

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.

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DEBATES

OF THE

Convention to Amend the Constitution.

ONE HUNDRED AND SEVENTH DAY.

MONDAY, May 26, 1873.

The Convention met at half-past nine o'clock A. M., Hon. Wm. M. Meredith, President, in the chair.

The Journal of Friday last was read and approved.

PETITIONS AND MEMORIALS.

Mr. PATTON presented a memorial of citizens of Bradford county, asking for the acknowledgment of Almighty God and the christian religion in the Constitution, which was laid on the table.

Mr. J. N. PURVIANCE presented three petitions of citizens of Butler county of like import, which were laid on the table.

He also presented three petitions of citizens of Jefferson county of like import, which were laid on the table.

He also presented petitions of like import from citizens of Mifflin county, from citizens of Montour county, and from citizens of Huntingdon county; which were laid on the table.

COMPENSATION OF MEMBERS.

Mr. DARLINGTON. I offer the following resolution:

Resolved, That the resolution of last Thursday, fixing the compensation of the members of the Convention at \$2,500, be rescinded.

Mr. LILLY. Mr. President: I rise to a point of order.

The PRESIDENT. The question is not yet debatable. The resolution is before

the House. What action will it take concerning it?

Mr. DARLINGTON. I move that we proceed to its second reading and consideration.

On agreeing to this motion, a division was called, and less than a majority of a quorum voted in favor thereof.

Mr. DARLINGTON. I ask for the yeas and nays.

The PRESIDENT. The call is too late. The question is decided. The House refuses to order the resolution to a second reading.

ORDER OF ARTICLES ON SECOND READING

Mr. D. N. WHITE submitted the following resolution, which was read twice:

Resolved, That on second reading the several articles of the amended Constitution as reported from the committee of the whole, be numbered, named and taken up for consideration in the following order, to wit:

First. Preamble.

Second. Art. 1—Declaration of Rights.

Third. Art. 2—Legislative Department; to include the report of the Committees on Legislature and on Legislation.

Fourth. Art. 3—Executive Department.

Fifth. Art. 4—Department of the Judiciary.

Sixth. Art. 5—Suffrage, Election and Representation.

Seventh. Art. 6—Taxation and Revenue.

Eighth. Art. 7—Education.

Ninth. Art. 8—Public and Private Corporations.

Tenth. Art. 9—Impeachment and Removal from office.

Mr. D. N. WHITE. Mr. President: This resolution does not include the reports as to all the departments, as we have not acted on some of them. My view in offering it is that we may commence in order on the second reading, so that when we pass on any article and get through with it, we may not enact the same thing over again in some other article; that we may go on in order, and when we get through one article that it will be almost a finality, and when we come to another article, embodying the same ideas and the same principles, we may strike it out; and when our work is concluded on the second reading, it will be as near perfect as probably we can make it.

Mr. KAINE. Mr. President: I hope this resolution will not pass. The subject contained in it perhaps would be a very appropriate matter for the consideration of some standing committee of this body; but for the Convention this morning, upon the mere offering of a resolution to fix the entire proceedings of this Convention hereafter on second reading, I think, to say the least of it, is premature. The resolution at once proposes to change the arrangement of the present Constitution. In place of leaving the Declaration of Rights as the ninth article of the Constitution, as it has been in the Constitution of 1790, and in the Constitution of 1838, the resolution proposes to make it the first article of the Constitution. That may be proper and right, but I do not think the Convention this morning ought to determine on so important a matter as that. I therefore move to refer the resolution to the Committee on Revision and Adjustment.

The PRESIDENT. The question is on the motion to refer.

Mr. WHERRY. Mr. President: I think the gentleman from Fayette (Mr. Kaine) entirely misconceives the purpose of this resolution. It is not for the purpose of fixing the Convention to this schedule, to this order of the articles of the Constitution. If I rightly apprehend the resolution of the gentleman from Allegheny, (Mr. White,) the design of it is that the Convention may know what articles will come up at specific times, the order in which it is proposed to proceed with them on second reading; and it will still remain for the Committee on Revision

and Adjustment to report afterwards upon the order in which they shall finally be placed. I trust the Convention will pass this resolution, with whatever modifications delegates may desire, so that we may proceed understandingly on second reading. It is not a question of this particular order, but of some order, any order that may be most agreeable to a majority of delegates.

Mr. KAINE. If I am mistaken I have failed to understand the reading of it because the resolution itself expressly provides that the Bill of Rights shall be the first article in the Constitution.

Mr. WHERRY. That it shall be taken up first for consideration; that is all.

Mr. LILLY. I move that the resolution be referred to the Committee on Revision and Adjustment.

Mr. KAINE. That is the motion that I made, and it has been seconded.

The PRESIDENT. The Chair will state that on referring to the rules he is of opinion that the order of considering articles it is made a rule of the House.

Subdivision six of rule seven provides for the consideration of articles in the following order:

First. Those on which the Convention has made progress on second reading.

That regulates the order on the second reading. It will require, therefore, the resolution to lie over for one day or to be converted into a resolution of inquiry to the Committee on Revision and Adjustment. As no such motion is made, the resolution will lie over under the rules.

Mr. D. N. WHITE. Let it lie over.

PERSONAL EXPLANATION.

Mr. J. N. PURVIANCE. I rise to a personal explanation.

When the proposition was before the committee to give to each county of a population of thirty thousand a judge, the gentleman from Washington (Mr. Lawrence) remarked that he did not say that if the amendment prevailed, increasing the number of judges, it would cost the State annually \$320,000; that he only repeated the expression of some one behind him, that that would be the annual cost of the judiciary. The gentleman made this explanation after I had read from the Auditor General's report the cost as therein stated. I desire that the record may be set right in regard to this fact, because as it stands it places me in rather an unenviable position. Therefore I desired to make this explanation.

OFFERING OF RESOLUTIONS.

Mr. MANN. I move that the Convention proceed to the consideration of the resolution that I offered on Friday last, changing the seventh rule.

The motion was agreed to, and the Convention proceeded to consider the following resolution:

Resolved, That rule seven be and is hereby amended so as to read: "Original resolutions offered on Monday only."

Mr. MANN. I ask the Clerk to read the rule as it will stand if amended.

The CLERK read the second subdivision of rule seven, as follows:

"Leave of absence may be asked, and original resolutions offered on Monday only, and on motion considered."

Mr. MANN. The intention simply was to amend the rule so as to confine the offering of original resolutions to Monday only. If the word "Monday" is transposed so as to follow the word "and" in the first line, it will make the rule as I intended to have it. It will then read: "and on Monday only, original resolutions may be offered." I hope the Convention will amend the order of business in that way. It seems to me that at this stage of our proceedings one day is entirely sufficient for the offering of original resolutions. In the early sessions of the Convention the rule was entirely proper as it stands. We then needed perhaps an opportunity daily to offer resolutions. That time has passed away, and there is now no occasion for the daily offering of resolutions.

I ask to have the amendment modified so as to make the words "on Monday only" come in after the word "and" in the first line of the second subdivision of the rule.

The PRESIDENT. The resolution will be so modified. The question is on the resolution as modified. Before the question is taken the Chair desires to ask the gentleman from Potter what he includes in the term "resolutions?"

Mr. MANN. "Original resolutions;" just what is included in the present rule.

The PRESIDENT. Every motion is an original resolution. The gentleman will find in that rule no provision for making motions, because they are all in the nature of resolutions. When they are reduced to writing they are put in the form of resolutions. The Chair would desire that that should be clearly expressed before the vote is taken.

Mr. LILLY. I move to amend, if it is in order, that no resolution relating to the hour of meeting or hour of adjournment shall be offered.

Mr. MANN. I will modify the amendment so as to meet the view of the Chair, to make it read "that original resolutions in writing shall be offered on Monday only."

Mr. LILLY. I think the resolution had better be in the shape I suggested.

Mr. KAINÉ. I inquire whether it will not require a two-thirds vote to pass the resolution?

The PRESIDENT. No; it will only require a majority,

Mr. KAINÉ. One of the rules, rule forty, provides that any change in the rules can only be made by a vote of two-thirds.

The PRESIDENT. It would be strange if the rules could not be altered without a majority of two-thirds. A resolution to change the rules is required to lie over one day; but when it has laid over, it can be adopted by a majority. The gentleman from Potter proposes to amend his resolution so as to make it apply to resolutions in writing. The gentleman from Carbon moves to amend the resolution so as to confine it to resolutions in regard to the hour of meeting and adjournment. The question is on that amendment to the amendment.

The amendment to the amendment was rejected.

The PRESIDENT. The question is on the amendment of the gentleman from Potter.

The amendment was rejected; there being on a division—ayes, twenty; less than a majority of a quorum.

The resolution was rejected.

LEAVES OF ABSENCE.

Mr. PATTON asked and obtained leave of absence for Mr. Biddle for a few days from to-day.

Mr. SIMPSON asked and obtained leave of absence for Mr. Baker for a few days from to-day.

Mr. CHURCH asked, and obtained leave of absence for Mr. Reynolds for a few days from to-day, to attend the session of the Supreme Court at Harrisburg.

Mr. HANNA asked and obtained leave of absence for Mr. Littleton for a few days from to-day.

DISPENSING WITH FIREMEN.

Mr. HAY submitted the following resolution, which was read twice and agreed to:

Resolved, That the Chief Clerk be directed to discontinue the employment of the fireman and assistant fireman, their services being no longer required.

COUNTY OFFICERS.

Mr. BROOMALL. I move that the Convention resume in committee of the whole the consideration of the article reported by the Committee on County, Township and Borough Officers.

The motion was agreed to, and the Convention accordingly resolved itself into committee of the whole, Mr. J. W. F. White in the chair.

The CHAIRMAN. When the committee of the whole rose on Friday last, the question was on the amendment of the gentleman from Columbia (Mr. Buckalew) offering a new section. The section will be read.

The CLERK read as follows:

"SECTION —. In elections of county commissioners and county auditors, each elector may cast all his votes for a smaller number of persons than the whole number to be chosen, and candidates highest in vote shall be declared elected. Three commissioners and three auditors shall be chosen in each county at the general election in 1875 and every third year thereafter, whose terms shall commence on the first Monday of January next following their election; and the terms of commissioners and auditors hereafter elected prior to 1875 shall expire with that year. Casual vacancies in the office of county commissioner and county auditor shall be filled by the courts of common pleas of the respective counties in which such vacancies shall occur by the appointment of an elector of the proper county, who shall have voted for the commissioner or auditor whose place is to be filled."

Mr. S. A. PURVIANCE. As the chairman of the committee, I will state that as the gentleman who offered this amendment is not present, it occurs to me that some unavoidable occurrence has prevented Mr. Buckalew's attendance this morning; and as the proposition offered embodies a very important principle and one upon which he ought to be heard, I move you, sir, that the committee rise, report progress, and ask leave to sit again, so as to give Mr. Buckalew an opportunity of being heard.

The motion was agreed to. The committee rose, and the President having resumed the chair, the Chairman (Mr. J. W. F. White) reported that the committee of the whole had had under consideration the article reported by the Committee on County, Township and Borough Officers, and had instructed him to report progress and ask leave to sit again.

Leave was granted the committee of the whole to sit again to-morrow.

FUTURE AMENDMENTS.

Mr. TEMPLE. I move that the House resolve itself into committee of the whole on the article reported by the Committee on Future Amendments.

The motion was agreed to, and the Convention accordingly resolved itself into committee of the whole, Mr. Kaine in the chair.

The CHAIRMAN. The committee of the whole have referred to them the article (No. 16) reported by the Committee on Future Amendments. The first section will be read.

The CLERK read as follows:

SECTION 1. At the general election to be held in the year one thousand eight hundred and ninety-four, and at the general election held every twentieth year thereafter, the electors of this Commonwealth shall vote for or against a Convention to amend the Constitution, and whenever at any of said elections a majority of the votes cast shall be in favor of such Convention, then the same shall be held and the Legislature shall provide for carrying out the provisions of this section."

Mr. BRODHEAD. Mr. Chairman: I believe I am the only surviving member of the Committee on Future Amendments. [Laughter.] We were only enabled to raise three at our meeting; and we adopted but one new section. This section was agreed to by the committee unanimously. The second section is almost an exact copy of the corresponding section in the old Constitution. We deemed it proper to submit this first section to the Convention for its action, thinking that the people should have this matter of calling a Convention in their own hands; and that they should be enabled, at some time, to have a Constitutional Convention without the intervention of the Legislature. From the spirit which has been exhibited at Harrisburg, I do not think the people will have the opportunity of calling another Convention very soon, unless something

of this kind is adopted. As I remarked before, the section was adopted by the committee unanimously, and I hope the Convention will pass it.

MR. DARLINGTON. I hope the Convention will not pass it. I think a much better plan has been suggested and acted upon in several of the other States of this Union. It strikes me that the plan of a Convention periodically to amend the Constitution is entirely uncalled for by any necessity of the people. If a revision of the Constitution should become necessary, is not the plan adopted by the State of New York and the State of New Jersey far better than ours? There, as I understand, the Governor and the Senate appoint a commission, in New York, of thirty-two gentlemen, selected from the best men of the State, whose duty it is to come together when required, and propose such amendments to the Constitution as in their judgment and wisdom seem to be necessary; and when report thereof shall be made to the Legislature, they shall say whether they are proper to be submitted to the people, and when submitted to the people and voted upon by them, they become a part of, or the new Constitution. That plan strikes me favorably. That is a better arranged body for business than a body of one hundred and thirty-three gentlemen. Thirty-two members, such as were selected in New York, or fourteen, as selected in New Jersey for the same purpose, have a better chance to maturely consider, and carefully report to the Legislature, and through them to the people, what amendments should be made.

Now, sir, in providing for future amendments, if we choose to provide anything at all in addition to what the present Constitution contains, I suggest that something similar to that adopted in New York is far preferable to the present mode of calling a Convention, far better than the suggestion of the committee.

MR. BRODHEAD. How is that commission to be called?

MR. DARLINGTON. By the Governor whenever the Legislature provide that it can be done. This section provides for calling a Convention such as we have here.

MR. BRODHEAD. It does not provide for the calling of a Convention, but it proposes to allow the people to vote at stated periods on the question whether they will have a Convention or not.

MR. DARLINGTON. Exactly. Now, instead of that, I would prefer that we should allow the Legislature to provide means for proposing amendments, whether it be by Convention or commission, and let them propose amendments or changes to be submitted to the people. I do not hesitate to say that I want to get rid of Conventions, especially Conventions constituted as this was, and in the manner in which this was. If a Convention is ever to be called again, I wish it to be a Convention voted for by the people as members of the Legislature are voted for. I do not want the matter left to the Legislature to prescribe a new and revolutionary mode of constituting a body to revise the Constitution. I would agree to the appointment of commissioners who should be authorized to propose amendments, and let those proposed amendments be improved and made right by the Legislature and submitted to the people, so as to avoid the necessity of a Convention. See what we are doing now. Here we have one hundred and thirty-three gentlemen in session for more than six months, and probably we shall be in session for months more, at an expense to the State of half a million dollars or more if we go on in the way we are going. I want to avoid this in the future. Although but few of us may live to see it, under this provision a Convention will be called, whether it is wanted or not, and when a Convention is called the danger is that more mischief than good will be done.

MR. HAY. Mr. President: As I understand it, the question involved in the consideration of this section is simply whether we shall now say that it will be wise and proper to vote upon the question of holding a Convention to amend the Constitution of the Commonwealth at regular and stated intervals of twenty years, or whether we shall leave the matter as it is now left, to the discretionary action of the Legislature. That body now has the power, as I have no doubt everybody will admit, to submit to the people the question whether or not there shall be a Convention called to amend or to propose amendments to the Constitution, whenever, in its judgment, it is necessary and proper to do so, and I can see no propriety in, and no necessity for, the adoption of this first section.

The second section, I believe, is in the exact language of the present Constitution, and if so, supplies ample provision

for the amendment of the instrument. I hope, therefore, that the first section will be voted down, and the second adopted when we come to consider it.

Mr. CORBETT. Mr. Chairman: I am entirely opposed to this section. The Legislature have power to call a Convention at any time they see proper; and it is very doubtful to me whether, if we adopt this section, we do not inferentially take away that power from them and put it out of their power to call a Convention at any other period than the time when the vote is to be taken by the electors of the State. Besides all that, the objection urged by the member from Allegheny has a great deal of force. We cannot say that at regular stated periods it will become necessary to hold a Convention. We can trust this power to the Legislature of Pennsylvania. They will represent the people of the State, and if they do not the people will send others there who will provide for calling a Convention, if it be necessary. Besides that, for any single amendments, one, two, or three, the second section, which I shall give my vote to, will be sufficient to meet all practical purposes.

Mr. WOODWARD. Mr. Chairman: I concur in what has been said against this amendment. It is copied, I suppose, from the Constitution of Ohio, in which Constitution there is a similar provision for calling a Convention once in twenty years. That State is now just about holding that Convention, because they are obliged to hold it. It was stated on this floor, when we had the judicial article under consideration, that the State of Ohio had called a Convention to get rid of her intermediate court; and that assertion made considerable impression on the minds of the members of this body. At the time I was not informed of the facts, but now I am, and so far from that being true, the Ohio Convention is called in obedience to a similar provision to this; not for the purpose of getting rid of their intermediate courts at all. And a gentleman living in this city, who has been a judge of the Supreme Court of Ohio and a man of great intelligence, tells me that that intermediate court is the last thing they will give up, and that without it the Supreme Court, which now sits all the while, could not get along with its business at all; that the lawyers of Ohio, who at first opposed the intermediate court, passed under the term there of "pettifoggers," but that the substantial portion of the bar valued it and would never give it

up. So that the statements which were made on this floor, in regard to the Convention in Ohio, to get rid of the intermediate court, were about as erroneous as it was possible for them to be.

Mr. Chairman, I think it a great mistake to fix in our Constitution, as they did in Ohio, a period when there must be a Convention for constitutional amendments. In the Constitution of 1790 there was no provision for amending the instrument; and the amendatory clause which this committee have retained was inserted for the purpose of relieving the Constitution of that defect. It has been found to be ample. There have been several amendments introduced by the action of the Legislature and the adoption of the people, and I suppose it will be so in the future. But, sir, from what I have seen of Conventions, I do not think they are visitations that ought to be secured periodically.

Mr. SHARPE. The section, as I understand, only provides for a vote of the people whether there shall be a Convention.

Mr. WOODWARD. Well, sir, I would not agitate the question before the people. The people will always vote for a Convention. I believe they have voted for every Convention that has ever been proposed, and for every constitutional amendment that has ever been proposed, and I have no doubt they will continue to do so. One of the qualities of the American people is discontent with their condition. Nobody is satisfied in this country; everybody is reaching for some undiscovered good all the while; and the people in their aggregate capacity are just like the individual. They are always stretching for something new in the hope of getting a great good. I have no doubt, therefore, that if you present this question periodically to the people of Pennsylvania we shall have a Convention periodically, and I do not believe we shall be the wiser or the better for that. I am opposed, therefore, to this section and hope it will be voted down.

Mr. BIGLER. Mr. Chairman: I concur with the views of the distinguished delegate from the city, (Mr. Woodward.) For the reasons he has just presented I do not desire to see this arrangement made for amendments in the future even as a presumptive necessity. I would put it away as far as possible. Indeed, sir, I would concur very heartily with the plan suggested by the delegate from Chester, (Mr. Darlington,) that if there

ever be a necessity for a general revision, it would be far better to have a commission; but at all events, there should be a commission of consultation before a Convention should be called. I agree to that. The people are very likely to order Conventions whenever the question is submitted. This whole question will be in the hands of the people through the Legislature, and I prefer the Constitution as it stands very much to the first section of this report. For these reasons I shall vote against it.

Mr. J. N. PURVIANCE. Mr. Chairman: I concur with the remarks of the distinguished gentlemen who have spoken on this subject, and would remark to the committee that there seems to be no necessity for this first section. If it be voted down, then the second section will be in the precise language of the present Constitution.

Mr. J. M. BAILEY. Not quite.

Mr. J. N. PURVIANCE. I have examined it hastily, and I have not discovered any material change. At all events, if the first section be voted down, then we have the Constitution as it is, so far as arrangements for amendment are concerned. It strikes me that it is ample for that purpose, and that we had better retain it as it is and vote down the first section. This first section, if adopted, might necessitate a Convention when there would be no occasion whatever for it. They are now having a Convention in Ohio in pursuance of such a provision in their Constitution. I hope the first section will be voted down.

Mr. BEEBE. The reason for voting down the section seems to be that if it were retained, it would be something that the people need and will hereafter use if they have it; at least that is the opinion of gentlemen. Inasmuch as this Convention is not here for the purpose of representing the people and providing for their necessities, I suppose it would be better to vote it down!

The CHAIRMAN. The question is upon the first section.

The section was rejected, the ayes being nineteen, less than a majority of a quorum.

The CLERK read the second section, as follows:

SECTION 2. Any amendment or amendments to this Constitution may be proposed in the Senate or House of Representatives, and if the same shall be agreed to by a majority of the members

elected to each House, such proposed amendment or amendments shall be entered on their journals, with the yeas and nays taken thereon, and the Secretary of the Commonwealth shall cause the same to be published three months before the next election in at least two newspapers in every county in which two newspapers shall be published, and if, in the Legislature next afterwards chosen, such proposed amendment or amendments shall be agreed to by a majority of the members elected to each House, the Secretary of the Commonwealth shall cause the same again to be published in the manner aforesaid, and such proposed amendment or amendments shall be submitted to the people in such manner and at such time, at least three months after being so agreed to by the two Houses, as the Legislature shall prescribe; and if the people shall approve and ratify such amendment or amendments by a majority of the electors of this State voting thereon, such amendment or amendments shall become a part of the Constitution: *Provided*, That, if more than one amendment be submitted, they shall be submitted in such manner and form that the people may vote for or against each amendment separately and distinctly.

Mr. D. N. WHITE. Mr. Chairman: I offer the following amendment, to be inserted immediately before the proviso, and thus restoring the provisions of the present Constitution:

"But no amendment or amendments shall be submitted to the people oftener than once in five years."

That is precisely the language of the old Constitution. Any one can see that if we are to have amendments submitted every year or so to the people for their votes, they will become wearied and worn out by voting on the Constitution. I think this amendment is a very wise and salutary provision, proved so by our past experience, and it ought to be retained in the future.

Mr. BRODEHEAD. The Committee on Future Amendments were in favor of such a limitation generally upon amending the Constitution; but they considered that this was a new Constitution, and the restriction should not properly be applied to it. We considered that we were framing a Constitution that had not been tried, and in which, in a year or two after its adoption, defects may be discovered. If so, the people should not be trammelled by a provision requiring them to

wait for five years before these errors can be remedied. For that reason, which to the Committee on Future Amendments seemed conclusive, the amendment should not, I submit, be adopted.

MR. LILLY. I agree with the remarks of the gentleman from Northampton that this restriction should not be placed on the Legislature and on the people. Let us leave our Constitution open to amendment if it should be, in any respect, found defective.

MR. J. N. PURVIANCE. I move to amend the amendment, by striking out "five years" and inserting "three years."

The amendment to the amendment was rejected.

MR. J. W. F. WHITE. I apprehend if we should insert this clause in the Constitution, it would not prohibit the Legislature within five years submitting an amendment to the people. I apprehend this section applies exclusively to amendments which may be submitted by the Legislature. At any time after the adoption of this Constitution the Legislature may propose an amendment, but it cannot propose a second amendment until after five years from that time. Therefore the reason given by the delegate from Northampton, (Mr. Brodhead), who was upon the Committee on Future Amendments, for striking out this section of the old Constitution, has, in my opinion, no force. I shall therefore vote for this amendment.

MR. BRODHEAD. The gentleman misapprehends the reason which I gave. I do not suppose we shall discover all the errors in this Constitution in the first year after it be adopted. We may discover some the first year, and the next year we may discover additional defects, and if we do, under the operation of this amendment it would not be possible for us to cure the evils that we should thus discover in two or three years from this time.

MR. ANDREW REED. I trust the amendment of the gentleman from Allegheny (Mr. D. N. White) will not be adopted. This committee of the whole has just decided that the people themselves cannot every twenty years determine whether or not they will have a Convention to revise the Constitution without going through the machinery to be provided by the Legislatures that they may have at that time. We have decided that the people themselves are not competent to alter their Constitution. Now, I am op-

posed to saying that, through their representatives at Harrisburg, amending their Constitution shall be made only once in every five years. This would tie their hands and prevent them from changing any article in the Constitution or from adding another article to it. All of us in the course of time may see provisions that would be absolutely necessary, or at the least be very desirable, to be inserted in the Constitution. Yet if the amendment of the gentleman from Allegheny be adopted, the hands of the people would be so tied down that this could not be done except once in five years.

Besides, sir, we have already a limitation that amendments are to be passed upon by two consecutive Legislatures before they shall be submitted to the people, and that, in my opinion, is sufficient to accomplish all purposes. If the first Legislature shall see proper to propose some amendment that the people do not wish, they will send representatives to Harrisburg the next year who will not authorize that amendment to be submitted to the people for their vote. That, I think, is sufficient, and I see no necessity whatever in thus tying the hands of the people, so that they cannot change their Constitution when the necessity for that change becomes apparent.

MR. BROOMALL. I am opposed to the amendment. It would be a great calamity for us to tie up the hands of the people for five years to any Constitution that this Convention is likely to ask to be voted upon.

THE CHAIRMAN. The question is on the amendment of the gentleman from Allegheny (Mr. D. N. White.)

On the question of agreeing to the amendment, a division was called for, which resulted twenty-nine in the affirmative. This being less than a majority of a quorum, the amendment was rejected.

THE CHAIRMAN. The question is upon agreeing to the section.

The section was agreed to: Ayes, fifty-one; noes not counted.

MR. STRUTHERS. I offer the following amendment, to come in as a new section:

SECTION —. Once in every twenty years the Governor shall confer with the judges of the Supreme Court in regard to the call of a Convention to amend the Constitution. If both these branches of the government concur in the propriety of such call, they shall submit their opinion to the Legislature, and if the Legislature concur, the Legislature

shall immediately provide for calling such Convention and electing delegates thereto; but if the Legislature do not concur, then they shall immediately provide by law for submitting the question to a vote of the people.

Mr. Chairman, I wish to say a word on this amendment. It appears to me proper and a very good mode of arriving at this matter. There are three branches of the government. The Governor and the Supreme Court are always in a position where they can advise with each other, and if in the opinion of the Governor and the supreme judges they deem it proper and advisable that a Convention should be called to amend the Constitution then the proposition is that it shall be submitted to the third branch of the government, represented by the Legislature. If the Legislature concur also, then, without any further ceremony, they shall provide for calling a Convention and the election of delegates to compose it. If they do not concur with the Governor and the judges of the Supreme Court in regard to the necessity of a call, they shall then provide at once for submitting the question to the people by vote.

That is the proposition I have made, and it appears to me that it is a mode of arriving conveniently at a wise conclusion on the subject, perhaps better than any other we could devise. You first have the opinion of the Governor and of the Supreme Court, the heads of two of the department of government. If they believe that it is important and necessary that there should be amendments, they submit their opinion to that effect to the Legislature, representing the third branch. If they concur, then will a Convention at once be called. If they do not concur, however, the Legislature shall, in pursuance of the suggestions of the Governor and the supreme judges, submit the question to the people for a vote as to the call of a Convention.

Mr. DE FRANCE. I would like to ask the gentleman a question before he sits down. Does his amendment prohibit the Legislature from calling a Convention at any time other than once in twenty years?

Mr. STRUTHERS. No sir. It only provides for that mode once in twenty years. If in the meantime the people desire a Convention to be called, and the Legislature are satisfied through the representations of the people that it is important it should be done, they can call a Convention at any time.

Mr. DE FRANCE. I do not know that I have very much objection to the proposition of the gentleman from Warren, although I think we once tried this mode of submitting to a commission or to some number of gentlemen elected for that purpose the decision of the question whether a Convention should be called. In the old Constitution of 1776 there was this provision:

"In order that the freedom of this Commonwealth may be preserved inviolate forever, there shall be chosen by ballot by the freemen in each city and county respectively, on the second Tuesday of October, in the year 1783, and on the second Tuesday of October in every seventh year thereafter, two persons in each city and county in this State, to be called the council of censors, who shall meet together on the second Monday of November next ensuing their election, a majority of whom shall be a quorum in every case except as to calling a Convention, in which two-thirds of the whole number elected shall agree, and whose duty it shall be to inquire into the Constitution," &c—to see whether it needs amendment. I am opposed to any mode of limiting the people in directing their Legislature when a Convention shall be called. There has been a great deal of unnecessary sneering lately by gentlemen in this Convention, against the other members of the Convention, done in a queer, sneaking, underhand manner. Some gentlemen do not want to even see such a Convention as this again in this State. I do not know that I either want to see just such a Convention. If those gentlemen who are most in the habit of sneering against the other members of this Convention, and berating them, and belittling them, would only talk when they have something to say and when they have something to debate about and not for buncombe, I think this would be a tolerably fair Convention. [Laughter.]

Mr. STRUTHERS. I did not intend by this amendment to prohibit or to prevent the right of the Legislature to call a Convention at any time when the voice of the people may seem to require it; and therefore I am willing to add a proviso that it shall not prevent the Legislature from calling a Convention at any time when it may be needed.

The CHAIRMAN. Does the gentleman desire to modify his amendment?

Mr. STRUTHERS. I will amend in this way: "*Provided*, That this shall not be

construed to prevent the Legislature from submitting the question of the calling a Convention to the people at any time."

Mr. S. A. PURVIANCE. I offer the following amendment to the amendment of the gentleman from Warren, to strike out the amendment of the gentleman from Warren and insert:

"Whenever two-thirds of the members of each House of the General Assembly shall, by a vote entered on the Journal thereof, concur that a Convention is necessary to revise, alter, or amend the Constitution, or any specific part thereof, the question shall be submitted to the electors at the next general election. If a majority voting at the election vote for a Convention, the General Assembly shall, at the next session, provide for a Convention, shall designate the day and place of its meeting, fix the pay of its members and officers, and provide for the same, together with the expenses necessarily incurred by the Convention in the performance of its duties."

You will observe that in the amendment proposed by me, I make provision for remedying a defect in our present organization in reference to the fixing of our own compensation, so that hereafter, if a Convention be called, the duty will be imposed upon the Legislature to fix the compensation of the Convention.

Mr. STRUTHERS. The proposition which the gentleman proposes to amend, it appears to me, is very much better than his amendment. I do not think there is very much importance in the amendment he proposes. I consider it very important that there should be a power somewhere which, without great expense or delay, might call together a Convention for revising the Constitution, at least once in every twenty years. The attention of these departments and of the people should be called to the subject once in twenty years. My provision is that the Governor and judges of the Supreme Court shall consult on this subject once in every twenty years; and if they concur, they submit their opinion to the Legislature, and if the Legislature concur, the Convention is at once called. If the Governor, the judges of the Supreme Court and the Legislature all concur, a Convention is at once to be called, without referring it to a vote of the people. If the Legislature do not concur with the other two branches, then they are required to submit the question to a vote of the people. That is to be done at least once in twenty

years. In the mean time, if it is thought important, the Legislature may at any time submit the question to the people for their vote to determine whether there shall be a Convention in five or ten years, or a shorter time, if it should be thought necessary and proper.

Mr. HAZZARD. Mr. Chairman: I think the less there is of breaking up of our fundamental law the better. The experience of history teaches me that those who disturb their fundamental laws the least have the most stable government. We know that France changes her Constitution often, and she is always in turmoil. Mexico and the South American States are changing their Constitutions and laws often, and they are always in turmoil and revolution. England has no written Constitution at all, and she proceeds to alter even her laws with a great deal of precaution and consideration. It is a very democratic provision in the United States that the people shall change their Constitution and laws whenever the fancy takes them; but it is just as the member from Philadelphia (Mr. Woodward) told us, that the people are restless; they want change; and if you submit a constitutional amendment to them, they will vote for it for the very purpose of change, without taking pains to well consider its bearing and effects upon the law and society.

My opinion is that we should retain the old Constitution as far as possible. In the vote taken a few moments ago I supposed I was voting for the provision of the old Constitution. I was told so by my colleague from Butler, and voted expecting that the provision of the old Constitution would be retained. I am not in favor of these changes of the fundamental law. The violent changes that have been submitted to this Convention would break up all the foundations of society. I think these amendment should all be voted down and the provision of the old Constitution restored, and I hope they will all be voted down. It seems to me that we voted without consideration this morning when it was proposed by the member from Allegheny (Mr. D. N. White) that the provision of the old Constitution be restored. There are other members who insist that this section is the old Constitution, but it is not, and we have voted under misapprehension. I do not think the Convention understand what they have voted on to-day. There are material differences in this ar-

title from the present provision of the Constitution. I hope that that vote will be reconsidered, and that we restored the provision of the old Constitution and allow this matter to be fixed. We should not open the door for restless persons to be continually revolutionizing the fundamental foundations.

The CHAIRMAN. The question is on the amendment of the gentleman from Allegheny (Mr. S. A. Purviance) to the amendment of the gentleman from Warren (Mr. Struthers.)

The amendment to the amendment was rejected, the ayes being twenty-five, less than a majority of a quorum.

The CHAIRMAN. The question now recurs on the amendment offered by the gentleman from Warren (Mr. Struthers.)

The amendment was rejected.

Mr. JOSEPH BAILY. I now move to reconsider the vote on the amendment offered by the gentleman from Allegheny (Mr. D. N. White.)

The CHAIRMAN. Did the gentleman vote with the majority?

Mr. JOSEPH BAILY. Yes, sir.

Mr. EDWARDS. I second the motion.

The CHAIRMAN. It is moved to reconsider the vote by which the amendment offered by the gentleman from Allegheny was rejected.

The motion to reconsider was agreed to.

The CLERK read the amendment, which was to add at the end of the seventeenth line the words, "but no amendment or amendments shall be submitted to the people oftener than once in five years."

