fire. It was not twenty-four hours afterwards before the click of the hammer and the ring of the trowel could be heard in the rapid progress of rebuilding the desolated city, which had already commenced. Her citizens went to work *at once*, and did not wait for aid from the general government. There were, however, large sums of money received; but the greatest possible care was taken in its distribution, and the sufferers

by the fire all received their just proportion.

However, what I want to say is, that we ought not to take Pittsburg as a precedent for giving money on occasions like this, because Pittsburg did not take that money, as I am informed and believe. The very worst almoner in the entire world is the State. It costs more to maintain an invalid in a State hospital, or hospital mainly supported by State appropriations, than in any other. It costs four times as much; indeed more than that.

As to the consideration that our government is "paternal;" I am opposed to this whole idea of making this government of ours so exceedingly "paternal." It can only be a stepfather, at best, to its people. It is like the father of the man in the play: "A little more than *kind*, and less than *kind*."

I would agree, Mr. Chairman, to modify this if it could be done at this time. There are amendments pending, however, and I cannot do it at present. I merely throw out the idea that I would agree that State appropriations may be made to stay the havoc of famine and pestilence; and sometimes, perhaps, to repair the devastation of war. Beyond that I cannot go, except, perhaps, to aid "blind asylums." It certainly is necessary to stop this corruption at Harrisburg in granting these appropriations to hospitals and sectarian schools. I do know that there is no greater abuse that has prevailed at Harrisburg than this particular one. Men have been hired to go there in the name of these institutions, and they have spent money. I do not know how they got their fees for what they did, but, of course, they got them, and of course, also, they were paid out of what they got from the Legislature. It is a very great abuse. I suppose it is as great now, if not greater, than it has been, and I know that five or six years ago it was fearful. I was astonished about that time, being then president of the board of inspectors of the western penitentiary, by a man coming into my office and saying to me, "are you going to Harrisburg?" I said "no, sir; I do not know that I am; I have no business at Harrisburg that I know of." "Why," he says, "did not you make out your report here for the penitentiary the other day, and send it on, and ask thirty thousand dollars (or some such amount) to be appropriated for that institution?" I said, "yes, I did; I sent on the report and asked for the customary appropriation

to pay the officers." I believe that was all we had the right to get. "Well," says he, "you had better go on." Said I, "I have nothing to do with that." "But," he says, "people do not get these things at Harrisburg unless they go there and are on hand, and pay people to let them have the appropriation." "Well," said I, "I will not go; if the State of Pennsylvania has good reasons before it, and knows very well why a demand is made for money, and she does not care to pay her officers or support her criminals according, as the law directs, I have nothing to do with it, and am not to blame for it."

This incident only shows that in a matter of that kind, where even the whole routine was prescribed and laid down, some men supposed they might get out of the officers of that institution a fee for soliciting from the Legislature money that they were compelled by the law to appropriate. That was only part and parcel of the system of abuses which had grown up under this plan of giving to all such institutions. As I said before, I would be willing to add to this section a clause in favor of extending aid in cases of sudden calamity, or pestilence, or famine, where the money might be brought to the relief of the people to check the progress of the disease, or to repair some great public and sudden injury. Beyond that, I would oppose this indiscriminate giving, and would rather the section should stand as it is, than that the principle which it is intended to cover should be destroyed.

MR. CUYLER. Mr. Chairman: The committee is impatient, and justly so, of this protracted debate; and I do not rise, therefore, with the view of entering into the discussion at large which has taken place. Much of it, it seems to me, has missed the true point which ought to have presented itself to the mind in determining this question.

I should suppose that there would be absolute unanimity in the committee as to the impropriety of directing grants for sectarian purposes to sectarian institutions. I must believe there would be absolute unanimity, or almost so, among the people of the State on that subject. I cannot suppose that any gentleman would deliberately rise in this committee and advocate the doctrine that the money of the State should be appropriated to the purposes of any sect or denomination. But I draw the broad line of distinction between those cases where sects or denominations are performing the grand work of chris-

tian beneficence, where they are doing that which the State ought to do, and is bound to do, in aid of the State; and those other cases where these denominational institutions may be supposed would be promoting their own sectarian purposes. For example, the Episcopalians have a hospital in the city of Philadelphia; the Presbyterians have a hospital in the city of Philadelphia. I may regret—I do regret—that these hospitals have been designated by denominational names. I think it were wiser that they should not have been so, and yet, after all, perhaps the large contributions of individual citizens which have created and endowed these particular hospitals, were more readily called forth by the adoption of those particular names, than would otherwise have been the case. But, then, it is to be understood that it is in the discharge of no sectarian or denominational purposes that these institutions exist. They are doing the great, broad work of christian philanthropy, without regard to sect or denomination, that which it is, in very truth, the duty of the Commonwealth herself to do. Every dollar of private charity and private enterprise which is contributed to plant and support these institutions is so much done in relief of the general burden which rests—and ought to rest—upon the whole people of the State. God forbid, therefore, sir, that by any provision in the Constitution of our State, which this Convention might adopt, we should debar the State from making these grants, or making such grants in aid of such institutions as these, as she has done in the past, and, I hope, will continue to do in our time and in the future. Just so far as private benevolence does this great, broad work of christian philanthropy, it does what the State herself should do, and is relieving the State, and therefore the State may, to the extent of their reasonable demands, assist them by contributions.

But that our Constitution should provide that the money of the State should not, by donation, be applied to the especial purposes of any particular sect or denomination within the narrow limits of sectarian doctrine, I cordially agree, as I suppose every one does. I would not grant the money of the State to aid a Catholic, or a Presbyterian, or an Episcopal school or any other that was established to teach all the peculiar doctrines of any particular sect; but when that sect engages in the great broad work of public philanthropy, I cannot consent, so far as my

vote goes, to withhold the liberality of the State from institutions of that character. There, I think, is the true line.

Therefore I would object to the opening words of the last amendment, as proposed by the gentleman from Philadelphia, (Mr. Dallas,) and if they were stricken out I think, perhaps, the closing words will properly convey the idea that I have in my mind.

A single word more, which I am almost ashamed to utter, particularly because I have no words to express my surprise at that which fell from the lips of the gentleman from Philadelphia, (Mr. Woodward,) and partly because I fear I might be betrayed or led into a position where gentlemen might suppose that I was an advocate of corporations here. But my friend from York (Mr. J. S. Black) came so gallantly to my aid this morning—having so gallantly assailed me on Monday last—I feel that I should not be in that sort of peril, and that therefore nobody will suspect me of a leaning towards corporations or of serving their cause, except, as the gentleman from York (Mr. J. S. Black) so well said some days ago, “when they have an honest cause and want an honest advocate.” I do not agree with my friend from York, (Mr. J. S. Black,) although I so widely disagree with my friend from Philadelphia (Mr. Woodward.) I do not quite accept the defence of my friend from York, (Mr. J. S. Black,) made for an act of mine which, I suppose, was alluded to by the gentleman from Philadelphia (Mr. Woodward.) I do not quite agree with the doctrine that there are not institutions where corporations may well give, and largely give, and generously give, of the money of their stockholders in benevolence. I refer to a grant of fifty thousand dollars—I would have been glad that it were larger—for the soldiers’ orphans of the Commonwealth. My learned friend would condemn that; yet I advised it. Why? Because they were the orphan children of the men who had fallen, in part, in defence of the very works and property of this company. Because, passing, as its lines did, into and along the borders of the State, and exposed to the peril of destruction by rebel raids, they had been gallantly defended by the soldiers of the Commonwealth. Why should not they provide with liberal hands for the orphans of those who had fallen under such circumstances. I have known that company to give, within a few months past, twenty thousand dollars, I think, to the hospitals of the State of

Pennsylvania. The doctrine of my friend would condemn that. Not so, mine. In the actual operation of the works of companies like this, many men suffer. They become maimed, they are wounded, they die. Why should that company not give liberally to endow hospitals into which these people may be carried? I have known them to give with large liberality where property has been destroyed by fire, because from the communities in which the calamity occurred large business had come to the corporation, and great benefits had been derived.

There does rest upon these corporations in certain specified cases, the duty of a large liberality, from which I would not exclude them by any such doctrine as my friend (Mr. J. S. Black) contends for, although I would hold as high aloft as he would the duty of trustees not to divert the funds entrusted to them, by devoting them to purposes for which they were not contributed. Therefore I defend such action; but after all, a great corporation, notwithstanding what has been said upon this floor, is all the days of its life a charitable institution. Its works are all works of charity, in the true and broad and comprehensive sense of that word. If it be true that the man who makes a blade of grass to grow where none grew before is a public benefactor, what shall be said of those combinations of aggregated capital that cover the Commonwealth and the whole country with the fruitage of their liberal expenditure of money? If they promote the industries of the Commonwealth, if they employ her people, if they develop her wealth, if they increase her prosperity in the broadest and the truest sense of the word, they are charitable institutions, and should be treated and regarded as such. I did not rise, sir, with the expectation of saying as much as I have said. I rose only for the purpose of calling attention to what I consider to be the true line of demarcation, which is what I indicated in the opening of my remarks, and that is that wherever sects or denominations are engaged in the great broad work of christian philanthropy, where they are engaged in doing that work which rests upon our common humanity and aids and consoles the sorrows of our common humanity, I see no reason why the bowels of compassion of the State should be shut up, or she should be prevented from exercising a fair and reasonable liberality in the endowments of institutions of that character.

Mr. KATINE. Mr. Chairman. I simply rise for the purpose of calling the attention of the chairman of the committee of the whole to the fact that there does not appear to be a quorum present.

The CHAIRMAN. Does the gentleman ask that the roll be called?

Mr. KATINE. I do.

The CLERK called the roll, and the following answered to their names:

Messrs. Achenbach, Alricks, Armstrong, Baer, Bailly, (Perry,) Bailey, (Huntingdon,) Bartholomew, Beebe, Biddle, Black, J. S., Bowman, Boyd, Brodhead, Church, Corbett, Craig, Curry, Curtin, Cuyler, Dallas, Darlington, Davis, De France, Dodd, Ellis, Ewing, Guthrie, Hanna, Harvey, Hay, Horton, Howard, Kaine, Landis, Lawrence, Littleton, MacConnell, M'Camant, M'Clean, M'Culloch, Mann, Mantor, Minor, Mott, Newlin, Porter, Pughe, Purman, Purviance, Sam'l A., Read, John R., Reed, Andrew, Reynolds, James L., Russell, Simpson, Smith, Wm. H., Stanton, Struthers, Walker, Wherry, White, Harry, White, J. W. F., Worrell, Meredith, *President*—63.

NOT PRESENT. — Messrs. Addicks, Ainey, Andrews, Baker, Bannan, Barclay, Bardsley, Black, Charles A., Broomall, Brown, Buckalew, Campbell, Carey, Carter, Cassidy, Clark, Cochran, Collins, Corson, Cronmiller, Dunning, Edwards, Elliott, Fell, Finney, Fulton, Funck, Gibson, Gilpin, Gowen, Green, Hall, Hazard, Hemphill, Heverin, Hunsicker, Knight, Lamberton, Lear, Lilly, Long, M'Allister, M'Murray, MacVeagh, Metzger, Niles, Palmer, G. W., Palmer, H. W., Parsons, Patterson, D. W., Patterson, T. H. B., Patton, Purviance, John N., Reynolds, S. H., Rooke, Ross, Runk, Sharpe, Smith, H. G., Smith, Henry W., Stewart, Temple, Turrell, Van Reed, Wetherill, J. M., Wetherill, John Price, White, David N., Woodward and Wright.

The CHAIRMAN. There is not a quorum present.

Mr. DARLINGTON. I move the committee rise, report progress and ask leave to sit again.

The CHAIRMAN. The Chair will state that the only report the chairman could make to the Convention, would be that the roll being called, there was no quorum present.

Mr. HARRY WHITE. I move the committee rise and report the fact of no quorum being present in the Convention.

The motion was agreed to.

IN CONVENTION.

Mr. ARMSTRONG. The committee of the whole have had under consideration the report of the Committee on Legislation, and upon the call of the roll it was ascertained that there was no quorum present, and for that reason the committee has arisen.

Mr. S. A. PURVIANCE. Mr. President: I move the Sergeant-at-Arms be sent for the absent members.

Mr. HARRY WHITE. Mr. President: I move the Convention do now adjourn.

The yeas and nays were required by Mr. Boyd and Mr. S. A. Purviance, and were as follow, viz:

Y E A S.

Messrs. Achenbach, Bear, Bailey, (Huntingdon,) Bartholomew, Beebe, Black, J. S., Bowman, Brodhead, Carter, Corbett, Craig, Dallas, Davis, Ellis, Ewing, Guthrie, Hanna, Landis, MacConnell, McCamant, Mott, Newlin, Porter, Read, John R., Simpson, Stanton, Struthers, Walker, Wherry, White, Harry, Woodward and Worrell—32.

N A Y S.

Messrs. Alricks, Andrews, Armstrong, Baily, (Perry,) Biddle, Boyd, Church,

Curtin, Cuyler, Darlington, De France, Dodd, Hay, Horton, Howard, Kaine, Lawrence, McClean, McCulloch, Mann, Mantor, Minor, Purviance, Sam'l A., Reed, Andrew, Reynolds, James L., Russell, Smith, H. G., Smith, Wm. H., White, J. F. W. and Meredith, *President*—29.

ABSENT OR NOT VOTING.—Messrs. Adicks, Ainey, Baker, Bannan, Barclay, Bardsley, Black, Charles A., Broomall, Brown, Buckalew, Campbell, Carey, Cassidy, Clark, Cochran, Collins, Corson, Cornmiller, Curry, Dunning, Edwards, Elliott, Fell, Finney, Fulton, Funck, Gibson, Gilpin, Gowen, Green, Hall, Harvey, Hazzard, Hemphill, Heverin, Hunsicker, Knight, Lamberton, Lear, Lilly, Littleton, Long, M'Allister, M'Murray, MacVeagh, Metzger, Niles, Palmer, G. W., Palmer, H. W., Parsons, Patterson, D. W., Patterson, T. H. B., Patton, Pughe, Purman, Purviance, John N., Reynolds, S. H., Rooke, Ross, Runk, Sharpe, Smith, Henry W., Stewart, Temple, Turrell, Van Reed, Wetherill, J. M., Wetherill, John Price, White, David N. and Wright—71.

So the Convention, at one o'clock and twenty-five minutes, adjourned until next Monday at ten o'clock A. M.

SIXTY-EIGHTH DAY.

MONDAY, *March 17, 1873.*

The Convention met at ten o'clock A. M., the President, Hon. Wm. M. Meredith in the chair. The Journal of yesterday was read and approved.

SESSIONS OF THE CONVENTION.

Mr. DE FRANCE offered the following resolution, which was read:

Resolved, That this Convention will hereafter hold two different sessions, the first as follows: From ten o'clock A. M. to one o'clock P. M., and from three o'clock P. M. to six o'clock P. M.

On the question to proceed to a second reading and consideration of the resolution, it was not agreed to.

LEAVES OF ABSENCE.

Mr. DARLINGTON asked and obtained leave of absence for Mr. Boyd for a few days.

Mr. S. A. PURVIANCE asked and obtained leave of absence for Mr. Turrell, for a few days.

THE ARTICLE ON LEGISLATION.

The CHAIRMAN. The Chair will state that the committee of the whole having risen on Saturday, for a want of a quorum, the article reported by the Committee on Legislation is still in that committee. If it is desired that the Convention shall proceed to the consideration of the article, a motion will be necessary.

Mr. STANTON. Mr. President: I move that the committee now resolve itself in committee of the whole for the purpose of considering that article.

IN COMMITTEE OF THE WHOLE.

The Convention then resolved itself into committee of the whole, Mr. Armstrong in the chair.

STATE AID.

The CHAIRMAN. The twenty-first section of the report of the Committee on Legislation is before the committee. The section will be read.

The CLERK read as follows:

SECTION 21. No appropriation shall be made to any person or community, nor to any denominational or sectarian institu-

tion, corporation or association, for charitable, educational or benevolent purposes.

The CHAIRMAN. To this section the gentleman from Allegheny (Mr. Hay) moved an amendment, which will be read.

The CLERK read as follows:

"No appropriation shall be made for any denominational or sectarian purpose, or to any institution, corporation or association, created and maintained for objects, limited or restricted by any particular religious, denominational or sectarian views."

The CHAIRMAN. The gentleman from Philadelphia (Mr. Dallas) moved an amendment to that amendment, which will be read.

The CLERK read as follows:

"No appropriation shall be made to any denominational or sectarian institution, nor for any denominational or sectarian object."

The CHAIRMAN. The question is upon the amendment to the amendment.

Mr. DALLAS. Mr. Chairman: I have thus far abstained from saying anything upon this subject, but I have been approached by so many members of the Convention this morning with the request that I should state the object and scope of my amendment, that I find it necessary to rise simply for the purpose of explaining it, and I do not desire to occupy the attention of the committee any longer than is necessary for that purpose. The gentleman from Allegheny (Mr. Ewing) did me the honor to say that I had prepared the amendment in a most skillful manner, so as to entirely emasculate the section as reported. Now, sir, I can only say that no such purpose was in my mind, and if my amendment would affect such a result, then so far from being skillful I have been most awkward in the expression of my intention, for whilst I did intend to take from the section a feature which, in my judgment, seemed to be objectionable, viz: That which would prevent the State from making appropriations in aid of non-sectarian charity, I

did think the section was beneficial so far as it proposed to prevent a State appropriation for merely sectarian or denominational purpose. Therefore the amendment I have offered provides that no appropriation shall be made for any denominational or sectarian objects; but, sir, I think the amendment would be very inefficient indeed if it stopped there, because if we allow the State to make an appropriation to denominational or sectarian institutions, we might as well say that we will permit appropriations to denominational or sectarian objects.

It is true that very many and very worthy charities, although under the control of different sects, are not confined in their benefits to those who are of the denomination controlling the charity; still every charitable institution established and supported by the members of one denomination becomes a propagander of its faith. The hospitals which they endow, and even the schools which they establish, become monuments to the sects that endow or support them, and the teachers, physicians and nurses become the active and able missionaries of that sect to which the institution immediately belongs; and now, sir, while it is true, and while I agree thoroughly with all the gentleman from Philadelphia (Mr. Woodward) has stated upon that point, that the charity of the State of Pennsylvania is largely, if not entirely, due to the efforts of christian denominations, and that all our christian churches are marching in the same general path of christian charity towards one end, still the corner stone of our political system is that the church and State should be disunited, and it is unfair and injurious to the churches themselves that they should be allowed to contend for appropriations from the State treasury in support of their several peculiar doctrines and peculiar faith, notwithstanding that it may be done under the sweet name of charity. Such aid can not forward charity; but the result must be that each church which proposes to build hospitals or other large and expensive buildings for benevolent uses, will undertake more than its congregation can support, with the hope that larger appropriations may be obtained from the State. Each church should endow its own charities and support them out of the contributions of its own congregations, and the charity of the State should be kept in the control of the State, and it's officers should manage and be responsible for its asylums for the deaf

and dumb, the blind and the halt. If an appropriation is made to one church it will occasion trouble by being considered unfair to other denominations, and therefore the Legislature should be prohibited from making appropriations to any sectarian or denominational institution, and so place the whole subject permanently at rest. These, Mr. Chairman, are the reasons which have influenced me in offering this amendment. It is in substance that no appropriation shall be made to any denominational or sectarian institution, nor for any sectarian or denominational object.

Mr. NEWLIN. Mr. Chairman: I do not rise to trouble the committee with any extended remarks, after all that has been said upon this subject. I simply desire to place myself upon the record as being opposed to all sectarian appropriations. I am in favor of an entire, radical and complete separation of the church and State. Religion and politics should be kept as far apart as the poles, and it is utterly impossible for a government to legislate for sectarian purposes, directly or indirectly, without seriously menacing that freedom of conscience so indispensable in all good governments, and which should be so jealously guarded. It seems to me not only is it necessary to adopt that portion of the report of the committee, so far as it relates to sectarian appropriations, but I am of the opinion that all these appropriations are now contrary to the spirit of our institutions, and contrary to the present Constitution of the State. I can see no right or power in the Legislature, even now, to appropriate public moneys to any sectarian institution whatever. Why, sir, the result of permitting this kind of legislation, if carried to its logical consequences, would be to justify the establishment of a paternal system of government, as in France and other continental countries, wherein the governments legislate, not only for life and property, but for the comfort and morals of the people. Such systems have invariably ended in despotism. Again, in everything that is calculated to encourage and promote charitable objects, the fullest opportunity should be allowed, and is desirable; for the exercise of individual efforts, for when it is known that the government takes care of the poor and needy, and performs all the duties of our charitable institutions, the stimulus for personal exertion will be greatly lessened. I am opposed to that portion of the report of the com-

mittee which proposes to prevent the Legislature from appropriating money to individuals or communities, because there are cases in which it is proper that the State should pension those who have performed valuable services for it, and there are cases of great public calamity, in which I would leave it in the power of the Legislature to afford that relief which may be necessary and proper, but so much of the report of the committee as is opposed to sectarian legislation I shall support.

Mr. D. N. WHITE. Mr. Chairman: As much as I dislike to take up the time of the committee, I cannot forbear to say a few words on a subject which I esteem as of more than ordinary importance. Since this Convention commenced its sessions, last November, I have not taken up one-half hour of its time in presenting my views on the various subjects which came before it, and I should not now trouble the committee did I not infer from the tenor of the debate that the merits of the section under consideration were not estimated at their true value.

I shall not occupy the time of the committee on that part of the section which restricts the bounty of the State in cases of some great and sudden calamity by fire or flood, or the casualties of war, further than to say that I approved the spirit of it, and believe that it would prevent more evil than to reject it would ever do good. It is impossible for the State to relieve all such calamities without changing the very object and spirit of good government, and opening the flood gates of every species of corruption and speculation. If you cannot relieve all, then you cannot, in justice, relieve any. All the citizens of the State stand on an equality in this respect. If a fire burns down my house, or a sudden flood sweeps away my property, and leaves me impoverished, have I not as good a right to the bounty of the State as if one hundred or a thousand persons were ruined at the same time? Does the number who suffer increase the magnitude of the calamity to each individual? The old adage, that "misery loves company," is a true one. A calamity is harder to bear singly and alone, than if others around you partake of the same sufferings. Therefore if a severe blow falls upon an individual he has just as much claim upon the charity of the State as if the same blow fell upon a number of individuals. The war found Pittsburg with vast property—with her steamboats, her coal barges, her thou-

sands of tons of coal, her enormous quantities of manufactures, her cotton, which she had bought and paid for, within the rebel lines, and all of which was speedily confiscated. Millions were lost in a day, and men in affluence went down never to rise again. Did Pittsburg ask the State to pay for these losses? No, sir; it was one of the incidents of the war which could not be provided against; and it was a loss which no government could undertake to pay without ruin.

But, Mr. Chairman, I leave this part of the subject to consider what I deem of more importance, the entire prohibition of State appropriations to charitable or educational institutions under the control of religious sects or denominations. And here let me say that I base my opposition to such appropriations on a somewhat different ground to that taken by the gentleman from Schuylkill. I do not, with him, believe that these heaven-born charities would flow as well without christianity as with it. On the contrary, I hold that all, or nearly all, the genuine charities which so ennoble humanity and bless our land are born of christianity, sustained by christianity, and that without christianity they would perish. Furthermore, I believe that the division of christianity into sects and denominations has greatly tended to increase the number and improve the character of charitable and educational institutions, and has opened up streams of benevolence which, but for them, would have been dry and arid.

I do not oppose christian benevolence. Would to God it were a thousand times more than it is. Would to God that the untold millions of money, worse than wasted upon the artificial appetite for strong drink in this city alone, were turned into streams of benevolence instead of into avalanches of ruin. But I oppose all connections, except the simple protection of the law, between the institutions of religion and the civil and political institutions of the State. The Great Teacher said, "My kingdom is not of this world," and He laid down His life in attestation of this sublime declaration. As a citizen, He worked a miracle to procure the means to pay a tax due the State, but after the State demanded of Him that He should subordinate His faith and His conscience to its dictation, He refused.

Connection between the church and the State has, in all ages, worked injury to the church, and I may say to the State also. Separated, each following their pro-

per, and, I believe, God-given sphere, they have mutually benefited each other, and each has been stronger for the other. Bring them into adulterous connection, and indifferentism, hypocrisy, irreligion and downright infidelity is the unlawful progeny.

For the last three hundred years Europe has been struggling to throw off the fearful incubus of the union of church and State, which has trammelled both parties. Mr. Gladstone, the great prime minister, succeeded, partially, in divorcing the State church in Ireland from the control and patronage of the State, but he has gone down in trying to organize an Irish university, in which both Catholics and Protestants could be taught. Happily, we, in this country, are free from the complications which so fetter the State and dwarf the church in the old world. Our fathers, with consummate wisdom, confined our government to its legitimate sphere, and left religion free from all trammels and disabilities to work out its own grand uses and results. Of late years, and it is only of late years, denominational charities have been knocking at the door of the treasury, and demanding to share in the funds levied and collected for purely State purposes. It is to stop this evil, at almost its inception, that the section under consideration has been proposed. Our State has not suffered much from it yet, but a sister State has, and the warning should not go unheeded.

Let it be once understood that denominational institutions for charitable and educational purposes can be supported, in whole or in part, from the public funds, and the demands will yearly increase and be persistently urged. Each denomination will claim its share, and according to its voting power will finally demand that its claims be granted. The unholy scramble will dishonor religion, and impoverish the State, and worse than all the rest, will dry up the fountains of private benevolence.

There are certain great charities which peculiarly belong to the State, and which church or private charities cannot so well reach and manage; such as asylums for the insane, the blind, the deaf and dumb, and houses of refuge and other reformatory institutions. Add to these the common school, and while the necessity lasts, the soldiers' orphan schools, and there the State should stop. All other charities can be better managed by counties and cities, with their homes for the destitute, and

by the different christian denominations, with their orphan asylums, their homes for the friendless, and the various other ways in which the true spirit of christianity reaches out to relieve and bless mankind. While the State furnishes to each child within its borders the facilities for acquiring a good common school education, it should not attempt, from the public funds, to establish and endow academies and universities. These should be left to associations, to religious denominations, and to the munificence of wealthy and benevolent individuals. Unless the State furnishes to all its youth the means of acquiring a liberal education, she cannot, in justice, furnish it to a part; and if she furnishes it to one city or county, all the rest have an equal claim.

The gentleman from Montgomery (Mr. Hunsicker) says that if we adopt this section we shall array all the christian denominations against the Constitution. Never was a man more mistaken. It is the very protection which the Protestant denominations want, and which they have recommended and demanded in their papers, and assemblies, and conferences. If the State could dole out to each denomination the amount to which each was entitled from its numerical strength, or the amount of its voting or taxing power, there might be some thoughtless and shortsighted persons to be found in the churches who would favor it. But the church, in its aggregate capacity, comprehending its wisest and most devoted members and rulers, will say amen to this section; and I believe this to be true of the Catholic as well as the Protestant.

The church has never been so grand, so successful and so powerful, as when she has stood alone, untrammelled, unsupported by the civil powers. I have no doubt that the Catholic church in this country is to-day far stronger, and wields a greater influence over the minds of its votaries, than if, in any form, it was supported by the State. Would the great Methodist church of this country be what it is if it had leaned upon the State? I pray God to save it from any such terrible calamity as to become, in the least manner, a pensioner on the public treasury. Most of us are old enough to recollect the grand spectacle of two thousand Scottish ministers leaving their churches and their snug manse, and going out they knew not where, without churches in which to preach, and without houses to live in, because they could not conscientiously ac-

cept the bounty of the State with the conditions imposed. Thus was formed the Free Church of Scotland, through which to-day throbs the religious heart of that sturdy people. They have now more churches, more manses, more wealth, more power, than they had before, and do ten-fold more for the evangelization of the world and to advance the Kingdom of Christ,

Mr. Chairman, if it is desired to preserve the State from the machinations of designing men who put on the livery of heaven for their own selfish purposes; if it is desired to preserve the church pure, to promote its material as well as its spiritual prosperity, and to advance its moral power; if it is desired that all the noble and lovely charities which arise and grow and flourish in the churches, and, like a perennial stream, fructify and beautify the arid wastes of life, shall continue to prosper; if it is not desired that all private streams of benevolence should dry up, from the blasting effects of trusting in State aid, pass this section, and the christian people who shall fill all the valleys, and cover the hills, and spread over the plains of this noble Commonwealth, in the long years to come, will rise and call you blessed.

Mr. LANDIS. Mr. Chairman: I imagine there must be some misapprehension in the minds of the members of the committee with regard to the question which is before us. The debate so far has proceeded upon the assumption that we have here presented for our consideration a question that is entirely new, whereas the very opposite is the truth. The debate in the committee of the whole for the last three days has been confined almost entirely to the question whether we shall embody in the Constitution, a proviso that there should no appropriation by the Legislature for sectarian purposes. Now, sir, this proposition is not a new one. The attention of the committee has, by several gentlemen, been called to the fact that the Committee on Education has already reported a provision of that kind; but, sir, I believe that it has not been fully understood by the committee, else this debate would not have proceeded to the extent that it has.

If gentlemen will turn to their files they will find that the fifth section of the report of the Committee on Education, as reported from the committee of the whole, reads as follows:

SECTION 5. Neither the Legislature nor any county, city, borough, school district or other public or municipal corporation shall ever make any appropriation, grant or donation of land, money or property of any kind to any church or religious society, or to or for the use of any university, college, seminary, academy or school, or any literary, scientific or charitable institution or society controlled or managed, either in whole or in part, by any church or sectarian denomination.

The committee of the whole has passed upon that proposition. It was amended in committee of the whole and was adopted. Now the question is, do we desire to embody in the Constitution a second proposition covering the same ground that this does? The section reported by the Committee on Education is far broader in its terms, and far more comprehensive in its grasp, than the one under consideration. Therefore I take it that those who are opposed to making such appropriations are prepared to vote against the section now, because it has already been provided for, whilst those who are in favor of such appropriations are equally prepared to vote against it because the section is against their views.

I do not desire now to discuss the question as to whether or not the Legislature ought to do this or not, because the committee having passed upon it, I think it is now a waste of time to do so. I, for myself, am in favor of restricting the Legislature so far as sectarian appropriations are concerned, not because I love the State too much, not because I love the objects of the bounty of the State too little, but upon the ground that I love the church more; because, sir, I take this view, that the very moment you allow the Legislature to make appropriations to this and that sectarian denomination you throw into the church a firebrand which will inflame and consume it. I do not, therefore, desire to discuss this part of the question; and if there was nothing else of the section now under consideration, there would be no difficulty about it.

There remains, however, the question whether this Convention should prevent the Legislature from appropriating sums of money to "persons" or "communities." Now, sir, I am opposed to restricting the Legislature in this respect. I think that this Convention ought to arrive at a proper conception of the dignity, of the responsibility, of the functions and prerogatives of the Legislature. For one, I am not in

favor of dwarfing its power. I do not favor the proposition to rob it of that sovereignty which properly belongs to it. The idea of our form of government is that the sovereignty of the people, except such wholesome restrictions as the Constitution may impose, shall be vested in the Legislature; and the very moment you attempt to take away from it that power which naturally belongs to it, you impose upon it fetters which not only detract from its sovereignty, but to a great extent derogate from its dignity and its usefulness. Numerous restrictions may make it powerless for evil; but on the other hand, they may make it powerless for good.

I do not desire to discuss this question fully. I think it has already been fully discussed. There has been a great deal of time already consumed in debate upon it, and it occurs to me that the minds of members are made up to vote against the section and to vote against the amendments. For the reasons which have been stated, and for such reasons as I have now briefly repeated, I hope a vote may be reached during the morning.

Mr. BAER. Mr. Chairman: As my native town of Somerset has been introduced into this discussion, I am compelled to give the reason for the vote that I shall give, and I here and now utterly deny that the question of international law has anything whatever to do, or could by any possibility have anything to do, with the question that arose between the border claims and the compensation which, it is claimed, the State is liable to make. That principle is one that must rest upon the reciprocal rights and duties of the citizen and the State. If the doctrine that has been proclaimed here by the gentlemen from Indiana is to be endorsed, then the next time you get up a rebellion, and you send him and others about this broad State to preach and plead, in the name of patriotism and loyalty, the people will tell you that they have adopted the definition of Doctor Johnson, that the plea of patriotism and loyalty is nothing more than the last refuge for scoundrels. Sir, if this State owes no protection to her citizens, when she claims the right to tax them, the right to take them from their families and place them beyond the borders of the State, in order to protect other people and other communities, then the relation ceases, and there should be no reason in law, as there is none in common sense, why any man should obey the command of the supreme power of the

State. I say that the right for compensation for the citizens of the border counties exists as a matter of law and right. If they are to be taken away from their homes, and confronted to the public enemy's bullets, liable to be shot down at any moment, in defence of the institutions of the State, what consideration have they for such service? Why, sir, if in their absence their property shall be destroyed by an invading force, are they to be met, when they ask for reimbursement, with the answer: "No, you shall not have it, because when you come to the Legislature to ask for an appropriation from the State, so that the burden might fall lightly upon all this State, it may possibly be attended by some corruption." Upon whom does this liability for this corruption lie, (if there is any corruption used in the Legislature,) when men are asking appropriations for a purpose like that? Where the State is liable. I say it rests largely upon the gentleman from Indiana, who, in his holy horror for such contributions, will not stand up in defence of the right, but withholds his aid, and thereby makes it possible and necessary for men, in order to get their rights, to buy up a set of scoundrels. If the honest men of the Legislature had stood up to do what is right, they would possibly have limited the claim to a reasonable amount. But by withholding their votes from a just claim they may have made it necessary, if all be true that has been set forth here, to increase the bill, in order that they might raise money enough to pay some rascals whose votes were necessary to be bought.

I do not believe in degrading the Legislature of this great Commonwealth, but if you pass this, and other kindred iniquities, why not go farther, and get up a proposition to abolish the Legislature altogether. If the one hundred and thirty-three men that are annually sent there have not intelligence and morality enough to determine what is right or wrong, when a particular emergency like this arises, without requiring votes to be purchased for an honest cause, then abolish your Legislature, and give us a centralized power, and say that one man shall rule. I believe in no such doctrine, nor do I believe in the doctrine that has been promulgated here, that misery loves company, and that therefore a huge misfortune, that will devastate a whole section, is easier to be borne than where a single individual is stricken down. We all

know that when any single man in the community is burned out, that his neighbors will all come to his rescue, and out of their own funds they will put him on his feet again. But when a whole community is stricken down, to whom will they look for aid, if the great State of Pennsylvania shall lock up the treasures that she has in her coffers? Do you want us to say that all that is worth preserving in the State is the almighty dollar? That the people themselves, upon whom all the greatness of the State depends, are not worth upholding and preserving? If so, then strike them down by endorsing this proposition, and say that all this people care for is money; that the people are nothing; that the morals and principles of this great State are nothing whatever, but all greatness depends upon the almighty dollar. That seems to be the drift of the argument here, but what amount has there ever been contributed at any one time in relief of the charities of the State? Why, sir, half a million of dollars will cover all that the State has paid in the last quarter of a century, for appropriations of this kind, a mere pittance, perhaps, of a shilling a voter. And who is complaining? If the State can do without communities, if it is by accident, and not fault that a community is stricken down, shall it be kept down, and shall it not lend its aid in the future, in the grand development and progress of the State? If so, then put this principle in the fundamental law and cut off all these charities.

But I go further, and I say that the entire section ought to be wiped out, as it is an insult to the age. It is yielding to the clamor of infidelity, that claims that there shall be nothing done in the way of public charity for the reason, forsooth, that the denominations which receive the charity are sectarian. Sectarian, though they be, and in this country all christianity is sectarian, they are yet institutions under the care of the christian religion, and I care not whether a man be Catholic or whether he be Protestant, if his religion is based upon Jesus Christ as the son of the living God, he is my fellow and my brother, and the cry that is gotten up against Catholicism, here to-day, can have no weight with me. As between Catholicism and Protestantism, I am a Protestant. As between Catholicism and infidelity, I am a Catholic, now and forever. I am for a religion always in preference to no religion. And now, sir, when the great mass of the people of this State be-

lieve in the doctrines of one or the other of the sects in existence among the christian churches, shall we restrict this charity in this form? Why is this advocated? Is it because of an article that we see now on our desks, headed, "the platform of the Liberals, or Free Religionists" of the country, a party organized, as that was, with a capital of \$100,000, and which has sent to Europe for a man to come here and stump this entire State, at a salary of \$15,000 per year, in advocacy of the right of independence and free feeling in religion, but really in advocacy of the doctrine of no religion at all? What is the demand of these "Liberals?"

"We demand that all religious services now sustained by the government shall be abolished; and especially that the use of the Bible in the public schools, whether ostensibly as a text-book or avowedly as a book of religious worship, shall be prohibited.

"We demand that the appointment, by the President of the United States or by the Governors of the various States, of all religious festivals and fasts, shall wholly cease.

"We demand that the judicial oath in the courts and in all other departments of the government shall be abolished, and that simple affirmation, under the pains and penalties of perjury, shall be established in its stead.

"We demand that all laws, directly or indirectly enforcing the observance of Sunday as the Sabbath, shall be repealed.

"We demand that all laws looking to the enforcement of 'christian' morality, shall be abrogated, and that all laws shall be conformed to the requirements of natural morality, equal rights and impartial liberty."

I admit that the gentlemen who are present here to-day do not suppose so, but they are unconsciously acting directly in the interests of an infidelity which is now ready to make an attack upon this great State. Is this Convention going to give over this great State to the infidels of Europe, on the pretence that this Government is founded upon religious toleration? I say, for one, never. If the hordes from Europe are deterred from coming here because of the religious sentiment of this State, let them stay away.

I can readily foresee that if this effort to surrender the moral and religious sentiment of this country to the infidelity of modern Europe, is persisted in, that the time is not far distant when an organi-

zation will arise, and, as a democrat, I shall be one of the first to join it, which will of necessity proclaim that "Americans shall rule America," and thenceforward the loose morals of other countries shall not be endured by adopting its advocates. For these reasons I hope the section will be voted down.

Mr. ALDRICKS. Mr. Chairman: It is difficult, at this distance, to get the eye of the chairman; but I fear it will be far more difficult to get the ears of the members of the Convention. Although this subject has been ventilated at some length, I apprehend it has not yet been properly considered. The power should be conferred on the Legislature to grant pensions and annuities to soldiers and their widows as heretofore; to make becoming mementoes for meritorious, signal, civil and military services, and, in the event of an inevitable calamity, to make an appropriation to meet the immediate pressing necessities of an impoverished community; but there should be no appropriation for a sectarian purpose.

Now, Mr. Chairman, some of our number are strongly in favor of conferring upon the Legislature the power of relieving the necessities of a community suddenly overtaken by a great calamity. The suffering which was occasioned by the great fire at Boston filled the hearts of that community with sadness, and the Legislature was quick to grant relief, but the Supreme Court of that State have said that the Legislature had no power in the premises, and that the law under which that grant was made was unconstitutional. Then, Mr. Chairman, it has been said that charity is one of the prerogatives of a great Commonwealth like that of Pennsylvania; but it has been well replied that the Commonwealth has her noble public charities, her institutions for the blind, the deaf and dumb and insane, and houses of refuge, &c. These institutions are all abundantly provided for in the section we have just passed. The gentleman from Franklin, (Mr. Sharpe,) who addressed this Convention on Saturday, deprecated the idea that we should place hand-cuffs and manacles on the Legislature.

Now, Mr. Chairman, wherever we give them authority it ought to be to do something that will be for the public good, and wherever it will not be for the public good we should place a restriction upon their power. This Convention has been called here for the very purpose of placing restrictions upon the Legislature

—if the gentleman prefers the word "manacles" he can use that term.

The impression appears to prevail here that the Legislature are the directors of a vast benevolent society, extending throughout the Commonwealth; and that the members elect are to disburse the public funds among the numerous applicants knocking at the door of the treasury; are, in short, elected for the purpose of relieving special wants. This, I apprehend, is a great mistake. The members of the Legislature are not commissioners of public charities; the people do not so consider it. If our legislators were sent to the State capital for that purpose, I think the difficulty might be remedied by placing that power in other hands nearer home, by committing it to the county commissioners, or to some other authority, instead of placing it in the hands of the Legislature, whose chief business is to make our laws. I therefore apprehend that it is a great mistake in supposing that the law makers are required to give so much of their attention to this subject of charity.

There was an exhibition here on Saturday which warned us of the danger of parties becoming excited, and as they will whenever the question of the appropriation of money is concerned. The gentleman from Allegheny (Mr. Howard) made some unfortunate allusion, which I did not hear, to an appropriation which had been made for the relief of Chambersburg. The remarks brought the gentleman from Adams (Mr. McClean) to the floor, who indignantly resented the attack, and the gentleman from Allegheny (Mr. Howard) was also pursued by the ponderous blows of the distinguished gentleman from Franklin (Mr. Sharpe.) There was every probability of this peaceable body witnessing a border raid on a limited scale.

It is for the purpose of preventing the introduction into our Legislature of such exciting questions, that we should place a restriction upon the Legislature, and not throw open the treasury's strong box and bid the poor unfortunates throughout the State to walk in and help themselves, and such a course would bankrupt this Commonwealth. The Legislature is sent to the capital for the purpose of making laws for the people, and not for the purpose of devising means of relieving those who have been overcome by misfortune.

I was very glad to hear that the members of this Convention were almost unanimously in favor of divorcing church and

State. I say that I am glad that we can meet upon common ground, and that we can agree on that question.

This brings me to the next division of the proposition before the Convention, that there shall be no appropriation for any sectarian purpose. That provision has been incorporated in the much-abused Constitution of Illinois, I hope the gentleman from Carbon (Mr. Lilly) will permit me to say, and also in the Constitutions of Indiana, Wisconsin, Missouri, Michigan, Oregon and Minnesota. I apprehend therefore that we cannot be charged with tramping upon new ground, but that we are following in the way adopted in other States, and I, for one, would be disposed to say that if contributions are to be made under the direction of the State they should not be for sectarian purposes, but I do not know whether the proposition as it is now before the Convention entirely meets the views of all the gentlemen in the Convention. I would much prefer if it was placed in the following form, which I think would meet all the exigencies of the case: "Pensions and annuities may be granted to soldiers and their widows. Becoming mementoes may be made for past meritorious civil or military service, and in the event of a great inevitable calamity a reasonable sum may be appropriated only to supply the immediate pressing necessities of the impoverished community, but no appropriation shall be made for a sectarian purpose." I suppose the gentleman who has offered this amendment would prefer the phraseology in which it is couched, and I will not therefore press the amendment which I have suggested, although I am fully convinced that it would meet the case more fully than any which has yet been presented to the Convention.

Mr. MANN. Mr. Chairman: If I am able to comprehend the force of the arguments which have been made in opposition to this section, I think there is a very great departure on the part of some of the delegates from the spirit and purpose of the original founders of this government. This section now under consideration has been denounced in unmeasured terms by some delegates upon this floor, and one would think, from listening to them, that the members of the committee which reported it were heartless and unfeeling, and had no sympathy with the great charities of this Commonwealth. Why, Mr. Chairman, it seems to me there is a great perversion of language upon the

part of many delegates in discussing this question. For myself I utterly deny that the appropriations which have been made out of the Treasury of Pennsylvania by the Legislature are *charities* in any proper sense of that word, and I utterly deny that the appropriations that have been made under the name of charity have either blessed the giver or the one who received them; and if I am correct in this understanding of the fact, then clearly they are not charities, for charity always blesses the person who gives and the person who receives; but charity, in order to do this, must be the individual gift of the person who bestows it. It is not those who take money out of the Treasury of the Commonwealth who feel the beneficial influence of a charitable gift when they bestow it, and there has been a result connected with all the efforts made to obtain money from the State for all these purposes, as far as I am informed, precisely the contrary to the effect produced by private charity. The appropriations which have been made have not produced those happy results which flow from the free-will offerings of persons who gave their own funds. They have been obtained by importunities, and by means of an influence that has been brought to bear upon the members that ought to be kept entirely away from the Legislature.

I read in a morning paper yesterday, a dispatch from Harrisburg, which shows the character of the efforts made to get this money out of the treasury, and is, to my mind, a conclusive argument in favor of the purposes of the section under consideration. I ask the attention of the delegates to this dispatch to the *Philadelphia Press*. In speaking of the appropriation bill it says: "There was a frightful amount of money asked for local charitable purposes, in which the most invidious distinctions were made, well calculated to create dissatisfaction and mistrust." This is the difficulty that always enters into appropriations for these local charities. They can be, in no sense, called State charities, for they are always invidious, and are well calculated to create dissatisfaction. This is the universal fact, and it cannot be otherwise, for whenever the Legislature undertakes to make these appropriations for local and special charities, they are always of such an invidious nature that they confer relief upon a very few, while the great mass of the people of the Commonwealth are entirely

deprived of the beneficial influences which are expected to result from them. This correspondent, who is the regular and trusted one, says that the applications made for appropriations to local charities in the present Legislature are *frightful* in their amount, and, Mr. Chairman, they will go on increasing from year to year, if some such provision is not inserted in the Constitution. They have been increasing rapidly for the last few years, until, as this record shows, they have become frightful in their amount. They are not of the character as represented by several gentlemen on this floor, insignificant and of no consequence. They have already become of the character described by this correspondent. Sir, they are invidious, creating heart-burnings, and dissatisfaction, and bitter opposition. That is not the effect of charity. No man can point to a charitable gift that has produced any such effect as that. Its whole influence to all persons that it operates upon, is precisely of the opposite character—beneficial—creating a healthy influence, and exerting a great moral effect for good. But these attempts to take money from the Treasury of the State are always of the character as described by this correspondent, invidious, creating dissensions and bitter oppositions. I say to the gentleman from Somerset, (Mr. Baer,) who spoke this morning about the improper influences that had been brought to bear in favor of appropriations to the district in which he was so much interested, that if the honest members of that body had given their support there would have been no necessity of applying to the dishonest ones. I tell the gentleman that he is mistaken; that nearly every honest man in the Legislature was opposed to the appropriation, and was driven into its support by the persistent efforts that were made, and for other reasons which I never quite comprehended.

Nobody denies that it is the duty of Pennsylvania to take care of the insane, and we have made provisions for that. There never was a voice in the Legislature in opposition to any honest and proper method of taking care of the insane, but to what extent does it go? Not to pay the expenses of maintaining the insane people. That is either done by the friends of the insane, or by the counties from which they come. Not in a single instance has the State of Pennsylvania been asked to pay the expenses of insane people, so that the statement the gentleman made in op-

position to this section as to the shame of allowing these people to go at large or to be improperly provided for, is of no force. The State of Pennsylvania has never undertaken to do more than to furnish suitable buildings, and has done this with a lavish hand, and no one objects to it. All that is asked is that these institutions shall be properly located, and that the funds appropriated for their construction shall be properly expended, and that is all the duty which the State has ever undertaken to discharge towards these people; simply to pay the expense for erecting the buildings, and that is not a charity. It does not come within the meaning of this section by any fair construction of language. It does not touch any duty which the State has ever undertaken to discharge towards any of the unfortunate people of this Commonwealth.

The poor, the blind, the halt and the insane are not touched by any provisions of this section. They are to be provided for in the future, as they have been in the past, by furnishing suitable buildings, and paying suitable officers for the purpose of taking care of them. This appeal, therefore; this attempt to excite the prejudice of the delegates, by introducing that feature into this discussion, is absurd. This section is simply a recommendation on the part of the committee to prevent invidious appropriations to local individuals or communities. I say there is no ground or necessity for it. The greatest calamity which ever occurred on American soil by fire was relieved by private free-will offerings, as witness the spontaneous relief, from all parts of the United States, to the sufferers of Chicago, when she was burned to ashes. There has never been a failure to respond to calls for charity, and there never will be if the proper channels of charity are appealed to. The people will always respond promptly for the relief of all who deserve charity, without going to the funds in the Treasury of the State, or of the nation.

There is, therefore, no possible danger of any difficulty ever occurring by the insertion of this section into the Constitution. I agree with the gentleman from Dauphin, (Mr. Alricks,) that the section is not worded in the best form. Listening to his suggestion, I believe that I would have preferred the section to have been in the language which he proposed, but the spirit of this section ought to go into the Constitution.

The gentleman from Philadelphia (Mr. Woodward) read, a few days ago, from the Declaration of Independence, the immortal document of Thomas Jefferson, wherein he states the reason why the colonies had a right to become free and independent, and among these was, that they had a right to do what independent States may, and of right should do, and therefore this section is wrong. While I subscribe very heartily to the statement of Thomas Jefferson read to us, I cannot, for the life of me, understand how it bears upon this section, for the committee which reported it think that this thing of making invidious appropriations for local charity is one of the things which a State ought not to do, and has no right to do. And the gentleman did not explain, so far as we could hear, by what right they should do it. The State should use the public funds, as the gentleman from Dauphin (Mr. Alricks) said, for the good of all the people, not for a small part of them. We have arrived at that stage of jealousy in the use of the State funds which compels us to say that neither the State nor any county shall help construct public improvements. Now the building of public improvements comes far nearer to benefiting all the people than any of these local charities can do, and if any appropriation of the public funds for any outside legitimate purposes of the State should be made, it ought to be made for the opening of great public improvements, for that will benefit all the people.

Just see how these appropriations which this section is intended to put a stop to operate. There is an item in the appropriation bill now before the Legislature to give to a town \$75,000. Now does anybody believe that that town has suffered more than many other towns in the Commonwealth, during the year? At the very time when the appropriation was being passed through the Legislature for the town of Mifflin, the business part of the town of Tioga, in Tioga county, was burned to the ground, and when the gentleman from that district moved to add an appropriation of \$5,000 for the sufferers there, it was voted out, receiving hardly a dozen votes; and yet they were situated precisely alike. In both cases the whole heart of the town was burned up; but one received an appropriation of \$20,000, and the other not a cent, and so it will always be. The town that can bring the most influence to its support will get the most money, and the towns that are out

of the way, and not heard of much, will get none. This thing of towns being injured by fire is something that is constantly occurring. I am informed that another town in northern Pennsylvania, Blossburg, was burned last week. Here is an appropriation of \$75,000 to the town of Juniata, and I will risk all the reputation I have that if Blossburg will make an effort to get \$1,000, it cannot get a single cent. So it will always be; you will make flesh of one town and fish of another. These disasters by fire are constantly occurring, and to undertake to make the State of Pennsylvania an insurance company will be to destroy the character of the Commonwealth and to bring it into contempt.

The CHAIRMAN. The question is upon the amendment proposed by the gentleman from Philadelphia (Mr. Dallas.) The amendment will be read.

The CLERK read:

"No appropriation shall be made to any denominational or sectarian institution, corporation or association, nor for any denominational or sectarian object."

The amendment was rejected.

Mr. ALRICKS. I propose an amendment to the amendment.

The CLERK read:

"Pensions and annuities may be granted to soldiers and their widows, as heretofore. Becoming mementoes may be made for past meritorious civil and military services, and in the event of a great inevitable calamity, a reasonable sum may be appropriated, only to supply the immediate pressing necessities of an impoverished community; but no appropriation shall be made for sectarian purposes."

Mr. ALRICKS. Mr. Chairman: I ask for a division of the question on the amendment.

The CHAIRMAN. The first division of the question will be read.

The CLERK read:

"Pensions and annuities may be granted to soldiers and their widows as heretofore."

The first division of the amendment was rejected.

The CHAIRMAN. The next division of the amendment will be read.

The CLERK read:

"Becoming mementoes may be made for past meritorious civil and military services."

The second division of the amendment was rejected.

The CHAIRMAN. The last division of the amendment will be read.

The CLERK read :

"And in the event of a great inevitable calamity, a reasonable sum may be appropriated to supply the immediate pressing necessities of an impoverished community; but no appropriations shall be made for sectarian purposes."

The last division of the amendment was rejected.

The CHAIRMAN. The question is upon the amendment offered to the original section by the gentleman from Allegheny, (Mr. Hay,) which will be read.

The CLERK read :

"No appropriation shall be made for any denominational or sectarian purposes, or to any institution, corporation or association created or maintained for objects limited or restricted by any particular religious, denominational or sectarian views."