Mr. MANN. Is it not necessary to reconsider the vote by which the section has already been passed before this amendment can be acted upon?

The CHAIRMAN. No, sir.

Mr. MANN. Then how are we to put this amendment upon it? The section has already been passed.

Mr. DARLINGTON. I move to reconsider the vote adopting the section. I voted with the majority.

Mr. HUNSICKER. I second the motion.

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

The motion was agreed to.

The CHAIRMAN. The amendment of the gentleman from Allegheny (Mr. D. N. White) is now before the committee.

Mr. D. N. WHITE. I wish to say distinctly that this amendment is exactly in the words of the old Constitution. I hope the Convention will allow something to

be settled for at least five years, so that we shall not have the Constitution changed in that time by some persons, actuated probably by good motives, getting up in the Legislature and offering an amendment to immortalize themselves and putting the people to all this trouble. Let us have something fixed, something certain at least for five years. Let us follow the old Constitution in this respect.

Mr. MINOR. I am in favor of this amendment. I rise to say that, and also to make another remark in favor of making our regulations upon this subject permanent. I also desire to reply to the remark that was made on the other section, which it seems necessary that I should refer to. It was remarked by the delegate from Philadelphia (Mr. Woodward) that it had been stated on this floor that the Convention called in Ohio was to do away with the district court; that they had a clause calling a Convention every twenty years, and it had been found that that statement was a mistake, that the people were in favor of that court. I rise to say that the recollection of the gentleman is incorrect. My statement was in substance that the Convention was called not to do away with the court, for everybody, so far as we could learn, was in favor of it, but to change the mode of its construction; but the gentleman went on and made an argument on the other supposition. I deem it but justice to rise to that statement, because I was always in favor of such a court, and distinctly stated that such was my information. He stated here that his information was contrary to that which I have stated, while it is in fact in exact accordance with and confirms the statement which I made.

Mr. WOODWARD. I wish to ask the gentleman a question.

The CHAIRMAN. Will the delegate allow himself to be interrogated?

Mr. MINOR. Certainly.

Mr. WOODWARD. I should like to know whether the gentleman did not vote against the proposition of the chairman of the Judiciary Committee (Mr. Armstrong) for an intermediate court?

Mr. MINOR. I did, and for this reason—

Mr. WOODWARD. One word more. I should like to know if the gentleman did not vote against my proposition for an intermediate court?

Mr. MINOR. I did.

Mr. WOODWARD. Very well; that is all I wish to ask.

Mr. MINOR. And now I will explain.

Mr. BAER. I rise to a point of order. The remarks of the gentleman are not germane to the subject matter under consideration.

The CHAIRMAN. The point of order is not well taken.

Mr. MINOR. I will reply. I stated at the time, sir, that I was in favor of that kind of court, but not the court as constituted in those reports. I voted against the mode of constituting the court, and not the court itself, as I explained at the time. I argued in favor of such a court, but against its being made up in that way. That is all.

The CHAIRMAN. The Chair will remind the gentleman from Crawford that the question of a circuit court is not now before the committee.

Mr. BARTHOLOMEW. I desire to say just a word on this subject, because I deem it an important one. I think this amendment of the gentleman from Allegheny should certainly be incorporated in this section. We have undertaken in this Convention to restrict special legislation. We have undertaken to throw guards and restrictions around the exercise of powers that have heretofore been granted to the Legislature. Now, I take it that if we have the power vested in the Legislature to submit constitutional amendments annually for adoption or rejection by the people, you have the Legislature of Pennsylvania as an intermediate body which is to be operated upon for the purpose of changing your Constitution. That is, instead of applying to the Legislature for special grant of privileges, you will have the attack made upon the Constitution through the Legislature, for the purpose of altering that as often as the interests that it cramps or limits find out its effect. Therefore, I take it that we should at least keep the Legislature from being operated upon for this purpose as much as we can, to a certain reasonable limit—it is true there must be a limit—because it may be that owing to the want of wisdom of this body, we being human and fallible, we shall have failed to make proper provisions or have made unwise provisions, that will be found to be of no avail or to operate badly, there should be in the future some amendment. But let us have something at least as stable and as fixed as ordinary matters are usually, and let us take from the Legislature this constant contest of, and operation against, the fundamental law of the State through

that body. Let us do that, because the moment a party finds out that he can get the Constitution altered annually, he will go to the Legislature for that purpose; an amendment will be submitted to the people and attempted to be carried. It is perhaps a single section; the public attention is not attracted to it; and again the flood gates of special legislation will be opened by this means for the benefit of a single interest time and time again. Therefore I think it is now our duty to restrict and restrain it as far as possible, and let us at least have the old limit of five years.

The amendment was agreed to.

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

Mr. DARLINGTON. I move to amend the section by adding the following words:

"And provided further, That the Legislature may from time to time provide for the appointment of a commission to propose amendments to the Constitution, and such amendments if adopted by two successive Legislatures, and by the people, shall become part of the Constitution."

I have no wish to detain the Convention a moment, but merely present this distinct idea, which is, whether we shall confide to the Legislature or enjoin upon them, if you please, when amendments are necessary, that they should receive careful consideration, and give them an opportunity to provide for the appointment of a commission of greater or less numbers, as they see fit and proper, to propose those amendments. It is with a view to this that I offer this amendment.

Mr. MANN. Mr. Chairman: I see no objection to the principle of the amendment, but I see no necessity for inserting that provision in the Constitution in order that the Legislature may appoint a commission. If a commission is appointed under the amendment offered, its amendments will have to go through the precise forms already provided for in this section, to wit: To be adopted by two Legislatures, and then submitted to the vote of the people. Now, I think the Legislature would have authority to appoint such a commission as that without this additional provision; and I, therefore, see no use in it. It is merely adding words and adding a suggestion of power which the Legislature would possess without it.

The CHAIRMAN. The question is on the amendment of the gentleman from Chester.

The amendment was rejected.

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

Mr. BRODHEAD. There appears to be a disposition to adopt this section exactly as it was in the old Constitution. I omitted to say that we made a further alteration in requiring that the amendments should be published in two papers in each county instead of one, as in the old Constitution. If gentlemen want the old Constitution pure and unadulterated, they can put that in also.

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

The section as amended was agreed to. The article being gone through with, the committee rose, and the President having resumed the chair, the Chairman (Mr. Kaine) reported that the committee of the whole had had under consideration the report (No. 16) of the Committee on Future Amendments, and had directed him to report the same with amendments.

The amendments were read.

The article as reported is as follows :

SECTION 1. Any amendment or amendments to this Constitution may be proposed in the Senate or House of Representatives, and if the same shall be agreed to by a majority of the members elected to each House, such proposed amendment or amendments shall be entered on their Journals, with the yeas and nays taken thereon, and the Secretary of the Commonwealth shall cause the same to be published three months before the next election in at least two newspapers in every county in which two newspapers shall be published; and if in the Legislature next afterwards chosen such proposed amendment or amendments shall be agreed to by a majority of the members elected to each House, the Secretary of the Commonwealth shall cause the same again to be published in the manner aforesaid, and such proposed amendment or amendments shall be submitted to the people in such manner and at such time, at least three months after being so agreed to by the two Houses, as the Legislature shall prescribe; and if the people shall approve and ratify such amendment or amendments by a majority of the electors of this State voting thereon, such amendment or amendments shall become a part of the Constitution; but no amendment or

amendments shall be submitted to the people oftener than once in five years: *Provided*, That if more than one amendment be submitted they shall be submitted in such manner and form that the people may vote for or against each amendment separately and distinctly.

ORDER OF BUSINESS.

Mr. D. N. WHITE. I move that we proceed in committee of the whole to consider the article reported by the Committee on County, Township and Borough Officers.

The PRESIDENT. The Convention has already, in committee of the whole, this morning considered that article. The committee of the whole then rose, reported progress and asked leave to sit again, and leave was given the committee of the whole to sit again to-morrow. Is it the pleasure of the Convention that this shall be expunged from the Journal? ["No." "No."] The Chair hears objection, and the motion of the gentleman from Allegheny cannot, therefore, be entertained.

Mr. MACCONNELL. If it is agreeable to the chairman of the Committee on Commissions, Offices, Oath of Office and Incompatibility of Office, I move to proceed to the consideration, in committee of the whole, of the article reported by that committee.

Mr. KAINE. I very much prefer, as chairman of that committee, that the article should not be taken up until to-morrow.

Mr. MACCONNELL. Then I withdraw the motion.

The PRESIDENT. The next business before the Convention is the reading and consideration of the article on Legislation as amended by the committee of the whole. Will the Convention agree to so proceed? ["Aye." "Aye."] It seems to be agreed to. It is agreed to. The first section of the article on Legislation will be read.

Mr. DALLAS. I move to reconsider the vote by which it was resolved to take up this article for second reading.

Mr. CORBETT. I second the motion.

The PRESIDENT. Did the gentleman from Philadelphia vote in the affirmative?

Mr. DALLAS. I did and under a misapprehension.

The PRESIDENT. Who seconds the motion?

Mr. WHERRY. I do.

The PRESIDENT. How did the gentleman vote?

Mr. WHERRY. In the affirmative.

The motion to reconsider was agreed to.

The PRESIDENT. The question is again before the Convention.

Mr. CORBETT. I hope the Convention will not take up the article on legislation in the absence of the chairman—the gentleman from Indiana (Mr. Harry White.) The motion to proceed to the second reading and consideration of the article on legislation was rejected.

OATH OF OFFICE.

Mr. WHERRY. I now move to proceed in committee of the whole to the consideration of the article reported from the Committee on Commissions, Offices, Oath of Office, and Incompatibility of Office.

Mr. KAINE. I have no objection now.

The motion was agreed to; and the Convention resolved itself into committee of the whole, Mr. Buckalew in the chair.

The CHAIRMAN. The committee of the whole have had referred to them the article reported by the Committee on Commissions, Offices, Oath of Office and Incompatibility of Office. The first section will be read.

The CLERK read as follows:

ARTICLE —.

OF THE OATHS OF OFFICE.

Members of the General Assembly, and all judicial, State, and county officers shall, before entering upon the duties of their respective offices, 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 that I will discharge the duties of my office with fidelity; and I do further solemnly swear (or affirm) that I have not paid or contributed, or promised to pay or contribute, either directly or indirectly, any money or other valuable thing to procure my nomination, election or appointment: nor have I knowingly violated any election law of this Commonwealth, or procured it to be done by others in my behalf. And I do further solemnly swear (or affirm) that I will not knowingly receive, directly or indirectly, any money or other valuable thing for the performance or non-performance of any act or duty pertaining to my office other than the salary or fees allowed by law."

The foregoing oath shall be administered by some person authorized to ad-

minister oaths, and in the case of State officers and judges of the Supreme Court, shall be filed in the office of the Secretary of the Commonwealth, and in the case of other judicial and county officers in the office of the prothonotary of the county in which the same is taken. Any person refusing to take said oath or affirmation shall forfeit his office; and any person who shall be convicted of having sworn or affirmed falsely or of having violated said oath or affirmation shall be guilty of perjury and be forever afterwards disqualified from holding any office of trust or profit within this Commonwealth.

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 general election shall take and subscribe before some officer qualified to administer oaths the following oath or affirmation:

"I do solemnly swear (or affirm) that as a member of the General Assembly I have supported and obeyed the Constitution of this Commonwealth, to the best of my knowledge and ability; I have not knowingly been influenced by corrupt private solicitation from interested parties or their agents. I have not voted or spoken on any matter in which I had or expected to have a private interest. I have not done, or willingly permitted to be done, any act which would make me guilty of bribery. I have observed the order and forms of legislation as prescribed by the Constitution, and I have not knowingly voted or spoken for any law, bill or resolution which I knew or believed to be inconsistent therewith."

The foregoing oath or affirmation shall be filed in the office of the prothonotary of the county in which the Senator or Representative resides; and if any such Senator or Representative shall fail to take and file said oath or affirmation within the time prescribed (unless unavoidably prevented) he shall be forever afterwards disqualified from holding any office of profit or trust within this Commonwealth; and if in taking such oath or affirmation it shall appear that he has knowingly sworn or affirmed falsely he shall be deemed guilty of perjury and also be disqualified as aforesaid.

Mr. KAINE. I call for a division of the article, to end with the word "Commonwealth," in the twenty-fifth line. The article should have properly been divided

into two sections, and it was an oversight that it was not so reported.

The CHAIRMAN. The gentleman can move a division.

Mr. Kaine. Then, Mr. Chairman, I move to make the article, commencing with the twenty-sixth line, section two.

Mr. STANTON. I move to amend by making section one end at line fifteen.

Mr. CUYLER. I move to amend the article by striking out all after the word "fidelity," in the sixth line.

The CHAIRMAN. The gentleman from Fayette has the floor.

Mr. CUYLER. Is my amendment in order?

The CHAIRMAN. The gentleman from Philadelphia will give way until the article is arranged, and then his amendment will come in.

Does the gentleman from Fayette move to insert the words "section two?"

Mr. Kaine. Yes, sir, before the twenty-sixth line; and then the two sections can be further divided as may suit the views of the Convention. There are four separate and distinct propositions. I desire to say a few words upon the first section, that is, in regard to the oath to be taken by officers.

The CHAIRMAN. The Chair would suggest to the gentleman from Fayette that the question had better be taken on the motion to insert "section two" before the twenty-sixth line, as a mere matter of form.

Mr. Kaine. Very well.

The CHAIRMAN. The question is upon the amendment to insert the words "section two."

The amendment was agreed to.

Mr. CUYLER. Is it in order for me to propose my amendment at this time?

The CHAIRMAN. It is now in order.

Mr. CUYLER. I move to strike out all after the word "fidelity," in the sixth line of the first section.

The CHAIRMAN. That amendment is before the committee.

Mr. Kaine. Now, Mr. Chairman, I desire to say a single word to the committee upon this first section. An oath had been reported by the Committee on Legislation; a similar oath had been reported by the Committee on the Legislature; and I know not whether any other committee had made reports upon that subject or not. The subject, however, was brought under consideration in both those reports. After having been discussed very fully in committee of the whole on both occasions,

the form of oath proposed was voted down upon the suggestion that the Committee on Oaths would make a report upon the subject, embracing not only members of the Legislature but all other officers. In pursuance of that, the Committee on Oaths have made this report. It embraces what was embraced in the oaths reported by the two other committees, and applies it to all officers as well as members of the Legislature. The committee could see no propriety in requiring a member of the Legislature, an elective officer, to take a particular kind of oath, while a prothonotary or a sheriff, or any other elective officer, might be guilty of the same kinds of fraud and not be required to take an oath. The committee have therefore adopted this general oath upon this subject, which I hope will meet with the favor of this committee.

Mr. BIGLER. Mr. Chairman: I have given this report some attention, and I must confess that, as a whole, I do not like it at all, especially that part of it which may be termed an oath of expurgation; nor do I think the oath as it stands is one that could be safely taken. It strikes me as entirely too searching, and yet I am quite willing that a member of the Legislature about to enter upon duties where the discretion is very large and the interests involved serious, should take a somewhat searching oath, an oath that would point out to him very clearly his duty and remind him when thoughts would arise of a departure from it. As I understand this report, it goes upon a different idea entirely. It looks to a case where a member may become a criminal. He may take the first oath and then taking the second oath become amenable to the law. It is alleged against the first oath, as I understand the discussion here, that he could not be held to have been guilty of perjury because he might disregard the first oath. Now, sir, I am not willing to go on the idea, by a system of oaths, of getting criminals and providing punishments for them.

But, sir, at present I rose mainly to offer an amendment in the form of an oath for the members of the Legislature, striking out the first clauses of the report, intending, in addition to that, for all judicial, State and county officers to leave the oath as it now stands; and, with this explanation of my purpose, I send up the amendment. I propose to strike out the first clauses of the report, which will cover the amendment of the gentleman

from the city of Philadelphia, (Mr. Cuyler,) and insert what I think is a very searching oath, not so difficult as that which has been proposed.

The CHAIRMAN. The amendment will be read.

The CLERK. It is proposed to strike out the first clause and insert :

"Members of the General Assembly, before entering upon their duties, shall take and subscribe the following oath : "I do solemnly swear (or affirm) that to the best of my knowledge and belief I have been elected as a member of the Senate (or House of Representatives) in accordance with the laws of the State, and without the improper use of money or other corrupt or corrupting means. I do also solemnly swear (or affirm) that I will obey and support the Constitution of the United States, and of this Commonwealth, and discharge the duties of a member of the Senate (or House of Representatives) honestly and faithfully, and with sole desire to promote the public good, uninfluenced to the contrary by the promise or hope of pecuniary reward or gain to myself, or by any other corrupt or corrupting considerations."

Mr. CUYLER. Allow me to ask if that is an amendment to the amendment. Does the Chair recognize it as such?

The CHAIRMAN. Certainly. The gentleman from Philadelphia moves to strike out a part of the section, and the amendment to the amendment is to strike out the whole.

Mr. CUYLER. The proposed amendment to the amendment is a substitute for the whole section. It does not amend the amendment; but it proposes a substitute for the entire section. Can that be an amendment to an amendment which is a substitute for the whole section?

Mr. BIGLER. I certainly agree, if the gentleman chooses to occupy the attitude of a friend of the text, that he has a right to perfect that before the vote is taken on the motion to strike out. It would be proper, if the delegate insists upon it, that the vote to perfect the text should first be taken, and I shall have to submit to that.

The CHAIRMAN. The Chair sees no difficulty. The amendment offered by the gentleman from the city (Mr. Cuyler) was first offered, and the question will be first put on that amendment.

Mr. CUYLER. Mr. Chairman : I do not propose, at this late day in the discussions of this Convention, to enter into any lengthened argument in support of

the amendment. It is said that the history of a people is crystallized in their laws to a large degree. If we are to look upon this organic law of the States as an indication of the condition and character of the age in which we live, we certainly would conclude that it was a very disreputable and disgraceful one. I must say, for myself, I have not a particle of faith in making dishonest men honest by oaths; and I do not believe that this section, as reported by the committee, if it were adopted, would exclude from the Legislature one single dishonest man, while, on the other hand, it would mantle with the blush of shame the cheek of every honest man every time he came forward to take that oath. Considered as a reformatory measure, it is simply powerless to do any good. There are a thousand ways in which bad men will evade it, and there is no form of words that we can adopt that will prevent bad men from evading it, or exclude them from the halls of legislation. It is not even a palliative—still less is it a cure for any of the ills that afflict the State. If we cannot devise a method whereby we can secure pure nominations for office, and if we cannot follow that up by devising a method whereby we may secure fair elections in our Commonwealth, we had better abandon our system of government entirely and seek to substitute something else for it. If we are to endeavor to make our legislators pure and keep them honest by requiring an oath to be taken that a rogue would blush to take, we have passed beyond that point where the Commonwealth is capable of redemption.

I am, therefore, opposed to the section, first, because I think it is entirely inefficacious; it is a mere waste of words. It will amount to nothing as a practical thing. It will not keep one bad man out, it will not bring one good man into the Legislature. Therefore, being useless, it should not be inserted in the Constitution. All that there is really in this oath is contained in the words that according to the amendment it is proposed shall remain in it. When he swears: "I will discharge the duties of my office with fidelity; I will support, obey and defend the Constitution of the United States and the Constitution of Pennsylvania," he has sworn to all that can be applied to the conscience of a true and honorable man to keep him in the pathway of duty. If he is not a true and honorable man, the additional words that are to be found in

this section will not make an impure man pure, or render him any more faithful in the discharge of his duties. I would not, therefore, put into the organic law a confession on the part of every individual who comes forward to take the oath that he is a legitimate subject of distrust, and that he must begin the very discharge of his duty by swearing that he is an honest man and has not done dishonest acts to place him where he stands. It is an insult to him to ask it; it is an offense to the Commonwealth; and it is perfectly useless as to any practical benefit.

Mr. LILLY. We all recollect that this subject was under discussion for about ten days, and it was fully and thoroughly gone through with. We listened for hours to a speech of the honorable gentleman from York, (Mr. J. S. Black,) who is not now here, on this subject, which entirely exhausted the argument on the side of this double-ender, iron-clad oath. We listened to several other delegates, and as I have said we consumed not less than a week, and probably ten days, in the discussion. Those of us who were here then fully understood it, I presume, when we voted down everything except a plain, straightforward oath as suggested by the amendment of the gentleman from Philadelphia. I think it will save time if we adhere to that action. I do not think a word more can be said by anybody on any point that will strengthen this iron-clad oath.

Mr. H. W. PALMER. Mr. Chairman: I have no doubt that the mind of the gentleman from Carbon is made up, and therefore he desires no further discussion. Perhaps some others are less fortunate. If the minds of all the delegate are made up, then there is no use for any further discussion; but before I vote on this subject I desire to put my reasons on record for the faith that is in me.

I do not suppose that the question is whether we shall have an oath or not, because I believe everybody agrees that there should be some kind of an oath. The question is whether we should have a general oath or a specific oath; whether we shall have a firm, compact, binding and useful obligation, or whether we shall have a mere vague, glittering generality.

The first part of this oath is substantially the old oath, as it is in the Constitution, except there is inserted here a provision to support the Constitution of the United States, which is not found in our present Constitution.

In the Convention of 1838 a great debate arose on that subject, and after much consideration it was determined that there was no use of putting in the Constitution of Pennsylvania an oath to support the Constitution of the United States, and with great unanimity the Convention of 1838 voted out that provision. By the light of the experience of the days that have gone by since 1838, there seems to be no difficulty in the mind of any delegate here on that subject, and we hear no objection raised to inserting an oath to support the Constitution of the United States, and not only to support, but to obey and defend it, words which you will find in this oath and which are not found in any other oath that has ever been required from public officers. An oath to support the Constitution did not seem to answer the purpose. Men sat in the halls of the National Legislature with that oath upon their consciences and upon their lips, plotting to destroy the Constitution, and therefore it seems good to the committee to put in something more here, to require that a man shall swear not only to support but to obey and defend the Constitution of Pennsylvania and the Constitution of the United States.

The official is next required to swear that he will perform the duties of his office with fidelity. No objection is made to so much of this oath. So far, it goes to what a man shall perform in the future, not to what he has done in the past. It seemed good to the committee to require something further of the officer on the threshold of official station. It seemed good to the committee to require of him to say, on oath, that his election had not been purchased with a price, that he had not bought the office, that it had not been procured by fraud, by corruption, by violation of all the election laws of the Commonwealth.

Now, I inquire of delegates whether in their judgment the indiscriminate use of money which has obtained in the elections of this Commonwealth during years gone by is a desirable thing; whether it is a good thing that the offices of the State of trust and honor and profit are to be bought and sold in the market; whether it is a good thing that men are selected as candidates, not on account of their personal worth, not on account of their ability or fitness, but on account of the length of their purses and the amount that they will be enabled to contribute toward a campaign? The average ward politician,

in casting his eye about for the purpose of selecting a suitable candidate for office, chooses Mr. A not because he is fit, not because he is able, but because he is able to contribute. That is the great question now-a-days; and it has come to this pass that in many sections of this Commonwealth, no man can run for an office, no man can expect an office, unless he is a rich man, unless he has money to put into the campaign and wherewithal to buy his office.

The people cannot spare the poor men from the halls of legislation; they cannot spare the poor men from the bench and from the various other positions of trust and profit that are within their gift. Money, while good in itself, is not the sole qualification for high office; brains are sometimes desirable; but under the present system, for it has come to be a system, and is so recognized, it is the length of a man's purse and not his ability that often governs in his selection for an office. Therefore it seemed good to the committee to put here this provision, because it is the only place in the whole Constitution in which it can be inserted,

Now, should a candidate pay anything for an office? The theory of our government is that public officers are public servants. They are men who are selected from the body politic, and set apart to do a service for a compensation, for a reward. The amount of their compensation is fixed by law. It is fixed according to the value of the service they are to perform—not according to how much they have spent to get the office. Therefore, it seems to me that when a citizen is selected to be a candidate for office, he should not be called upon to pay a dollar for any expense, not even for printing tickets. They should be printed out of the common fund, and distributed, as election blanks are distributed, at the public expense. It is under this plea of "necessary election expenses" that all evils creep in. The candidate is called upon to contribute for "necessary election expenses," for the printing and distribution of tickets, and the amount he is called upon to contribute is measured by the length of his purse. He is first assessed by the State Central Committee. He is then assessed by the county committee. He is then called upon by his ward club. Then every fireman's association, every hook and ladder company, every church, every meeting-house, every charity and every bummer in the whole country side waits upon him

to bleed him, induce him to contribute to all sorts of objects, and when the election is over, if he has not got a large bank account, if his balance is not great, he is in a better condition to enter the poor-house than upon the duties of a responsible office.

This state of things is a shame and disgrace to Pennsylvania politics. It is not confined to any section, but, according to the testimony of all the delegates who come up here from all parts of the State, it is wide-spread and universal. It has come to pass that no man can obtain an important office unless he has large wealth, and it costs from five to ten, and as high as fifteen thousand, dollars to be elected to some of the offices in this Commonwealth. Therefore the committee thought it good to insert this provision, not as a cure-all, but as some slight barrier to the tide of venality and corruption which is sweeping over the land.

The committee further inserted a provision in the oath with regard to the duties the officer is to perform in the future; that he would take no unlawful fees. We know that is an evil that must be prevented somehow. The system of bribery and corruption and the taking of illegal fees is widespread; and it seemed to the committee that this was a good place to meet that evil, and so it was inserted in this oath.

There are objections made to this oath. The principal one seems to be that it would be degrading to a man to take it; and we hear from the gentleman from Philadelphia (Mr. Cuyler) that no honest man could take this oath without mantling his countenance with the blush of shame. Well, I do not see it, to use a cant phrase. Why should it mantle his countenance with the blush of shame any more to take the latter half of this oath than to take the first half? The gentleman from Philadelphia is willing that he should be sworn to do his duty with fidelity. Why swear him to do his duty with fidelity? Is it imagined beforehand that he intends to be unfaithful to his duty, that you require him to swear to do his duty with fidelity? Why should he not blush to take that part of the oath? You swear him to support the Constitution of Pennsylvania and the Constitution of the United States. Why swear him to do that? Do you imagine in advance that he means to defy both those Constitutions? Not at all. The face of the honorable gentleman himself was not mantled with shame when he

swore in this Convention, as a delegate here, to perform his duties with fidelity. Nobody expected that he intended to do anything else than perform his duties with fidelity; but he was nevertheless required to take the oath. I see no force in that objection.

When a young student stands before the bar to enter the honorable profession of the law the Bible is put in his hand and he swears to use no falsehood, to delay no man's cause for lucre or malice and to use good fidelity as well to the court as to his client. Does that mantle his face with shame? Is it expected that he will use falsehood and delay his client's cause for lucre or malice and break faith with the court and with his client? Not at all. And therefore when an officer stands up and swears that he has not bought an election, that he has not corrupted the ballot-box and been falsely returned, neither will his countenance be mantled with shame. That objection—without meaning disrespect to any gentleman on this floor—seems to me to be a sickly sentimentality, without any force in it.

It is objected further that it is not good to multiply oaths; that this would be in some sense a multiplication of oaths, and that when oaths are multiplied they cease to be regarded. That objection is better made to all oaths, and if good at all should bar the introduction of any oath.

It is further objected that good men will not be put into office, nor bad men kept out by this oath; that it will not deter any bad man and will not assist any good man. That sort of reasoning would apply to any kind of penal enactment. You might as well say it does no good to pass a law against larceny because the laws against larceny do not deter thieves. One gentleman feared it would do no good to adopt this oath against the use of money in elections, because it will not deter anybody from doing it. My idea is that the same objection would apply to every penal law. It seems to me that the reason why rogues are deterred from committing crime is because of the punishment affixed by laws. There is a sanction here so that if a man is guilty of the offences enumerated, or any of them, and if he does take this oath falsely, then the punishment follows swiftly. He is guilty of perjury, and on conviction he will be punished as for perjury. Of course it is perfectly well known to every lawyer in this body that the violation of an official oath carries with it no punishment now. It is

a matter of no earthly account. You cannot now indict and punish a man for perjury for violating any official oath; and therefore it seemed good to the committee to affix some punishment, and not only to affix punishment as for perjury but also to disqualify a guilty man from ever holding any office of trust or profit under this Commonwealth. Now, do gentlemen mean to say that the prospect of taking an oath which to swear falsely would consign him to the felon's cell and disgrace him forever, would not deter a man from committing the crimes therein enumerated? He would be a very bad man and would be a very desperate villain that would buy his election or stuff the ballot-box with the prospect of taking that oath before him. No man can use money in elections without inviting some second party into the secret. If a candidate buys a man, there must be a man bought, and therefore he puts into the hands of that man the key of the penitentiary, with a power to open the door for him, because there is the oath he is to take, and when he buys a man he provides a witness to his villainy. Do you tell me that will not deter a bad man who is running for office from buying his election? Why, Mr. Chairman, that argument it seems to me is absurd. If there is any good at all in requiring an oath let us put in that oath something that means something, and instead of a vague and glittering generality, without sanction or punishment attached, let it be so ordered that when a man does cheat and then swear falsely, he can be indicted for perjury and punished for perjury, and forever dishonored among his fellows.

The CHAIRMAN. The gentleman's time has expired.

Mr. BARTHOLOMEW. Mr. Chairman: I only desire to say a word on this subject. When it was up before this Convention before I refrained from saying anything, although my convictions at that time were as firmly fixed as they are at present. But I feel as though this amendment was proper, and I shall support it. I shall support the amendment of the gentleman from Philadelphia (Mr. Cuyler) for the reasons that he has stated.

I do not think that oaths make dishonest men honest. I think the effect of our placing such an oath as that here proposed in the Constitution is to make us agents to add a few more perjured lips to the Gospel that is pretty well smeared already. Neither do I believe in this oath.

If I believed in a more specific one, I do not believe in this oath because it includes more than a man's discharge of official duty. That is the difficulty. It includes something that he is bound to refrain from as a citizen of the Commonwealth as well as an official. What is expected of an official is that he shall discharge the duty of the office which he holds with fidelity to the trust imposed upon him. What he has improperly done therefore to secure that office is an offense against the whole body of the people; it is a substantive offence against the people, and its punishment should be provided for in your penal code, as you must at last have a penal code for the purpose of enforcing the provisions that are contained in this Constitution.

Now, I take it that all that is required of the official is that he shall fairly discharge his official duties properly and with fidelity. If he has violated or transgressed the law, punish him; and if you have no law in your statute book or in your penal code that makes influencing the electors corruptly an offense, there should be one placed there. We have laws, almost without number, in relation to the elections of officers; and that is the proper place to reach the man who attempts corruptly to influence electors. It is said that we have corrupt influences pervading our whole State at election times for the purpose of securing the success of one candidate or another. Will any gentleman pretend, for one moment, that this oath will change the system of elections; that because, forsooth, a candidate is prevented from expending money, that will prevent his friends from expending money, and going on as they have gone on and as they will go on as long as power is a goal that is sought for by men, and as long as partisan zeal can be excited? There is nothing curative in this as far as the people are concerned.

Now, I have attempted to separate official duty from the duty of the citizen. If a man be corrupt as a citizen, punish him; but this oath, as the amendment fixes it, is surely sufficient to impose upon the conscience of a man his duty in official station. When we come to the individual man, let us look at its effect. Take the first proposition; we have upon the one hand the bad man; we have have upon the other the good man; the bad man seeks for official preferment, the good man is sought for by his friends to accept office. The latter turns to the Constitu-

tion of his State and he says, "Here is an oath which, if I accept this office, it will be almost impossible for me to take; and should I be elected my hands are tied; I cannot go into the Legislature to take the office and take that oath if I do as those have done heretofore in the political history of my country." Suppose that, over-persuaded by his friends, he does accept the position, he gets his nomination; then they come to him to carry on that election as other elections have been carried on heretofore. He says, "No, that I cannot do; look at this oath of office? Neither directly nor indirectly can I contribute anything." I say, therefore, the man's hands are tied whose conscience is keen to his obligations, and he folds his arms and says: "I will not move hand nor foot." The bad man, however, who has no regard for his oath, who will take it as the fish will the worm, has all the advantage. He goes among the people expending money as others have expended it, debauching them as they have been debauched before, and spreading the evil of this corruption, whilst the good man's hands are tied so that he will not move a step.

Under such a state of things as this, I ask the gentlemen who will fill your legislative halls? Will you elevate the class of your legislators or will you decrease their qualifications so far as honesty and integrity are concerned? The man who will corruptly influence electors will not hesitate at the threshold of his official duties in taking that oath for one second; and therefore, instead of purifying your Legislature and making it better, you open the door for the corrupt scoundrel whose conscience is impervious to any such thing as perjury.

Mr. H. W. PALMER. When the fish takes the worm he gets caught generally.

Mr. BARTHOLOMEW. Sometimes I am not very lucky at catching fish.

Mr. H. W. PALMER. That is what the worm is used for—to catch the fish.

Mr. BARTHOLOMEW. We understand you wish those men to be caught by taking this oath. Where is the oath taken? The gentleman is a lawyer, and has seen, day after day in court, men coming up and swearing to support the Constitution of the United States, and the oath administered in a voice that neither he nor any other human being understands. The only point is, "give me half a dollar;" and then another man comes up: "Take off your hat and take your pipe out of

your mouth," and he is sworn and another half dollar taken. With regard to the matter of an oath, the commoner you make it, the less it is obeyed and regarded. The only way to make oaths sacred at all is to let them be administered only when it is absolutely necessary for the discharge of public duty and the enforcement of the law.

Mr. KAINE. Mr. Chairman: I conceive this matter to be one of very great importance. If there has been any one thing more than another that has been complained of and spoken about since the commencement of the sessions of this Convention, it has been frauds in elections. We have heard that subject discussed here time and again by the members from Philadelphia, and no man upon this floor has complained more bitterly or lamented more strongly over this condition of affairs than has the gentleman who offered this amendment (Mr. Cuyler.) It is admitted on all hands that our elections have been corrupt. It is agreed on all hands that there should be some remedy applied, if a remedy can be provided. The gentleman from Philadelphia has sought to purify the elections by some new mode in regard to voting. That may add something in the general plan of reform; but this oath is one more step in the same direction.

I do not believe a word of the doctrine enunciated by the gentleman from Schuylkill (Mr. Bartholomew.) The oaths heretofore taken have not, as he says, any very great binding force upon the mind of a dishonest or of a corrupt man; but when you add to them the penalty that is affixed for a violation of the oath now presented to the consideration of the Convention, you have something to hold over a man *in terrorem*; and that gentleman need not tell me that a man who has staring him in the face a prosecution for perjury and a prospect of lingering months, and perhaps years, in the penitentiary is not going to be intimidated from the commission of acts such as this oath is intended to prevent! The greatest source of corruption in all our elections I hold to be the corruptions in the nominating conventions. To obtain a Republican nomination in Philadelphia is tantamount to an election. That obtained, a man's election is sure; and in order to obtain that, all kinds of fraud, bribery and corruption are practiced. I was shown the other day a portrait of a distinguished gentleman in this city, who is a candidate

for sheriff, robed with a golden fleece; indicative I suppose of the rich reward that is in store for him if he obtain the office; or perhaps, on the other hand, indicative, like Jason, of the trouble and difficulty by which it is to be secured; and after having secured it, no doubt he would turn traitor, like Jason, and abuse the person who confided in him and secured him the golden fleece. That is so now in the city of Philadelphia in the case of one of the candidates for sheriff. Hold up before that man this oath, and let him know that before he enters upon the discharge of his duty as sheriff of the county of Philadelphia he is bound to swear that he has not used any money either directly or indirectly to secure his nomination or election, and who will tell me that the influence of such an oath will not be salutary?

If something of this kind cannot be adopted, if something cannot be provided to secure purity in the nominations of our candidates for office, and afterward in their election, then it may be, as was said by the gentleman from Philadelphia, that our government had better be abandoned and we had better select something else. I admit that it is bad enough; but I desire the gentleman from Philadelphia who has complained so bitterly of fraud upon this floor to go with me and other members of this Convention for the purpose of trying to purify the elections of this Commonwealth, because I admit, with him, and I admit with every other member upon this floor if necessary, that the elections in some parts of this State have become a farce. Then you need not tell me that a man who has obtained an office will not be restrained if he sees staring him in the face the oath that says to him, "if you do this thing and if you are informed on, you are liable to be indicted; you will be guilty of perjury."

I hope that the amendment of the gentleman from Philadelphia will not be adopted. If it be, it will leave the oath nothing more than the old form of oath which we have had for a hundred years. The gentleman says that it is degrading to take an oath, particularly this kind of an oath. Did that gentleman think it was degrading upon him, his honor, or his conscience, when he took an oath as a member of the bar of the county of Philadelphia, that he would use no falsehood, nor malice, nor delay any man's cause for lucre? Does he think it degrading upon a client of his when he takes him into the

register's office of this county where, as an administrator or an executor, he is sworn to an account that it is true from beginning to end? Is that degrading? Is it degrading for a man to say, "I have been honest, and I have not lied?"

Mr. CUYLER. Will the gentleman from Fayette permit himself to be interrupted?

Mr. KAINE. I will.

Mr. CUYLER. He alludes to the oath of attorneys. In his practical experience, does he suppose that that oath has operated as a restraint upon bad men getting into the profession?

Mr. KAINE. I do, to a very great extent.

Mr. CUYLER. Has not every bar its "shysters" and men of that grade, who get there notwithstanding that oath?

Mr. KAINE. Yes, sir; I have no doubt of that; and if it were not for that oath we should have more shysters than we have now.

Mr. CURTIN. Will the chairman of the Committee on Commissions, Offices, Oath of Office and Incompatibility of Office permit me to suggest the oath of a grand juror?

Mr. KAINE. I am much obliged to his excellency, the ex-Governor, for the suggestion. The oath of a grand juror is much more stringent than any that has yet been mentioned in the course of this debate.

I have now in my hand a copy of an oath that was taken by one of the most eminent chief justices who ever presided over the Supreme Court of the Commonwealth of Pennsylvania. I will read it. It is the oath of Chief Justice Thomas M'Kean, taken before the oath was changed under the Constitution of 1790. (Pennsylvania Archives, vol. 5, page 621:)

"I, Thomas M'Kean, esquire, do swear that I will be true and faithful to the Commonwealth of Pennsylvania, and that I will not, directly or indirectly, do any act or thing prejudicial or injurious to the Constitution or government thereof as established by the Convention.

"I, Thomas M'Kean, esquire, do swear that I will faithfully execute the office of Chief Justice of the State of Pennsylvania, and will do equal right and justice to all men to the best of my judgment and ability, according to law.

"I do believe in one God, the Creator and Governor of the universe, the rewarder of the good and the punisher of the wicked, and I do acknowledge the scrip-

tures of the Old and New Testament to be given by divine inspiration.

"THO. M'KEAN."

"The above oath of allegiance and of office were taken, and the above declaration made and subscribed the first day September 1777, before me, authorized thereto by virtue of a *dedimus potestatem* for that purpose, specially directed, dated the twenty-eighth of July last.

"JOS. GARDNER."

Did that oath carry to the mind of Chief Justice M'Kean the idea that he was degrading himself by taking it, when he was swearing that he would be just and true as the highest judicial officer in this Commonwealth? That oath then taken by him was a very different one from that which is taken now, that "I will support the Constitution of the United States and the Constitution of this Commonwealth, and that I will discharge my duties with fidelity." The oath taken by Chief Justice M'Kean was a specific oath, and all that we ask now is to provide a specific oath. We ask only an oath that means something, an oath that is specific, an oath that men can understand and know has something in it, and know that if it is violated they are liable to a criminal prosecution; that they will not only have committed a sin against their Maker, but they will have committed a sin against the laws of the State; they will have committed a sin by the oath itself, and are thereby liable to be prosecuted therefor.

Why shall we have criminal laws at all, if the doctrine of the gentleman from Philadelphia be correct? Why shall we have laws to punish for offenses, murder, arson, robbery, and all the catalogue of crimes? Notwithstanding we have them, offenses are still committed; but suppose we had not these laws, would it be argued that fewer offenses would be committed?

Oaths were in existence for two thousand years before the birth of the christian era. They have been sanctioned by all nations and by all peoples. Even the savage appeals to a Greater Being for the truth and sincerity of his conduct. Jehovah Himself swore by Himself, because He could swear by none greater. Then, I say, let us put something of this kind into the Constitution of this State, and let us endeavor to secure in the first stages of the candidacy something that will tend, at least a little, to secure purity in elections, because if you do not and if we are to believe what we have heard in regard to elections in Philadelphia—and I have

no doubt it is true—this corruption will spread all over the State, and we shall have perhaps, as the gentleman from Philadelphia says, a government not worth caring for at all. I desire to make the effort, at least in this Convention, to preserve this Constitution, to preserve this people, to preserve this State.

Mr. BIGLER. Mr. Chairman: I was constrained mainly to propose my amendment as a modification of this clause:

"I do further solemnly swear (or affirm) that I have not paid or contributed, or promised to pay or contribute, either directly or indirectly, any money or other valuable thing, to procure my nomination, election, or appointment."

Because it occurs to me that this clause goes entirely too far. It is exceedingly difficult for any one to be entirely satisfied with such an oath, and if satisfied, it may surround him with great difficulties.

In the first place, there are certain incidental expenses that honorable men pay, or ought to pay.

Then, again, a man brought before the public, the best man in all the land, against his will, might be slandered or misrepresented to such an extent that it would be absolutely necessary for him in some way to protect his character. The object of the modification which I propose is that the candidate before the people, or the ambitious man who desires public place, shall foresee that he must get it according to law; that when entering upon it he must swear that in no way has he favored a violation of the law to get this place. He must swear that he has not made an improper use of money.

I do not know any obligation which you can put upon candidates or politicians that would have a more salutary influence—not only an influence upon the morals of politics, but an influence for the protection of good men. A good man before the people needs this kind of protection. It would be a great thing for him to be able to say, "I cannot give any money; it is against the Constitution, and I will not give you a dollar;" whereas, as it stands now, he is harrassed day and night for money. He is harrassed, too, to do other extreme things. I had in my mind the idea that it would bring good, and pure, and high men before the public, and that this would help to protect them; they would not be so much harrassed by the low and the corrupt who would seek an election by any means in their power.

Mr. CUYLER. Will the gentleman pardon a question? Let me suppose a competition for a nomination between the pure man of whom he speaks, and the impure man who seeks the nomination; what earthly chance will the pure man, whom that oath restrains, have in competition for that nomination with the base man who is willing to give his money and take the oath afterwards?

Mr. BIGLER. I do not pretend to say exactly how far it would go, but I conceive that it would be a step in the right direction, that he could refuse to contribute to those friends who would make an improper use of money. Now, I agree with the distinguished gentleman from the city that there is no such thing as making a corrupt man pure by the force of an oath alone. That is so; but there must have been some reason for suggesting this idea of a new oath. It is hardly possible that there are those who have taken the old oath who have so far misunderstood it as to have formed the impression that stealing would come under "fidelity;" but it is quite possible that there may have been in public life men who had not a clear understanding of the scope of the oath now in the Constitution.

Therefore, I propose in my amendment to go on and to swear the member of the Legislature to an honest and faithful discharge of his duties. I do not see any difficulty in that. I swear him further by my proposed amendment that he will be influenced only by considerations connected with the public good, that no considerations of reward or gain for himself shall influence him. I am sure that kind of oath could not harm his service; and yet agree that if he be a corrupt man, a man who has made up his mind to make a corrupt use of official place, he is gone; the power of an oath will not rescue him. Nothing but the force of the christian religion will save such a man.

But, sir, part of my proposition was to supersede all that remains of the report. I proposed to strike out and insert the oath as it now stands in the Constitution, with the addition I have suggested.

I do not see the same necessity for a searching oath to be taken by State and judicial and county officers, for the reason that their duties are mainly ministerial. The judge has to construe the meaning of the law. Largely a State officer is merely a ministerial officer; the duties are laid down before him by the law, and he must perform just what the law requires of

him. But the member of the Legislature is a part of the leading branch of government. There is original power; there is a large discretion; there are proposed and carried out original measures which may seriously affect the welfare of the people of the State; and for these reasons, and because of what we have witnessed, because of what we have heard, whether correct or incorrect, in regard to our Legislature, I have thought that we might properly go at least the distance which I have proposed in that direction of an oath.

I do not go at all for the closing part of the oath reported by the committee. I do not favor for one moment what is termed the oath of expurgation. I cannot fail to see that the man who would take the first obligation proposed there, and then violate it, would take the second with impunity, and the practical effect of the oath would be to the interest of bad men, because there is a common ground for the honest and dishonest in that oath. When the members of the Legislature have served their time, whether purely or corruptly, and they have taken the oath of expurgation, and it is entered of record, they stand upon the same platform. Who would go there first? Who would be most ready to take that oath? Those who are most corrupt. It will be a very shocking thing to the sensibilities of an honest and pure man who has discharged his duties according to the best of his ability, to stand up and swear before the world that he has not been bribed—that he has not been corrupted. For one, I will never take such an oath as long as I live.

Now, sir, if it were possible to make this cleansing process retrospective, who would be rushing there? Just those men upon whom popular suspicion rests, that heretofore in public service they have not been pure. They would go there; they would accept this oath; they would place themselves beside honest men and defy your criticism on oath. I am for this proposed modification which I offer here, because I think its influences might be wholesome. I agree with the gentleman from the city, that the old oath ought to be sufficient. I understand that the term "fidelity" covers everything; but it may be understood otherwise, and I do consider it of some importance that men should understand, in a preliminary election, that they are not to make a corrupt use of money.

The CHAIRMAN. The gentleman's time has expired.

MR. CALVIN. Mr. Chairman: I had not thought of addressing this Convention so soon after taking my seat here. A proper modesty, perhaps, would forbid that I should do so; but I confess that I feel constrained by the importance of this subject to make a few remarks upon it.

This is the age of physical and material development and progress. It is also the age of political corruption and general demoralization. We have made about as much progress in the one direction as in the other, and I imagine that one of the principal causes leading to the call of this Convention was the general political corruption that has been prevailing, not only in the city of Philadelphia, but which has diffused itself all over the State. I know within the last twenty or twenty-five years there has been such an increase and growth of political demoralization and corruption as I never expected to see in my day and generation. Why, sir, in majority districts—in a county or district where the Democrats have a decided majority or where the Republicans have a decided majority—and districts are nearly always made so as to suit the political leaders and wire-workers of these two parties—a nomination is equivalent to an election, and the great contest is to secure the nomination; and no man who will not go about loaded down with money and promises can get a nomination for anything worth having. The man who has the most money is the man who is almost always nominated. Things have got to such a pitch now that the trading politicians—the men who make nominations—will not nominate anybody who cannot pay and will not pay well. The time is near at hand when a seat in Congress will cost about as much as a seat in Parliament. I saw but a short time ago a statement giving the *legitimate* election expenses of a couple of members of Parliament. One was about \$50,000 and the other \$60,000, I think, and they were characterized as the *legitimate* expenses of the campaign.

We have not quite reached that point in the interior of the State, but we are rapidly approximating it. Now it appears to me that unless something is done in the way of checking this great evil, this Convention will have met in vain. The gentleman from Philadelphia and the gentleman from Schuylkill appear to think that we cannot make an

honest man out of a dishonest one by legislation. We do not propose to do so. We do not propose or expect that any provision in this Constitution will have any *regenerating* effect upon the heart of the rascal; but we propose to hold up before the eyes, and *in terrorem* over the heads of all rascals the cells of the penitentiary and an utter disqualification forever after of holding office.

It appears to me that the argument of the gentleman from Philadelphia and the gentleman from Schuylkill would lead us to the conclusion that we should require no oaths at all, and to the abolition of the whole criminal code. If we can by any manner of means—by pains and penalties—make men afraid of doing that which is clearly wrong and injurious, we shall have accomplished something, and it is on that principle that our whole criminal code is based. Now, in this constitutional amendment it is proposed that any man who will violate these provisions, after having taken an oath, shall be guilty of the pains and penalties of perjury, and that he shall be forever disqualified from holding office. Do you suppose that a gentleman who has any ambition, whether he is honest or dishonest, would not be operated upon and restrained by these provisions? It appears to me he would. Nothing else would restrain him; and do you suppose that these provisions would not likely be enforced, and the individual prosecuted who violated them. It appears to me they would. In political contests, where the Constitution has been violated, the opposing party would see that the fruits of the villainy of the man who violated them would not be enjoyed; and if a few individuals who had violated their oaths should happen to be found guilty of perjury, a lodgment in the penitentiary for five or ten years I imagine would have a most wholesome and salutary influence, and it would very likely deter all scoundrels in like cases from offending for a long time to come. Unlike the gentlemen from the city and Schuylkill, I have faith in criminal and penal codes and a stern administration of that kind of law.

Mr. BOYD. I should like to ask the gentleman a question. I inquire whether in his opinion it would be in violation of this section for a candidate for office to hire a man to go into another township and give information there to his friend that he was a candidate, and authorize him to secure delegates in that township,

and pay him his expenses? Would that be in violation of this section?

Mr. CALVIN. I will leave the question of construction to the courts. I am not prepared to say whether that would be a violation of the section or not. It looks to me as though, perhaps, it might not be, but I do not wish to construe it in advance. I leave that to the courts.

Mr. BOYD. Does the gentleman think it right to place a candidate in such a position as to render him amenable to indictment for perjury simply because he requests a friend, whose expenses he pays, to go into a neighboring township and inform the people there that he is a candidate?

Mr. CALVIN. I do not think that would come within the provisions of this section. I think there might be some legal and legitimate expenses which a candidate might pay without incurring the penalties of this provision. But, sir, I think a candidate for the Legislature or any other office, and especially for the Legislature, should swear, in the first place, as an administrator or trustee generally does, that he would discharge his duties with fidelity—honestly and faithfully; and I think it would be equally proper, as in the case of an administrator or executor when he settles up an estate and asks to be discharged by the court from the trust, that he should again swear that he *has discharged the duties* of his office or his trust faithfully in all its details. One thing is certain, an honest man would not take this oath and violate it; and if a dishonest man did take the oath and violate it, all that it would require for the honest portion of the community to do would be to see that its penalties were enforced against him.

Now, give us this reform. Let us have political corruption stayed. Let us have political purity. Let the *people*, as is the theory of our government, select their own candidates, and not the trading politicians, not the “rings.” Let the people, themselves, as they would under these provisions, select the man best fitted to fill the office. Let the office seek the man and not the man and the “rings” seek the office.

The minority party always select their best men; and why? Because they know very well that unless they select a good man, he has no chance of an election; but in districts where one party is in a large majority, the nomination is considered equivalent to an election, and the man

who can clutch that by any means whatever is certain of an election, and the whole effort is to secure the nomination. It appears to me that this first provision would meet that difficulty, and I do not see anything else that would. I think the adoption of this provision would do more to commend the Constitution which we shall submit to the people of Pennsylvania, to their approval, than anything else that we could probably insert in it.

Mr. J. N. PURVIANCE. If it be in order, I move to amend the first section in the first line by striking out after the word "Assembly," the words "and all judicial, State and county officers."

The CHAIRMAN. The amendment is not in order at present. It will be in order hereafter. The question now is on the amendment of the gentleman from Philadelphia, (Mr. Cuyler,) to strike out all of the first section after the word "fidelity," in the sixth line.

Mr. G. W. PALMER. I must acknowledge, Mr. Chairman, that I have often been astonished at the acts of men, sometimes astonished at the acts of members of this Convention; but I certainly am much astounded at the amendment offered by the distinguished gentleman from Philadelphia (Mr. Cuyler) to this article. Coming from the locality that he does, I am astonished that this amendment should emanate from a man of his ability and his knowledge of the difficulties and the troubles of this country. In my judgment, if there is any one thing above another that the people of this Commonwealth desire this Convention to do, it is to do something to attempt to purify the ballot. The portion of this section which the gentleman's amendment proposes to strike out, in my judgment, comes the nearest to meeting that demand of anything that can possibly be done. For example, after this proposition was first submitted to this Convention, I met one of the pure men who served as a delegate in the Convention of 1838, and he told me that if this Convention would adopt that single oath of office and adjourn and go home, the calling of the Convention would not have been in vain; that it would be sufficient to remunerate the Commonwealth for all the trouble and expense of calling this Convention if that single oath of office could be adopted. I hope that that part of the section will be retained. I fear that politicians are too much afraid to do it, but I trust that the members of this Convention will stand by it and that

the amendment of the gentleman from Philadelphia will be promptly voted down.

Mr. BOWMAN. Mr. Chairman: I did not take any part in the discussion of this question when it was before the committee some weeks since, and I do not propose to occupy much of the time of the committee this morning; but I must be permitted to say that I am in favor of the amendment offered by the gentleman from Philadelphia.

It has been stated here this morning, and it was also stated upon this floor when this question was under consideration some time since, that the whole body politic was diseased, that there must be something done to purify the elections. This proposition, then, was brought forward as a panacea, as a remedy possessing curative properties, so that, if incorporated into the organic law of our State, we shall not be troubled hereafter with election frauds; that it is going to operate like a bandage to a sore leg; that everything is going to be rendered pure hereafter.

It has been stated by the gentleman from Luzerne (Mr. H. W. Palmer) this morning that none but the wealthy could obtain official position. I think that is a very great mistake. Let us look over the past history of our Commonwealth for a few moments and see whether the gentleman is correct in saying that the wealthy alone can obtain official positions in the Commonwealth. I see before me gentlemen who have held high positions in this State. I see before me gentlemen who have been Governors of the Commonwealth. I do not know that those gentlemen were ever charged with obtaining their nominations or election by fraud or corruption. I am not aware that they were overloaded with this world's goods. They discharged the duties of that office to the satisfaction of the people of the Commonwealth.

Again, in my own county the reverse of the proposition of the gentleman from Luzerne is the truth. Since the close of the war, the men who have occupied the positions of sheriff, of prothonotary, of treasurer, and clerk of the courts, were men who served in the army and came out of that contest poor men. From that time down to the present, men of that class have been elected to those positions in our county; and I have no doubt that the same will hold true throughout the Commonwealth. They are men of honor

and integrity, men in whom the people confide without the imposition of this extraordinary oath.

Now, what is the proposition under consideration? It is proposed that an oath shall be administered to all men who enter upon an official term that they have used no undue means, fraud or corruption to obtain their nomination or election. Then the second proposition is that members of the Legislature shall, after they retire from office, take and subscribe an oath that they have been honest men. Now, sir, I wish to call the attention of the gentlemen present to this significant fact—

Mr. KATNE. I desire to call the gentleman's attention to the fact that that part of the report is not now before the committee.

Mr. BOWMAN. I desire to call the gentleman's attention to the fact that this proposition is before the committee, provided the amendment of the gentleman from Philadelphia passes this committee. I take it that all the rest of it is struck out.

Mr. KATNE. Then I raise the question of order that the gentleman is not in order in discussing a thing that is not before the committee.

Mr. BOWMAN. Let me reiterate. I understand the amendment of the gentleman from Philadelphia to be to strike out all after the word "fidelity" in the sixth line.

SEVERAL DELEGATES. All of that paragraph.

Mr. BOWMAN. It is not confined to the paragraph; it includes the entire section.

The CHAIRMAN. The question of order is not debatable. The Chair thinks the gentleman from Erie is in order, the propositions in the first and second sections being so intimately connected together.

Mr. BOWMAN. Yes, sir, I think so. I was about to remark that I do not believe there is a gentleman present who supposes for one moment that when a member of the Legislature retires from the position that he has been holding in that body he will not take that oath. Whether he is an honest man, or a dishonest man, he will most certainly take it. Why? He has either got to do it, or he has got to stand as a self-accuser. When he declines to take that oath, it is a virtual admission on his part that he has been guilty of some infraction of the law; that he has been

guilty of perjury; that he has been guilty of bribery; and then to cover up everything and to sustain his character before the world, he is compelled as a matter of course to take the second oath.

Mr. HAZZARD. I want to know if the gentleman will say to this Convention that the candidates in Erie county do not pay money to secure their nominations?

Mr. BOWMAN. The gentleman may draw his own inferences. I have already told the gentleman that the candidates for office in Erie county were not wealthy men. If they paid large sums of money, I do not know where they got them. I say that the position of the gentleman from Luzerne that none but wealthy men can get in office, is not true, so far as Erie county is concerned; and I have no doubt the same will hold good, as I said before, throughout the State.

Now, sir, what is the oath administered to members of Congress? What is the oath administered to the President of the United States? That he will support, protect and defend the Constitution of the United States; and that is all. But the gentleman from Luzerne says that men in Congress raised their hands before high Heaven and took an oath to support the Constitution of the United States, and then violated that oath. That may be true; and I suppose if the Constitution of the United States had prescribed such an oath to be taken as we have here, the gentleman would have arrested every man in the southern confederacy and brought him before a grand jury and a court for trial during the days of the rebellion!

Is there a gentleman here who believes that if this oath that we have now under consideration had been prescribed by the Constitution of the United States, and been administered to every one of those gentlemen to whom allusion has been made by the gentleman from Luzerne, it would not have been violated just as easily? Would it not have been trampled upon just as the oath was that they did take to support the Constitution. Why, Mr. Chairman, in my judgment, the good, the pure, the upright and the virtuous man needs no oath to bind his conscience; he needs no oath to admonish him to do his duty, but if it is the corrupt man that you say you propose to reach, he is the very man who will violate the oath, no matter in what form you put it; and he will most surely do it. As stated by the gentleman from Schuylkill, put this into your criminal code and make it a penal

offense for a man to receive a bribe, make it a crime for a man to undertake to buy his way into office. If he has been guilty of bribery prosecute him. If he has violated his oath of office, call that perjury by positive, well-defined enactment. Do not put into your Constitution that a man when he comes into office will swear that he has been a pure man in getting his nomination and election, and that he is going to discharge his duties with fidelity and that he is going to go beyond all that, as is prescribed in this oath, and then when he retires swear him over again that he has done all this. Why, Mr. Chairman, it seem to me that this is entirely out of place in the Constitution of our State. Leave it for the Legislature to enact laws and punish the man who will disobey those laws and will prove recreant to the official trust and confidence that may be reposed in him by a confiding people; and when you have done that you will have done all, in my judgment, that it is necessary to do.

Mr. BORD. Mr. Chairman: I presume that I am responsible, in a great measure, for the present discussion; for this question was up, as we all know, before, and in the height of that discussion, principally for the purpose of relieving us of it for that time, and to get the subject before a committee in which I had confidence—I of course being one of them—I moved that the matter should be referred to our committee. Views were expressed in that debate on either side, and I presumed the subject was well nigh exhausted. The committee of the whole, I suppose as a compliment to myself, immediately deferred the further discussion of the question, and it resulted in its reference to the committee who have made this report. I suppose that that committee met; I infer that from the fact that they have made a report. A fair inference from this remark of mine, of course, would be that I was not present at the committee when this thing was adopted. Well, it was not even necessary that I should be, because the gentlemen there were sufficient to get up what they considered a proper oath.

Now, if I am to be counted as one of the committee, I desire to express my dissent to the adoption of their report for the reason that it is decidedly too stringent, and it is an oath that it will be impossible for any elective officer in future to live up to. I apprehend there is not a man in this Convention but what could be convicted under this section. I doubt whether there

is a gentleman here who did not contribute something towards his election to this body. I have a very vivid recollection that after my nomination I was called upon to pay into the general fund a very handsome sum of money, which I have not got back yet, [laughter,] for the purpose of conducting the campaign in Montgomery county; and I believe that my friend near me (Mr. Darlington) not only had to contribute at the State election, but also at the Presidential election, so that he had a double shot. I presume that has been the case with every gentleman here. I believe that the gentlemen who were on the ticket at large, in some instances, were required to pay the sum of five hundred dollars into the hands of the State Central committee, for the purpose, as I presume, of defraying the necessary expenses to secure the election of the ticket. So it was in our party, although we are not as high-priced as the other party, [laughter,] but at the same time it cost us considerable money. [Laughter.]

Now, sir, it does seem to me that it is, to say the least of it, rather severe for us to undertake to impose upon those who shall come after us crimes of which we should be now guilty if this were in force at the present time, and hence it was that I submitted to my friend from Blair (Mr. Calvin) the question that I did, whether in the simple case that I presented to him, I being a candidate for nomination, being desirous of having a messenger sent into another portion of the county, to inform my friends in that neighborhood that I was a candidate, and that I desired the delegates from that township, and I should pay his expenses for giving that information and going around to see my friends, pay his horse hire and a little for his whiskey, &c., [laughter,] amounting even to the small sum of five or six dollars, I should then be within the provisions of this section, because I should be contributing money for the purpose of securing my nomination. When I sent him on that mission and paid him for going, and his horse hire and his incidental expenses, as a matter of course I was paying money for the purpose of securing my nomination, and therefore I should be amenable and could be indicted for perjury.

It seems to me that if the committee had concentrated this iron clad more upon the man after he is elected than before he is elected, it would have had much more force, and would be much

more potent. I beg the gentlemen here will observe critically the language used in this oath :

"And I do further solemnly swear (or affirm) that I have not paid or contributed, or promised to pay or contribute, either directly or indirectly, any money or other valuable thing, to procure my nomination."

That covers the whole ground. I doubt very much whether under this clause a candidate would be warranted in paying the expenses of printing the tickets that the people were to vote for him upon. Does the gentleman say that would be in violation of this section and render me amenable to perjury ?

Mr. H. W. PALMER. Unquestionably. The tickets ought to be printed at the public expense.

Mr. BOYD. I beg you will all hear that, because the man second on this committee tells me that if I am a candidate and pay the expenses of printing the tickets to be sent out for people to vote for me, and they would be voting for the best man of course—[laughter]—I should be guilty of perjury under this section. Do gentlemen realize that this is the length, breadth and extent of this section? If they had any doubt of it before, we now have the interpretation placed upon it by one of the fathers of it. The Chairman (Mr. Kaine), of course drew it, but the second member of the committee (Mr. H. W. Palmer) is his son, [laughter,] and of course he stands here, by adoption at least, and sanctions what has been done; and that is the construction of this section. I do protest against it, not that I ever expect to be in public life again; though as good men are getting scarcer every day, it may well be that I shall be called upon again [laughter]; but if I am, I shall certainly feel like contributing my share toward the ordinary expenses of the election, and I would consider helping to pay for tickets, paying to the State Central Committee and to the County Committee, &c., the usual ordinary sums, as legitimate. All that this oath ought to be aimed at is corruption and bribery, which would amount to a fraud, and that is the only thing that ought to be covered by this oath. It is because of the extravagance and extreme length to which this oath goes, especially as to securing a nomination, that I desire here to enter my protest against it, and to inform this committee that although I was on the com-

mittee that reported this article, I am a dissenter.

Mr. J. M. BAILEY. Mr. Chairman: Like the gentleman from Montgomery (Mr. Boyd) I also was a member of the committee which reported this oath. Whether the gentleman was present or not when it was considered in committee I really do not know, and I do not believe any other member of the committee can tell, and whether he was there or not might have forever remained a mystery had he himself not told us.

Mr. Chairman, I desire to say a word or two in defence of the report of the committee. It is admitted by every gentleman who has addressed the committee of the whole, that an oath of some kind should be prescribed for the officers of the government. It being conceded then, that we should have an oath—the only question that remains to be considered is what kind of an oath shall it be. One, I take it, sir, that would best answer the purpose for which any oath is intended—one that will tend to promote the administration of governmental affairs in purity, and prevent those in whose hands the people place the powers of government from using that power for corrupt purposes and self aggrandizement.

The amendment offered by the gentleman from Philadelphia (Mr. Cuyler) strikes out of the oath reported by the committee all that is useful for these purposes in it. The part that remains is merely *promissory*, and there is not a lawyer upon this floor who will assert that such an oath is worth anything. An indictment for perjury would not lie against any official, however gross has been his misconduct, or however glaring has been his official misdeeds, upon an oath in which he merely *promises* to do something. The part proposed to be stricken out looks to the *past*. By it we propose to swear the officer that he has *not* done so and so, and if he swear falsely an indictment and punishment for perjury would be his portion; for the facts would be entirely susceptible of proof; for instance, if he procure his election by unfair or fraudulent means, other persons must necessarily know it; if he pay money corruptly, some person has received it, and such person would be a living witness called to testify of the fact against him. His political adversaries would constantly be on the alert to ferret out such misdeeds.

The only other objection urged against the oath as reported from the committee

is, that it implies an imputation on the honesty and integrity of the man asked to take it. But I take it, sir, that the gentlemen who assert that, themselves yield all that can be claimed for the position, when they concede that an oath of any other kind should be administered—they yield that position when they say that an officer shall be sworn to support, obey and defend the Constitutions of the United States and Pennsylvania and to discharge the duties of his office with fidelity. I might reply, with equal force, that asking a man to take such an oath implies that he would not obey the Constitution and would not discharge his duties faithfully if he were not so sworn. Why, sir, it might with equal propriety be said that any oath which a man is required to take is an imputation upon his character. With the same propriety might it be alleged that when a witness is put upon the witness stand, and he is sworn to tell the truth, it is an imputation upon his character for truth. Almost all, if not all of us have taken the witness oath, and I do not believe that any of us felt our sensibilities very severely wounded by it. No one ever looks upon that oath as an imputation on the character of the person to whom it is administered, and I do not think, sir, that the sensibilities of any officer are so tender that they would be wounded by the oath which has been reported. What has been stated by my colleagues on the committee and others in reply to the other objections of which I have not spoken, I take to be sufficient answers to all that has been said by the gentlemen who have addressed the committee in opposition to this section, and I shall say nothing further.

The CHAIRMAN. The question is on the amendment of the gentleman from Philadelphia, (Mr. Cuyler,) to strike out all of the first section after the word "fidelity," in the sixth line.

The amendment was agreed to, there being on a division ayes thirty-five, noes thirty-two.

The CHAIRMAN. The question now recurs on the amendment of the gentleman from Clearfield, (Mr. Bigler,) which is to strike out the whole section and insert as a substitute that which will be read.

The CLERK read as follows:

Members of the General Assembly before entering upon their duties shall take and subscribe the following oath:

"I do solemnly swear (or affirm) that to the best of my knowledge and belief I

have been elected a member of the Senate (or House of Representatives) in accordance with the laws of the State, and without the improper use of money or other corrupt or corrupting means to produce that result. I do also solemnly swear (or affirm) that I will obey and support the Constitution of the United States and of the Commonwealth, and discharge the duties of member of the Senate (or House of Representatives) honestly and faithfully, and with the sole desire to promote the public good, uninfluenced to the contrary by the promise or hope of pecuniary reward or gain to me, or by any other corrupt or corrupting consideration."

Mr. CUYLER. I understand that the Convention, in adopting the amendment proposed by me, struck out everything in what we have called section one, after the sixth line, extending thus to the end of the twenty-fifth line. All that matter then is gone.

The CHAIRMAN. Certainly.

Mr. CUYLER. The question now, I suppose, is on the section as amended, and not on the motion of the gentleman from Clearfield.

The CHAIRMAN. The amendment of the delegate from Clearfield is in order before the question is taken on the section.

Mr. BIGLER. There is certainly no difficulty about this question. I moved to strike out the entire first section, and to insert what I sent to the Clerk's desk. In the attitude of perfecting the text, the gentleman from Philadelphia moved to perfect it by striking out a part of it. That motion prevailed, and the question now is between the amendment which I proposed and the original matter remaining in the section.

The CHAIRMAN. The question is on the amendment of the gentleman from Clearfield.

The amendment was rejected, the ayes being twenty-six, less than a majority of a quorum.

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

Mr. J. N. PURVIANCE. Now I move to amend the section by adding to the oath as it now stands:

"And I do solemnly swear (or affirm) that I will not knowingly receive, direct or indirectly, any money or other valuable thing for the performance or non performance of any act or duty pertaining to my office other than the salary and mileage allowed by law; nor will I vote for

or advocate any matter in which I have or expect to have, directly or indirectly, any private interest whatever."