The amendment was rejected.

The CHAIRMAN. The question is upon the section.

Mr. HARRY WHITE. Mr. Chairman: I offer an amendment to the section.

The CLERK read :

"No appropriations, except for pensions or gratuities for military service, shall be made for charitable, educational or benevolent purposes to any person or community, nor to any denominational or sectarian institution, corporation or association."

Mr. BROOMALL. Mr. Chairman: I would suggest to the gentleman who has just offered the amendment, that the language is somewhat awkward, and I will call his attention to an amendment of the same nature which I was about proposing, which, I think, is better than his; and that is to amend, in the second line, after the word "community," by inserting the words "except in payment of a debt, or for services rendered." The section would then read: "No appropriation shall be made to any person or community except in payment of a debt, or for services rendered; nor to any denominational or sectarian institution, corporation or association, for charitable, educational or benevolent purposes." The meaning is clear and covers the whole ground.

Mr. HARRY WHITE. I have no objection at all to the gentleman's amendment, but I do not think it is necessary, because this section will not prevent appropriations for the payment of debts.

Mr. BROOMALL. An appropriation to a person may be intended for the payment of a debt. I think this covers the whole ground for military services, and also re-

moves from the section the difficulty that I suggest, that an appropriation to an individual may be in payment of a debt, or for some other service than military.

Mr. HARRY WHITE. I would like to accept the amendment offered by my friend, but I submit, with all deference, that it seems to me to be confusing in its character. In the amendment which I have offered it is perfectly clear that appropriations can be made for pensions and gratuities. Then it applies to charitable, benevolent or educational purposes; then to persons and communities, and finally to denominational or sectarian institutions.

The CHAIRMAN. The question is upon the amendment offered by the gentleman from Indiana (Mr. Harry White.)

The amendment was rejected upon a division, thirty-nine members voting in the affirmative, and twenty-six in the negative.

The CHAIRMAN. The next section will be read.

The CLERK read :

SECTION 22. The credit of the Commonwealth shall not, in any manner or event, be pledged or loaned to any individual, company, corporation or association whatever; nor shall the Commonwealth hereafter become a joint owner or stockholder in any company or association or corporation.

The section was agreed to.

The CHAIRMAN. The next section will be read.

The CLERK read :

SECTION 23. The Legislature shall not authorize any county, city, borough, township or incorporated district, by virtue of a vote of its citizens or otherwise, to become a stockholder in any company, association or corporation, or to obtain money for or to loan its credit to any corporation, association, institution, company or individual.

The section was agreed to.

The CHAIRMAN. The next section will be read.

The CLERK read :

"SECTION 24. The Legislature shall not delegate to any commission of private persons, corporation or association, any power to make, supervise or interfere with any public improvement or to levy taxes, or perform any municipal function whatever."

Mr. J. W. F. WHITE. Mr. Chairman: I do not desire to see this section passed without some modification. I therefore move to amend, by inserting after the

word "not," the words, "without consent of the local authorities." I presume this section was intended to apply to cities, counties, boroughs, and all other municipal corporations. Now, when the subject of city charters comes before the Convention, the report of the committee will very likely contain a section relating thereto. This section, being broader, will apply to boroughs as well as to cities. In order to illustrate the objection I entertain to the broad language of this section, I would refer to the borough in which I reside. Under the section as reported by the committee, there never could be a commission for the erection of water works, or gas works, or any other public improvement in a city or borough. Those public buildings, or improvements, would have to be constructed by private corporations, or by the city and borough councils. Now, that can be done very frequently, in my judgment, a great deal better by a commission than by the city or borough councils. In the borough in which I reside we have an act of the Legislature authorizing a commission for the erection of the water works. Without that commission those works would have to be erected by the borough councils, changeable every year, without any permanency as to the members of the councils, and without any person being designated particularly to attend to the erection and supervision of those works. I am in favor of leaving this power in the hands of the Legislature, to create commissions for certain purposes, by and with the consent of the local authorities. In the case of cities, by and with the consent of the councils, and in the case of boroughs, with the consent of the borough councils.

I trust, therefore, that the section will not pass with the broad language in which it has been reported, and I think the amendment suggested will save and secure all the benefits to be derived from the section.

MR. J. PRICE WETHERILL. Mr. Chairman: I hope that the amendment will not pass, and for this reason: If the councils of a city, town or borough desire to create a commission for a special purpose they have their full power to do so. If they desire to delegate a power to a commission on account of its permanency they can do it, and the language of the section will place this power in a body which is much better than the Legislature. I hope that all the power for creating commissions will be taken from the

Legislature and placed in the hands of the proper municipal authority. There is where it ought to be placed, and there is where it ought to rest. I therefore hope that the amendment of the gentleman from Allegheny (Mr. J. W. F. White) will be voted down.

MR. HANNA. Mr. Chairman: I only desire to refer the gentleman from Allegheny (Mr. J. W. F. White) to section eleven of this report. That section prohibits the Legislature from passing any local or special law regulating the affairs of counties, cities, townships, wards, boroughs or school districts, and now we propose to prohibit that very legislation in the same direction to which the gentleman has referred. He refers to the case of a commission created in his town for the purpose of erecting water works. Now we propose by this section to prohibit this very kind of special legislation, and to prohibit in future the creation of commissions for this very purpose, on the ground that the Legislature cannot, by a general law, regulate those matters which should be governed by the local government. This is the idea of the gentleman from Allegheny, I have no doubt; but I must go farther and say, with reference to all local and special matters, the councils of cities and boroughs possess a better knowledge by far than the Legislature. It is true, however, that the city councils change from time to time, but the members are not, in all cases, changed at the same time. There are members elected from year to year, but the committees of councils remain the same, and so the management of these local improvements will be under the same direction. I therefore think that the general prohibition in this clause is very full, and we can do no harm in passing it, at least in committee of the whole.

MR. NEWLIN. Mr. Chairman: I desire to say a single word, which may possibly throw some light upon this question, especially as it has not been adverted to during the discussion. In the city of Philadelphia there is a single commission, no single member of which was elected by the people, and the proceedings of which are in no way subject to be reviewed by the people. In addition to this, no wish of that commission can be refused by any department of the city government. Such a commission as this, which has been imposed, has increased the debt to some thirteen million dollars. I should think the statement of this fact ought to

be a sufficient answer to a proposition to leave to the Legislature the creation of commissions in any event.

Mr. EWING. Mr. Chairman: I imagine that there will have to be several provisions made in regard to the local authorities of counties and cities, in addition to those which have been already reported. I am in favor of this section as it has been reported by the committee, and I think the amendment offered by my colleague (Mr. J. W. F. White) is entirely impracticable, and would have the effect of weakening the force of this particular section. I presume he means by the local authorities of a county, the commissioners, perhaps the controller, if there be one in the county, and what others we know not. This section is intended to strike at an evil which has prevailed to a very considerable extent in Philadelphia, and also in Allegheny county. Many of our citizens in Allegheny county, a few years ago, thought that a commission appointed by the Legislature, was the best plan for the purpose of making general local improvements, but since then there has been a complete change in the mind of every one, excepting those who are connected with these commissions and their immediate friends, who favor the appointment of a commission for everything. I believe some three or four commissions have been created in our county for this purpose, and there has been more money wasted by them than by all the other official authorities during the past twenty years. One of the most objectionable of these commissions is in the nature of a corporation, or association, appointed for the supervision of bridges to be built over the Ohio river, and this amendment would not reach that sort of a case. I think the saving clause my colleague (Mr. J. W. F. White) desires to be incorporated in the section, can be provided for when the Convention reaches the question of counties and county officers, cities and boroughs, and I hope, therefore, the amendment will not be adopted at present.

Mr. WORRELL. Mr. Chairman: I trust this section will be adopted, just as it is reported by the Committee on Legislation. I think it proposes one of the most important and most needed reforms presented to the consideration of the Convention. If we leave with the Legislature the power to create commissions, which shall absorb and exercise the proper and legitimate functions of the various municipalities, it would be wise not to attempt

to reform municipal governments, and not to take any action affecting cities and city charters. The universal opinion is, that the new Constitution should guarantee to every municipality the control and regulation of its own internal affairs, and that the legislative body of each city, its select and common councils, should possess the supreme power of legislation upon all subjects affecting the municipality only. If the Legislature be vested with the right of quartering upon a city, without its consent, irresponsible commissions, to exercise *any or all* of the powers and functions of the municipal departments, it will practically nullify any provision intended to secure intelligent, independent and responsible government of the various political districts of the Commonwealth. No legislation has been more generally condemned than that which restrains a municipality in the exercise of the powers of local government.

Mr. Chairman, no local public improvement should be authorized or directed until the municipality has determined that such improvement is needed, *and that the condition of the city finances* will warrant the proper expenditure on that account; and unless these considerations are determined affirmatively by the municipality, the people should not be subjected to burdensome taxation by the Legislature or any other body, for the purpose of erecting unneeded improvements, or those which the public treasury will not justify. But the Legislature, in the creation of commissions for various purposes, determines these questions without any regard to the wishes or the necessities of the people, or to the condition of the city treasury. The commissioners are wholly irresponsible; no department is authorized to examine and to approve or disapprove their actions. They are generally without restriction as to their power to assess and levy taxes. I hope that this section will be adopted, and that it will be part of the fundamental law, "that no commission, corporation or association shall have power to make, supervise or interfere with any public improvement, or to levy taxes, or to perform any municipal function whatever."

Mr. J. W. F. WHITE. Mr. Chairman: I am not here to defend any improper commissions in Pittsburgh or Philadelphia, nor anything of that kind. I suggested this amendment, because I was afraid the section was too general. By the eleventh section of this article, to which my

attention was referred by the gentleman in front of me, from the city, (Mr. Worrell,) all special legislation upon the subject of regulating cities, boroughs, townships, &c., is prohibited, absolutely and unqualifiedly. Now, by the section before us, when we say broadly that the Legislature shall not delegate to any commission any power to do these things, I apprehend that it is prohibited, and that that power cannot be delegated by a general law. Because, previously, we have prohibited all *special* laws on the subject. Why, then, this prohibition, unless it extend to and operate upon the *general* law? It was for this purpose that I suggested this amendment. I dislike to have in one part of our Constitution a provision contradictory or in conflict with any other provision. Gentlemen from Pittsburg, and others, have suggested that this can be provided for when we come to the article on "cities and city charters." I proposed this here, so as to bring it into harmony with what we might do then; not to have an absolute prohibition here, to be qualified afterwards, when we come to consider the question of cities and city charters; that was all.

Mr. GOWEN. Mr. Chairman: I am entirely in favor of the objects sought to be accomplished by this section, and I propose to go much further than this section goes. I think, from its phraseology, that if passed without amendment, it would probably prevent the organization of corporations for public improvements, which certainly was not the design of the committee that reported it. If the gentlemen of the Convention will take up the section and read it in this way, as a court would be compelled to read it, omitting all that does not pertain to the immediate subject, to which I desire to call the attention of the Convention, it will read thus:

"The Legislature shall not delegate to any corporation any power to make any public improvement." This section, as reported, certainly contains a prohibition upon the Legislature which would prevent them delegating to any corporation the power to make any public improvement. That certainly was not the intention of the committee. I apprehend that the intention of the committee was to prevent the Legislature from vesting in any commission or association of individuals, any *municipal* power, or any power within the municipal government of any city, town or county. And in order to get at the sense of the Convention on

this subject, I propose to amend by striking out the section, and inserting as follows:—

The CHAIRMAN. The gentleman must move it as an amendment to the amendment, if he moves it at this time.

Mr. GOWEN. Very well, sir. This is what I propose to insert: "The Legislature shall not delegate to any person, association, corporation or commission the supervision, management or control of any of the improvements, money, property or effects of any municipal corporation whatever, whether held in trust or otherwise, nor vest in such person, association, corporation or commission, as trustee or otherwise howsoever, the power to levy taxes, or perform any municipal duties or functions whatever; and the Legislature shall provide for vesting directly in the local authorities of every municipal corporation all such power as is herein above referred to, which now be exercised by any person, association, corporation or commission."

Mr. EWING. Mr. Chairman: Before the gentleman sends that to the desk, will he allow me to make a suggestion of something that I am afraid the amendment will not cover. The term "corporation and association" was put in there, I think, to meet a case something like this: Two or three years ago the Legislature passed an act of Assembly giving to an association or corporation known as "The Coal Exchange" of Pittsburg, power to interfere with any bridge that might be made over the Ohio or Monongahela rivers in Pennsylvania, practically putting it in their power to prohibit the building of a bridge by any company that might be chartered by the State or any municipal corporation. I am afraid that it would not cover that case.

Mr. GOWEN. Mr. Chairman: I think this does cover it. I think it prevents any corporation from having any *municipal* authority whatever; but as the section was originally reported the Supreme Court of Pennsylvania, in construing the Constitution of the State, would be obliged to declare that this section shall read, omitting all that is not material to the subject under consideration: "The Legislature shall not delegate to any corporation any power to make any public improvement." That is the way this section would be construed if it were adopted by the Convention as it has been reported. Now, I desire to say a few words in sup-

port of the amendment which I have sent up.

The CHAIRMAN. The Chair will be compelled to rule that the amendment to the amendment cannot now be entertained, as it is not germane. The amendment proposed by the gentleman from Allegheny (Mr. J. W. F. White) will be read.

The CLERK read: "To insert after the word "not" the words, "without the consent of the local authorities."

Mr. GOWEN. Then I will withdraw my amendment for the present, and offer it at the proper time.

Mr. HARRY WHITE. Mr. Chairman: I call the attention of the Convention to the fact that the purpose of my friend from Allegheny (Mr. J. W. F. White) can very well be accomplished by the Legislature if you let the section be as it is. I will suggest, furthermore, that there is a misprint in the section as it is offered. There is a word omitted; that is the word "municipal." I would, therefore, move to add the word "municipal" after the word "public," in the third line, so as to read "any public municipal improvement," &c.

Mr. MACVEAGH. Mr. Chairman: That is a verbal correction, and, I hope, will be permitted without a motion.

There being no objection the insertion was made.

The question being on the amendment of Mr. J. W. F. White, it was rejected.

Mr. BIDDLE. I now move to strike out the word "public."

It was agreed to.

Mr. GOWEN. Mr. Chairman: The introduction of the word "municipal" and striking out the word "public" does cover some of the objections which I found in the original section as reported; but I do not think it is broad enough to cover every case. I do not know whether the construction of the courts would be that the devise to a city as a trustee for a charitable purpose would be considered municipal property. If it would not then this section would take away from the local authorities the power to control the property which was vested in the municipal corporations in trust. I desire, for a few moments, to call the attention of the Convention to a matter —

Mr. MACVEAGH. Mr. Chairman: Before the gentleman proceeds, I would like to ask—because it relates to a matter that I had in my own mind—whether his

amendment is divisible, so that the collocation of words here will be corrected.

The CHAIRMAN. The Chair will state to the gentleman from Dauphin (Mr. MacVeagh) that no amendment is now pending. The gentleman from Philadelphia (Mr. Gowen) has not offered any amendment.

Mr. GOWEN. I desire to offer one, sir. I will offer it now.

The CHAIRMAN. The Clerk will read the amendment of the gentleman from Philadelphia (Mr. Gowen.)

The CLERK read:

"The Legislature shall not delegate to any person, association or commission the supervision, management or control of any of the improvements, money, property or effects of any municipal corporation, whether held in trust or otherwise, nor vest in such person, association, corporation or commission, as trustees or otherwise howsoever, the power to levy taxes, or perform any municipal duties or functions whatever; and the Legislature shall provide for vesting directly in the local authorities of every municipal corporation all such power as is hereinbefore referred to, which may now be exercised by any person, association, corporation or commission."

Mr. GOWEN. Mr. Chairman: I desire to call the attention of the Convention to one matter of very great importance. It is a general subject, but we are making a general, broad, and comprehensive Constitution. We are not legislating; we are making an instrument that shall be the general supreme power and law of the land for, I hope, fifty years. It will not do for us to assume, in making this fundamental law, that the representatives of the government of this State, or of any municipality within the State, are forever to be corrupt. If this Convention is to base its action upon the assumption that the representatives of the people will always be corrupt, we shall be obliged to go into legislation and make a very long instrument. The great thing to be accomplished is, to select a representative government, in which the representatives of the people will be honest and faithful to their trust. The more power we vest in the Legislature or in the municipal authorities of any city or town, the more earnest will be the desire of the people to send good men to represent them. If we make a Constitution that dwarfs the man who represents the power of the State, or the power of the city, into a mere ma-

chine, and that ties his hands and stills his voice, and prevents him from exercising the functions of his brain in order to legislate for the good of the people who send him there, the people, themselves, will say: "It makes no difference who we send, for the Constitution prevents our representatives from doing us any injury." The more power you vest in those who are the representatives of the people, the more earnest will be the desire of the people to secure good and honest representatives; and when you do, as I believe we already have done, break down the fraudulent system of elections, and enable the honest people to determine who shall be their representatives, from that moment you can safely leave to the people themselves the power to determine who their representatives shall be, and you can vest great powers in these representatives.

Nothing can so surely bring a Constitution into contempt as to find that it has usurped the province of the Legislature, or the province of the local governments of the cities, and hedged them round with such restrictions that, in one or two years, there will be a desire to break down the Constitution, in order to prevent its trammels from entirely disabling the people's representatives. This is only a general view; it applies particularly to the Legislature, but it applies with equal force to the councils of a great city like Philadelphia, or to a city like Pittsburg, and even to the smaller municipal governments of boroughs or cities in the State.

It is very true, and we may admit it, that corruptions in local governments have induced the Legislature, for wise purposes, to vest in commissions almost the entire property of some municipal corporations. The commission is not responsible to anybody. It holds its office for a term of years, and in many cases it requires the most cumbersome machinery, in order to remove any of the commissioners. Their sessions are held in secret. There is no responsibility to the people that elects them, whereas the power, and the property, and the effects, and the public improvement of that very corporation, if they are vested in the local government of that corporation, can never be interfered with, except by public exercise of legislative power, which the whole community has a right to witness, and which the newspapers of the day spread before every voter within ten or twenty-four hours after the subject has been discussed. The power

of these commissioners, originally adopted, probably for wise purposes, will lead to the vesting of all the power of the country in the hands of an association of people who are entirely irresponsible, over whom the community has no control, whose deliberations are held in secret, and who are not responsible to any elective power whatever. I am in favor, therefore, of amending this so there shall be no doubt about the subject, and of going still farther, and making it obligatory upon the Legislature to re-vest in the local authority of every municipal corporation any power which is now exercised by any commission heretofore appointed.

The CHAIRMAN. The question is upon the amendment of the gentleman from Philadelphia (Mr. Gowen.)

Mr. MACVEAGH. Upon that I should like a division of the question. It seems to me, Mr. Chairman, that it, with all due deference to the Committee on Legislation, is more clear and distinct in its expression, and if it is so, one of the difficulties of interpretation, to which the gentleman from Philadelphia has alluded, is disposed of.

It is a difficulty that occurred to my own mind before he mentioned it, and if the impression that I received of it on its first reading is confirmed, and agrees with that of other gentlemen in the Convention, I trust it will be adopted as a substitute for the section as it now reads.

Upon the second portion of the question, if it is so divided, I think the Convention should consider well before adopting it, because it is legislative. It is destroying commissions created by the Legislature, and now existing. Not having lived in a large city, I am not of any decided opinions upon the subject, but it certainly is a subject of great gravity. It directly acts upon every act of the Legislature itself in the past creating commissions for any purpose.

Mr. GOWEN. For any *municipal* purpose.

Mr. MACVEAGH. Yes; for any municipal purpose—and vests them in the common council of the city. Some commissions exist, I believe, in this city—the park commission for instance. It may be the desire of the citizens that that should be transferred to the council; but it certainly is taking a very important step in advance of anything we have yet done. Our Constitution, up to this point, has looked wholly to the future. Now we

propose to annul a large number of laws, dealing with very important subjects, concerning vast sums of money, and it seems to me that it is a question that it concerns the Convention to consider deliberately and carefully before it commits itself to any distinctive policy upon the subject. If the representatives of Philadelphia here, and the representatives of Allegheny, desire this legislation to be erased from the statute book, I do not know that I have any special objection to it, because I am not in a condition, really, to form a very intelligent opinion upon it. I only wanted to call the attention of the Convention to the fact that now, for the first time, we turn our faces to the past, and we erase what has been done then.

MR. DARLINGTON. Mr. Chairman: I do not know that I am at all authorized to say anything on a question of this kind, for it seems chiefly to concern cities, and in the small boroughs of the State we probably have nothing to say about it. But I suppose the object of the gentlemen who represent the city of Philadelphia is to get rid of some of the commissions that have been created, and to prevent the creation of others which are liable to be created by the Legislature, from time to time. We all know that they have a park commission, which, I believe, is reasonably acceptable, and a public buildings commission, which, I believe, is reasonably odious, to them in Philadelphia. They have also had a law passed which took out of the hands of the city corporations the control of the Girard trusts. To that I, myself, never would have subscribed. I do not know how the people here may look at it, but from the public character of some of the gentlemen appointed to the management of these trusts, I very much doubt whether they have improved the trust. Now, if the object of my friend from Philadelphia (Mr. Gowen) is, by this provision of the Constitution, to prevent all these commissions in the future, whether for arts, public buildings, the management of police, or for any other purpose, I am ready to vote for it. I think they are all vicious, and the whole control of all these things should be in the hands of the city. If they fail to elect the proper officers and get into difficulty thereby, let the misfortune be upon their heads. Let them take care to elect their best men to these offices, and the thing will be properly done. Now, as to any restricting of authority, I would be very glad to see a pro-

vision introduced here which would totally and utterly annul the legislation which took out of the hands of the city the management of the Girard estate, because I think it was a violation of the trust which Mr. Girard left in the city. He intended it to be exercised by the corporation. The Supreme Court has decided it to be within the constitutional power of the Legislature, I understand, to divest it, and have taken to themselves, under that law, the authority to appoint whom they please to manage these important trusts. If the city of Philadelphia wishes these commissions destroyed, destroy them. They should have the privilege of remedying the evil, if they deem it to be an evil.

MR. J. PRICE WETHERILL. Mr. Chairman: As I understand the amendment offered by the gentleman from the city, (Mr. Gowen,) it will abrogate all existing commissions, and I do not know that I am prepared to go so far, yet I am perfectly satisfied that the only way to govern a city or town is to prevent all special legislation in reference to it, and to delegate to that city or town full and supreme power and control. Now, sir, we all know that different commissions which have been named on this floor, controlling certain of our municipal departments, are very properly administered. For instance, the park commissioners, alluded to, and a half dozen other departments that are, in a measure, indirectly under judicial control; but I would state to the gentlemen that there may be, and is, great danger in lodging so much power with the courts. The park commission, and the half dozen others which are managed by our very best citizens, and prudently, and judiciously, and economically controlled; yet the danger is, that if we give the courts so much power and patronage, in a very little while a combination may be formed, and by securing the nomination of the judge of the court, they would thereby hold the control of all the patronage under him, and it would become so powerful an instrument for evil as to overbalance the little good which the commissions do under present circumstances.

Now it seems to me that the only way this difficulty can be removed is to say to the people of all large cities: "Be supreme in the government of your own affairs." If it is necessary let no more commissions be placed in power, and if it is necessary let the present commissions be dissolved. We are able, I hope, to control and govern

ourselves and I conceive that the danger which would arise in giving the courts so much power is so great that it would be a great deal better to remove it entirely from their control, and dispense with all these commissions, and confer the power in the government of all large cities upon the mayor and the city councils. They are the proper representatives of the people. The people elect them to take care of the municipal affairs, and if the mayor and the city councils fail or prove derelict in the performance of their duties the people have the remedy in their own hands. No matter how much we may attempt to palliate these evils by placing the remedy in the hands of the courts, it does not afford the true panacea according to my judgment. It is a great mistake to load down the courts with so much power and patronage, and it seems to me we should be extremely careful, because we may create such a combination which might eventually cast a slur upon the purity of the courts themselves. I am therefore of the opinion that the amendment should be voted down. You will recollect, sir, that a year or two ago the Legislature of the State imposed upon the city of Philadelphia a commission that was wholly irresponsible, and conferred upon it such powers and privileges as to make its creation extremely dangerous. Why, sir, this commission in the city of Philadelphia was empowered to pledge the faith and credit of the city for certain amounts of money in the creation of its office without any control or supervision whatever. Now, sir, if this section is not adopted, other commissions may be imposed upon this city of a like irresponsible nature, and possessing unlimited powers in the performance of their duty, a power, in my opinion, of a most dangerous character.

Mr. SIMPSON. Mr. Chairman: One of the facts stated by the gentleman who has just taken his seat (Mr. J. P. Wetherill) will induce me to vote for the amendment offered by my colleague (Mr. Gowen) if it were for no other reason than the fact that it exists. There are commissions in this city, as the gentleman has mentioned, with unlimited power to impose any amount of debt upon the citizens of Philadelphia without their being able to utter a single word of remonstrance.

I cannot perceive that the section, as reported by the committee, will prevent the continuation of these commissions, possessed with the same unlimited power for the future, as they now are and have

been in the past. The amendment offered by my colleague (Mr. Gowen) will cut them up by the roots, destroy their existence entirely, and restore back to the people their just rights, which have been wrested from them by the Legislature. I shall vote for the amendment which has been offered by my colleague for several other reasons, but principally for the following: While I believe one at least has done well, I do not suppose that there is a gentleman within the sound of my voice but who believes if the public building commission had been selected by the people of Philadelphia, either directly or indirectly, and were responsible to our citizens, that they ever would have dared to establish a building fifty years behind the age, closing up two of our great thoroughfares, and converting them into blind alley ways. I do not suppose there is a gentleman who will deny it. I have said before, and I now repeat, that there are children now born who will live to curse the men that have ruined two magnificent avenues of our city by the erection of the public buildings upon the intersection at Broad and Market streets, by the public building commission. It is for the reason that I think this amendment will destroy these commissions and restore this power to the people, of which they have been deprived, that I shall vote in its favor.

Mr. DALLAS. Mr. Chairman: I rise for the purpose of saying that I cannot conceive that the amendment proposed by the gentleman from Philadelphia (Mr. Gowen) is so far legislative in its character that this Convention should not adopt it. There has been so much said during the progress of our sessions, not only by the gentleman from Dauphin, (Mr. MacVeagh,) but also by other distinguished gentlemen, in objection to any action by this body which, in their view, trenches upon the province of legislation, that I cannot help feeling that it is high time for some person to say that we are not sent here to perform the old-fashioned duties of a Constitutional Convention. I do not believe that we have been sent here merely to re-declare the declaration of rights, or to place into our fundamental law those general principles appertaining to the formations of a government which constituted the principle duties of our forefathers in framing the original Constitution. Those labors have been amply and judiciously performed, and I do not suppose it forms a part of the duties of this Convention to re-write the bill of rights, or to

re-enact those fundamental principles that will be found in the Constitution of 1790, and of 1838, quite as strongly and ably expressed as we could do it. We were sent here as a Convention to supply such new constitutional restrictions as experience has shown to be needed. We were sent here to correct that wherein the Constitution has been found, from its generality, to be deficient, and to provide specific remedies for specific evils.

The Committee on Legislation would never have reported this section if special legislation had not already imposed upon this city irresponsible commissions, who have undertaken to govern, and have governed, this city in all its principal and most valued interests, and it is idle to say that we will provide against the future creation of such commissions, if existing commissions are to be allowed to continue. I do not say a word against the members composing the commissions. I am acquainted with but one or two of them, and of them I could say nothing but to their credit, but I say the principle is wrong, and because the principle is wrong the result is evil.

I also object most earnestly to the suggestion which has been made, that the power of appointing these commissions should be conferred upon the courts. I hope such a suggestion will not be adopted, and that the Committee on the Judiciary will report a section that the judges of this Commonwealth shall perform none other than judicial duties. I hope that in this I will not be disappointed, and that the amendment of the gentleman from Philadelphia (Mr. Gowen) will be adopted, so that the local government of our city shall at last be placed and left where it should be, with its own citizens and their own elected representatives.

Mr. LILLY. Mr. Chairman: I do not know that I entertain any objection to the amendment offered by the gentleman from Philadelphia, (Mr. Gowen,) but I do not think it is necessary to drag into our deliberations this local fight in the city of Philadelphia, for I fear that it may jeopardize the entire work of the Convention.

Mr. DALLAS. I would like to ask the gentleman what local fight he refers to.

Mr. LILLY. The gentleman on my left (Mr. Simpson) referred to it during the course of his remarks. I do not desire to meddle with the local affairs of Philadelphia, but if I was a Philadelphian I should probably be as much interested in the question as anybody else. I can say this,

however, that I think it is simply outrageous, not only to the people of this city, but to all the people of the State, by destroying one of the finest thoroughfares in the city, by placing the public buildings at the intersection of Broad and Market streets. I consider it is a nuisance to the State at large and an eyesore to every Pennsylvanian that comes to Philadelphia. I presume the commission has spent so much money now that they are compelled to go on in the work. I do not desire, however, that this fight between that commission and this city should enter into this Constitution. This is briefly my reason for voting against the amendment offered by the gentleman from Philadelphia (Mr. Gowen.)

Mr. BIDDLE. Mr. Chairman: I feel under considerable embarrassment in regard to this question, and I may say before I discuss it, that I heartily approve of section twenty-four of the report of the committee, and shall undoubtedly vote in its favor. The question seems to be whether we should now take a prospective view only or grapple at once with both sides of the question. If I could I would prevent discussion of the question at present, but it seems inevitable that it must be met now. I am in favor of the prospective limitation or prohibition; and now as to the past, I feel as strongly impressed as any one with the enormity of delegating to commissions the right to levy taxes upon the city of Philadelphia for the erection or establishment of municipal improvements, without any responsibility whatsoever to the tax-paying portion of our community. I concur heartily in all that the delegate from Philadelphia (Mr. Simpson) has said in reference to the particular commission to which he referred; and if the effect of the amendment was to strike out that commission alone, which, so far as I know, is the only commission that has the right to levy taxes, I would vote for the amendment.

Mr. J. PRICE WETHERILL. The South street bridge commission has also the right to borrow money—\$800,000.

Mr. BIDDLE. Then it falls in the same category of vice. The law under which the right to erect that bridge was established was declared to be constitutional by a divided court; that is to say by three judges against two, the late Chief Justice Thompson and Mr. Justice Sharswood dissenting; but the commission has progressed so far in the work that it would be unwise, in an economical point of view,

to discontinue its operation. The South street bridge commission is besides limited to the sum of \$800,000, while the public building commission is entirely unlimited in its power to levy taxes.

If, therefore, this amendment could be so limited as to apply only to commissions that had the right to levy taxes, I would vote for it. But I doubt as to a great many others, and I will give my reasons. We have a park commission, which has no right to levy taxes. Their estimates must be submitted to councils—

Mr. J. PRICE WETHERILL. Will the gentleman allow me to ask him a question?

Mr. BIDDLE. Certainly. I want information.

Mr. J. PRICE WETHERILL. If the park commissioners should create a debt of ten thousand dollars, and the councils should decline to pay that money, would they not have it in their immediate power to collect it by *mandamus* in the courts?

Mr. BIDDLE. I should doubt it very much. I think those contracting with the park commissioners take the risk of the appropriation being passed. But I believe that that commission has been as well managed as a commission possibly could be. I regret very much, to-day, the absence of another delegate from Philadelphia, who is a member of the commission, (Mr. Cuyler,) and who could give us a great deal of information in detail, in regard to its management, which it is impossible for me to give. It has been, and it is now, composed of men who, for integrity, economical administration and devotion to the interests of the city, are not surpassed in the city of Philadelphia or elsewhere; and when I name the late General Meade, the Hon. Morton M'Michael, Eli K. Price, John Welsh, and men of that kind, I am sure every gentleman in the Convention will agree with me. I believe no complaint has ever been made on this score. I believe that this commission is better managed, and has been better managed, than it would have been by a committee of councils, without meaning to say anything in derogation of councils, because these men are all men of large views, great public spirit, great integrity, and most of them of very considerable leisure. Now I should be very sorry, and I will not, if I am called upon to vote to-day, vote for the amendment as it is presented, so that a commission, which I believe so valuable as this, will be struck down.

Now there are other commissions which, I presume, are also included. They have not the power of levying taxes. There is, for instance, a commission of which my friend from Philadelphia (Mr. John Price Wetherill) is himself a member, the board which manages the county prisons. I know from comparing, or rather from contrasting—for the contrast is a very sharp one—that the management of this institution by the present commission, is an enormous improvement, so far as economy and efficiency are concerned. It has brought down the expense of that institution to a minimum point. Now, this board will probably be affected. There may be many others, probably our board of local charities, in which is included the management of the Girard college, which, so far as I can recollect, numbers among its members some of our very best citizens—Henry M. Phillips, William Welsh, and men of that stamp. I cannot recollect, but possibly Judge Woodward himself may be a member of that board, but I am not certain, and he is not here to-day.

Therefore, as I said when I arose to speak on this amendment, I feel considerable embarrassment. If it was a new matter, I should probably vote for the amendment, and I intend to vote for the section. I think it is a valuable one. If it would be proper to include the building commission, which has this unlimited power of raising taxes, I would be very glad to do so, but I cannot say that I am prepared to vote for the whole amendment now. These are some of the reasons; others may suggest themselves to other gentlemen here, why I think we ought not to pass the amendment, but leave it open, and possibly we may get more information when we come to consider the report of the Committee on City and City Charters. By that time we may receive new light which will help us to come to a more definite conclusion upon this question. There are gentlemen who can give us information which we cannot get to-day because they are not here. We can vote for the section, upon which I believe we are quite concurrent in our views, and lay the other over for another day—

Mr. DARLINGTON. Will the gentleman tell us when the city members are likely to be here?

Mr. BIDDLE. I can only speak for myself.

Mr. NEWLIN. In point of fact, most of the large appropriations have been made by the city councils to pay debts contract-

ed by the park commissioners. These appropriations have been made upon the spur of the necessity, for if the councils refused to meet the necessary charges the parties from whom the park commission had purchased properties could, by mandamus, compel the payment of the required money direct out of the city treasury. So that it was better that the city councils should appropriate the money in the ordinary way. It is a notorious fact that the great bulk of the appropriations, apparently made voluntarily by the councils, have been made through the force of the provision in the act of the Assembly, whereby the commission is enabled to compel the city to sustain its contracts, and pay for the damages incurred by the taking of real estate.

Mr. KNIGHT. Mr. Chairman: My colleague from Philadelphia (Mr. Biddle) has expressed my views so fully that I do not think it necessary to state them myself, and with his permission I will endorse his remarks, which will indicate the way I shall vote.

Mr. WORRELL. Mr. Chairman: I find, in looking at the financial statistics of this city, for the past year, that there has been an appropriation of \$1,697,482 64 made by the park commissioners of this city, nearly twice as much money as was required for all the general expenses of the State of Pennsylvania. Now there have been many complaints made about this very commission. Money is expended by the commission, as many regard, in a very irresponsible and very improper way, and the funded indebtedness of this city is being increased to a large amount on account of expenditures made by this very commission. The people of Philadelphia have no power to determine just what additions are necessary to the public park. The people of Philadelphia have no means of saying whether these grounds are taken at a fair price or not, and in many instances it is supposed that the additions made to the public park are made at a cost largely in excess of that which would be charged to a private individual.

I addressed myself a few moments ago to the proposition as reported by the Committee on Legislature, but having heard the proposition from the gentleman from Philadelphia on my right (Mr. Dallas,) I think it covers the ground entirely. These commissions were never created at the wish of the people of Philadelphia. They are not responsible to the people of Philadelphia, and every commission which has

been created in that way, and which is exercising these powers which should belong to the municipality, and which the people of Philadelphia desire to be exercised by the properly constituted authorities, should be abolished. Let the people of Philadelphia, in their own way, through their legislative assembly, exercise all the municipal functions of this city.

Mr. HARRY WHITE. Mr. Chairman: I have just a word to add to what has been so well said by my friend from Philadelphia (Mr. Biddle.) I hope the committee of the whole will stand by the section, with one or two modifications, as it has been reported. It has been carefully considered before reported, and it occurs to me that the proposition of the gentleman from Philadelphia (Mr. Gowen) is so long that it may confuse the popular idea upon this subject, and may excite hostilities and controversies and antagonisms which we do not desire. It seems to me that our policy and province here is to enunciate a general principle, and then let future Legislatures predicate their conduct, as far as municipalities are concerned, upon this general policy. We want to avoid, as far as possible, all these causes of local disturbances.

I will call the attention of the committee of the whole to how it reads: "The Legislature shall not delegate to any commission of private persons." I propose, if this amendment be voted down, to strike out the words "of private persons" and add the word "special," which will make it read: "The Legislature shall not delegate to any special commission or corporation or association, any power to make, supervise or interfere with any public improvement, or to levy taxes or perform any municipal function whatever."

Now if you want to cover money and property, add the words "money or property" after the word "improvement." That seems to me wiser than to substitute a long section, such as has been proposed by the gentleman from Philadelphia (Mr. Gowen.)

The CHAIRMAN. The question is on the amendment of the gentleman from Philadelphia, (Mr. Gowen,) on which the gentleman from Dauphin (Mr. Alricks) has called a division. The first division will be read.

The CLERK read as follows:

The Legislature shall not delegate to any person, association, corporation or commission the supervision, management or control of any of the improvements,

money, property or effects of any municipal corporation, whether held in trust or otherwise, nor vest in such person, association, corporation or commission, as trustee or otherwise howsoever, the power to levy taxes or perform any municipal duties or functions whatever.

On the question of agreeing to the first division, a division was called, which resulted thirty in the affirmative.

The CHAIRMAN. Less than a majority of a quorum vote in the affirmative.

Mr. WORRELL. Mr. Chairman: I ask for a call of the House.

Mr. DALLAS. Mr. Chairman: I ask for a count of the "noes."

The CHAIRMAN. Those in the negative will rise.

The vote in the negative was thirty-five.

The CHAIRMAN. Thirty-five gentlemen voting in the affirmative, there is less than a quorum voting. The Chair will state at this point that the practice, as I have understood it and observed it in committee of the whole, is to decide a question carried by a majority, irrespective of a quorum.

Mr. HARRY WHITE. Mr. Chairman: I call the attention of the Chair to the fact that there is a quorum here.

The CHAIRMAN. The Chair will remark that, perhaps, it is a sounder parliamentary rule to hold that a quorum must vote in order to carry a question, either in committee of the whole or in the Convention, and there is no vote unless a quorum vote.

Mr. BROOMALL. Mr. Chairman: Did not a quorum vote?

The CHAIRMAN. It did not.

Mr. LAWRENCE. Mr. Chairman: I hope the Chair will take the vote again.

The CHAIRMAN. The Chair did not announce the decision, and will take the vote again.

Mr. GOWEN. Will the Chair have the division read again, so that the delegates may know that it is only the prospective part of the amendment that is being put?

Mr. MANN. Mr. Chairman: I rise to a question of order. Less than a majority of a quorum having voted for this section, it was lost.

Mr. MACVEAGH. I say so, too.

Mr. MANN. It does not make any difference how many will vote for it at the present time.

The CHAIRMAN. The Chair would sustain the point of order if it were necessary at this time, for the rulings of the committees heretofore sitting in this Conven-

tion have not been different. But the Chair, upon objection, deeming it his duty to adhere to a different parliamentary rule, will, in this instance, order a different vote to be taken, inasmuch as the vote was not announced.

Mr. W. H. SMITH. Mr. Chairman: May I ask if this amendment is to supersede the section reported by the committee?

The CHAIRMAN. The Chair will explain. The gentleman from Philadelphia (Mr. Gowen) has offered an amendment, in the nature of a substitute, upon which a division has been called, and the first division has been read.

The vote on the first division was then again taken.

On the question of agreeing to it, a division was called, resulting: Thirty-four in the affirmative, and thirty-six in the negative.

So the first division was rejected.

The CHAIRMAN. The second division will be read.

The CLERK read as follows:

"And the Legislature shall provide for vesting directly in the local authorities of every municipal corporation all such power as is heretofore referred to, which may now be exercised by any person, association, corporation or commission."

On the question of agreeing to this division, a division was called, resulting twenty-five in the affirmative. Less than a majority of a quorum voting, it was rejected.

Mr. HARRY WHITE. Mr. Chairman: I ask unanimous consent to strike out the words, "of private persons," and to insert the word "special" before the word "commission."

Unanimous consent was given, and the section was so amended.

Mr. NEWLIN. Mr. Chairman: I offer the following amendment: To add to the section as follows:

"And such powers as have heretofore been so vested are hereby abrogated, and the same shall hereafter be exercised in such manner as the city councils may, by ordinance, provide."

On the question of agreeing to the amendment, a division was called, resulting twenty in the affirmative. Less than a majority of a quorum voting, the amendment was rejected.

Mr. DODD. Mr. Chairman: How does the section read, as amended?

The CLERK read as follows:

SECTION 24. The Legislature shall not delegate to any special commission, corporation or association any power to make, supervise or interfere with any public improvement, or to levy taxes or perform any municipal function whatever.

Mr. KAINE. Mr. Chairman: I suggest to the chairman of the Committee on Legislation that he had better strike out the word "whatever" at the close of the section. It has no use there.

Mr. HARRY WHITE. It is emphatic.

Mr. GOWEN. Mr. Chairman: I am afraid that this section does not cover one of the greatest evils. It only prevents a commission interfering with a municipal improvement or prevents it from levying taxes or performing municipal functions. Now there may be, and there often is, a large amount of money or property, belonging to a corporation, held in trust for charitable purposes, which might not come within this designation of municipal improvement, or its control might not come within the designation of performing municipal functions.

I therefore move to amend, as follows:

By inserting after the word "improvement" the words "property, money or effects, whether held in trust or otherwise."

Mr. HARRY WHITE. Mr. Chairman: I have no objection to that myself. Several gentlemen who represent the large cities suggest that it be adopted without objection. I might accept the amendment, as it comports with my own idea.

The CHAIRMAN. The gentleman from Indiana cannot accept the amendment.

Mr. HARRY WHITE. Well, what I desire to say is that I concur in the amendment.

The amendment was agreed to.

Mr. DARLINGTON. Mr. Chairman: I move to amend, as follows:

To strike out the last word "whatever."

Mr. DARLINGTON. Mr. Chairman: I do not desire to discuss this question. The word has no meaning where it occurs.

On the question of agreeing to the amendment a division was called, which resulted: Eighteen in the affirmative.

Less than a majority of a quorum voting, the amendment was rejected.

Mr. D. N. WHITE. Mr. Chairman: I desire the section read with its amendment.

The CLERK read as follows:

"SECTION 24. The Legislature shall not delegate to any special commission, cor-

poration or association, any power to make, supervise or interfere with any public improvement, property, money or effects, whether held in trust or otherwise, or to levy taxes or perform any municipal functions whatever."

The section as amended was agreed to.

THE TWENTY-THIRD SECTION RE-CONSIDERED.

Mr. BOWMAN. Mr. Chairman: If it is in order, I move to re-consider the vote by which the preceding section was adopted, for the purpose of offering an amendment. It was passed over very hastily.

The CHAIRMAN. It is competent for the gentleman to move a re-consideration.

Mr. HARRY WHITE. What for?

Mr. BOWMAN. I will suggest to the gentleman that I wish to insert into the section, after the word "obtain," the words "or pay" or, "or appropriate."

Mr. HARRY WHITE. Mr. Chairman: I hope the gentleman will not press it. That section is in the old Constitution.

Mr. BOWMAN. I know it is, and that is the very reason why I want to have it amended.

The motion to re-consider was agreed to.

The CHAIRMAN. The twenty-third section is before the House.

Mr. BOWMAN. Mr. Chairman: I move to amend, as follows:

To insert, after the word "obtain," the words "or appropriate."

Mr. BAKER. Mr. Chairman: How will the section read as amended?

The CLERK read as follows:

"SECTION 23. The Legislature shall not authorize any county, city, borough, township or incorporated district, by virtue of a vote of its citizens or otherwise, to become a stockholder in any company, association or corporation, or to obtain or appropriate money for or to loan its credit to any corporation, association, institution, company or individual."

Mr. BOWMAN. Mr. Chairman: The reason why I offer this amendment is this: I am aware that the section is precisely as it stands in the present Constitution, article nine, section seven, but the section there does not meet what I desire should be reached. There is a question, and a very serious question, whether the councils of cities, towns and boroughs have not, under that section, the right to donate their funds. There is a bill now pending in the Legislature, which has already passed one House, by which it is proposed to pay over \$80,000 of the public

funds of the city of Corry, where I reside, to a certain firm which proposes to establish, in the city, the manufacture of engine boilers, &c. Now this constitutional objection is raised, and the ready answer is, that this giving of money is not "loaning its credit," but a simple proposition to donate this amount of money. I want to place this question beyond controversy or doubt hereafter, and I desire that this amendment be incorporated in this article.

Mr. HARRY WHITE. Mr. Chairman: I do not propose to discuss this amendment, but I hope it will not be adopted. With all due deference to my friend, the gentleman from Erie, allow me to state that this, which is a copy of the amendment of 1857, was properly designed to correct a great evil. It prohibits the loaning of credit, the piling up of debts upon municipalities for improvements. The appropriation of the funds they have on hand is not liable to abuse. That subject is under the immediate supervision of the people, and care will be taken, as it has been taken, to prevent the exercise of that power. I do not think it has ever been abused.

The amendment was agreed to.

The CHAIRMAN. The question recurs on the twenty-third section as amended, and it will be read:

The CLERK read as follows:

SECTION 23. The Legislature shall not authorize any county, city, borough, township or incorporated district, by virtue of a vote of its citizens, or otherwise, to become a stockholder in any company, association or corporation, or to obtain or appropriate money for, or to loan its credit to, any corporation, association, company or individual.

The section, as amended, was agreed to.

THE REPORT RESUMED.

The CHAIRMAN. The twenty-fifth section will be read:

The CLERK read as follows:

SECTION 25. The Legislature shall not create offices for inspecting, weighing or gauging any merchandise, produce, manufactures or commodity; this shall not, however, affect any office created or to be created to protect the public health and safety, or for supplying the public with correct standards of weights and measures.

Mr. WORRELL. Mr. Chairman: I would like to inquire of the chairman of the Committee on Legislation if this section will

abolish the office of inspector of pickled fish, that we have heard so much about lately? [Laughter.]

Mr. WHERRY. Mr. Chairman: I am not sure whether the words, "standard of weights and measures" will include quite all that it ought to include. I therefore move as an amendment:

To add the word "analysis" to the end of the section.

Mr. HARRY WHITE. Mr. Chairman: I have no objection.

The amendment was agreed to.

Mr. DARLINGTON. Mr. Chairman: I call for a division of the question upon this section, the first division to end with the word "commodity."

Mr. LILLY. Mr. Chairman: I rise to ask for light on the subject. We have been accustomed to have inspectors of several articles of manufacture and commerce, inspectors of flour, inspectors of leather, inspectors of whiskey, measurers of grain, &c. I have been taught that it is necessary to have these different inspections. We, in the country, have understood that the duties of the different inspectors were necessary, and that the public required this examination as a matter of protection. Therefore I ask the chairman of the committee why this section should strike them all out. I am not interested in the offices myself, in all or any of them, and I do not care a button about them one way or the other. But I ask for information.

Mr. ELLIS. Mr. Chairman: I can scarcely see, with the gentleman from Carbon, (Mr. Lilly,) that the section will sweep away anything. The first portion of the section provides that "the Legislature shall not create offices for inspecting, weighing or gauging any merchandise, produce, manufactures or commodity." That is one part of the section. The other is "this shall not, however, effect any office created, or to be created, to protect the public health and safety, or for supplying the public with correct standards of weights and measures and analysis." Now, although in the first provision the creation of these offices is prohibited, yet under the second the power reverts to the Legislature, and they may do all that they are forbidden to do in the first. Under the pretense that it is for the public health they can create an office for the inspection of all the provisions of the Commonwealth. Under the words "public safety" they can inspect all the machinery of the Commonwealth, inasmuch

as they may assert that if manufactured in a different way it may be injurious to the public safety, so that really the first portion of the section would be rendered entirely inoperative by the adoption of the second. I certainly am opposed to putting into the Constitution any clause, one part of which is in conflict with the other, making the section worthless.

Mr. J. PRICE WETHERILL. Mr. Chairman: I desire to say a word or two in explanation of this section, and give a reason why I think it ought to pass. I had the honor of presenting, some two or three weeks ago, a memorial from the Corn Exchange of this city, an institution representing a very large number of merchants, probably twenty-five hundred, asking for the passage of just such a section as this; for the reason that as trade now exists in the city of Philadelphia State inspections are of no value whatever. If a merchant desires to buy, if you please, one thousand barrels of flour, he goes to his broker and the broker goes to the commission merchant. The broker makes his own examination, and if he is satisfied with the price and the quality he reports both to the buyer, and the sale is closed. The State inspection is not regarded at all in the transaction. The broker does not even ask if the flour he purchased has passed the State inspection or not.

I recollect reading some time ago of a consignment sent from an interior town in two lots to two warehouses of the city of Baltimore, fortunately not in our own city. The State inspector went to the two warehouses and inspected the two lots of flour, both of the same identical quality and shipped by the same man, and put two different brands upon the two lots. He was so entirely ignorant of the quality of the flour that upon the same brand, from the same mill, of the same quality, he put one brand upon one lot and another brand upon the other. I would remind gentlemen that the merchants know very well the value of these inspections, and are satisfied that they ought to be abrogated, because trade regulations should come from trade associations.

Mr. LILLY. Mr. Chairman: If the gentleman will allow me to ask him a question. Is not the consumer of flour interested in having the inspection?

Mr. J. PRICE WETHERILL. No, sir; he never is. Mr. Chairman, in reply to the gentleman from Carbon, who knows something about the manner in which

trade is now carried on, because he is a large operator himself. He knows that in olden times trade marks were almost unknown, but to-day almost every manufacturer has his own trade mark, and he makes his manufactured article live up to that trade mark. That was the reason why the maker of a fine brand of flour in the west put four acres on the head of his barrels. Why? Because in regard to the quality of that flour he wanted to maintain a lone hand. [Laughter.] And so it is in all departments of trade. Manufactures are governed entirely by the quality, and that quality is indicated on each particular article by its own trade mark. These trade marks are known to the entire trade of the country and of Europe, and speak for themselves. They are copy-righted and no one can interfere with them. They are just as sacred to a manufacturer as any other copy-right is to its holder, and the manufacturer, knowing his reputation is always at stake, makes the quality of his article come up fully to that trade mark. Therefore State inspections are valueless.

Why, sir, it was only a little while ago, before it was very properly abolished by the Legislature, that there was appointed for the city of Philadelphia an inspector of pork and an inspector of lard. And at that time, if you went into a packer's warehouse, you could find his stencil on his barrels, and immediately below, putting on the stencil of the State inspector, and, as the cooper finishes up the empty barrels, and puts on the head, and puts on the trade mark of the firm, right below on the empty barrel he puts on the stencil of the State inspector; and then the open barrel is filled with mess pork and it goes out into the trade. Nay, more, in many of the warehouses, where pork and lard were packed, the State inspector leaves his stencil to be put on by the coopers of the firm who pack their wares, and at the end of the week he comes around, asks "how much has been sold," and when he is told makes out his bill, notes down the amount and goes away with the fees in his pocket, without having seen a barrel of it, or inspected a package.

Again, another reason why these inspectors should be discontinued is because persons inexperienced in manufactures are appointed State inspectors. Men who know nothing whatever about the articles they inspect are placed in these positions, and they are forced to leave the matter to their subordinates. So with a flour in-

spector; when wanted you find an inspector appointed, though a very excellent man in the United States Internal Revenue office, thoroughly competent to perform all the duties there, yet what can he know about inspecting flour? What does a carpenter in the city of Philadelphia know about measuring grain? And what does a physician, thoroughly posted, probably, about the astringent qualities of the tincture of bark, know about the commercial value of quercitron bark? Any one who knows anything about the trade of Philadelphia will know to whom I allude, and can make the application.