The CHAIRMAN. The question is on the amendment of the gentleman from Butler.

The amendment was agreed to, there being on a division ayes forty-two, noes twenty-three.

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

Mr. CUYLER. I believe a standing rule or order of both branches of the Legislature provides already for the second member of the amendment. I believe it is now a rule of the House and of the Senate, certainly a rule that all honorable men observe, and, I believe, a rule prescribed expressly, that no member shall vote upon any question in which he is interested.

The CHAIRMAN. The Chair is under the impression that there is not such a rule in the Legislature, but there is such a principle of general parliamentary law. The question is on the section as amended.

The section as amended was agreed to.

The CLERK read the second section as follows:

SECTION 2. Within twenty days after the adjournment of the General Assembly *enue die*, every member of the House of Representatives, and every Senator whose term will expire at the next general election shall take and subscribe before some officer qualified to administer oaths the following oath or affirmation:

"I do solemnly swear (or affirm) that as a member of the General Assembly I have supported and obeyed the Constitution of this Commonwealth to the best of my knowledge and ability. I have not knowingly been influenced by corrupt private solicitation from interested parties or their agents. I have not voted or spoken on any matter in which I had or expected to have a private interest. I have not done or willingly permitted to be done any act which would make me guilty of bribery. I have observed the order and forms of legislation as prescribed by the Constitution, and I have not knowingly voted or spoken for any law, bill or resolution which I knew or believed to be inconsistent therewith."

The foregoing oath or affirmation shall be filed in the office of the prothonotary of the county in which the Senator or Representative resides, and if any such Senator or Representative shall fail to take and file said oath or affirmation with-

in the time prescribed (unless unavoidably prevented) he shall be forever afterwards disqualified from holding any office of trust or profit within this Commonwealth; and if, in taking such oath or affirmation, it shall appear that he has knowingly sworn or affirmed falsely, he shall be deemed guilty of perjury, and also be disqualified as aforesaid.

Mr. J. N. PURVIANCE. I move to strike out all from the twenty-sixth line, inclusive, to the fiftieth line, inclusive, of the article as presented.

The CHAIRMAN. The gentleman moves to strike out the whole section. That is not in order. The question is on adopting the section.

Mr. LAWRENCE. I call for a division of the question.

The CHAIRMAN. What division does the gentleman desire?

Mr. LAWRENCE. That the first division shall end with the forty-first line.

The CHAIRMAN. The section will be divided as the gentleman from Washington desires.

Mr. LAWRENCE. I have no particular feeling about the matter, but I called for the division simply to accomplish the object of the gentleman from Butler, who desires to get a vote on that part of the section which prescribes the form of oath.

Mr. J. N. PURVIANCE. The motion of the gentleman from Washington brings the matter of the oath directly before the committee. That is all I ask.

Mr. H. W. PALMER. I wish to ask the gentleman from Washington a question. He is in favor of the law, I suppose, but against its enforcement. Is that it?

Mr. LAWRENCE. The gentleman has no right to infer that I occupy any such position.

The CHAIRMAN. The question is on the first division of the second section, commencing with the twenty-sixth line and ending with the forty-first.

The first division was rejected.

The CHAIRMAN. The question now is on the second division, commencing with the forty-second line and ending with the section.

The division was rejected.

The article being gone through with, the committee rose, and the President having resumed the chair, the Chairman (Mr. Buckalew) reported that the committee of the whole had had under consideration the article reported by the Committee on Commissions, Offices, Oaths of Office and Incompatibility of Office,

and had directed him to report the same with amendments.

The amendments were read and ordered to be entered on the Journal.

The article as reported by the committee of the whole is as follows :

ARTICLE —.

ON THE OATHS OF OFFICE.

Members of the General Assembly and all judicial, State and county officers shall, before entering upon the duties of their respective offices, 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 that I will discharge the duties of my office with fidelity. And I do further solemnly swear (or affirm) that I will not knowingly receive, directly or indirectly, any money or other valuable thing for the performance or non-performance of any act or duty pertaining to my office, other than the salary and mileage allowed by law ; nor will I vote for or advocate any matter in which I have or expect to have, directly or indirectly, any private interest whatever."

ORDER OF BUSINESS.

Mr. HUNSICKER. I move to reconsider the vote taken this morning by which we gave the committee of the whole leave to sit again to-morrow upon the report of the Committee on County, Township and Borough Officers. I voted with the majority.

Mr. STANTON. I second the motion. I voted with the majority.

The motion to reconsider was agreed to, there being on a division, ayes thirty-nine; noes twenty-two.

The PRESIDENT. The question recurs on the time when the committee of the whole shall have leave to sit again upon the report mentioned by the delegate from Montgomery.

SEVERAL DELEGATES. Now.

OTHER DELEGATES. To-morrow.

Mr. BUCKALEW. On account of the absence of the member from York, (Mr. Cochran,) who is interested in the section pending on that report, it has been desired that it should not be taken up until to-morrow morning, and the chairman of the committee has agreed to that arrangement. I desire to ask the Convention to-day to consider the supplementary report now in print from the Committee

on Suffrage, Election and Representation, which we can probably get through with this afternoon, and when the gentleman from York returns we can resume the report on County, Township and Borough Officers. I move, therefore, that the committee of the whole, on that report, have leave to sit again to-morrow.

The motion was agreed to.

ELECTION BOARDS.

Mr. BUCKALEW. I now move that the Convention proceed, in committee of the whole, to consider the report (No. 22) from the Committee on Suffrage, Election and Representation, the article entitled "Of election boards and contested elections."

The motion was agreed to, and the Convention resolved itself into committee of the whole, Mr. Walker in the chair.

The CHAIRMAN. The committee of the whole have had referred to them report (No. 22) from the Committee on Elections, Suffrage and Representation, the article reported being entitled, "Of election boards and contested elections." The first section of the article will be read.

The CLERK read as follows :

ARTICLE —.

OF ELECTION BOARDS AND CONTESTED ELECTIONS.

SECTION 1. District election boards shall consist of a judge and two inspectors, to be chosen annually by the citizens, each elector having the right to vote for the judge and one inspector, and each inspector shall appoint one clerk to assist the board in the performance of its duties ; but the selection of the first election board in any new district, and the filling of vacancies in election boards shall be by judicial appointment, or otherwise, as shall be provided by law. Members of election boards shall be privileged from arrest upon any day of election and while engaged in making up and transmitting returns, except arrest upon warrant of a court of record or judge thereof for an election fraud or for wanton breach of the peace ; and in cities they may claim exemption from jury service or from selection upon jury lists during their term of service.

Mr. BUCKALEW. This section, down to the end of the first sentence in the seventh line, is substantially our existing system except in the city of Philadelphia, where it has been disturbed by special legislation at Harrisburg. The section to

that point will introduce a uniform regulation for the future for the whole State, which it will be beyond the power of the Legislature to change. I suppose I need not make any argument upon that part of the section.

The second division, commencing with the word "members" in the seventh line, is new, and yet it would seem to contain provisions proper for our acceptance.

Mr. BARTHOLOMEW. Allow me to interrupt the gentleman. Does he not think it would be better to insert the word "felonies" in the tenth line. For instance, why should an election officer who has committed homicide be exempt from arrest on a charge of that kind because he happens to be an election officer? Election day might be the only opportunity perhaps of getting him at all.

Mr. BUCKALEW. I do not know but that a liberal interpretation of the phrase "breach of the peace" would cover that.

Mr. BARTHOLOMEW. It might perhaps; but strictly that would not come within the designation.

Mr. BUCKALEW. There ought to be a privilege to the members of election boards against interference by warrants from magistrates and subordinate judicial officers. They ought not in any case to be subject to arrest either while holding the election or while making up their returns or while transmitting them to the point where they are to be counted and ascertained. This privilege against arrest ought always to have been in our Constitution; and now we propose to add it, it not being there; but in order to prevent outrageous proceedings in cities and towns where courts of record are sitting, we allow the privilege of issuing in such manner as shall be regulated by law warrants of arrest by the judges or by the regularly organized courts of the State. That will be a necessity in some cases. If it shall appear, for instance, on proof, to a court of record in Philadelphia that election officers are engaged in a palpable fraud, the judge or the court ought to have the authority to arrest the officer and stop the fraud at once. Of course, by legislation it will be provided that in such cases the court may make an appointment *pro tem.*, that is, may select a person to fill the place of the officer for whose arrest a warrant is issued, so that the election may proceed.

Then the concluding clause of the section is one which has been very strongly recommended to our committee by gen-

tlemen of the city of Philadelphia. They say to us that if we will put into the Constitution such a clause as this, giving to election officers during the years for which they are chosen exemption from jury service, we can obtain the service upon election boards of leading and respectable gentlemen of this city—service which we can obtain in no other manner. In order to enjoy this privilege of being exempt from harassment and difficulty in attendance upon courts in this city, they would be perfectly willing to take upon themselves the extreme drudgery of service upon the election boards. Gentlemen of large property interests in this city will seek this place if it is accompanied with this exemption. If these gentlemen are correct in their views on this subject, I doubt whether you could incorporate in the Constitution any provision in reference to elections in the cities which would have a more salutary effect.

I hope, then, that the section as we have reported it in all its provisions may be agreed to.

Mr. J. N. PURVIANCE. I move to amend the section by inserting after the words "breach of the peace," in the eleventh line, the words "and except in cases of felony." I do not think that election officers should be exempt from arrest in cases of felony.

Mr. HAY. I would suggest to the gentleman from Butler that he modify his amendment so as not to repeat the word "except." It occurs immediately before the word "arrest" in the same connection as that proposed by the amendment of the gentleman, "except arrest upon warrant of a court of record or judge thereof for an election fraud." The word "except" need not be repeated.

Mr. J. N. PURVIANCE. I thank the gentleman from Allegheny for his suggestion.

Mr. SIMPSON. I suggest to the gentleman from Butler that if he will merely introduce the word "felony" into the sentence after the word "fraud" it would exactly meet his object. The clause would then read, "except arrest upon warrant of a court of record or judge thereof for an election fraud, felony, or for wanton breach of the peace."

Mr. BARTHOLOMEW. Yes, that would be better.

Mr. SIMPSON. It makes perfect English of the clause.

Mr. J. N. PURVIANCK. I accept it and so modify my amendment.

The amendment was agreed to.

Mr. J. R. REAR. I ask the gentleman from Columbia whether he understands the word "district" to apply as well as the word "precinct?" I believe that it does and that the word "district" has been decided judicially to mean "precinct," but I should like to have it so appear in this section.

Mr. BUCKALEW. The words "election district" have a fixed and well known significance in this State. The Supreme Court have determined that the words "election district" already in the Constitution mean the smallest election division of the State, whether township, election district or precinct, as the case may be; so that these words will mean precinct divisions in cities.

Mr. HAY. Will the gentleman from Columbia allow me to interrupt him?

Mr. BUCKALEW. Certainly.

Mr. HAY. I desire to know what election boards there are other than election boards in election districts. I think the phraseology of the section would be improved if the word "district" was taken from its present place so that the section should read, "Election boards shall consist of a judge and two inspectors."

Mr. BUCKALEW. The word "district" has a well-settled signification in the election laws of this Commonwealth, and had better be retained.

The CHAIRMAN. The question is upon the section.

The section was agreed to.

The CHAIRMAN. The next section will be read.

The CLERK read as follows:

SECTION 2. No person shall be qualified to serve upon an election board who shall hold, or shall within two months have held, any office, appointment, or employment in or under the government of the United States, or of this State, of any city or county, or of any municipal board, commission or trust in any city, save only justices of the peace and aldermen and persons in the military service of the State; nor shall any election officer be eligible to an election to any civil office to be filled at an election at which he shall serve save only such subordinate municipal or local offices below the grade of city or county offices as shall be designated by general law.

Mr. BUCKALEW. Mr. Chairman: This section, in brief space, contains what will

cover a whole page of Purdon's Digest of statutes relative to the subject matter. One source of difficulty in Philadelphia in regard to elections is that the Legislature, by special law, a few years ago, repealed the laws which relate to the service of officials in election boards in this city, and persons who were disqualified under former laws now swarm in the election boards. We have found, in cases of election contests at Harrisburg and in the courts of this city, that persons in office controlled election boards in a great many cases, and the result has been extremely unfortunate. Formerly the courts determined that no person who held any office or appointment under the United States, under the State or under the city (and even in the latter case under a trust or commission of the city, such as the Gas Trust, for instance) could serve on election boards. There had been careful provision made by statute to protect elections in this city and elsewhere; but in the course of that special legislation, by which so much mischief and evil have been done in this city, the provision was swept away, and the result has been greatly to be deplored. We propose here to make these limitations relative to the selection of the election boards conform to legislation which prevails in other parts of the State, and which formerly prevailed in this city, and take the whole subject out of the power of the Legislature hereafter.

Gentleman will see that these provisions here made with reference to disability are carefully drawn. All persons engaged in the militia service of the State are qualified to sit as election officers, and justices of the peace and aldermen are also, by special exception, qualified.

In regard to the second division of this section, which disqualifies election officers from being elected to civil offices at elections at which they shall serve on election boards, it conforms to our past legislation in this State in principle, and ought to be adopted. We have made the prohibition absolute as to all officers above the grade of city or county officers, and have provided that the Legislature may, as to officers of subordinate grade, allow candidates for them to serve on election boards. We see no objection, for instance, to permitting a judge of election to be re-elected when the people desire to choose him, or to the re-election of an inspector to an election board. Sometimes we find great diffi-

culty in election districts in finding qualified men, and when such are in the service of the people we see no objection to permitting their re-election. Nor do we think it is necessary to carry this exclusion to school directors and other similar officers of townships and small districts whose offices are not profitable and concerning which there is not ordinarily to be expected a very great amount of controversy. We have, therefore, provided that the Legislature may, as to all these subordinate officers, (in addition to persons in the militia service of the State, and justices of the peace and alderman,) authorize them to serve upon election boards.

Mr. SIMPSON. There is a class of officers in the city of Philadelphia, now getting to be very numerous, that I think ought to be included in the exception, and I therefore move to amend, by inserting after the word "aldermen" the words "notaries public." There is nothing in their office that is incompatible with holding the position of an election officer. Very many of them have served in that capacity and unless included in this exception they will be debarred from doing so hereafter.

Mr. BUCKALEW. The notaries public, I believe, should have the limitation imposed upon them. Their appointments are received from the Governor and they are renewed from time to time. I think their case falls within the class where we ought to retain the disqualification.

The CHAIRMAN. The question is on the amendment of the gentleman from Philadelphia (Mr. Simpson.)

The amendment was rejected.

The CHAIRMAN. The question recurs on the section.

The section was agreed to.

The CHAIRMAN. The third section will be read.

The CLERK read as follows:

SECTION 3. The courts of common pleas of the several counties of the Commonwealth shall have power within their respective jurisdictions to appoint overseers of election to supervise the proceedings of election officers and general management of elections, to maintain the integrity of returns and of the ballots received and counted, and to make report to the court as may be required, such appointment to be made for a part or for all the districts in a city, or county, or in a ward, or other division thereof, whenever the same shall appear

to the court to be a reasonable precaution to secure the purity and fairness of elections. Overseers shall be two in number for an election district, and shall be persons qualified to serve upon election boards, and in each case members of different political parties. Whenever the members of an election board shall differ in opinion, the overseers present if they shall be agreed shall decide the question of difference. In appointing overseers of election all the judges of the proper court (able to act at the time) shall concur in the appointment made.

Mr. BUCKALEW. I suppose it will be convenient for the committee of the whole to vote upon this section by divisions. I ask that it be divided, the first division to end with the word "elections," at the close of the first sentence.

Mr. J. N. PURVIANCE. I suggest to the chairman of the Committee on Suffrage, Election and Representation, that where he uses the word "overseers" in each of the four sentences of this section that he use the word "canvassers." "Canvassers" is a term well-known in townships all over the State.

Mr. BUCKALEW. I am coming to that.

The CHAIRMAN. The first division is before the committee of the whole, ending with the word "elections," in line nine.

Mr. BUCKALEW. The first division is a provision which in part we have already in our laws. There is a general law of the State which authorizes the courts of common pleas to appoint overseers of elections. That has been in force I believe some four years, but it is inoperative. It requires that a certain number of citizens under oath shall apply to the court for these appointments and that they shall present proof of intended fraud—a thing almost impossible to establish—in advance, before the court can make these appointments. The result has been that that law has had but little effect. Its intended effect and operation have not been realized. We provide here that such appointments shall be made for part or for all the districts of a city, county or ward whenever they shall appear to be a proper precaution against unfairness and fraud.

Now, since the last October election, the returns from a number of divisions were brought before a court of this city, and it was ascertained that they had been fraudulently changed by the return judges or some other persons charged with their

custody. In prior cases, the court has had brought before it overwhelming proof of the fraudulent character of elections in certain wards and election precincts of this city and similar exhibits have been presented in contested election cases in the Legislature and which have been published and are accessible to the courts. Now, when it appears by official evidence to the court of this city or of any county that it is presumable that fraud will be attempted in certain districts, such court shall have power to appoint these overseers of elections.

This is a power which will not be abused. In the nature of things it is a power to be exercised by a court only upon cause shown, upon reasonable and proper cause shown to them.

In the Twentieth ward of this city, for instance, if gentlemen should apply to the court of this city and show that court that there had been, for several years, extensive frauds perpetrated at elections in that ward, ground would be laid for the appointment of these overseers by the court. You will observe that they are to be appointed by the court, all the judges concurring, so that political appointments from one party would be excluded. The overseers to be appointed are to be selected, also, one from each of the general divisions of the people of this city and of other cities; that is, one from each party.

I suppose I need say nothing further on that division at present.

Mr. BROOMALL. I desire to call the attention of the chairman of the committee to the sentence beginning with "when-ever," in the twelfth line, and ending with "difference" in the fourteenth.

Mr. BUCKALEW. We are not on that division now.

Mr. BROOMALL. As I understand, the second division is not amendable after we begin to vote.

Mr. BUCKALEW. Oh, yes, it is.

The CHAIRMAN. The Chair would rule that it is.

Mr. BROOMALL. Then I have nothing to say at present.

Mr. S. A. PURVIANCE. Mr. Chairman: It strikes me that this provision is a very dangerous one and that the whole section should be voted down. You will observe that it confers, first, the power on the courts of common pleas to appoint overseers. It then confers on those overseers, first the power to supervise the proceedings of election officers and general management of elections;

second, to maintain the integrity of returns and of the ballots received and counted; thirdly, to make report to the court as may be required, such appointment to be made for a part or for all the districts in a city or county, or in a ward or other division thereof, whenever the same shall appear to the court to be a reasonable precaution to secure the purity and fairness of elections.

What does this contemplate? That throughout the broad Commonwealth of Pennsylvania, (for it is not confined to cities, although possibly intended mainly for the city of Philadelphia,) in every township, you are to entrust to the courts of common pleas, which is a new duty conferred on them and with which I say they ought not to be burdened, the power of regulating the elections and maintaining the purity of the ballot by means of these overseers. How are they to do this? What is the method proposed? They are simply to act as overseers with an immense power to control, if necessary, the action of the board of election officers.

Again, after they make return to the court, the court is to determine whether they have assumed that this, as a reasonable precaution, was necessary for the fairness of an election. That is part of their report. After they have exercised this tremendous power they then make this report to the court!

Then, in case of a dispute between the election officers, where the election officers are in doubt as to any matter or disputing about any matter, these officers are to decide the dispute, thus giving them, as it were, the entire control of the elections of your Commonwealth.

Whilst I am perfectly willing that anything of the kind may be applied to the city of Philadelphia or to any other place where it is known and admitted and conceded on all hands that frauds are committed, I object to its being applied to every township in this Commonwealth.

Mr. BRODHEAD. Mr. Chairman: The disposition of this section is to give all parties a representation in the overseers, at least it looks that way to me. I therefore move to amend by inserting after the word "two" in the tenth line the words "or more;" and after the word "number" in the same line to insert "as the exigency may require." There is a new party growing up in this Commonwealth called the Reform party; there are likely to be two or three more; and I should like to

see them all represented among those overseers.

The CHAIRMAN. The amendment will be read.

The CLERK. It is proposed to amend in the tenth line by inserting after the word "two" the words "or more;" and after the word "number" the words "as the exigency may require."

Mr. D. W. PATTERSON. The gentleman is moving to amend a division on which we are not yet acting, and therefore the gentleman had better retain his offer until we get to that second division.

The CHAIRMAN. The gentleman from Northampton may withhold his amendment until a vote is taken on the first division, to the word "elections" in the ninth line.

Mr. D. W. PATTERSON. In reference to this whole section, because it must be taken as a whole, I was going to say just what my friend from Pittsburg (Mr. S. A. Purviance) has said. The very words that came up before my mind when it was read were that it was not only a doubtful provision but a very dangerous one. For that reason I am opposed to the whole section. I voted for the first section of this report because we have been practising it without constitutional sanction since 1839. It appeared to be acquiesced in by all men of all parties for the reason that it is very proper to have in election boards all parties, or as many as possible, represented. The act of 1839, providing for the limited vote in the election of inspectors, was admitted to be passed without any constitutional sanction. It struck directly at the right of suffrage by the citizen and limited it; and you observe the limited vote is introduced into the first section here.

Notwithstanding my opposition to that principle of voting, yet in this matter where the officers proposed to be elected are mere ministerial officers, mere clerks, representing as they should no party but obeying the law and honestly receiving and counting the votes, I am in favor of that section for that reason, inasmuch as it appears to work well and meet with the acquiescence of all parties.

I voted for the second section because it secured the principle of the old provision of judge and inspector to the rural districts as well as to the city, and I concur in the remarks of the gentleman from Columbia, (Mr. Buckalew,) on the necessity of providing for that in the cities, and not leaving it open to special legislation.

But the third section, Mr. Chairman, leaves it to the courts to appoint overseers, not only to observe if there is wrong committed or fraud perpetrated, but to take part in the election where the election officers disagree. Whenever the members of the election board shall differ in opinion, then the overseers are to take possession of the poll, decide the law, and receive the vote or reject it, just as they choose. That is taking the whole matter of the election out of the hands of the electors and the election board; and it is putting it in the power of the judiciary to appoint men to control the election of a whole county or district, ignoring the whole election board elected by the citizens, having their own inspector of each ballot, and the judge, selected because he has received a majority of the votes of the electors of that district, set aside. The choice of the people may be ignored by one or two gentlemen, it does not say how many, making affidavit that he or they apprehend that the election will not be conducted fairly, and then the judiciary of the district appoint two overseers. All that is necessary in a case of that kind is to have the inspectors disagree in regard to the law, on the offering of votes and the propriety of receiving or rejecting a vote, and then the overseers step in, that difference having taken place, and they take entire control of that election board—men who, perhaps, the electors of that district would not have entertained an idea for a moment of voting for; men, perhaps, who have not the confidence of five citizens of that election district.

Now, particularly after the remarks of many gentlemen on this floor, when it has been observed openly by members that some influence foreign to mere judicial decisions had gotten up a little higher than the platform of the judiciary, and when that was not contradicted here, we are not to suppose that the judiciary on all occasions will appoint men without reference to their own party or without reference to some advantage; and hence if that judiciary should be corrupt, these two overseers would have the entire control of a judicial district in regard to the receiving of votes, the rejection of votes, the counting of votes, the return of the votes, and in short the whole matter under their ministerial care. Is that a safe provision to put in the fundamental law? Is it prudent to bind ourselves up in the fundamental law to such a doctrine and such a principle as that?

Mr. D. N. WHITE. I rise to a question of order. I ask whether the section that is under discussion by the gentleman from Lancaster is before us now. I understood that only the first half of this section was before the committee.

The CHAIRMAN. The Chair entertained the motion to amend of the gentleman from Northampton (Mr. Brodhead) which affects the entire section, before the vote is taken on any division of the section.

Mr. D. W. PATTERSON. My remarks of course apply to the whole section, because I apprehend it must either stand or fall as a whole. Its parts are germane to one another. It says the courts of common pleas shall appoint overseers, and then it goes on to say what the powers of those overseers shall be. Therefore I am speaking of the whole section. Now, the existing law is by statute that if any man of any party apprehends unfairness or fraud, he can make an affidavit and have the best men of his party or his community appointed by the court to go and watch. They are called watchers under the act of Assembly. Would it not be much better to take that provision and let them be there to see everything that is done, and be witnesses, not to oust the officers of election selected by the electors, who ought to have their will carried out, but be there to see if anything is wrong, and so to testify to it at court. It seems to me that provision has met all the difficulties apprehended in any districts where there has ever been any apprehension in regard to anything wrong, unfairness or fraud, and I think that we had better, having adopted the first and second sections, not introduce a provision of this kind, so dangerous in the case of an interested or corrupt judiciary, and one taking it entirely out of the hands of the electors. I hope no part of this section will be adopted.

The CHAIRMAN. The amendment proposed by the gentleman from Northampton (Mr. Brodhead) is now before the committee. It is to insert after the word "two," in the tenth line, the words "or more," and after the word "number" the words "as the exigency may require." Gentlemen will please confine their remarks to that amendment.

Mr. H. W. PALMER. I desire to move an amendment to the first half of the section if it is in order.

The CHAIRMAN. It is not in order now unless it is an amendment to the amend-

ment of the delegate from Northampton, which the Chair has just stated.

Mr. DARLINGTON. I really do not see how this section is to operate exactly in the view of the gentleman from Columbia. We all understand what the election law is now. The officers of the election are a judge and two inspectors, and no others. Each inspector appoints his clerk. The first section of the report of the committee proposes to constitute the election board of a judge and two inspectors, just as it is now. Each elector votes for one inspector. The result is in nearly every case that the judge and one inspector are of one political party, and the other inspector of the other. In taking the votes, if the inspectors should disagree as to the propriety of the vote offered, the judge is to decide; and it works, so far as I know, throughout the country perfectly fair and above complaint. Besides this, the election law is very stringent upon every officer of the election for any misdeed or deprivation of the right of a voter.

Now, this third section proposes to appoint two other gentlemen, who shall also be of different political parties, precisely as the two inspectors are. Then what have you? Having an election board of three, two of one party and one of another, you add two overseers of each party, and thus you have three of one side and two of the other. If it proposed then that those two gentlemen appointed by the judges should entirely control the inspectors and judge? How are those two, even if they should agree, to over-rule the voice of the two already there? Do you not produce precisely the same result with your five officers as you would produce with three? If it is intended that they are to go in there as advisers merely, then the advice would be very apt to be in accordance with the political sentiments of each one of those two gentlemen, who are to be of different parties.

Then again, these overseers, says the section, are "to supervise the proceedings of election officers." What proceedings? How are they to supervise? The election officers are to receive the votes and carefully count them and put them in the ballot-box, and have the names written down. Are these two supernumerary officers, so to speak, to look on simply, or are they to do anything? If they are to do anything, what are they to do? How can they interfere with the regular progress of the election? The language of this section is: "the proceedings of elec-

tion officers and general management of elections." What general management of elections are these two gentlemen to control? The law fixes the place where the election is to be held, the house where it is to be held, and the officers who are to hold it, and the law fixes sufficient penalties and guarantees for the faithful performance of their duties by all of them. What are these two other gentlemen to do? You are adding simply two-fifths of expense to the county, for these gentlemen have to be paid. You propose to say that five officers are to be paid at each election district instead of three. What good is to be attained? What are they to do? Who is to define their powers? This section does not define them.

They are "to supervise the proceedings of election officers and general management of elections." What general management of elections? Are they to say when the election shall be opened and when it shall be closed? The law fixes that, and every one is to have an opportunity to give his vote, and time enough allowed between certain hours. The law fixes that general management and the general duties of the officers.

But they are also "to maintain the integrity of returns." What have they got to do with returns? How are they to maintain the integrity of returns? The returns are not made by them. They are made by the election officers, the judge and inspectors. How are these two supernumerary officers to maintain the integrity of returns?

But the section proceeds: "to maintain the integrity of returns and of the ballots received and counted, and to make report to the court as may be required." There is no definition here of what these two gentlemen are to do, and I submit it is out of the question for you to prescribe any duties which they are to do that will be at all worth the trouble and expense which you cast upon the county.

The great complaint in the city of Philadelphia is the enormous expense of elections. They wanted to avoid two when they could do with one. In the country we do not regard it so much, because we obey the law. A dollar and a half is paid to the election officers, and that alone, at each precinct; and in an election in Chester county, where we have from sixty to seventy districts for persons to vote at, it amounts to a clever little sum for our people to pay. If you

add two-fifths, you add a considerable sum to it. In Philadelphia the trouble as to expense is that they do not limit the officers to the law. They give them \$5 apiece, and nobody will serve for less, and there are men who want the \$5, who go there to secure it. I do not know how you are going to arrange for the city of Philadelphia; but what I submit to the committee is that throughout the State, in country districts, we need no such machinery as this. It can be productive of no good; it can only add to the expense of elections without increasing the purity of elections, and I am opposed to it all.

Mr. Ross. Mr. Chairman: Understanding this section as I do at present, I cannot give my vote for it; and the remarks that I make are made rather with a view that I may receive further light, than to throw any light upon the section myself.

In addition to the objections which have been mentioned by the distinguished gentleman from Allegheny and by other gentlemen, I find that in the fourth line the expression occurs, "general management of elections, to maintain the integrity of returns, and of the ballots received and counted." I do not know whether by that expression is meant that these overseers shall take into their possession the returns of the election and the ballot-boxes containing these returns, or not. If it is proposed that these two officers, to be appointed by the courts of the respective districts, in addition to the high powers which this section gives them, because it really makes them take the place of the election board, shall have the ballot-boxes put in their possession and all the ballots cast by the electors, then I cannot vote for the section. In my opinion, the citizens of each election district are the proper persons to designate who shall be the election officers, and they are the proper persons to decide who shall be the custodians of the ballots that shall be cast. These two officers to be appointed by the court may (it is possible at least) be corrupted; they may make false returns; they may change and alter the ballots as contained in the ballot box so that the results of the election may be materially changed. It is to that particular part of this section that I object more than to any other, and it is to that that I desire to call attention.

Mr. MACCONNELL. I merely wish to call the attention of members to one objection to this section that I think has not been noticed by any gentleman as yet.

The section gives the appointment of these overseers to the judges of the courts of common pleas. Now, we elect those judges, and experience has shown us that if we elect a man once as a judge of the common pleas, he is sure to be a candidate for re-election. If a judge of the court of common pleas is a candidate for re-election, he has the appointment of these overseers, who are given the entire control of the election, and as a consequence, does it not give the judge that appoints them who is seeking a re-election the entire control over his own election? Take for instance Allegheny county. Our court of common pleas consists of three judges learned in the law. Last year we had to elect two, the terms of two then expiring. The two judges that had previously been elected were candidates for re-election, and they were elected. Now, suppose this provision had been in force then, does it not appear manifest to anybody that this provision would have given to those judges an entire control of their own election, and if they had been corrupt, as they were not, but which might occur, is it not probable that this provision might enable them to elect themselves if they were so disposed? That is the point to which I wanted particularly to call the attention of the Convention.

Mr. BUCKALEW. The election of a judge would happen only at one election in every ten years, and would not be a disturbing cause, as the gentleman from Allegheny supposes. The judicial term is very long. These appointments are to be made openly and publicly announced, and the judge who would undertake to pervert this power would suffer in his election unquestionably by the abuse, because the whole public would understand it the moment these appointments were announced, when there was no apparent necessity for them, or where they were improper men. A judge would be under a rigid bond to keep the peace, and be of good behavior to all the good people of his district, particularly at that time.

Again, sir, I agree entirely with the opinion of Judge Harding last winter in the Scranton election case, which no doubt most of the members of the Convention have seen; and that is, that the only efficient mode in which you can put down corrupt elections is to arm the courts of law with power over them. We know practically that there are infected districts in the State where you cannot rely upon the majority of the voters to select pure

election officers, or to hold their election officers in check, and there must be some mode provided, either by Constitution or statute, by which the courts can put their hands upon those districts and hold them to their good behavior. I know it is an extraordinary power, but the question is whether it is not a necessary one; and the lodgment of this power in our established unimpeached courts of law is not to be opposed, simply because once in every ten years the judge himself is to be elected, or may possibly be a candidate for re-election.

Mr. D. W. PATTERSON. I wanted to ask the gentleman that very question, whether he did not consider it unwholesome to put anything relating to elections in the hands of the judiciary; whether it would not bring them into suspicion in the minds of the public.

Mr. BUCKALEW. If the gentleman will listen to me with reference to one or two points, he will see that the question does not stand as he supposes. We must put something on this subject in the Constitution, or the Legislature cannot put it into a statute. If you fix election boards, and give the Legislature no jurisdiction and authority here in the Constitution to legislate, they cannot pass any law which will subject these boards to any control whatever. They will be omnipotent with reference to the whole matter of elections. They can defy the courts and the Legislature alike with reference to their management in matters connected with the direct exercise of their authority; and I am not certain but that the existing law, which is a general law of the whole State, would be substantially repealed unless we recognize it or the principle on which it rests. Here is the existing law, which I desire to read for the information of the committee, as it does not appear to be generally understood. It is the act of April 17, 1869, so that it has been in force four years. It reads as follows:

"On the petition of five or more citizens of the county, stating under oath that they verily believe that frauds will be practiced at the election about to be held in any district, it shall be the duty of the court of common pleas of said county, if in session, or, if not, a judge thereof in vacation, to appoint two judicious, sober and intelligent citizens of the county to act as overseers at said election; said overseers shall be selected from different political parties, where the inspectors belong to different parties, and where

both of said inspectors belong to the same political party, both of the overseers shall be taken from the opposite political party; said overseers shall have the right to be present with the officers of the election during the whole time the same is held, the votes counted and the returns made out and signed by the election officers; to keep a list of voters if they see proper; to challenge any person offering to vote, and interrogate him and his witnesses, under oath, in regard to his right of suffrage at said election, and to examine his papers produced; and the officers of said election are required to afford to said overseers so selected and appointed every convenience and facility for the discharge of their duties; and if said election officers shall refuse to permit said overseers to be present and perform their duties as aforesaid, or if they shall be driven away from the polls by violence or intimidation, all the votes polled at such election district may be rejected by any tribunal trying a contest under said election: *Provided*, That no person signing the petition shall be appointed an overseer."