A little while ago a very prominent, and doubtless a very worthy politician, who had rendered his party good service, went to the Legislature to find a place for himself, and in looking around he found all the nice positions taken up, and he was forced probably as the only position left, to take that important position, the inspector of pickled fish. [Laughter.] Well, when he came to Philadelphia, and looked around the fish market, he found that the packers of fish in New England were smart enough to have their own inspector, and that all the fish that came to this market in that condition had that brand upon them, and on inquiry he found that it was contrary to law to put two inspection marks on one package of fish, and therefore his occupation was, in a measure, gone, as far as the pecuniary benefit to be derived from the privilege of taxing the fish dealers for his inspection was concerned. But in a very little while afterward there was offered at Harrisburg, by a delegate from this city, who desired to put a little money into the hands of the inspector of pickled fish, a bill which added to the inspection of salt fish, baskets of clams, and shallop loads of oysters. And the inspector became very *clam-orous* to have the bill passed. [Laughter.] But the idea of charging a tax for merely looking at a basket of clams, and so much per ton for examining the hold of a shallop load of oysters was so preposterous that the gentleman who offered it very wisely and prudently withdrew it, and I hope that this effort will be the last attempt to place so useless a tax upon the trade and commerce of this city to secure this. I hope the section will be adopted.

Mr. BIDDLE. Before the vote is taken, had not we better consider the propriety of leaving out the word "safety?" I am in favor of leaving the word "health" in.

What I fear is this: I want to say but a word or two on the subject. I concur heartily with what has been so well said by my colleague from Philadelphia (Mr. J. P. Wetherill.) I am opposed to the Legislature interfering between buyers and sellers to make their bargains for them. There is no more need for an inspector of flour than there is for an inspector of dry goods. I believe all these things are useless; but I am afraid that if we leave in the word "safety," we will open a very wide door, through which a great many of these appointments will be allowed to creep, because it will be argued, very plausibly, when an appointment for the inspecting, weighing or gauging some new article is urged, and the Constitutional inhibition is spoken of as preventing it, that the words "or safety" will allow the Legislature to judge whether it is a *safe* thing or not to do it.

Mr. WHERRY. I suggest to the gentleman the insertion of the word "safety" after the word "life."

Mr. BIDDLE. The words "public health" cover that, because life is included in health. I am willing that the word "health" may stand, but I do not like the word "safety."

Mr. MACVEAGH. Mr. Chairman: Is not this phraseology likely to create misunderstanding: "This, however, shall not affect any laws created or to be created." Why not strike out the word "created?"

Mr. HARRY WHITE. I am going to suggest this amendment, if the gentleman will allow me, to strike out the words "to protect," and add or insert the words: "Except for the purpose of protecting the public health and safety, or for supplying the public with correct standard weights and measures, and add "for protecting."

My friend from Philadelphia (Mr. Wetherill) has so well explained the purport of this section that I cannot add anything to what he has said. I might, however, add that it affects largely the section of the State in which I reside, and which I partly represent here, and I call the attention of gentlemen of the eastern counties to the difficulties under which a representative labors when, from time to time, he has presented to him in the Legislature a bill providing for the creation of an office of inspection in the interest of one of his constituents. I appreciate fully the difficulty which exists in matters of this kind, and the object of this section is to restrain the discretionary power of

the Legislature, and at the same time to materially relieve that body from these incessant annoyances that are constantly presented from people who want an office made with some little salary attached to it. I would strike out the words "or safety," if it was not for the fact that from the experience at Avondale, and some of those other great disasters in the mines, the mining population have demanded the creation of the office of inspector of mines, and the word "safety" is inseparably connected with that office.

Mr. LILLY. Mr. Chairman: I would like to ask the gentleman if he has examined the reports of these inspectors for several years, to know whether there has been a single life saved by them?

Mr. HARRY WHITE. Mr. Chairman: I am not prepared to say anything about that.

Mr. LILLY. Mr. Chairman: I understand the subject, and am prepared to speak on it. There has never been a single life saved by the inspection by these inspectors of mines.

Mr. HARRY WHITE. That may all be so, Mr. Chairman. My friend from Carbon is, of course, a large operator in coal, and knows more about that subject than I possibly can. But the miners themselves have demanded the passage of a bill of that kind, and it is indispensable. It seems to me that we must yield to that demand. At all events I would allow the Legislature to exercise discretion in that regard. That is the reason why the word was left in.

Mr. SIMPSON. Mr. Chairman: On the safety part of this question I want to say a word. The Legislature in 1855 passed an act creating an inspection of buildings for the city and county of Philadelphia; that is not for the protection of life and property merely, but for the saving of heads and limbs as well as life; and under this bill I am sure many lives have been saved in this community. I had been for many years before that time an active fireman in this city, and had gone day and night from my work to assist in extinguishing fires; had frequently been caught in traps myself and seen others caught also.

Mr. BIDDLE. If the gentleman from Philadelphia will allow the interruption; I do not object to the word "life" at all, and only objected to the word "safety."

Mr. SIMPSON. Mr. Chairman: There may be an injury suffered by an individual that would be more than losing

his life; he might, for instance, be made an incurable cripple.

Mr. HARRY WHITE. I was going to move to strike out the words "or safety," and insert "for the purpose of protecting life."

Mr. SIMPSON. I do not think that would be sufficient. My attention was particularly called to this subject just before I took a seat in the Legislature in 1855. I went out to a fire in the district of Richmond, in the upper part of the city, and I discovered a row of houses, fourteen in number, with but four outside brick walls to them, four inches in thickness; the division of the intermediate parts were but stud and lath partitions. The fire broke out at one end, and it swept to the other in a very few minutes. The whole row fell to the ground, barely allowing the people to escape, and two or three persons were injured before they could get out of the ruins, and may now, so far as I know, be living and suffering from the result of the injuries then received. My attention was also called to this subject by a fire in another place, in George street, between Schuylkill Sixth and Seventh, where the roofs of the houses were in one entire row. The fire broke out in the western end, and when I went with a stream to the other end to assist in extinguishing the fire, I was roasted out in very short order. That bill, providing for the appointment of building inspectors, was then drawn by myself, after an interview with a number of builders, and was presented to and passed by the Legislature. I know that it has worked very well in this city, and I know that the gentleman from Philadelphia (Mr. Biddle) would not be willing to part with it to-day.

Mr. BIDDLE. Mr. Chairman: I withdraw my amendment.

Mr. DALLAS. Mr. Chairman: I think, as the gentleman on my right (Mr. J. Price Wetherill) has said, that the Legislature has appointed an inspector for oysters and clams, as well as salt fish, there is very little use in this section, if intended to be confined to the creation of offices in the future. Though the present incumbents of these offices may die, the offices that now exist for the inspection of clams and oysters, salt fish, and the like, may remain eternally under the words of this section, which provides that the Legislature shall not create offices for inspecting, weighing, or gauging any merchandise, produce, manufactures or commodities. This shall not, however, affect any office

created or to be created to protect the public health and safety, or for supplying the public with correct standards of weights and measures. I have no amendment to offer, but simply desire to ask the chairman of the Committee on Legislation, if he will allow me, whether it is the intention to allow offices of that character to remain as they now are.

Mr. HARRY WHITE. Mr. Chairman: In reply to the inquiry of my friend from Philadelphia, I will say that it was not the desire of the committee, in reporting this section, to legislate or repeal any act, but to announce a policy. When they announce this policy, of course the Legislature can repeal these offices.

Mr. GOWEN. Mr. Chairman: It seems to me that the last clause of this section entirely emasculates the first clause, and the argument which applies to the keeping in of the first clause must apply to keeping out the remainder. Take the case of the inspection of public buildings, or the inspection of mines, both of which are proper. When you say that "the Legislature shall not create offices for inspecting, weighing, or gauging any merchandise, produce, manufactures, or commodity," you do not prohibit the appointment of the inspector of mines, nor do you prohibit the appointment of the inspector of public buildings, both of which, I am willing to admit, are necessary and important. Therefore, if there is nothing in the first clause which prohibits the appointment of the inspector of mines, or the inspector of public buildings, it seems to me that it would be improper to adopt the whole section, as reported, because the adoption of the whole section would give the power to the Legislature, by an ingenious preamble, to appoint officers directly in contravention of the suggestions contained in the first clause.

Let us suppose that the Legislature, in its wisdom, should declare that public health and safety rendered it necessary that fish should not be cooked in a particular manner, and that they should appoint an inspector of cooked fish to visit every household and examine the culinary arrangements of every kitchen. Or, that the public health and safety required that no oysters should be cooked in a particular manner. Surely if you give the Legislature the power to make an office to protect the public health and safety, it is to decide what the public health and safety require. Certainly, there is a great deal of bad cookery in the Commonwealth

of Pennsylvania. I think the public health and safety are as much endangered by bad cookery, as they are by purchasing diseased animal or decayed vegetable food, and if the public health and safety are to be consulted, you will have the Legislature appoint an officer to visit every household, to interfere with the private domestic relations of every family. There is no more tyrannical exercise of power than the appointment of these petty officers. Every professed politician, who cannot get an office in any other way, goes to Harrisburg, and endeavors to get his friends to appoint him an inspector of some commodity of known general use. It may be pickled fish, or it may be decayed clams, or it may be dough-nuts, or it may be sauer kraut, but it is something the people use, and do not want to be interfered with, and the entire object of the whole thing is simply to pension off some political hanger-on of one or the other parties. They do no good. Nobody pays any regard to their inspection. Nobody throws up a contract because their inspection is not satisfactory. Nobody buys anything because their inspection is satisfactory. But every man who buys, and every man who sells, relies upon his own judgment, and his own judgment alone, and all of these offices ought to be abolished, and, while we are about it, let us abolish them now and forever. Do not let us adopt any proviso which, upon an assumed regard for the public health or the public safety, will enable the Legislature to infest the community with these people.

But coming back to what I said at first, what I desire to call the attention of the committee of the whole to is that there is nothing in the first clause of this section which would prevent the Legislature from appointing an inspector of buildings, or an inspector of mines; by adopting the first clause alone, we accomplish all that is required, without the danger of perpetuating the inspectors of merchandise, produce, manufactures or commodities, which would follow the adoption of the entire section.

Mr. WHERRY. Mr. Chairman: Before the gentleman from Philadelphia takes his seat, I would like to ask him if it would include an inspector of dangerous oils, fluids and dangerous combinations?

Mr. GOWEN. Oh, yes; that would be included in the term "produce or commodity," unquestionably.

To conclude, I would therefore not pass this section unless you make it so strong:

First. That no such office now created shall hereafter exist; and

Second. That no alleged benefit to the public health or safety can be made use of as an argument for foisting upon the community a class of non-producers, whose only object is to make money, without any benefit to the community, whatever.

I desire to suggest to the gentleman from Indiana, whether either of the words "merchandise, produce, manufactures or commodities" would cover the case of live stock, cattle, hogs, horses or sheep. I think not. I do not think you would call live stock "merchandise, produce, manufactures" or a "commodity." I would therefore suggest an amendment by inserting, after the word "merchandise," the words, "live stock."

Mr. HARRY WHITE. That is right.

The CHAIRMAN. The question is upon the amendment proposed by the gentleman from Indiana (Mr. Harry White.)

Mr. EWING. What is that amendment?

The CHAIRMAN. It will be read.

The CLERK read:

To strike out the third line to and including the word "protect," and insert in lieu thereof the words, "except for the purpose of protecting."

The section, as amended, will read:

"The Legislature shall not create offices for inspecting, weighing or gauging any merchandise, live stock, produce, manufactures or commodity, except for the purpose of protecting the public health and safety, or for supplying the public with correct standards of weights and measures."

Mr. KAINE. I did not know, sir, that there was a law in Pennsylvania that required the inspection of live stock—either horses, cattle, sheep or hogs. I know that attempts have been made in the Legislature of Pennsylvania, while the gentleman from Indiana (Mr. Harry White) has been a member of it, to pass laws of that kind, but I was not aware, nor am I aware now, that any such law exists on the statute book of this State. I understand from the discussion here that this section is intended by the gentlemen in favor of it to abolish all the existing offices of the kind named in the section. I merely want to know whether it is the opinion of those gentlemen, or of this committee, that this section will do that thing. These

offices are now existing by the acts of the Legislature of this State. This section will certainly not abolish them, and if it does not, why they must exist as long as the law stands—it may never be repealed, and I suggest to the gentlemen who favor this section that they had better put something into it that will abolish these offices at once.

Mr. DARLINGTON. That can be very readily done if the committee see fit to insert the words "or continue."

Mr. JNO. PRICE WETHERILL. I would suggest, to the gentleman from Chester (Mr. Darlington) that his colleague has prepared an amendment, which, I have no doubt, will meet the point.

Mr. DARLINGTON. Mr. Chairman: I do not propose to add anything to what has been said on this subject; but I desire to say that I entirely agree with what has been said by the gentleman from this city, over the way, (Mr. J. Price Wetherill,) and the other gentleman from Philadelphia, (Mr. Gowen,) that the thing desired, if anything, is the total abolition of these offices; and what I want to observe is that the latter part, the last three lines, of this section, seem to me to be entirely unnecessary for any purpose for which they are intended: "This shall not, however, affect any office created or to be created to protect the public health and safety, or for supplying the public with correct standards of weights and measures." We have a standard of weights and measures, I am aware, at the seat of government, and they are furnished to the county. We have an officer in every county, appointed from time to time by the Executive, called the sealer of weights and measures, a very useful officer. He is enabled to go into our markets and see that the weights and measures are of the proper standard. He is an officer like clerk of the market in the city of Philadelphia or any other city, to occasionally go through the market and see that the weights and measures of the butter and other things that are there are correct, and thus protecting the purchaser, but that requires no constitutional provision. It does not affect the public health. There is no general law about supplying the public with correct standards of weights and measures, nor do we mean to interfere with the standard of weights and measures that exist in every county in the Commonwealth, nor with the sealer of weights and measures, who may be appointed by the Governor, as

heretofore, in accordance with law. I think, therefore, that the best plan would be to adopt the two first lines and reject the balance.

Mr. GOWEN. Mr. Chairman: I move to amend the amendment, and I trust that the gentleman from Chester (Mr. Darlington) will agree that this will be voted on before the division is called for, to insert after the word "commodity," in the second line, the words, "and all such offices are hereby abolished."

Mr. DARLINGTON. That is what is wanted.

Mr. J. W. F. WHITE. Mr. Chairman: I hope that that amendment will not prevail. I presume they have here in this city—if they have not we have in Pittsburgh—an inspector of meat, a very useful and very important officer for the public health. That officer will be stricken down by the amendment just now offered—the inspector of meat.

Mr. MACVEAGH. And the inspector of petroleum.

Mr. J. W. F. WHITE. I apprehend that if that section were modified as proposed that office could not be created, or would not be allowed to continue.

Mr. WHERRY. Mr. Chairman: I suggest that that is a municipal office, and I would ask whether he is not appointed by the city authorities?

Mr. J. W. F. WHITE. Well, when we say that the *Legislature* shall not create, we mean that they shall not create directly or indirectly. ["No! No!"] Why, certainly, and you have prohibited all special legislation on these matters. When we say *they* shall not create an office of that kind, they certainly cannot authorize the *city* to create that office, because the city cannot create any office except what they are authorized to create by the Legislature. I cannot, for the life of me, perceive how you are to prohibit the Legislature from conferring a power, and then say that the city shall exercise that power. When you, by a particular section of this kind, expressly say that the Legislature shall *not* create an office, it does not say by special act, but broadly, the Legislature shall *not* have power to create such an office, yet say that a *city* shall create such an office. I cannot conceive that that will stand the test of our courts. If it is modified in that way it might do, but when you have a broad section such as that would be, if this amendment were adopted, it *will* apply to cities, and prevent

them from creating, and prevent the Legislature from authorizing them to create such an office, I hope the amendment in its present shape will not be adopted.

Mr. WM. H. SMITH. Mr. Chairman: The inspector of meats in our city is a municipal officer, elected by the county. There is nothing in here to prevent a county from electing such an officer. But I suppose that this will apply to the office of sealer of weights and measures in our city, and abolish it. That is an office that is wholly useless; it is of no service whatever, and is nothing but a tax upon the merchants doing business there. It authorizes a man who has no acquaintance whatever with scales or weights, or materials for weighing, to make an inspection twice a year, and get his fees for it. It is of no use to the people, and is a tax upon every man who has scales in his house. I do not know that that office is abolished by this section; but I know it is an abuse, and I would like to have a word from the chairman of this committee as to whether the section would apply to such municipal offices as that and abolish them. I mean such officer as that of the sealer of weights and measures. It is of no practical use whatever, and is merely a sinecure enjoyed by people who are not fit to attend to it.

Mr. MACVEAGH. Mr. Chairman: As I understand the distinction intended to be drawn by the committee which has made this report, it is that there are two classes of inspectorships now recognized by the law of this State in its legislation. One is a class of inspectorships to protect the public health and safety, that is, to prevent diseased meats, and I suppose to prevent improper and unsafe petroleum, and to prevent unsafe buildings, and unsafe mines; in other words, matters which affect the public health and public safety and which affect cheating, as by false weights and false measures. These inspectorships are preserved to the Legislature; that is, the power of creating them, in their wisdom, is left with them. There is another class of inspectorships contemplated by the section which does not affect the public health or safety, but which, in some antecedent time, has been supposed to furnish a standard for the buyer in the market, and it is intended to say that for the future no such inspectorships shall be created. That seems to be an entirely intelligible distinction, and which I am certainly quite willing to adopt.

Mr. ELLIS. Mr. Chairman; I would like to ask the third class to which the gentleman (Mr. MacVeagh) referred.

Mr. MACVEAGH. I said the inspectorship of weights and measures and the protection from cheating.

Mr. ELLIS. Those are the first and second. What is the third?

Mr. MACVEAGH. The third is a class of inspectorships, I infer from what one of the gentlemen from Philadelphia said, to give currency to articles of merchandise, simply to fix the relative grade and rank of these commodities. The merchants here say that these no longer serve their purpose, but have merely served the purpose of a house of refuge for needy politicians. I know nothing about that. I do not even know what is allowed by law; but these distinctions seem to me to be broad enough between the two classes. I suppose, if that is so, the Convention will be ready enough to see the distinction. But unless I did know what the effect of the repeal of the law would be I would not vote for it. I would hesitate before repealing legislation *en bloc* in this matter. Such a clause as that would require a controversy as to particular offices, and the controversy would be whether it was an office called for by the public health and safety or not. We should endeavor to so fix the section that it would end all confusion of that kind and all controversy.

Mr. SAMUEL A. PURVIANCE. Mr. Chairman: It strikes me we are carrying this prohibition a little too far. I cannot see the necessity of this section at all. I think, sir, that no abuse has arisen from these appointments by the Legislature of certain officers of this kind. However it may work in the city of Philadelphia, I believe my colleagues will all join me in saying that, so far as regards the city of Pittsburg and the county of Allegheny, the system has worked well. There has been no complaint about it; and, sir, to pass this section in its present shape would give rise to very considerable doubt as to its legal construction. Our courts would be called upon to determine what was for the public safety and for the public health. Why leave a question like this open to be determined by our courts? What is the inspectorship of flour? Does not that inspectorship relate to the public health and safety? Certainly it does; and no gentleman will say that it does not. Of course, then, it becomes a matter for judicial interpretation. What does an in-

spectorship of beef amount to? The gentleman from Indiana (Mr. Harry White) goes for the direct exclusion of beef inspectors. I consider that so far as Allegheny is concerned, having a population of nearly three hundred thousand, it is a matter of the greatest importance to them that their beef should at all times be inspected.

Mr. HARRY WHITE. Mr. Chairman: Allow me to state to the gentleman that I said I was opposed to the proposition for inspecting cattle yards—inspecting live stock.

Mr. S. A. PURVIANCE. Mr. Chairman: I know there are occasions when butchers of, perhaps, poor repute will go into a cattle yard, and there, perhaps, purchase a beef that has died from exhaustion, or from ill treatment, while on its way from the prairies to Pittsburg. When you require that all these things shall not be inspected, that is saying to the public that neither flour nor beef should be inspected. We have, also, in Western Pennsylvania, not confined to Pittsburg as a city—not within the municipal control—inspections of oil, and what are they? They are vastly important to the community for the purpose of preventing men from being defrauded of their rights. It is known that certain grades of petroleum are explosive and dangerous at a certain temperature, and sales are sometimes made of petroleum of that grade or that character. It is advisable to have persons for "inspectors of oil" who are skilled in the knowledge of this commodity, and who are able to deter, mine its quality and character; for suppose a case occurs where an investigation is desired as to damage resulting from such oil, these inspectors would be essential in order to fix the blame where it belongs. They have inspectors of oil at Oil City, and at other places, and outside of the control of any municipality whatever.

Mr. BAER. Mr. Chairman: I move that the committee now rise.

It was not agreed to.

Mr. HEMPHILL. Mr. Chairman: Believing that the municipal authorities have all the power necessary to create boards of inspection, for the inspection of such articles as may endanger the public health or safety of the citizens of the municipality—

Mr. STANTON. There is no power in the city except what comes from the Legislature.

Mr. HEMPHILL. They will be able to get it under general laws. I think,

sir, that such being the case, or that it could readily be made so by a general provision of the Legislature, applying to all cities alike, giving them the power to employ such officers for the health and safety of its citizens, I think the exception should be confined solely to an officer for supplying a correct standard of weights and measures, and I therefore offer the following, as a substitute, for insertion.

The CHAIRMAN. Does the gentleman (Mr. Hemphill) offer this as an amendment?

Mr. HEMPHILL. Yes, sir; as a substitute.

The CHAIRMAN. It may be read for information at this time; but it cannot be received, as there is an amendment to an amendment now pending.

The CLERK read:

"All offices for the weighing, gauging, measuring, culling or inspecting of merchandise, produce, manufacture or commodity whatever, are hereby abolished, and no such office shall hereafter be created by law; but nothing in this section contained shall affect the supplying of the public with correct standards of weights and measures."

The CHAIRMAN. The question is upon the amendment proposed by the gentleman from Philadelphia (Mr. Gowen.)

Mr. MINOR. Mr. Chairman: This section and the amendments will affect my own portion of the State very largely. I am free to say that abuses have been introduced in the Legislature, by way of special bills, that bore very hard indeed upon us, and we regard it as an almost unmitigated evil; yet I do not think that *that* is a sufficient reason for taking away all power as to the appointment of proper inspectors in cases where protection might be required. The benefits of such inspections as are necessary to be here provided for should not be confined to cities, but should extend to the country districts as well.

There are officers, such as inspectors of oil, inspectors of steam boilers and other inspectors, the greater portion of whom are entirely outside of cities, and must be governed by general acts and action, if they are to be governed at all. I think this section in its limitations goes too far entirely. I subscribe to the doctrine of the gentleman from Dauphin, (Mr. MacVeagh,) that if we make any restriction let us make it in this section, but to undertake to do away with all these officers

at a sweep would be to leave ourselves powerless against what may be a very serious evil. We are taking a leap in the dark. Let us not relieve ourselves of one grievance and then have occasion to grieve over another. Let the power be in the Legislature. We have been imposed upon, perhaps, more than any portion of the State by special bills, yet I am not in favor of taking away all power from the Legislature. Either vote down the section and leave the Legislature to act freely or leave it as it stands.

Mr. LANDIS. Mr. Chairman: The section as proposed to be adopted reads:

"The Legislature shall not create offices for the inspecting, weighing or gauging of any merchandise, live stock, produce, manufacture or commodity, except for the purpose of protecting public health and safety."

If it is desired to affect the public health and safety, does it not then follow that the Legislature *shall* appoint inspectors for inspecting and weighing merchandise, &c.? The very desire of the Committee on Legislation is defeated by the section as it now stands.

Mr. MACVEAGH. Mr. Chairman: I understand the distinction of the Committee on Legislation to be this: Suppose a cattle disease breaks out that requires a skilled inspector to ascertain whether the cattle or the meat is diseased; or, suppose the pork becomes diseased with *trichinæ spiralis*, and it requires the services of an expert to save the public health, then the committee leave it to the Legislature to appoint an officer of that kind.

Mr. LANDIS. If that is so then the whole measure is unnecessary, and we had better vote it down.

Mr. BREBE. Mr. Chairman: I offer this amendment —

The CHAIRMAN. An amendment cannot now be received.

The question is on the amendment to the amendment proposed by the gentleman from Philadelphia, (Mr. Gowen,) to insert, after the word "commodity," these words, "and all such offices are hereby abolished."

Mr. DODD. Mr. Chairman: It is so near the hour of adjournment that I do not wish to take up the time of the committee, but I hope that the vote will not be taken on this to-day. My mind is somewhat unsettled in regard to it. It strikes me that it is an important matter, and there certainly is a misunderstanding about it. For instance, my friend from

Allegheny (Mr. J. W. F. White) asked the question whether the municipal authorities could create an office, provided it is not left to the Legislature. Certainly not. A municipal government is the creature of the Legislature. Whatever is prohibited to the Legislature is prohibited to the counties and cities. If we prohibit the Legislature from creating these offices no city or county could create them. The law is clearly laid down in "Cooley on Constitutional Limitations," which I have on my desk, and any gentleman who reads it will see that municipalities created by the Legislature cannot have a power which the Legislature itself has not got. Now, are we ready to give up these offices and say that we are not going to have any inspection of anything? I think the section, as it is before us, meets the case. They have all the power that they want under the general police regulations of the State for the general safety

of the community. I am not certain but what we had better leave it there as it is, and not encumber the Constitution with details.

Mr. ELLIS. Mr. Chairman: I move that the committee do now rise, report progress and ask leave to sit again.

It was agreed to. So the committee rose.

IN CONVENTION.

Mr. ARMSTRONG. Mr. President: The committee of the whole have had under consideration the articles submitted by the Committee on Legislation, and have directed me to report progress and ask leave to sit again.

Leave was granted the committee to sit to-morrow-

Mr. RUSSELL. Mr. President: I move that the Convention do now adjourn.

It was agreed to.

The Convention then, at two o'clock and forty-five minutes, adjourned.

SIXTY-NINTH DAY.

TUESDAY, *March 18, 1873.*

The Convention met at ten o'clock A. M., the President, Hon. Wm. M. Meredith, in the Chair.

The Journal of yesterday was read and approved.

PROHIBITION.

Mr. H. W. PALMER presented a petition from citizens of Luzerne county, praying for the insertion in the Constitution of a provision prohibitory of the sale of intoxicating liquors as a beverage, which was referred to the Committee on Legislation.

Mr. FULTON presented a petition from citizens of Westmoreland county, praying for the insertion of a similar provision in the Constitution, which was referred to the Committee on Legislation.

PRINTING REPORTS OF COMMITTEES.

Mr. MACVEAGH presented the following resolution, which was twice read :

Resolved, That all the standing committees of this Convention be requested to present their reports in time, that the same may be printed before the adjournment of the Convention on the twenty-eight instant.

Mr. MACVEAGH. I move to amend the resolution, by inserting the words, "excepting the Committees on Schedule and Revision and Adjustment."

Mr. BOWMAN. I move to amend the amendment, by excepting also the Committee on Constitutional Sanctions.

Mr. MACVEAGH. Mr. Chairman: I do not think it is desirable to accept this modification of the resolution, unless some reason can be shown for its necessity. The object of this resolution is that these reports of the standing committees shall all be printed, in order that we may be able to take them home when the Convention takes a recess, excepting those committees which cannot report until the final work of the Convention is completed.

Mr. BOWMAN. Mr. Chairman: The Committee on Constitutional Sanctions have not made their report as yet, and I do not think they will be able to report in time to comply with the requirements

of the resolution. I hope, therefore, the amendment to the amendment will be adopted.

The question being taken, the amendment to the amendment was not agreed to.

The question being taken on the amendment, it was agreed to.

The question then recurred on the resolution, and it was agreed to.

Mr. J. M. WETHERILL offered the following resolution, which was twice read :

Resolved, That the Committee on Printing be directed to have printed a sufficient number of the reports of the committees, that each person and member of the Convention may be furnished with three copies.

Mr. KAINE. Mr. Chairman; It has not been long since a resolution was passed by the Convention, requiring three hundred copies of the reports of the various committees to be printed for the use of the members. I apprehend that this is a sufficient number.

Mr. J. M. WETHERILL. Mr. Chairman: I desire to remark that sometime ago made an application to the Sergeant-at-Arms for additional copies of some bills which had been printed, and I was informed that they had all been distributed. I think, especially as the Convention will adjourn in a short time, that a sufficient number of the reports of the committee should be printed in order to furnish all the members with copies. They are not only useful for reference for ourselves, but for distribution among our friends. I hope, therefore, that the resolution will pass.

The question being taken, the resolution was not agreed to.

THE ORDER OF BUSINESS.

The CHAIRMAN. The Chair will state that if it is the desire of the Convention to proceed to the consideration of the report of the Committee on Legislation, a motion will be necessary. The Chair mentions this fact because the orders of the Convention have become so numerous that the time of the Convention is un-

necessarily consumed in reading them over.

Mr. HANNA. I move that the Convention resolved itself in committee of the whole, and proceed to the consideration of the article reported by the Committee on Legislation.

THE ARTICLE ON LEGISLATION.

The Convention then resolved itself into committee of the whole on the article reported by the Committee on Legislation, Mr. Armstrong in the chair.

STATE OFFICES.

The CHAIRMAN. The twenty-fifth section is before the Convention. It will be read by the Clerk.

The CLERK read as follows:

SECTION 25. The Legislature shall not create offices for inspecting, weighing or gauging any merchandise, live stock, produce, manufactures or commodity; this shall not, however, effect any office created or to be created to protect the public health and safety, or for supplying the public with correct standards of weights and measures.

The CHAIRMAN. A motion has been made by the gentleman from Indiana (Mr. Harry White) to amend the section, by striking out the words "to protect," and inserting the words, "except for the purpose of protecting." The gentleman from Philadelphia (Mr. Gowen) has offered an amendment to this amendment, by inserting after the word "commodity," in the first sentence, the words, "and all such offices are hereby abolished." The question is upon the amendment to the amendment.

Mr. HARRY WHITE. Mr. Chairman: I withdraw the amendment I have offered.

The CHAIRMAN. Gentlemen will suspend remarks until the Chair ascertains the precise question. The gentleman from Indiana withdraws his amendment to the amendment, and the amendment will fall with it.

Mr. HARRY WHITE. Mr. Chairman: I now move to add the words, "live stock."

The CHAIRMAN. That was accepted.

Mr. GUTHRIE. Mr. Chairman: I offer the following substitute for the section.

Mr. LILLY. Mr. Chairman: I desire to ask a question. Is it competent for the chairman of the Committee on Legislation to accept the amendment offered in the House?

The CHAIRMAN. The amendment was not accepted by the gentleman from In-

diana. It was proposed by him, and accepted by the House.

Mr. STANTON. Mr. Chairman: Has the gentleman from Indiana withdrawn his amendment?

The CHAIRMAN. He has. The question is upon the substitute offered by the gentleman from Allegheny, (Mr. Guthrie,) which will be read.

The CLERK read as follows: The gentleman from Allegheny (Mr. Guthrie) moves to strike out the section, and insert as follows:

"The Legislature shall not create any office for inspecting, weighing or gauging any merchandise, produce or manufactures, except such offices of inspection as may be necessary to protect the public health and safety, and to furnish correct standards of weights and measures."

Mr. S. A. PURVIANCE. Mr. Chairman: I move to amend as follows: To insert the words "live stock."

The CHAIRMAN. Will the gentleman from Allegheny indicate at what point?

Mr. GUTHRIE. Mr. Chairman: If the gentleman from Allegheny proposes to add "live stock" in the exception, I am willing to modify my substitute, so as to prohibit it. But I am not willing to accept as an amendment a law authorizing the State to appoint such inspectors.

Mr. S. A. PURVIANCE. Mr. Chairman: I want the words added, so as to keep them in the inspection.

The CHAIRMAN. The substitute, as amended, will be read.

The CLERK read as follows: It is moved to insert the words, "including the inspection of live stock," after the word "inspection." The substitute, as amended, will read as follows:

"The Legislature shall not create any office for the inspection, weighing or gauging of any merchandise, produce or manufactures, except such offices for inspection, including the inspection of live stock, as may be necessary to protect the public health and safety, and to furnish correct standards of weights and measures."

Mr. HARRY WHITE. Mr. Chairman: I have but one observation to add to what was said on the subject yesterday. I have no particular objection to the amendment or substitute offered by the gentleman from Allegheny (Mr. Guthrie) for the original section. Delegates will observe it is the same in effect with the section as reported by the Committee on Legislation.

That section says:

"The Legislature shall not create offices for inspecting, weighing or gauging any merchandise, produce, manufactures or commodity; this shall not, however, effect any office created or to be created to protect the public health and safety, or for supplying the public with correct standards of weights and measures and analysis."

That is the original section. The substitute offered by the gentleman from Allegheny includes the first part of the section, striking out the latter part, and adding the words, "except such officers of inspection as may be necessary to protect the public health and safety, and furnish correct standards of weights and measures."

Now that is but another way of expressing what is already expressed in the original section. I am not tenacious about it, but it occurred to me that that had better be retained in the original section; certainly if the gentleman from Allegheny (Mr. S. A. Purviance) is going to press his amendment, including live stock, I am opposed entirely, and in toto, to that inspection. That is one of the grievous evils of the times.

Now what is the purpose of this section? I admit that it is somewhat difficult to keep in mind the exact distinctions that are here proposed. There is an exception here in behalf of such offices of inspection as are necessary to protect the public health and safety. Some exception of that kind is indispensable. What is fully aimed at has been explained by the earnest gentleman upon my left, (Mr. John Price Wetherill,) who so eloquently reviewed the abuse on this subject in the city of Philadelphia. The Legislature yearly is tormented to create special offices of inspection for the obligation of this man or that man, and after the office has been created it is found to be a mere bagatelle. Then members of the Legislature are importuned to increase the perquisites so that it will be a paying office. The object of this section is to lay the axe to the root of this evil and make it impossible hereafter to create any offices of a commercial character simply to provide a place for an importunate politician.

It is said that we must have inspectors of diseased meats; well, that is under the regulation of the municipalities and is all right and proper. It is said that we must have inspectors of mines. That is for the protection of the public life and the safety of human lives, and that we cannot avoid.

But what we want to aim at is the creation of these offices for inspecting simply commercial commodities, or in order to give somebody an office. We have a bank inspector, a leather inspector; who can say for a moment that that is necessary for the protection of the public life or safety? Or who would say that the inspection of certain articles of dry goods, that the ingenuity of some office seeker may conceive proper to give him a place—would promote the general health?

It will be, therefore, apparent to every gentleman of this Convention, that the direct effect of this section will be to give the Legislature a rock to stand upon, so that when it is proposed to create these offices for the benefit of certain individuals, unless it can be plainly indicated that the offices are absolutely necessary for the protection of the public health or safety, the Legislature may defeat the bill, or it may be vetoed by the Executive. It is an assistance to the Legislature in preventing this abuse.

Mr. LEAR. Mr. Chairman: From the start, this section has been a mystery to me, and it is getting no clearer under the discussion. I confess that when I read that section, and after I had heard it discussed yesterday, I turned to the Convention Manual to ascertain the names of the members of this Committee upon Legislation. I knew the intelligent chairman of that committee, and that he was a gentleman of great ability and many accomplishments. But I knew, at the same time, that his legislative and constitutional making capacity was distributed between the State Senate and this body; and that by the performance of this dual duty, it was stretched out to an attenuated condition, by which it was scarcely able to bear the ponderous pressure of its own weight. But when I examined the names of the other members of this committee in connection with this subject, I made up my mind that this section was a huge joke. They ought not to undertake to palm off upon this Convention a joke of this kind. Some of us country men, who come from the rural districts, ought not to be taken advantage of in this way, by having our inexperience imposed upon by a section proposed to be put into the Constitution of this State to abolish inspections except for particular purposes, when it must be apparent that it is not in our power to do that which is proposed here.

Now this is a provision in restraint of the powers of the Legislature. The legis-

lative power, as we say, and as we have always said, of the State of Pennsylvania, is in a general assembly. That is the people's body. The Legislature of the State represents the sovereign will of the people, and every provision that we put in our Constitution to circumscribe the power of the General Assembly is a restraint upon the personal and political freedom of the people of Pennsylvania.

When we undertake to restrain the legislative power by constitutional inhibitions, we should do it in such a manner as to make it become practical. I know nothing, by experience, as about fifty of the members of the Convention do, how an act of the Assembly is made. I never was present at its birth, nor witnessed the travail of that body; nor was I ever at the act, nor present in the hour of its parturition, but I have assisted as dry nurse of many of the legislative births, in the shape of statutes, which we have been for twenty years aiding and strengthening, until these imbecile and infantile creations which have been sent forth and cast abroad upon the community, until they have become strong enough to walk alone, or, in other words, so that the people of the State could understand, by judicial decisions, what they meant.

But we suppose that when the Legislature is about to pass a law, a bill is presented by some member who thinks he knows of some special grievance. It is passed through the two Houses and goes to the Governor for his inspection and approval or rejection. The Governor, if it becomes a question as to whether it is constitutional or not, calls in the aid of his Attorney General, and in doing so, if under this section some gentleman has provided for the creation of some inspector, he will ascertain, in the first place, whether that inspection comes within any of the exceptions provided in this section. What are those exceptions? This shall "not affect any office created, or to be created, to protect the public health and safety." Well, then the Attorney General must be a man of science, and he must have a laboratory in his office, because he is not to determine the constitutionality of the act by any of the constitutional tests that are applied to it, but he is to determine by some test involving matter of fact and, probably, scientific inquiry. An inspector is created to inspect some villainous compound that has been manufactured for the purpose of giving light to the people, and it must be analysed. In

this instance you will have the spectacle of the Attorney General of the State, with his chemicals and his compounds, his weights and his scales, determining the constituents and ingredients of an article that is proposed to be inspected, and if he fails in that, as he will most probably, he must secure outside assistance, and obtain information from practice and experience.

I once heard of a physician who attempted to institute a new theory of medicine, and establish a system of therapeutics, and he started out to establish the soundness of his practice of medicine upon the inductive system. His grand specific for all diseases was roast beef and brandy. The first patient he had was a burly butcher, who had been attacked with a furious fever, and he administered his remedy, and the butcher got well. He immediately entered upon his diary, "roast beef and brandy cure a butcher." His next patient was a tailor, with the same disease, to whom he administered the same remedy, but the tailor died, and he then entered upon his diary, "but kill a tailor;" and if the Attorney General, in ascertaining whether roast beef and brandy were dangerous to the public health and safety, should inspect the diary of this man who had undertaken to establish his theory by the inductive method, he would be thrown into uncertainty, and would receive no light from his experience. If he could not ascertain in that manner the dangerous qualities of an article, he could consult the opinions of men of learning in their particular departments. For instance, there is the opinion, which was delivered in the Supreme Court of Pennsylvania yesterday, by the present chief justice, who has determined, not judicially, because it happens to be a dissenting opinion, that Schuylkill water, mixed with Knickerbocker ice, is dangerous to the health of the people, and that the guests of the centennial exhibition in 1876 will have their health injured by the use of Schuylkill water, seasoned with Knickerbocker ice. Then there will come up a bill for an office for the inspection of Schuylkill water, and the Legislature will give the opinion of the Chief Justice in evidence before the Attorney General, to prove the necessity of having this water inspected.

Some enterprising member from the city, Samuel Josephs, for instance, or William Elliott, will get up a bill and have it passed through the Legislature,

to provide for the inspection of bricks in the city of Philadelphia, and it will be submitted to the Attorney General to know whether that is prohibited by this constitutional provision. It will be said that bricks are not detrimental to the public safety. Ah! but says this solon from Philadelphia, we recently had a case in which one of the most valued citizens, in passing along the street, under the careless management of a hod carrier, had a hodfull of bricks tumbled upon him, which crushed him to death, and therefore bricks are dangerous to the public safety, and there must be an inspector of bricks.

Take a case from the smoke-enveloped city of Pittsburg. A citizen, passing along the street, drops dead on the sidewalk. A coroner's jury is summoned, and they bring in a verdict that he died of asphyxia; strangled with smoke. An intelligent member from that district rises in his seat in the House of Representatives, or the Senate of the State, and proposes that there shall be an inspector of smoke for the city of Pittsburg. I say that this whole section will end in smoke. There is nothing, not even flour itself, that cannot be used by ingenious politicians to defeat the constitutional provision. It is said that an old pastor said to his repentant and dying parishioner, quoting from the great Book, "man cannot live by bread alone." "No," said the dying man, thinking of the words of the text, "and I have just sent for a bottle of old Bourbon." Bread seems to be dangerous; man cannot live by that alone, and there will have to be inspectors of flour.

The gentleman from Indiana (Mr. White) says, how does leather affect the health of the people, and how can they get an inspector of leather under this section. The very fact that it is porous and insufficient against the dampness of the snow and the cold of the winter weather, and colds are taken, and pulmonary consumption results therefrom, and thus it is dangerous to the public safety, and there ought to be a leather inspector. If you can find anything by which the public safety is not endangered, by which ingenious politicians cannot create offices for their constituents, I am at a loss to see it. It has been judicially determined, by the present chief justice, that ale is a wholesome beverage, and it will, no doubt, be put in the syllabus of that opinion; but a cask of ale may roll over a man and

crush him to death, and therefore it is dangerous to the public safety.

What I propose to show by this course of argument is that this is entirely too loose, and that we are undertaking to prohibit that which is not subject to prohibition, which is not of the character which we can prohibit, and because some people have been wronged by the inspectors of the city of Philadelphia, it does not follow that we should take away this great arm of the people for the purpose of protecting them against the machinations of men who would make money out of the health and safety of the people of the State of Pennsylvania. There are villainous compounds and vile substances mixed together, which, in their use, will poison the people. There is no doubt about the propriety, I suppose, of whiskey inspection, as long as we have whiskey. We have a case in point in our own county, where a man, within a month past, after taking a drink at a bar, fell and never rose again. It happened that he took a drink when the fluid had been reduced to nearly the bottom of the bottle, which had been shaken up a little, and the compounds which had settled there were too much for his physical constitution.

When we find these evils which we wish to remedy, do not let us go to the other extreme, but let us keep a fair mean between the two, for remember the rule of the Jehu tribe is, "*Medio tutissimus ibis*," and let us pursue that middle course in our action in this Convention, and see that we do not bring ourselves into ridicule by undertaking to legislate upon these subjects, which properly belong to the Legislature of the State of Pennsylvania, and which we can never remedy. It is out of the question; it is beyond our power to provide for what may be in future, for what may occur, for what may be invented, and for what may be discovered. It is out of our power to say that we shall never require inspectors for the purpose of keeping people from being cheated, as well as for the preservation of their health and their personal safety, by the inventions of men who desire to make money at the risk of the health and the strength, the life and the happiness of the people, as well as by imposing upon them with such things as they should be protected against, in the name, and possessing the appearance, of those articles which are generally deemed useful to the public.

The CHAIRMAN. The question is upon the amendment of the gentleman from Allegheny (Mr. S. A. Purviance) to the amendment proposed by the gentleman from Allegheny (Mr. Guthrie.) The amendment to the amendment will be read.

The CLERK read :

Insert after "manufacturers" the words, "including the inspection of live stock."

The amendment to the amendment was rejected.

The CHAIRMAN. The question is upon the amendment proposed by the gentlemen from Allegheny (Mr. Guthrie.) It will be read.

The CLERK read :

Strike out the section, and insert, "the Legislature shall not create any office for inspecting, gauging, or weighing merchandise, produce, or manufactures, except such offices for inspection as may be necessary to protect the public health and safety, and to furnish correct standards of weight and measures."

Mr. BROOMALL. I move to insert after the word "produce," the words live stock."

The motion was not agreed to, there being, upon a division, twenty-eight in the affirmative, not a majority of the quorum.

Mr. W. H. SMITH. Mr. Chairman: I offer the following amendment:

The CLERK read :

Strike out the section, and insert: "The Legislature shall direct the Secretary of Internal Affairs to prepare a system of weights, measures and gauges, for solid and liquid merchandise, and also the requisite implements, tests and instructions; and complements of these shall be furnished to each county or municipality, which may each for itself appoint offices for inspection of merchandise, manufactures, or live stock, but no State offices shall be formed for such purposes."

The amendment was not agreed to.

The CHAIRMAN. The question is upon the amendment of the gentleman from Allegheny (Mr. Guthrie.)

Mr. LILLY. I move to strike out the exception.

The CHAIRMAN. The Clerk will read the portion proposed to be struck out.

The CLERK read :

"Except for such offices, for inspection, as may be necessary to protect the public health and safety."

Mr. LILLY. Mr. Chairman: I agree with all that has been said by the gentleman from Bucks (Mr. Lear) upon this

subject. The reason why I make this motion is that I believe it will be leaving the doors too wide open. If the section is adopted with the exception, you might as well adopt no provision in reference to the subject at all. I am not so particular about this, but I merely make the motion for the purpose of calling the attention of the committee to the subject. If we can do away with these inspectors, it would be well enough, but if we have them at all, let there be no doubt about it. Let us fix it so that there will be no ambiguity about it, so that there will be no chance whatever for the Legislature to get around it, because I can tell this Convention from past experience, and most of the members will bear me out in what I say, that if there is any possible way of getting around it, if there is a place that you could put a pin into, they will very soon make it into a hole big enough to hold an inspector, and they will appoint all the inspectors they want. If we *do not want* these inspectors, and, as I said before, I am perfectly willing to dispense with them, we should get rid of them absolutely and perfectly; not hold out hope of a reform that will be entirely delusive. I am for and want absolute prohibition of unnecessary inspections.

Mr. MACVEAGH. Mr. Chairman: I wish to call the attention of the committee to the great danger of going too far in this matter. If we propose to go so far as this amendment invites us to go, I ask whether it is not better to insert a clause at once, that there shall be no legislative branch of the government at all in Pennsylvania. That would protect us entirely, and there is no other way of affording the full protection that some gentlemen seem to desire. It is not necessary to close our eyes to the corruptions that have existed in our own State, and in almost all American States, and, for one, I do not propose to do so; but on the other hand, I utterly scout the idea that I am sent here to regard the future Legislatures, or the present Legislature of this State, as a nest of rogues, simply, who are endeavoring, somehow, to outwit the honest and worthy men gathered here. I am not acting on any such principle. I recognize, to the fullest extent, that there has been corruption in our State Legislature, and so much corruption that the result also is often corrupt, and legislation for private advantages is bought and sold. Are we, therefore, to have no Legislature at all? To tell me that you cannot trust your legislative

department with deciding whether a necessity exists for some inspection or not, in order to protect the public health or the public safety, is to tell me that you cannot trust any legislation to the legislative branch at all, and that no reasonable discretion is to be left with it. If that department is not allowed to decide when inspectors, in its judgment, are necessary, it seems to me it would be better simply to move an amendment, abolishing the legislative department of the government altogether.

I shall vote for the section, because, as I understand from the chairman of the committee, it is intended to establish the line of distinction that I suggested yesterday—that the inspectors spoken of by the gentleman from Philadelphia (Mr. J. Price Wetherill) are no longer required in the community, in order to fix the grade and the value of any article in the market, but that inspectors may be necessary to protect the public health and safety. I therefore trust that we will not seriously think of taking all the power to establish inspections from the legislative department of the government.

Mr. H. W. PALMER. Mr. Chairman: The amendment proposed by the gentleman from Carbon (Mr. Lilly) would abolish the office of mine inspector. That result would be very decidedly to the advantage of the owners of the mines, but not at all to be desired by the thirty thousand miners and laborers whose lives and safety depend, in some measure, upon it. It has been said before now that the law providing for the health and safety of persons employed in mines was the offspring of Avondale, where one hundred and eight men met a fiery and awful death in the space of half an hour. Any section that looks towards abolishing this most useful act, appointing a mine inspector, which was designed to protect the lives and health of men employed in the coal mines, I must vote against. The working of the law has been beneficial; under it a great many safety appliances have been placed in and about the mines and breakers. It has provided an intelligent supervision over these great operations, and, while it laid some small tax upon the operator, it has proved beneficial in a high degree to the operative. I am well aware that the time never has been, and, probably, the time never will be, when the capitalist will be willing to dole out of his great possessions any small pitance for the protection of his workmen.

The legislative power has seen fit to throw some safeguards around the men who are engaged in this dangerous occupation, and I trust this Convention will not, at the behest of mine owners, strike down that protection, nor make it impossible for any future Legislature to throw even additional safeguards around these operations, if ever the time comes when it may be found necessary.

Mr. J. W. F. WHITE. Mr. Chairman: I was at a loss to know what was the meaning of this section when I first read it, and I have listened very attentively to the debate that has sprung up on it, and the various amendments that have been proposed, and my mind is even now more confused than at first. It seems to me to be an effort to do what it is impossible to do. I can conceive of but one of two things possible for us. One is: To abolish all inspectors, and prohibit the creation of any such office in the future, or leave it to the sound discretion of the Legislature. All the efforts at trying to modify this seem to me to be utterly unavailing, as has been suggested by the gentleman from Bucks (Mr. Lear.) If I can get at what appears to me the meaning of this section, and the various amendments proposed, I think it may be embodied in a very short section, to take the place of this section, and, perhaps, of several other sections of the Constitution. Although not in order to move such a section now, I will read it for the information of the members. I believe it will be utterly useless, to put in the Constitution this section, or any of the proposed amendments, for they will be ineffectual in the way of restraining the power that must be vested in the Legislature, and in whose sound discretion some trust should be placed. I may hereafter offer this brief section, and I suggest to the members of the Convention that it might, perhaps, meet with unanimous consent and relieve us, not only of the difficulty that we encounter in this matter, but relieve us also of the difficulty of discussing a number of other matters in connection with our Constitution. The amendment I would propose is this: "The Legislature shall pass none except good and wise laws." [Laughter.] That principle covers all these things at once. There we have the very quintessence of the whole of these amendments. Why not, therefore, insert this, and in that way get rid of the difficulty which we find surrounding this section, and which we will, perhaps, find

surrounding many other sections of a similar character.

Mr. TEMPLE. Mr. Chairman: I have a remark or two to make in answer to the proposition stated by the gentleman from Indiana (Mr. Harry White.) He stated in the course of his arguments that the Legislature wanted "a rock to stand upon." I undertake to say that the reasons pointed out by that distinguished delegate for that kind of legislation, of which we are speaking here this morning, were not sound; and I propose to state the reasons for my belief in that direction. All bills of a private character which are introduced into the Legislature—I mean of a *specially* private character—are introduced with a full knowledge of their real character. I make bold to say that if the Legislature and the Executive department were honest to the people, there never would be anything in the shape of special legislation. If I understand it right, when a bill, such as has been spoken of here this morning and yesterday, is introduced into either branch of the Legislature, it is a notorious fact that the other delegates in that branch of the Legislature, and in the other House also, dare not oppose its passage. I was told a few days ago by a gentleman who is a member of the Legislature, and who had an important bill to introduce, a bill of general importance to the people, that he was *afraid* to introduce it into the House of Representatives, for the reason that it would go to a certain committee, and upon that certain committee was a gentleman from the city of Philadelphia who would be opposed to his bill, unless this member who introduced the bill would vote for a bill which had been introduced by the other member in the other branch of the Legislature.

Now, Mr. Chairman, I believe that this is one of the greatest sources and reasons of all this trouble, and I would like the distinguished gentleman from Indiana, (Mr. Harry White,) who has had such large experience in the legislative branch of this government, to say whether it is not the truth, when a member introduces these private bills into one branch of the Legislature, that the members, either in the same House or the other branch of the Legislature, are afraid to oppose them in any particular whatever, but upon the contrary that they render all the assistance they can to secure their passage. Well, now, Mr. Chairman, so much as to the rock upon which legislators would have

to stand. Why talk to us in this Convention about giving to the legislator a rock upon which to stand in such matters as these. It is enough, I submit, to acknowledge either the weakness of the Legislature or its corruption at once. Now, Mr. Chairman, I am in favor of this section if the proposed amendment is adopted, or if it is not adopted I am in favor of voting down this whole section, principally for the reasons stated by the gentleman from Bucks (Mr. Lear.) I think those reasons were stated in a more forcible manner than I could have stated them; and for the reasons he gave I am in favor of voting down this whole section, with the exception of the provision contained in the amendment.

The CHAIRMAN. The question is on the amendment to the amendment, proposed by the gentleman from Carbon, (Mr. Lilly.)

Mr. LILLY. Mr. Chairman: I withdraw the amendment.

Mr. TEMPLE. Mr. Chairman: I renew the amendment.

The question being taken, the amendment to the amendment was not agreed to.

The CHAIRMAN. The question recurs upon the amendment offered by the gentleman from Allegheny, (Mr. Guthrie,) which will be read.

The CLERK read as follows:

To be inserted, in place of section twenty-fifth: "The Legislature shall not create any office for inspecting, weighing, gauging or measuring any merchandise, produce or manufactures, except such offices for inspection as may be necessary to protect the public health and safety, and furnish correct standards of weights and measures."

The question being taken, the amendment was not agreed to.

Mr. HEMPHILL. Mr. Chairman; I offer the following substitute for the section:

The CLERK read as follows:

"All offices for the weighing, measuring, culling and inspecting of any merchandise, produce, manufactures or commodity are hereby abolished, and no such offices shall hereafter be created by law; but nothing contained in this section shall affect the supplying the public with correct standards of weights and measures."

Mr. BEEBE. Mr. Chairman: I offer the following as an amendment, to be inserted after the word "affect," in the substitute: "Any office created, or to be created, to protect the public health and safety, or

for supplying the public with correct standards of weights and measures."

The amendment was not agreed to.

The question was then taken on the substitute, and it was not agreed to.

The CHAIRMAN. The question recurs on section twenty-five of the report of the committee.

Mr. DARLINGTON. Mr. Chairman: I call for a division of the question.

The CHAIRMAN. The first division will be read.

The CLERK read as follows:

SECTION 25. The Legislature shall not create offices for inspecting, weighing or gauging any merchandise, produce, manufactures or commodity.

The question being taken, a division was called, which resulted as follows: Ayes, thirty-six; noes, thirty-eight.

So the first division was not agreed to.

The CHAIRMAN. The Chair will state that it was doubtful whether the section could have been divided; but as it has been divided, the question must recur on the second division of the section. The second division will be read.

The CLERK read as follows:

"This shall not, however, affect any office created or to be created to protect the public health and safety, or for supplying the public with correct standards of weights and measures."

The question being taken, the second division of the section was not agreed to.

The CHAIRMAN. The next section of the report of the committee will be read.

The CLERK read as follows:

SECTION 26. No act of Assembly shall limit the amount to be recovered for injuries to person or property, and in case of death from such injuries, the right of action shall survive, and the Legislature shall prescribe for whose benefit such action shall be prosecuted.

Mr. BIDDLE. Mr. Chairman: I offer the following amendment, to be added at the end of the section.

I. No act of Assembly shall prescribe any limitation of time within which suits may be brought against corporations for injuries to person or property, or for other causes different from that fixed by the general laws prescribing the time for the limitation of actions, and existing laws so prescribing are annulled and avoided.

II. No act of Assembly shall authorize the investment of trust funds by executors, administrators, guardians or other trustees in the bonds or stock of any private corporation; and existing laws so au-

thorizing are annulled and avoided, saving such investments heretofore made in good faith.

The CHAIRMAN. The Chair will call the attention of the gentleman from Philadelphia (Mr. Biddle) to the fact that the second division of the amendment is not germane to the pending question.

Mr. BIDDLE. I will then withdraw the second division of the amendment, and will offer it as an additional section.

Mr. BIDDLE. Mr. Chairman: I desire to say one or two words in favor of the amendment which I have offered to this section. I entertain no feeling of hostility against corporations, so long as they are kept within the limits in which they ought to move. They are probably indispensable adjuncts to existing civilization; but I am absolutely opposed to different statutory rules affecting them than those by which the rest of the community is bound. The object of the section, to which I have offered the present amendment by way of addition, is to remove what seems to me is a great evil, and probably an evil which, if attempted to be remedied by judicial decision, will be found not to be within the limits of constitutional power. There is no more reason why one class of persons in the community—artificial persons—should have limitations made in their favor for injuries to persons or property, than should be made in favor of private or natural persons; and I suppose there will be little difference of opinion in regard to the section as it stands reported by the committee. In regard to the other object, which is not embraced in the amendment to this section, there is a great deal to be said on both sides. I intend to offer it as an independent section. Now, this being the case as to the main or principal subject, why should laws of limitations be different in their application to these artificial persons than to this class of natural persons. If there be a difference it ought rather to be the other way, because the artificial person has a permanency of being, and an order of succession which does not belong to natural persons.

Stale claims certainly are not to be favored, but it strikes me as a monstrous anomaly, as well as a great injustice, to allow a party injured in his person or property a reasonable time within which to bring his action against the person or party injuring him, while you cut the limitation down in regard to his right of action against these artificial persons to no time

at all, or very little more than a nominal time. Why, for instance, if a man carelessly and negligently drives his vehicle against me in the street, shall he be subject to an action for six years, and if a conductor of a passenger railway car carelessly and negligently drives his car against me to my injury, shall the remedy be cut down to six months? Now, perhaps, gentlemen are not aware that the existing system of law is upon this subject. I have taken some pains to examine our statute books in regard to the subject embraced in the amendment or addition to this section which I have offered, and I have found that in the city of Philadelphia, in regard to all passenger railways whose routes lie wholly in the city, you can bring no suits against them for damages for injuries or for death caused by them, unless within six months from the time the right of action accrues.

This law was passed in 1868, about four year ago. Now, when I called this a monstrous anomaly, as well as a great injustice to the citizen, I think I was using language entirely proper and within due limits. I want to place these corporations—very valuable when confined within their proper spheres—on precisely the same footing as the rest of the community, and I wish to take from them no single right, properly conferred, but I do wish to take from them the privileges injuriously exercised against the rest of the community, and which, if suffered to remain, must ultimately redound to their disadvantage, if not to their destruction. So, also, in regard to *death*. This, we may say, being a statutory right, conferred for the first time by the Legislature, may properly be limited by the law which confers the right. I agree to that proposition. But when the right is once given I can see no good reason for limiting it unduly, either in point of amount or as to limitation of time. If it is said that the right of action for damage resulting from death as regards all classes of persons, private individuals as well as corporations, shall be limited to a smaller time than the right of action for injuries not so resulting, be it so. I will admit that there is a show of reason in this. Let us not, however, make a distinction in this respect between artificial and natural persons. It was only yesterday that a gentleman, to whom I showed the amendment which is now before the Convention, told me of a case which had occurred within his own knowledge, of a lady who was grievously in-

jured by the death of a relative, on whom she relied for support, overstepping her time for suit one day beyond the year. Gentlemen will doubtless argue that this might have been, if the limitation had been extended over six years. That is quite true, and I am prepared to consider that as a valid objection, where the limitation affects all classes equally; but I desire that uniformity in this limitation should be established. I do not want the citizen to be perplexed by multifarious and inconsistent enactments in that which comes home so closely to him in his every-day life. I want him to feel that when he is dealing in this respect with an artificial person, he deals precisely on the same footing as with a natural person. I say, therefore, leave this question to the Legislature to decide what a proper limitation of time may be generally, but require that these enactments be uniform throughout the Commonwealth, and applicable to all alike.

MR. CUYLER. Mr. President: It is a grave question, when this Convention shall have finished its labors, and the people of the State adopt the result they arrive at, whether any corporation can survive in the State of Pennsylvania, and it is a difficult and grave question, which ought to engage our consideration, whether, in view of the limitation we are proposing to impose upon the Legislature, in the future, some ingenious mechanic may not devise a wooden mechanism that may perform all the functions of the Legislature, and save the Commonwealth all the expense and inconvenience that attends its existence. Now, I find myself wholly unable to agree with my friend from Philadelphia, (Mr. Biddle,) either in his defence of the section as reported or in defence of his special proposition. There are many reasons why there might be a different statute of limitations in reference to actions against corporations from those which exist against private individuals. Corporations—especially the larger railroad corporations of the State, deal with an ever-changing, shifting set of employees. When these corporations turn, after the lapse of two or three years, or as it may be under existing statutes, five or six years, to find the witnesses to be used in their defence against unreasonable claims, they find themselves unable to gather those witnesses together. The right of action exists to a citizen in every county in the Commonwealth; nay, he has the right through the process of a foreign at-

tachment, or by service upon any general officer of a corporation, to seek the jurisdiction of courts in other States, and thus it is corporations are compelled to defend themselves against suits that may be instituted in a vast variety of jurisdictions at a great distance from where the occurrence took place which formed the basis of the action, and after a long lapse of time, when those who could have been summoned as witnesses, have either passed from their employment or become scattered over the State, so that it may have become impossible to gather together the testimony that may defend them against unreasonable claims. The very thought that underlies the statute of limitations is that, by reason of the fading memory of witnesses, the imperfect preservation of papers, the death of those who could have testified after the lapse of a little time, it comes to be impossible to arrive at the truth of the transaction, and there is reason therefore why the statute of limitations, as to actions against corporations, should be more restricted as to its time than the general laws of limitation. I agree with the gentleman, however, as to his criticism upon the limitation of actions against passenger railway companies, for none of the reasons I have spoken of apply to them. There is no justice in limiting the right of action against passenger railway companies to six months time, or in drawing a distinction so far as they are concerned between them and the usual suitors who defend themselves in our court of justice. I am willing to leave this question to the Legislature, where it belongs. I am in favor of letting the Legislature decide all such questions. If there are reasons why statutes of limitations should be broader as to corporations than as to individuals, leave the Legislature with the power to pass upon it, but do not take away from the Legislature, by Constitutional limitation, the power to do this at all. In regard to the body of the section itself, I would suggest what it seems to me is perfectly just. The right of action in the case of death is purely statutory.

It is scarcely thirty years that such action has existed in Pennsylvania at all, but at common law, in the event of death, there is no right of action. The same authority which generously gives the right of action may fairly limit and prescribe the terms upon which it shall be enjoyed. This limitation which exists, not merely in the laws of Pennsylvania, but in the

laws of three-fourths of the States of the Union, limiting the right to recover to five thousand dollars in the event of death, speaks the common mind and sentiment of the whole country, arising out of the impositions which have been practiced upon corporations by the action of juries, rendering the enactment of such a law a necessity. It is the expression of the general and popular sentiment and conviction all over the country of the necessity for some limitation because of these impositions. There is no gentleman upon this floor who is a member of the bar, and who has been accustomed to practice in cases of this kind, but must know the peculiar findings of juries upon this subject. In one sense of the word, and very truthfully, no limit of value can be placed upon human life. Nothing can compensate for its loss; but juries decide the valuation of life with absolutely nothing to restrain their judgment, and the result of their verdicts upon railroad corporations especially is sufficient to paralyze and almost destroy them. I hope, therefore, that this provision which has been proved to be so salutary by common experience, and acknowledged all over the country, will not be taken away by a constitutional limitation imposed by this Convention. I have to say, in connection with the section as written, it is simply powerless to effect the result, and that it would be so pronounced in a court of justice.

MR. WORRELL. Mr. Chairman: As has been remarked by the gentleman who preceded me, there are two classes of these suits. The one, in which the right of action is a common law remedy, and the other, in which the right of action is conferred by statute. I suppose it is perfectly competent for the Legislature, which creates a liability and bestows a right of action which did not theretofore exist, to limit by statute the amount of damages to be recovered in the cases upon which the legislation is had. The question whether such limitation is wise and expedient is a matter for discussion; but my judgment is that such restriction is improper and injudicious.

But with regard to the other class of cases, that in which the remedy is at common law. I take it that the section now under consideration is nothing more than a distinct enunciation of one of the provisions of our present Constitution. Section eleven of the Declaration of Rights is in these words: "That all courts shall

be open, and every man, for an injury done him in his lands, goods, person or reputation, shall have remedy by the due course of law, and right and justice administered without sale, *denial* or delay."

The Supreme Court of this State, in a recent decision, in an opinion by Judge Agnew, intimated their judgment that the act of 1868, limiting the amount of damages to be recovered in these cases was violative of that section of the Constitution which I have just read. In my judgment, the act of 1868 is as clearly unconstitutional, in so far as it repeals and destroys the common law measure of damages, in the common law class of actions, as any statute ever adjudged to be in contravention of the organic law.

It is a *denial* of right and justice for an injury done to the person. In every case to which the act of 1868 has been made to apply, and in which a suitor has been compelled to receive three thousand dollars in satisfaction of an injury inflicting damage to an amount exceeding that sum, the suitor has been refused his constitutional rights, the courts have *not* been open to him, and right and justice have *not* been administered without *denial*. Now this act of 1868 pleads the necessity of the provision now under consideration. The fact that the Legislature of 1868 departed from their just functions, and enacted the unjust and unconstitutional law to which I have referred, admonishes me that we should lay a strong hand upon the legislative department, and say to it, you shall *not* restrict the liability of a corporation or individual in these classes of cases. The prohibition of legislation should be clear, distinct and emphatic, so that there can not possibly be an evasion of its provisions. I thoroughly endorse the purpose and sentiment of this section.

Mr. CAMPBELL. Mr. Chairman: I think the section as reported by the committee is one of the best sections in their whole report, and I think the amendment offered by the gentleman from Philadelphia (Mr. Biddle) makes it still better. The gentleman from Philadelphia in front of me, (Mr. Cuyler,) has stated that there seems to be a *popular* feeling all over the country to have some legal provision, limiting the amount to be recovered in actions for damages on account of railroad accidents. I think it is just the contrary. The very fact that juries are disposed to give, as he calls it, "excessive" damages, shows that there is a feeling among the people that something

should be done in cases of railroad accidents, to compel the companies, through fear of heavy verdicts against them, to keep their roads in such a condition that these accidents would not be continually occurring. The popular feeling is against any limitation of the amount to be recovered. These very verdicts of juries, excessive though they may be in some instances, are really a key to the popular feeling upon the subject. That feeling leads juries, sometimes, to give such damages as will teach these corporations a lesson, and will make their officers take such precautions that it will be next thing to impossible, that accidents, occasioned by gross negligence of their employees, should occur. I think that the law of 1868, the second section of which I will now read, is simply infamous, and now that we are considering the subject matter of that law, we should, if at all possible, provide that it shall be wiped out, and prevent the possibility of any such law being passed in future in this State. The section I have referred to reads as follows:

"In all action now or hereafter instituted against common carriers, or corporations owning, operating or using a railroad as a public highway, whereon steam or other motive power is used, to recover for loss and damage sustained and arising either from personal injuries or loss of life, and for which, by law, such carrier or corporation could be held responsible, only such compensation for loss and damage shall be recovered as the evidence shall clearly prove to have been pecuniarily suffered or sustained, not exceeding, in case of personal injury, the sum of \$3,000; nor in case of loss of life the sum of \$5,000."

In other words, it says that when a man gets on a railroad train to go from one place to another, and by the negligence of the railroad officers or employees, in not keeping the road in proper condition, or in not taking proper precautions against accident, suffers an injury to his person, by reason of that negligence or want of precaution, no matter how serious the injury may be, short of death, is only to be compensated by a sum not exceeding \$3,000; and when a man's life is lost, his family shall only recover a sum not exceeding \$5,000, which, at the current rate of interest, will give them but \$300 a year, and a paltry sum like that is to compensate that family for the loss of their entire support and sustenance. Just

consider the monstrous injustice of such a law as this. Every fair-minded man, who wishes to protect the rights of the people to their fullest extent, should desire to see such a law wiped out from our statute books. Let us then do what we can in this direction, by voting for this section and the amendment thereto, offered by the gentleman from Philadelphia (Mr. Biddle.)

Mr. NEWLIN. Mr. Chairman: I do not rise to speak at any length upon this proposition. I simply do so to thank my friend and colleague from Philadelphia (Mr. Cuyler) for the instruction which he invariably gives us when any matter concerning the railroad company of which he is counsel is before the Convention. Indeed, sir, whenever I hear his persuasive tones, and listen to the easy manner with which he seeks to convince us that the corporation which he represents is everything that is innocent, and good, and proper, and that its effects upon the public morals of the State of Pennsylvania has always been beneficial, I greatly admire his skill. The gentleman has referred to a popular feeling throughout the United States in favor of protecting the railroad companies against the people, and in favor of preventing juries from taking advantage of the helpless condition in which these companies find themselves when they have transgressed the rules of right and justice, as they so frequently do. If that gentleman had said "a popular *railroad* feeling," instead of merely "a popular feeling," I think he would more nearly hit the mark. I think, sir, that all that is proven by the fact that these "blood acts"—for that is the name by which they should be known—the only argument, the only thing which can be shown by the existence of these infamous acts upon the statute books of other States is that the same influence which was brought to bear upon the State of Pennsylvania to put that infamy upon our statute books was used in other States as well. It is a notorious fact, it is well known to every one in this community, that the act of Assembly of Pennsylvania which limits the liabilities of railroad companies, in cases of accidents; it is perfectly well known and notorious that that act was *bought* and *paid for*, and that it passed the Legislature of this State by corrupt means.

Mr. DARLINGTON. Who bought and paid, and who received the money?

Mr. NEWLIN. I say it was a matter of public notoriety at the time, that that bill

was passed by corrupt means. It is not customary, I presume, for the parties interested to publish a schedule of what was paid for votes on such occasions. But it is very certain that no individuals could have got any such act passed, and I think that instead of leaving the matter where it is, if we, in aid of these helpless corporations, should put in a provision by which they may be authorized to kill as many people as they please in accidents, and without any price at all, it would be more logical. It is a matter of common notoriety that the agent of the road was on the floor of the House at the time this bill passed, going around looking for and soliciting votes.

Mr. TEMPLE. State the name. Who was the man?

Mr. NEWLIN. I do not propose to mention the name of a man who is not here, and who cannot have an opportunity of defending himself. I speak of matters of common notoriety, and there is no one here now who was then in the Legislature who will deny that it was a matter of common notoriety at that time.

Mr. WOODWARD. Mr. Chairman: I rise to a point of order. I submit that this whole discussion, in regard to the limit of liability in cases of railroad accidents, is out of order now. The subject has been under the consideration of the Committee on Railroads, and will be reported on in a few days, but it is not raised by any question now pending.

The CHAIRMAN. An amendment is now pending to which the remarks which have been made seem to be pertinent. It is not for the Chair to determine the line of argument which gentlemen may take in opposition to a question pending, but the remarks seem to the Chair to be in order.

Mr. WOODWARD. I understood that the amendment of the gentleman from Philadelphia (Mr. Biddle) related to limiting the *time* for bringing an action against a corporation, and not to limiting the amount of damages.

The CHAIRMAN. The twenty-sixth section is before the committee, and the amendment proposed by the gentleman from Philadelphia (Mr. Biddle) was germane to that, and is now before the House. The Chair cannot sustain the point of order.

Mr. WOODWARD. Mr. Chairman: There is no gentleman on this floor who is willing to go farther in regulating and restraining our railroad corporations than I

am, and whenever it is necessary to interpose for the protection of the people against the aggressive character of all corporations—for all corporations are aggressive—I am ready to stand up for the people against the corporations. But, sir, this is to be said: We live in a railroad era, and in a country and at a time when we can no more do without railroads than we can do without a home, without houses or dwellings! If they are an evil, they are a necessary evil; they are inseparable from our condition and civilization.

I am no railroad advocate. I am the retained counsel of no railroad on earth. I own no share of any stock in any railroad, I have no interest in them which every citizen of the Commonwealth has not, but, sir, my learned friend from Philadelphia suggests that there is no reason why an artificial being like a railroad company shall be put upon a different basis of limitation, as to action, from a natural person. He will allow me to suggest that there is one reason. All these railroad companies, being corporations, are bound to render accounts for the deeds done in the body every year, to their constituents, and if there is to be a series of suits or possible suits outstanding for six years, in which illimitable damages may be recovered against them, how is it possible for any railroad company to tell its stockholders anything about the fiscal condition of its affairs until these damages are assessed? It is simply impossible to give any amount whatever.

The *natural* person renders an account for the deeds done in his body only *once*; he has got no stockholders over him, to whom he has to account; he does not make a balance sheet, unless it is for his own satisfaction.

This is a circumstance that distinguishes the natural from the artificial person, somewhat, and I think one which is entitled to some consideration. The Legislature seems to have attached some importance to it, for they required those having claims against railroad corporations to present them promptly, so that these companies should be enabled to show to the world and their superiors what their actual condition is. The reason given by the gentleman from Philadelphia, before me, (Mr. Cuyler,) for a distinction in the right of action between a corporation and a natural person, struck me as having much force in it, especially when applied to railroads that run into other States, and are doing business as largely as the Cen-

tral railroad does. But now on this other point I wish to say a word.

The Committee on Private Corporations had the subject of limiting the amount of damages in cases of personal injury under consideration. Their commission did not embrace railroads, for you had a Committee on Railroads, of which my friend from York (Mr. Cochran) was chairman. But the commission of *that* committee did not embrace any other corporations than railroads; and yet there were many corporations whose employees might do injury, and against which actions might be brought. Under these circumstances the two committees felt themselves embarrassed, (as I knew in the beginning they would be, by splitting up the Constitution into so many fragments,) and they agreed to have a joint meeting. They met jointly, and this, among other matters, was considered. It does not become me, probably, now to state what was the result of the deliberations of this joint committee, because as yet neither committee has reported to this Convention; but the probability is that the Committee on Railroads will waive this whole subject, and the Committee on Private Corporations will report a provision denying to the Legislature the power to limit the damages which individuals, injured by corporations, may recover. That is what my friend here on the right, Mr. Campbell, and others seem to think ought to be done *now*.

The amendment and discussion, I think, are premature and out of place at this time, and ought to be postponed until the report of the committee comes in. But that the opinion of this Convention may not be forestalled, that we may, if we must pass upon it now, pass upon it in view of all the facts, allow me to say that if you do not allow the Legislature to impose a limit like that which they have imposed, you will ruin some railroad companies in this State. They cannot stand the wild verdicts of juries. It will simply be their ruin. I have seen some of these verdicts. I am told that the remedy for an injudicious verdict is in a motion for a new trial. But suppose you get a new trial, what better chance have you with a second jury than with the first? And will you get your new trial? That depends upon the judge, and my experience of forty years, and better, has led me to feel just as much confidence in juries as I do in judges. If judges were angels, and juries only men, perhaps an appeal from

the jury to the bench would be something of value, but the mischief of it is that judges are no more angels than are jurors, and, in general, I think that jurors are just as sound on the question of damages as any body who sits on the bench, and yet we find, with the passionate appeals which counsels are able to make to juries, in those cases, extravagant verdicts are made. Why, sir, the first one that was rendered in Pennsylvania was rendered in behalf of some maiden ladies whose bachelor brother, a drover, was killed upon a railroad, and his whole estate went directly to them as a consequence of his death. We borrowed from the English courts the doctrine that nothing was to be given *pro so lationem*, by way of solace for the loss of a relative, but only as a pecuniary compensation for a pecuniary injury, and notwithstanding the rule of the law was laid down in that case I think the verdict was for four or five thousand dollars.

MR. J. S. BLACK. Was that recovery wrong?

MR. WOODWARD. I do not say it was wrong, but I say it was excessive, under the circumstances.

MR. J. S. BLACK. Well, I think it is wrong in law and in justice, and my friend (Mr. Woodward) went for it, and I went against it. Laughter.]

MR. WOODWARD. That only proves what the Convention has been told many times before, that my friend (Mr. J. S. Black) was never wrong and was always right.

MR. J. S. BLACK. I thought I was right then, at any rate, and you were wrong.

MR. WOODWARD. Well, I don't remember about that.

MR. J. S. BLACK. I do.

MR. WOODWARD. I know that Judge Lowrey, who was as wise a man as either of us, delivered the opinion of the court in that case.

MR. J. S. BLACK. I dissented, and you concurred.

MR. WOODWARD. I do not know how that was, but I think the gentleman will agree with me that that case was the one that brought this subject to the notice of the people. At that time we had no act of Assembly on this subject at all. There was the doctrine that nothing was to be given for the solace of friends; but only a pecuniary compensation for a pecuniary injury. The court stands upon that ground to-day. Here were ladies claiming pecuniary compensation for a pe-

cuniary injury, whereas there had been no pecuniary injury; on the contrary they were pecuniarily benefited by their brother's death. No doubt they had been greatly distressed; no doubt their sisterly hearts were wrung by the loss of their brother, but there is not a word to be said on that point, because the judge tells the jury that they are not to measure damages by that scale, at all. It is simply a matter of *pecuniary values*. It is ridiculous to suppose that these ladies suffered any *pecuniary* injury by the loss of their brother, yet the jury gave them the sum of, I believe, four or five thousand dollars. My friend from York, (Mr. J. S. Black,) who never forgets anything, will probably remember the exact amount.

Then the Legislature passed this act of Assembly. I do not know anything about its secret history. I do not know that it has any secret history, and I do not care if it has. In my humble judgment it is a wise law, and I shall be sorry to see this Convention abolish it; and for just this reason, sir, that if you throw the vast interests that are involved in these railroad companies into the jury box, under the lash of counsel's eloquence and persuasive appeals, you will ruin all the feeble railroads. You will compel the strong companies to buy up the feeble ones, and I do not know but, if it goes as far as some of them have gone, and I think some of them have gone up as high as twenty thousand dollars for a leg being broken, or some personal injury like that; if they go on at that rate I do not know but that the strong ones will be ruined also.

That is not my way of getting rid of anything. If we want to get rid of railroads, let us attack them in front. Let us restrain them by open, fair and manly means. This picking them to pieces, by means of excessive damages, is a paltry sort of persecution that I do not feel willing to submit railroads to. They are a vast convenience to our people. As I have said, we could not do without them. Those who have got their charters already have, it is true, large powers that I would be glad to cripple and restrain somewhat, if we could do so; but they have got their powers, such as they are, and we cannot take them away. But, sir, this attempt to make the existence of every railroad company depend every time upon the verdict of a jury, keeping them in perpetual agitation as to whether they shall be able to do business in this

country or not, is a sort of oppression and persecution to which I do not feel willing to submit corporations of so much usefulness; and therefore I am opposed to this provision, whether it is offered now, or whether it comes from one of the committees. I am opposed to any provision that will deprive the Legislature of the right to impose limitations upon these verdicts.

Mr. ALRICKS. Mr. Chairman: I do not know that I am at all affected with *cacosthes loquendi* this morning, but I beg leave, however, to say a few words on this subject. I will vote for the section of the committee and for the amendment offered by the gentleman from Philadelphia, (Mr. Biddle,) because of its eminent propriety. Can any gentleman on this floor show us why a different rule should be laid down for artificial persons from the rule prescribed for natural persons? I can see no objection to the amendment that has been offered. It is simply this: "When you bring a suit against a person for an injury done you, if it is a civil action, you bring it within a period of six years." Now, can any gentleman show me why a natural person should remain responsible for six years, and an artificial person should only remain responsible for five years, as is the limit in one case, or *two* years, as is the limit in another, or for *six months*, as the Legislature has provided, in a suit for any injury done by a passenger railroad company? Therefore, I can see no objection to the amendment. The gentleman from Philadelphia (Mr. Cuyler) has told us that it is difficult for railroad companies to secure the witnesses after a certain period. Why, I suppose that after a year or two has elapsed a natural person will find difficulty in hunting up his witnesses just as much as a corporation will. A corporation may have millions of capital, and I am sure that that is a strong instrument by which they can appeal to the members of the bar to aid them in securing their rights. A corporation receives moneys and has franchises that are not given to private individuals, and if you sue a corporation to recover damages for the wrong they have done you, you cannot get out a *ca. sa.* against them.

We are told that they have no souls. I am not certain, sir, that you can take out a *fi. fa.* against them. You must pursue them with your writ of sequestration, and then they can get rid of their property. I would like any gentleman in this house to show me the propriety of saying that if

a natural person does you a wrong you can resort to a court any time within six years, but if it is a corporation that has wronged you, you must bring your suit within six months.

I have known this matter to work injuriously. I remember in our own county, where land had been taken by a corporation, which had been used by them for a period of years, after the parties had brought their action of ejectment for the recovery of the land—the husband was dead, and the title had been in his wife during all this time—they came into court and plead the act of Assembly, and showed that unless that suit was brought within three years the party had no right to recover. Very fortunately there was a provision in that act of Assembly which reached our case, because it was passed after our right of action had occurred; otherwise we would have been turned out of court.

I trust there is no gentleman in this Convention (unless he is tied to a corporation) who will not feel it to be his duty to vote for the amendment which has been offered by the gentleman from Philadelphia (Mr. Biddle.)

Mr. HARRY WHITE. Mr. Chairman: I merely have a word to say in favor of the amendment of the gentleman from Philadelphia, (Mr. Biddle,) and in this connection allow me to say that I am exceedingly gratified to hear the expressions of approbation which have come from some members of this Convention as to the propriety of the original section. It is not improper for me to say that I had the honor of being a member of the State Senate in 1868, when the legislation complained of, limiting the amount to be recovered, was enacted into a law. I also had the honor to resist its passage by all the earnestness and what little ability that I possessed. I have thought from that time, and think now, that that legislation was unwise, and if the people of the Commonwealth had an opportunity to correct it, they would speedily do so. Enough as to that. I shall not further comment upon it.

I entirely approve the amendment offered by my friend from Philadelphia, (Mr. Biddle,) and hope it will be adopted. The only difficulty that I had was as to the propriety of adding it, in this place, to the section. The necessity for something of the kind is apparent. Only last winter—and I think I can look in the face of a delegate who was present at the time of its discussion—in the Senate of the State,

a bill was offered and read in its place, seeking to change the statutory limitation with regard to personal actions, with regard to the action of assumpsit, if you please, from six years to one year, and it was with the utmost effort, by an appeal to the professional gentlemen of that body, that the passage of the act was resisted; and if some constitutional inhibition of this kind is not created, the day is not far distant when an entirely different rule of proceeding, and an entirely different rule of practice will be obtained by statutory enactment towards corporations, from that which now obtain towards individuals. Men of experience and observation see the wisdom of some such constitutional provision in this respect to preserve the rights, I might say the liberties, of the individual.

MR. GOWEN. Mr. Chairman: I understand, and I would like to know whether I am correct or not, that the amendment, which is now the subject of consideration, simply proposes to place corporations, with reference to statutes of limitation, upon the same ground as that occupied by individuals, and that it does not propose that the statute of limitation in the case of an action of assumpsit shall be the same as the statute of limitation in an action brought for the recovery of damages resulting in injury or death. I think I am right. If that is the scope of the amendment I am decidedly in favor of it, and I am in favor of the section as reported. There are some reasons which I consider of the utmost importance, not only to the people, but to the corporations of this Commonwealth, why there should be, in the estimation of the community, no difference whatever between the corporation and the individual. It is very well known that this right of action, for injury resulting in death, is entirely a creation of the Legislature; that, at common law, no such right exists. The right was given by the English Parliament in England, and it has been successively given by almost all the Legislatures of the American States.

When you once admit the right of the representatives and relatives of the deceased person to recover for injuries which resulted in his death, I am at a loss to find why there should be any distinction between a corporation and an individual other than that which is founded upon the glaring injustice which has frequently been done by juries in giving excessive damages against corporations;

but excessive damages are always within the control of the court, and the injury resulting to corporations from excessive damages, in my opinion, is not nearly so great an injury as that which results from creating in the minds of the community a feeling of distrust and hatred against corporations because they are exempted from the rules which govern individuals. If this statutory right is given to the representatives of a deceased person, why should that right depend upon the character of the person who caused the injury? Why should they recover \$20,000, if he is killed by a natural person, and only \$5,000 if he is killed by an artificial person; and by what right or reason does the Legislature prescribe a Procrustean bed upon which the dead body of the person is laid, so as to give to the relatives of a man who earns \$200 a year, \$5,000, and the same sum to a man who may have been earning \$30,000 a year. Is not the measure of damages much greater in the one case than in the other? Is not the family whose husband and father earns \$20,000 or \$30,000 a year entitled to more damages from the pecuniary loss, than in the case of a man who simply earns \$200 or \$300 or \$400 a year, and who may have contributed nothing whatever to their support. If these general principles are right, it is hard to see, upon any reason, why the distinction should obtain between corporations and individuals.

Now, then, what reasons are there in favor of abolishing that distinction? There are two reasons which, in my own mind, are of the utmost importance. The conveyance of passengers in this country, and in all modern countries, is gradually being committed to the care of corporations.

In the origin of these corporations, especially railway companies, forty years ago, the railroad was simply a road way upon which an individual could put his motive power and his car, and transport passengers, and you had not only an individual liability in case of accident, but you had the privilege of having an individual inspect the machinery and the works, in order to see that they were proper and correct. But the course of trade, the necessities of commerce, require that all this shall be done by the railroads themselves. Therefore every passenger has to submit his person and his life to the custody of a corporation, over whom he has no control whatever. It is for the interest of the public that life should be sacred, and I think that nothing can so surely bring the

corporate powers of this State to the realization of their duty than a proper degree of punishment where they have transgressed it. I know that very wild verdicts have been given, and I remember my friend from Philadelphia (Mr. Cuyler) telling of very heavy damages that were awarded in suits in this State. I do not know what the amounts of the verdicts were, but they were very excessive.

Mr. CUYLER. Twenty-eight thousand dollars for a father, and eighteen thousand dollars for a mother, both killed at the same accident.

Mr. GOWEN. Mr. Chairman: There is no doubt that this was very wrong, but whose fault was it? It was the fault of the judge who tried the case, and who permitted such a verdict to stand. I doubt whether, in the whole length and breadth of this Commonwealth, you could have found another judge who would have failed to reduce that verdict, or to make a new trial the condition of its not being reduced. The fault is with the court. Let us have good courts. Let us have a pure judiciary, and if the judges in the country courts do not regulate these improper verdicts, let the Legislature vest in the Supreme Court, as an appellate court, the power to exercise a supervisory power over the verdict, but let us do this in the courts themselves, which the people look up to with much greater respect than they do to the acts of any other branch of the government. Let us prescribe some judicial proceeding whereby the evils of these large verdicts may be corrected, but do not let us place before the community the wealth and the power that has been accumulated by corporations, and say to an individual who has been injured that that wealth and that power is sacred from their touch. If you are killed by a man your family can get twenty thousand dollars, but if you are killed by a corporation, you can get but three or five thousand dollars. My recollection of the statute is that there is a difference between the individual and the corporation, so far as the right of action is concerned, and the amount of money that would be recovered in that action. It is only when it is a corporation that the statute of limitations refers to the time in which the suit shall be brought. If, therefore, the only argument that can be urged against this proposition is that juries give excessive verdicts, let us prescribe some method whereby, in the regular course of judicial proceedings, a higher tribunal

may correct that evil, if the lower judge refuses to do it, rather than make this distinction.

The last reason which I have to offer, and one to which I have already adverted incidentally, is this: I want to divest myself on this floor, if I can, in the minds of the members of the Convention, of any interest that I represent outside of this floor. But if I came into this Convention as the representative of any incorporated interest in this Commonwealth I should urge the adoption of this proposition on behalf of that interest. And for this reason: That nothing can so directly and surely bring those interests into jeopardy, and into contempt, and into danger, as to array against them the hatred and ill will of the community from which they derive their powers. The very moment you draw the distinction, the moment the property of the corporation is more sacred than the property of the individual, that moment you create a feeling in the minds of the individuals against the exercise of corporate power, a feeling which does not belong to it, and which ought not to be there, and which cannot be justified upon any other ground than that you are giving to these corporations powers which you deny to an individual. And I take it that the corporate powers of this State will never be in any such great jeopardy. The property they represent will never be in any such great danger, and the interests that their officers are called upon to protect will never be so likely to be taken away from them as when you raise a whirlwind of storm and indignation in the minds of the people throughout the State, which no man can put down, and which no man can stand up against, and which, when it is once raised, will crumble into dust corporation after corporation, like all mob power does, without any regard to which was the offender, to which was in the right, or which was in the wrong. I take it that every man upon this floor who has the real interests of corporations at his heart, who has property invested in corporations, who may own stocks in them, will be in favor of withholding from the statute books of the State every law and every statute which gives to them an advantage which is not given to an individual. If this one evil of enormous, excessive, inordinate, outrageous and unjust verdicts against corporations must be controlled, let it be controlled openly and publicly by the judicial power of the State, which will always be respect-

ed, and not by the passage of laws through the Legislature, which the people are not so likely to respect.

Mr. SIMPSON. Mr. Chairman: I desire to ask leave to withdraw the amendment which I have proposed.

The CHAIRMAN. The gentleman from Philadelphia withdraws his amendment.

Mr. DARLINGTON. Mr. Chairman: There are certain observations which, it seems to me, are necessary to be made in approaching the consideration of this subject. I shall make no reply to the observations of the gentleman from Philadelphia, (Mr. Newlin,) based upon the supposed evil influences brought to bear upon the Legislature in passing the law to which reference has been made, and I do not do so because his statement is wholly unsustained by any proof, and we are not at liberty to presume that this law was passed upon any such ground.

Then two questions present themselves, and they may be briefly stated.

First, are laws limiting the amount of damages to be recovered for injuries or for death, necessary and proper? Secondly, should the time within which such action is to be brought be limited in the manner in which the law now limits it?

In the first place, I dissent entirely from the idea which has fallen from my friend, the gentleman from Philadelphia, (Mr. Gowen,) that the life of any one man is any more important than the life of any other. I dissent entirely from the notion that any representatives of an individual are entitled to any more damages for the result of an accident which has caused injury or death, than are the representatives of any other individuals by reason of any difference in the amount of the incomes of the respective parties. A wealthy man is no more important to his family or to the community than a man who is not wealthy.

Mr. GOWEN. Mr. Chairman: Will the gentleman from Chester allow me to explain? A wealthy man who is worth \$5,000,000, if he is only earning \$200 a year for his family, his family could not recover anything like so much damages as a poor man who is not so wealthy. The question is, what a man earns, and if a poor man, by his professional skill, may be getting \$20,000 a year, his family should recover more damages than the family of the wealthy man, who may only earn \$200 a year. The question is not one of wealth, but it is the earning power.

Mr. DARLINGTON. Mr. Chairman: I thank the gentleman from Philadelphia for his correction, and will devote myself to the question of the earning power. A man who is able to earn a support for his family in any other condition of life which might only secure five hundred or one thousand dollars, is just as important to his family, and just as important to the community as a man who is enjoying a salary of thirty thousand dollars a year. It may require, perhaps, that sum to support his family; but I dissent, *in toto*, from the notion that in providing a remedy for the loss of a man who is the head of a family, we are to be governed in the slightest degree by the amount which that man may earn for his family. I say this upon the well understood and acknowledged ground, recognised by our Supreme Court in cases which have come before them, that it would be unseemly to go into an inquiry before a court or jury, or anywhere else, as to whether the deceased individual was, or was not, of importance to his family. We cannot enter into that question at all. Otherwise we should be driven into the question whether a man who was drunken, and worthless, and thriftless, had better be killed than not; or, whether a man who is making money had not better be kept alive. Therefore you must exclude from the consideration of this subject all notion of one man being any better than another. In the language of the Marseilles hymn, "Man is man, and who is more?" We are all men, and we are no more, and if there be one idea for which I have more sovereign contempt than for all others besides, it is that any man should suppose himself to be better than another by reason of his having money. I despise a man, from the bottom of my heart, who supposes himself any better, or more important in the community, by reason of his possessing means. We are all upon the same level, and we must never forget it.

Now, sir, upon what is this right of action for the deceased relatives given? It is for the pecuniary damages which they pecuniarily suffer by his loss. Now that is precisely the same, or very nearly the same, in one case as another. But it will not do, on the one hand, to exempt the company from liability, because, during the life of the individual killed, the claimants were receiving no money, as in the case put by the gentleman from Philadelphia, (Judge Woodward,) nor on the other hand, to mulct the company in large

amounts because a large income was being received by the man killed. It is, therefore, as it strikes me, capable of some reasonable average in the public mind, and therefore those laws, in this State and elsewhere, which fix the average value of human lives at five thousand dollars, if you please, will be found to be, in the main, just and right. No man, by reason of the accidental death of a relative, should be allowed to recover more. It may be that it may be too much, or that it may be too little. I do not say that it is an inflexible standard, but it is an approximation to justice, and it is better that we should have a standard than that wild and uncertain verdicts should be given, which wild and uncertain judges will feel bound to sustain, and by which wild and uncertain injustice is inflicted upon those upon whom they are imposed.

I do not think, therefore, that the right to recover, and the amount to be recovered for an injury resulting in death, is to be affected in any degree by the condition of the individual in life; nor do I think it is to be affected in the slightest degree by any consideration of negligence or carelessness on the part of the railroad company who inflict the injury. It is a pecuniary loss to the family that is suffered by reason of the death, and they have to stand it. But that pecuniary loss is no greater, no less, whether there be malice on the part of the railroad conductors or not. The most innocent accident, the breaking of a rail on a frosty morning, which no man on earth can foresee, which no care can guard against, may result in the death of the head of a family. The drunkenness of an engineer, recklessly running over a rock on the road, which he ought to have seen and avoided, may produce the same result. But the injury to the family which loses its head is precisely the same in the one case as in the other, and could not in justice be affected in the slightest degree by the motives of those who conduct the train.

Mr. WORRELL. Mr. Chairman: I would like to ask the gentleman from Chester whether, in the first case mentioned by him, there would be any right of action? If the accident is the result of any unavoidable occurrence, which no care could have prevented, does right of action lie in such a case against a railroad company?

Mr. DARLINGTON. Mr. Chairman: I will answer the gentleman from Philadelphia by saying that negligence is a question for a jury, and when it goes to a jury

they always find negligence. They would consider it negligence in a railroad company to let a rail be used which would break, just as they would consider it negligence if the train was wrecked on a rock which fell from the hillside. A jury would say that the railroad company should have put a man there to keep the rock from falling.

Wherever there is a question of negligence, it will always be found by the jury to exist. As to the other question, there is no distinction properly to be made between the life of one man and the life of another. No injury can result to the wife of one man more than to the wife of another, by the destruction of her husband, and that cannot, and ought not, to be justly influenced by any consideration of impropriety of conduct on the part of employees, or by any consideration that the utmost care was taken by them in the management of the train. Still, if there is a right to recover, it must be a right to recover in one case as well as in another. Now what are you to do to prevent this unseemly exhibition of an inquiry into the value of a man's life to his family? Necessarily, if you let in evidence on the one side of that question, it lets it in on the other. If you can show that one man's life was more valuable than another's, you can show that another man's life was less valuable, that he was idle and thriftless, and earned no support for his family, and that his family is better off without him than with him.

Keeping these things in view, it is a question for the Legislature, in their wisdom, to determine what shall be the average sum, which shall not be exceeded, in damages allowed in cases of this kind. If these excessive damages can be imposed upon the railway corporations they result in excessive burdens on the people. The railroads that are compelled to pay these excessive damages necessarily increase fares and freights, and it becomes a burden upon the whole community, and injustice is done to all the people that injustice may be done to the party claiming these damages.

So much upon the general question. I am in favor, therefore, of a limitation, and if \$5,000 is not the right one let the Legislature fix another. But should there be no limitation to the time in which a suit can be brought? Why, unquestionably, we will all say. There is no reason for delay. Different kinds of actions in the wisdom of the Legislature have been

made subject to different limitations. An action on a book account may be brought within the six years. An action for slander, or a case affecting character, must be brought within one year; and an action for assault and battery, within two years. Society is protected just as much in the one case as in the other, and the principle is a correct one, that a fixed limitation of time should apply to a suit not only against a railroad corporation for damages, but against any one else. There is no reason why all suits should not be brought with more speed. It would be better for all concerned if they were, and while I would not object to the proposition of my friend from Philadelphia, (Mr. Biddle,) that they ought all to be put on the same footing, I would put that limit down, and I would require action to be brought within one year. There is no reason why it should not be so in this advanced stage of civilization. Put them all on the same footing, and the shorter the time the better. That is all I have to say on this general subject.

Mr. J. S. BLACK. Mr. Chairman: I did not rise to make an argument, and would not do so after what has been said by the gentleman from Philadelphia, on my left, (Mr. Gowen.) His exposition of the subject is full and clear, and if it does not impress every man in this body, then we are not as receptive of the truth as we ought to be. I do not intend, therefore, to gild his refined gold.

The proposition that railroad companies should never be compelled to pay more than a certain amount of damages for violation of contract or failure of duty is an exquisite absurdity, when it comes to be viewed in the light of reason, law and natural justice. When a passenger goes upon a railroad train, with a ticket which binds the company to carry him a certain distance and let him down safely, the company makes a contract with him by which they agree not to commit any injury to his person, if it can be prevented by human skill and care. If they fail in the performance of their contract surely the passenger is entitled to damages, which will be a fair and a just compensation to him for all the injury which he has actually suffered, and there is no way provided by the laws of this country to ascertain what is a just compensation, except a trial by jury as in other cases.

Some persons think, and among others my friend from Philadelphia, that trial by jury is a failure in cases between in-

jured individuals and railroad companies, who have committed the wrongs.

Mr. GOWEN. I did not say that.

Mr. J. S. BLACK. That is the inference from what he said. He spoke of enormous damages as having been unjustly given, in divers occasions, against railroad companies, for injuries of this kind. He proposed that the verdict of a jury should be over-ruled in some way, either by the judge who presided at the trial, or else by some superior tribunal. That is all a mistake. I admit that it is possible for juries, in the excess of their indignation against the railroad company which has been guilty of gross negligence, to let their feelings run rather wild, as they sometimes do in other cases of tort; but I have never heard of one case of excessive damages against a railroad company, where I have heard of hundreds of such cases against individuals for slander, for seduction, and for various other offences of that kind. When a jury gets its blood up it is intended that it should wield its lash with a good deal of power.

Remember that no railroad company is ever permitted to suffer one dollar except in cases where it is proved by the clearest evidence that it has been guilty of unquestionable negligence, and that there was no concurrent negligence on the part of the injured party. Is not that a fair and just case for vindictive damages? Can we blame a jury that sees a man mutilated, and his limbs broken up, and his body shattered for life by the gross negligence of a railroad company, for saying that the wrong doers shall pay heavy damages? They do say so, most righteously, not merely because one man has suffered, but in order that other men may not suffer hereafter.

Mr. GOWEN. I would not blame a jury if my friend, Judge Black, had to make a speech on behalf of the plaintiff. [Laughter.]

Mr. J. S. BLACK. Ought he to blame juries if they act upon their convictions of justice and propriety, no matter who makes the speech?

The gentleman from Philadelphia (Mr. Gowen) is not afraid of being sued, because he permits no negligence on his road, and injuries of this kind are not committed there. But why? Because those heavy verdicts he speaks of have struck a salutary terror into the hearts of the Reading company, which makes it, and all its servants, careful.

But, Mr. Chairman, suppose I, or some member of the profession to which I belong, should go to the Legislature and ask for a law which would protect us when we do wrong, against the just indignation of courts and juries. Lawyers sometimes neglect their duty; sometimes they fail to pay over the money of their clients, which is very gross negligence. What would you think of a statute which would confine the client's right to recover within certain fixed limits, which might not reach to compensate the tenth of his loss. Juries are quite as much prejudiced against professional dishonesty as they are against the culpable negligence of common carriers, and it is just and proper in both cases, for it springs from the love of right and the scorn of wrong.

You cannot say that a man who has suffered an injury at the hands of another shall not recover full compensation without committing an outrage upon the elementary principles of justice. If you give him less than that you may say he shall have nothing. If a man who has suffered to the amount of \$20,000, shall be permitted to recover only \$3,000 or \$5,000, why can you not say that he shall go uncompensated altogether?

But we all want to hear the gentleman from Philadelphia, (Mr. Cuyler,) who favors the license of railroad corporations to kill and maim men, women and children for a certain sum per head. We are already aware that, in his opinion, a railroad company, when it cripples a citizen's body, ought to be permitted, at the same time, to cripple his right of getting redress in the courts. But none of us understand the reason of the thing. We are anxious to know why such legislation as this should be tolerated, and unless he has some objection we would be glad to learn from the gentleman how this particular statute came to be passed. We expect him to lift the flood gates of his eloquence.

The CHAIRMAN. The question is upon the amendment proposed by the gentleman from Philadelphia (Mr. Biddle.)

Mr. HARRY WHITE. I appeal to my friend (Mr. Biddle) to accept an amendment.

The CLERK read:

Strike out of the amendment the words, "no act of Assembly," and insert the words "nor shall any act."

Mr. BIDDLE. I accept the amendment.

The amendment of Mr. Biddle, as modified, was agreed to.

The CHAIRMAN. The question is upon the section as amended.

Mr. DARLINGTON. Mr. Chairman: I hope that the committee will give their unanimous consent to the gentleman from Philadelphia (Mr. Cuyler) to reply to these arguments.

Unanimous consent was granted.

Mr. CUYLER. Mr. Chairman: I can scarcely say that I have any desire to speak upon this subject; but the kindness of the Convention entices me to my feet, and does not permit me to sit still, although I would desire to do so.

I hope nobody sympathizes with the feeling which the gentleman from Philadelphia (Mr. Newlin) affects, that I am here as the representative of any other party than the people. I hope no one else thinks so meanly of me as to suppose I would come here as the representative of any corporation; and although he may not be capable of rising above the feeling that he is here as the representative of a client, I trust he will not continue to include me in that category. I am here as no man's representative, as the representative of no corporation, but as a citizen simply, having the interests of a citizen in the question that comes before this Convention. I say this much in justice to myself, although I think it is scarcely necessary that I should say it here.

One would suppose, from the remarks of my friend from York, (Mr. J. S. Black,) that these corporations wantonly and with purpose assault the safety of those whom they carry, and yet no man ought to know better than he does that that is an injustice, and a great injustice, to such companies. No train ever passes over their roads in which the lives of their employees and the property of the company is not exposed to whatever risk or peril attends the passage. It is a matter of actual fact, that could be demonstrated by an examination of the returns of the Auditor General of the State, that there are few spots safer for any man within the Commonwealth than a railroad train in the State of Pennsylvania; that the hazards of life to an individual who walks up Chestnut street in the city of Philadelphia, from the fall of a brick from a roof, or the chance dropping of a stone or a piece of timber from a scaffold, are greater than the perils of life that attend those who travel in the railway trains of this country, as a general thing. Every train that runs requires, upon the

part of the company, the largest possible precaution.

If no other motive dictated it, pure selfishness, alone, would lead to that result. Now there is a reason for the limitation which is placed in this section as to the extent of damages which shall be given in the case of death, and that reason is to be found in the fact that, in the case of death, there is no standard by which those damages can be estimated. There is no ordinary standard that can be applied. "Skin for skin; all that a man hath will he give for his life." No money can compensate for the loss of life; certainly none to the one whose life is lost, and surely none to those who survive and suffer in consequence of his death, whether it be in their feelings or whether it be in their fortunes. How then, and why then, should we hand over to the tender mercies of a jury, with unlimited control of the amount of damages they should give, not simply to a jury, but to a jury inflamed by the closing speech of eloquent counsel? Do the rights of men and the rights of corporations rest, or ought they to rest, upon so uncertain a basis as that? Is that the foundation on which any human right ought properly be placed? If a man's property is damaged there is a measure for that damage, and it is easily ascertained. If the wrong is repeated, to some extent at least, there is the punitive justice to the community, in the damages that are inflicted, as a warning against others indulging in the same offence; but where it does occur, as it does, in point of fact, in almost every instance of an action for damage against a railroad corporation, that accident has occurred after every precaution possible to be taken by men has been taken; we cannot inflict punitive, nor do we attempt to give compensatory damages, for we can not ascertain what they should be.

Mr. J. S. BLACK. Could the party in that case recover any damages at all?

Mr. CUYLER. I will come presently to answer the question of the gentleman, which is a very proper question indeed. I say it is impossible, by any ordinary standard, to ascertain those damages. A corporation must work through agents; it has everything to sharpen its capacity and to inspire its intelligence and diligence in the selection of proper agents; its own property and the lives of its own employees are imperilled on every train that runs; but, after all the care that is taken, men are liable to err. Switch tenders

will become careless; engineers become nervous; it may be from a momentary condition of ill-health, which passes away. The most vigilant will sometimes sleep on their posts. Who is there who has not known of occasions wherein he himself has fallen below his own proper standard of what is right and proper, with reference to his own conduct? Now, we are to take a corporation, which must work through just such agencies as those which I have mentioned, and which has exercised the utmost prudence and care in the selection of those subordinates, and you are to hand them over, in case of an accident, against which every human precaution was taken, to the tender mercies of a jury, whose feelings are moved; whose passions are roused and inflamed by the eloquence of counsel, and who have no possible restraint to be found in any standard that can be presented to them by which they may measure the amount of their damages.