Now, Mr. Chairman, the provision in regard to the power of these overseers of election to decide disputed questions on which the board differ is not at present before the committee. When we come to that provision of the section I shall desire to say a word upon it. At present the only question is, whether you will authorize the appointment of these persons? You see that now, under the law, there must be a specific application from each election district where these appointments are to be made, and the application must be accompanied by an oath which a man can seldom swear to at all before the election. Because of those imperfections of the statute, this act has not been efficient, and these officers, when they have been appointed in a few cases, have simply been regarded as spies, and have been treated with contempt in election rooms.

They have exercised no useful, no beneficial power or authority, any more than the watchers appointed by the United States courts and sent into these election rooms. I shall endeavor to show, when the subsequent part of this section is under consideration, that the provision that these two overseers shall have the right to participate in the decisions made by the board will make them efficient officers and that they will be most useful.

Mr. S. A. PURVIANCE. Allow me to ask the gentleman in what way he intends that these overseers shall maintain the integrity of the ballot?

Mr. BUCKALEW. I am glad the gentleman has called my attention to that. I have no objection as one member of the committee, though I cannot speak for the others, to omit such language as may be open to dispute.

Mr. LEAR. I desire to make a suggestion to, rather than to ask a question of, the gentleman.

Mr. BUCKALEW. I yield.

Mr. LEAR. The language I think is objectionable, and I suggest this amendment: Strike out the words "to maintain," and insert "so that," in the fourth line, and in the fifth line insert, after the word "counted," the words, "may be maintained," and then it will read in this wise: "To appoint overseers of election to supervise the proceedings of election officers and general management of elections, so that the integrity of returns and of the ballot received and counted may be maintained, and report," &c.

Mr. BUCKALEW. I have no objection to that. I have no objection, if the committee think proper to omit these particular words, leaving it to the Legislature. Of course they can pass laws to carry out these provisions, to provide details. I will illustrate what I mean by the language which is used here, to the gentleman from Allegheny. I would have a provision of law that these overseers of election, or at least one of them, should accompany the return judge who makes the return, which he files in the office of the prothonotary, and should also see that the box in which the tickets are deposited shall be conveyed and placed in the proper depository. These are examples of the regulations which I would make with reference to these overseers of election. I would not have them mere spies at the election board, without any power or duty beyond simply looking on and to be treated with contempt as they are now. I would make provisions similar to what I have suggested, that they shall accompany the election return to the proper office where the paper is to be deposited, and see that it is placed there; that they shall accompany the election box in which the votes of the people have been deposited to the depository where it is to be placed, whether in the hands of a neighboring magistrate, to be retained by him, or as in the case of Philadelphia, in a vault,

which is to be kept locked, and to which there are duplicate keys held by the mayor and recorder of the city. These are examples; but if gentlemen think that these words are liable to misconception, it will not impair the general purpose of this provision to omit them and simply vest the power of appointment of the overseers in the courts and provide how the appointments shall be made. I shall not object to that, for one, although I cannot agree to it as a member of the committee.

Mr. LILLY. Mr. Chairman: I was a member of this committee. We examined this subject very thoroughly and looked at it in all its phases and we were forced to this conclusion—I do not know whether it was a violent conclusion or not—that some men were honest in the State of Pennsylvania and that some men might be relied upon for their honesty, and amongst those we classed the judges of the courts throughout the State. The evidence we had before us was that all over the State wherever the judges have had control of these matters and have made reports on contested election cases, they have acted honestly. Therefore I do not think that our presumption is so terribly wrong as some gentlemen on the floor here would seem to suppose, that because a man wears the ermine of a court he is not a rascal. The presumption with some appears to be that because we put these appointments into the hands of the judge, the judge is a rascal and he is going to appoint a lot of rascals to supervise the election.

The CHAIRMAN. The question is on the amendment of the gentleman from Northampton, (Mr. Brodhead,) after the word "two," in the tenth line, to insert "or more," and after the word "number" to insert "as the exigency of the case may require."

The amendment was rejected.

The CHAIRMAN. The question is on the first division of the section.

Mr. H. W. PALMER. I move to strike out all after the word "officers," in the fourth line, down to the word "and," where it occurs the third time in the fifth line. The words I propose to strike out are: "And general management of elections to maintain the integrity of returns and of the ballots received and counted;" so as to make the clause read:

"The courts of common pleas of the several counties of the Commonwealth shall have power within their respective juris-

diction to appoint overseers of election to supervise the proceedings of election officers, and to make report to the court," &c.

The CHAIRMAN. The question is on the amendment of the delegate from Luzerne.

Mr. H. W. PALMER. On this amendment I wish to be heard. Defective and poor as is the existing provision of the law upon the subject of the appointment of overseers of elections, it has worked great good in our district. It has been found simply impossible to hold honest elections in some precincts there except under the supervision of men appointed by the courts. There are certain infected districts in which the people do not and will not choose proper election officers, and the consequence is that the result of every election in that county is held in abeyance until the election boards of such districts make up their minds which way they will make their returns. The votes cast on election day afford no indication at all of what the vote will be when the return judges meet. Returns are held by the election officers for sale. The party who will give the most for the majority will get it; and it frequently happens that the balance of power is held by one or two of these infected districts, and the returns come in one thousand two hundred or one thousand five hundred majority one way or the other just as the election officers happen to be bought and paid last. Therefore it is that some such provision as this is an absolute necessity. The elections can only be saved, it seems to me, by some such provision. The act of Assembly allowing the courts to appoint watchers has been tried; we have had practical experience under it; and it has been found to work well; and as amended in the manner I propose, I hope the section will be adopted. It certainly is the best plan yet devised under which a fair election can be held in many section of the State.

On the question of agreeing to the amendment proposed by Mr. H. W. Palmer, a division was called for, which resulted forty-eight in the affirmative, and twenty-three in the negative. So the amendment was agreed to.

Mr. D. N. WHITE. I move now to amend, by striking out the third sentence.

Mr. BUCKALEW. I suggest to the gentleman from Allegheny that that would be an amendment relating to the second

division of the section, which we have not yet reached.

MR. D. N. WHITE. I understood that the whole section was open to consideration.

The CHAIRMAN. No, sir.

MR. D. N. WHITE. Then I withdraw my amendment for the present.

The CHAIRMAN. The question is on the first division as amended.

The first division as amended was agreed to.

The CHAIRMAN. The second division will be read.

MR. BUCKALEW. I ask for a further division, which will accommodate the gentleman from Allegheny. I would have the second division end at the second sentence, and then I would have a further division at the end of the third sentence, so as to have a distinct vote on each of these three propositions.

The CHAIRMAN. The divisions will be so made, and the Clerk will read the next division.

The CLERK read as follows:

"Overseers shall be two in number for an election district, and shall be persons qualified to serve upon election boards, and in each case members of different political parties."

MR. STRUTHERS. I move to amend, by striking out all after the word "boards."

The CHAIRMAN. The Clerk will read the part proposed to be stricken out.

The CLERK read as follows:

"And in each case members of different political parties."

MR. STRUTHERS. Mr. Chairman: We have here what at the outset of this Convention we took particular care to avoid, and that is an express recognition of political parties. The idea of political partyism entering into this Convention was one which attracted attention from the start, and thus far, or nearly always thus far, it has been avoided. There have been some indirect approaches to it, but here we have it expressly brought forward. Here you are converting your Convention into a body for the very purpose of creating and sustaining political parties, because if there must be members upon the election boards of different political parties, you must keep up and sustain two parties from which to get them.

It is not part of the business of this Convention to have anything to say about political parties. We are here to legislate and provide for the general interests of

one entire people, and not for a political party on the one side or on the other, not to know that there are political parties. We have no business in this Convention to look outside of our legitimate functions and know that political parties exist. We ought to look to the general good of the people of this Commonwealth. The people of this country have common interests. Their interests run together and blend in such a way that except simply in election times, we know nothing of parties. In the general intercourse of the community, the political divisions of society are not known at all, and in my opinion, it will be a very bad innovation to introduce into the Constitution anything that recognizes political parties and distinctions of that kind and that they shall be kept up, because you cannot appoint two of these overseers unless you have two parties, as the section says expressly one of them must be from each political party. I think this clause ought to be stricken out.

I am opposed to the whole section and the whole article for several other reasons, one of which I will mention. It is a subject that belongs entirely to the Legislature and a subject that we never ought to incorporate in this Constitution at all. We are making provisions here that are dangerous in their nature and tendency, and we are making a perpetuity of them. The gentleman from Columbia (Mr. Buckalew) read to us from an act of Assembly in regard to these overseers which he says has worked very well and is very satisfactory. Let it go on in the hands of the Legislature then, and when it is found to work badly, as I think it will, it can be altered. But in God's name don't place it in the Constitution.

MR. BUCKALEW. Will the gentleman from Warren allow himself to be interrupted?

MR. STRUTHERS. Certainly.

MR. BUCKALEW. I desire to ask the gentleman whether he does not observe that the existing law, now four years old, uses precisely this language which it is proposed to adopt in the present section. If the gentleman will be gratified by having the word "parties" omitted and the word "organizations" substituted, I have no objection. This section only recognizes a fact—the existence of parties in every election district from one end of the State to the other.

MR. STRUTHERS. The change of words, of same import, amounts to nothing. I have the same objection to the legislation

that I would have to a constitutional provision upon this subject, except that if it be placed in the Constitution and the people get tired of it, they cannot change it; whereas if it is left in the hands of the Legislature and the people in their experience find it to work adversely to their interests, they can apply to the Legislature and have the legislation repealed.

Mr. BUCKALEW. I would like to ask the gentleman from Warren whether he would entertain, for one moment, the proposition that the judges should appoint both these officers from their own party?

Mr. STRUTHERS. I would not know that there was any party at all. It ought not to be known. Why should we talk about parties? We ought not to use any language in this Constitution that recognizes any party as existing in the State.

Another objection to this section is that it gives the appointment—that has been argued, however, and I do not wish to occupy time unnecessarily—it gives the whole control of these elections into the hands of the courts through these overseers. It appears to me that that is withdrawing this power from the people. We had better elect these overseers, if they are needed, and hold the elections ourselves. This section proposes to take the power entirely out of the hands of the people, where it has been lodged and where it ought to remain.

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

The amendment was rejected.

Mr. HUNSICKER. I move to amend, by striking out the word "two" and inserting the words, "not exceeding three."

The amendment was rejected.

The CHAIRMAN. The question recurs upon the division.

On the question of agreeing to the second division of the section, a division was called for, which resulted: Thirty-five in the affirmative and fifteen in the negative.

So the second division was agreed to.

Mr. STRUTHERS. It appears that there is less than a quorum in the House.

The CHAIRMAN. The third division is before the committee of the whole, and will be read.

The CLERK read as follows:

"Whenever the members of an election board shall differ in opinion, the overseers present, if they shall be agreed, shall decide the question of difference."

Mr. BUCKALEW. I desire to say one word. I spoke before of the importance

of giving these officers positions in the election room with dignity and authority, so as to make their appointment worth something. Now, observe; they cannot act at all unless both of them agree in opinion, and then they must have with that agreement the additional sanction of one of the two inspectors. This will enable these persons sent there by the court, representing both great parties, to interpose efficiently when wrong is proposed to be done. And observe, also, the only interference that these overseers can have with the decisions of the election board will be public. It will be where the question is open and where the people can debate it and can understand it, and where the overseers in every decision they make will act under a sense of public opinion and responsibility to the court which appoints them.

Mr. MACCONNELL. Will the gentleman from Columbia allow himself to be interrupted?

Mr. BUCKALEW. Certainly.

Mr. MACCONNELL. Suppose the election boards disagree and the overseers disagree, who is then to decide the difference?

Mr. BUCKALEW. The case is then left precisely as it is now, to the decision of the judge. He gives the majority vote as he does now. It is only where the representatives of the two great parties, the overseers appointed by the court for their integrity, to keep elections pure, can agree about a question that they can interpose. It is only in such a case that the court, through its appointees, can check fraud and wrong.

Mr. MACCONNELL. But suppose they do not agree?

Mr. BUCKALEW. Then the presumption is that the matter is not clear and that it is not a manifest wrong.

Mr. MACCONNELL. Still that does not remedy the difficulty where the overseers do not agree.

Mr. BUCKALEW. If they do not agree, they do not decide anything. It is only when they both agree that a wrong can be arrested.

I beg gentlemen to observe that this is the vital provision in this section, to give this important subject of the appointment of overseers efficiency. You cannot have these officers efficient if they are sent into the election room to look on simply, and to be treated as spies or intruders. You give them this appellate power to be exercised only in a case where the pre-

sumption is that wrong is attempted or that the question is doubtful, and that their decision will be right, and in that way you will give them a sufficient control over fraud and wrong. I beg gentlemen not to introduce here suppositions remote, improbable and contingent. I beg them to look at this as the only mode by which the authority of the court may be made efficient, and then only when both these election overseers, representing both sides, agree.

Mr. DARLINGTON. Mr. Chairman: For the life of me, I cannot yet understand how you are to bring into operation these overseers. This provision is, "whenever the members of an election board shall differ in opinion." There are but three, and it is the very object of having three that if there be a difference of opinion there will be one to decide. The judge elected by the majority decides between the inspectors elected by their parties. You have got three; and what is the object of this provision, that in case there be a difference of opinion between the one and the other two as to the right of anybody to vote or any other question arising at an election, these two appointees if they agree shall rule that question? In other words, you take it out of the hands of those elected from both parties to decide, and say it shall be done by the men appointed by the judge of the court in case they agree.

Mr. J. N. PURVIANCE. I wish to suggest to the gentleman from Chester to move this, in the twelfth line, after the word "parties" insert: "But shall not have power to over-rule decisions of the board of election officers," and then strike out all down to the word "difference," in the fourteenth line.

Mr. DARLINGTON. That will do me a great deal better than this. This is highly objectionable in every aspect of it. If the gentleman from Butler wishes to move to amend, I will give way.

Mr. J. N. PURVIANCE. Mr. Chairman: I move the amendment I have indicated, to strike out all after the word "parties," in the twelfth line, down to the word "difference," inclusive, in the fourteenth line, and insert, "but shall not have power to over-rule the decisions of the board of election officers."

The CHAIRMAN. The question is on the amendment of the delegate from Butler.

Mr. H. W. PALMER. I quite agree with the chairman of the committee, that this
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is the vital part of this section. We may as well vote down the whole section as vote this down, and this amendment moved by the gentleman from Butler is quite unnecessary. It is useless to provide that these overseers shall not over-rule the election boards. Up to the point when the amendment occurs in the section, no power is given the overseers to do anything with the election boards at all, except to supervise their proceedings. There is no occasion for putting in the amendment, because we have not given them power to over-rule the board. I repeat, that down to the word "parties," in the twelfth line, there is nothing in the section that gives the overseers power to do anything except to supervise the election, and they cannot over-rule the election boards; and therefore there is no occasion for prohibiting their doing that which it is impossible for them to do.

Now, as to this provision that when the members of the election board shall differ in opinion the overseers shall decide the question of difference, the value of that consists mainly in this, that it makes these overseers appointed by the court a part of the election board. It gives them some standing and some authority, and they are not mere interlopers as they have always been regarded heretofore. Those that have been appointed under the act of Assembly have been regarded as mere spies and interlopers sent there, not to take part in the election, but to spy out what they go on wrong, and in many instances they have been driven away from the polls by violence and intimidation. If they are made a part of the election board they go there with just as much authority as any election officer to take part in the election, and see that it is properly and fairly conducted. It is only an additional safeguard thrown around the purity of the ballot-box. It is suggested that the Legislature can do all that is here provided. That is true; but while we are on this subject we may as well fix it, and fix it right, and to stay. The Legislature may not see fit to do it. This provision cannot hurt the election because, as has already been remarked, these overseers must agree or they are powerless. They must belong to different parties, and before they can interfere with any decision of the election board they must agree. I beg that gentlemen will not strike this out.

Mr. BOWMAN. I should like to ask the gentleman a question. Upon the supposition that the court will appoint none but

honest men, would it not be better for the courts to appoint the entire election board?

Mr. H. W. PALMER. I am not certain but it would; but I do not think the people would stand that, and therefore I think we had better take the best thing we can get.

Mr. BEEBE. Would it not be as well as to over-rule their will?

Mr. H. W. PALMER. This section is not designed to overrule the will of the people, but to provide a means whereby the will of the people may be honestly announced; that when a question of disagreement arises in the election board these two honest men, of different political parties, agreeing between themselves, put their voice of authority on one side or the other of the question and decide in favor of law and truth.

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

Mr. H. W. PALMER. Certainly.

Mr. DARLINGTON. What difference between the members of the election board does he refer to that these appointments are to settle?

Mr. H. W. PALMER. The question of receiving votes of persons who attempt to vote on fraudulent naturalization papers, for instance.

Mr. DARLINGTON. Does the gentleman suppose there will be any difficulty about a repeater's right or want of right to vote?

Mr. H. W. PALMER. A board set up for the purpose of putting through a fraudulent election would let every repeater vote, of course. That is what they are sent there for. Now suppose there happens to be one honest inspector overseer. He objects. A difference arises. Then the two overseers, if they are honest men, agree together and they put their decision with that of the honest inspector, over-rule the dishonest men of the election board and stop the fraud.

I have further to suggest that this provision does not of necessity affect every election district in the State, but will be applied in very few. Frequent reference has been made to that unfortunate county from which I come. We have about one hundred election districts in the county, and there are not over four or five of them where the elections are conducted in a fraudulent manner. In the rest the elections are as fair as elections can be, and no fraudulent votes are ever offered or received. It is only in reference to these few infected districts that we desire

this provision and it is only for a few districts that overseers will ever be appointed. So throughout the State, in but few places will they ever need overseers, because they can only be appointed by the court on the application of citizens who under oath declare that there is reason to apprehend that the fairness and purity of the election be endangered.

Mr. BEEBE. Will not the same people who hold these corrupt elections elect the judges of Luzerne at the same election.

Mr. H. W. PALMER. I suppose these same people vote for the judges in Luzerne, but the judges are honest men. I am perfectly well satisfied that they will exercise this power with fidelity, if it is confided to them. They must all agree in the appointment.

Mr. BEEBE. As I understand it, when they elect a judge they have an honest election, and when they do not elect a judge they have a dishonest one.

Mr. H. W. PALMER. It is just for the purpose of being able to have honest elections when a judge is elected and when a judge is not elected, that this provision is desired.

Mr. LILLY. They elect honest men in Luzerne county, I suppose, for judges.

Mr. H. W. PALMER. They do.

Mr. D. W. PATTERSON. The gentleman remarked that when these two overseers agreed, they would then decide. The chairman of the committee remarked that the judge of the election board was to have his voice. Now, if the two overseers agree and the judge disagrees, what is to be the result then? Are those two overseers to overcome one inspector and one judge?

Mr. BUCKALEW. Of course they are.

Mr. D. W. PATTERSON. The chairman of the committee (Mr. Buckalew) said the judge of the board had a voice with these two overseers. Then the two overseers overbalance and over-rule the election officers.

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

The motion was not agreed to: Ayes, twenty-three; not a majority of a quorum.

Mr. BARTHOLOMEW and others asked for the negative vote.

Mr. DARLINGTON. I ask for a count of the committee. I do not think there is a quorum here.

Mr. BRODHEAD. I call the gentleman to order. He has spoken twice on this subject.

Mr. DARLINGTON. I am not speaking on the subject.

The CHAIRMAN. There are but fifty-eight gentlemen present; not a quorum.

Mr. DARLINGTON. I move that the committee rise for want of a quorum.

The motion was agreed to. The committee rose.

The PRESIDENT having resumed the chair, the Chairman (Mr. Walker) reported that the committee of the whole had had under consideration the report of the Committee on Suffrage, Election and Representation, (No. 22,) "of election boards and contested elections," and had instructed him to report progress and ask leave to sit again.

Leave was granted to the committee of the whole to sit again to-morrow.

LEAVES OF ABSENCE.

Mr. J. M. WETHERILL asked and obtained leave of absence for Mr. Ellis for a few days from to-day.

Mr. BARTHOLOMEW Mr. President: I have in my hand a letter announcing a death in the family of Mr. Thomas R. Bannan, a delegate from Schuylkill. I ask unanimous consent of the House that he may have leave of absence for a few days.

Leave was granted.

CORRECTION OF THE JOURNAL.

Mr. LEAR. Mr. President: I rise to a question of privilege, which I desire to have presented to-day. During the consideration of the report of the special committee on the question of salaries, I made a motion to amend, and upon that motion I am recorded in the Journal as

having voted against it. I desire to have this explanation entered on the Journal, which I have written in a few lines, that I will read:

"During the consideration of the report of the special committee on salaries and compensation of members and officers of this Convention on the twenty-second of this month, I made a motion to amend the resolution accompanying said report fixing the compensation of members, by striking out \$2,500 and inserting \$1,000 upon which the yeas and nays were called, and in the printed Journal I am recorded as voting in the negative, and recorded among the nays as having voted against my own motion. I voted in the affirmative and desire to be recorded among the yeas and ask that this explanation be entered upon the Journal. It is undoubtedly an error in taking, recording, or printing the vote, committed inadvertently by some one." I ask that I may be allowed to put this on the Journal.

Mr. J. R. READ. I move that leave be granted.

Leave was granted.

The PRESIDENT. Does the gentleman say that there is an error on the Journal?

Mr. LEAR. The error is on the Journal as printed and returned here this morning. It is on page five hundred and sixty-six of the Journal.

The PRESIDENT. The explanation will be entered on the Journal.

Mr. DE FRANCE. I move that the House adjourn.

The motion was agreed to; and (at three o'clock and two minutes P. M.) the Convention adjourned.

ONE HUNDRED AND EIGHTH DAY.

TUESDAY, May 27, 1873.

The Convention met at half-past nine o'clock A. M., Hon. W. M. Meredith, President, in the chair.

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

PETITIONS AND MEMORIALS.

Mr. J. N. PURVIANCE presented a petition of citizens of Butler county, praying for the insertion of a clause in the Constitution recognizing Almighty God and the christian religion, which was laid on the table.

LEAVES OF ABSENCE.

Mr. JOSEPH BAILY asked and obtained leave of absence for Mr. COLLINS for a few days from to-morrow.

Mr. BEEBE asked and obtained leave of absence for Mr. Dodd for a few days from yesterday.

ELECTION BOARDS.

Mr. DARLINGTON. I move that the House resolve itself into committee of the whole to proceed with the consideration of the article reported by the Committee on Suffrage, Election and Representation.

The motion was agreed to, and the House accordingly resolved itself into committee of the whole, Mr. Walker in the chair.

The CHAIRMAN. The committee of the whole have again referred to them article No. 22, reported by the Committee on Suffrage, Election and Representation, "of Election Boards and Contested Elections." When the committee rose yesterday the question pending was on the third division of the third section. The amendment will be read.

The CLERK. The third division reads: "Whenever the members of an election board shall differ in opinion the overseers present, if they shall be agreed, shall decide the question of difference."

To this the delegate from Butler (Mr. J. N. Purviance) moved an amendment by adding at the end thereof: "But shall not have power to over-rule the decision of the board of election officers."

Mr. BROOMALL. Mr. Chairman: I think we had better vote down this division of the section. Look at the condition of things: If a single judge in a judicial district were about being re-elected, how easily he might find a member of each political party in each election district to decide who should vote in those several districts, and so absolutely control the question of his re-election! I think the whole section is rather one of legislation, and I think that this branch of it would be very bad legislation.

Mr. J. M. BAILEY. Mr. Chairman: I do trust that this division of the section will be voted down, and when the House reaches the second reading and its "sober second thought," that it will vote down the whole section. To my mind there are very serious objections to inserting any part of this section in the organic law. In the first place, it strikes me that it is peculiarly a matter for legislation. It is not at all improbable that the experience of years may demonstrate that some better or some less objectionable mode of accomplishing the same end might be obtained. But if we invest it with the attribute of immutability by inserting it in the Constitution, it would preclude the possibility of the Legislature adopting any better method, or of dispensing with this one, should it be found, as I have no doubt it would be, an instrument of fraud and oppression without very great delay and expense.

And upon the merits of the section itself, Mr. Chairman, there are two or three very serious objections to which I desire to call the attention of the committee. In the first place it gives the court of common pleas the right to select these men. Now, how is the court of common pleas constituted? We have one president and two associate judges in each county in the Commonwealth, and in a district composed of several counties the president judge always defers in matters of discretion to his two associates. The associates are selected not so much on account of their judicial qualifications as on account

of their party fealty, on account of their fidelity to their party and to their party leaders. They are constantly under the control of their party leaders. Now, I submit whether it is not a very dangerous experiment to allow the two associate judges to appoint two election officers, who will have the power to over-ride and break down the judgment of an equal number of officers selected by the people—

Mr. M'CLEAN. Have we not adopted a provision in the judiciary article providing for but one judge in each county; and, therefore, would not the appointment of these officers be by one judge only, instead of the associate judges?

Mr. J. M. BAILEY. I have no doubt at all that the provision relative to the judicial districts which has passed the committee of the whole will be rejected on second reading, as I do not think it meets the views of a majority of this Convention. I take it, the office of associate judge cannot safely be abolished unless you put a president judge in each county of the Commonwealth.

Mr. BEEBE. If the office of associate judge were abolished, as the gentleman presumed, would he feel any safer in leaving it to a one man power to control the elections of an entire judicial district?

Mr. J. M. BAILEY. I would trust one fair man rather than two men who are strictly partisan, and the associate judges are always selected in every county of the Commonwealth on that account.

Mr. HUNSICKER. If the gentleman will allow me, we have adopted a different principle in regard to the election of judges. We elect them on the cumulative plan.

Mr. J. M. BAILEY. Not the court of common pleas.

Mr. HUNSICKER. I understood that we had.

Mr. J. M. BAILEY. The section as it passed the committee of the whole provides but one judge in each county, and the cumulative plan could not be applied.

Mr. Chairman, I have another objection to this section. It permits the court of common pleas to select any men they please. They are not limited to the election district. They are not limited even to their county or to their judicial district. They may select these two overseers from any part of the broad land, from the whole body of the people of the Commonwealth. It is true that this section provides that the overseers shall

have the same qualifications as the election officers, but the people in the election of their judges and inspectors of election are not confined to the electors of the district. They may select them from anywhere over the Commonwealth, where they please. Now just look at it a moment. Suppose these two judges, and it is not a violent supposition, desire to over-ride the will of the people, or, in other words, to commit a fraud upon the ballot box in any particular election district. Perhaps they may not be able to find in that district two men as overseers who will answer their purposes; they may send here to Philadelphia, or they may send to any other place in the Commonwealth, and pick out just such men as will the best answer their fraudulent purpose.

Mr. LILLY. Must they not be elected in the district?

Mr. J. M. BAILEY. The law does not require them to be residents of the district wherein they reside.

Mr. LILLY. They must be qualified electors of the district.

Mr. J. M. BAILEY. No, sir, I beg the gentleman's pardon. There is nothing either in the election law of the Commonwealth or in the second section of this article which provides for the qualification of election officers, which makes it necessary that they should reside in the election district.

Mr. J. N. PURVIANCE. You are right.

Mr. J. M. BAILEY. I am clearly right on that question; and it is seriously proposed by this committee, after having already adopted a division of the section which permits the courts of common pleas to go anywhere in the Commonwealth where they can get two men who will answer their vile purposes and place them in the election board, to over-ride the judgment of the officers selected by the people.

Mr. BEEBE. Mr. Chairman: I trust, sir, that this section will not recommend itself in any form to the committee—

Mr. BUCKALEW. The gentleman will excuse me. Before he goes on I wish to make a suggestion to the gentleman who has just sat down.

Mr. BEEBE. Very well.

Mr. BUCKALEW. I wish to suggest that the intention of the committee was that the overseers should be qualified electors of the district. That can be provided for by inserting in the eleventh line after the words "election boards" the word, "there-

in." That will provide that they shall be electors "therein;" that is, in the district. I beg leave also to say that my intention is to propose an amendment in the next division of this section so as to confine it to law judges, to insert before the word "judges" the word "law."

Mr. BEEBE. Mr. Chairman: If this section be adopted as it stands, there would be a power conferred upon a single individual, under the theory of my friend from Huntingdon, (Mr. J. M. Bailey,) exceeding that given to any authority in this land. If the office of associate judge is to be abolished and a single president judge to remain, without the single district system, it will put into the hands of one single individual the power to control the election boards in a district of one hundred and twenty-five thousand inhabitants and utterly subvert the will and any expression of their opinion in a popular election by virtue of their own election board. If it be cut down, as it seems to be the purpose of those intending to pass it, to what it is now, being legislation anyhow, in that case it is, in vulgar parlance, entirely "*too thin*." It is very thin legislation instead of organic law.

The gentleman from Carbon (Mr. Lilly) yesterday remarked that the judges of our courts were not rascals.

Mr. LILLY. I should like to ask the gentleman a question. Does he consider the judges of the courts of common pleas of Pennsylvania scoundrels?

Mr. BEEBE. The gentleman from Carbon remarked that the judges of the courts of common pleas of Pennsylvania were not rascals. I wish to keep them pure, but if they are not rascals now, they will be, unless the nature of mankind be changed and the principle of depravity wiped out and they become saints, if they are allowed this supervision and this absolute power over a district of from twenty-five thousand to one hundred and twenty-five thousand people; in addition to the other vast powers which we propose to confer upon them.

It has been said here that while almost the whole body politic is corrupt, while the tidal wave of corruption has swept over all other departments, it has only reached the feet of the judiciary. But give the judges the opportunity, and I am afraid they will yet prove themselves men, and men of like weaknesses with ourselves. What would we think of a proposition to vest this power in a candi-

date for the Senate or House of Representatives, in the General Assembly, to appoint all the men to supervise the elections in his district? And yet a man often steps from the Senate or House of Representatives on to the bench; and the same man that a year before, according to the press and the speeches made by gentlemen here, is infected with corruption, takes the seat of a judge the next year immaculately pure. How are we to infer and why are we to infer that by virtue of this simple change of office, a man who in the first place was irresponsible and entirely incapable of fairness and honesty, in the second instance becomes incapable of dishonesty and unfair dealing? I am afraid that the theory of our friends here that corruption has only reached the feet of the judiciary is not altogether true.

The other day some of our friends from Philadelphia gave a mass of testimony about the corruption in this city in relation to legal auditors and wished for a clause in the Constitution prohibiting the appointment of auditors by the judges because the auditing system had become a vast engine of corruption, and they gave us the facts and figures to show it. They wished a provision put into the organic law for the purpose of prohibiting that; and after giving us this weight of facts and figures showing the alleged corruption and partisanship of the judges and the appointment of their relatives and their friends to auditorships, my friend from Susquehanna (Mr. Turrell) simply took out "*Pardon's Digest*" and showed there an existing statute which fixes the amount of pay of auditor for the express purpose of preventing fraud, and then read this note of the learned editor:

"This beneficial law has almost become a dead letter; it is true the court has announced its determination to enforce it in all cases on exceptions filed, *Milligan's Estate*, 3 Leg. Gaz., 202; but few of the younger members of the bar have the independence to except to the extortion of an auditor, who is the appointee of the court, and perhaps related to some of the judges, *at the risk of incurring the displeasure of the bench*. The court alone can enforce the law by examining the report and ascertaining that no illegal charge has been made."

But if we have no reason to impugn our judges as being those upon whom we can safely rely for honesty, we have but to cross the line into the State of New York and recall the history of the Barnards and

McCunns; and I defy the gentlemen from Philadelphia to produce anything in this city connected with any of the row offices that will exceed in rottenness and corruption the career of those men. With this power, and all the other powers which it is proposed to confer on the judiciary, their history will repeat itself in Pennsylvania, if it has not already commenced. If we insist in our Bill of Rights that our elections shall be free from all civil and military interference, why shall we now permit them to be subjected to judicial control? I trust that this section will be voted down.

Mr. TEMPLE. I should like to ask the gentleman whether, as the first two divisions of this section have been adopted, he is now in favor of voting down the last division, which is necessary to carry them out?

Mr. BEEBE. I am not in favor of any part of it. The subject matter is appropriate for legislation according to the varying changes of our civil polity.

Mr. MANN. I trust that this section will receive the calm and unprejudiced consideration of the delegates present. Clearly, the object aimed at by this provision is as important as any single item of business that has been presented to this body. How to purify the elections of this Commonwealth is surely one of the greatest questions that have occupied our attention. This third section of the present report of the Committee on Suffrage, Election and Representation was clearly drawn with the purpose of accomplishing that end, and every delegate who will give it calm consideration will see that it is drawn with that view. It may not meet the approbation of the delegates. It may not be calculated to accomplish the end for which it was prepared, but it certainly bears upon its face the purpose of securing to the people of this Commonwealth pure elections. I do not sympathize with the objections that have been made by several of our friends to the division now under consideration. I have no fear that any court of this Commonwealth will appoint an improper overseer. The appointments of the courts are always made publicly, in the eye of all the public, and there is no judge upon the bench in Pennsylvania who will so far disregard what is due to his position as to appoint an improper overseer. There is not a shadow of danger in that direction—not a particle.

But, though I do not sympathize with that objection at all, I am not satisfied that we ought to adopt this section as it stands. What I am asking of my friends is that the chairman of the Committee on Suffrage, Elections and Representation shall have an opportunity to amend it.

Mr. CORBETT. Will the gentleman from Potter allow himself to be interrupted.

Mr. MANN. Yes, sir.

Mr. CORBETT. Suppose these two inspectors disagree, then what is the result? Is not the vote rejected?

Mr. MANN. If the inspectors disagree, the section provides that the overseers shall decide.

Mr. CORBETT. Yes; but suppose that the election board disagrees and the decision goes to the overseers. If they disagree, what is the result then?