What then? You must average one life with another. You must say what, after all, averaging one case with another, is about the fair result. In some instances these juries have given enormous verdicts. In other instances they have given verdicts too low, but the experience of mankind has shown that the average of about \$5,000 is a fair and reasonable compensation. There are cases in which it will not reach the justice of the case. There are cases where it far transcends the justice of the case. But, after all, it is by averaging these cases, one with another, that about the fair result is obtained. That I understand to be the theory upon which such statutes as this are framed.

I know of no other instance that can be presented in the law, in which a jury can be called upon to assess damages without any possible standard, except their own passions and feelings, inflamed to the last possible degree, just when they should be called upon to apply their judgments.

Mr. DODD. I would ask the gentleman how it is in breach of promise cases. Are damages not generally higher in those cases?

Mr. CUYLER. The gentleman's question admits of a very easy answer. Part of the evidence, as he as a lawyer knows, in every breach of promise case, has reference to the estate of the offending party, and in measuring the damages, the defendant's pecuniary ability is taken into consideration, and in no case more so

than in actions of breach of promise of marriage. I ask the gentleman to tell me when you come to a case of death, how you are to measure the damages that should be allowed? By what possible standard can you do it? Many a man lives a burthen to society as well as a burthen to himself and to his family, and yet if you take that very case before a jury in a court of justice, when, inflamed by the artful appeal of eloquent counsel, the jury will give just as large damages as they would if my learned brother from York (Mr. J. S. Black) had been, to the great loss of the world, cut off, instead of suffering the damage he did to his arm. So it is, simply because there is no standard, and hence the law must make a substitute by creating an artificial standard.

There is, therefore, a necessity arising from the nature of the case of establishing an artificial standard by which such damages may be measured.

After all, Mr. Chairman, what does it come down to? Does any gentleman suppose that these outrageous and unreasonable verdicts which are given against railroad companies for damages fall, at last, upon the corporations? Not at all. They fall upon the community, upon you, and upon me, and upon the entire society; they fall as a burden upon the trade and business, the traffic and transportation of passengers and property, for the railroad company *will* earn a competent dividend for its stockholders; and if you burden the expenses of this company by unreasonable verdicts, you are at last but laying that burden upon the traffic and the general prosperity of the community in which you live. It comes ultimately to that. I do not appeal to this Convention in the name of corporations, but I appeal to the members as citizens, as men who have an interest in the general trade and prosperity of the community. Every burden you lay upon such a corporation comes, ultimately, upon the general business of the community, so that if no other motive than an enlightened selfishness should regulate the action of this Convention, that, of itself, ought to be felt to be sufficient. I am sorry to have taken up so much of the time of the Convention. I have spoken most unwillingly on this question, and should not have uttered a word had I not been absolutely enticed, compelled to speak, through the kind voice of the Convention, requesting me to do so.

The CHAIRMAN. The question is upon the section as amended.

Mr. COCHRAN. Mr. Chairman: I wish to offer an amendment to the section, which I will send to the desk.

The CLERK read the amendment, as follows:

Strike out the first line, and the second line up to and including the word "property," and insert in lieu thereof the following words, to come in at the commencement of the section: "No limitation of the amount to be recovered for the loss of life, or injuries to person or property, shall hereafter exist in this State; and in case of death from such injuries," &c.

Mr. COCHRAN. Mr. Chairman: I had no intention this morning of cutting off the gentleman from Philadelphia from addressing the committee; but as the rule has obtained here that only one speech of twenty minutes should be made by each member, I felt disposed to call the attention of the chairman to the matter, upon the principle that equality is equity, and I simply desired that the rule should apply in *all* cases, or none.

With regard to this amendment, I did not like the phraseology of it in the first place, because I was not certain, from its language, whether or not the case of loss of life was provided for. I wish to make that explicit, by putting it *in words* into the section, that there *shall* be no limitation imposed hereafter in cases of loss of life or injuries to person or property. I mean that no limitation should hereafter exist in this State. The section as read was unsatisfactory to me on that ground, and for that reason it is, sir, that I offer the amendment which is now pending before the committee. Nor do I deem it necessary, after having stated the object of the amendment, to go into the discussion of the matter which has been so thoroughly discussed already.

I am perfectly satisfied that there can be no good reason assigned why this limitation should continue to exist any longer. It has existed too long already in this State. We have already discriminated too long against individuals, and in favor of corporations; for in point of fact, although not in the express terms of the law, the limitation chiefly operates on them. Let us, then, make this matter explicit and clear, that this limitation shall no longer exist in this State, as to the amount of damages to be recovered.

It is unnecessary, it seems to me, to say to a body like this, that to attempt, as the gentleman from Chester (Mr. Darlington) has suggested, to impose an arbitrary limitation or to fix an arbitrary sum in a case of this kind, would be to go, not only against what is advisable and just, but against all the analogies which prevail in similar actions. This is always an action in the form of a tort, and the damages there are to be recovered according to the circumstances and rules that control the particular action. There is no reason in the world why we should attempt to impose an *arbitrary* limit here to the amount of recovery, more than there is in any other action which we bring in the same form. Let us put it on the same principle exactly, and under the same rules which govern all other such actions, and submit it to the same tribunal to which we submit other actions upon which our property, and our reputation, and all the other interests that are dear to us, are staked. Why should we make any discrimination?

It seems to me, sir, that the argument which says that this matter should not be left to a jury, which is said to be "dazzled" by the eloquent speech of the closing counsel for the plaintiff, is an argument that should never come in here. Why, sir, *some* counsel must close on one side or the other; the burden of proof is on the plaintiff, and he has burden enough to sustain an action against a wealthy corporation and against distinguished counsel, as already stated, when the courts are continually throwing in his way this doctrine of contributory negligence. He must make himself perfectly clear of the charge of having contributed in the slightest degree to the injury which he has himself sustained. Having cleared himself of that, why, then, should it be said that the closing speech of his counsel should not have its appropriate weight before the jury? Sir, it has no more appropriate weight before the jury than the closing speech of a counsel in a criminal case against the man who stands accused of murder, and is in peril of his life; no more weight than the concluding speech in any other case; and we submit these cases to precisely the same tribunal to which we submit the disposition of the question of life and death in other cases. Why, then, should we discriminate in cases like this, contrary to the usual manner and against the plaintiff, who has been injured by the negligence, the abso-

lute, unqualified negligence, of a corporation, or an individual either?

It has been said that this remedy of a recovery for damages to life or limb is a remedy not of the common but of statute law, of statutory origin. We admit it, sir; but it was put upon the statute book because public sentiment, and that, too, of the entire community, required that it should be placed there. It was a concession—it was one of those points to which the principles of the common law would not extend, and the demand of public sentiment required that this should be imposed in addition to the remedies which the common law provided for other injuries. If the Supreme Court of this State has said, as has been stated here, by gentlemen of this Convention, this morning, that that part of the law which interferes to make the damages for personal injuries not resulting in death, is unconstitutional, why then is there any reason that we should impose a limitation, merely because the remedy is statutory in its origin, to the case where a man's life is taken, and his family deprived of the benefits and advantages of his labor.

I hope I have so phrased this amendment that it will be unobjectionable, and that by introducing these words we will remove from the section all doubt in regard to its operation, and make it so intelligible that there can be no mistake about the meaning and intention of this body.

MR. HARRY WHITE. Mr. Chairman: I merely wish at this time to make an observation about the appropriateness of the amendment. I was going to remark that I would be very glad to accept the amendment of the gentleman from York, (Mr. Cochran,) in lieu of the first words of the section; but it seems to me not to be so comprehensive. It is but another way of expressing the same thing, and the remedy that is desired to be applied here, is to prevent the passage of an act of Assembly hereafter, or to prevent any present act of Assembly from limiting the amount of damages, and the expression in the section is, to by mind, more explicit and less liable to misapprehension than the expression of this amendment. As to the apprehension of the gentleman from York, (Mr. Cochran,) about a doubt as to the section prohibiting limitations for loss of life, or injury resulting in loss of life, I think there can be no

doubt upon the subject. Listen to the section :

SECTION 26. No act of assembly shall limit the amount to be recovered for injuries to person or property, and in case of death from such injuries, the right of action shall survive, and the Legislature shall prescribe for whose benefit such actions shall be prosecuted.

The whole section is to be read together, and, of course, it comprehends the practical remedy, given by the act of 1845, for the loss of life.

Mr. EWING. Mr. Chairman: In addition to what has been said by the gentleman from Indiana, (Mr. Harry White,) I wish to call the attention of the committee to the wording of this amendment offered by the gentleman from York (Mr. Cochran.) As I read it, if this were adopted, and a case of the kind referred to in this section were on trial before a court and jury, the judge could not lay down any limit whatever, as a rule of law as to the amount to be recovered, for the amendment says that there shall be *no limitation of the amount*. Now, the verdict may be one hundred thousand dollars or one cent. Now I say that in all these actions there is a limitation by law as a part of the measure of damages. What we want to get at is to prevent the Legislature from limiting the amount by an act of assembly. I think, therefore, that the amendment offered is very objectionable on that point. I have not any doubt about the section as it stands here, preventing the limitation of the amount to be recovered in case of death. The right of action accrues at the very instant that the injury occurs, and if it survives it necessarily survives with all its incidents and liabilities, just as in any other case of trespass, or a case of "mesne profits," or anything of that sort. But this is certainly objectionable. I would suggest to the gentleman, if he will allow me to do so, that as chairman of the Committee on Railroads, he give the matter a careful consideration, and if he can report a section that will be more comprehensive and less doubtful, when it comes up on second reading the Convention can determine which one it will take. This section has been considered with care, and I think covers the ground.

Mr. DODD. Mr. Chairman: I think that not only is the amendment open to the criticism made, but if we change the language, as the gentleman from York (Mr. Cochran) suggests, we will have to change

the language of the amendment already passed, because it refers back to the language, "no act of Assembly." I think that an amendment is required, which shall leave no question whether the section applies to injuries resulting in death. If delegates will refer to the section they will find, by the insertion of the words "resulting in death or" after the word "injuries," that there will be no further difficulty. I therefore offer to amend the section by inserting those words.

Mr. COCHRAN. I accept the modification.

The question being taken on the amendment offered by Mr. Cochran, a division was called, which resulted as follows: Ayes, twenty-five; noes, thirty-seven.

So the amendment was not agreed to.

Mr. CORBETT. Mr. Chairman: I move to strike out the word "Assembly," and insert the word "Legislature."

The amendment was agreed to.

The question being taken the section as amended was agreed to.

Mr. BIDDLE. Mr. Chairman: I now offer the following as an additional section to the report :

No act of Assembly shall authorize the investment of trust funds by executors, administrators, guardians or other trustees in the bonds or stocks of any private corporation; and existing laws so authorizing are annulled and avoided, saving such investments heretofore made in good faith.

Mr. BIDDLE. Mr. Chairman: By our original law, before the act passed, some four years ago, which I am about to refer to, certain specific investments were authorized which, if made in the manner pointed out, by persons acting in a fiduciary capacity, relieved them from all responsibility for the keeping of trust funds. Those investments were United States loans, our own State loans, and the loans and mortgages of the city of Philadelphia. From time to time the public loans of other municipalities existing in the State were added to the securities already named, because it was supposed that trustees residing in the immediate neighborhood of such bodies might naturally and properly prefer such investments to the investment of municipalities at a distance from them. It was supposed that they could readily understand the value and character of such investments. So the law stood until 1870, when a marked departure from its conservative principles occurred. Now, in what I am about to say I mean no reflection at all upon par-

ticular corporations to which I will have to refer, but it is necessary to enter somewhat into details. Until 1870, then, the first marked departure was made, and a new list was added to the class of investments which a trustee might lawfully make.

In 1870 the Legislature inaugurated a totally different policy, and in my judgment, one which was most inexpedient. The Legislature, authorized by the act of the 1st of April, 1870, which will be found on page forty-five of the pamphlet laws of that year, that the bonds of the Pennsylvania railroad company secured by its general mortgage, dated July 1, 1867, should be a trust investment. In 1872, and we see how very rapidly progressive such legislation is, by the act of March 29, to be found on page thirty-one of the pamphlet laws of that year, the bonds of the Philadelphia and Reading railroad company, secured by its general mortgage, were also made a trust investment. It requires no very prophetic eye to see, that once a change so radical is made in our law, trustees will be authorized to invest in the bonds and probably in the stock of all favorite private corporations, or rather private corporations favored by the Legislature; and thus the very security which was intended by the limitation passed half a century ago, will be entirely defeated. Now, what takes place when one of these improvement companies is sued upon one of its mortgages? I do not, of course, refer to either of the two corporations in which trust funds are now authorized to be invested. I hope we, in Pennsylvania, may never see the day in which their corporate property may be brought under the hammer; but what has been may be again, and it is to arrest this possibility that I have proposed this section, and desire to make these remarks in regard to it. I suppose there are not less than fifty gentlemen on the floor of this Convention, who are perfectly aware what takes place when a railroad is sold—which, by the bye, is not a very unfrequent proceeding—and for the benefit of those who may not be familiar with the subject, I will explain very briefly what does take place. When an improvement company is unable to pay the interest on its bonds, when the time stipulated in the mortgage passes and the usual expedients resorted to have failed, a combination takes place between the large bond-holders, and they agree to sell out and buy in generally on terms tolerably liberal to all the bond-holders; but it not unfrequently, indeed

I think I may say it invariably happens, by reason of the distance from the scene of action, or by ignorance, or from poverty, many of the smaller bond-holders are not reached or asked to contribute to the fund to be raised for expenses.

The corporate property, however, is sold and bought in by the large holders, and the company is usually re-organized upon what is supposed to be a better basis; but those who do not enter into the arrangement, into the combination, are entirely cut off, because it never happens that the fund is sufficiently large to reach all the claims that legally exist against it. Now, who are the persons most likely not to be reached if such a contingency occurs? It is the widow, the orphan, and their trustee. The shrewd business man, who has large sums invested in the bonds of the company, is on the look out. The man or woman with a small investment of \$500, or a \$1,000, is not heeded, and the result is frequently very disastrous. Now, I think we are bound to say to what extremes the Legislature shall be permitted to go in the regulation or changing of the class of investments in which trustees may properly invest the funds committed to their care for the investment and protection of those beneficially interested, or what the lawyers call *cestuis que trustent*. This Convention may say to trustees: "You may invest in the securities of the general government; you may invest in the loans of this Commonwealth; you may invest in the loans of this municipality; you may invest in mortgages, in ground rents, and in real estate, but you shall not commit the funds entrusted to your care to hazardous commercial speculations, which all improvement companies are more or less engaged in." I know it will be said in answer to this argument that a mortgage bond of a large improvement company gives all the security of real estate; but what kind of security is it?

In the first place, in regard to two of the instances to which I have just referred, the mortgage bonds are not first liens at all; they are not second liens, and I do not think in one case they are even third liens. In the first case which has been cited to me, the mortgage bond is a third lien, and it is liable, therefore, to be divested either under the first or second lien; but that is not the only objection. If the liens previously existing are small, this difficulty might be obviated. It is nevertheless, to a certain extent, a hazardous investment, and partakes and pos-

sesses none of the characteristics of a security afforded by a mortgage upon a farm, a house, or an improvable lot. It is wholly unlike the security afforded by the general, State or municipal governments, where taxes can be imposed upon all property to meet the interest upon their indebtedness. Mortgage bonds of improvement companies are essentially a speculative investment. I suppose it will be said that the two cases to which I have referred are beyond all possibility of a contingency. I hope sincerely that this may be the case; but with what reason can the Legislature, after granting the privilege to the Pennsylvania and the Reading railroad companies, refuse the same privilege to the Lehigh Valley, the Lehigh navigation company, the North Pennsylvania railroad, or any of the many improvement companies by the lines of which this State is traversed? The claims of these companies may be urged upon the attention of the Legislature, fortified by arguments that their property, in proportion to the amount secured upon it by first mortgages, is a much safer investment than the investment already authorized by the Legislature in railroad securities against whose property many sets of mortgages are held.

The claims of other roads will be urged with all that persuasiveness and pertinacity which persons having so much at stake usually adopt when their interests are concerned. I desire that this question of trust funds shall be placed on a perfectly secure basis. No class of cases appeals so strongly to our sympathies and to our sense of duty as the property of these persons, who are in a state of pupillage, not *sui juris*, and who thereby become, as it were, the children of the Commonwealth, to whom they rightfully look for protection, as their common parent. I might extend this argument very considerably, but I think I have said enough to show that when, in 1870, the Legislature departed from the rule which it had previously laid down, it made a radical and vicious change in the law, and one which should be arrested and corrected by a constitutional provision somewhat like the one just offered by me. I hope, therefore, Mr. Chairman, this section will be adopted as part of the article now under consideration.

MR. J. PRICE WETHERILL. Mr. Chairman: It seems to me the only question in regard to this matter of limiting the investment of trust funds is a question of

safety. The first mortgage bonds of the Pennsylvania railroad and the first mortgage bonds of the Reading railroad are, in my opinion, just as good an investment as city sixes, and there can be no harm whatever in leaving the power with the Legislature to say whether they conceive them to be a good and sufficient investment for trust funds. The question, therefore, as I understand it, is purely a question of safety.

In the city of Philadelphia there are five or six large trust companies, and if I were to name the amount of trust funds held by these companies it would surprise a great many members of this Convention, for it would be found that it would amount to perhaps fifty millions of dollars. If they invest their trust funds in United States securities, they must pay 115 for them, so that they do not net six per cent. to the holder of the trust or the party benefited. If they invest in State funds they are compelled, in the same way, to pay a large premium for an investment which does not net six per cent. to the holder of the trust. The consequence is that a very large amount of these trust funds are invested in but one security; that is the loan of the city of Philadelphia, because the securities alluded to are generally above par, and the parties having trust funds to invest desire to, if possible, in the first place, invest them at par, and secondly that they should pay the recipient six per cent. interest, and therefore invest them in this one security. The consequence is that a very large amount of the trust funds, not only of the city of Philadelphia, but also of the State, are being absorbed by this one security, and no matter how good it may be, is not, therefore, a prudent course.

Now, sir, if this is the case, should we not be extremely careful how we direct by this section the investment of the trust funds held and to be invested by the different trust companies of the city of Philadelphia in one particular direction. I can see no harm in the Legislature, by acts of Assembly, assenting that the first mortgage bonds of these great roads is a good investment, and there is no doubt that the first mortgage bonds of these two roads will be just as surely paid at maturity as the investments fixed by law. If the first mortgage bonds of these two roads will meet their interest promptly, I cannot see why a trust fund invested in these two corporations is not as good as a trust fund invested in city sixes, a State or a govern

ment loan. If they yield more interest, there is an additional advantage. If the general mortgage loan of the Reading railroad company pays seven per cent. interest, why should the Convention, by their action, deprive the holders of that trust of that one per cent. additional income—yielding to the beneficiary seven per cent., instead of six per cent. The whole question, in my mind, depends upon the security of the investment, and if the Legislature should so decide, it seems to me that it is wise and proper to leave it in their hands.

Mr. GOWEN. Mr. Chairman: I think I speak within bounds when I say that there is no known instance in which the first mortgage bond of a large American railway company has ever proved a disastrous investment, or upon which the interest has not been paid. We all know to our sorrow, and some citizens of this State know it to their shame, that while private corporations have not repudiated their obligations, municipal corporations and territorial governments have frequently done so. I do not believe that there can be adduced a single instance in which trust funds invested by order of the court, in the first mortgage securities of any of our large railway companies, have ever turned out to be either worthless or to be depreciated. We know too well that trust funds, invested in the obligations of municipal corporations have time and again proved almost worthless. The question therefore is simply one of safety, as the gentleman from Philadelphia (Mr. J. Price Wetherill) has well remarked.

Unfortunately here in Pennsylvania, and especially here in Philadelphia, no large enterprise has ever struggled into existence and prosperity that has not met at the outset with opposition from our own citizens. We are in the habit of driving our money away from our State, and forcing it to seek investment elsewhere. There is to-day, in the city of Philadelphia, not one-third, or one-fifth, of the money for the legitimate purposes of business which is required by the demands of the business community. The reason is, that our rate of interest is lower than the rate of interest in adjoining States, and our money is sent out of the State in order to secure the large interest which is given by neighboring States. As allusion has been made this morning to both of the acts of Assembly, which gives to the trustee the power of investing trust funds in the loan which is practically a first

mortgage upon property worth four or five times the extent of the mortgage. In both of these cases, the acts of Assembly require that the judge of the orphans' court, having control of the trustee, must approve of the investment before the trustee is relieved. Now, while I would be in favor of an amendment to the Constitution, which should prohibit the Legislature from making the securities of any private corporation an investment for trust funds without the previous sanction of the proper court, thereby making it a judicial act and permitting the courts to have some custody and control over the money, I am not in favor of the amendment as proposed, for the reason that it will destroy and prevent the power which a great many trustees now have, under the sanction of the court, of investing the money of their wards and the money of their *cestuique* trusts in securities that will give them one or one and one-half per centum more interest per annum than they could get if under the obligation to invest only in municipal securities.

Those of us who are lawyers, here in Philadelphia, know very well what the operations of these two statutes have been. I know myself that I can speak of one of them, with a more thorough knowledge of it than any other man in the world, because the act was prepared at my direction, and it was prepared at the urgent request of two or three large corporations in this city, who are large holders of trust funds, and who wanted an opportunity of investing their trusts. They were responsible for their trusts. They have amply guarded them, but they were obliged to go to court in order to have their investment approved, and these trustees, these large trustees, like the Fidelity company, the Pennsylvania company for the insurance of lives and granting annuities, and three or four others, that are the strongest and best in the city, and in the whole State, were anxious for the opportunity of investing these funds in this very class of securities.

But how did it operate on the courts? The courts looked with a little distrust upon any innovation of the old established custom. The court in Philadelphia very properly selected a board of skilled financiers, gentlemen thoroughly conversant with the business, and requested them to report to the court the names of such corporations whose obligations were made legal investments as would be perfectly safe, and I apprehend there is no instance

of any wrong having been suffered, that there is no one who will venture to assert, that so far as this system has already gone, there is no possibility of any instance happening in the future. Why then should this system be interfered with when it is a notorious fact that in the past no wrong or injury has resulted from it?

If there is an amendment proposed to this effect, that the Legislature shall not authorize the investment of any trust funds in any corporation, or in any private corporation, without the sanction of the proper court, then I should vote for it. But I earnestly trust that unless their is some such amendment as that effected, it will not succeed.

Mr. BOWMAN. Mr. Chairman: Before the gentleman sits down I would like to ask him this question: When has any municipal corporation north of the Ohio river repudiated or dishonored its obligations?

Mr. GOWEN. The Allegheny county bonds is an instance.

Mr. BOWMAN. The Allegheny county bonds were paid to the last dollar.

Mr. GOWEN. They were paid at last. But did not the county repudiate them for years? The interest could not be collected, and did not they go down to forty cents on the dollar?

Mr. BOWMAN. Mr. Chairman: Does not the gentleman know they were paid?

Mr. GOWEN. They were not paid until the authorities were compelled by law to pay them. Butler county and Lawrence county repudiated their bonds, and for years and years the widow and the orphan who relied upon them for investment were deprived of their income, and forced by their poverty to sell the bonds for thirty or forty cents on the dollar, to the wealthy capitalist, who, when recourse was had to law, and the counties were compelled to pay, reaped the benefit of their purchase.

Mr. KATINE. Mr. Chairman: I look at this section as now offered as one that is calculated to prevent the very worst kind of special legislation, notwithstanding what has fallen from the gentleman from Philadelphia (Mr. Gowen.) Everything that he desires that trustees or executors or administrators should have a right to do, they have a right to do already under the general law of this Commonwealth. If a trustee or executor desires to make an investment of any funds in his hands, he can do it without the ac-

tion of a court or any body else, upon his own responsibility. But if he desires to be relieved from personal responsibility in that regard, all that he has got to do is to go into the orphans' court of the county of Philadelphia, or in any other county in the Commonwealth, and get an order, which he can get upon proper cause shown, to invest the money of his ward, or the trust money in his hands, in the bonds of Reading railroad company, or in the bonds of the Pennsylvania railroad company, or in the bonds of any other institution in this State, if the court think it proper and right. There is already a statute on the books on that subject, a general law.

Mr. GOWEN. Mr. Chairman: Does not this amendment wipe that statute out, except so far as any investments which have already been made?

Mr. KATINE. I do not think it does. I do not think it will interfere with any general law.

Now, Mr. Chairman, the objection I have to that kind of special legislation is this, that any corporation, no matter how insolvent or how ruined, goes to the Legislature and gets an act passed that their bonds shall be a legal investment for trust funds of any kind, thereby giving them a false credit in the market, and giving them a credit which they are not entitled to at all. This is a kind of judicial legislation that ought never to have existed, and I hope that this Convention will now put in the Constitution something such as is proposed by the gentleman from Philadelphia, (Mr. Biddle,) to prevent it hereafter. If the general law is not sufficient on this subject now, it is very easily made so. I would prefer having this provision put in the eleventh section, "that the Legislature shall pass no special law regulating the investment of trust funds," which, I think, would cover everything that the gentleman from Philadelphia (Mr. Gowen) desires. I submit to my friend from Philadelphia, whether that would not cover the case? At any rate, I think the latter part of his provision is entirely unnecessary, and I would suggest to the gentleman the propriety of striking it out.

Mr. BIDDLE. Which part do you refer to?

Mr. KATINE. I refer to that part which provides that all laws upon this subject now in existence shall be repealed thereby. Mr. Chairman, let us have that read.

The CLERK read as follows:

"And existing laws so authorizing are annulled and avoided, saving such investments heretofore made in good faith."

The CHAIRMAN. Does the gentleman from Fayette offer that as an amendment?

Mr. KATNE. Mr. Chairman: No, sir; but I take it that a provision of this kind, "no obligation or liability of any railroad or any act of Assembly shall limit the amount to be recovered," would render nugatory and of no account, after the adoption of the Constitution, any law that may be in existence at the time it was adopted. I throw out that suggestion to the gentleman from Philadelphia who has offered this amendment and who seems to have a very great interest in it, but I decline to make any motion.

Mr. CAMPBELL. Mr. Chairman: I wish to make a suggestion to the gentleman who has offered this section, that he will insert before the words "private corporations" the words, "railroad, canal or any other," so as to make it as explicit as possible.

Mr. BIDDLE. Mr. Chairman: I think it is sufficiently explicit, but if the Convention thinks it is not, I have no objections. I want to make it explicit.

Mr. DARLINGTON. Mr. Chairman: I, at the proper time, will move this. I read it now only for information:

"The Legislature shall not pass any law authorizing the investment of trust funds in the bonds of any municipal or private corporation, without the sanction of the proper court."

The CHAIRMAN. The question is on the section proposed by the gentleman from Philadelphia, (Mr. Biddle,) which will be read.

The CLERK read as follows:

SECTION —. No act of the Legislature shall authorize the investment of trust funds by executors, administrators, guardians or other trustees, in the bonds or stock of any private corporation, and existing laws so authorizing are annulled and avoided, saving such investments heretofore made in good faith.

The section was agreed to.

The CHAIRMAN. The question is on the twenty-seventh section, which will be read.

The CLERK read as follows:

SECTION 27. The power to change the venue in civil and criminal cases shall be vested in the courts, to be exercised in such manner as shall be regulated by law.

Mr. KATNE. Mr. Chairman: I think

that this section is unnecessary, after what we have adopted in the eleventh section, which I will read. We have already adopted, in the fourth paragraph of that section, that:

"The Legislature shall not pass any local or special law changing the venue in civil or criminal cases."

Mr. ALRICKS. Mr. Chairman: I appreciate the difficulty suggested by the gentleman who has just taken his seat, and, in order to meet it, I will move to amend the section, by inserting before the last word, "law," the word "general." That, I think, will put this section in its proper shape and prevent us from re-enacting the same section.

Mr. CORBETT. Mr. Chairman: The two propositions which gentlemen seem to regard as similar are entirely distinct, and intended to reach an entirely different result. It is provided under the eleventh section of this article reported by the Committee on Legislation, that the Legislature cannot, by special or local law, change this venue of any civil or criminal case. This section provides that the power to change this venue shall be vested in the courts as shall be regulated by law. Now, of course, "law" in this case means "general law." It cannot mean special law, for the Legislature is prohibited from passing any special or local law on this subject.

Mr. WOODWARD. Mr. Chairman: If you were on the floor and not in the chair, I expect you would say what I am going to say. This subject of the change of venue properly belongs to the Judiciary Committee, and is under consideration by that committee, and they will most certainly report a provision upon the subject. Now, I am not at liberty to allude to what will probably be the report of the Judiciary Committee, but there will be a report from that committee, as the chairman very well knows, on the subject of a change of venue, that I trust will obviate all necessity for legislation on that subject. Meanwhile, what is the wisdom of adopting this provision? The provision is:

"The power to change the venue in civil and criminal cases shall be vested in the courts, to be exercised in such manner as shall be regulated by law."

Well, but we propose to vest it in the courts, to be regulated in such manner as the Constitution shall prescribe, not that it shall be regulated by law, for that is exactly the evil now. Parties go to the

Legislature and get a change of venue by an act of Assembly.

The Judiciary Committee will probably report a scheme to give parties a change of venue when they ought to have it, by the action of the judiciary, independent of the Legislature, and therefore, in my opinion, this section ought to be re-committed until we get before us the report of the Judiciary Committee. But this body seems to be so much in love with everything that this Committee on Legislation has reported, that I suppose they will not part with any of its provisions. They have amended their report in one or two instances; but they have refused to vote down anything which the Committee on Legislation has submitted. Therefore I will not move to strike it out; but I tell the gentlemen who compose this Convention, that we will embarrass our future action on this matter if we now adopt this section as it stands.

Mr. H. W. PALMER. Mr. Chairman: I do not desire to discuss this section at all, but to state my belief that the views of the gentleman from Philadelphia (Mr. Woodward) should prevail at this time. The present methods of obtaining change of venue are justly subject to great criticism, and, probably, we all agree that some change should be made. Under existing acts of Assembly a railroad company may obtain a change of venue from the county, where a cause of action arises, to some distant county through which their road does not pass, and thus force a party, plaintiff, to transport his witnesses a great distance, at an expense which, possibly, he may not be able to bear. Courts have no discretion on the subject. An affidavit on the part of the company that justice cannot be obtained, is sufficient. Discrimination is thus unjustly made between classes of citizens. It is quite desirable that such evils may be remedied, but perhaps the Committee on Legislation is not the proper one to deal with this subject. The Committee on the Judiciary, it is understood, are prepared to report a section on the subject. Would it not be wise to await the report of that appropriate committee, and for the present vote down this section?

Mr. DARLINGTON. Mr. Chairman: An additional reason why the committee ought to adopt the suggestion of the gentleman from Philadelphia (Judge Woodward) has been made by the gentleman from Luzerne (Mr. H. W. Palmer.) That is, that the section proposes to confer upon

the courts the right to change venue in criminal cases. Now, that will be found to be slightly in conflict with the provisions of the Bill of Rights, from the committee on which we have no report. The Bill of Rights provides that every man accused of a crime shall be entitled to a speedy trial by a jury of the vicinage in which the crime has been committed, and that has always been understood to be the place where the offence has been committed, or, at least, in the county. Now this change of venue may take a man accused of crime, out of the county where a crime has been committed, into another county, perhaps one hundred miles distant. These are considerations which, with me, have influence, and inasmuch as the Committee on the Judiciary and the Committee on the Bill of Rights have not yet reported, I think the section as offered ought to be voted down, with the understanding that we do not get rid of the subject, but only postpone action on it now to let it come up again in its proper place hereafter.

Mr. CORBETT. Mr. Chairman: I hope the committee will not vote down the section. That is not the remedy. If a better section is reported by the Judiciary Committee, the Convention will have it in their control on second reading. I hope the committee will adopt the section as it is, or amend it, if they can suggest improvements, but leave it stand until the Judiciary Committee shall report. I have no wish that the Committee on Legislation should do anything that it is the province of that committee to do, or take away from that committee anything that belongs to them, and if they report a plan by which this subject will be vested in the courts, and in the courts alone, and take it altogether away from the Legislature, even by general law, to regulate it I will support that plan. I am in favor of that. It is not because I oppose anything of that kind that I ask this committee of the whole to adopt this section. When it comes up on second reading we may have other propositions from these other committees which have been referred to. But we have this section now, and it is all we have. Let us adopt it; afterward, if anything better be offered, it will be easy to make the substitution.

Mr. CHARLES A. BLACK. Mr. Chairman: I was not here when the previous part of this report was before the committee of the whole. But it seems to me that if what was done in reference to the eleventh section was right, then this or

something like it should be adopted now. You have already, by the fourth paragraph of the eleventh section, taken away from the Legislature the power to change venue in criminal and civil cases by special law. That has passed this committee. Then of course, having done that, you must say who shall exercise this power. Somebody must have the right to say so in cases where it not only is important, but necessary, that the change of venue be made, and hence this section ought to be adopted. We have already taken away this power from the Legislature, and now we should adopt this section, or something like it, to say who shall exercise this power, and this it seems to me is the proper time to say it.

Mr. S. A. PURVIANCE. Mr. Chairman: I hope we will take final action on this subject now. The gentleman from Philadelphia (Mr. Woodward) seems to entertain the idea that if we do not vote down the section, and await the report of the Judiciary Committee, that it will produce great disarrangement in the transaction of our business. I confess that I am not aware that the Judiciary Committee, will make any report on the subject of a change of venue. I think it has not taken action on that subject, and even if it had it seems to me that we ought not to pass this section ever now.

Mr. MANN. Mr. Chairman: Only an additional word to what has been said in favor of the adoption of the section as it stands. The committee of the whole have already adopted a clause which prohibits any special legislation on this subject of changing venue. Now this section simply provides that, by a general law, power to change venue shall be vested in the courts. If the Convention is opposed to that method of changing venue, then this section ought to be voted down. If not, then it ought to stand as it is, and I submit to the committee of the whole, what subject ever came more properly before the Committee on Legislation than this one. The matter of changing venues in the Legislatures has been an evil.

Mr. KAINÉ. Mr. Chairman: Before the gentleman leaves that branch of the subject, will he allow me to ask him a question?

Mr. MANN. Certainly.

Mr. KAINÉ. When we have placed in this Constitution a provision that the Legislature shall not pass any special law on the subject of changing venue, does that not imply that they have the right to do

it by a general law, and if they have that right what is the use of putting it in the Constitution?

Mr. MANN. Mr. Chairman: I will answer that by saying that the Committee on Legislation thought it was better to say to the Legislature that they should put it in the courts, to provide some mode of changing venue. The Committee on Legislation was of the opinion that the matter of changing venue should be vested in the courts. If the committee of the whole think differently let them vote the section down. But clearly, if this section is not adopted the Legislature may by general law regulate the matter as they may deem best, and they may provide some other mode of changing venue. The Committee on Legislation thought the courts were the proper channels to regulate that subject.

In answer to the gentleman from Ches. (Mr. Darlington) I will say that it is now the practice for the Legislature to change venues in criminal cases. They do it now, but it seemed to the Committee on Legislation that it was an improper exercise of power; that it was improper for parties to go to the Legislature, asking them to change venue in criminal cases. But changes have been made in the venue in criminal cases.

Mr. DARLINGTON. At the instance of the accused, however!

Mr. MANN. It does not make any difference at whose instance it was done. The Legislature has exercised that power, and it seemed to the committee that it was improper to be done by them, and ought to be done by the courts.

Mr. HARRY WHITE. Mr. Chairman: I merely wish to say, in confirmation of what my friend from Potter (Mr. Mann) has said, that I hope the committee will pass the section. There is no one subject which has tormented the Legislature more than this subject of the change of venue. Every session of the Legislature there are repeated applications to change venues in numerous cases, and it was to prevent such a recurrence after this that the section was adopted. About it, Mr. Chairman, there was no division of sentiment in the Committee on Legislation, and I apprehend there is no division of sentiment in the minds of any gentlemen who have observed the course of legislation in this regard. It is clear, then, that there ought to be some general law on the subject, and it was deemed wise and proper, inasmuch as it was the duty of the Com-

mittee on Legislation to prevent the passage of special acts by constitutional provision, that the same committee should also indicate the tribunal where the power of changing venues should be reposed. Now, it is wise and proper that it should be vested in the courts. I am not sure but that the courts, if the Legislature should refuse to pass any general law on the subject, might not have the power to change venues themselves, by virtue of their own inherent power to make their own rules. But, of course, this is an admonition direct to the Legislature to pass a general law upon the subject, as soon as the Constitution is adopted.

Mr. WOODWARD. Mr. Chairman: I desire to explain. I find, upon conversing with my friend, the gentleman from Pittsburg, (Mr. S. A. Purviance,) that I was under a mistake regarding the statement that I made just now. I supposed that the report of the Committee on the Judiciary would contain a provision on this subject. He tells me that the report is prepared. It must have been done at a meeting when I was not present, and that it contains no provision on that subject. The Judiciary Committee have, however, had before it a proposition that does cover this whole subject, and I supposed before the final report can be agreed upon that question would be passed upon by the Judiciary Committee. I am informed, however, that such is not the fact.

Mr. CUYLER. Mr. Chairman: This is the first I have heard of a report from that committee.

Mr. WOODWARD. There is an amendment before the Judiciary Committee, which covers this subject, and I trust before the final report of that committee is made the proposition, in some modified form, will be presented. The report may be made without touching the subject, and if so an appropriate amendment will be moved.

Mr. HARRY WHITE. Mr. Chairman: I trust the committee will pass this section.

Mr. J. W. F. WHITE. Mr. Chairman: I am in favor of the principle contained in the section, but shall vote against it because I regard it as utterly useless in the Constitution. We have already adopted a section which prohibits the Legislature from passing any special law on the subject, which necessitates a general law. We do not need a section to give power to the Legislature to pass a law of this kind. They possess that power, unless we prohibit it. We have prohibited it in special

cases, leaving it open for a general law. Now, it is true that the Legislature might confer this power to change the venue in the King of England or of France, and that is just about as likely as they will vest it anywhere else than in the courts of the State. I am opposed to putting in our Constitution any useless provision, or making it any longer than it need be. I fear that one of the evils which we will commit in this Convention will be the putting of useless and unnecessary provisions in the Constitution.

Mr. MANN. I would like to ask the gentleman a question. Does not this section vest the power in the courts, instead of the Legislature?

Mr. J. W. F. WHITE. No, sir; it says the Legislature shall vest it in the courts.

Mr. MANN. I beg the gentleman's pardon; he has not read the section. "It shall be vested in the courts."

Mr. J. W. F. WHITE. I should object to that, because the Legislature will not, in all human probability, place it anywhere else than in the courts. They will have to pass a law upon the subject, even if you, by a provision of your Constitution, say that it shall be vested in the courts; it will require an act of the Assembly to place it there.

Mr. MANN. I would like to ask the gentleman another question.

Mr. J. W. F. WHITE. Certainly.

Mr. MANN. Does not this section vest the power absolutely in the court, and whether, under that, they might not exercise it without any act of the Legislature?

Mr. J. W. F. WHITE. The section reads: "The power to change the venue in civil and criminal cases shall be vested in the courts, in such manner as shall be regulated by law." Now, until an act of the Legislature be passed, the court cannot exercise that power, even under this constitutional provision. We must have an act of the Legislature to carry it into effect. I oppose this section, therefore, because I believe it to be useless, and I shall oppose every unnecessary provision in the Constitution, making it long, cumbersome and objectionable.

The CHAIRMAN. The question is upon the section.

The section was agreed to; there being, on a division, forty-nine in the affirmative, and fifteen in the negative.

The CHAIRMAN. The next section will be read.

The CLERK read :

SECTION 28. No money shall be paid out of the treasury but in consequence of appropriations made by law, and on warrant drawn by the proper officer in pursuance thereof.

Mr. DARLINGTON. I will ask the intelligent chairman of that committee whether the word "pursuance" is not the proper word, instead of "consequence?"

Mr. HARRY WHITE. In answer to the intelligent gentleman from Chester, (Mr. Darlington,) who was a member of the Convention of 1837, I will remind him that that is the exact expression of that famous Constitution.

Mr. KAINE. I will also ask the gentleman from Indiana, (Mr. Harry White,) what is the necessity of adding to the section the words "and on warrant drawn by the proper officer, in pursuance thereof?" That is not in the old Constitution.

Mr. HARRY WHITE. That is true, and I would say in answer to the intelligent gentleman from Fayette, (Mr. Kaine,) that that was put in as an additional caution. Very frequently money is paid out of the treasury without being paid on a warrant signed by the proper accounting officer of the Commonwealth, and this provision is to make such a course hereafter impossible, if it can be done.

The twenty-eighth section was agreed to.

The CHAIRMAN. The next section will be read.

The CLERK read :

SECTION 29. No obligation or liability of any railroad, or other corporation, held or owned by the Commonwealth, shall ever be transferred, remitted, postponed, or in any way diminished by the Legislature; nor shall such liability or obligation be released, except by payment thereof into the State Treasury.

Mr. HEMPHILL. Mr. Chairman: I move to amend that section, by inserting between the words "be" and "transferred," in the second line, the word "exchanged."

The amendment was agreed to.

Mr. CUYLER. I do not want to say anything against the passage of the section, but I wish gentlemen to understand that whatever stocks and bonds are in the sinking fund of the Commonwealth will be utterly incapable of being disposed of, but must remain there until they are redeemed. In other words, if the Commonwealth, exercising the wise sagacity that a private owner of such stocks and bonds should exercise, should feel it would be promoted by disposing of them,

because there might be peril of the failure of the corporation in which they were vested, or other causes might arise where the Commonwealth would be powerless to do so, but will have to stand by and see these assets perish, by reason of the constitutional provision which we now propose to adopt.

Mr. HARRY WHITE. Just one word of explanation. What the gentleman has stated is quite clear. It occurs to some gentlemen, who have had to vote from time to time upon different propositions made before the Legislature, which are commonly known as bills, that the present Constitution prohibits the Legislature from changing or affecting those securities.

Mr. CUYLER. In *Gratz vs. Philadelphia and Erie railroad*, the Supreme Court decided differently.

Mr. HARRY WHITE. In that case Judge Strong delivered an opinion, that where the security was perishing, and to save the security from loss, the Legislature might exercise its discretion and thus save it. What constitutes the sinking fund to-day? Some nine millions of dollars, 3,400,000 of which are a loan upon the Allegheny Valley railroad, endorsed by the Pennsylvania Central, the Northern Central and the Philadelphia and Erie, which certainly are good endorsers. The other \$6,000,000 are on the Columbia branch of the Pennsylvania Central railroad, which yields an annual revenue to the State of \$460,000. This is all that Pennsylvania has to-day in the sinking fund, and we have no reason to be afraid that it can be affected hereafter. I, for one, as a citizen of the Commonwealth, am perfectly willing to take the risk, and I would be unwilling to let the legislative discretion hereafter be exercised in changing or affecting those securities, and if this section passes and goes into the Constitution, we will never hear any more of the \$9,000,000 steal.

Section twenty-nine was then agreed to.

The CHAIRMAN. The next section will be read.

The CLERK read :

SECTION 30. No bill shall be passed giving any extra compensation to any public officer, servant, employee, agent or contractor, after services shall have been rendered or contract made, nor providing for the payment of any claim or part thereof, now existing or hereafter created, against the Commonwealth without previous au-

thority of law; and all such unauthorized contracts and agreements shall be void.

The thirtieth section was agreed to.

The CLERK read:

SECTION 31. Every bill which shall have passed both Houses shall be presented to the Governor; if he approves 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 re-consider it. If, after such re-consideration, 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 re-considered, and if approved by two-thirds of that House, it shall be 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 and 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 him, the same shall be a law in like manner as if he had signed it, unless the Legislature, by their adjournment, prevent its return, in which case it shall be a law, unless he shall file the same, with his objections, in the office of the Secretary of the Commonwealth, and give public notice thereof, by proclamation, within thirty days after such adjournment.

Mr. CORBETT. As this section is covered by two sections adopted in the report of the Committee on the Executive, I presume the better way to dispose of it will be to vote it down.

The thirtieth section was rejected.

The CHAIRMAN. The next section will be read.

Mr. HAY. Before the next section is read I desire to offer an additional section.

The CLERK read:

When the General Assembly shall be convened in special session, there shall be no legislation upon subjects other than those particularly mentioned in the proclamation of the Governor, as reasons for holding such session.

Mr. HAY. I simply desire to say that is substantially the same section that I offered as an amendment to the report of the Committee on Legislature, which was not accepted because it was thought that it should come up as an amendment to the report of the Committee on Legislation. It is substantially the same amendment,

which then seemed to meet the views of the committee.

Mr. HARRY WHITE. Mr. Chairman: I trust the committee will not hastily adopt a provision of this kind. We have not experienced any evil from this in the past. This is an innovation, and some objection has been made to legislation. It occurs to me that it would be wise and proper to let the future take care of itself in this regard. I pause to hear the gentleman who offered it, or some other gentleman, to state some flagrant instances calling for a change of this kind.

Mr. HAY. I do not think it is necessary to state such an instance in order to show the necessity for the adoption of some such amendment as this. If we are to have biennial sessions of the Legislature, we ought to provide that there shall be no other sessions than biennial sessions, unless some great public necessity exists for holding such sessions. There ought to be no legislation upon subjects which are not of sufficient public importance to justify the Governor in convening the General Assembly in public session.

The amendment of Mr. Hay was agreed to, there being, on a division, forty-one in the affirmative, and twenty-six in the negative.

The CHAIRMAN. The next section will be read.

The CLERK read:

SECTION 32. No corporate body for banking or discounting privileges shall be created or organized in pursuance of any law, without three months previous public notice, at the place of the intended location, of the intention to apply for such privileges, in such manner as shall be prescribed by law. Nor shall a charter for such privileges be granted for a longer period than twenty years, and every such charter shall contain a clause reserving to the Legislature the power to alter, revoke or annul the same whenever, in their opinion, it may be injurious to the citizens of the Commonwealth, in such manner, however, that no injustice shall be done to the corporators.

Mr. DARLINGTON. Mr. Chairman: I move to insert, as an amendment, in the fourth line, after the word "intention," the words, "with the names of the applicants."

Mr. LILLY. Mr. Chairman: I hope that amendment will be adopted. We have several instances in our county where bills have been passed which nobody was willing to father, and after they have

been passed by the Legislature have been hawked about the streets by irresponsible parties.

The amendment was agreed to.

The CHAIRMAN. The question is upon the section as amended.

Mr. J. PRICE WETHERILL. Mr. Chairman: I desire to offer an amendment.

The CLERK read:

After the word "privileges," insert the words, "and every stockholder shall be individually liable to its creditors."

Mr. J. PRICE WETHERILL. Mr. Chairman: It seems to me that there should be a certain liability of stockholders, and for this reason I offer the amendment.

Mr. HARRY WHITE. I hope that we, making a Constitution for the State of Pennsylvania, will not adopt a clause of this kind. You will remember that this is the clause of the Constitution adopted in 1837, when the prejudice against the banking system was on tip-toe in Pennsylvania. This is only changed so as to make it possible to organize banks under general laws. Now we have a number of banks in Pennsylvania, and will doubtless have a banking policy. We certainly, as citizens of Pennsylvania, do not wish to discriminate in favor of national banks and against our own. This is a more stringent provision than the provision with regard to national banks. I would allow every case to take care of itself. No doubt a general law will be adopted, and provisions made with reference to individual liabilities, but if this amendment is made the liability of the individual is unlimited, whereas the national currency act of 1863 only requires a liability to the extent of the individual stockholder. I trust that, as Pennsylvanians, we will not discriminate against our own institutions in that regard.

Mr. J. W. F. WHITE. Mr. Chairman: I see the chairman of the Committee on Private Corporations (Mr. Woodward) is present, and I suppose he will call the attention of the committee to the fact that that committee has the subject of this section under consideration. I think they properly belong to the Committee on Private Corporations, and had better be passed over until we get a report from that committee.

Mr. HARRY WHITE. I would remind the gentleman from Allegheny (Mr. J. W. F. White) that they are put in here because they are under this title in the old Constitution.

Mr. J. W. F. WHITE. Mr. Chairman: I am aware of that, but at the same time they certainly would be far more appropriate in the article on the subject of corporation. There they legitimately belong, much more so than in this article on legislation, and it will be saving time if the committee will vote down these two sections, and let them come up when the Committee on Corporations makes its report. If we undertake to discuss them here, we will have to go over the same subject again when the Committee on Corporations makes its report, because there would be some other provision then brought forward, not now embraced in these two sections. I thought we would hear from the chairman of the committee (Mr. Woodward.)

Mr. J. PRICE WETHERILL. Mr. Chairman: I do hope that, as this is an important matter, we will not act upon it hastily, and we might, as suggested by the gentleman from Allegheny, (Mr. J. W. F. White,) vote down this section, and take up the subject in the report of the Committee on Corporations. In reference to the remarks of the gentleman from Indiana, (Mr. Harry White,) I will say that all stockholders of national banks are liable to the amount of their stock, and the stockholders of State banks, under some charters, are not. The charters granted by the Legislature for State banks, in my opinion, do grant improper privileges. They allow no individual responsibility of stockholders. They allow discounts at any rate of interest, and other privileges, which I think are pernicious, and I do hope, before we act upon this matter, that there will be some delay, and that the matter will be fully considered.

Mr. HARRY WHITE. The gentleman has made the statement that stockholders of national banks are liable. The gentleman is aware that they are only liable to the amount of their stock. They lose their subscriptions.

Mr. J. PRICE WETHERILL. They are liable, as prescribed by law, just exactly as the liability that I desire to put on the State bank.

Mr. HARRY WHITE. Mr. Chairman: I beg pardon. The gentleman's provision makes them liable to all their creditors to any amount.

Mr. J. PRICE WETHERILL. Not at all.

Mr. HARRY WHITE. I beg the gentleman's pardon. That is the reading of it.

Mr. J. PRICE WETHERILL. Mr. Chairman: I call for the reading of it.

The CLERK read:

"No corporate body, for banking and discounting privileges, shall be created or organized in pursuance of any law, without three months previous public notice at the place of the intended election, of the intention to apply for such privileges, and every stockholder shall be individually liable to its stockholders, in such manner as shall be prescribed by law."

Mr. HARRY WHITE. Mr. Chairman: Then it is unnecessary.

Mr. WOODWARD. Mr. Chairman: This subject is before the Committee on Private Corporations, and they will report a provision, applicable not only to banks, but to all corporations, on this subject, and the evil of considering it now and taking a vote upon it at this time is, that gentlemen commit themselves to a particular view of the subject, when they have got but one part of the subject before them. If they would reserve their judgments until they get the whole subject before them, I would think that a better decision would be likely to be arrived at.

Mr. CORBETT. Mr. Chairman: The trouble is, now, that if you vote down this section it is gone. How are we to have it before us again in committee of the whole after you go through this report and adopt what is not rejected? It will be reported to the Convention, and then the section will be gone. Now, there is a way to meet this, without placing ourselves in any difficulty, to amend this section, adopt it and report it, and if there is a section reported by the committee of which the gentleman from Philadelphia (Mr. Woodward) is chairman, which is better than this, on second reading it can be adopted; the other can then be stricken out, and that will relieve us of all difficulty. In that event the striking out of the section depends altogether upon what provision the other committee will report.

Mr. SIMPSON. Mr. Chairman: I suppose that the gentleman from Clarion (Mr. Corbett) is aware of the fact that it is perfectly competent to amend this or any other section, when the article is before the Convention, on second reading, or to introduce any new section without going into committee to do so; when the article reaches its third reading, then it can only be amended by sending it to the committee of the whole for that purpose, so that if these two sections be voted down now, and any member desires so to do, they can be offered again when we reach it on second reading in Convention. In cor-

roboration of what has been said by the chairman of the committee, (Mr. Woodward,) I have here a printed report of what has been already passed, and is ready to be reported, and which will probably be reported within a very few days from to-day. The sections in the article on private corporations cover all that the thirty-second and thirty-third sections do, in more brief and comprehensive terms, and I think it will be far more satisfactory to the Convention than either of these two sections can be, and it will cover all the ground covered by both of them. I trust, therefore, that the committee will vote down these two sections and let the matter come up in the report of the other committee.