Mr. MANN. The vote will be rejected, of course.

Mr. CORBETT. I would ask another question. Is not the law better as now established? When the inspectors disagree the judge decides, and that is final.

Mr. MANN. Clearly the law is better as it now stands for the great majority of election districts. But this section, if adopted, will have no application for the great mass of the citizens of the State. It is only in those districts where the election boards have been corrupt, and bought up, that this section is proposed to be applied, and I ask the pertinent question, do not delegates intend to apply any remedy to these evils? There are a few districts in this Commonwealth that notoriously have their election boards bought up and debauched to return manufactured majorities for one or the other parties, and frequently the dishonest vote so returned in these affected districts will overbalance the majority of the honest vote of all the other portions of the State. The question is, what remedy is to be applied? Shall this state of things go on without any attempt to provide a remedy? Shall it be said that there is no remedy to this evil of corrupting the election boards of the Commonwealth? I cannot suppose for an instant that any delegate would be content that this monstrous evil should remain unchecked. I suppose it is the determination of every member of this Convention and every honest voter in the Commonwealth that this corrupting of ballot boxes and this return of unpolled votes shall stop.

We ought to determine that hereafter every man who is entitled to vote shall put one vote into the ballot-box and no more, and that every man who has not a right to vote shall have no vote in there, and that the return shall be made according to the votes cast. We ought to determine that, and there certainly ought to be intelligence enough in this Convention to bring about that result. If this section does not do it let us amend it so that it will do it. There must be some remedy for this terrible evil.

The point, Mr. Chairman, which I am endeavoring to make, is that we should come to the discussion of this section with a view to amend it so that it will meet this evil, not simply to find fault with it and make objections to it. That it is legislative in its character I concede, and that is its most serious objection. I sympathize with every delegate who has objected to it upon that ground, but the whole article is of that character from beginning to end, and this last division, which we are now considering, contains the whole salt of the article. If that is voted down the balance of the article is of no use whatever. The first section is simply the law as it now stands upon the statute book, and I object to adopting it for that very reason. It is the law of the State, and no honest man desires to change the law as it stands. That is the first section. The only attempt at change and reformation is in this third section which we are now considering.

Mr. TEMPLE. I would like to ask the gentleman whether he does not know that that law has been changed in the Commonwealth of Pennsylvania?

Mr. MANN. I know it has been changed in its exact phraseology, but not in its spirit and purpose.

I do not propose to discuss the question of the registry law of Philadelphia, because I conceive that upon that subject there is not on the part of many delegates upon this floor the ability to discuss it upon its merits, and therefore I have nothing to say about it; but I am asking of this committee that they will acknowledge this evil in all its magnitude and that they will bring to the consideration of this section their calm judgment and propose a remedy. My own conviction is that the committee who have reported this article have reported it too hastily; that they have not given it the consideration which they were able to give it, and it ought to be referred back to them.

I want to suggest a difficulty in my own mind. Perhaps I misapprehend it, but I cannot understand the force of this provision which says that "whenever the members of an election board shall differ in opinion the overseers present, if they shall be agreed, shall decide the question of difference." Suppose the election board do not differ, suppose they have been purchased to take in all the fraudulent votes that are offered, where is the power of the overseers to correct that evil under the section? That is the very thing that does occur. I have been informed that in an election district in this Commonwealth that returns a majority of from one thousand two hundred to two thousand votes for one party, it will poll them for any party that will give the most money to the board, and that they are unanimous in that decision. They do not buy one of them, but they buy the whole board bodily. The officers of the election board sell themselves as many times as men appear before them with money to purchase them—the whole board, clerks and all. I ask the chairman of the committee, in such a case as that, where is the remedy proposed by this section.

Mr. BUCKALEW rose.

Mr. MANN. The gentleman from Columbia will answer better perhaps after I am through.

Mr. BUCKALEW. This amendment assumes that in most of the cases for which the provision is intended, at least one of the three election officers will be an honest and honorable man, and the section provides that the overseers may come to his aid for the protection of the ballot. In the case the gentleman supposes, where the whole of the election board is corrupt, which will be a very exceptional case, a rare case, one for which a general rule cannot conveniently provide, we shall still get this advantage, that we shall have two independent and reliable overseers present with a right to challenge, with the right to exercise supervision and with a duty charged upon them of reporting to the court. These contestants and the courts, and the public through these officers, will know what is done and will be able to reach the wrong by way of contesting the election afterwards. Those are the advantages we shall get in case where a whole election board shall be corrupt, which, I repeat, will be a very exceptional case, one for which we cannot provide by general rule.

Mr. MANN. I concede that the advantages stated by the gentleman of having two men present to report the facts is of considerable value; but if that is all that is to be gained, the amendment of the gentleman from Butler (Mr. J. N. Purviance) ought to prevail. It seems to me that is the only advantage this section offers, because I believe, from the information I have received, that in the districts where these great frauds are committed, the board is bought up bodily, the whole of them; there is no difference among them. If there was an honest man there, why does he not come out and expose the frauds to the public? It is not done. But the whole board are a party to the fraud, and the public get no information about it except as it is drawn out by investigations afterwards. It seems to me that is the history of every one of these monstrous frauds, that the whole board is bought up, and there is no difference of opinion among them. I do think it is a serious objection to this section that it does not provide a remedy for such a glaring evil. I am credibly informed that the case to which I have referred has occurred, and I believe it to have occurred from the fact that no one of those election officers has ever come out and exposed the fraud to the public. I therefore repeat the suggestion that this section as it stands is defective; it aims to accomplish a grand purpose, and it ought to be so framed as to do it, and it seems to me, after having the suggestions of the gentlemen present and the objections that have been made to it, it ought to be referred back to the committee and receive their consideration and be reported again to us in a shape that will meet the difficulty more satisfactorily than does the section as it now stands.

Mr. TEMPLE. The first two divisions of this section having been adopted, I think it becomes the duty of the committee to adopt this last provision. The committee of the whole having adopted the first two divisions of the section, they have, so far as the committee of whole is concerned, become a part of the Constitution of Pennsylvania. I think then that in all fairness to the people the last division of the section should be adopted as reported by the committee. Now, what are the objections to the adoption of this last division? I will read it:

"Whenever the members of an election board shall differ in opinion, the overseers present, if they shall be agreed, shall de-

cide the question of difference. In appointing overseers of election all the judges of the proper court (able to act at the time) shall concur in the appointment made."

The CHAIRMAN. The division of the section now under consideration commences with the word "whenever" and ends with the word "difference," in the fourteenth line.

Mr. TEMPLE. Now, Mr. Chairman, it strikes me the first portion of this section having been agreed to, there is no good reason why the whole of the section should not be adopted. Let us look at this matter for a moment. It has been eloquently said by the gentleman from Potter (Mr. Mann) that the persons selected by the people are sufficiently qualified and sufficiently honest to conduct an election. I grant that is the case. But I should like to ask the delegate from Potter whether, under the law as it now exists, the people of a large section of this State have anything to do with the selection of their own officers? When the delegate from Potter was asked the question whether under the law of the State of Pennsylvania as it now exists the people in a certain portion of the Commonwealth had anything to do with the selection of their own election officers, he evaded the question and did not undertake to discuss the manner of the selection of those election officers. If he is not in favor of the Constitution as it now stands, why has he not the independence to stand in this body and say that the law as it exists in Pennsylvania or as it is in the Constitution has not been found sufficient for the wants and the protection of the people?

The Constitution as it at present exists, reads thus:

"All elections shall be by ballot, except those by persons in their representative capacities, who shall vote *viva voce* ."

Now, sir, it is a notorious fact that under this section in the Constitution for a portion of this Commonwealth the Legislature have usurped the rights of the people in this direction and said that a self-constituted body, a thoroughly partisan body, should select the election officers and the canvassers to conduct the election, without regard to the wishes of the people. Does it not become necessary then for us to place something in the Constitution to prevent like legislation in the future? Does it not become the Constitutional Convention of Pennsylvania to say to the Leg-

islature, "you shall not in the future take away from the people the right to elect the persons who are to decide upon the qualifications of voters and who are to count the ballots after they have been deposited in the ballot-box." This section goes no further than that. It simply says that the courts of common pleas in the various counties of the State shall have the right, if in their opinion it is deemed necessary, to select two competent persons to be present at the holding of an election for the purpose of seeing and reporting to the court and the people whether all the forms of law have been complied with. Is there any objection to that? When the Legislature have said that a section of this State containing over seven hundred thousand people and over one hundred thousand votes shall have nothing to do with the appointment of their own election officers or of the canvassers who are to place men's names on the lists for the purpose of voting, is it not necessary for us to say that there shall be a higher tribunal who shall appoint men to go to the place where the election is held and hold a rod over these people selected as they are in the city of Philadelphia, and keep an account of what takes place there in order that a proper result may be arrived at.

The gentleman from Potter said that he did not feel able to discuss the merits of this registry law and that he did not believe there were delegates upon this floor who were able to discuss it.

Mr. MANN. The gentleman misrepresents me. I feel perfectly able to discuss it; but I think the gentleman himself is not able to do it.

Mr. TEMPLE. I beg your pardon; I will call on you when I need aid. I took down what the delegate from Potter said. If I am in error I beg pardon. But I undertake to say to him that I believe a person residing in the city of Philadelphia, who has seen the workings of this registry law, is quite as competent as he is, or any person who never was in this city upon an election day, and who never saw anything personally of the result, is able to discuss it. It is not for the delegates on this floor from the city of Philadelphia to call on the distinguished delegate from Potter to advise them of the workings of the registry law. If he felt himself, as a delegate upon this floor, able here to justify it, why did he not do it? Why did he not stand in his place and justify the workings of the registry law in Philadelphia if he felt himself able to discuss it and

believed that those who lived here were not able to do so?

Mr. MANN. The gentleman will allow me to answer the question?

Mr. TEMPLE. Certainly.

Mr. MANN. I did not do it because I think it is a profitless subject entirely. No good has come from the discussion of it as yet, and I do not think any will.

Mr. TEMPLE. Good can come of it in this Convention, if we desire. If delegates upon this floor know that there is an evil existing, such as has been enunciated here, not only by delegates, but upon information presented to this Convention by a large number of the most respectable citizens, headed by as distinguished a gentleman (I refer to Henry C. Lea, Esq.,) as there lives in Philadelphia. They have informed us of the workings of the registry law in this city, of its iniquity, and of the frauds perpetrated under this very law. Does it not then become the representatives of the people to place in the Constitution of this State what they believe to be a proper remedy for the evil?

Mr. Chairman, I contend that it is a proper subject for discussion. The mode of the election of Legislatures has been freely discussed; the character of the Legislature has been freely investigated; every branch of the government of this State has been freely discussed; and yet, when we undertake to sap the very evil which is undermining the liberties of the people and destroying every right that they possessed heretofore, then the gentleman from Potter says that it is an unproductive subject, that it is not prolific of good, and that we should not touch it, but should leave the Constitution as it is.

Mr. CORBETT. Will the delegate allow me to interrupt him?

Mr. TEMPLE. Yes, sir.

Mr. CORBETT. The gentleman is certainly misconstruing the remarks of the gentleman from Potter. He expressed himself willing to do anything to purify the ballot-box, as I understood him, but he said very candidly, and I think on proper grounds, that he thought this section was not sufficient.

Mr. TEMPLE. I beg pardon of the gentleman from Clarion, but I think the delegate from Potter is quite competent to take care of himself. I think the delegate from Potter said distinctly, in substance, what I said.

Mr. CORBETT. I beg to interrupt the gentleman. I am not taking care of the

gentleman from Potter at all; I was trying to take care of the member himself. [Laughter.]

Mr. TEMPLE. Then I say to the delegate that I feel perfectly competent to take care of myself.

The CHAIRMAN. The time of the delegate from Philadelphia has expired.

Mr. PURMAN. Mr. Chairman: I think that the amendment of my friend from Butler (Mr. Purviance) ought to be voted down, and that this division of the section ought to be sustained. The division of the section without the amendment of the gentleman from Butler (Mr. Purviance) provides that "whenever the members of an election board shall differ in opinion, the overseers present, if they shall be agreed, shall decide the question of difference." This power conferred upon these overseers imposes a wholesome restraint upon an ignorant or corrupt election board. Practically it must work well, and go far to give the people confidence in our elections.

In an elective system of government, such as ours, its perpetuity depends upon the purity of the elections and the belief that the people have that the elections are pure and fairly conducted.

I have not overlooked the objection made by several gentlemen to the whole article, and especially to the division of the section now under consideration, that neither properly belongs to organic or fundamental law, but to the details of legislation.

Admit that it has some of the features of legislation; yet in the light of the history of the past, we are constrained, in the interest of the purity of the ballot, and of the elective system of government, to place the ballot above and beyond the pleasure of the Legislature under extreme political excitement. This objection is not sufficient to induce the committee to vote down this division. In the division of the article now under consideration we have a fundamental restraint upon legislative action. It will hold in check whatever political party may be in power. If we adopt this division no party excitement can ever remove from the election board this special oversight and control. Under this division of this article, the election board can never pass into the entire control of one political organization.

The gentleman from Potter (Mr. Mann) further objects to this division, because it will not accomplish fully all he desires.

He says that as the overseers can exercise no power only when the members of the election board shall differ; and he further says that an election board, composed wholly of corrupt men, would ever differ, and therefore, in such a case, the overseers would be powerless.

This is an extreme case.

In such a case, the overseers could neither admit a vote nor reject one, nor prevent the alteration of the returns nor the taking out of the ballot-box lawful votes and putting in others, but they would be present to witness all the facts and report them to the court and upon the investigation of the election returns. In this extreme case they would be of great service, and such a terror to a wicked and corrupt election board as perhaps to prevent their wicked purposes. And I beg leave to say to the gentleman from Potter (Mr. Mann) and to the committee that we must not reject every reform because it will not accomplish fully all we may desire, or reach every possible evil that may exist, or defeat every fraud.

The two supervisors appointed by the courts in cities will, doubtless, be a higher order of men than are generally elected to hold the elections in the cities, and in the rural districts few, if any, will ever be appointed to aid in holding elections.

Besides, Mr. Chairman, there are a class of gentlemen in the cities who would the position of overseer at an election for the purpose of securing the purity of the ballot, who would not be willing to take the drudgery of an election officer. It places them there, then, for the purpose of ascertaining the facts, examining all the conduct of the election officers, and reporting the same to the court. They are a terror in the face of the evil and corrupt; and in the case of an offer to vote, if in the opinion of the supervisors—they must both concur—the party presenting himself is not qualified as an elector, they come to the aid of that portion of the board that feels disposed to enforce the election law as it ought to be.

Mr. DARLINGTON. Will the gentleman allow me a question?

Mr. PURMAN. Yes, sir.

Mr. DARLINGTON. Do I understand him to say that in case a judge and one inspector are of opinion that a man ought not to vote, and the other inspector is of opinion that he ought to vote, is he in favor of bringing in the two appointees

of the court to decide in favor of the minority that he shall vote?

Mr. PURMAN. I answer the gentleman that I would allow the two supervisors, where the election officers differed, to decide in favor of an applicant to vote, if they conscientiously believed he was entitled to vote, just as I would allow them to join the minority of the board, and determine the question against the voter, when they thought he was not entitled to vote. They are there for the purpose of securing the purity of the ballot box, for the purpose of seeing that men who are not entitled to vote shall not vote. They are there for the purpose of permitting men to vote who are entitled to vote and whose votes are about to be excluded by an ignorant or a corrupt board.

Mr. DARLINGTON. Will the gentleman from Greene permit himself to be interrupted?

Mr. PURMAN. Certainly.

Mr. DARLINGTON. What evidence will the board have, or will anybody else have, that the judgment of the three, the two supervisors and the one inspector, will be right, and that the other inspector will be wrong?

Mr. PURMAN. I answer the gentleman that the Legislature, in providing the details for the execution of this provision of the Constitution, may make provision that the grounds upon which the overseers decide such questions shall be put upon the minutes of the election board. Beside, these decisions, like that of the election board, are open, and are made before the eyes of all the spectators who are standing around the window at the election poll. The grounds of their decisions will be known as well as their decision public, and will be discussed throughout the whole election precinct; every one will hear and know the grounds upon which the decision of the overseers is based.

Mr. DARLINGTON. What penalty does the gentleman from Greene propose to provide in case these two watches decide improperly or wrongfully?

Mr. PURMAN. I will answer the gentleman. I would invoke and require the Legislature to pass a law consigning to the penitentiary any overseer or any other election officer who wilfully and corruptly admitted or rejected a lawful vote. If the election officers or overseers should be mistaken in their judgment, in admitting or rejecting a vote, in such a case they ought not to be held accounta-

ble; but for all corrupt and unlawful decisions, I would impose the same penalties upon the overseers that I would upon the election officers. I would consign to the penitentiary an overseer or an election officer who wilfully and corruptly rejected the vote of a man legally entitled to vote, or who received the vote of a man who was not entitled to vote, or who changed a vote after it was received, or who made a false return of an election, or who took from the ballot-box a legal vote and substituted another in its place. The penitentiary is a proper home for all such men, whether they are appointed by the court or are elected by the people.

I regret that the objection of some of the delegates here is based upon the notion that the overseers would be corrupt men because it implies that the great body of the people have become corrupt. I have no such idea of the body of the people of this Commonwealth. I believe the great mass of the people are honest. I believe that our courts of common pleas are presided over by men of honesty, integrity and purity, as a class. There may possibly be a few corrupt judges in Pennsylvania, but if there are I do not know it. I firmly believe the courts will select a high order of men for these positions and not men likely to be purchased or purchasable.

Mr. J. M. BAILEY. Am I at liberty to ask a question of the gentleman from Greene?

Mr. PURMAN. Yes, sir.

Mr. J. M. BAILEY. I would like to ask the gentleman whether the greatest objection to the registry law of Philadelphia is not that it permits the majority to elect the representatives of the minority on the election board?

Mr. PURMAN. Let me say in reply to the gentleman from Huntingdon, that as I understand the registration law of Philadelphia, the great objection to it is that instead of allowing the people of this city to elect their own election officers, as we do in the rural districts, it permits the aldermen of Philadelphia to select all the election officers.

Mr. J. M. BAILEY. Is not a greater objection than that the fact that instead of the minority electing their own men on the election boards, the registry law permits the majority to elect the officers of the minority as well as those of the majority?

Mr. SIMPSON. Allow me to correct the gentleman from Huntingdon. He is

wrong in his statement. That was the law formerly, but it is not the law now and has not been for a year past.

Mr. J. M. BAILEY. Do you not then accomplish the same thing by allowing the majority of a court elected by one party to select the officers of the other party in the election board?

Mr. PURMAN. My answer to that is this: All the judges must concur in the appointment of overseers, and the judges are compelled to appoint from both political organizations. There is to be favor of one political party in the case of the overseers in majority as there is in the case of the registry law in Philadelphia. Under that law, the minority party has one of the election officers and the majority party has two; hence the man that comes from the minority party is regarded by his associate as no more than a spy, and has no power to control a decision.

Mr. J. N. PURVIANCE. Will the gentleman from Greene permit me to interrogate him?

Mr. PURMAN. Certainly.

Mr. J. N. PURVIANCE. Suppose that instead of two political parties, there are three, as was the case in this city last fall; from which two parties of the three will the courts select overseers?

Mr. PURMAN. I answer the gentleman that the two overseers would come from two of the political parties and the judges of the court of common pleas would consult with each party to ascertain which party represented the largest public opinion, which of the three parties were in the majority.

Mr. J. N. PURVIANCE. How would it be under a case such as the presidential election of 1860, when there were four parties?

Mr. PURMAN. I answer the gentleman in the words of my former reply, and that the court would make the appointment from those two political organizations supposed to have the preponderance. Besides, it would make no difference which of the four parties furnish the two overseers, as all would be antagonistical.

Mr. J. N. PURVIANCE. How would the courts determine between the parties, as in the case where there was one party supporting Lincoln and Hamlin, another party supporting Bell and Everett, and the two branches of the Democratic party divided between Douglass and Breckinridge? When there should be four parties, as there were in that contest, how could the court carry out this law?

Mr. PURMAN, in answering the gentleman, said: In such a case as is put by the gentleman, the relative numbers of the parties could, perhaps, not be ascertained; but it would matter very little from which of the different organizations the court should select these overseers. The fact would remain that there would be two political organizations represented in the election board, and the provision of the Constitution would then be complied with. The appointees of the courts, no matter to which of the different political organizations they belonged, would have an interest in securing the purity of the ballot-box, and that is all that is desired. Certainly, the same question that has been raised by the gentleman from Butler arises in forming election boards under the present law. Inspectors are chosen at present by the limited vote. Inspectors are chosen from each political party, because the limitation is that each man shall vote for but one; and if there were now four political parties in existence, the election board would only consist of representatives of the two parties having the largest number of votes. This division is in the interest of honesty and good government, and ought to prevail. All the people desire of us is to give them such limitations and restraints upon the legislative power over the elections as will prevent unjust and unequal election laws, such as we now have in Pennsylvania, and they will approve it.

Mr. SIMMONS. Mr. Chairman: The theory of the gentleman from Greene is something like the theory of the man who undertook to invent perpetual motion. He thought that by cutting a circle, one side of which would enlarge gradually, it would keep in motion, and consequently would run forever. While it was very good theoretically, practically it did not work at all; and this is the case with the theory of the gentleman from Greene.

His theory is that these supervisors would be a better set of men than the election officers as at present constituted, and that if the supervisors of election should be appointed, everything would run on right. Unfortunately for this theory, we have had a practical evidence of the value of these supervisors in the election held in this city last fall. The United States courts appointed supervisors in nearly all of the election districts in Philadelphia, and so far from adding anything like security to the election re-

turns, I think they only made "confusion worse confounded." They assumed that they were masters of the polls; they undertook to act as officers of election; they undertook to decide upon the qualifications of voters; they undertook to do a great many other things that the law did not permit them to do; and when anybody questioned their authority they ran off for a policeman to have that man arrested for interfering with them in the discharge of their official duties. That was the practice in Philadelphia. I know that it was so in my own precinct, because I, as a citizen, dared to question the power and tell one of these supervisors who had been appointed by the United States court for my own precinct that he had no authority to open the election boxes and count the tickets, that he had only a right to see the tickets; he ran out for a policeman to have me arrested for interfering with him in the discharge of his duties.

The fact is that with the exception of the fourth section of this report from the Committee on Suffrage, Elections and Representation, the great bulk is purely legislation which ought from time to time to be changed. Everybody knows that as the laws regulating elections have existed in this city, the Legislature has been compelled from time to time to change them for the purpose of preventing fraud. As fast as one law gets to be understood and evaded, a new law becomes necessary. If you put this whole article into the Constitution as an organic law, it will not be long before a change will be necessary. In the course of two or three years probably it will be evaded, and then the hands of the Legislature would be powerless to stop the leaks and prevent the frauds in the new form that they will assume; and for that reason I feel inclined to vote against every part of this article except section four. I think that section is a good one, and I think some of the remaining clauses of the other section are also good, but I think we should vote down the whole article, except section four, on that ground.

Mr. J. PRICE WETHERILL. Mr. Chairman: I should like to say just a word upon this section before it is disposed of. It seems to me that there is a good deal of mystery about it, and it ought to be pretty well and pretty fully understood before we vote upon it. The judges of the courts are to appoint two overseers, and their duties are not described. They are to "su-

pervise," as I understand it, the election. Now, what is the meaning of the word "supervise?" I would like to have that clearly and distinctly understood before we vote upon any part of this section. If they supervise an election with appellate jurisdiction, they are virtually the judges and inspectors of elections, and we may just as well say, let the courts appoint judges and inspectors and let those judges and inspectors appointed by the courts control the election, for they virtually will control it, for this reason: We have a minority inspector and a majority inspector, and a majority judge also of the election. Therefore there will be a difference of opinion on the part of the minority inspector nearly always, and if there is a difference on the part of the minority inspector and he reports to the overseer, the overseer settles the difference. Who then controls the election? Why, the overseer, most certainly; and if the overseers appointed by the court are to control the election, why not in so many words say that the officers appointed by the court shall control and manage the election? That would be clear and we could understand it; but it seems to me that by this mixing up of a judge and inspectors with certain duties and overseers with certain other duties and the overseers to settle differences, which always will occur whenever a minority see that they may possibly have a chance to gain a point by objection, those two overseers virtually control the whole thing.

For that reason I think we had better make this a little more specific. We had better clear up a cloud of doubt and mistake which in the minds of many exists, I think, in this section, and let us know exactly what the duties of these overseers are, not merely that they shall supervise. That word "supervise" is open to a variety of constructions and to a great deal of doubt, and will lead, in my opinion, to a considerable amount of confusion.

I hope for these reasons that the matter will be cleared up so that we can all understand it before we vote on the amendment.

Mr. BUCKALEW. I should like to explain to the gentleman. The duty of supervision is contained in the existing act of Assembly defining the duties of overseers. All that we add here is that they shall participate in the decision when there is a difference.

Mr. LILLY. The gentleman from Philadelphia forgets that these new supervi-

sors, who are to be appointed, are to be appointed from different political parties. They are supposed to have two opinions in political matters, not to go together. If a majority is not satisfied, it is right that the overseers should decide. If fraud is attempted we believe they would be honest in their decisions.

Now, sir, this committee has proposed to do what? The committee has endeavored to purify the ballot-box and purify the elections, and meet the difficulties on that point. In the discussion of this subject it has been treated by gentlemen opposed to it as if the proposition was not clear, and they have found fault with it instead of helping us along and trying to give us another remedy. I have not heard anything of the kind. It appears to me that nearly all the gentlemen who have opposed this section have outgelled their brains, and hunted over the whole vocabulary of the English language, and searched every nook and corner that they could, to hunt up corruptions and objections that, perhaps, will not occur once in ten thousand times; and they bring it up here as an argument against this section. Now, I think it is as plain and as clear and as straight as can be, that the courts of the common pleas of Philadelphia, the judges learned in the law, the large bulk of them, ninety-nine out of an hundred; if there were so many, at least as large a percentage as that at any rate, are *honest* men, and these supervisors would not be appointed for every election precinct—another thing that they lose sight of—but only upon presentation of a fair inference that there is fraud contemplated. For instance, if the assessor would put upon his special assessment list double the number of voters that the people knew were in the precinct, that would be a fair ground for supposing that there was likely to be fraud practiced, and they would want to prevent it. Hundreds of other cases could be got up that could be shown; but I take it out of the thousands and thousands of election precincts in Pennsylvania, outside of the city of Philadelphia, there probably would not be ten districts in the whole Commonwealth, at any ordinary election, where these overseers would be appointed, and those places would only be where corruption is known to be stalking abroad in daylight in the country.

Now this committee has endeavored, and those who favor the report have endeavored, to bring forward before the Conven-

tion something to prevent fraud and corruption, that the elections of the Commonwealth may be a fair reflex of the opinion of the people, not be a snare and held in contempt by the people at large. There is a largely growing opinion through the Commonwealth of Pennsylvania to-day that our elections are an entire farce. If the whole people become convinced that such is the case, I would not give one straw for the whole fabric of our Republic. We want to prevent this sort of thing; hence we urge this section, believing as we do that this is one of the necessary requisites to insure a fair election and fair returns of the honest votes of the people.

MR. STANTON. I should like to ask the gentleman from Columbia what the difference in duty is between the overseers mentioned in this section and the watchers now appointed by the courts?

THE CHAIRMAN. The question is on the amendment of the gentleman from Butler (Mr. J. N. Purviance.)

The amendment was rejected.

THE CHAIRMAN. The question recurs on the third division of the section.

MR. MACCONNELL. I move to amend by striking out "the overseers present if they shall be agreed" and inserting "a majority of said board and said overseers acting together." The sentence will then read:

"Whenever the members of an election board shall differ in opinion, a majority of said board and said overseers, acting together, shall decide the question of difference."

MR. TEMPLE. I should like to ask for information what portion of this section we are voting on?

THE CHAIRMAN. On the third division, beginning with "whenever."

MR. TEMPLE. It was stated by the Chair, when I had the floor, that it was an entirely different portion of the section which was under consideration.

THE CHAIRMAN. Not at all.

MR. MACCONNELL. I have moved this amendment for the purpose of testing the power of these overseers, to make them a part of the board in case of a difference of opinion in the board. Now, as the law stands, all questions arising before the boards of election officers are decided by the inspectors, but if the inspectors differ then the judge decides. This portion of the section proposes to take that authority from the judge and to give it to these overseers. That takes all the authority from

the judge that he has by law and makes him a mere figure-head. The amendment that I offer will retain him with his authority in this modified form, and will vest the power that these overseers would have under the section as reported by the committee in all these officers acting together.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Allegheny (Mr. MacConnell.)

The amendment was agreed to.

The CHAIRMAN. The question recurs on the third division of the section as amended, which will be read.

The CLERK read as follows:

"Whenever the members of an election board shall differ in opinion, the majority of said board and said overseers, acting together, shall decide the question of difference."

This division of the section as amended was agreed to, there being, on a division: Ayes, forty-two; noes, thirty-three.

The CHAIRMAN. The fourth division of the section will now be read.

The CLERK read as follows:

"In appointing overseers of election, all the judges of the proper court (able to act at the time) shall concur in the appointment made."

Mr. BUCKALEW. I will submit to the the Convention an amendment here which raises the question debated by the member from Huntingdon, (Mr. J. M. Bailey,) to insert in the fourteenth line, before the word "judges," the word "law," so as to read, "all the law judges." A vote on this amendment—I do not care which way the decision is—will determine whether associate judges are to participate in making these appointments or not, in counties where they are allowed. It does not make any difference in Philadelphia and Allegheny. In other parts of the State, it will determine whether the associates are to participate or not in the appointment. I do not care about their participating. If the associate judges were elected in a proper way, that is, so that they were always divided between political parties, it would be a good thing to have them assist; but as they are selected under the old style of voting, the majority generally has both of them. They are not always at the county seat, and as the public will have more confidence in the disinterested position and action of the law judges, I am content that it should be confined to them if the committee think it proper.

Mr. DARLINGTON. I wish to ask the gentleman from Columbia a question if he is willing to answer. Suppose the case where there are two law judges only in a district; does he propose to make them agree in the appointment?

Mr. BUCKALEW. Undoubtedly; as in the case of Luzerne county.

Mr. DARLINGTON. As in the case of Montgomery and Bucks, where we dispense with associate judges.

Mr. BUCKALEW. Certainly; and there there is a Democratic and a Republican judge.

Mr. DARLINGTON. But where they are both Democrats, does he mean that both are to concur in the appointing of these men?

Mr. BUCKALEW. Certainly.

Mr. DARLINGTON. And if they disagree, there will be no appointment?

Mr. BUCKALEW. Undoubtedly.

Mr. DARLINGTON. That suits me.

The CHAIRMAN. The question is on the amendment of the gentleman from Columbia (Mr. Buckalew.)

The amendment was agreed to.

The CHAIRMAN. The question now is on the adoption of the fourth division of the section.

Mr. BUCKALEW. I ask the unanimous consent of the committee to make an amendment to a division which has been passed upon, to insert in the eleventh line after the words "election board" the word "therein;" so that these persons appointed shall be qualified to serve upon election boards in the district. That was the intention of the committee.

The CHAIRMAN. This amendment can only be made by unanimous consent.

Mr. SIMPSON. I object.

The CHAIRMAN. The fourth division of the section is before the committee.

The division was agreed to.

The CHAIRMAN. The next section will be read.

Mr. STRUTHERS. I understand that a number of amendments have been offered to the third section, some of which have been adopted and some rejected. The section, however, has been very much amended, and it appears to me that we ought to take a vote now on the whole section as amended.

The CHAIRMAN. The Chair feels himself compelled to decide to the contrary. The fourth section will be read.

The CLERK read as follows:

SECTION 4. The trial and determination of contested elections of electors of Presi-

dent and Vice President, of Senators and Representatives in the Legislature, and of all public officers, whether State, municipal or local, shall be by the courts of law regularly established, or by one or more of the law judges thereof. The Legislature shall by general law designate the courts and judges by whom the several classes of election contests shall be tried, and regulate the manner of trial and all matters incident thereto; but no such law assigning jurisdiction or regulating its exercise shall take effect as to any contest arising out of an election held before its passage.

MR. SIMPSON. I suggest the propriety of inserting the word "judicial" after the word "State," in the third line, so as to avoid any question on the subject. I do not think the word "State" will cover the case of a contested judicial election.

THE CHAIRMAN. Does the delegate move an amendment?

MR. SIMPSON. I do. I move to insert the word "judicial" after the word "State," in the third line.

MR. BUCKALEW. I do not think that amendment is necessary, though it will do no particular harm to insert it. The section now refers to the election of "all public officers, whether State, municipal or local."

MR. DARLINGTON. I do not know whether the committee are prepared to vote on this section or not. It presents a radical change in the Constitution, and I think is worthy at least of a moment's thought.

THE CHAIRMAN. The question is now on the amendment of the delegate from Philadelphia (Mr. Simpson) to insert the word "judicial" after the word "State."

MR. DARLINGTON. Well, sir, I object to that as well as to the whole of the section. We propose to invest the courts of the Commonwealth with the power to decide on all cases of contested elections, whether of Presidential electors, members of the Legislature of either House, judges, or municipal officers of every kind. I do not know whether there is at present any mode provided for the contested election of electors of President and Vice President of the United States, but I believe there is by act of Assembly. But are we prepared to recommend to the people of the Commonwealth to vest in the courts the authority of deciding all questions of contested elections of members of the Legislature or the settlement of all contested elections of the judges of the courts them-

selves? We have lived under a Constitution by which all questions as to the qualifications and election of members of the Legislature are left to be decided by the bodies themselves respectively ever since the foundation of the government. Has any practical inconvenience ever arisen from it?

MR. D. N. WHITE. I would remind the member from Chester that already in the article on the Legislature we have agreed that contested elections shall be decided by the courts of common pleas of the district in which the members live.