Mr. GOWEN. Mr. Chairman: I think the difficulty spoken of by the gentleman from Clarion (Mr. Corbett) would be gotten over by one plan, and that is to move, as I now do, that the thirty-second section be referred to the Committee on Private Corporations.

The CHAIRMAN. That cannot be done.

Mr. GOWEN. Then I move to postpone it for the present.

The CHAIRMAN. That cannot be done either.

Mr. JOHN PRICE WETHERILL. Mr. Chairman: Under the supposition that the Convention will vote down the section, I withdraw the amendment.

The CHAIRMAN. Then the question recurs on the section as amended.

It was agreed to.

Mr. HARRY WHITE. Mr. Chairman: I move that the committee do now arise.

It was not agreed to.

The CHAIRMAN. The thirty-third section will now be read.

The CLERK read:

SECTION 33. The Legislature shall have the power to alter, revoke or annul any charter of incorporation now existing and revocable at the adoption of this Constitution, or any hereafter to be conferred by or under any law, whenever in their opinion it may be injurious to the citizens of this Commonwealth, in such manner, however, that no injustice shall be done to the corporators. No law hereafter enacted shall create, renew or extend the charter of more than one corporation.

It was agreed to.

Mr. BIDDLE. Mr. Chairman: I move that the committee do now rise.

Not agreed to.

The CHAIRMAN. The thirty-fourth section will be read.

The CLERK read:

"Every order, resolution or vote to which the concurrence of both Houses may be necessary, except on the question of adjournment, shall be presented to the Governor, and, before it shall take effect, be approved by him; or, being disapproved, shall be passed by two-thirds of both Houses, according to the rules and limitations prescribed in the case of a bill."

It was agreed to.

Mr. J. R. READ. Mr. Chairman: I move that the committee do now rise.

Not agreed to.

Mr. DUNNING. Mr. Chairman. I move to postpone this section for the present.

The CHAIRMAN. That cannot be done.

Mr. GOWEN. Mr. Chairman: I trust we will all read this very carefully, and understand what it means before we pass it, for it seems to me that as this section reads, it would give to any court in Pennsylvania the right to annul an act of Assembly, notwithstanding the fact that the court of a neighboring county had declared it to be binding; and you might have fifty decisions in Pennsylvania upon one act of Assembly, twenty-five of which would be in favor of its validity and twenty-five against it. Can you give to a court the power to annul an act of incorporation not only when it is *not* the subject of judicial investigation, but on a suit of the private party, on a collateral question, without its being put on the pleadings at all? You give to the court the power to declare that an act of Assembly is void. I speak now as a lawyer, and I speak in favor of the solemnity of judicial proceedings, which Pennsylvania, with one or two

other States in this Union, has always adhered to.

Mr. DUNNING. Will the gentleman from Philadelphia (Mr. Gowen) give way to a motion that the committee now rise?

Mr. BIDDLE. Mr. Chairman: This is a very important question, and the section seems a very dangerous one.

Mr. GOWEN. Mr. Chairman: I give way.

Mr. DUNNING. Mr. Chairman: I move that the committee do now rise, report progress and ask leave to sit again.

Agreed to.

IN CONVENTION.

Mr. ARMSTRONG. Mr. President: The committee of the whole have had under consideration the report of the Committee on Legislation, and have directed me to report progress and ask leave to sit again.

Leave was granted.

THE INDUSTRIAL ASSOCIATION FOR THE BLIND.

The PRESIDENT presented a communication from the Industrial association for the blind, inviting the members of the Convention to a musical entertainment to be given at the institute of the association, 3921 Locust street, this evening.

Mr. JOHN PRICE WETHERILL. Mr. Chairman: I move that the invitation be accepted, with the thanks of the Convention.

It was agreed to.

Mr. STANTON. I move that we adjourn.

It was agreed to.

The Convention then, at two o'clock and fifty-four minutes, adjourned.

SEVENTIETH DAY.

WEDNESDAY, *March 19, 1873.*

The Convention met at ten o'clock A. M., the President, Hon. Wm. M. Meredith, in the chair.

Prayer was offered by the Rev. James W. Curry.

The Journal of yesterday was read and approved.

WOMAN SUFFRAGE.

Mr. BROOMALL presented a petition from the citizens of Delaware county, praying that a provision be inserted in the Constitution extending the right of suffrage to females, which was referred to the Committee on Suffrage and Election.

LEAVES OF ABSENCE.

Mr. CORBETT asked and obtained leave of absence for Mr. Andrews for a few days.

Mr. CHURCH asked and obtained leave of absence for Mr. Finney for a few days.

Mr. McCLEAN asked and obtained leave of absence for a few days.

THE COMMITTEE ON IMPEACHMENT.

Mr. BIDDLE presented the following report of the Committee on Impeachment and Removal from Office, which was read and ordered to be printed.

ARTICLE XII.

OF IMPEACHMENT AND REMOVAL FROM OFFICE.

SECTION 1. The House of Representatives shall have the sole power of impeaching.

SECTION 2. All impeachments shall be tried by the Senate; when sitting for that purpose the Senators shall be upon oath or affirmation; no person shall be convicted without the concurrence of two-thirds of the members present.

SECTION 3. The Governor and all other civil officers under this Commonwealth shall be liable to impeachment for any misdemeanor in office; but judgment in such cases shall not extend further than to removal from office, and disqualification to hold any office of honor, trust or profit under this Commonwealth; the party, whether convicted or acquitted, shall nevertheless be liable to indictment, trial,

judgment and punishment, according to law.

SECTION 4. All officers shall hold their offices only on the condition that they behave themselves well while in office, and shall be removed on conviction of misbehavior in office or of any infamous crime; appointed officers may be removed at the pleasure of the power by which they are appointed; elected officers, other than Governor, Lieutenant Governor, members of the General Assembly and judges of courts of record, shall be removed by the Governor for reasonable cause, on the address of two-thirds of the Senate.

THE ARTICLE ON LEGISLATION.

Mr. MANN. Mr. Chairman: I move that the Convention resolve itself into committee of the whole on the article reported by the Committee on Legislation.

The motion was agreed to.

IN COMMITTEE OF THE WHOLE.

The Convention then resolved itself into committee of the whole, Mr. Armstrong in the chair, and proceeded to the consideration of the article reported by the Committee on Legislation.

ACTS OF ASSEMBLY.

The CHAIRMAN. The question is upon the thirty-fifth section, which will be read.

The CLERK read as follows:

SECTION 35. Any bill passed in disregard of the provisions and directions prescribed in this article shall be void and of no effect; and when the validity of any law passed by the Legislature is questioned in any court of record, it shall be competent for such court to inspect the Journals of either House, and if it does not appear thereon that all the forms of legislation, in both Houses, as hereinbefore prescribed, have been observed in the passage of such law, the same shall be adjudged by such court to be void.

Mr. GOWEN. Mr. Chairman: At the adjournment, yesterday, I was about to call the attention of the Convention to the fact that this section introduced an innovation into the established judicial proceedings of this Commonwealth.

What have those proceedings been in the past? If it was alleged that an act of Assembly, creating a corporation or creating a franchise, was unconstitutional, it was the settled law of the land, and very wisely so settled, that nobody but the Commonwealth, upon the relation of the Attorney General, could inquire into the validity of those franchises; and I say very properly settled because any other system of judicial investigation than the one which confines the subject matter of investigation to one particular tribunal, to be commenced in one particular manner, would lead to the greatest possible evil.

Let me suppose that this section is adopted into the Constitution. It says that, "when the validity of any law passed by the Legislature is questioned in any court of record." Now, a corporation owes its existence to the act of Assembly which created it. That corporation brings suit against the individual, and the individual questions the validity of the act of Assembly incorporating the company. By this section any court is authorized to send for the Journals of the House, and pass, so far as that case is concerned, upon the validity of that act of incorporation, and if the judgment of that court is against the act, the corporation has no existence before that tribunal, although twenty other courts in Pennsylvania may decide directly the reverse, and you may have the anomaly presented of a corporation claiming its franchises under one act of Assembly, which, in one judicial tribunal of this Commonwealth, is void; and in another, perfectly good. It will not do, therefore, to permit such an act of Assembly to be questioned, except where it is the direct subject of judicial proceedings, and except where there are proper parties upon the record, so that the decision of the court, made one way or the other, is final for all purposes over the State, and that no two conflicting decisions upon the same subject matter may be had in different courts.

I remember a very funny story in reference to a justice of the peace out in the mountains somewhere, during the reign of General Jackson, who felt a great deal of animosity against the Bank of the United States. One day an action for debt was brought before him to recover five dollars, which had been loaned to some one; and, upon the trial of the case, it appeared that these five dollars had been in the shape of a bill of the Bank of the United States. The justice, out of de-

ference to General Jackson, immediately entered a judicial decision that the charter of that bank was void, and, from that day until his death, I believe that nobody could ever convince him that the Bank of the United States had any existence, because, he said, he knew it had not, for he had decided the matter himself.

Now, just such a system will result from adopting this section. You will have three or four or five or six different decisions upon the same subjects by petty tribunals, where the act is not the direct subject of controversy, where the decision is upon a matter not thought of probably at the time the suit was brought, but a collateral issue, which never ought to be considered.

Again, suppose there is a contested election case of a local officer in one of our courts, one party claiming, and the other party holding, the office. One says that the act of Assembly which requires a particular form probably to protect the ballot-box, was not passed according to the constitutional forms, and, in a decision simply to test the right, the court, in order to give this office to the one person or the other, may send for the Journals of the House, and overturn the whole act of Assembly.

Again, let me call the attention of the committee to this great peculiarity. "When the validity of any law passed by the Legislature is questioned in any court of record, it shall be competent for such court to inspect the Journals of either House, and if it does not appear thereon that all the forms of law, &c., the act is to be declared void." In other words, the Journals of the Houses are to be not only *prima facie* but conclusive evidence of the validity of the act of Assembly, and a dishonest or corrupt clerk, by falsifying the Journals or failing to record thereon the proceedings of the tribunal, has it in his power to overturn the whole legislation of the Commonwealth, no matter if you bring every member to prove that the bill was properly introduced, read the proper number of times, and every form complied with, yet if the clerk fail to record the fact upon the Journal, the Journal is conclusive evidence of the invalidity of the act. Surely this cannot be proper. Surely it ought not to be in the power of the clerk, by failing to do his duty either as an act of omission, or intentionally, to defeat the will of the Legislature.

Why should courts have this power upon a collateral question? What is the

necessity at all for adopting such a section as this in the Constitution? Surely the courts have the power now to declare an act of Assembly unconstitutional, but it must be done according to known judicial proceedings. Suppose you leave this out, Mr. Chairman? You remember, and the gentlemen who are lawyers will remember, that a few years ago the Constitution of Pennsylvania was amended so as to require that no bill should contain more than one subject matter, which should be clearly expressed in its title, and from that time to the present courts have the power and have exercised it, of inquiring into the constitutionality of any bill which it was asserted had been passed in violation of this provision; and if you leave the whole section out, the courts will still have the power, in a proper manner, to inquire into the validity of every act of Assembly, but it must be done according to the known usages of judicial proceedings, and in many cases, especially when a franchise is created, it must be the direct subject of the investigation. It dare not be brought into question on a collateral issue; it must be a writ of *quo warranto*, issued upon the relation of the Attorney General. Now if it is necessary to provide, in addition to the well-known powers of the courts as they at present exist, any constitutional method whereby the validity of an act of Assembly can be tested, let us provide that it shall be done only when the act itself is the direct subject of investigation, and only upon the relation of the law officer of the Commonwealth. That would be all that it would be necessary to make any change in reference to the subject, but if this provision is adopted any court, in a collateral proceeding, can over-ride the will of the Legislature, and break through a solemn enactment, simply because the clerk who kept the Journal of the House had failed properly to record the proceedings of the body of which he was an officer.

Mr. HOWARD. Mr. Chairman: I offer the following amendment:

The CLERK read:

Strike out the section, and insert: "The Governor shall not give his approval to any bill until he shall have ascertained that all the forms of legislation, as prescribed in this article, have been observed in the passage of the same, and in his approval he shall so certify, and his certificate shall be conclusive that all the forms prescribed have been observed."

Mr. HOWARD. Mr. Chairman: I am satisfied that this section, as it stands, will be found to work very mischievously in practice, yet I am satisfied that there should be some one, whose duty it should be to ascertain, carefully, before any bill shall receive the signature of the Governor, whether all the forms prescribed have been complied with. Undoubtedly it will be the duty of the Governor, under the general provisions we have already provided, to ascertain that the forms of law had been complied with; yet if it were required that he should attach his certificate as a part of the approval, that all these forms have been complied with, he would make it his special business to examine the Journals, or cause them to be examined, so that he would be able to certify that all the forms of law had been complied with. Then, after that examination, that certificate should be conclusive.

It seems to me to be very unwise that, at any time, perhaps ten, fifteen or twenty years after the passage of a law, the question might be raised, in any action in a court of justice, that some form had been lacking upon the part of the Legislature. Great injustice would arise in this way, and I hope that this section, as it now stands, will not be adopted by this committee.

The suggestion of the gentleman from Philadelphia (Mr. Gowen) that the question, if raised at all, should be on the part of the Commonwealth to test specifically the validity of the act itself, and not leave it to be raised upon some collateral question, and by any person, and at any time, years after the passage of the act perhaps, when hundreds of thousands of dollars, perhaps millions of dollars, are interested under it; I think it would not be so dangerous, or liable to work such great injustice, but I am opposed to either plan, without a saving clause to protect vested rights under the act.

Mr. WORRELL. Mr. Chairman: This question has been the subject of judicial decision, but the decisions have not all been in the same line in the various courts of the United State. I think the Supreme Court of Illinois has determined that it is competent for the judicial department of the government to inquire and decide whether the proper forms of legislation have been adopted in passing an act of Assembly. The Supreme Court of the State of Pennsylvania has taken the other ground, that the certificate of the legisla-

tive department of this Commonwealth is conclusive, as to all the forms which the Constitution requires for the passage of a law, and this has also been the determination of the Supreme Court of the United States. Having regard, therefore, to the decisions in this Commonwealth, and the decision of the Supreme Court of the United States, it is not competent for the judicial department of this Commonwealth, in the most glaring case of fraud, to inquire and determine whether a bill had been properly and constitutionally passed, if the party sustaining the bill presents a formal certificate from the legislative department.

Now, I agree entirely with the gentleman from Philadelphia (Mr. Gowen) that, if the proper passage of a law is to be the subject of judicial inquiry, it should be when the law itself is the specific subject of investigation, and if gentlemen will refer to the pamphlets of propositions offered in the Convention, page sixty-four, they will find that I offered, early in the session, a proposition which will entirely cover this objection. I think that the judicial department of this Commonwealth should have the opportunity to inquire and decide whether the forms of the Constitution have been adhered to in the passage of a law, and I desire to offer now, as an amendment, what I proposed in the early portion of the session, to strike out all after the word "article," in the second line, and insert as follows: "Shall be avoidable, and the Attorney General of the Commonwealth shall have authority to proceed by *scire facias* in any of the courts of the Commonwealth, to try and determine the validity of any act of Assembly."

MR. H. W. PALMER. Mr. Chairman: I suppose there will be very little difficulty in regard to the propriety of adopting this particular section reported by the Committee on Legislation. The manifold evils that will attend the adoption of this section are apparent, and now it seems to me the only question is whether it will be wise to allow the courts, under any circumstances, to investigate the facts of an illegal bill procured by corruption in the Legislature. I understand it has never been possible heretofore in this Commonwealth for any court to investigate questions of fact as to whether an act has been passed through the Legislature by means of the proper and ordinary forms which are required to be observed. Now, the main question is whether it will be pru-

dent to open that door and give the courts that power. If it is to be done, most unquestionably the law, as provided, is to be carefully considered, and with a view of meeting the difficulties of the case, and at the suggestion of the gentleman from Philadelphia (Mr. Woodward) and other members of the Convention, I have drawn a section which I intend offering as a substitute for the section now under consideration. The substance of it is that the trial of any case in a court of justice of the validity of an act of Assembly, when called in question, shall be based upon the proper affidavit of the party making the application, and if the court shall be satisfied that there is *prima facie* evidence in the case, they shall direct a feigned issue to be framed, under the direction of the Attorney General, to try the allegation contained in the affidavit; that the trial shall be had by a judge of the Supreme Court in such county as he may direct, and if it shall appear on the trial that the forms provided in the Constitution shall not have been observed, or that improper or undue means to effect the passage of the act have been used, it shall be declared null and void. Now, the advantages which will attend the adoption of some such plan as this will be obvious.

In the first place, all trials of the validity of acts of Assembly will be had before one tribunal, and it will not, therefore, be possible to have fifty or sixty interpretations of the same act. There will be uniformity; and in the second place, the trials will be had at the suit of the Commonwealth in relation to the party interested, and can only be instituted upon sufficient grounds.

Now, it seems to me that it will be quite prudent and quite wise to provide some method by which acts of assembly procured through improper or undue means may be set aside. It seems to me to be quite useless to prescribe a variety of forms in the Constitution as to the manner in which acts of Assembly shall be passed and certified, unless some method is provided for the enforcement of these forms. They will be as efficacious as the Pope bull against the comet, unless some method is devised for this purpose. If a bill approved and signed is conclusive evidence of its passage through the Legislature, it is, of course, a matter of very little question whether the Legislature ever complied with any particular form or not. During the debate upon the main question, I should like to hear the argu-

ments as to whether it would be wise or prudent to open this door and give the power to the courts to declare acts of Assembly that are passed by means of corruption, or any undue influence, unconstitutional and void, and if so, what is the best method of providing a remedy there for this evil? With a view of reaching this question I offer the amendment to which I have referred as a substitute for the section.

The CHAIRMAN. The substitute will be read.

The CLERK read as follows :

SECTION —. Whenever, in any judicial proceeding, either party shall claim, under or by virtue of any act of Assembly, and the other party, upon proper affidavit, shall allege that such act of Assembly was passed in disregard of the provisions and directions prescribed in this article, or by fraud, bribery or undue means, and the court before which such judicial proceedings is pending shall be satisfied *prima facie* that such allegations are well founded, it shall be the duty of the said court to order a feigned issue to be framed, under the direction of the Attorney General, upon proper pleadings, in which the Commonwealth, upon relation of the party in interest, shall be plaintiff, and the party claiming, under such act of Assembly, defendant to try the truth of the allegations in said affidavits contained and the validity of such act of Assembly; and said issue shall be certified to the Supreme Court and tried by one of the judges thereof, in whatever county he may direct; and if it shall appear to the court and jury, upon such trial, that all the provisions of legislation in both Houses, as hereinbefore prescribed, have not been substantially observed in the passage of said act, or that the same has been procured by bribery, fraud or undue means, such act of Assembly shall be adjudged null and void, either party to have the right to a writ of error, as in other cases.

Mr. BROOMALL. Mr. Chairman: I acknowledge it is desirable that some means should be provided to compel the enactment of laws in accordance with the provisions of the Constitution; but I think if all the amendments which have been proposed are considered, the Convention will agree that it is better to have no provision at all upon this subject than to adopt the one provided by the committee or any of the proposed modifications of it. If an act of Assembly that is all right upon its face, that carries with it no suspicion of a want

of constitutionality, is to be questioned in any court of common pleas in the Commonwealth, and declared void after it has been acquiesced in and operated under for ten or fifteen years, and after titles to land, for example, have vested under it and passed by sale or descent possibly many times, it would look more like repealing laws, *ab initio*, than deciding upon their validity, and it would place the laws of the Commonwealth upon a very unsafe foundation. No man would know how the courts would pronounce upon the various acts of Assembly when called in question. No lawyer could form an opinion upon what is or what is not law in any given case.

I think it is better that the system under which we have been living so long should be continued, and that a judge should not have the right to go behind an act of Assembly and inquire into the means by which it has been obtained. In the case of acts of Assembly granting powers to private corporations, it would not do so much harm if the means by which these laws were obtained were permitted to be inquired into, and the laws pronounced null and void if fraudulently procured. But this section applies to public acts, acts affecting the whole Commonwealth, and under which the vested rights of a citizen may be overturned by a decision in any part of the State, without any notice to him whatever.

The proposition seems to me to be monstrous, that where I hold my title to land under an act of Assembly, the very act upon which my title depends may be called in question by a court in Erie.

Now, the amendment offered by the gentleman from Luzerne (Mr. H. W. Palmer) is not open to quite all the objection that the original section is because that amendment proposes to allow these acts of Assembly to be questioned only in a single tribunal, and at a single place, and it allows a possible opportunity for the citizen who has perhaps held his title good under such an act for twenty years to obtain some notice of the pendency of such action in the court, and to prepare to defend his rights. In regard to the other objection to the section, that after an act has been considered valid, and has been acquiesced in, it should not be questioned in this way, it seems to me that the proposition of the gentleman from Luzerne is quite as bad as that of the committee. He is altogether mistaken in the functions of a court in considering

an act of Assembly. He seems to think that the courts are to declare a law void. That is a mistake.

The business of the court is to decide a question between the parties when it arises; and although the constitutionality of an act may come up and may rule the case, yet the action of the court only binds the parties. The same court, in a case between other parties, when the validity of the law is questioned, may decide the other way, holding the law good. To allow the court the power to declare a law absolutely null and void, no matter whom it may affect, is to constitute a third branch of the Legislature, with a veto power over both Houses, and the Governor also. I know very well that some of these objections would apply to an act declared unconstitutional on account of its provisions, and that, too, where it is so clearly unconstitutional that there is no danger of the court reversing its decision; but in the case of a law, unconstitutional upon another ground than the want of some formality in its passage, there is something upon the face of the law itself to excite attention. In the class of cases contemplated by the committee, there is nothing to call attention to the law; nothing on its face to excite suspicion. I submit that we should take some other means of compelling the Legislature to observe the necessary forms in the passage of bills by prescribing, for instance, a punishment upon the officers and members of the Legislature, if they should fail to obey the requirements of the Constitution in this particular. I think, Mr. Chairman, we had much better take an act of Assembly as we find it promulgated, and then the community will always know what a law is.

The CHAIRMAN. The Chair has been examining the proposed amendment to the amendment, suggested by the gentleman from Luzerne, (Mr. H. W. Palmer,) and upon careful examination the Chair is disposed to hold that it is not at this time in order. It is not an amendment to the amendment.

Mr. PALMER. I withdraw it, then, for the present.

The CHAIRMAN. The question is upon the amendment proposed by the gentleman from Allegheny (Mr. Howard.)

Mr. COCHRAN. Mr. Chairman: I move the following as an amendment to the amendment, and a substitute for the section.

The CHAIRMAN. Did the Chair correctly understand the gentleman that it is a

proposed substitute for the entire section and amendment?

Mr. COCHRAN. Yes, sir.

The CHAIRMAN. It is not at this time in order. No amendment is in order except an amendment to the pending amendment. The gentleman from Allegheny (Mr. Howard) has a right to have the amendment passed upon by the Convention. It will be in order after the present amendment is disposed of.

Mr. J. W. F. WHITE. Mr. Chairman: I hold in my hand an amendment that I propose to offer when it shall be in place, but as I understand the ruling of the Chair now, this amendment is not in order at this time. I will read it, however, in order that the members of the committee may know what it is that I propose. I propose to strike out of the section as reported by the committee all after the word "void," in the second line, and insert these words: "And the journals of the two Houses shall be conclusive evidence of the facts in the case." I think, Mr. Chairman, that the principle aimed at by the section before us is an important one. If we intend that the limitations and restrictions we have imposed upon the Legislature, and their mode of passing bills, shall be of any validity or any force, we must have some means of ascertaining whether they have complied with the directions or not.

The mere fact that we declare in the Constitution that certain forms and certain modes of proceeding shall be observed in the passage of laws is of no use, unless we enforce these modes, or unless the act passed in defiance of them shall be declared void. The only way that I apprehend that the question can be raised at all, will be by having some constitutional provision on the subject. I believe it has been decided, and correctly decided, and acquiesced in throughout the State, that when a law is passed, or at least when it is certified by the Secretary of State, and has been published in the pamphlet laws as one of the enactments of the Legislature, the courts do not go behind that to inquire whether the bill was properly passed or not.

I differ very widely with the gentleman from Philadelphia (Mr. Gowen) when he says that the Journals shall not be looked to, to see whether the law has been passed in accordance with the provisions of the Constitution, because a clerk might put something in that Journal not in accordance with the fact. It must be remembered that the clerk is a sworn officer, and,

besides, the second section of our Constitution requires that the two Houses shall keep a Journal of their proceedings, and publish that Journal *daily*. That Journal ought to contain all that is necessary to show whether an act has gone through the forms required, and whether the Legislature has complied with all the requirements of the Constitution. Every member of the Legislature can see, when the Journal is printed and laid upon his desk, whether it contains evidence that the bill has gone through the necessary form. In addition to that, every person who looks at the Journal to see how the act of Assembly has been passed, if he desires to know whether the question can be raised as to its constitutionality, can see from the Journal whether the Legislature has complied with these requirements.

The courts then would require no evidence outside of that Journal, as to the facts in the case. The Journal would be conclusive as to these facts. I would enable the courts, therefore, to look at these Journals, and at them only. We know that the Journals are printed officially, and copies of them are to be found in every part of the State. When a question of fact is raised in court, the question of the constitutionality of the law would be decided precisely in the same way that questions of constitutionality are now decided by the courts. I think it would be far more simple and effective than any of the suggestions made here.

Mr. LILLY. Mr. Chairman: After reading this section very carefully, and listening attentively to all that has been said upon it, I have come to the conclusion that it is entirely unnecessary, and, indeed, a very improper requirement to place in a Constitution. The only necessity at all for it is to prevent a bill becoming a law that has not passed through the regular forms. We commence, in the first place, by saying that the bill shall be signed, after the title is read in the presence of the two Houses, by each presiding officer. If the bill is not properly passed, every member sitting in his seat should be ready to object to it. When passed, it goes to the Governor, and he signs it. I take it to be the duty of the Executive of the Commonwealth, before putting his name to a bill, to be sure that that bill has passed through all the forms required by the law or the Constitution. If you make a section—if this committee, or the Committee on the Executive, should make a section, requiring the law officer

of the Commonwealth to see that each law has passed through these constitutional forms in the making of the law, that would, probably, cover the point, and would be all that would be necessary. To take this matter into every court of the Commonwealth would, it appears to me, be a monstrosity. It would unsettle and upset every kind of litigation going on in the courts. The law is now considered to be a great uncertainty; but the uncertainty would then be multiplied a hundred, and even a thousand fold, and it will make the operations of all the courts in the Commonwealth, "confusion worse confounded." I think that every amendment to this section should be voted down, and the section itself be then voted down without any hesitancy whatever. It must be apparent to every delegate here that the section is a very improper one, and that it never ought to be agreed to.

Mr. COCHRAN. Mr. Chairman: The question immediately pending before the Convention is on the amendment of the gentleman from Allegheny, (Mr. Howard,) which does not involve in itself those considerations with regard to judicial action upon acts of Assembly which have been so much discussed here this morning. There is an evil here that ought to be met and remedied. You have passed several sections requiring certain forms of legislation to be pursued and adopted in the passage of laws. How are you going to enforce these provisions? How are you going to see that these forms have been complied with? Why is it necessary that any provision of this kind should be made at all? The reason is because very often laws are passed which have not only not passed through the forms of legislation, but sections have been actually interpolated into the very body of these laws, which sections have never been acted upon in either House at all; and this by some "hocus-pocus" which I do not profess to understand. We ought, sir, to have some provision which is calculated to have these matters looked into, to have it understood whether or not those laws have actually passed through the necessary forms of legislation, and whether the *whole* law has been passed by the Legislature under the forms prescribed in the Constitution.

The original section I believe nobody favors, so far as I have been able to gather the expression of the Convention. The amendment of the gentleman from Allegheny (Mr. Howard) goes far to supply the

deficiency, but, at the same time, I think that it is not exactly in the best form. I proposed, if I had had an opportunity, to have offered an amendment to his amendment, or perhaps, should that amendment not be adopted, to offer an amendment to this section, which, I think, will act fairly and provide a constitutional protection in this particular. I propose, first, that when a bill is passed in the Legislature, and has been presented to the Governor for his signature, the Secretary of the Commonwealth shall inspect the Journals and see whether or not the forms prescribed by this article have been complied with.

Mr. McVEAGH. Mr. Chairman: I trust the gentleman from York (Mr. Cochran) will read his substitute, so that the committee may hear it. I think it will meet very nearly the views of the committee.

Mr. COCHRAN. Mr. Chairman: I will first state its objects and then read it. The Secretary of the Commonwealth is to inspect the Journals of both Houses of the Legislature, and if it does not appear from these Journals that all the forms of legislation in both these Houses, prescribed by the preceding sections of this article, have been observed in the passage of the law, then the same shall not receive the Executive sanction and approval, but it shall be returned to the Legislature accompanied by a statement, in writing, of the reasons which induced its return, and it shall not become a law unless it shall be enacted according to all the forms prescribed, and shall then have been approved by the Governor in the usual way.

Now, Mr. Chairman, it must be very evident to gentlemen here that if we were to adopt any more stringent provisions than that, a law might be defeated because of defects or omissions innocent in themselves. For instance, something might be innocently, not to say purposely, omitted from the Journals. The mere omission of a clerk would defeat the law entirely and absolutely. But here is an opportunity afforded, that if it should be found, on inspection, that the Journals do not show that the forms prescribed have been pursued, the law may be returned to the Legislature, in order that it may advisedly reconsider it, and pass it through all the prescribed forms, and then send it again to the Governor.

This section, Mr. Chairman, let me say, does not in the slightest degree interfere with the established rules with regard to

the action of courts, or the proceedings of the Legislature, which have heretofore been adopted. This section does not require the courts to act upon the constitutionality of these laws, and to look into the Journals of the Legislature. It is very evident that if the courts are to be required to inspect the Journals of the Legislature on every trial that comes before them, it will add a great annoyance and a great delay to the trial of cases. This placing upon them a duty which is not properly judicial does not belong to their department at all. This is a matter for the Legislature and the Executive, and when they have acted upon it, it seems to me that it is right and proper that that action should be conclusive, as it is now, so far as the proper passage of the act is concerned. Now, sir, I should propose, if the opportunity should be presented, to offer a substitute for the section in these words:

"It shall be the duty of the Secretary of the Commonwealth, whenever any bill requiring the signature of the Governor shall be presented to him, to inspect the Journals of both Houses of the General Assembly, and if it appears thereon that all the forms of legislation in both Houses, as hereinbefore prescribed, have been observed in the passage of such bill he shall so certify thereon to the Governor; but if it shall not so appear the Secretary shall so certify in like manner, and the bill shall not receive the Executive approval or signature, but shall be returned to the House in which it originated, accompanied by a statement of the reasons which induced its return, and shall not become a law unless it shall thereafter be passed through all the requisite forms of legislation, and be approved, as in other cases, by the Governor, whose approval shall be conclusive that said act has passed through all the required forms of legislation."

Mr. MINOR. Mr. Chairman: I think, sir, that it is very manifest that our duty to the people requires us to provide that laws shall not be ambulatory as to place or time—valid to-day and invalid to-morrow, right in one county and wrong in another. On looking over this article I find it will be very difficult, perhaps practically impossible, to carry out any provision like this particular section, or even the amendment suggested by the gentleman from Allegheny (Mr. J. W. F. White.) Now, if we rely on the Journals of the two Houses we will find, it occurs to me, more difficulty than we will if we rely on almost

anything else. In this connection I call the attention of the committee to some of the other provisions of this very article, in order to enable us to see where we will land. It will be observed that section thirty-five, now under consideration, requires the Legislature to conform every bill to all the provisions and directions contained in this article, and that a bill shall be valid only when all these forms have been complied with, and that the Journal must show the same. If the Journal does not show that these forms have been regarded the bill is void.

By turning to section eight of this article it will be observed that it requires, among other things, that all amendments to any bill shall be printed before the final vote shall be taken. Now, sir, we have amendments to offer of every size and form, coming in at every conceivable stage of legislation, in committee of the whole or on second reading and elsewhere, amendments of a single word, amendments to the amendments, and I imagine that according to this article each amendment must be printed, and it must be printed before the bill passes. Now, sir, if we are to take the Journals of the House as conclusive evidence as to what has been done in this respect, we are to require every judge of every court in the State, upon the request of any suitor, to look over the Journals and see whether all these matters of mere form have been regarded? It is possible that the validity of a law of this State, involving large amounts of property, should depend upon the recollections of a clerk as to what is not in the usual line of his duties, and his failure to state that an amendment of a single word was not printed, and that, too, before the bill passed. I take it that we, as Constitution makers, would be unworthy of our position, if we sent down to the people such a Constitution as that. I call attention, therefore, to that provision as one which it is utterly impossible to carry out.

Then, as to another provision of the same section, that "every bill be read at length on three different days." The clerk must state these things in the Journal. If he happens to forget it, it is all wrong, and could be brought up twenty years afterward to destroy the act. Without dwelling upon that, I pass to another section.

Section seven of this article recites that no bill shall be passed containing more than one subject, which shall be clearly ex-

pressed in its title, except appropriation bills. Are we going to send down to each section of the State a Constitution declaring a law unconstitutional, because this has not been complied with, or because the clerk does not so state? One man may think that it is complied with, while another man may think it is not. One judge may think there is but one subject, another that there are two, and the clerk is made a judge for all. If you make a directory clause essential, you endanger the rights of suitors.

Then, passing to another section of this article. Section five provides that "no bill shall be so altered or amended, in the course of its passage through either House, as to change its original purposes." Is the clerk to state that on the Journal as to each bill, and if he fails to do it, is the law to be held void? Or if he does so state, is it to be conclusive? He is made a judge to construe, and then a clerk to record.

It seems to me that if this section, or anything like it, is to be adopted, that there is a similar difficulty there.

Then passing still to another section, section three, we find that "each House shall keep a Journal of its proceedings, and publish them daily, except such parts as may require secrecy." Who is to decide what requires secrecy? Is the clerk to do it, and is the fact that the rest is not stated by him to have been published daily, to vitiate all the laws of the session? Is the clerk to know the fact that they were published daily, and if he fails to know that fact, is a law to become null and void, because the proceedings were not published daily? That is the way the article provides and the way it must stand, if we depend simply upon the Journal.

Then passing to section thirteen. Section thirteen requires that the presiding officer of each House shall sign all bills publicly, in the presence of the House. How is that to be ascertained? Is the clerk necessarily to know that fact? Is he to note that on the Journal? He may note it and he may not, and if he does not is a law not so signed to be void? Or if so signed but not so stated, is it to be void? His Journal, as to a bill, is closed before such signing oftentimes. Is he to go back and change what the House has declared to be complete? We are making confusion worse confounded.

Then, again, turning over to section forty which, it is true, has not yet been adopted, but may be; that section says that a

member who has a personal or private interest in any measure or bill proposed or pending before the Legislature, shall disclose the fact to the House of which he is a member, and shall not have the right to vote thereon. How are you to find that out? Is the clerk to note upon the Journal whether all the members are interested or whether they are not? It is utterly impossible. He cannot know it—yet he must state it—and will he undertake to state what may be false? And if he does not state that all are disinterested as to each law, such laws are void.

Let us, by committing it to the Governor, as is suggested by the gentleman from Allegheny (Mr. Howard) or to the Attorney General, or both in connection, require them to perform such a duty that when a law has been finally passed, signed by the Governor, published and sent to the people, its constitutionality as to matters of mere form cannot be affected. Its constitutionality, in its substance, of course is always open, but there ought to be an end as to questions of legislative form. I think, therefore, that the amendment of the gentleman from Allegheny (Mr. Howard) contains the right substance. Perhaps it ought to be changed in phraseology, but I rose simply to point out these difficulties, and to show the absolute necessity that the law itself, so far as form is concerned, shall be completed before it is published to the world.

Mr. TEMPLE. Mr. Chairman: I think a moment's reflection will satisfy this committee that the suggestions of the gentleman from York (Mr. Cochran) and the gentleman from Allegheny (Mr. Howard) are altogether unnecessary. I take it, before the Executive signs a bill he is fully aware of what it is, and how it will operate, and no other officer is necessary to assist him perform the duties of his office, so far as the signing of bills is concerned, unless the Governor himself summons some one of his executive counsel to his aid. The proposition of the gentleman from York requires that this Constitutional Convention shall impose upon the Secretary of the State a duty which is now imposed on the Governor. The duties of the office of Governor require him to procure information as to whether a bill is right and proper, and if the substitute of the gentleman from York were adopted it would take away part of the duties of the Executive. That seems to be altogether useless.

Now, the same objection applies to the amendment of the gentleman from Allegheny. It seems to me that we are undertaking to put something into the Constitution without knowing the meaning and effect of it. What necessity is there that the Constitution should contain a clause which says that the Secretary of State shall advise the Governor of the correctness of an act of Assembly before he puts his signature to it? It strikes me that this is the sheerest nonsense. If gentlemen will look at this for a moment, and particularly the gentleman from Dauphin, (Mr. MacVeagh,) who has manifested so much interest in this special subject, they will see that the scope of this proposition will be to take away part of the duty of the Executive. It is not necessary for the Constitution to contain a clause directing him what course he shall pursue in order to ascertain whether an act of Assembly is correct and proper or not.

Mr. DARLINGTON. Mr. Chairman: I dislike very much placing in the Constitution anything at all which looks like going beyond the enrolment of a law. I think it will be found very difficult, if not impracticable, to carry out such an idea. But if it be the intention of the committee of the whole and of the Convention to make some provision which shall authorize an inquiry whether the law has been passed through all the forms prescribed, by some tribunal, I do not think that that tribunal should be the one suggested by my friend from Allegheny. I say so for the reason that it would be simply impossible for the Governor, or for the Secretary of the Commonwealth, no matter how great their knowledge of legislation may be, to go through the Journals and ascertain whether the forms of the Constitution have been complied with in every particular case.

Mr. HOWARD. Mr. Chairman: Will the gentleman from Chester allow me to make a suggestion? We propose, under our present plan, that we are to do away, in a great measure—I judge, with nineteen-twentieths—with all the forms of special legislation; perhaps more. Under the force of that suggestion, I would ask the gentleman whether it would be a mistake to charge the Governor with the duty of ascertaining what is simply a clerical duty, before a law shall go forth as a cheat and a snare upon the public, whether the forms of law have been complied with, and that his certificate on that point shall

be conclusive on that point that the forms have been complied with, before he shall sign it?

Mr. DARLINGTON. Mr. Chairman: I will answer that by saying that the Governor is supposed to carefully examine every law that comes before him, and he is presumed, also, to rely upon the fact that all the necessary forms have been complied with.

Mr. TEMPLE. Mr. Chairman: I would like to ask the gentleman from Chester, if the Governor attaches his signature to an act of Assembly without knowing what its contents are, if it would not be a misdemeanor?

Mr. DARLINGTON. Mr. Chairman: I do not know that the Governor does any such thing, and therefore I do not presume that he commits any misdemeanor. His duty, of course, is to examine the bill; but it is not his duty to examine whether it has passed through all the stages on the days prescribed. He has to assume that each co-ordinate branch of the government does its duty, and we could get along with no other system than that. You must assume that your Legislature, in each branch of it, will discharge its duty. Recollect, we are purifying that body. We have got it nearly pure already, and before we have completed our labors we will have it entirely pure. There will be no dishonest men in it. The voters will all be pure, and therefore we must assume, as honest men, that the Legislature will properly reflect the will of the whole Commonwealth. Very well; you cannot base your government on any other theory than that it is to be administered by honest men, and therefore you must assume that every Legislature, and each branch thereof, will conform to all the requirements of the Constitution. You might as well allow the Legislature to inquire whether the Governor has done his duty in examining a law before he signs it, as to allow the Governor to inquire whether the Legislature has done its duty in passing it. You must assume that each branch of the Government has done its duty, and it will be simply impractical, I say, to require the Governor to examine into all the forms of legislation through which the law has passed.

The gentleman from Allegheny (Mr. Howard) suggests that we will not have many laws when we have done with special legislation. Do not let us hug that delusion to our bosoms. There certainly will be special legislation, or we

will be a nation without any laws at all, for we must have, and we cannot avoid having, a certain amount of legislation. The people of Pennsylvania certainly will not deny themselves the privilege of having such laws passed as their interests require.

Now, what is the evil intended to be remedied? It is said that certain laws have found their way into the Governor's Chamber, and have been signed and placed upon the statute book which never actually passed the Legislature. I do not know how numerous they may be. There may have been one law, there may have been two or there may have been ten in the course of the last seventy or eighty years. Now, rather than hedge around these bodies so that they can pass no law with any hope of its being valid, had we not better submit even to the partial inconvenience, if such it be, of a law getting upon the statute book which never passed, and making it necessary for the next Legislature to repeal it? Occasionally we had better submit to this than to deny to ourselves the power to do good. I do not think that the evil requires so vigorous a remedy, but if it be designed by this Convention to keep open the question whether the law is constitutionally passed or not, how long? Certainly not so long as that titles may pass under it without notice, money be invested and rights acquired, for you would do infinite wrong by this. You must, therefore, if you adopt any principle like this, fix a limit, and that, too, a very short limit, within which this question can be raised. Now, who is to raise it? Not, I take it, individual suitors in the contest between man and man. I trust individual contests will not be arrested in their progress by raising side issues as to whether the law under which they claim is constitutionally passed before their rights are decided; otherwise in all the laws that you have throughout the Commonwealth, incorporating banks, insurance companies, water companies, gas companies and thousands of others—if any man is sued for a note upon which he has borrowed money from a bank, or any man is sued for the gas which has been sold to him, he may raise the question that the law is not constitutional under which you are claiming and say "I want that decided first by your court before you shall recover your debt of me." That is all wrong. It is certainly a well settled principle of jurisprudence in Pennsylvania that no man can stop the

progress of a cause for such collateral issues as this. A water company organized by act of Assembly or by decree of court cannot be stopped in the trial of such a case by the inquiry, whether it is properly incorporated or not. That question can alone be raised, as the law now stands, by a writ of *quo warranto*, issued, not at the instance of a private individual, but issued by the law officers of the Commonwealth. The question whether a man intrudes upon or claims the franchises of the Commonwealth is only to be decided between the Commonwealth and him, in a proceeding to be instituted by the Commonwealth or at the instance of a private individual in the name of the Commonwealth.

The Commonwealth alone can say whether she has been encroached upon. She alone is entitled to go into court and see if she has been encroached upon.

I, therefore, would not tolerate the idea that any man, before a justice of the peace or before the court, litigating private questions between themselves, might raise the question, whether the law under which the contract arose was or was not constitutional. That is a question to be decided otherwise.

Now, sir, if it be the intention of this Convention to repose this authority in the courts, then I have a suggestion to make at the proper time, following the example of some other gentlemen, which I suppose to be a better remedy than those which have been suggested. I will propose, at the proper time, to amend this section, by striking out all after the word "void," in the second line, and inserting, so that it shall read thus: "Any bill passed in disregard of the provisions and directions in this article shall be void, and may be so declared in any legal proceeding instituted for that purpose, on behalf of the Commonwealth, within one year after its passage."

Mr. EWING. Mr. Chairman: We have in the past few days been passing numerous and very radical sections to prevent hasty and fraudulent legislation, and to correct the many evils which all admit have grown up by reason of the manner in which the legislation of this State has been conducted. Those sections have been passed with almost entire unanimity. The differences have been rather as to the wording than as to what was to be accomplished. Now, I suppose that the Convention does not intend to leave the Constitution in such a shape that those

sections shall be but a dead letter. I shall not enter at large into the objections made by some of the gentlemen to allowing the validity of an act of Assembly to be inquired into. The gentleman from Philadelphia, (Mr. Gowen,) I think, has stated the objections with as much clearness, at least, as any other gentleman who has objected to the section. He raised the objection yesterday, that in any case on trial in a court, without any notice whatever, the question of the passage of an act of Assembly might be raised in a court, and the party sustaining the act be unprepared to meet it. Now, I think he made a mistake in that. I think there are two classes of cases in which the validity of an act of Assembly may be called in question in court; one of which is a case where a defect is apparent on the face of the act; there it need not be pleaded specially, but I suppose that in every case where a defect is not apparent on the face of the act it must be plead specially, and full notice given to that effect.

Mr. GOWEN. How in the case of a public statute? The rule of pleading, I think, is that a private statute, only, must be specially pleaded, and a public act need not be.

Mr. EWING. No, sir; not an objection that the law has not been passed. That very point has been decided in three or four cases in the State of New York, and I wish to call attention to those hereafter. The gentleman from Philadelphia (Mr. Gowan) also says that a case may be decided one way in one county, and another way in another, until twenty decisions may have been obtained, each of different import. The same thing has occurred with regard to the interpretations of wills and many other cases, but they go up to the Supreme Court, and at last a decision arrived at, which generally settles the case, but not always. We have the Supreme Court, upon the very same act of Assembly, deciding one way at one time, and another way at another time. The same objection would apply equally to other litigated questions.

I wish to call the attention of members to what, in my opinion, would be the effect of striking out this section. We have passed different sections, in this same article, some of which are merely directory. Strike out this section and, I presume, that a bill passed in disregard of these provisions that are merely directory, would be good and valid, that it could not be inquired into unless specially provided

that that shall be the case; otherwise if you strike out this section you destroy the life from those sections that are merely directory. I cannot agree with the positions taken by several of the gentlemen, that if you strike out this section the certificate of the Secretary of the Commonwealth that a bill has passed and has been signed by the Speakers of both Houses, and by the Governor, would be conclusive that the act was legally passed. I do not think that the provisions will bear that interpretation. Those in regard to the passage of an act of the Assembly, by a majority of all the members elected to each House, and those which require a different vote on some other matters, are practically copies of the New York Constitution on the same subject. We have no such provisions in our present Constitution, and consequently our courts very properly decided that the mode of the passage of a bill, and its validity, cannot be inquired into, or anything connected with its passage. So of the decisions spoken of by the gentleman from Philadelphia, (Mr. Worrell,) as having been made in the United States court.

There is no such provision in the Constitutions in question, but in New York their Constitution of 1821 contains a provision of this nature, with regard to a series of acts, some of them for municipal corporations, some of them in regard to general tax laws, requiring a special vote, and the record of that vote on the Journals. The New York Constitution of 1846 provided that "no bill shall be passed unless by the assent of a majority of all the members elected to each branch of the Legislature, and the question upon the final passage shall be taken immediately upon its last reading, and the yeas and nays entered on the Journal." The same Constitution provides that "on the first passage of the question in either House of the Legislature, on any act which imposes, continues or revives a tax, or creates a debt or change, or makes, continues or renews any appropriation of public or trust money or property, or discharges or commutes any claim or demand of the State or county, shall be taken by yeas and nays, which shall be duly entered on the Journals, and three-fifths of all the members elected to either House shall in all such cases be necessary to constitute a quorum therein." There are numerous other provisions in the Constitution similar to that, requiring a three-fourths vote, if I recollect aright. Now,

for fifty years the manner of the passage of these acts has been brought under the consideration of the New York courts from time to time, and I believe that it has been uniformly held that it must appear from the Journals that there was the requisite vote recorded there to pass it. And I have yet to hear from any person, or see it suggested in the report of any of these cases, that any evil has arisen from that being the constitutional law of New York. On the contrary, it appears to be a provision that suits them. I see that in the revised Constitution of 1867 they propose to leave in similar restrictions. It is true, as a gentleman behind me says, that that Constitution was voted down, but they had had provisions of that sort for fifty years. They had had decisions of their courts running through a long series of years. It had been a matter of discussion in courts and with the public, and it does not seem that any one thought of changing the provisions on the subject. I do not think, from the experience of New York, that we will find the great evils that some gentlemen imagine will arise, if in a case on trial in a court one of the parties is allowed to allege that one of the acts presented there was not properly passed, and provide for the proof.

In addition, I may say that the Supreme Court of New York have also decided, on a similar provision to this that we have already adopted, that the Journals are the evidence of this vote, and if the Journals show that the proper vote has been taken on the bill, then it has been properly passed so far as that vote is concerned. If the Journals do not show it, it has not been passed. We have the same provision, but a little stronger, in what we have already adopted here; and, for one, I would be very unwilling to leave that question so that it could not be tested in the court. I imagine one examination of the Journals would decide it. Probably the question would never again arise, and I think it a very safe provision. In regard to these sections which are merely *directory*, a very different question arises, and it may be that some better provision can be gotten up than this section under consideration; but it strikes me that to have no provision in regard to this would render these directory sections which we have already passed, almost entirely worthless. I would be entirely satisfied with the amendment offered by the gentleman from Allegheny (Mr. J. W. F. White.) I think it would cover all

that probably is necessary. My objection to the amendment offered by the other gentleman from Allegheny (Mr. Howard) is, that it weakens the force of the provision in regard to the vote that must be had for the passage of any bill. I would rather, so far as that section in regard to the final vote is concerned, that the whole section now under consideration should be voted down, because I think that without it, it would still be the rule that the journals must say, *affirmatively*, that the proper vote was had upon the bill, and that that question could be inquired into in a court, and besides, I think that it is making the certificate of the Governor have an effect that it should not have. It would require him to certify to facts not within his knowledge. I would prefer, if it has to come in that way, a certificate from the Speaker of each House attached to the bill, that the forms of legislation had been complied with.

MR. HOWARD. Mr. Chairman: Before the gentleman (Mr. Ewing) takes his seat I would like to ask him one question upon this section. The gentleman seems to think that such matters as are merely directory are not covered by this section. The section reads thus: "Any bill passed in disregard of the provisions and directions." I would ask whether that word "directions" does not cover the *directory* clauses as well as any other?

MR. EWING. Mr. Chairman: The gentleman (Mr. Howard) misunderstood me. I did not say that the directory provisions were not covered by this section. I have no doubt that they are. I said that there were directory provisions in other sections, and that there were provisions which were mandatory, and that if this entire section was voted down and no substitute placed there for it, the mandatory provisions would be binding, and that a law passed in disregard of these would be invalidated and could be inquired into in the courts, but that a law passed in violation of the merely *directory* provisions could not be inquired into in the courts, if this section was voted down.

MR. MACVEAGH. Mr. Chairman: I beg the attention of the committee for a few moments, while I suggest what I think will meet their views; not that it exactly represents my own, but from the tone of debate while this section has been under consideration I think it will meet the views of a majority of the committee. That is, to recognize the broad division between the *directory* clauses of the Con-

stitution, as we propose to frame it, and the other question, much graver and more extensive, that of the use of corrupt means to secure the passage of a law. I think the majority of this committee does not intend to hand over to the court the decision of the question, whether the directory clauses have or have not been literally complied with; but, on the other hand, I think that the majority of this committee is entirely prepared, is anxious, as well as willing, to allow any suitor to allege that his adversary *bought* the law under which he claims to deprive him of his rights.

If anybody in this Convention secures a decree, even of the highest court of the land, against his adversary, that decree may be impeached everywhere by the allegation that it was obtained by the use of corrupt and fraudulent means; and if, instead of going to the courts, or while in the courts, a litigant steals away to the State Capital and *buys* a law, then your courts of justice are dumb before that outrage and refuse to hear even the question whether any redress is due.

I trust, therefore, that the amendment to be proposed in time by the gentleman from York, (Mr. Cochran), which imposes upon the Secretary of the Commonwealth the duty of ascertaining, once for all, that the directory clauses of the Constitution have been complied with, will be adopted, for it is entirely true that we must, in framing this organic law, always bear in mind that other departments of the government are to be trusted to perform the duties that we devolve upon them, and surely if we make it an express constitutional duty of a constitutional officer to see that these directions are complied with, under the stringent and complete terms of the proposed amendment, we have done all that we ought to do before we clothe a law with the solemnity of a statute. Then if, after that, any person asserts that law and brings it into a court of justice, I trust we will insert a clause, substantially such as I have drawn, that when the validity of any law passed by the Legislature is questioned in any court of record, it shall be the duty of the judge of such court to investigate and decide, when required so to do, whether bribery or corruption was used to secure the passage of said bill; and if it shall be judicially established that bribery or corruption was so used, the said law shall be adjudged to be null and void, as to all persons claiming thereunder, who had or ought to have had knowledge of such bribery or corruption.