MR. DARLINGTON. Then it has no business here. I do not understand the provision to which the gentleman refers to be quite so comprehensive as he does. It certainly does not mean all that this section means at all events. If it is the settled purpose of this body to adhere to the idea of taking from the Legislature the power of deciding upon the elections of its own members, if that is settled by the committee, of course I do not wish to argue it again; but I do object.

MR. D. N. WHITE. The section does not include qualifications, but only the election.

MR. DARLINGTON. Then, who is to decide on the qualifications of the member but the Houses themselves? I apprehend that the election and qualification necessarily go together; you cannot separate them. You do not want to have two contests, one before the Legislature as to the qualifications of the members and another before the courts as to the election of the members. When would your contests end if this were the case? Where is the necessity of subdividing the power? Why not at once leave it where it has always been exercised with, I submit, entire satisfaction to the community? I beg gentlemen to remember that no complaint from any quarter has been suggested in this body as ever having arisen from the exercise of this power by the Houses of Assembly themselves.

What are we afraid of then? Are we not willing to entrust to them the power to decide as to the elections and qualifications of their members? I am aware of the recent case of *M'Clure vs. Gray*, and I know that that was decided by a committee of one of the Houses. But where has there ever been an objection raised to the exercise of the power by the Houses themselves? I think there are great objections to the exercise of it by a committee, for that is a body chosen by chance, and it

is a power which the Legislature ought never to have surrendered. They should have retained it in their own hands; and a majority of each body, all acting under their responsibility in each particular case, should have the power and should decide that question.

But, sir, you propose to go further. You propose to invest the courts of law (what courts of law?) with the decision of the election of electors of President and Vice President. This article does not define what court of law. Will you leave it to the Legislature to say what court of law, whether it shall be the court of probate, if we should establish such a court, the court of common pleas, the orphans' court, a district court, or the Supreme Court? To what court do you propose to give authority to decide upon the election of an officer who is elected by all the citizens of this Commonwealth? Certainly not the court of any particular county. You would scarcely say that the court of common pleas of our county—and I speak of that because it is as respectable as any other—should have the right to decide a question of this magnitude, covering the election of a State officer, so to speak, an officer elected by all the people of the State. It could not be confided to a local court; nor should the question of the election or non-election or the qualification of a judge of the Supreme Court of the State be submitted to any other body than the Supreme Court itself; and yet you are thus making the judges of that court the judges of their own election and qualifications, by this provision. If two or more judges should be elected at the same time, and there should be only two or three judges upon the bench to decide, the moment a decision in the case of one judge is made he becomes a judge for the others; and thus all who claimed to be elected, if they happened to be of the right political complexion, could readily be voted in, and thus you might readily anticipate the introduction of politics upon the bench in every case of an election. Now, is it wise in any case to cast upon the judiciary the decision of these questions, which are, to a certain extent, political.

Again. "The Legislature shall, by general law, designate the court and judge by whom the several classes of election contests shall be tried, and regulate the manner of trial."

Mr. BUCKALEW. Mr. Chairman: I rise to explain.

Mr. DARLINGTON. Very well.

Mr. BUCKALEW. There is a mis-print there. The words ought to be plural, "courts and judges."

Mr. DARLINGTON. "The Legislature shall, by general law, designate the courts and judges." That I understand to be the language.

Mr. BUCKALEW. Yes, sir.

Mr. DARLINGTON. "The courts and judges by whom the several classes of election contests shall be tried." That means that if there is a court organized in any place with a single judge, he is to decide; if there are several courts, as there probably would be in the cities, with different judges, and more than one judge to a court, they may decide these questions of large magnitude.

The CHAIRMAN. The delegate has spoken his ten minutes.

Mr. BOYD. I move that his time be extended.

Mr. DARLINGTON. No; I do not want it to be extended. I only want to say this—

["Question!" "Question!"]

Mr. D. N. WHITE. Mr. Chairman—

Mr. DARLINGTON. I am not quite through.

The CHAIRMAN. The Chair informed the gentleman from Chester that his ten minutes were up.

Mr. DARLINGTON. That will do.

Mr. D. N. WHITE. Mr. Chairman: I think this section is entirely unnecessary and calculated to do harm. We have already, in the section on the Legislature, decided that contested elections for members of the two Houses shall be decided by the court of common pleas of the county where the member lives. We have already decided that contested elections for Governor shall be decided by the Legislature, and also of Lieutenant Governor. But here we have a section which transfers the whole to the courts—Governor and everything else. I think that we do not need this section; that it would work evil to throw into the courts contested elections of Governor, Lieutenant Governor, members of the House of Representatives and the Senate, and all the heads of departments. I hope the simple statement of the case that it is in contradiction to what we have already fixed in the Constitution, will be sufficient to insure its being voted down.

Mr. SIMPSON. Mr. Chairman: This section provides for all classes of officers except judicial. Now, it may be said that

the word "State" covers the word "judicial," but I think it does not; and these officers ought to be provided for as well as all others, so that there will be no misconception and no doubt.

The CHAIRMAN. The question is on the amendment of the gentleman from Philadelphia, to insert the word "judicial."

The amendment was agreed to.

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

Mr. BOWMAN. I simply rise to call the attention of the gentleman from Columbia to one point. It is provided in this section that "the Legislature shall, by general law, designate the courts and judges by whom the several classes of election contests shall be tried, and regulate the manner of trial."

Now, is this duty which we impose on the courts a judicial duty? Will it not be a question of fact which they would be called upon to decide on the evidence growing out of the case?

Mr. BUCKALEW. That would be judicial.

Mr. BOWMAN. What then is meant by what you have already passed in the twentieth section of the article on the judiciary, "that no duty shall be imposed by law upon the Supreme Court or any of the judges thereof, except such as are judicial?"

Mr. BUCKALEW. This is judicial.

Mr. BOWMAN. Then allow me to ask the gentleman what duties are imposed upon the courts that are not judicial?

Mr. BUCKALEW. Not any. There may be certain political appointments now vested in them under special laws.

Mr. BOWMAN. Then why put it in your Constitution that no duties shall be imposed on a certain court of the State that are not judicial, if all the duties that the court is called upon to perform are judicial duties? If they are of a judicial character why put it in your Constitution that certain duties that are not judicial shall not be cast upon them. This proposes—

Mr. BUCKALEW. The gentleman and I disagree altogether about what is a judicial duty. The decision of a contested election is a judicial duty.

Mr. BOWMAN. I ask the gentleman if the question is not to be decided upon the question of fact? Here is a contest arises. You have your proof before the court, have you not? You bring your witnesses before the court, and they are to decide upon the evidence in the case

between the two claimants. Have they not to pass on that?

Mr. BUCKALEW. Certainly.

Mr. BOWMAN. Then is it a judicial duty that the Legislature is performing when they are deciding a contest?

Mr. BUCKALEW. Certainly.

Mr. BOWMAN. That, then, I understand, is a judicial duty, and it is also a judicial duty to say who has been elected electors of President and Vice President?

Mr. BUCKALEW. Yes.

Mr. BOWMAN. All judicial duties?

Mr. BUCKALEW. Certainly.

Mr. BOWMAN. Then, as I have gained this information, I am decidedly opposed to this section. [Laughter.] I do not want to impose upon the courts what I think are extra-judicial duties, if they are at all judicial, and I take it for granted they are after what I have heard. Since we have got the explanation of the gentleman from Columbia, we have been trying here to relieve the courts of a great deal of their business; we have gone on here increasing the judges of the Supreme Court; we have been cutting down the judicial districts of the State, and making single district of counties embracing thirty thousand inhabitants, for the purpose of relieving the courts of the press of business that has grown up in this Commonwealth; and yet here it is proposed by this section to increase the business of the courts, to constitute all the courts boards of return judges to decide the contests that may grow out of the elections of the Commonwealth, not even confined to the legitimate elections of the State, but extended to every contest that may come up for decision under the election of Presidential and Vice Presidential electors. I am opposed to it.

Mr. WHERRY. I desire to call the attention of the gentleman from Erie to the language of Chief Justice Marshall on this subject. He said:

"A legal election to an official position, (and notably to one of honor and profit,) gives a legal right or title to a valuable thing, the people as the grantor having the right to make the grant, and the person elected as the grantee having the right to accept. A certificate of election is evidence of the grant—a deed of transfer."

The CHAIRMAN. The question is on the section.

On the question of agreeing to the section, a division was called for, which resulted forty-four in the affirmative, and

twenty-eight in the negative. So the section was agreed to.

The CHAIRMAN. The article has been concluded, and the committee of the whole will rise.

The committee of the whole rose, and the President having resumed the chair, the Chairman (Mr. Walker) reported that the committee of the whole had had under consideration the report (No. 22) of the Committee on Suffrage, Elections and Representation, entitled "of Election Boards and Contested Elections," and had instructed him to report the same with amendments.

The amendments were read and ordered to be entered on the Journal.

The article as reported by the committee of the whole is as follows :

ARTICLE —.

OF ELECTION BOARDS AND CONTESTED ELECTIONS.

SECTION 1. District election boards shall consist of a judge and two inspectors, to be chosen annually by the citizens, each elector having the right to vote for the judge and one inspector, and each inspector shall appoint one clerk to assist the board in the performance of its duties; but the selection of the first election board in any new district and the filling of vacancies in election boards shall be by judicial appointment or otherwise, as shall be provided by law. Members of election boards shall be privileged from arrest upon any day of election and while engaged in making up and transmitting returns, except arrest upon warrant of a court of record or judge thereof for an election fraud, felony, or for wanton breach of the peace, and in cities they may claim exemption from jury service or from selection upon jury lists during their term of service.

SECTION 2. No person shall be qualified to serve upon an election board who shall hold, or shall within two months have held, any office, appointment or employment in or under the government of the United States, or of this State, of any city or county, or of any municipal board, commission or trust in any city, save only justices of the peace and aldermen, and persons in the military service of the State; nor shall any election officer be eligible to an election to any civil office to be filled at an election at which he shall serve, save only such subordinate, municipal or local offices below

the grade of city or county offices, as shall be designated by general law.

SECTION 3. The courts of common pleas of the several counties of the Commonwealth shall have power within their respective jurisdictions to appoint overseers of election to supervise the proceedings of election officers, and to make report to the court as may be required, such appointment to be made for a part or for all the districts in a city or county, or in a ward or other division thereof, whenever the same shall appear to the court to be a reasonable precaution to secure the purity and fairness of elections. Overseers shall be two in number for an election district, and shall be persons qualified to serve upon election boards, and in each case members of different political parties. Whenever the members of an election board shall differ in opinion, a majority of said board and said overseers, acting together, shall decide the question of difference. In appointing overseers of election, all the law judges of the proper court (able to act at the time) shall concur in the appointment made.

SECTION 4. The trial and determination of contested elections of electors of President and Vice President, of Senators and Representatives in the Legislature, and of all public officers, whether State, judicial, municipal or local, shall be by the courts of law regularly established, or by one or more of the law judges thereof. The Legislature shall, by general law, designate the courts and judges by whom the several classes of election contests shall be tried, and regulate the manner of trial and all matters incident thereto, but no such law assigning jurisdiction or regulating its exercise shall take effect as to any contest arising out of an election held before its passage.

STREET IN FRONT OF THE HALL.

MR. LILLY. Mr. President: I ask leave to make a short statement and offer a resolution.

THE PRESIDENT. Shall the gentleman from Carbon have unanimous consent to offer a resolution at this time. ["Yes." "Yes."] The gentleman from Carbon will proceed.

MR. LILLY submitted the following resolution, which was read twice and considered :

Resolved, That the House Committee be and hereby are instructed to have the street in front of the Hall covered with saw-dust or tan-bark, so as to prevent the noise that so seriously interferes with the

deliberations of the Convention when the windows are open.

Mr. LILLY. The reason why I have offered this resolution is, in the first place, that when teams are passing it is impossible to hear anything that is going on in the Hall, either anything said on the floor or that is read from the desk. In the next place, I have offered the resolution because I applied to the chairman of the Committee on House to do this, and he said that that committee would not do any such thing without the direction of the Convention.

Mr. BOYD. I move that the matter be referred to the Committee on Accounts and Expenditures, for the purpose of ascertaining what it costs.

The motion to refer was rejected.

The resolution was adopted.

LEAVE OF ABSENCE.

Mr. CLARK. I ask leave of absence for myself for the remainder of this week.

Leave was granted.

COUNTY OFFICERS.

Mr. S. A. PURVIANCE. Mr. President; I move that the Convention resolve itself into committee of the whole, to consider the report of the Committee on County, Township and Borough Officers.

The motion was agreed to, and the Convention resolved itself into committee of the whole, Mr. J. W. F. White in the chair.

The CHAIRMAN. The committee of the whole has again referred to it the article reported by the Committee on County, Township and Borough Officers. At the time of the last adjournment, the question was on the new section proposed by the delegate from Columbia (Mr. Buckalew.) That amendment will be read.

The CLERK read as follows :

SECTION —. In elections of county commissioners and county auditors, each elector may cast all his votes for a smaller number of persons than the whole number to be chosen, and candidates highest in vote shall be declared elected. Three commissioners and three auditors shall be chosen in each county at the general election in 1875 and every third year thereafter, whose term shall commence on the first Monday of January next following their election; and the terms of commissioners and auditors heretofore elected prior to 1875 shall expire with that year. Casual vacancies in the offices of county commissioner and county auditor shall be

filled by the courts of common pleas of the respective counties in which such vacancies shall occur, by the appointment of an elector of the proper county who shall have voted for the commissioner or auditor whose place is to be filled.

Mr. BUCKALEW. Mr. Chairman: When the committee rose on Friday last, I had moved this amendment and held the floor for the purpose of making some remarks upon it of an explanatory character. In the brief space of time which the rule allows, I will present as well as I can the conclusions to which the Committee on Suffrage, Election and Representation arrived, and which induced them to agree unanimously in authorizing me to move this amendment to the present article.

In the first place, this amendment is not of a party character. About one-half of the counties of the State are held by majorities of each of our great parties. Therefore, taking the whole State together, there will be no disturbance, or at least but a very slight disturbance in the aggregate weight of party power.

Not many days since one of the profoundest men of the present age died in an ancient city of France, the city of Avignon. In the House of Commons, in 1867, he held the floor upon an amendment to the reform bill of that year, similar to the one which is now pending before this committee of the whole; and he vindicated that amendment against party hostility and antagonism by words which I will read here. I refer to the late John Stuart Mill. He said :

"I cannot indeed hold out as an inducement that the principle I contend for is fitted to be a weapon of attack or defence for any political party. It is neither democratic nor aristocratic—neither Tory, Whig or Radical—or let me rather say, it is all these at once; it is a principle of fair play to all parties and opinions without distinction; it helps no one party or section to bear down others, but is for the benefit of whoever is in danger of being borne down. It is therefore a principle in which all parties may concur, if they prefer permanent justice to a temporary victory; and I believe that what chiefly hinders them is, that as the principle has not yet found its way into the common-places of political controversy, many have never heard of it, and many others have heard just enough about it to misunderstand it."

In the report made on the second of March, 1869, to the United States Senate,

by a select committee upon reform in the election of members of Congress, the committee endorsed this view of this reform in most emphatic language. That committee consisted of Mr. Anthony, of Rhode Island, Mr. Ferry, of Connecticut, Mr. Morton, of Indiana, and two Southern Senators; and in addition, that honest and bold man, Benjamin F. Wade, of Ohio, and myself. We passed several sessions in examination of this plan of reform, and we came to the conclusion that it was entitled to the approval of the people of the United States everywhere, completely free and clear of all party hostility or antipathies; and that it would ultimately recommend itself to just men in every political organization in our country. This plan is an improvement, great, vital and searching, upon former plans of electoral action in this country. I hold here an extract from a letter written to me by Mr. Wade, on the twenty-third of January last, which I will beg leave to read. He says:

"If free, popular government is to be preserved forever, (which God grant it may,) I do not hesitate to pronounce it"

Meaning the free vote—

"The best and most efficient instrument to that end which has been devised since the declaration of our independence. Indeed I do not believe that under the crude, old system of majority voting, the principles of that great Declaration can be long preserved. It is far behind the intelligence of the age, and its palpable injustice at every election creates such heartburnings as are dangerous to the security of our institutions; while the new system seems to me to present a perfect remedy for all or nearly all those evils, and is as much superior to the old system in government as the railroad car is to the old stage coach in travelling, or the mower and reaper to the ancient methods of harvesting our hay and grain."

But I pass on to the specific character of this particular amendment, which relates to the organization of county government in this State, and provides in substance that a minority in any county exceeding one-fourth of all the voters of the county shall be enabled to appoint a representative for themselves in the board of county commissioners, and also a representative for themselves in the board of county auditors, so that all the men who from their earnings contribute to the pub-

lic burdens of local government shall have a voice in the expenditure of their money and a voice also in the settlement of the accounts of its disbursement.

This proposition is indisputably—no body can deny it—a measure of justice to the voters of our State. It bears upon its front the impress of that characteristic, so that the most captious cannot deny or question it.

Now, sir, I am one of those who believe that justice is the great principle upon which all government must be founded, and when that great principle is departed from mischief and evil will come in upon the people "as a flood" to scourge and torment them in every experiment of free government which they may undertake.

—"Be just and fear not;

Let all the ends thou aim'st at be thy country's,

Thy God's and Truth's."

Apply in your political system those principles of justice and of common brotherhood which christianity teaches and inspires, and be assured the blessing of Heaven will be upon your work and your future will be secure against those disturbing influences which attack all and ultimately have destroyed every past experiment of free government on the face of the earth.

This proposition will produce great satisfaction to minorities in every county of this Commonwealth. The men who are now disfranchised, who although qualified by the fundamental law to vote, yet are perpetually doomed to exercise that right without result and fruitlessly—these men will be satisfied and gratified with this change, which will arm them with a power to defend their own interests in the government of their counties, and will place them for the first time upon perfect equality with their co-electors of the counties in which they reside.

The CHAIRMAN. The Chair must remind the delegate that his time has expired.

SEVERAL DELEGATES moved that it be extended.

The CHAIRMAN. The delegate cannot proceed if there are five delegates who object. Those who object to his proceeding will rise. [A pause.] No one objects, and the delegate will proceed.

Mr. BUCKALEW. Mr. Chairman: How much of discontent, how much of bitterness exists now in our Commonwealth from this cause, from the fact that the men who contribute to the expenses of government are shut up from

all voice in its management? Emancipated from the ostracism which is now upon them these minorities we see in every county will take pride to themselves in selecting their best, their most competent and reliable men, and placing them in these positions in the government of the county. They will enjoy a satisfaction and contentment in playing well their part as our fellow-citizens in these offices of government, and this will be to them a constant guarantee that their rights in connection with that government shall not be sacrificed or disregarded. Therefore there will be better feeling in our communities, contentment among the people, general appreciation by one man of his neighbor. The old position of antagonism and hostility between them now created and which exists in choosing these officers will be to a great extent abated or removed.

There is another advantage, if possible a still greater one, although not so striking or apparent, and it is this: The majorities in our counties will themselves be protected in a double sense. In the first place, they will be protected largely from abuse and occasional corruption by their own representatives in these county boards. Now, as there is no representation of the minority, it is inevitable that abuses sometimes grave and startling, will grow up in the administration of county government. This plan which is proposed will therefore be to the majority itself a great protection and security against the bad conduct of its own representatives in the county government, because they will be put in check, they will be put under the observation of representatives of the opposing party in the county. Hence you will hear less than you do now about "rings," "court house rings," and other combinations which in certain cases become extremely odious to the people, aye, and injurious to the majority itself in the county because the disgrace of such a "ring," when its evil acts transpire, is visited upon them, is among them.

But again, majorities in counties will get an advantage in another respect. They are now sometimes very unjustly complained of and abused. Constant suspicion attaches itself to the proceedings of a county government upon the part of those who are not represented in it; but if you give minorities representation in the board of commissioners and in the board of auditors, the voters so represent-

ed in those boards will be satisfied that all is right and there will be less of unjust complaint and denunciation of the action of the majority. Therefore I am entitled to say that I believe this measure is not only one of justice, one of protection, one of infinite advantage to minorities in our counties practically; but that the advantages which will result from it will come to majority parties themselves; and so thoroughly am I convinced of this that if I were able to take but one amendment from this Convention, as a citizen, and obliged to dispense with all others, I would take an amendment of this kind by which the minority party in my own county and in every other county should obtain representation in these boards of county government. I would take that single amendment giving to the party opposed to me representation in these local governments, because, although it seems an humble proposition, I am convinced that in the outcome we will get more absolute good from it, more salutary results for the people, than from any other single change which this Convention will make.

How many men are unrepresented at present in county government? I suppose about forty-two voters in every hundred. In congressional elections we have accurate statistics showing the proportion of voters whose votes were given without result; I mean minority voters. Taking the whole United States together, for the fortieth Congress, the percentage of disfranchised voters was forty-two. In the forty-first Congress the percentage of disfranchised voters was forty-two, and again in the forty-second Congress the same enormous proportion of the people of the United States were unrepresented; I mean in the House of Representatives.

In the New York Legislature of 1869 the percentage of disfranchisement in the election of Senators was forty-one; in the election of Representatives forty-two. In the Legislature of 1870 in that State, the percentage for the Senate was forty-two, and for the House forty-two.

At the recent legislative election in Illinois, under their amended Constitution, we had a fair comparison of the two systems in the choice of Senators and Representatives for the Legislature of that State, the Senators being elected under the old plan of representation, and the members of the House under the new. The result was that in the Senate forty-two and three-fourths per cent. of the voters lost their votes; in the House the

total of loss was four and one-half per cent. An analogous result between the old and the new plan will take place in our State by the adoption of the amendment now proposed. At present say forty-two per cent. of the voters of Pennsylvania have no voice in the disbursement of their local taxes or in the settlement of their county accounts. Under the new plan the amount of disfranchisement would not probably exceed five per cent.

One thing more, and I leave the subject. When I was young, just commencing to read the newspapers, I read publications in regard to a defalcation in the government of Luzerne county. There had been misuse of the public funds and prostitution of official power in the close corporation which constituted the county government. Sometime after the mischief had been perpetrated the facts in part came out, and then an event which has happened often since in other counties occurred there: The books were stolen or made away with and could not be found when an investigation was proposed. I remember then seeing in newspapers of that county, in the editorial columns, articles headed with the words, in flaming letters, "Where are the books?" Yes, sir, and this cry has been repeated on other occasions since in counties of this Commonwealth where fraud and abuse have gone to such an extent in these closed corporate governments that when by some accident the facts began to transpire, larceny was committed on the public records and papers and they were made away with, as they were, I understand, on a recent occasion in the county of York. The Legislature passed a special statute by which iniquities in the court house of that county should be examined and exposed, and the records were made away with before the persons appointed could enter upon the performance of their duties. And out west in the county of Indiana a commissioners' clerk, not subjected to proper inspection through a divided board of commissioners, vigilant of the public interests and keeping an eye upon each other, made away with a large mass of the public money of that county. I do not remember the amount; it may have been as much as \$40,000.

Mr. CLARK. Sixty thousand dollars, I believe.

Mr. BUCKALEW. Sixty thousand dollars for want of vigilance in the administration of county affairs. I think he ab-

seoned and was brought back, arraigned before a jury, convicted, and put in prison as a culprit under your laws. But the mischief was done and was without remedy. Your remedies come too late now. After the evil is done, sometimes you find out that it was perpetrated and sometimes you do not; but if you find it out, your information comes too late to apply a remedy. There is no complete remedy except to provide that these boards themselves shall be so constituted that these abuses cannot take place; that representatives of both parties shall know everything that is going on, and by the constant motive which political organization in this country gives, watch each other and thus prevent abuse.

Lastly, I will presently refer you to a case of my own county, and that illustrates existing evils and points out to you the remedial character of this proposition perhaps more clearly than any other to which I can refer. A little fellow gets into a board of county commissioners, and after a while he becomes commander-in-chief, so to speak, of county politics. All the collectors of the county respond to him, and are in constant intercourse with him. All the assessors and collectors and other county officials report to him from time to time. He adjusts their accounts; he looks after the matter of their pay; and they become an organized band to electioneer throughout the county according to his desire and according to his interest. What is the result? A county commissioner every year is picked up, put in nomination by this process, and the commissioners' clerk can retain himself in office about as long as he pleases. If you attempt to displace him it will take you years before you can accomplish your purpose. In the meantime you will not know what he is doing and you can get no sufficient information even by the official accounts which are annually settled and afterwards published for the information of the people.

In the case to which I have alluded upon one occasion the clerk received as deputy treasurer the amount of \$449 80., redemption moneys of lands that had been sold for taxes. It was not put into the county statement; it was not reported in any way as a receipt by the treasurer of public moneys; and the county lost it. That was on the twenty-fifth of February, 1862. After two years of effort this person was displaced, and certain public records disappeared about that time, and

subsequently larceny in the county safe of \$500 took place, which afterwards was investigated in a trial in court, and the judge properly held under the law that the treasurer was responsible for the loss of the money.*

The cause of the abuses in this case which I have mentioned was the absence of vigilant political opponents in the board of commissioners and in the board of auditors; and that necessity which existed there exists everywhere in the State.

Mr. Chairman, I have spoken longer than I intended when I rose. Of course, under our pressure of time, I have not attempted to enlarge on the several points to which I have referred; but I have endeavored to show that this amendment now before the committee is not one of a party character; that it is an improved plan, considered as a plan for choosing these officers of counties; that it extends simple justice to minorities in the counties of the State; that it will produce satisfaction and contentment among our people; that it possesses eminent advantages for the majority in counties by protecting them against unjust complaints to which they are now subjected and by preventing abuses by the officers chosen by themselves under the present system; and that this change and reform is a necessity in the various counties of the State as shown by the several cases to which I have briefly referred.

I hope, therefore, that the Convention will adopt the amendment which I have proposed, and thus give to county government regeneration, improvement and reform, and exhibit to the people the fact that this Convention is fully up to the spirit of the times, to the necessities of the

occasion; that we intend real improvement in government, and not a mere sham or pretence.

But some gentlemen may say, "will this be satisfactory to the people?" I undertake to say (and with this I shall conclude) that this amendment, if it were submitted alone to the people, would be above others certain of success. It would, enlist the ardent support of over forty per cent. of the electors of the State to begin with, and then it would take to itself a large division at least of majorities in the several counties, and in addition to these interests, the support of all intelligent, independent, fair-minded and just men who hold that their party allegiance shall not over-ride their convictions of justice and general policy on a question of this kind.

Mr. CARTER. Mr. Chairman: It was evident soon after our meeting that the subject of free voting—so called, which the gentleman from Columbia has treated so fully, and which he perhaps above any other member is most competent to expound, was one that had arrested the attention of members of the Convention and that they had severally formed to a great extent an opinion in regard to its merits *pro* or *con*. Believing that, and believing further that this Convention has made up its mind in reference to the general merits of this system of voting, I do not design to multiply words in regard to it, nor to prolong this debate, which I much fear will be very extended unless we confine ourselves closely to the section before us.

Certain gentlemen, among them my very intelligent friend from Chester, (Mr. Darlington,) are always prompt to take alarm at the introduction in any manner, form, or way, and no matter to what class

*NOTE.—The following is a copy of the receipt given for money received in the case above referred to, produced several years afterwards at the commissioners' office on behalf of the party paying the same:

Columbia Coal and Iron Company, assessed with 1,089 acres of unseated land in Beaver township, Columbia county, Pa.	
Sold June 15th, 1858, to the commissioners of said county for.....	\$226 01
Interest from 15th June, '58, to 25th February, 1862.....	50 10
	<u>\$276 11</u>
Amount of taxes for 1858 and '59, due April 11th, 1860.....	86 14
Interest from April 11th, 1860, to 25th February, 1862.....	9 67
	<u>95 81</u>
Amount of Taxes for 1860 and 1861.....	77 88
	<u>449 80</u>

Received February 25th, 1862, of William G. Hurley, Esq., the sum of four hundred and forty-nine dollars and eighty cents in full of the taxes, costs and interest on ten hundred and eighty-nine acres of unseated land in Beaver township, Columbia county, assessed to the Columbia Coal and Iron Company, and which was sold by the treasurer of Columbia county, on the 15th day of June, 1858, and which sum includes the costs and taxes for which the said lands were sold, with the interest thereon, and also the taxes for the years 1858, 1859, 1860 and 1861, with the interest accrued upon the same. The said sum of four hundred and forty-nine dollars and eighty cents received in full of the redemption money, the taxes since accrued upon the said lands as above stated with the interest thereon.

J. S. M'MINCH, Treasurer.
pr. R. C. FRUIT, Deputy.

COMMISSIONERS' OFFICE, Bloomsburg, Feb. 25, '62.

of officers it may be proposed to apply this mode of election, of this "new-fangled mode of voting," as the gentleman from Chester designated it, he fires up as quickly as the hunted bull in the arena at the red-flag of the matador. If he sees any proposition looking to anything like the free vote, his ire is intensely excited and at once he goes into direct opposition to everything that embraces that idea. To him, and such as him, I do not propose to address my remarks. But there is a class of men who are not animated with that intense aversion, that pet aversion as I might designate it, of the distinguished gentleman, and, in a less degree perhaps also of his colleague from Delaware (Mr. Broomall,) the same intense aversion is displayed on all occasions. I desire to argue as briefly as possible that this manner of electing the officers designated in this section, is right and proper, although it might not be so when applied to another class whose functions and duties are altogether different.

It seems to me that: "Sufficient unto the day is the evil thereof." The presence of my friend (Mr. Horton) near me leads me involuntarily to quote scripture, as is his wont. And I do hope that we shall confine ourselves, as far may be, to the section before us.

The question is, can we or should we rather apply this eminently just system of voting to the election of county commissioners and county auditors. That is the question. Those arguments against electing members of the Legislature or political representatives by this mode, who are expected to carry out the political views of those who sent them, and to give effect to political views which had entered into the canvass, do not apply here. Most surely in the consideration of this question we must look at what the duties of the parties are to be. In this case they are purely ministerial.

But gentlemen urge that the majority principle must always rule. Of course we concede that; nor do I wish this party majority to be so restricted in number in our representative bodies that it will be practically inefficient or unable to carry out those political principles which it was elected to represent and to advocate. I wish it to secure in the representative body such a *working majority*—not a bare majority which may be affected, possibly, either by defection in one of the number or from death or some other casualty—but a working majority, that the major-

ity principle shall rule always, as in times past. That, of course, we all ardently desire; but, sir, in relation to county commissioners, entirely a different character of duties, and purely ministerial, are assigned to those men, and what might be an objection to the election of representative bodies, on this system, does not apply here. In this connection, in this application, there is no principle conceded to create alarm. There is not even the principle designated by John Randolph in speaking of those of his political opponents, when he said that their political principles were seven, the five loaves and the two fishes. [Laughter.] Not even that is involved in this, because the men to fill the profitable offices of register, sheriff, prothonotary, and the other county offices that are profitable, will be elected as before, under the majority principle, and to the victors will the spoils revert in the future as they have in the past. But, sir, these are not offices of profit; these officers are custodians and guardians of the interests of all; and it certainly is no more than fair that the minority, who have to pay their share of the taxes, who have to contribute to the county treasury, shall have some person as a member of that body to attend to the interests of perhaps, it may be, very large minorities. I cannot see on what ground that can be objected to as fair and just.

Some gentlemen, I doubt not, will oppose it now, because they say that this is the introduction or recognition of a false principle, and it is to that point that I rose to make these few remarks chiefly, and to indicate its eminent fitness in this case and others similar.

We recognize no new principle by its admission in this matter. We have, as a matter of history, done so long ago, have recognized it in reference to jury commissioners and inspectors of election already. That is conceded in the election of the members of this Convention. We also have in committee of the whole, in reference to the election of the judiciary; and that it is right and proper to apply it also to the election of these two officers, I have no shadow of doubt. I entirely concur with the gentleman from Columbia in his assertion that this measure will be popular. I believe it will be so, because I believe in the honest intent of the masses of both political parties. I believe that it will receive their sanction, that it is right, and just, and proper in itself, and that it should be adopted.

It is no part of my intention to travel beyond the application of this principle to the present section under consideration. I do hope that it will receive consideration on its own merits, and that the line of demarcation which marks the application of this new mode of voting to this class of officers and these two other bodies will be recognized. That was my object in rising to express the hope that this discussion will be so limited at this time. I might speak of the propriety of having *one* of opposite politics in such boards to keep guard, and perhaps prevent the formation of rings. And I might refer to the case of a neighboring county who, by a long course of unwatched officials, was subjected to great loss, but abstain, as other gentlemen will follow.

Mr. LEAR. Mr. Chairman: It has been my desire, at some time during the sessions of this Convention, to give my views on the subject of mathematical politics; and it is probably as favorable an opportunity to do it now as will be presented on any other occasion. I do not intend to be at all particular as to the party which may be affected by the adoption of my views, whether it be that to which I belong or that to which I am politically opposed. The simple question for me is whether, by the incorporation of this new idea into the fundamental law of Pennsylvania, we are going to secure the permanence and perpetuity of the liberties and freedom, and advance the material interests of the people of this State—and if we are not, then we had better hold fast to the old one.

I had hoped when the occasion should arise that I should give my views on this subject the gentleman from Dauphin, (Mr. MacVeagh,) who spoke upon this matter when it was before this committee heretofore as applicable to the election of judges of the Supreme Court, would be present, because, although I oppose this new principle, I oppose it upon a totally different ground and for a different reason from that which influences him. He put it upon the ground that the majority of this Convention represented a party which had a majority in Pennsylvania of forty-thousand votes. I say that that is no reason for adopting or opposing this principle, and there may be times when it is as important to break the power of a great party as it is to break a "corner" in a speculation in stocks, or any other "ring" that is organized for the purpose

of oppressing the people or depriving them of their rights; and the time will come when that party to which he and I belong may require its rupture, and I am not sure that it has not arrived. That party was organized, as I believe, upon great principles; and at its baptism I was present when I voted with cheerfulness and avidity for that resolution which demanded the exercise of the legislative power of the country against "the twin relics of barbarism, slavery and polygamy."