Certainly such a clause can do no harm. It is but simple justice. It is no longer singular for an adversary in a litigation to go to the Legislature and get a law which cuts away his opponent's rights of action; and though he may not approach the court with corrupt propositions, he may get his law by corrupt means, and the courts have decided that without express constitutional sanction they cannot inquire into the use of these corrupt means. Now, that does not affect every body. That does not affect investors, for instance, in gas companies, and in order to get the vote of my friend from Chester (Mr. Darlington) I will agree that gas companies shall not be affected by it, as he is a large owner of gas stock. [Laughter.]

MR. DARLINGTON. I want to ask the gentleman what he means by the clause he is about to submit to the committee. Whether in any private suit, civil or criminal, before a judge in a court, at the instance of either party, he means that judge must stop to inquire into these proceedings at Harrisburg?

MR. MACVEAGH. I mean this: That whenever a party in a suit presents now the decree of a court of competent jurisdiction, even the decree of the Supreme Court of this Commonwealth, the gentleman from Chester (Mr. Darlington) knows that he is at liberty to impeach it collaterally for fraud. *That doctrine is, at least, as old as the Dutchess of Kingston's case, and is undoubted law; but if instead of getting a decree against him, his adversary has obtained the passage of a law against him, which has been done in repeated instances within the last half dozen years—done in cases in which I was myself concerned as counsel—he may not inquire whether that adversary bought the law. Now, I say I would not put an act of the Legislature on higher ground than the supreme and solemn judgment of your court of final judicature, because I do not think that, as a general rule, laws are passed with more consideration, or with greater regard to law and equity, than the decisions of your Supreme Court are attained. Even to-day the Legislature of this State is investigating whether a most vital and radical supplement to a law, changing its entire force, as I am told, was not affixed in the rooms of one of the clerks, never having been seen by the eye of more than a single member. I say it ought to be possible to investigate these matters, when a party claims under the law, and when you allege that he has, or*

ought to have had, knowledge of the corruption or the fraud. What rule of justice does it violate, or what rule of the common law does it impair? I grant that I would not put these questions of directory provisions before the courts of law. I think they belong to the political departments of the government, and I accept therefore, in the fullest spirit, the amendment that is to be proposed by the gentleman from York, (Mr. Cochran,) making it the duty of the Secretary of State to see that these provisions have been complied with, and therefore making the signature of the Governor final upon these questions; and I think that provision, if I am not mistaken, avoids many of the difficulties suggested by the gentleman from Philadelphia (Mr. Gowen.)

MR. HOWARD. Will the gentleman allow me to ask a question?

MR. MACVEAGH. Certainly, sir.

MR. HOWARD. I would ask the gentleman whether the fact that the Secretary of the Commonwealth shall ascertain that the forms of law have been complied with will make it any better than it will, if we say that it shall be the duty of the Governor himself, before he signs that bill, to ascertain that these forms have been complied with, and that, in his approval, he shall make it a part of his certificate.

MR. MACVEAGH. I do not object to making it the duty of the Secretary of the Commonwealth, or the Governor, if the gentleman prefers the latter officer, to go and examine these Journals. It seems to me more in harmony with the relative duties and dignities of these offices that the duty of going to the one House and the other, to inspect the Journals and to discover the methods by which a bill passed, should be imposed upon the Secretary of the Commonwealth. If gentlemen think that the Governor should be charged with the duty of going to the clerk's room of the House, and of the Senate, and from one body to another, and find whether these things have been done, they will move to substitute the Governor for the Secretary of the Commonwealth. But I think the gentleman from York (Mr. Cochran) was happy in the suggestion that this should be the express constitutional duty of the Secretary of the Commonwealth. I am quite willing that he should make a certificate to that effect as an officer. But the broad line of demarcation still remains, which I hope the committee will at least appreciate, even if they do not adopt, and I earnestly hope

they will adopt it, to put the duty of seeing that there is a compliance with the directory provisions upon an officer of one of the political departments of the government, and to give every suitor affected by a rotten law an opportunity in a court of justice to prove its utter corruption and rottenness.

Mr. HOWARD. Mr. Chairman: I would like to ask the gentleman a single question before he takes his seat, and call his attention to what we propose to do in this matter. The gentleman has spoken of special legislation, and of acts that have been passed in special cases. I know that perfectly well. We propose, however, to provide against this kind of legislation by saying that no local or special bill shall be passed unless sixty days public notice of the intention shall be published in the locality where the matter or thing to be affected is situated.

Mr. MACVEAGH. The gentleman will remember that long ago I stated to the Convention, what I am sure other gentlemen who have had larger experience believe, that in correcting our evils by destroying special legislation we are, at least, five years behind the lobbyists. They, long since, have discovered that it was far easier to secure a corrupt end by general than by special laws, and many instances have occurred in which the worst and most corrupt laws have been general and not special.

Mr. ELLIS. Mr. Chairman: I rise simply to express my concurrence with the proposition which has been offered by the gentleman from York (Mr. Cochran.) It certainly must be evident to this committee that we are getting very much at sea in the discussion of the present section of this article.

Now, I think we ought clearly to keep in view, as we proceed in the consideration of this section, that portion of the Constitution to which it expressly and particularly refers. Many of the propositions that have been suggested are purely and entirely matters that should be considered by the Committee on the Judiciary, in defining the duties, powers and jurisdiction of the courts.

There is another matter that ought not to be forgotten, and it is that the Convention has created a Committee on Constitutional Sanction. From that committee we expect some action that will harmonize the provisions of the Constitution which we shall adopt on the subject of sanction. I entirely agree with the gen-

tleman from Dauphin (Mr. MacVeagh) that if a bill has been passed through the Legislature by corrupt means, it should be declared unconstitutional, but in our haste to cure these evils we should be careful before we insert in the Constitution a provision which affects materially the jurisdiction that ought to be prescribed and well defined between the legislative department and the judicial department. Now, the proposition of the gentleman from York (Mr. Cochran) is a simple, plain and proper one. It is that in these matters it shall be the duty of the Secretary of State to inquire and examine into all bills passed by the Legislature, before they shall be signed by the Executive. This duty will constitute one of the most important functions of his office, and will prove a check upon the legislative department. This being evident, the amendment offered by the gentleman from York (Mr. Cochran) is very plainly and clearly within the scope of the duties of the Executive department. This far, I think, we can go in this article with perfect safety, but I submit anything further than that would be very dangerous in its effect. I rose, Mr. Chairman, simply for the purpose of expressing my concurrence in the provision contained in the amendment which has been offered.

Mr. HUNSICKER. Mr. Chairman: I desire to add a single word in condemnation of the section and in favor of the amendment offered by the gentleman from Allegheny (Mr. Howard.) So far, I believe, there has been but one gentleman found courageous enough to defend the section, and that has been my valiant friend from Allegheny (Mr. Ewing.) An examination of the section will show this: There are thirty judicial districts in the State of Pennsylvania, and whenever the validity of an act of Assembly is questioned before any one of those tribunals the Journals of the Legislature shall be inspected. Now, suppose that some suitor alleges that the names appearing upon the Journal are forgeries? What, then, becomes of the question? It becomes, then, purely a question of fact, and the court wherein the act of Assembly is thus questioned directs a feigned issue to be tried by a jury, as in other cases. Then suppose the jury should find that the signatures on the Journals were forgeries? This would compel that court to declare the act void. Then suppose a similar issue was at the same time tried in another county, and the verdict should be the

other way? In this latter case the court would be compelled to declare the act valid. Thus you would have two judgments equally binding, the one sustaining, the other annulling the act.

Then suppose, again, that both cases be removed to the Supreme Court of the State by writ of error. That court would review the records, and, not finding any error of law, for it does not review facts, would affirm both judgments. Thus we reach the anomaly of two decisions of the Supreme Court of the State—the highest judicial authority of the State—one declaring the act void, and the other declaring the act valid.

This seems to me quite sufficient to dispose of the section. That some mode securing the observance of the constitutional provisions by the Legislature is required, is undeniable.

Mr. EWING. I would like to ask the gentleman if he supposes a case of the kind to which he has referred, by which the Supreme Court of the State would both affirm and deny the validity of an act of the Legislature, could ever occur?

Mr. HUNSICKER. I was endeavoring to explain the anomaly which would be presented if such a case should ever arise. Suppose in one county the names upon the Journals were alleged to be forgeries, and that were to be a question of fact for the jury, and —

Mr. EWING. The gentleman does not appear to understand my question. It has been ruled, over and over again, in New York that the official Journals of the Legislature itself is conclusive evidence of the fact of the passage of an act.

Mr. HUNSICKER. I am very well aware of that fact; but the section under consideration does not so prescribe. Now, let me go one step further. I think I have made myself understood upon the point to which I referred. Whether I am right or wrong time will determine. Now, the amendment offered by the gentleman from Allegheny (Mr. Howard) meets the whole question, and I think it should receive the support of the gentleman from Dauphin (Mr. MacVeagh) and of the gentleman from York (Mr. Cochran.) I would like to call the attention of the gentleman from Dauphin to the amendment of the gentleman from Allegheny. The amendment offered by the gentleman from Allegheny (Mr. Howard) reads as follows: "The Governor shall not give his approval to any bill until he shall have ascertained that all the forms of leg-

islation, as prescribed in this article, have been observed in the passage of the same, and in his approval he shall so certify, and his certificate shall be conclusive evidence that all the forms prescribed have been observed."

Mr. MACVEAGH. The only difference between myself and the gentleman from Allegheny (Mr. Howard) and the gentleman from Montgomery (Mr. Hunsicker) is, that I think this duty had better be imposed upon the Secretary of the Commonwealth, but of this I am not at all tenacious.

Mr. HUNSICKER. I suppose, then, we can consider you as a co-worker for this substitute?

Mr. MACVEAGH. In substance, yes.

Mr. HUNSICKER. I will now resume my remarks. *You must trust somebody; why not the Governor?* Have you any safeguards? You will have an iron-clad oath for the members of the Legislature, an iron-clad oath for the clerks, and an iron-clad oath for the Governor. Notwithstanding all these oaths, it is proposed to scrutinize every act of Assembly that is passed by that body, to see if all the forms prescribed have been observed, and, if I understand the gentleman from Dauphin (Mr. MacVeagh) aright, it is further proposed to try the questions of fact in courts whether the act was passed through corrupt means, or by undue influence. I would like to know whether legislation, under this kind of restriction, would amount to anything, and whether you would not be bothering the courts, from year to year, by trying questions of fact, as to whether these acts were corruptly passed or not, and thus keep the people in suspense. There must be an end somewhere to this kind of legislation in this Constitutional Convention, and I think we had better "endure the ills we suffer than to fly to others that we know not of." I trust the committee will consider the proposition that has been offered by the gentleman from Allegheny (Mr. Howard.) It seems to me that by adopting this substitute we will make a Constitution that will not keep us in constant suspense and anxiety, until we shall be relieved by the final judicial judgment that an act of Assembly is valid, but will make an act valid and unquestionable so soon as it is certified and signed by the Governor. If any better mode can be devised, I shall be free to support it. This is the best yet offered.

Mr. BUCKALEW. Mr. Chairman: The several provisions in this article regulating the passage of bills require a sanction, require that some means for their enforcement independent, of the Legislature, should be provided; but, sir, in my opinion the committee has reported a section which will be of very little value if it shall be agreed to by the Convention, and adopted by the people. A mere inspection of the Journals of the two Houses will, in almost every conceivable case, be quite insufficient to reach the evil aimed at, and to extirpate it from our legislative proceedings. Most commonly these frauds committed upon bills, and which eventually take the form of law, do not appear upon the Journals, and the Journals afford no means of detection. Let me illustrate: A bill, with a given title, is introduced into the House. The Journal shows that the House went into committee of the whole and amended the bill, and that it passed afterwards. The Journal of the Senate will show again that the Senate went into committee of the whole where amendments were made, and then passed the bill. The Journals might show further, that upon a conference between the two Houses the bill underwent further modification. That modification might certainly appear in the report of the committee on conference, but suppose a bill that has gone through the proceeding I have described is carried into the transcribing room on the last night of the session, and some transcribing clerk, or assistant, or the clerk to the committee to compare bills, is paid fifty or one hundred dollars by a party, to add a section to the bill. That section is simply added to or interjected into the transcribed copy, and goes to the office of the Secretary of Commonwealth, and inadvertently the Governor signs the bill. That, sir, has happened over and over again. It is the common, the accepted mode in which frauds in legislation are committed, and yet an inspection of the Journals of both Houses will not detect the fraud, and a provision that they shall be inspected is of no value whatever in a case of this kind.

Now, sir, I know the cases of two or three bills in which fraud was detected, not by the Journals of the two houses, but by going to the original manuscript bill, as introduced originally into one of the Houses, and to the proper bill which was sent from one House to the other, because thus you are able to find the origi-

nal marks made by the clerks of the respective Houses upon all amendments when they are offered and when action upon them is had. In that manner, in the cases to which I have referred, we were able to ascertain that certain amendments had not gone at all through the hands of the principal clerks of the Senate and House, and yet they were foisted into those bills, which, being sent to the Governor and signed by him, became laws of the Commonwealth, and no power of this State was able to touch them, except the Legislature, at a subsequent session by repealing them, should strike them from the statute book. I remember my experience in one case where a fraud was detected. The repealing bill was passed through the Senate upon the showing of the original records of the two Houses, not the Journals, but the other records of the two Houses, and the bill was sent to the House of Representatives, and there there was a grave and earnest debate, and the repealing bill was manfully voted down. The law stands there yet upon the statute book; a law passed by a transcribing clerk of the House, and by no other authority whatever.

But I need not go over the history of sundry cases of that sort. There ought to be some section in our Constitution, not to render the two Houses honest in their observance of the principal forms, because they will be observed, but to protect the two Houses and the honest officers thereof, as well as the people of the State, from the introduction into our laws of enactments that never received the proper lawful assent.

But the Committee on Legislation have reported a section that all the courts in the Commonwealth shall set at work, at the pleasure of any party before them, to overhaul the proceedings of the Legislature. The courts in Greene, in Wayne, in Philadelphia, in Dauphin and in Northumberland, possibly all at work at one time, at one law, to test its validity. Why, sir, that will not do. It seems to me that, of all absurd propositions of amendment, of all remedies, this would be about the worst.

Now, Mr. Chairman, the gentleman from Dauphin (Mr. MacVeagh) has touched another subject which is not covered by this section, but which is more important than anything which this section covers—the case of a bill passed by fraud. These cases are not only possible, they are actual. We all rest under a

moral conviction which is immovable—the conviction that laws are passed in this manner—and one of our principal efforts here should be to stop them hereafter, and yet, so far as I can discover, this long and elaborate article provides no remedy whatever.

My idea is this: That here, upon the face of the Constitution, you should place the provision that a party or an interest that obtains the passage of a law by corrupt means, or that expends one dollar corruptly to that end (whether the result is achieved by the corrupt means or not) shall take nothing by the enactment; that upon proof shown (you must have it judicially shown, you cannot investigate it in any other way) that a party or an interest has pledged or paid one dollar to take that which is a part of the sovereignty of this Commonwealth—because our laws are an emanation of the sovereignty—upon that showing the enactment, with reference to which the outlay has been made, shall be void. But, sir, I would not put all the courts of the Commonwealth in action to reach this object of purification and amendment. I would proceed by proper regulations. I would provide somewhat after the fashion of the amendment suggested by the gentleman from Chester (Mr. Darlington.) I would provide that within a certain time after the passage of a law, say one year after its publication, that it shall be the right of the people of the State, or of an officer of the State representing them, or of a certain number of citizens interested in the subject, to apply, if you choose, to the judges of the Supreme Court, or to one of them, and upon showing probable cause that a law was passed by corrupt means, or in violation of any of these provisions of the Constitution, that an investigation shall be ordered, the investigation to be regulated by statute, of course, that shall provide all the details necessary to a prompt, efficient, thorough and just prosecution of the investigation, and with complete power at the end of it for the court exercising the power of the people, to pronounce the enactment void, and to punish the parties concerned in its enactment, or order their prosecution in the proper courts of the Commonwealth.

I see nothing of all that, or anything like it, or looking to that end, on the face of this elaborate article reported by the Committee on Legislation. Of course now, in the midst of debate, it is not convenient for me, or for any one else to put ideas of this

sort in form, and propose them to the committee of the whole. Therefore at present all that I can say is, that for reasons already given I shall vote against this section, thinking it unimportant and useless. A mere examination of the Journals of the two Houses would be of little account. And I shall also vote against the amendment to the section, which is subject to the same remarks, and open to the same objection. But if any gentleman will propose a proper section—

Mr. WOODWARD. There was one offered, which the Chairman ruled out of order at this time.

Mr. BUCKALEW. Mr. Chairman: I am only speaking of what is before the committee. If any proposition shall be presented, looking to the objects of which I have spoken, I shall most cheerfully support it, both now and when the article shall be upon second reading.

Mr. MACVEAGH. Mr. Chairman: I simply desire to suggest to the gentleman from Columbia (Mr. Buckalew) that, as he and I seem to be in thorough accord about the end we desire to reach, I shall not be tenacious of the method. I do not see the wisdom of requiring the opponents of a corrupt measure, the parties who are to suffer from it, to take the burden of attack upon them before they know it is to be used against them. Nor, on the other hand, do I see the justice of including in the consequences parties who have been wholly innocent.

The section I propose has no limitation as to time, because it is, in my judgment, indispensable that whenever a corrupt law presents itself anywhere then the right should exist to strike it anywhere. But I protect the rights of all persons who are presumed not to have knowledge of the corrupt means which have procured its passage.

Mr. BUCKALEW. Mr. Chairman: I was not arguing the proposition stated by me. I was simply stating it. The reasons why a limitation of time should be imposed in the Constitution, or in a statute passed under it, is a matter that will properly arise when we have that proposition before us. But I will suggest one thing: A vast number of private rights may grow up under a statute in the course of a few years; a vast amount of money may be invested under it, and it would be extremely inconvenient, after the lapse of any considerable period of time, to permit the statute, and everything that has taken place under it, to be declared void.

Mr. WOODWARD. Mr. Chairman: Before the gentleman from Columbia takes his seat, I wish to call his attention to the substitute which the chair ruled out of order. I am so struck with his views of this whole subject that when he tells me he did not hear the amendment which the gentleman from Luzerne (Mr. H. W. Palmer) submitted to the Chair, I would like to have that amendment read for information, that the gentleman from Columbia may see if it does not exactly meet his views.

The CHAIRMAN. The substitute will be read for information.

The CLERK read as follows:

SECTION —. Whenever in any judicial proceedings either party shall claim, under or by virtue of any act of Assembly, and the other party, upon proper affidavit, shall allege that such act of Assembly was passed in disregard of the provisions and directions prescribed in this article, or by fraud, bribery or undue means, and the court before which such judicial proceeding is pending shall be satisfied, *prima facie*, that such allegations are well founded, it shall be the duty of the said court to order a feigned issue to be framed under the direction of the Attorney General upon proper pleadings, in which the Commonwealth, upon relation of the party in interest, shall be plaintiff, and the party claiming under such act of Assembly defendant, to try the truth of the allegations in said affidavit contained and the validity of such act of Assembly; and the said issue shall be certified to the Supreme Court and tried by one of the judges thereof, in whatever county he may direct; and if it shall appear to the court and jury upon such trial that all the provisions of legislation in both Houses, as hereinbefore prescribed, have not been substantially observed in the passage of said act, or that the same has been procured by bribery, fraud or undue means, such act of Assembly shall be adjudged null and void, either party to have the right to a writ of error as in other cases.

Mr. MANN. Mr. Chairman: Nearly every gentleman who has spoken upon this section; I believe every gentleman with one exception, has admitted the necessity of some such provision in the Constitution as the one reported. True, they are not satisfied with this section, and no two gentlemen who have proposed amendments are agreed as to what shall be substituted in place of the section reported by the Committee on Legislation. No

two gentlemen agree as to the precise form of the remedy. Now, sir, this clearly indicates the difficulty which the Committee on Legislation had to agree upon this section, and it seems to me, with great deference, to the gentleman from Columbia (Mr. Buckalew) that a portion, at least, of this section ought to be agreed upon by this committee of the whole. That will preserve the principle, that if the forms of legislation required by this article are not complied with, a bill shall be void. I think nearly all of the gentlemen who have spoken upon this subject are agreed upon that.

We have in previous sections said that no bill shall become a law unless it has been read three times on three separate days. Now, that is a mere declaration, and under the construction which has been given by the courts it will not be valuable without the operation of the twenty-fifth section; and I ask the members of this committee, before they vote down this section, to consider of what value are the requirements that we have made in previous sections without this declaration that a bill passed in disregard of them shall be void. So much of this section, I trust, this committee will endorse. If it shall stop at the second line, at the word "void," for one, I am satisfied, for that covers the whole principle of the section; and let me ask you if we ought not to assert so much that "no bill passed in disregard of the provisions and directions prescribed in this article shall be valid." If we are agreed upon that let us say so this morning, and when the article comes up on second reading, if more is required, there can be a consultation and agreement as to what more is needed. Let us say that much; that will be an assertion of the principle that we intend to put into this Constitution, a provision that will enforce these requirements.

If we accept the statement made by the gentleman from Columbia, (Mr. Buckalew,) that it has come to be the common practice that some of the most important provisions of law in this Commonwealth have been passed in the transcribing room, and under the construction of the courts there is no remedy whatever, then this section is a necessity. A bill is now upon the statute books, affecting vitally the interests of this Commonwealth, passed in the transcribing room, and with this fact staring us in the face, shall we hesitate to provide a remedy? The section under discussion will furnish a remedy.

for the gross outrages which have been described by the gentleman from Columbia (Mr. Buckalew.)

I am satisfied, with the adoption of two lines, additional requirements can be provided before this Constitution shall be passed upon by the Convention, and it is very easy to add the other idea insisted upon by the gentleman from Columbia (Mr. Buckalew) and the gentleman from Dauphin, (Mr. MacVeagh,) that fraud shall also vitiate the passage of the bill. It will require but a simple amendment to insert that in this same provision. "Any bill passed in disregard of the provisions and directions composed in this article, or that shall have been procured by fraud, shall be void," will assert the principle, and the method of the remedy can be taken care of afterwards.

I trust, therefore, that the principle asserted in this section will be passed upon by the committee, and to enable us to do that without injuring the principle of the section, I hope all the amendments will be voted down; then we can come to the square issue of whether we shall provide a remedy for the outrages that have been committed upon the people of this Commonwealth, by injecting into a bill sections that never were passed. It seems to me there is no difficulty whatever of asserting this principle, this morning, in this section, without encumbering or prejudicing, in any way, the remedies that are sought to be provided for.

MR. CORBETT. Mr. Chairman: I do not intend to occupy at any great length the time of the committee. It is evident to every person that this discussion has taken a very wide range. The section reported is not intended to cover all the propositions here made. All that was intended by the section was to provide for the enforcement of previous sections reported by the committee, and which have been adopted by the committee of the whole. Now, I am not very particular myself about the wording of the section as it is here. I am perfectly willing to adopt the amendment offered by the gentleman from Allegheny (Mr. White.) I am willing to adopt his proposition, strike out all after the word "affect," and add as he proposes. There has been much said about the Legislature, and about corruption. Now, for my own part, I think there are but few members of the Legislature who have been corrupt, either in the present or past Legislatures; but one thing in legislation has enabled a bare majority of

a quorum to pass bills; consequently many members do not vote, and bills are passed by probably a little over one-fourth of the House. Corruption in instances of that kind has a large power, and is enabled to pass very iniquitous laws. We have provided in a section adopted by the committee that laws shall only be passed by a majority of the members elected to each House. Now, there is an evident necessity that this provision of the Constitution shall be enforced. If it is merely directory and not obligatory, and laws are to be held of full force and effect as they have been heretofore, merely because they are enrolled, the necessary consequence will be that this provision will be of no effect whatever.

The section as reported is not intended to cover the case of bills or laws passed by fraudulent means; the section covers only the other sections reported by the committee, and is intended to enforce those provisions. As to corrupt legislation, if a remedy is needed, it is left to the Committee on Constitutional Sanction, and it will be sufficient, Mr. Chairman, when that committee reports for us to discuss these questions with reference to what sections or provisions will be necessary in the Constitution in order to meet fraudulent and corrupt legislation.

I ask the committee now, at least, to put some provision here, and in this place, so as to enforce the different sections that already have been adopted by the committee of the whole with reference to legislation; and if you do not do it, and leave them merely as directory, they will be of no avail and of no benefit.

Objection has been made that this will lead to difficulty. I confess, for myself, I do not see it. The Journals of the Houses are written evidence. Why those Journals should not be resorted to, in order to determine whether the provisions of this article have been complied with, I cannot perceive. The section does not propose to go outside, and to admit parole evidence. It allows, where a bill is enrolled, and where it has received the signatures of the officers of each House and of the Governor, that you may go to the Journals for the purpose of seeing whether the provision, with reference to a majority of members elected to each House voting in its favor, has been complied with, and also as to the other provisions adopted with reference to hasty legislation. Now, if there is not something adopted so as to enforce those several provisions with ref-

erence to legislation, all our work, thus far, on this article has been of no effect whatever.

Mr. ALRICKS. Mr. Chairman: It is admitted by every member of this committee that wherever the constitutionality of the law is to be tested, it must be before the proper court, and that the proper law officer of the Commonwealth must be employed for the purpose of investigating the matter. There is only one thing that has escaped the attention of the gentleman who offered this amendment, and that is this, that all our statutes are to the effect that wherever proceedings are to be commenced at the suit of the Commonwealth, they are to be commenced in the county court in which the capital is located. I, therefore, propose an addition to the amendment that has been offered by the gentleman from Luzerne, (Mr. H. W. Palmer,) directing the proceedings to be commenced in that court. I do not know whether it is in order here to move to strike out the amendments that are before the Chair and offer a substitute. That is the rule, I believe, in our national Congress. I submit to the Chairman whether it is in order or not.

The CHAIRMAN. The gentleman will send up his amendment to the desk, as the Chair cannot decide whether it is in order or not, without seeing it.

The CLERK read:

"On a petition, in writing, made under oath or affirmation by a party interested, to the Attorney General, representing that the said alleged act of Assembly was invalid or fraudulently enacted, it shall be the duty of said law officer of the Commonwealth, who may have private counsel associated with him, to sue a writ of *scire facias* out of the court of common pleas of Dauphin county to determine the validity of said reputed statute, and any parties who would be benefited by said alleged law shall be made defendants."

The CHAIRMAN. It is not in order at this time. The question is upon the amendment of the gentleman from Allegheny (Mr. Howard.) It will be read.

The CLERK read:

"The Governor shall not give his approval to any bill, until he shall have ascertained that all the forms of legislation prescribed in this article have been observed in the passage of the same, and in his approval he shall so certify, and his certificate shall be conclusive that all the forms prescribed have been observed."

The amendment was not agreed to.

The CHAIRMAN. The amendment properly in order will be the one proposed by the gentleman from Luzerne (Mr. H. W. Palmer.)

Mr. PALMER. Mr. Chairman: I move the adoption of that amendment.

The CHAIRMAN. The amendment will be read.

The CLERK read:

"Whenever in any judicial proceedings either party shall claim, under or by virtue of any act of Assembly, and the other party, upon proper affidavit, shall allege that such act of Assembly was passed in disregard of the provisions and directions prescribed in this article, or by fraud, bribery, or undue means, and the court before which such judicial proceeding is pending shall be satisfied *prima facie* that such allegations are well founded, it shall be the duty of the said court to order a feigned issue to be framed under the direction of the Attorney General, upon proper pleadings in which the Commonwealth upon relation of the party in interest shall be the plaintiff, and the party claiming under such act of Assembly defendant, to try the truth of the allegation in said affidavit contained, and the validity of such act of Assembly, and the said issue shall be certified to the Supreme Court, and tried by one of the judges thereof in whatever county he may direct; and if it shall appear to the court and jury, upon such trial, that all the provisions of legislation in both Houses, as hereinbefore prescribed, have not been substantially observed in the passage of said act, or that the same has been procured by bribery, fraud, or undue means, such act of Assembly shall be adjudged null and void, either party to have the right to a writ of error, as in other cases."

Mr. WOODWARD. Mr. Chairman: I arise to support that amendment.

Mr. MACVEAGH. Will the gentleman permit me to offer an amendment?

Mr. WOODWARD. Certainly.

The CLERK read the amendment as follows:

Strike out the words, "in disregard of the provisions and directions prescribed by this article."

Mr. WOODWARD. I am authorized by the gentleman from Luzerne, (Mr. H. W. Palmer,) who moved this amendment, to accept this modification. It has been agreed on all hands that there is need for a constitutional provision on this subject, and that the report of the committee is

entirely inadequate to meet that need. I believe that those two things are conceded by almost every gentleman who has addressed the Chair this morning. Then it comes down to the question of modes. Well, sir, some of the modes which have been suggested are impracticable. For instance, the gentleman from Philadelphia (Mr. Worrell) proposes that, in case of the doubt of the validity of an act of the Assembly, the Attorney General may issue a *scire facias* to try the validity of that act of the Assembly. That, as a remedy, I think is entirely inadequate. In the first place, a *scire facias* is not adapted exactly to the question that we have to try, and, in the next place, the authority of the Attorney General to move in the matter would involve all the political considerations that might be touched by the act of the Assembly, and he would, or would not, act just according to his views of the political interest of the party to which he belongs.

What is wanted, sir, is this: When in any judicial proceeding, in any court of justice, one of these purchased acts of Assembly which the gentleman from Columbia (Mr. Buckalew) explains so well, is produced, and the party stands in that court of justice, claiming under the corrupt act of Assembly, some judicial power in this Commonwealth should be able to determine whether that act of the Assembly is a law or not. Some judicial power should determine the question. It is not a political question; it becomes a judicial question instantly. If the question is the constitutionality of the law, it certainly is a judicial question. If the question is whether it was obtained by bribery and corruption, it is a judicial question because fraud vitiates all things, and this question of fact ought to be tried by a jury under the direction of a court of justice. Now, according to the law of Pennsylvania, fraud vitiates all things, except an act of Assembly. It does not vitiate that, for in the Commonwealth against Biddis, reported, I think, in the sixth Binney, you will find it decided by the Supreme Court, that these blue covered pamphlet laws which are distributed all over the Commonwealth are the evidence of the statutes of the State. The courts receive those blue covered pamphlets as final and conclusive evidence upon the question of what is statute law of Pennsylvania and what is not.

Now, when a gentleman goes into a court of justice with one of those sickly

looking pamphlets under his arm, there is no judicial power in Pennsylvania that can apply the principle which can be applied to a decree or a judgment of any court of justice, or to a deed or a mortgage, or a will or any other instrument or writing, to wit, that fraud vitiates everything. It is immaculate, sir, and the most infamous wrongs and frauds have been perpetrated, and courts of justice have felt themselves degraded in being made the instruments of carrying out those frauds, when they have moral convictions upon the subject that are just as clear as a demonstration of Euclid, but have no power. Now, sir, I propose to give them the power, and if this Convention allows this opportunity to go by without planting in the Constitution somewhere an efficient remedy for this evil, why, sir, we make ourselves parties to these enormous wrongs for all time to come.

The Supreme Court of the United States decided in *Fletcher vs. Peck*, that the validity of a statute law cannot be drawn into question collaterally, and if it can be passed upon by the judiciary at all, it can only be at the suit of the Commonwealth, and that I understand to be the law of the Supreme Court of the United States to this day, and therefore all these palliatives which gentlemen suggest in the form of amendments, if they were to be adopted, would not prove worth the paper they are written on, because the Supreme Court of the United States would hold them to be unconstitutional. We can no more violate the Constitution of the United States by constitutional provisions of this State, than we can by an act of the Legislature of this State. Now, we must meet these objections. We must provide a mode in which the Commonwealth shall be the party, and in which the inquiry shall be a direct inquiry, and not a collateral one. This amendment, sir, is drawn to meet all these conditions. I do not know whether other gentlemen were impressed as I was, but my friend who sits behind me, (Mr. Buckalew,) and who told me that he had not seen or heard of this amendment, and yet his clear and logical mind, in discussing this subject, and presenting it to our consideration, presented every single point that is in that amendment. The only one about which he suggests any doubts, is that there shall be some time limited, within which judicial inquiry should take place. Now, to his mind, that amendment had not suggested any ideas at all, because he had not heard it, and yet his mind, drawn

ent on this subject, resulted precisely in that amendment, with the exception of the limitation of time. I have suggested to him since, privately, that it would not do to limit the time of this inquiry, because the moment that you do that the rogue will not institute his judicial proceedings, until that time has expired, and then investigation would be shut out, and hence there ought to be no limitations in favor of fraud. There are none now, and we ought to put none into this Constitution.

Mr. MACVEAGH. Will the gentleman allow another suggestion?

Mr. WOODWARD. Certainly.

Mr. MACVEAGH. I desire to have his judgment, in reference to this proviso, and I ask the attention of the committee while I read it: "Provided, That no rights shall be impaired, which shall theretofore have been acquired by fraud, of said act or , in good faith, and for a valuable consideration."

Mr. WOODWARD. I do not know that I have any particular objection to that. Here we are brought face to face with this great subject, and we have had no graver question before us since we met. Now, shall we meet it and plant in the Constitution a remedy for it? Everybody seems to be agreed that we ought. What shall that remedy be? I tell you it must be a remedy in which the Commonwealth is a party, and in which the proceeding is a direct and not a collateral proceeding. The amendment which I am supporting meets both those points. I do not, at present, see that the proviso of the gentleman from Dauphin (Mr. MacVeagh) would impair the force of this amendment, but I would rather that he would offer it as an amendment to the amendment. If there is any better way, sir, of obtaining this end that we all have in view, I am ready to embrace it when any gentleman points it out. I am ready to travel any better road if any gentleman will show a better. But what I beg of gentlemen, is to bear in mind all the necessary conditions of the case.

Mr. DARLINGTON. Will the gentleman allow me to ask him a question?

Mr. WOODWARD. Yes, sir.

Mr. DARLINGTON. Suppose a law of public nature is passed by corrupt means, which might be done, and rights are vested in good-faith under it, should there be no limitation as to the time that the Commonwealth should seek to avoid the law?

Mr. WOODWARD. The amendment provides, that in any judicial proceeding the party claiming under any act of Assembly, be it a public law or a private law, goes into court to claim any rights under it, that act of Assembly is open to this inquiry.

Mr. DARLINGTON. Mr. Chairman: Does the gentleman contend that private rights, vested in good faith under a public law, ought to be in any case divested by the fraud in the passage of the law?

Mr. WOODWARD. Mr. Chairman: I do not see that that question belongs to this subject. If private rights have vested, undoubtedly they cannot be divested. The courts will be very careful not to divest them. But I do not see that that touches the question that is now before the committee of the whole, which is a remedy for purchased and bribed legislation.

Mr. MACVEAGH. Mr. Chairman: If the gentleman from Philadelphia will allow me to make a suggestion, he does not appear to see the point of the inquiry of the gentleman from Chester. Suppose a bill incorporating a company is passed by fraud, or suppose any other bill be so passed, and then innocent parties have acquired property under the conditions of that bill, by purchasing shares of stock or anything else. Now, subsequent investigation, under this provision as it now stands, may establish this fraud in the passage of the bill, and the bill may be declared null and void, and all the rights acquired by innocent parties, without any knowledge of the fraud, will fall with it. That is not intended, certainly. The rights of purchasers who have acquired property without knowledge of fraud are not to be affected.

Mr. DARLINGTON. Mr. Chairman: What I meant to inquire was this: Whether the gentleman proposes to invest any court with authority to declare a public law void under which private rights may have vested, because some individual interested in getting the public law through may have had a hand in corrupting and bribing the Legislature to get it?

Mr. WOODWARD. Well, sir, I do not still see that the question is applicable here. Either an act of Assembly obtained by bribery or corruption is to be sustained, or it is to be defeated. If you can prevent an investigation and a defeat by issuing a bond or certificate of stock to somebody, and calling that a vested right, why then

we are in the hands of the Philistines, and still have no remedy.

Mr. BROOMALL. Mr. Chairman; Will the gentleman allow me to ask him a question?

Mr. WOODWARD. Certainly. I believe in interlocutory discussions.

Mr. BROOMALL. Suppose the law of descent of real estate should be changed by improper means, or by some means in violation of the provisions of this act, and the matter had run on for twenty years before it was inquired into. Would the gentleman declare that law void, and divest the titles of all the persons who were claiming real estate under it?

Mr. WOODWARD. Certainly not.

Mr. BROOMALL. Yet the provisions of that section would go that far.

Mr. MACVEAGH. Not with my proviso.

Mr. WOODWARD. Mr. Chairman: When we are attempting to restrain wrong, we must be very careful that we do no wrong. Nobody desires to do any wrong. Vested rights are not to be divested.

Mr. BROOMALL. That may be, but if a law is void it is void from the beginning.

Mr. WOODWARD. Well, then, if that is the condition to which this discussion must reduce the advocates of the amendment, then I accept it, and I say that there is no time that sanctifies a fraud. There is no statute of limitations in behalf of fraud, and in the case of Jackson vs. Summerville, with which the legal gentlemen are familiar, a fraud of, I believe, more than twenty years old, certainly a very venerable one, was ripped up from stem to stern, and a valuable estate, supposed to belong to Mr. Jackson, to wit, the town of Gaysport, was delivered over to its proper owner, Summerville.

Mr. RUSSELL. Jackson had notice of the fraud.

Mr. WOODWARD. I do not know that, but it made no difference. The Supreme Court decided it was immaterial whether he had notice or not. They decided that it was immaterial what consideration had been paid. They placed themselves upon the broad moral ground that fraud vitiates anything it touches, and vitiates it forever.

Mr. S. A. PURVIANCE. Was not that case of Jackson and Summerville afterward over-ruled by the case of Pearsol and Chapin, from Elk county?

Mr. WOODWARD. I was not aware of that; I have heard the case of Jackson and Summerville cited in the Supreme Court this very week as good authority, and I have heard no judge of the Supreme Court

except to it. I admit that it was a very rank case. It was a case in which violent remedies were needed, but the court did not hesitate to apply them. They did not talk as gentlemen do here about vested rights. There can be no vested rights under a vile fraud.

Mr. Chairman, I do not presume that the extreme case put by the gentleman from Delaware (Mr. Broomall) ought to scare anybody from supporting this amendment. If extreme cases are arguments you can imagine any sort of cases; but the principle on which I plant myself is that this is a fraud of the most grievous and iniquitous character. It cannot be sanctified by time nor by the issuing of a certificate of stock to some convenient friend and calling that a vested right, and therefore, in any judicial proceeding that may arise, it is a question for the courts to investigate the validity of that law.

Mr. CORBETT. Can you inquire into fraud, even into actual fraud, after twenty-one years? Did not the case of Kribbs and Downing settle that? If over twenty-one years it is presumed to be right.

Mr. WOODWARD. I cannot speak about the case to which the gentleman from Clarion alludes, because it is not in my mind.

Mr. CORBETT. I think your Honor was on the bench.

Mr. WOODWARD. Mr. Chairman: I do not think there is any statute of limitations in Pennsylvania in favor of fraud. I am not aware of any. I do know that the most solemn judicial record may be impeached for fraud. I could name an instance of that. I do not know how old it was, but it was after some time had gone by. Judge Read, at *nisi prius*, decided that an issue should be formed to try the validity of a previous judgment on the alleged ground of fraud. That issue came on for trial before another judge at *nisi prius*, and the fraud was sustained and found and the whole proceeding was set aside. That has been the course of the judicial proceedings in these cases. The judiciary have tried to confine everything to this maxim, that "fraud vitiates everything it touches." We have got to trust this thing to the judiciary by a direct open inquiry or else let it remain as it is. However, Mr. Chairman, I have been led to say more than I intended by these questions addressed to me, and I leave the subject.

Mr. CUYLER. Mr. Chairman: I do not know whether this debate has arisen out

of the resolution which I introduced into the committee some weeks ago or not. Several weeks ago I offered the following proposition, to be found, No. 270, in the volume of amendments and propositions, presented to the Convention, or suggestions made in committee, page 143:

"No act of Assembly passed in violation of the foregoing provisions, or which shall have been procured by bribery, fraud or corruption shall have the force and effect of law. The Supreme Court shall prescribe by general rules the method of investigating and ascertaining whether any act of Assembly is invalid by reason of bribery, fraud or corruption used to procure its passage or by reason of a failure to observe the requirements of the Constitution in its passage."

I introduced that proposition and it was referred to the Judiciary Committee, from which committee no report has yet been made. It seems to me that the subject belongs very properly to the province of that committee, and that, perhaps, it were better to dispense with action upon it here until that committee, to which the subject was specially referred, make its report.

I will venture to state to this committee of the whole why I introduced that proposition. I had just returned from arguing, in the court of Chancery of New Jersey, a question of that character. There a bill had been introduced into the Legislature of New Jersey to incorporate what was called the Stanhope railroad company, to build a short line of railroad, seven miles long, from the base of the Wallkill mountain to Lake Hopatcong, in the northern part of New Jersey. The bill was printed in two forms. In the one form it was a bill which simply provided for what I have just stated. Two copies were printed, however, in another form, and in these two copies there was inserted, under the name of an addition to the eighth section, a clause which, it was contended, transformed the Stanhope railroad company into a corporation, with the right to build a through line of railroad between New York and Philadelphia.

The clerks of the Legislature were taken into the conspiracy. On the desk of each member was laid the truly printed bill. The clerks of the House and of the Senate held in their hands the bill with the fraudulent section, and when they read the bill they read only the portion which corresponded with the printed bill on the

tables of the members. Thus it passed both branches, and the bill was certified by the committee to compare bills. The page containing the real eighth section was then slipped out, and a page containing the fraudulent copy slipped in, and the certified copy taken to the Governor, and a gentleman who was interested in this fraud, carrying the bill to the Governor for his signature, represented it as a very harmless bill, benefiting only the people of his region of the State. The Governor asked if it had been compared, and he said no, but it could be compared then. The true bill was given to his clerk, and the false bill retained by this gentleman, who read it, omitting this fraudulent section, and then the Governor signed it. It was taken to the Rolls office of the Commonwealth, and a certified copy taken, and then, in this litigation, it was held high up before the court that the fraud, though substantially admitted, could not be remedied. The answer made to the counsel was, how do you propose to remedy it? Do you propose to go behind the great seal of the State, which declares this bill to be a genuine bill? How will you get redress? That was one of the great questions of that cause, and it was after the argument of that case that I offered this proposition here.

Now, that fraudlike this one proved in New Jersey could be possible in our Legislature, of course none of us could endure the thought of for a moment. That it is the high duty of this Convention to provide some method by which it shall be prevented, is equally clear. What that method shall be is the question. The principal objection to the one under consideration in the committee is, that it seems too long and cumbersome, and I think that if the committee would vote it down that a substitute of this character might reach the evil:

"No act of Assembly passed in violation of the foregoing provisions, or which shall have been procured by bribery, fraud or corruption, shall have the force and effect of law. The Supreme Court shall prescribe, by general rules, the method of investigating and ascertaining whether any act of Assembly is invalid by reason of bribery, fraud or corruption used to procure its passage, or by reason of a failure to observe the requirements of the Constitution in its passage."

I would move this as a substitute for the article under consideration.

The CHAIRMAN. The gentleman cannot move it as a substitute now. There is an amendment to the amendment pending.

Mr. WALKER. Mr. Chairman: I think we are not doing exact justice to the Committee on Legislation, nor yet are we doing justice to ourselves in passing, if we should pass at this point, the different amendments, or any one of them, touching the question of fraud. The clause that is now under consideration, section thirty-five, is exclusively confined to the forms pointed out in the preceding section. It begins: "Any bill passed in disregard of the provisions and directions prescribed in this article shall be void."

Now, what we want is a substitute for that, for I agree with every gentleman who has spoken here, that in its present shape it ought not to pass. What we want is a provision by which it is to be ascertained that all the forms required in order to pass a bill or resolution have been complied with.

It strikes me, Mr. Chairman, that the amendment offered by the gentleman from York (Mr. Cochran) more nearly approaches that than any that has been offered. Perhaps that of the gentleman from Allegheny (Mr. Howard) is as good. But what we are after now, Mr. Chairman, is to see that all the matters of form have been complied with, and that, too, not after the bill has been signed by the Governor, and enrolled and become what we call a law, but before it is signed, before it is enrolled, in order that the general public may know that the forms of legislation have been complied with. Then when that is provided for, the bill is signed by the Governor, and is enrolled and becomes a law. We are to treat it, so far as the form is concerned, as an act of Assembly.

It is another question, and an essentially different question, and a more important one than that which is agitated by the amendment now before us. Let us pass either the amendment offered by the gentleman from York, or the amendment offered by the gentleman from Allegheny.

Mr. MACVEAGH. That has been voted down.

Mr. WALKER. Then the amendment offered by the gentleman from York, providing that the requisites to legislation have been complied with. And when that is done, let the gentleman from Luzerne (Mr. H. W. Palmer) introduce his resolution as to fraud. There is no

gentleman in this body, I presume, that will not go to every extent to root up and kill every possibility of fraud being practiced upon the Legislature. But we do not want, Mr. Chairman, and that is what I am speaking about now; we do not want to mix up that question with the question that is presented by the Committee on Legislation. That is a question of fraud. Now, sir, every gentleman has his own panacea, and I have one myself. I do not think that it is any better than that of the gentleman from York, but every one is fond of his own child.

This is what I would propose: "It shall be the duty of the Secretary of the Commonwealth, when a bill or resolution is presented to the Governor for his approval, to inspect the Journals of each House, and if the Journals say that all the forms have not been complied with, and that fact is so certified by the Secretary to the Governor, then he shall withhold his approval. But if the Secretary certifies that all the forms have been complied with, and the Governor approves the same, it is enrolled, and its enrollment shall be conclusive that all the forms of legislation have been complied with." I think this is substantially the same as that of the gentleman from York. Now, do not let us, Mr. Chairman, do injustice to the Committee on Legislation. Do not let us say that they are providing against fraud when that is a subject matter that they may yet have to act upon. It is important that the public shall know, and know before the Governor puts his signature to a bill, before it is enrolled, that all the forms have been complied with. When that is done, then for all purposes of form it is a law. But if outside of that there is fraud, guard against that by the section of the gentleman from Luzerne, drawn with just care enough as is necessary to reach and cut up the fraud.

In my judgment this is the way we ought to dispose of this question. Let us now vote down the amendment of the gentleman from Luzerne, that is before the Convention, not with a view to kill it, not with the view that the opinion of this committee is against it, but because it is not now in its place. Then offer it immediately after as an additional clause, and I shall most cheerfully and heartily sustain it.

Mr. H. W. PALMER. Mr. Chairman: I am quite satisfied that the proposition of the gentleman from Erie (Mr. Walker) is the correct one, and for the purpose of

carrying out his ideas I desire to withdraw this section, for the purpose of allowing the section reported by the Committee on Legislation to be voted upon. I see that there are two propositions contained in this section. One is a matter of form, and the other a matter of substance. Now, as mine is one of substance and not of form, and as I am satisfied that there must be some additional safeguards thrown around the matter of form, I will withdraw the proposition for the present.

The CHAIRMAN. The gentleman from Luzerne withdraws his proposition.

Mr. COCHRAN. Mr. Chairman: I move the following as an amendment:

"It shall be the duty of the Secretary of the Commonwealth, whenever any bill requiring the signature of the Governor shall be presented to him, to inspect the Journals of both Houses of the General Assembly, and if it appears thereon that all the forms of legislation in both Houses, as hereinbefore prescribed, have been observed in the passage of such bills, he shall so certify thereon to the Governor; but if it shall not so appear, the Secretary shall so certify in like manner, and the bill shall not receive the Executive approval or signature, but shall be returned to the House in which it originated, accompanied by a statement of the reasons which induced its return, and shall not become a law unless it shall thereafter be passed through all the requisite forms of legislation, and be approved, as in other cases, by the Governor, whose approval shall be conclusive that said act has passed through all the required forms of legislation."

Mr. LILLY. Mr. Chairman: I suggest to the gentleman from York, (Mr. Cochran,) that he modify his amendment in a small particular. After the words which have fallen from the gentleman from Columbia (Mr. Buckalew) this morning, it is clear that frauds in legislation, or in passing bills through the Legislature, get beyond the Journal. In order to reach them we must get at the manuscript bills. The modification that I suggest to the gentleman from York is, that he include in his amendment, "manuscript bills."

Mr. COCHRAN. Mr. Chairman: I wish simply to state, in reply to the gentleman from Carbon, (Mr. Lilly,) that this section provides that when it does not appear on the Journal that everything necessary to be done has been complied with, the Governor shall not sign the bill. Now, if there is a section inserted in that bill, sur-

reptitiously or otherwise, and it does not appear on the Journal, then the Governor is not to sign it, but to return it. The very fact that it does not appear on the Journal is the reason why it shall be returned.

Mr. LILLY. Mr. Chairman: That is all right, as far as it goes. The Journals, we all know, are matters of public record, but this amendment does not reach the evil described by the gentleman from Columbia. The fraudulent insertion may appear on the Journal when it would not appear on the original bill.

Mr. MACVEAGH. The Journal is to be read as a protection.

Mr. WALKER. Mr. Chairman: I offer the following as a substitute.

The CHAIRMAN. A substitute cannot be offered at this time. When the section is before the House it is competent for any gentleman to move a substitute, which is to strike out the section and insert; but if an amendment is pending a substitute cannot be offered to the amendment. An amendment to the amendment will be in order, but not a substitute.

Mr. WALKER. What I propose is not an amendment, but another substitute.

The CHAIRMAN. It is not in order at this time.

Mr. MANN. Mr. Chairman: I ask that it be read for information.

The CHAIRMAN. It is in order to read it for information, and the Clerk will read the substitute.

The CLERK read as follows:

"It shall be the duty of the Secretary of the Commonwealth, when a bill or resolution is presented to the Governor for his approval, to inspect the Journals of each House, and if the Journals say that all the forms have not been complied with, and that fact is so certified by the Secretary to the Governor, then he shall withhold his approval. But if the Secretary certifies that all the forms have been complied with, and the Governor approves the same, it is enrolled, and its enrollment shall be conclusive that all the forms of legislation have been complied with."

Mr. CUYLER. Mr. Chairman: I have but a very few words more to say. Our government is one of distributed powers, and the true philosophy, I suppose, in framing a Constitution, would require us to see that those powers are not encroached upon, but are kept separate. My objection to the pending amendment is, that it takes away from judicial inquiry that which comes properly within the range

of judicial inquiry. It puts it in the power of the subordinate bodies, wherever they may charge fraud against the passage of an act of Assembly, to take wholly out of the reach of judicial inquiry that which is a legitimate subject for such investigation and inquiry. If it can become apparent to the sense of every man who opens the Journal that the requirements of the Constitution have not been complied with, then a fraudulent and bribed clerk, certifying that this has been done according to these provisions, will forever remove the whole thing from the possibility of investigation.

I am not willing to do that, for two reasons:

First, because it is taking away from the judiciary a power that properly belongs to them; and second, because it is depositing with a subordinate clerk a power that I am not willing to deposit with him, where it may, under any circumstance, be a subject of criticism and dispute.

It is not in order for me at this time to offer an amendment, but I will read, as part of my remarks, what seems to me to cover the ground in this case entirely:

"No act of Assembly passed in violation of the foregoing provisions, or which shall have been procured by bribery, fraud or corruption, shall have the force and effect of law. The Supreme Court shall prescribe by general rules the method of investigating and ascertaining whether any act of Assembly is invalid by reason of bribery, fraud or corruption, used to procure its passage, or by reason of a failure to observe the requirement of the Constitution in its passage."

That is putting the whole subject just where it belongs, in a system of government like ours, namely, in the hands of our judiciary, and it is not permitted to a clerk, a mere subordinate who may be bribed or mistaken, by his certificate, to over-ride the whole justice of the case, and counteract the common sense and fair intelligence of all the people of the State. It is putting it in the hands of the judiciary, where it ought to rest, and I propose, if the record assumes a shape to permit me, to offer it as an amendment at some future time.

Mr. MACVEAGH. Mr. Chairman: I trust the committee will adhere to the distinction which seems to be generally adopted, that is, of putting these directory provisions where the gentleman from York (Mr. Cochran) proposes to put them.

I dissent from the doctrine of the gentleman from Philadelphia (Mr. Cuyler.) I do not think it was ever a judicial question, whether the preliminary forms of legislation have been complied with, and I think we have to trust the legislative and Executive branches of the government with these preliminary matters. We cannot attack the decree of a court of competent jurisdiction because of irregularities in the decision. You can, however, go to the root of it for fraud, bribery and undue means. Let us preserve this doctrine and treat the legislative branch of the government, reformed and purified as we hope it will be, with the respect that is due to a co-ordinate branch of the State government.

Mr. BUCKALEW. Mr. Chairman: I agree with the gentleman from Dauphin (Mr. McVeagh) that we should treat the two subjects separately. With that view, the gentleman from Luzerne (Mr. H. W. Palmer) withdrew his amendment relating to the general question of fraud in the passage of bills. But this amendment seems to me to be defective.

I do not understand what the Governor is to do with the bill in case the requirements of this article should not be complied with. I take it for granted he can only veto it. He cannot certainly pocket it, although the amendment makes no provision in that regard.

Mr. MACVEAGH. Yes, it makes a provision that he is to return it with his reasons.

Mr. BUCKALEW. Well, he has to veto the bill, and then suppose they pass it by a two-thirds vote?

Mr. MACVEAGH. No, but he returns it with his reasons.

Mr. BUCKALEW. But suppose the Legislature, along with the gentleman from Dauphin, (Mr. MacVeagh,) and others, shall hold that these clauses of the Constitution are directory, and not imperative, and that two-thirds of them, on that construction, vote for the bill, what becomes of the check?

Mr. MACVEAGH. The provision itself distinctly states that a bill shall *not* be a law until it has passed through all the required stages of legislation.

Mr. BUCKALEW. That is just what I say. It will take a two-thirds vote.

Mr. MACVEAGH. No, sir. It has nothing at all to do with a two-thirds vote.

Mr. BUCKALEW. Then the bill has to start again?

Mr. MACVEAGH. Yes.

Mr. BUCKALEW. And go through the same process?

Mr. MACVEAGH. Yes.

Mr. BUCKALEW. Well, that would certainly be bringing a novelty into legislative practice.

Mr. MACVEAGH. That is the proposition. That is what is wanted.

Mr. BUCKALEW. Well, I am only inquiring what the amendment is. It is open to investigation, surely.

Mr. MACVEAGH. Certainly. Is there any objection?

Mr. BUCKALEW. Well, the Secretary of the Commonwealth, it seems, is to examine the Journals. I suppose he will have to run all over Harrisburg, to the State Printer's, where the written Journals usually are for the first ten days after they are prepared by the clerks, and he is to inspect these Journals. What then? Why, a great many things required in this article, of course, never appear on the Journals. For instance, the seventh section says that "no amendment shall be agreed to, or acted upon, or added to a bill, until it has been printed." That is one of the solemn requirements here. The Journal will not show anything about that. The twelfth section states that "no local or special bill shall be passed unless public notice shall have been given for three months," and due and adequate proof, of course, produced to the committee of the House who report the bill; but the fact whether publication has been made or not, will not appear on the Journal. So in regard to the passage of banking bills—bills establishing banking institutions or corporations, with discounting or other banking privileges, notice should be published for three months; and there are a number of other requirements in this article, compliance or non-compliance with which will not be shown by the Journals. It seems to me that matters will stand, after you have adopted this proposed amendment, very much as they do now. The Governor of the Commonwealth, if he be fit for his place, if he be a vigilant public officer, and desirous of performing his duty, will make reasonable inquiry in the most convenient manner, which, upon experience, he will find open to him to ascertain whether a bill, as it comes to him, has the sanction of the Constitution. I do not see, sir, that putting such a section as this in the Constitution will give us any guarantee which we do not now possess. If you put it in, it will be understood that after the

Secretary has walked down to the Public Printer's and read over the Journals, and hears nothing against the bill, the Governor is to take everything as right, and sign it.

The CHAIRMAN. The question is upon the amendment proposed by the gentleman from York (Mr. Cochran.)

Mr. BROOMALL. Mr. Chairman: I desire only to say that the present Constitution, and the one we propose, require that all bills shall be signed by the Speaker of each House, and when the Speaker of each House signs the bill he certifies that all these forms have been gone through with. Now, I very much doubt the propriety of allowing any officer connected with the Executive department to question the certificate of the Speaker of the House upon matters of form.

The question being upon the amendment of Mr. Cochran, it was rejected.

Mr. CUYLER. Mr. Chairman: I now move to substitute the following:

"No act of Assembly passed in violation of the foregoing provisions, or which shall have been procured by bribery, fraud or corruption, shall have the force and effect of law. The Supreme Court shall prescribe, by general rules, the method of investigating and ascertaining whether any act of Assembly is invalid, by reason of bribery, fraud or corruption, used to procure its passage, or by reason of a failure to observe the requirements of the Constitution in its passage."

Mr. DARLINGTON. Mr. Chairman: I am unwilling that a vote should be taken on that without calling the attention of the committee to what I conceive to be a blending of two entirely distinct objects here. This report of the committee contemplates merely a conformity to the forms of legislation without any regard to the question of fraud. The proposition of the gentleman from Philadelphia (Mr. Cuyler) is to insert a provision against fraudulent legislation, which, of course, he does not mean to apply, I presume, to the case of a public bill, and therefore it is improperly drawn.

Mr. CUYLER. My object is to provide a method of investigation into those circumstances, be they what they may, that render an act of Assembly invalid. A failure to observe the requirements of the Constitution in the method of its passage would be attested, as every question of that character is in the courts, by an inspection of the record. If the Constitution says that a bill shall pass by yeas and

nays, recorded, and an inspection of the Journal is necessary, the Supreme Court would prescribe that method in its general rules.

Mr. DARLINGTON. I understand that; but the proposition goes further. It is to invalidate laws which are passed by fraud, and without regard to whether they are general and public in their nature, as they may be, or the result of mere private cupidity, because special legislation, it is well known, has very frequently taken, and will again take, the form of public law.

A man has a grievance which he wishes to remedy in his particular case, and he thinks a public law, covering all cases all over the State, of similar character, would be the right way to do it, and in order to get that law, in which he has a special interest, passed, he may use corrupt means. Now, surely, although that may be the case, and although it may be passed by corrupt means, yet if it to be a general law, of general utility, I would not have it declared fraudulent and corrupt, at any remote distance of time, and without regard to any rights which might be vested under it. I think we had better dispose of this now, in so far as it affects merely the forms required. Let us have the most stringent provisions, as they may be proposed hereafter by some gentlemen who have the matter especially at heart, carrying out precisely the idea of the gentleman from Columbia, (Mr. Buckalew,) that no company or individual shall obtain legislation by fraudulent means, and benefit by it. For that object I will go with the gentlemen, but, as to this, it is a general provision.

The question being upon the amendment of Mr. Cuyler, it was rejected.

Mr. DARLINGTON. I now propose to amend, by striking out all after the word "void," in the second line, and inserting the following: "And may be so declared, in any legal proceedings instituted for that purpose on behalf of the Commonwealth, within one year after its publication."

Mr. CUYLER. Then, if I may be pardoned one remark more, I would say that all that is necessary is, that the person desiring and securing the passage of a bill by fraud, shall "salt down" his bill for twelve months, and then raise it.

Mr. DARLINGTON. It does not raise the question of fraud at all.

The question being upon the amendment of Mr. Darlington, it was rejected.

Mr. BUCKALEW. Mr. Chairman: I now move to strike out all the section after the word "effect," in the second line, and make the section read, "any bills passed in disregard of the provision and directions prescribed in this article shall be void and of no effect."

Mr. J. W. F. WHITE. Mr. Chairman: I move to add as an amendment to the amendment, after the word "effect," the words, "and the Journals of the House shall be conclusive evidence of the facts in the case."

It was not agreed to.

The CHAIRMAN. The question recurs on the amendment.

Mr. MACVEAGH. Mr. Chairman: I trust that the committee has the full effect of this proposed amendment before them, because it really would leave us at sea. No law, as it seems to me, could possibly be worth anything to us in Pennsylvania under such a provision. No man could take title or anything else by virtue of any law.

Mr. BUCKALEW. I simply want to say that my object in offering this amendment is to leave the principle on the face of the bill, so that on the second reading gentleman may have an opportunity to mature their propositions.

Mr. HEMPHILL. I move the following amendment to the amendment of the gentleman from Columbia, (Mr. Buckalew,) to come in after the word "effect." "And every bill, after it has been transcribed shall be submitted to the Speakers of the two Houses, who shall certify to the Governor that all the forms and requirements of the Constitution, in its consideration and passage, have been complied with in their respective Houses."

It was rejected.

The question recurring on the amendment of Mr. Buckalew, a division was called for and resulted, in the affirmative forty-two, in the negative thirty-nine.

So the amendment was agreed to.

Mr. H. W. PALMER. I now move the following as a substitute for the section.

Mr. LILLY. I rise to a point of order. We cannot now go to striking out what we have just voted on and adopted.

The CHAIRMAN. The Chair overrules the point of order. A motion to amend can be made, if the amendment be coupled with such other matter as may make it substantially a new proposition. The Clerk will read the amendment of the

gentleman from Luzerne (Mr. H. W. Palmer.)

The CLERK read :

"SECTION —. Whenever, in any judicial proceedings, either party shall claim, under or by virtue of any act of Assembly, and the other party, upon proper affidavit, shall allege that such act of Assembly was passed in disregard of the provisions and directions prescribed in this article, or by fraud, bribery or undue means, and the court before which such judicial proceeding is pending shall be satisfied *prima facie* that such allegations are well founded, it shall be the duty of the said court to order a feigned issue to be framed under the direction of the Attorney General upon proper pleadings, in which the Commonwealth, upon relation of the party in interest, shall be plaintiff, and the party claiming under such act of Assembly defendant, to try the truth of the allegations in said affidavit contained, and the validity of such act of Assembly; and the said issue shall be certified to the Supreme Court and tried by one of the judges thereof, in whatever county he may direct; and if it shall appear to the court and jury, upon such trial, that all the provisions of legislation in both Houses, as hereinbefore prescribed, have not been substantially observed in the passage of said act, or that the same has been procured by bribery, fraud or undue means, such act of Assembly shall be adjudged null and void, either party to have the right to a writ of error as in other cases."

Mr. MANN. Mr. Chairman: I rise to a question of order. The section, as now amended, refers entirely to the forms of legislation, and the amendment proposed changes it entirely and makes it refer to fraud.

The CHAIRMAN. The Chair cannot sustain the point of order. It is competent for a gentleman to change a proposition before the Convention so as to make it an entirely different proposition, if it relates to the same general subject.

Mr. S. A. PURVIANCE. Mr. Chairman: I offer the following amendment to the amendment, to come in before the proviso :

"And a certified copy of the Journal relating to the law in question shall be referred to as *prima facie* evidence that the requisitions of the Constitution have been complied with, and the law, if assailed for fraud in its enactment, shall be contested in a public proceeding under the direction

of the Attorney General of the Commonwealth, as may be prescribed by law."

It was rejected.

The CHAIRMAN. The question recurs on the amendment of the gentleman from Luzerne (Mr. W. H. Palmer.)

Mr. W. H. PALMER. Mr. Chairman: This is the main question of the case. For the purpose of passing on the question of mere form I withdraw the amendment, as it seems that the Convention has seen fit to vote down that section, or at least to emasculate it so that there is nothing of it left. Now, the question arises whether we are willing to meet the pinch of this issue—whether we are ready to say that the rule which has heretofore prevailed in the Commonwealth of Pennsylvania shall continue to prevail—whether we are ready to say that an act of Assembly which was procured by bribery, fraud and corruption shall remain unimpeached and unimpeachable.

I do not know whether this amendment is in the best form or not. I do not know but what some other gentleman may provide some better and more expeditious means of reaching the difficulty. If that can be done I am not tenacious about the form. I only desire that the principle shall somewhere be inserted in this Constitution, and I therefore appeal to the Convention not to vote down this substitute, but to pass it, so that the principle may be inserted here, and on second reading, or at some future time, if anybody can conceive a better plan, I should be ready to adopt it. But I hope that this Convention never will adjourn until it makes some provision by which these infamous acts that are procured by bribery, fraud and corruption, may be set aside by the proper tribunals, to wit, the courts. If you are ready to allow matters to go on as they hope gone—to allow the courts to be put in the position which they have heretofore occupied—then vote down the substitute; but if you are willing to engraft this new principle in the Constitution, which is founded in justice, which can do no man harm, because the proviso takes care of innocent parties, who have acquired rights for valuable considerations and without notice, and who have not been concerned in the passage of the bill, and only strikes at the fraudulent and guilty parties, who have prostituted the forms of legislation for their own purposes.

Mr. MANN. Mr. Chairman: I am a little surprised that this amendment

should be again pressed by the gentleman from Luzerne (Mr. H. W. Palmer.) I should be glad to vote for it if submitted as a separate proposition, but as now submitted I cannot do it, for it proposes to strike out the provision that a bill passed in disregard of the forms of legislation shall be void. It proposes to strike out the entire subject of this section, and introduce a new subject and a new section. Here is a proposition requiring the Legislature to observe all the forms of legislation required in this article, or their action to be void. The gentleman from Luzerne (Mr. W. H. Palmer) moves to strike that out, and if this amendment is adopted, then every proposition of this Constitution may be disregarded, and laws may be proven to have been passed without the necessary form of legislation, and yet they cannot be questioned, because there can be no fraud proven. I undertake to say that a hundred acts of Assembly may be passed in disregard of the necessary forms of legislation when you cannot prove any fraud. Yet you give validity to just such acts of Assembly as was referred to by the gentleman from Columbia, (Mr. Buckalew,) because you cannot *prove* the fraud, for under the provisions of this section the fraud must be proved.

The section reported by the Committee on Legislation does not require such a stringent rule. It requires that the forms of legislation shall be complied with or the acts are void, and it does not put upon the Commonwealth or anybody else the necessity of *proving* fraud. The amendment will destroy the very object aimed at by the section, and it will be impossible under it to declare any act of Assembly void.

Mr. MACVEAGH. Will the gentleman allow one moment's interruption?

Mr. MANN. Certainly.

Mr. MACVEAGH. I am sure the gentleman from Luzerne (Mr. H. W. Palmer) and a number of other gentlemen, feeling the same way, accepted the vote of Convention on the amendment of the gentleman from York, (Mr. Cochran,) as their judgment that they did not desire further guards, as to the directory provisions—the matters of form; and that, therefore, this was offered, because they did not desire to vote on that section. If it is believed by anybody to be the sense of the Convention that that section would be adopted the amendment, I have no doubt, would be withheld for the present.

Mr. MANN. I simply desire to ask this committee whether they will say that the Legislature shall observe the forms of legislation or not? It was just as easy to submit this amendment as an independent proposition, as to put it in here. I want to vote for some such proposition, but I do not want to vote so as to say that the Legislature may disregard the forms of legislation. You could not prove in any court that acts were obtained by fraud. The act of Assembly which took from the State the ten thousand dollars annuity which the Erie railroad should have paid to the State could not have been proven to have been obtained by fraud, but it could have been proven that it was passed in violation of the forms of legislation. If such an amendment as this is adopted that money would be kept perpetually from the Treasury of the State, and without a remedy.

Mr. KAINE. Will the gentleman permit me to ask him a question?

Mr. MANN. Certainly.

Mr. KAINE. Suppose the amendment he refers to, voting to another railroad the ten thousand dollars which was to have been paid to the State by the Erie railroad, was put upon the bill in committee of the whole, would it appear on the Journals anywhere that such an amendment was ever before the House?

Mr. MANN. This section as now amended does not refer to the Journal. It says that "any bill passed in disregard of the provisions of this article, shall be void." That bill was passed in violation of the forms of legislation, and is to be void.

Mr. H. W. PALMER. Mr. Chairman: I am quite convinced again, by the eloquence of the gentleman from Potter, (Mr. Mann,) and will withdraw my substitute, and will allow the House to vote on the section, with the understanding that I am to offer it as an independent proposition. I desire to bring the Convention, some time or another, in the course of this mortal life, to a vote on this proposition. I withdraw it for the present.

Mr. HOWARD. Mr. Chairman: The amendment having been withdrawn by the gentleman from Luzerne, I offer the following as a substitute for the section.

The CHAIRMAN. The substitute will be read.

The CLERK read as follows:

"In all cases of the passage of any bill the Speakers of both Houses shall certify to the Governor that all forms prescribed by law have been complied with by the re-

spective Houses, and the Governor shall not give his approval to any bill until he shall ascertain that all the forms of legislation, as prescribed in this article, have been observed in the passage of the same, but in his approval he shall so certify, and his certificate shall be conclusive evidence that all the forms prescribed have been complied with."

Mr. D. N. WHITE. Mr. Chairman: I am opposed to the original section and to every amendment that has been offered in the Convention to-day. I do not think either the original section or the amendments are needed to secure honest legislation. If you look at section eight, which has been adopted by the committee, you will find it reads as follows:

"Every bill shall be read at length on three different days in each House; all amendments thereto shall be printed before the final vote is taken, and no bill shall become a law unless, on its final passage, the vote be taken by yeas and nays."

Now, the Journals are always right. We never find any fault with the Journals. A bill cannot be passed through the Legislature unless it is read at length on three different days, and unless it is printed, and unless the yeas and nays are taken on its final passage. Now it is well known by those who are conversant with legislation, that the Governor has a printed file of every bill that is introduced into the Legislature, and as no bill and no amendment can be passed without its being printed, the Governor and the Secretary of the Commonwealth, by simply looking at the printed file of bills, can discover whether any fraud has been committed after the bill passed the Legislature. It is a clear and definite way of testing the question at once, as there can be nothing inserted into the bill if the Governor or the Secretary of the Commonwealth examine the file of printed bills. Previously, bills were not printed, and in a great many instances were introduced and rushed through the Legislature without being printed, and without being read, except by its title. According to the practice which we have agreed to establish, all bills and all amendments must be printed. How can any fraud be committed if the Governor exercises any care or diligence in the examination of bills placed upon his files?

Mr. KAINE. Suppose the gentleman from Allegheny desired to offer an amendment in the Legislature and desire to have that amendment printed, is there

any provision in this section that it shall be printed?

Mr. D. N. WHITE. I will read the section which has been passed by the Convention. It reads as follows: "Every bill shall be read at length on three different days; all amendments thereto shall be printed before the final vote is taken."

Mr. KAINE. It is not so then.

Mr. D. N. WHITE. The section says distinctly, "all amendments thereto shall be printed before the final vote is taken." Of course, if the Governor is provided with a file of printed bills, he can tell, by an examination, at a glance whether any fraud has been perpetrated since the passage of the bill through the Legislature.

Mr. HAZZARD. I would like to ask the gentleman a question. Suppose these bills are printed, but that two of them should be printed in a manner referred to by the gentleman from Philadelphia (Mr. Cuyler,) either by mistake or by manipulation, in the manner he narrated this morning. How will this section provide for such a case indicated by that gentleman?

Mr. D. N. WHITE. Well, Mr. Chairman, there will be more difficulty in inserting snakes where the bills are printed, and the final vote is taken by yeas and nays, because amendments made to bills in committee of the whole, on second reading or third reading, will have to be printed before they are passed, and a bill on second reading, a bill on third reading and a bill with amendments will have to be printed, and if there is anything inserted in the bill that is not printed, the Governor will know that there has been a fraud committed.

Now my experience in legislation has showed me that the Journals always conform to the action of the House on bills, or its purported action. It is true that bills, in very rare instances, have been passed through both Houses of the Legislature without ever having been read at all, and without ever having been voted upon, but the Journals were in order, and gave a description of the different forms of its passage. If, therefore, any one thinks a mere provision that the Journals shall be evidence of a passage of a law, he will be mistaken. It will not in any manner prevent frauds from being committed. The provision we have adopted in this article, that the yeas and nays must be recorded on the passage of every act, will be one of the strongest preventions of fraud that we can adopt. Besides that, in the

large House it is proposed to create, any two members can call the yeas and nays on any stage of the bill, and as the yeas and nays must be taken upon the final vote, it will be very difficult indeed to commit any fraud. I do not believe that such a thing would be possible. I do not believe, under the provisions which will be incorporated in this reform Constitution, it will be possible to commit such a fraud as this section is intended to prevent. I am therefore opposed to this section, because it might produce a great deal of trouble. It might, possibly, invalidate a bill after the Legislature had acted upon it, and large interests had been vested under its provisions. I consider the section not only useless, but dangerous, and I am therefore opposed to it.

The CHAIRMAN. The question is on the amendment of the gentleman from Allegheny (Mr. Howard.)

The question being taken, the amendment was not agreed to.

Mr. BROOMALL. Mr. Chairman: Before the vote is taken I only desire to say that if this provision is placed in the Constitution, that all bills passed in disregard of the provisions and directions prescribed in this article shall be void; no man will know what the law is in Pennsylvania. No man will be able to depend upon the validity of any act of Assembly, and I am afraid that the people of the State will think the one hundred lawyers composing this Convention have not been unmindful of their own interests, and have been desiring to get up litigation in order that each one of them may go to Harrisburg at his client's expense, and hunt over the records there to see whether all the formalities have been observed in the passage of laws.

Mr. KAINE. Mr. Chairman: I understood when the motion was made by the gentleman from Columbia, (Mr. Buckalew,) to strike out that portion of the section which has been stricken out by a vote of this committee, it was with the understanding that some other gentleman who was conversant with this subject should offer a section, to be inserted at the proper time or upon the second reading of the article. It was with that understanding that I voted to strike out that portion of this section, and I think that was the understanding of other gentlemen of the committee—that a new section prepared upon this subject should be offered when the section comes up on second reading.

While I am up I desire to say a single word upon this section. I do not think the section as it is reported by the committee will be worth anything to prevent what is intended. Now the gentleman from Allegheny (Mr. D. N. White) thinks that every bill and amendment will be printed in regular order, and in a perfectly honest manner, according to form, but I do not anticipate anything of the kind. I calculate after we have made every amendment to the Constitution on the subject of legislation, that the same things will be done at Harrisburg that have been done heretofore, notwithstanding the vigilance of the gentleman from Allegheny, (Mr. D. N. White,) and the gentleman from Potter (Mr. Mann.)

Mr. D. N. WHITE. I would like to ask the gentleman a question, and it is whether he does not know that the rules cannot be suspended except by a two-thirds vote.

Mr. KAINE. They can get three-fourths if necessary.

Now, sir, it is the intention to surround the legislation of this State with all kinds of guards, and I will go with the member of this Convention that will go the farthest in that direction. But I do not desire, so far as I am concerned, to put anything into the Constitution that will be of no value whatever. I take it that it is the duty of the Executive, before he signs bills passed by the Legislature, to examine them, in order to ascertain whether they are correct, and I do not think a provision of this kind is required in the Constitution. There is a committee of this Convention that has been referred to in the debates very frequently. Now, Mr. Chairman, that committee proposes to report an oath of office, and I submit to the Convention whether it will not be found sufficient for all the purposes proposed in this section. It reads as follows: "Members of the Legislature and all judicial, State and county officers, before entering upon the duties of their respective offices, shall take and subscribe the following oath or affirmation: I do solemnly swear or affirm that I will support, obey, and defend the Constitution of the United States and the Constitution of this Commonwealth, and discharge the duties of the office to which I have been elected with fidelity."

Now, after the Executive of the State has taken an oath of that kind, if it should be adopted by the Convention, it would then be his duty to examine all bills passed by the Legislature to see that the pro-

visions in regard to the passage of bills contained in the Constitution had been strictly complied with.

I feel a deep interest in regard to the other branch of this question, which proposes to provide a remedy when a fraud has been perpetrated upon the people by the Legislature. When an act has been placed upon the statute books without having been passed at all by the Legislature, this provision will afford no other means of prevention than have existed heretofore. When an act has been passed through the Legislature I would provide a tribunal of some kind which shall decide the act null and void, if corruption or undue means were used in obtaining it. I do not care where this power shall be placed in the Constitution, but I desire to see some provision of this kind incorporated into our organic law.

Mr. GOWEN. Mr. Chairman: I have already spoken once upon this subject, but I understand the amendment which has been passed gives me the opportunity to do so again. The section as amended removes the objection which was originally urged against it, that it introduced new forms of judicial procedure. That objection has been removed, and I take it under that section no act of Assembly could be decided to be unconstitutional, except in pursuance of the known rules of judicial proceedings. That is to say, that a private statute can never come before a court unless it is specially pleaded. That is to say, that an act of Assembly creating or incorporating a company, or creating a franchise, can never be determined to be unconstitutional except upon the relation of the Attorney General and upon a writ of *quo warranto*. Therefore the amendment already adopted removes this section from so much of that objection as was directed to the interminable proceedings at law, but it is still open to this objection; it is open to the objection that an act of Assembly is to be determined void, simply because some mere direction of form has not been pursued.

Upon what principle do we assume—what right have we to assume—that hereafter the members of the Legislature, who swear to obey and defend the Constitution of Pennsylvania, intend to violate their oaths, and that the judges who take the same oaths intend to keep them. Why draw that distinction in the future? I take it that upon the adoption of this Constitution the halcyon days of the republic are to return, and that we are to have as

members of the Legislature such gentlemen as the gentleman from Fayette, (Mr. Kaine,) who, after the confession he has just made for the good of his soul, I think deserves, at the hands of this Convention, plenary absolution for all his past offences. If it is true that such gentlemen as my friend from Fayette, (Mr. Kaine,) and other gentlemen in the Convention, were in the Legislature many years ago, and who, probably, have some hope of returning there again, after the adoption of this Constitution, by what right do their fellow-members assume that when they take the oath to support the Constitution of Pennsylvania they intend to break it; but, forsooth, the judge when he takes the same oath to keep it. I do not think we are assembled here to legislate, or to make a Constitution upon the assumption that every man who is a representative of the people in this State is hereafter to be considered as a perjured scoundrel. If we are not here to do that, why not permit all these matters of form to rest conclusively upon the certificate of the Governor, as suggested by some gentlemen in this Convention?

Mr. CORBETT. I would like to ask the gentleman this question. The Convention has adopted a provision requiring a majority elected to each House to vote upon a bill. I ask if this is not a reform? Or is it a mere matter of form?

Mr. GOWEN. Certainly, it is a matter of form.

Mr. CORBETT. Then a bill passed by less than a majority would become a law?

Mr. GOWEN. No. Because members of the Legislature are prohibited from passing such a law, and therefore it could not be declared as passed. They are as much prohibited from passing such a law as the judge, who, in deciding upon its constitutionality, would be compelled to declare it unconstitutional. Therefore, the distinction I would draw, is this: A distinction between matters of mere form and matters of corruption. Now it is well known that our own courts have no power, either to declare an act of Assembly void for a failure of the preliminary forms, or for the fact that it was obtained by corruption. That is well known. The first is right, for I submit if the representatives of this great State of Pennsylvania, having sworn to obey this Constitution, which prescribes these forms are not to be trusted with carrying them out, there will be no safety left in the courts.

If we are to place upon our records the solemn opinion of the members of this Convention, that in the future it is impossible, within the length and breadth of this Commonwealth, to select one hundred and thirty-three members of the Legislature who will not violate their oaths, then we had better disband, go home, and every man pack up his bag and clear out of the limits of the State as quickly as possible. Is the administration of law, as well as the administration of justice, a mere mockery and farce, and are the representatives of the people for all time to be considered as perjurers? Is a bill to be passed, a right to be vested, an office to be created, and a corporation to be launched into existence, and fifty years afterwards, when every man who had any hand in securing the passage of that act, shall have gone to answer before a higher tribunal for the crimes he has committed, and when every person who owns one dollar of that property is as innocent as a child unborn of any crime, is that act of Assembly, I say, to be declared invalid? Is the wealth and property held under it a mere phantom to be exorcised at the will of a judge, because fifty years before a man corruptly secured the passage of the act? Certainly not. Why should it be? Upon what principle of right is the innocent holder of the property to be dispossessed on account of the crime of a man with whom he had no connection, and over whom he had no control?

Therefore, upon these mere matters of form, let the certificate of the Governor of the State be conclusive that every form has been complied with. Let us hold our titles to property secure from a constant repetition of such inquisitorial investigation. *Interest republica ul sit finis librum*—is a good maxim of law. But if this provision to the Constitution is adopted no man who holds lands under a title created by the State, no man who holds stock in an incorporated company created by the State, will ever be safe from the inquisitorial vengeance of a judicial tribunal. So much then as to mere matters of form, but now as to bribery and corruption. I admit that the Constitution requires an amendment in regard to this subject, and the one amendment I would suggest would be this: That courts shall have the power to declare acts of Assembly unconstitutional if procured by bribery and corruption, provided that justice shall be administered according to known usages, and provided that no act of Assembly

shall be declared unconstitutional for corruption and bribery unless so declared within a given number of years after its passage. That, I take it, would cover everything, but if you do not hedge it in—

Mr. MACVEAGH. Why not allow him who is to suffer by a law fraudulently passed to assail it whenever it is used against him? Why not allow the blow to be given to destroy the law whenever the law is to be used for attack?

Mr. GOWEN. Because the party guilty of corruption may have so slight an interest in the subject matter of legislation that it would be manifestly unjust that ninety-nine innocent men should suffer on account of the guilt of a single person? Where the law affects solely one person then the right to investigate might be without limitation. But where that would exist in one case, in a thousand cases the guilty author of the corruption would either have ceased to have any interest in the act or would have an interest so slight that it would be manifestly unjust to punish the innocent for the crime of the guilty.

Mr. MACVEAGH. Then, ought that ever to be allowed, even within six months, or within any time after the passage of a bill? Ought an innocent purchaser for value, under a public statute, ever to be deprived of the rights he has acquired?

Mr. GOWEN. Yes, and for this reason: That where this statute of limitations as to the power of a court to investigate exists by virtue of a constitutional amendment, there never is an innocent purchaser, for every purchaser takes his property, subject to the right of the court to investigate the title by which he holds his franchise, within a given number of years from the time at which the corporation was established; therefore, he buys with full notice. If no act of Assembly is safe from the searching investigation of a judicial tribunal, until two or three years after its passage, there is no innocent holder without notice under that act, for any clause in the Constitution of the State affecting it, is part of the contract between the supreme legislative power and the individual who is benefitted by it. This is the answer to that objection. Now, unless we hedge this power about, so that it must be exercised according to known judicial proceedings, we will have the anomaly in this State, to which I referred this morning, that exists in the State of New York. Let me dissent most earnestly from the remarks of the gentleman from Allegheny

(Mr. Ewing) that we are to be governed by the decisions of the courts of New York, or by the judicial proceedings of that State. Do we not know that in New York, and in some other of the States of the Union, the course of judicial proceedings has been so modernized that you can file a declaration in an action of assumpsit for recovery of goods sold and delivered, and in that form of action you can obtain an injunction in equity, to prevent the building of a railroad. It is a known fact. I have had a client from Massachusetts come to me to consult me on corporation and mining law. I suggested a bill in equity, but he sent me back a declaration in assumpsit, with the common counts added, and at the bottom a prayer for relief in equity; he filed this declaration in a common law court, and got an injunction in equity to restrain the working of mines.

God forbid that we should ever go so far back of our old English precedents as, in the State of Pennsylvania, to get mixed up in medley of that kind. To return to the subject, let this Constitution make bribery and corruption a hissing and a scorn. Hang the man who offends if you want to. Take the franchise away from the company whose agents have been guilty of corruption in procuring it, but let this justice be administered according to old established usages. Do not let every Tom, Dick and Harry throughout this Commonwealth, in every petty tribunal that you may create, investigate the title by which a large corporation holds its franchise.

Mr. H. W. PALMER. Mr. Chairman: By what known usage in this Commonwealth, or by what usage of proceedings, can a general act of Assembly be impeached now?

Mr. GOWEN. Mr. Chairman: A general act of Assembly can be impeached now, at any time, whenever it comes properly before the jurisdiction of the court. Add bribery and corruption to the causes which will enable the court to declare it void, and let justice be administered according to known precedents. Why, only two weeks ago we had a law that is general in its operation, I refer to the local option law, investigated before the courts in this city. That was a general law. Add bribery and corruption to one of the causes for which the courts have the right to declare an act of the Legislature unconstitutional, and you accomplish all that you want to accomplish.

Then, if a corporation is created upon an act of Assembly obtained by fraud, you go to the Attorney General, and, upon his relation, a writ of *quo warranto* is issued to show cause by what title it holds its franchise. The corporation, by its counsel, pleads the act of Assembly creating it. A replication is filed by the Attorney General that that act of Assembly was obtained by fraud, and is not, therefore, valid. An issue is joined upon that, and the case goes down for trial as all other cases do.

Mr. WOODWARD. Suppose the Attorney General refuses to issue the writ?

Mr. GOWEN. That is not to be supposed, and I say with great earnestness we dare not suppose it.

Mr. WOODWARD. It has been done a great many times. You will find that he never will issue a writ of *quo warranto* when it is likely to injure the party to whom he belongs.

Mr. GOWEN. I doubt that very much. I think there never could be an Attorney General of this State—the leader of the bar of Pennsylvania—who, upon an affidavit, properly made before him, by a private individual, that an act of Assembly was procured by bribery or corruption, would dare to hesitate to issue a writ of *quo warranto*. I have known, over and over again, where upon the instances of private parties, the Attorney General has issued writs of *quo warranto*, although he himself was doubtful of the propriety of the movement, and when the case came on to be argued in court, had to say to the court that he could not urge it, but that he thought it was his duty as a public officer of the Commonwealth to issue the writ.

Amend the Constitution by making it obligatory upon the Attorney General to issue this writ, and you accomplish everything you desire. Do not give to the courts the power to declare an act of Assembly void for the mere omission of some form. Give them the power to declare it void for bribery or corruption, but let that power be exercised so that the decree will be made according to the known usages of judicial proceedings.

Mr. WOODWARD. I would like to know how, if the court in Wayne county should declare the law to be void, for bribery and corruption, and the court in Greene county declare it not void, for bribery and corruption, what would be the condition of the people in the central part of the State?

Mr. GOWEN. Neither decision would be respected until the case came before the Supreme Court.

Mr. WOODWARD. The Supreme Court do not touch the question of facts. The forms of law would be observed by both courts.

Mr. GOWEN. Therefore it is that it is wrong to permit such a state of things to exist. There should not be such a difference of decisions. It should be made impossible. Take the case of a large corporation. Take the Pennsylvania railroad, that owns property in almost every county in the State. Is it to exercise its franchise in Dauphin county, because the court has decided its acts constitutional, and not to exercise them in Allegheny county, because the court has decided them the other way? Why should we permit such a state of things to exist if it be possible to prevent it?

[Here the hammer fell.]

Mr. DALLAS. Mr. Chairman: I move that the gentleman have unanimous consent to preceed.

Mr. LILLY. I object.

Mr. CORBETT. Mr. Chairman: We are again running wild in this discussion. The gentleman from Philadelphia (Mr. Gowen) comes in, and he opens up all this discussion again. Having been out he does not understand what had taken place. Now let us proceed and do something. The gentleman from Columbia (Mr. Buckalew) has moved an amendment. He moved that amendment for the purpose of letting the balance of the section stand until it came to a second reading, so that it could be amended. The gentleman from Philadelphia (Mr. Gowen) comes in and opens up the whole discussion. We do not expect this to stand as it is now and be perfect, but, I presume, when it comes to second reading, gentlemen who have had a great deal of experience will offer something which will perfect the section. It can be voted down, if it is not amended so as to render it unobjectionable.

Now I want to say a word further: The provisions that we have adopted in this report already are numerous. Some of them are of substance, and some are merely directory. I will say, speaking for myself, that so far as the provisions are merely directory, I care but little about them, but as the argument of the gentleman from Philadelphia (Mr. Gowen) shows that there are others of substance. Now, for myself, I am unwilling

that any law shall stand upon the rolls in the Secretary of the Commonwealth's office as the the law of the State of Pennsylvania that was not voted for by a majority of the members elected to each House.

One word further: I am totally opposed to the adoption, at this time, of the proposition presented by the gentleman from Luzerne, (Mr. H. W. Palmer,) and I will state my reasons. When the time comes I shall vote for any fair mode of determining an act to be void that has been obtained by fraud. I say that now, but I am totally opposed to taking up this subject at this time, the members of this committee generally having thought nothing about it, and it having not emanated from any committee. I do not think there is anything in the fact that it does not come from a committee, except that it is more likely to be matured. I am totally opposed to adopting any additional section at this time. We have a Committee on Constitutional Sanctions, with a very able gentleman at the head of it, whom I know has this matter at heart.

I want to see what that committee will report. I want a section on this subject to be reported by some committee, and well matured.

Mr. MACVEAGH. Will the gentleman allow me to make a remark?

Mr. CORBETT. Certainly.

Mr. MACVEAGH. I think I do not err in saying that the proposed section of the gentleman from Luzerne (Mr. H. W. Palmer) has been carefully considered, and has had the advantage of the experience of one of the most able and distinguished gentlemen of this body; and as it will be best, as the gentleman from Columbia (Mr. Buckalew) proposes, to adopt this section in its most complete form it would be well to put this in it, in order that the proposition may, on second reading, be complete; for I believe it is admitted not to be complete in its present form. If it is adopted at once, as I hope it will be, the Convention will be prepared, on second reading, to make it complete and satisfactory.

Mr. CORBETT. If that proposition has ever had the sanction of the gentleman from Columbia (Mr. Buckalew) I am much mistaken.

Mr. MACVEAGH. I did not say that it had.

Mr. CORBETT. Mr. Chairman: I do not propose to go into a discussion of this matter at this time. It is got up certainly on

the spur of the moment ; it is ill-digested. The idea that when in a trial at law a party comes in and states by affidavit that a certain act is unconstitutional, the case has to be continued and the whole thing gone over again, and you are to go to Harrisburg and present your affidavit and obtain some proceedings to be instituted by the Attorney General, and the matter is then to go before the Supreme Court, and they are to designate one of the judges, and he is to order a trial in some county, and, of course, it must be a trial at law. Why, it is evident that the scheme is ill-digested. I say this with all respect. I want some definite and matured plan.

I say here that the proposition of the gentleman from Philadelphia (Mr. Cuyler) was much better than this. I hope this committee will adopt no additional section of that kind at this time. I hope they will let it lie over, and let it be well matured and well digested. When it is brought forward in proper shape I will vote for it or some similar proposition, but I cannot support it now, thrown in here, as it is, on the spur of the moment, and in the midst of this other matter.

The question being upon the section as amended, it was rejected.

Mr. H. W. PALMER. Mr. Chairman: I now offer my proposition, to come in here as a new section.

The CLERK read :

SECTION —. Whenever, in any judicial proceeding, either party shall claim under or by virtue of any act of Assembly, and the other party upon proper affidavit shall allege that such act of Assembly was passed in disregard of the provisions and directions prescribed in this article, or by fraud, bribery or undue means, and the court before which such judicial proceeding is pending shall be satisfied *prima facie* that such allegations are well founded, it shall be the duty of the said court to order a feigned issue to be framed under the direction of the Attorney General upon proper pleadings, in which the Commonwealth, upon relation of the party in interest, shall be plaintiff, and the party claiming under such act of Assembly defendant, to try the truth of the allegation in said affidavit contained, and the validity of such act of Assembly, and the said issue shall be certified to the Supreme Court and tried by one of the judges thereof, in whatever county he may direct, and if it shall appear to the court and jury upon such trial that all the provisions of legislation in both Houses, as hereinbefore prescribed,

have not been substantially observed in the passage of said act, or that the same has been procured by bribery, fraud or other undue means, such act of Assembly shall be adjudged null and void, either party to have the right to a writ of error as in other cases.

The question being upon the section, it was rejected.

The CHAIRMAN. The next section will be read.

The CLERK read :

SECTION 36. A member of the Legislature shall be guilty of bribery, and punished as shall be provided by law, who shall solicit, demand or receive, or consent to receive, directly or indirectly, from any corporation, company or person, any money, testimonial, reward, thing of value, or of personal advantage, or promise thereof, for his vote or official influence, or with an understanding, expressed or implied, that his vote or official action in any way is to be influenced thereby, or who shall, after his election and during his term of office, consent to become or continue to act as the agent, attorney or other employee of any corporation or person, knowing such corporation or person has or expects to have any personal or special interest in the legislation of the Commonwealth.

Mr. EWING. Mr. Chairman: As has already been stated in the Convention, there was a difference of opinion in the committee on this, among other subjects, and while the minority on this question did not deem it necessary to present a minority report upon the subject, I suppose I do not betray any confidence when I say it was distinctly understood at the time that we reserved the right to express our dissent from this section.

Mr. LILLY. I would like to ask the gentleman a question, as he is relating what the committee does. Do they expect to exempt railroad passes in that section?

Mr. EWING. I am not responsible for this section, nor am I authorized to speak for its friends. This section and the next section relate to the subject of bribery, a subject that is an unpleasant one, but bribery of the legislators is a thing that we have heard a great deal about here. If one thousandth part of what has been said on this floor is correct, it is a very important subject, and one to which the Convention should give its attention, and if any remedy can be found for it it should be adopted. I am not one of those who think

that all the virtue of this world belonged exclusively to our grandfathers, and that all the vices and corruptions of the world are concentrated in the people of the present day. I am not prepared to suggest or to say, nor do I believe, that the Pennsylvania Legislature is worse than any other body. That there are many corrupt men in it and have been there, I have no doubt. That many measures have been passed in the Legislature of Pennsylvania by corrupt means, I have no doubt, and even to those gentlemen who have a superabundance of that charity that thinketh no evil and believeth no evil, and who believe that even the "*repeal of the tonnage tax*" was not passed by corrupt means, and do not believe that these great corporations have ever been guilty of bribery, I would suggest that some remedy be adopted in this Constitution to prevent this public scandal and to prevent people from talking as they do about corporations and the Legislature. I believe that corruption, to some extent, among Legislatures will usually follow where there is a great concentration of wealth, where there are measures to be passed in which a large amount of money, or property, or capital is to be specially affected. The States that have great cities have been usually those States whose legislators have been charged with corruption.

The gentleman from York, (Mr. J. S. Black,) a few days ago, gave us Louisiana as a special example to show us to how deep a pit of corruption legislators could sink, and, in that connection, instanced the rapid progress which negroes and carpet baggers could make in that direction. If I am not misinformed, however, long before negroes or carpet baggers had anything to do with legislation in Louisiana, some of the legislators of that State were none of the best, and I have been told of things that occurred there, in times past, that would excite admiration in the breast of the most illustrious "rooster" or pincher at Harrisburg at the present day.

In latter times the great corporations, with their concentrated capital and great power, and with no corporate conscience, if such a conscience there be, seem to be the great sources of corruption in the different States. Perhaps the corrupt influence exercised by these corporations has, for the most part, arisen as intimated by the gentleman from Philadelphia, (Mr. Cuyler,) who so frequently has told us that "he does not on this floor represent any corporation." He intimated the other

day that the Pennsylvania railroad might have sometimes procured legislation, or bought legislators, not to pass laws that it needed, but to prevent the passage of bad laws against the company. They did it in self defence, I believe, if I understand him aright, very much as a good brother in a certain church who fell from grace one day in a quarrel, and was guilty of profanity, and when brought up before the church court he claimed that he had sworn in self defence. Everybody knows that bribery is not usually committed under the name of bribery. Human ingenuity is taxed to devise means that will evade the statute on the subject, and to appease the consciences of those who take the bribes. I suppose that something more specific and more comprehensive than this section should be adopted in order to stop bribery. If you want to set a trap for game of any kind you must study the habits of and ascertain the haunts of the animal. So, if you are enacting a provision in regard to bribery of legislators, you should take into consideration the manner in which such bribery is usually accomplished.

I wish to call the attention of the committee to the first portion of this section, thirty-six, as reported by the committee, provides that a member of Legislature shall be guilty of bribery and punished therefor, if he takes a gift, money, reward, or thing of value, for his official influence with the *understanding*, expressed or implied, that his vote or official action is in any way to be influenced thereby. What legislator ever took a gift with any such understanding as that? Of course he never *understood* the gift to be to "*influence his vote*." It was "a matter of friendship, fee for services, an opportunity to make a profitable investment." We have a statute already on the subject. I will not take time to quote it. The members of the Convention can examine it for themselves. They will find that it is just as broad, if it is not a little broader, than this section. The minority of the committee think that when a member of the Legislature takes a *gift* from any party that has a private interest in legislation, he ought to know that it is intended to *bribe* him. He ought to know that it is intended to influence his vote on some particular subject. He ought to know that a gift perverted judgment, and he has no right to take a gift.

If a member of the Legislature is employed and given a fee or retainer by any

person or corporation having a special interest in legislation, he ought to know that it is *intended* to influence his official conduct. If he is already so employed he ought to know that his views as to his public duty are likely to be influenced by his continuance in that employment.

Now, the minority of the committee propose to change this section, and say when a man who has been elected a member of the Legislature, and during the term of his office shall accept a gift from any party, having a private interest in legislation, that that of itself is bribery, and that when he is prosecuted in court, that it shall not be necessary to prove what the understanding was. We also propose to define some of these parties, who so commonly, who so uniformly, have a special or private interest in legislation, that it is to be presumed, as a matter of law, that they have such an interest in legislation, that we propose to say to the members of the Legislature, that they must not receive gifts from those persons and corporations. We also propose that those worthy gentlemen, who make their abode in Harrisburg, for the purpose of procuring for pay the passage of bills, and who are known as the third House, and as paid professional lobbyists, shall be prevented from privately soliciting members on any subject connected with legislation, and that it shall be a penal offence so to do; and we propose to make it a criminal offence for a member to knowingly and willingly listen to such private solicitation. In conclusion, Mr. Chairman, I desire to offer the following amendment to the section:

AMENDMENT TO SECTION THIRTY-SIX.

"A member of the Legislature shall be guilty of bribery and punishment as shall be provided by law, who, after his election and during his term of office shall solicit, demand, or accept or consent to receive, directly or indirectly, upon any pretence whatever, for himself or any other person, from any candidate, person, association or corporation having a special or private interest in legislation, any gift or promise of money, property, office or thing of value, or personal advantage, or shall make any contract which gives him

a private interest in the legislation of this State, or who, after his election and during his term of office, shall consent to become or continue to be and act as the agent, attorney or employee of any person, association or corporation, knowing that such person, association or corporation has, or expects to have, any private or special interest in the legislation of the State.

"All corporations holding franchises by grant from the State or doing business in the State, their officers, agents, attorneys and employees; all contractors or persons having an interest in contracts with the State; all officers, judicial, Executive and ministerial, of the State and of the United States; all candidates for any office in the gift of the Legislature, including candidates for the Senate of the United States, shall be conclusively presumed to have a special interest in legislation.

"All persons who engage themselves for hire or reward to promote or oppose the passage of any measure by the Legislature, shall be conclusively presumed to have a special interest in legislation. No such person shall address to any member of either House any private solicitation, speech or argument, orally or in writing, to influence his vote on any subject whatsoever; both the person offering such solicitation, and the member who voluntarily and knowingly hears it, shall be taken for criminal offenders, and punished as the law may provide."

Mr. DALLAS. Mr. Chairman: I move that the committee rise and report progress.

The motion was agreed to.

IN CONVENTION.

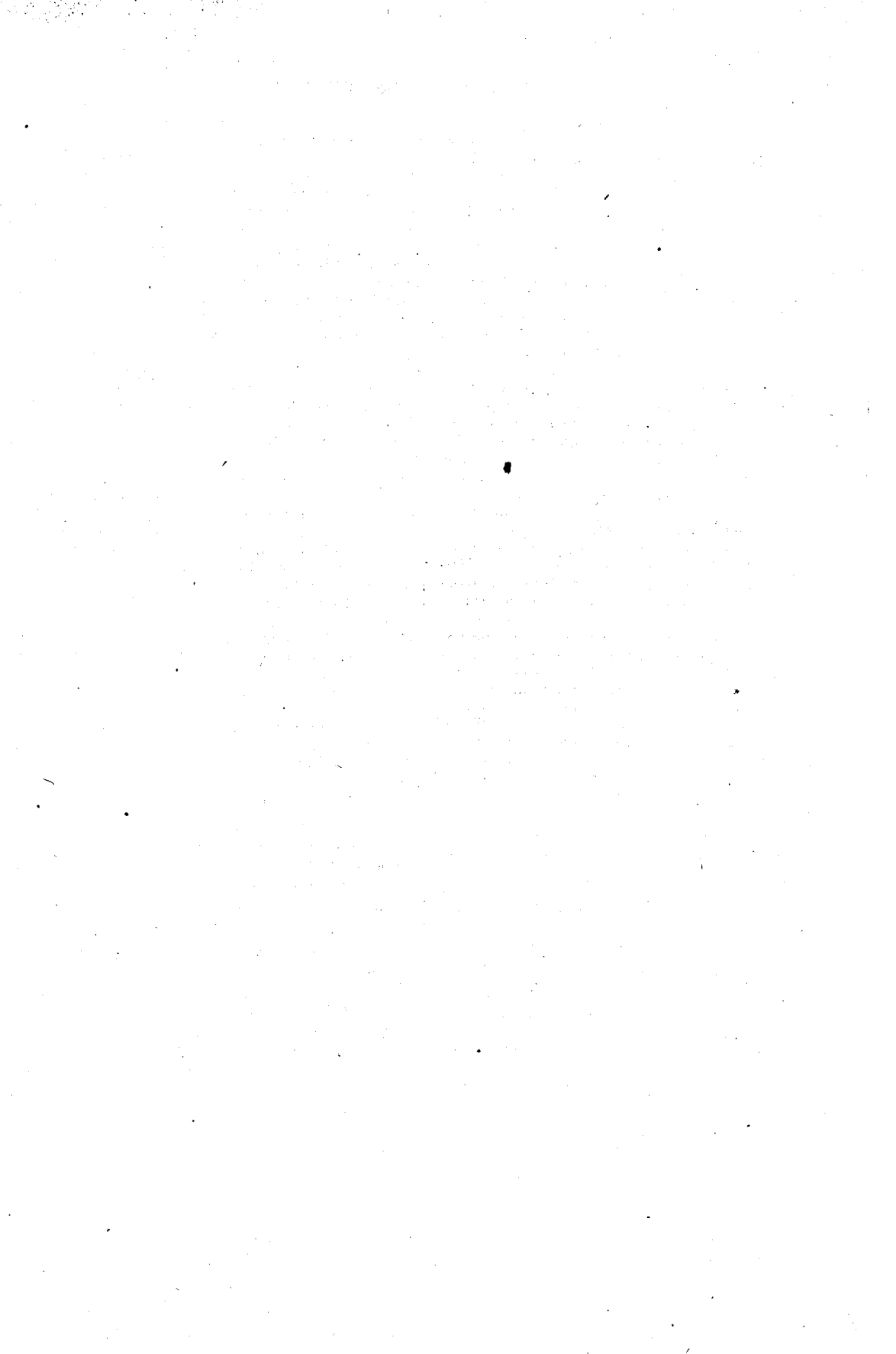
The committee then rose, and the President resumed the chair. The Chairman of the committee, Mr. Armstrong, reported progress, and asked leave to sit again, and to-morrow was named and agreed upon.

ADJOURNMENT.

Mr. NEWLIN. Mr. Chairman: I move the Convention do not adjourn.

The motion was agreed to.

So the Convention thereupon, at two o'clock and fifty minutes, adjourned.



ERRATA.

On page 611, eighteenth line from bottom of second column, for "endured" read "endorsed."

On page 618, fourth line from top of second column, for "too" read "two."

On page 621, thirteenth line from top of first column, for "denounces" read "announce."

On same page, last line of first column, for "pull" read "rule."

On same page, second column, strike out three paragraphs, the first one commencing "We will thereby," &c., being a repetition of what precedes them.

On page 794, nineteenth line from bottom of first column, for "*Interest republica ul sit finish librum*" read "*Interest reipublicæ ut sit finis litium.*"



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