But when a party goes over into the hands of thieves, when a party gets into the hands of a corrupt organization, framed for the purpose of managing it to its own advantage, then it is time that we not only had the power, but that we exercised it of depriving it of that confidence which the people of the Commonwealth have reposed in it. And I do not care whether you make Constitutions or make laws and put in them the most binding obligations and the severest and most searching provisions against the corruption of the ballot-box, and against defrauding the people of their rights, if you allow the power and the management to remain in the hands of a few, your liberties are as effectually gone as if you were in the bonds of an aristocracy or an autocracy. What difference does it make to us whether we are governed by the tyranny of a "ring" which is not accountable to the people, or the tyranny of a single individual? What difference, if we are to be robbed, does it make to the people of Pennsylvania whether they are governed and robbed by the Democratic party or the Republican party? Is the State governed by the people as our laws contemplate, or by corrupt secret caucuses, or party rings? So long as we strengthen those men who are now making politics a trade, so long as we strengthen their hands to hold that power which they wield, we are doing just that which weakens the people, and renders them impotent in the control of the State; and I ask the gentleman from Columbia, and I ask all other gentlemen in favor of this proposition, where the danger is to our form of government, and why is it that they have these frauds and wrongs to refer to? Was it because this party or that party was in power at a particular time; or was it because of the corrupting influence of the very fact of a long continuance in power and in office of the same party? It is that which is detrimental to the virtues of the people. A long hold and

a permanent and unbroken lease of power in the hands of any party is dangerous to that party and to the rights of the people by whatever name it may be known; and although I admire the simplicity of the man who thinks that all of the political virtue of the country is in the party to which he belongs, I am unable to see things in that light, or to subscribe to any such doctrine.

These men who organize for the purpose, as I have said, of keeping in power not only the party which they go by the name of, but keeping in power the particular inside circle to which they especially belong, are banded together by stronger instruments than that which we are making to-day. They are linked together by "hooks of steel," and if the State Printer should blunder, as he usually does, by spelling that last word with an "a," he will make it as expressive of my meaning as if the word were spelled in the proper way. [Laughter.]

It is just that leaguings together of these bands that now control Pennsylvania, and not only this State, but the party that is dominant in the State at this particular time is held in control by a cabal that is as despotic as the Czar of Russia; and every man that wants to have political prominence or control in that party must bow to its mandates and obey its decrees. It demands absolute and undivided allegiance and obedience.

"This Moloch of party sitteth on high,
And the words which he utters are 'worship or die.'"

I am not disclosing party secrets. That is not a secret. It is not a matter that I have now disclosed to this Convention for the first time. It is not particularly important that I should announce it here; but it is a fact which is one of many of the facts that I desire to state as the basis upon which my argument rests.

The great danger to the liberties and rights of our people is the power of party. The great danger with regard to the purity of party is the control of the caucus. Why, sir, in this city as you go around, if any of the gentlemen in this Convention—and I do not know whether it may be so or not of them—happen to drop into a place where refreshments are sold, they will see, over the bar right where their heads are turned, as they turn up their glasses, the pictures of some of the attractive candidates for public honors and public favors, and public plunder in the city of Philadelphia, and in these places where

liquor is sold and consumed, you will find the followers of these chieftains confederated together with their foul and stinking breaths mingled together, redolent with vile whiskey, and vocalized with gross profanity. You will find them managing the elections and caucuses of this city, and this principle which is now advocated upon this floor is the very principle to make the power of party perpetual and the will of the people impotent forever.

MR. HANNA. I would like to ask the gentleman a question.

MR. LEAR. I desire not to be asked any question at this time.

MR. HANNA. I desire to ask the gentleman whether he is speaking from his own knowledge or from hearsay?

MR. LEAR. I am speaking of what is so notorious that he who runs may read. If there was no corruption in the city of New York, then there is no corruption in Pennsylvania or in the city of Philadelphia. There may not be corruption here to the same extent that it prevailed in New York; but as the gentleman has referred to this city, and as I have referred to the city of New York, let me say, that the experience in the latter city only shows that the overwhelming majority of the party which there controlled the offices and did the stealing, was broken by the people when they rose in their might against it. The people here will also be equal to the emergency when the time comes. They will break the corner, and dissolve the ring, and destroy the power of caucuses and of party officers in this corrupt city just as it was done in New York. Here we find corrupt men confederated together for the purpose of holding power.

This provision will permit those who are in the minority to have the poor privilege of having a minority representation in such boards of management as county commissioners and county auditors. What is such minority representation worth? What is the minority worth in the Legislature? What is the minority worth upon the supreme bench? What is the minority worth anywhere? Simply the miserable privilege of holding an office and taking a stipend for it, but not to control power. As long as you continue to allow these caucuses to have the power to make nominations, and as long as it is understood that when the nominations are made that is the end of the contest, you deprive the people forever thereafter of the power

to break down a party. It is only by allowing a party to be within the control of the people, that it can be kept pure, or that if it does not so remain, it can be destroyed. It is only by allowing it to go on, year after year, as it will be allowed under our present system by the patience of the people to go on, until it becomes so outrageous in its acts, so extravagant in its management of public affairs, that the people, in their disgust, will rise up against it and break it down.

I ask you to look at the operation of the limited vote in the matter of the election of members of this Convention. I do not say that it has not worked well in this particular case; but I do not see that it will work well for the future, as applied to county commissioners or county officers or anything else. It may have worked well here, because any new rule of this kind is apt to work well for a season in politics. I do not find fault with what was done in electing the delegates at large to this Convention, but I desire to refer to the actions of the party to which I belong in electing the delegates at large of that party. I do not want to refer to the other party. I refer to my own more particularly, not because the other is not probably just as bad, but because I think a man has more right to talk about the abuses of his own party than he has about that of the other. There are gentlemen here who are very loud in their denunciations of wrong, if it happens to come from the political party to which they are opposed; but when they come to consider the corruption of their own organization, they "roar you as gently as a sucking dove."

The CHAIRMAN. The gentleman's time has expired.

Mr. SHARFE. I move that the gentleman's time be extended.

The CHAIRMAN. The time of the gentleman from Bucks will be extended unless five delegates rise and object.

Mr. Lilly and Mr. Hanna rose.

The CHAIRMAN. Only two gentlemen rise, and the gentleman will proceed.

Mr. LEAR. The gentleman from Carbon (Mr. Lilly) and the gentleman from Philadelphia (Mr. Hanna) object.

Mr. HANNA. I will object to anyone who turns State's evidence.

Mr. LEAR. The gentleman talks about State's evidence. I am not turning State's evidence. I have never been in these caucuses, but I have seen their operation, and if I happen to discuss what my party

has done, and if I happen to be discussing that which the gentlemen with whom I am surrounded politically are concerned, it does not follow that I am turning State's evidence. I do not profess to be better than other men, but as a member of this Convention—so long as I retain my present conception of my duties here—I will never shirk any responsibility, because the success of a mere party organizations come in question.

I was about referring to the manner in which the delegates at large to this Convention were elected by that party to which I belong. The State Convention of the party assembled in Harrisburg on the tenth of April, 1872, and elected a chairman who had ticked on a paper the names of the men whom he should recognize when he got into the chair, some half a dozen men, and when a certain man appeared on the floor he was recognized, and he moved for the appointment of a committee to make nominations of delegates at large to this Convention. Of course, when his motion prevailed, he was made chairman of the committee, and a committee of thirteen was appointed who nominated the fourteen delegates at large to this Convention, to be elected by the people of the State of Pennsylvania. The Democratic party put in nomination their fourteen nominees, and thus these two parties were before the people with their nominees for delegates at large to this Convention, and after those tickets were thus placed in the field there was no power in Pennsylvania that could ever prevent their election to this body. That was the end of it, and after those two tickets were placed in the field they had of necessity to be elected. The people had no power over the question.

I do not say that the men so elected were not good men. I do not say that it follows on that account that the system under which they were elected was wrong. But it shows to what abuse it might come whenever a particular political clique choose to go into a caucus for the purpose of putting any of their creatures in office. Whether on the supreme bench or anywhere else, they have the power to do it, and they can do it by buying up the votes of a few. And they need not even buy. They have simply to promise official patronage, such as is always given to political favorites and political followers, and we all know how easily such promises are made. These gentle-

men are versed in the business of running a political machine, are extremely affable fellows. Genial, affable and polite. The politician who understands his trade is

"As mild a manner'd man
As ever scuttled a ship or cut a throat,"

and he will approach you with that artful blandishment that is almost irresistible, and under this proposed plan, when he goes into a caucus and sets up his ticket, whether it be the minority or whether it be the majority, the end has come. There can be no chance to break down the party to which he belongs, however corrupt that party may have already grown, or however corrupt it may hereafter become. It is for that reason that I oppose this principle being established in the Constitution of Pennsylvania.

But it is for another reason that I oppose this particular amendment. It introduces an entirely new plan of electing county officers in Pennsylvania. We now choose a county commissioner every year for the term of three years, and we always have in the board of commissioners one member who has been two years in service, and another who has been in service one year. We now propose to abolish that and to break up this continuity in the board of commissioners and to elect an entirely new set every three years. This will put in office three green men who will not be acquainted with what has been done by their predecessors, who will be unable to take up the business where their predecessors leave it off, and who consequently will come into office not knowing what business has been done, or even how it has been done, but who will simply know that something is to be done, and therefore they will be less competent to perform their duties properly than will be those officers who, elected every year for three years, will always find in the board some colleague who has served for a period of at least one year, and another who has served at least two years. The advantage of the experience of these older officers in the management of the administration of county affairs will be entirely lost under this new plan.

Mr. Chairman, I say that that is an objection to this system, and that objection does away with all of the advantage that is supposed to be gained by having a minority represented. And for the life of me, I am unable to see what great political principles are represented or carried

out in a board of county commissioners or county auditors. There is no more scope there for the advocacy or sustaining of political principles if the officers perform their duties right, than there is in the sawing of wood or the driving of a team of horses. There is no political principle involved in the administration of the affairs of the offices of any county, assessing taxes and building bridges, and if the county officers perform their duties, is it supposed that because there is to be one member of a minority party upon either board he will have upon it any force or weight, or that he will take any particular care of the financial interests of the county more than if all were of one party.

There is nothing in any such doctrine as that. The fact is that in this city the great difficulty that exists is that the "ring" that disposes of the offices and emoluments here is a ring that consists not of one party alone, but of members of both parties. The politicians on either side work into each other's hands, and whenever you allow this subject to come into your politics in Philadelphia, you will find that it does not matter from what party the officers are selected; they will work into each other's hands, and they will promote the great interests of that party that are looking after their own personal advantage, and will perpetuate political caucuses in order to make money at the people's expense!

Mr. D. W. PATTERSON. Mr. Chairman: I had matured some remarks, intending to present them when the report of the Committee on the Legislature was brought before the committee of the whole; but as the principle of minority representation is involved in the amendment now pending, I have concluded to present my views at this time, asking the indulgence of the committee to grant me a patient hearing. I, of course, feel a diffidence in following the learned and distinguished gentleman from Columbia, (Mr. Buckalew,) who has matured this subject with a great deal of research and deliberation. But while I have attentively read all that he has written and compiled on this question, I have not brought my mind to the conclusion that it is proper to introduce this system into a republican government. I will, therefore, present my views as to the principle generally, and not merely as to the amendment that is at present before the committee of the whole. I regret occupying the time of the Convention, but

the magnitude of the question under consideration must be my apology.

I am impressed with the conviction, Mr. Chairman, that no subject yet considered by this Convention, or which will in the future demand its deliberations, involves so many serious consequences, as well to the people of Pennsylvania as to representative government itself, as the one now before the committee. In discussing this question, I may be permitted to say that I discard all party considerations—all party predilections—these with every personal or selfish motive, I desire to merge in the general aim to promote the public welfare, and above and beyond all else, in this and in all other amendments proposed, to secure to the people all the elements of pure representative government.

Without this important, essential element—the *basis* of our free institutions—we will fail to present a Constitution which will be ratified by the freemen of Pennsylvania, or which will be deserving of their confidence and support. We have now arrived at a point where it becomes necessary to maintain a *principle*—a *principle* as old as the government itself, and as efficacious and as dear to the people as it is old and revered. A new and untried principle, one subversive of that, controlling and deciding the political rights of our people ever since the existence of the Commonwealth—is now proposed to be substituted and introduced into our Constitution, for the first time in the long and prosperous history of the State. How responsible—how sacred, therefore, are our delegated functions! Surely one of the most solemn and responsible duties of citizenship is to act wisely and judiciously in constitutional legislation. And what is this *new thing* proposed by the article before the committee, and recommended by the Committee on Suffrage, Election and Representation? Its friends and authors here call it *minority representation*—a plan of voting to secure the representation of the minority in our legislative body, boards of county commissioners and other councils authorized by law. And this plan of voting is of two kinds, called respectively—“*cumulative*” and “*limited*” voting.

Now, Mr. Chairman, it is enough for me to know that this *new thing* proposes to change the good old American doctrine that “the majority must rule” in order to condemn it in my judgment. It proposes, in effect, to change the rule under

which we as a nation and as a Commonwealth have lived and grown and prospered, beyond all parallel, ever since we became a free, independent and sovereign people! That “*the majority shall rule*” was always a democratic doctrine, and the boast and glory of the fathers of that school of politics, no one can deny. It is justly the boast of all freemen today, who love liberty, and who duly prize the blessings of free representative government. This article proposed to be incorporated into the fundamental law of the Commonwealth proposes to change all this—to direct the *ballot* in a different channel and in a different manner. This *new thing* proclaims the doctrine that no longer shall every single, qualified voter represent a single free *ballot*, but that the number of ballots each citizen may cast, to elect men to legislative and other high posts of honor and power in the government shall depend on the number of candidates eligible to such positions.

Gentlemen should not forget that the section now under consideration strikes directly at the *ballot*. They should not forget that, sir, if the *ballot* is perverted or destroyed, all is in danger—all is lost. For although public servants may be bribed to sell the liberties and rights of the people who elevated them to power—although courts may become corrupt and oppressive, yet all this can be changed and reformed, and that quickly, under our well-tried American majority system. But adopt this section, allow one citizen, on the *cumulative* plan, to cast two, three or more votes, for one, two or more of the candidates seeking those high positions—and you provide a machinery to enable a factious and corrupt minority to prolong the evils spoken of, if not to defeat reform and purification altogether. Now, sir, this is not only one of the logical fruits of this minority plan, viz: the restraining the majority from enforcing its will and correcting evils, but it is actually urged by its advocates as one of the *virtues* sought to be attained by its adoption; they claim that it gives greater power to the *minority* to *restrain the majority*, and they say it is right it should be so! That is the argument and language of a distinguished author on this subject, now occupying a seat on this floor.

And will this Convention contribute to thus pervert the *ballot* and make it a *curse* instead of a blessing to the people of this great Commonwealth? With us, where the people possess the sovereign power,

the *government* turns upon the *ballot*. The ballot expresses the opinion or will of every man who casts his vote. The *ballot* is the machinery by which the *will* of the *people* takes effect. The *ballot* is the moving-spring of the State—the *power* which vitalizes and moves the whole operations of democratic government. No one can over-estimate the value of the *ballot* in our republican system of government. To cast it, to exercise the privilege and right of the election franchise, is the pride, the protection and glory of every free man. Sir, ever since we were a Commonwealth, from the period of the first Constitution of 1776 up to the present time, (except in a few recent occasions, under laws in their provisions embracing this minority plan,) in all elections by the people, no citizen could cast more than *one ballot* for any *one person*, and the *majority* of votes or ballots were necessary for an election. Now that, sir, is the true republican-democratic manner of casting the ballot, and that mode of casting the ballot, together with the doctrine that the majority shall govern, make up and constitute our hitherto well-defined, long-tried "*Constitutional-American-liberty system*."

Now, Mr. Chairman, this grand old system is, by this section, proposed to be abandoned, for the first time in the history of this Commonwealth; it is proposed to introduce a new and different system into our fundamental law. And why, sir? Why are we asked to lay sacrilegious hands on this old system, which has done so much for us as a people, as a Commonwealth and as a nation? Curtis, that distinguished writer on the Constitution of the United States, expresses what we all acknowledge to be an axiom in our government. He says: "History, then, *establishes the fact*, that in the American system of government the people are regarded as the *sole original source* of all political authority—that all legitimate government *must rest upon their will*." Sir, will this Convention repudiate that system of government in Pennsylvania? Will they impair its governmental power in order to try an experiment that is without uniformity and, of course, without equality in casting the ballot, and which many of the most thinking men of all political parties believe to be visionary, impracticable and anti-American? That may be the sentiment of this Convention, but I will not believe it until I see it, for I do

believe that such a sentiment will find no response in the hearts of the people of Pennsylvania—that such a sentiment can find no answering cord in hearts imbued with liberty and the memories of the past, and no assenting response in minds convinced of the great boon of republican institutions.

I believe this, because the practical operation of this experiment, if incorporated into our fundamental law, would be a fatal stroke at the integrity of republican government. I believe this, because this whole system of "minority representation" is evidently begotten, born and nurtured in a *distrust of the people*, and a libel on their intelligence and patriotism, and I believe this, because I am impressed with the conviction that the true principle of representative government, that "the majority must rule," does and should control and govern every member of this Convention.

[Here the hammer fell.]

MR. HUNSICKER. I move to amend by striking out all after the fourteenth line.

MR. D. W. PATTERSON. Will the gentleman from Montgomery yield to me?

MR. HUNSICKER. Yes, sir. I moved the amendment so that the gentleman from Lancaster might continue his remarks upon it.

MR. D. W. PATTERSON. I am much obliged. I will speak to the amendment.

MR. PRESIDENT, is there any member on this floor bold enough to assail openly or covertly the very foundations of our "*American Liberty System*" of voting? Is there any member here who is bold enough to cut loose from all moorings of the wisdom of the past, and without the unerring compass of experience, to drift out the ship of State on an unknown sea? Sir, even in enlightened civilized government every *new measure* is not a reform—every *change* is not *progress*. The freemen of Pennsylvania are intelligent enough to discern that, sir, and, therefore, if we expect our labors here to be ratified by the people, this Convention must not, under the illusive guise of *progress*, adopt a mode of casting the ballot which is against all hitherto established customs and governmental usages in this country. This *age* in which we live, Mr. Chairman, may be truthfully deemed, essentially, the age of unrest and lawlessness; and hence we would display more wisdom, as legislators of the fundamental law, if we build

a Constitution that indicts no violence on long-established customs, but which would rather contribute to combine all the moral and educational forces of the State, if possible, with all wise constitutional authority; to *suppress* that spirit of lawlessness, and to resist and check all the various novel encroachments on the old landmarks of our hitherto incomparable system of government. Much of the clamor and the cry for *change, change*, in these days, Mr. Chairman, do not deserve to be dignified with the name of *reform*, and the *spirit* that begets this clamor, and this persistent determination to uproot every vestige of the foundation-work laid by our patriotic *fathers*, has generally, in my opinion, no deeper foundation or better motive than that which grows out of some personal political grievance or disappointed ambition.

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

Mr. D. W. PATTERSON. Certainly.

Mr. CARTER. I wish to ask him if we have not adopted the minority principle in two or three instances, and if it has not met with public approbation. I refer to the election of jury commissioners and the choosing of inspectors of elections and the choosing of delegates to this Convention.

Mr. D. W. PATTERSON. I will answer my colleague by saying that is so, but not as to any representative department of the government, which is now proposed. It was applied to mere ministerial officers, mere clerks of election. The people have acquiesced in that law—it seems to be healthy in its operations, but that office is not a representative department of the government. Inspectors are mere ministerial officers—clerks if you please—or they may be called semi-judicial officers, bound to obey and administer the election law impartially, and owing no allegiance to any political party. I am in favor of providing for that law in the Constitution, because it is satisfactory to the people and has worked well.

Mr. Chairman, it is to my mind a moment of terrible import, when gentlemen of great political experience and high moral character, can rise in their places in a Constitutional Council of this great Commonwealth, and forgetting the patriotic memories of the Fathers of this Republic, and shutting their eyes to the unparalleled growth of this old State of ours, and of our whole people, as a nation—in

population, in material prosperity, in christian activity, in education of the masses, and in personal liberty—can rise in their places and by their arguments on this floor leave on the minds of their hearers the logical conclusion that they consider republican government a failure, and the hitherto supposed wisdom of the Fathers of the Republic a mere imagination!!!

Thank God, the *people* of this Commonwealth and of this nation, on whose *will* all legitimate government rests, do not believe that this republic is doomed; they do not doubt its prolonged existence.

And, Mr. Chairman, are not the people of this country and every reflecting mind encouraged in their belief, and confirmed in their conviction, that our republican system is the best *model* of a government that the world ever saw, by the history of events which have transpired during the last twelve years? Yes, sir, the late rebellion and its humiliating termination, vindicates republican government from all the supposed weaknesses charged upon it by political economists, and we can now truthfully say that no form of government in the history of the world has stood, and so triumphantly stood, so severe a test as ours did in that contest.

I have said, Mr. Chairman, that this system of voting is an *experiment* and without *uniformity* and *equality* in casting the ballot; and therefore is *unjust, impracticable* and *unconstitutional*. Of course I don't mean to say if this new doctrine was incorporated in the fundamental law by this Convention, and ratified by the people, that *then* it would be unconstitutional, so far as this Commonwealth is concerned; but I do mean to say that all the legislation which has been had in this Commonwealth, providing for popular elections under this plan of "limited" or "cumulative" voting, is a bold invasion upon the rights of the citizen, and a palpable violation of our existing Constitution.

I need only refer to the act under which we are elected saying that fourteen in certain instances shall be voted for by one citizen, but that twenty-eight highest—not speaking of the majority—but the twenty-eight highest in number shall be declared elected. So in the city of Philadelphia the six highest in vote shall be declared elected and each citizen or voter shall be restrained from voting for more than three. Did you ever hear of such

a declaration of the will or sentiment of the people when the people govern?

The CHAIRMAN. The gentleman's time has expired.

Mr. BAER. I move to extend it.

The CHAIRMAN. Are there five delegates who object to the gentleman proceeding with his remarks? If so they will rise.

Mr. Lilly and Mr. Hanna rose.

The CHAIRMAN. The Chair only notices two gentleman objecting. The delegate from Lancaster will proceed.

Mr. D. W. PATTERSON. I am obliged to the committee.

Mr. H. G. SMITH. Will the gentleman allow me ask him what clause of the Constitution was violated in the act under which this Convention was elected?

Mr. D. W. PATTERSON. The law and established system recognized under the Constitution that every freeman having a vote could vote for every candidate in the district in which he casts his vote. I repeat and state that principle according to my view of the Constitution, and this act limited it and said, "No, although the men are running in your district, and represent you as much as any other citizen, you shall not vote for them all, but only for a limited number."

Mr. H. G. SMITH. I asked the gentleman a plain question. What clause was violated in framing the act of Assembly upon which this Convention was elected? I should like him to answer. I suppose he has studied the Constitution of the State; he ought to have read it lately, and I think the question admits of a categorical answer.

Mr. D. W. PATTERSON. That is a pretty long question. I have answered it. By reason of introducing into that act of Assembly the minority representative principle, restraining the vote of the citizens, infringing upon the rights of suffrage and the rights of the citizens, as long as that is recognized, and would be so decided no doubt. I have never seen a lawyer that doubted it, if brought before the Supreme Court to-day, that elections shall be free and equal is part of our present Constitution and under that there could be no doubt how the decision would be.

But I am not done with this act of Assembly, whose author, the gentleman from Columbia, (Mr. Buckalew,) occupies a seat on this floor, which contains the provision for the limited vote; for in addition to having its unconstitutional character written on its face and its forehead

stamped with its own iniquity and injustice, I will show that gentleman's own admission that the limited vote is imperfect and should not be applied to popular elections. I read very briefly from page 74—

Mr. CLARK. Will the gentleman allow himself to be interrupted again?

Mr. D. W. PATTERSON. If the gentleman will wait until I get through, I shall be glad to answer any question. Allow me to read.

I maintain further, Mr. Chairman, that inasmuch as this new plan proposes to *contract* or "*abridge*" the ballot of every citizen of the Commonwealth in the exercise of his right to vote, as that right *was exercised*, on the twenty-eighth of July, 1868, when the Fourteenth amendment to the Constitution of the United States was declared fully adopted; that it is an express violation of that amendment and, therefore, is prohibited by the federal Constitution. This last proposition, however, I shall not detain the House by discussing at present, and especially since the arguments on this point were, but a few days since, so ably presented to the Convention by the gentleman from Pittsburg (Mr. Howard.)

But confining my remarks to our own Commonwealth, who on this floor will say that all the legislation already had, providing for *limited or cumulative* voting, is not unconstitutional? Who will say that all the acts of Assembly, incorporating that plan of voting even into borough corporations, are not in violation of the Constitution of the State? If not, why seek now to introduce this new doctrine into our fundamental law? If the right existed before, why have we not been informed, by the author of that legislation, now a delegate of this body, how that right existed, that we may be saved the time and trouble of inserting it into the new Constitution. Where does he find the authority for such legislation in our present Constitution. And while these questions are being asked, it may recur to some member to charge upon us as a body, and say, why, sir, the very act of Assembly creating this Convention—the very act under which all the members—no, I will not say *all*, for there are some delegates on this floor, under this anomalous law, without a single constituent—not a single one, sir; I say this without the least personal disrespect intended towards any of the gentlemen thus situated; but some member may say, why, the very

act of Assembly under which *most* of the members of this Convention were elected contained the doctrine of *limited voting*, and if you are correct in your construing of the Constitution, we are not a legal body; I admit, Mr. Chairman, the truth of that charge; I admit that we all sit here to-day, subject to that reproach; yea, and I say furthermore, and say it with regret, that a more palpable instance of studied disloyalty to the Constitution of the State we have never seen or heard of than the act of 11th of April, A. D. 1872, providing for the election of delegates to this Convention! It was revolutionary in its character and subversive of the citizens' dearest, right, the right of suffrage under the existing Constitution. It struck a fatal blow at the fundamental principle of our government, ever before recognized and practiced since we had an existence as a nation and a Commonwealth, viz: *That elective officers or representatives of the people, shall be chosen by a majority of the votes of the citizens entitled to take part in the election*, and all this solely to make an experiment and introduce this novel mode of voting.

Section one, of the act calling the Convention, provides: "*Twenty-eight members thereof (of the Constitutional Convention) shall be elected in the State at large, as follows: Each voter of the State shall vote for not more than fourteen candidates, and the twenty-eight highest in vote shall be declared elected from the different senatorial districts of the State; three delegates to be elected for each Senator therefrom, and in choosing all district delegates each voter shall be entitled to vote for not more than two of the members to be chosen from his district, and the three candidates highest in vote shall be declared elected.*" So, also, it provides for the six delegates at large in the city of Philadelphia.

Surely, Mr. Chairman, the citizens of Pennsylvania are a complacent, forbearing people, or we would not be sitting here to-day, organized as a Convention, under that outrage on their fundamental law. And does not every delegate here know that the reason of the acquiescence of the people in that law was not on account of its authority or legal force, but *only* because it happened to provide for the election of delegates to a *Convention* to revise and amend the *fundamental law*—a Convention, the duties of which are so responsible and solemn that every delegate is wisely expected to divest him-

self of all partisanship or party predilections, and to legislate solely with a view to promote the best interests of the *whole* people of the Commonwealth. Every delegate who has given this question a moment's consideration must be convinced that under no other circumstances would that act of Assembly have been submitted to for a moment. In the States of New York and Illinois the experts in this new doctrine of fundamental legislation, with a law-abiding spirit and a becoming fidelity to their organic law, did abstain from *all* legislation involving that doctrine until it was incorporated into their Constitutions. But in Pennsylvania how comparatively sordid and reckless has been the statesmanship of the advocates of this measure—how utterly wanting in a becoming regard for the rights of the citizen—how utterly faithless to the manifest requirements of the Constitution of the Commonwealth.

But I am not done with that act of Assembly, whose author, the gentleman from Columbia, occupies a seat on this floor, and which contained the provision for the "*LIMITED vote.*" For in addition to having its unconstitutional character written upon its face, and its forehead stamped with its own iniquity and injustice, I will show that gentleman's own admission that the "*limited vote*" is imperfect and should not be applied to popular elections.

I read from a book entitled "Buckalew on Proportional Representation," page seventy-four and page one hundred and fifty-five: "*If he—the law-maker—could know the exact relative strength of parties in future years, he might apply his limitation to a constituency with confidence. Adjusting it to the facts, he could obtain a proper result. As this cannot be, the 'limited vote' can be but partially applied to elections and must in most cases be unsatisfactory. It has rarely been applied to constituencies selecting more than three representatives, and can never be accepted as a plan for extensive use and application;*" page one hundred and fifty-five, "*it must be acknowledged that the limited vote is an imperfect contrivance and not fitted for extensive use.*"

Yet, Mr. Chairman, notwithstanding the admitted imperfection of the "*limited vote,*" its unfairness and its want of adaptation to popular elections, that was the plan of voting introduced into the act of Assembly of 1872, providing for the election and

convening of this Convention to perform the highest trust which the people can confer by their suffrages—the trust of reforming and remodeling their fundamental law. Need I say more about the “limited vote” after this admission by its friends and advocates? Can I say anything stronger in its condemnation? And yet, sir, this is the plan of voting proposed in this amendment, and asked to be incorporated into the Constitution of Pennsylvania.

And now, Mr. Chairman, I would ask, is the “cumulative vote,” in this minority representation plan proposed, any fairer or any better in its practical effects? Like the “limited vote” it, too, abrogates the well-tried and past successful electoral system of voting, given us by our fathers—it enables a single voter to concentrate two, three, four or more votes upon one candidate, the number of votes thus cumulated on one candidate by each voter being limited only by the number of candidates to be elected. If, for illustration, there should be three members to be elected to the Legislature from a given district or county, each voter may cast three votes for any one of the three persons seeking an election; if there should be six to be elected from the district or county, each voter may cast six votes for any one of the six. This, Mr. Chairman, is the operation of the “cumulative vote,” and also of what the author on this subject calls the “unrestricted or free vote;” for he says, on page 71 of his book, “that those terms are synonymous and may be interchangeably used.” Mr. Chairman, would not that be “free” voting with a vengeance? And when we reflect that our system of government is democratic, and that the people are the source of all political authority, does it not strike you with amazement that gentlemen coming here from the people and professing the least regard for their will, can rise on this floor and seriously advocate such a system? They certainly forget that the people are the sovereign power in our government, and they as certainly fail to understand, what it is that ought to be represented in the law-making councils of the Commonwealth, and all other representative departments of the Government. Why, sir, every vote cast by the freemen of Pennsylvania means a sentiment—every vote cast expresses a measure or rule of political policy, and hence it follows that it is not alone every single person who makes up or con-

stitutes the people, who are to be represented; but it is as well, and it should be made so, without possibility of failure, the WILL OF THE PEOPLE as ascertained through the ballot box that is to be represented. And, sir, while it is that only living, sentient man can thus express his sentiment or opinion, where is the reason or justice of a system that will permit one man, or any class of men, to express governmentally, by the ballot or otherwise, their opinion three or six times oftener than some other man or class of men under the same jurisdiction and bound by the same degree of fidelity to the government? Would that, sir, be equality before the law? Would that be regarding the “Bill of Rights,” which says, “the elections shall be free and equal?” Is not, sir, the very proposal of this new scheme, an insult to the freemen of this Commonwealth, and a libel on representative government?

Mr. Chairman, this system, besides, is without a uniform rule. It has no uniformity in its application to governmental elections. Where there is but a single person to be elected, it cannot be applied. Hence, in the election of a Governor or a President, it is useless. When, as in most county offices, only one person is to be elected to fill them, it is unavailable. In the election of Congressmen, under the single district system, which is the existing law of the United States, it is inapplicable. Neither in the face of all its boastings will it avail to represent all minorities. That is its chief characteristic—its chief virtue, claimed by its advocates. For suppose, instead of but two, there should be three political parties in the State. This may often happen—it is matter of history. In regard to the important question, “the Tariff,” there are three distinct, practical views entertained. We have the high-tariff man, we have the advocate of a tariff for revenue only, and then we have the anti-tariff man, or free-trader. Let us assume there are three persons to be elected at large in the State. Now suppose the whole vote cast in the Commonwealth to be six hundred thousand, of which the majority, or high tariff party had three hundred and ten thousand votes, the stronger minority, or tariff-for-revenue party had one hundred and fifty thousand votes, and the other minority, or free-trade party, had one hundred and forty thousand votes. Sir, under that status of parties, it would be utterly out of the power of that large

minority of one hundred and forty thousand voters to elect a single candidate. Under none of the features of this new plan—under neither the *limited*, the *cumulative* or *free vote*, so called, could that large minority of one hundred and forty thousand voters have any representative out of those three. Now, Mr. Chairman, the question of *three* parties is not merely imaginary. There are just now, sir, nominally *three* political parties in the country; and in several of the States, there were, last year, three distinct political organizations. The claim, therefore, made by the author and friends of this minority plan, that "it secures a representation of successive minorities," is fictitious and groundless; and I think I have shown that it is without *uniformity* in its application to popular elections. But, Mr. Chairman, is it not an *experiment* and *visionary* also, and therefore unworthy of a place in the fundamental law? I allege, sir, that it is a mere *experiment*, and has had as yet, in this country, no practical test for a sufficient period of time to demonstrate its beneficence, if it has any—it has shown nowhere any certainly healthy political results.

But two States have as yet incorporated this new plan of voting into their Constitutions. In the State of New York, it was made to apply to the election of the judges of their "court of appeals" *only*, and that feature of their new Constitution was ratified by the people in December of 1869. The first and only election held under it was held in May of 1870, and according to the "*limited vote*," which the delegate from Columbia (Mr. Buckalew) has said, "is an *imperfect* contrivance, and not fitted for extensive use." How *perfect* that court of appeals is, begotten by such "*imperfect* contrivance," I can't say, but the system of that court is condemned by the people and bar of that State, and the short period of its existence has enabled it, as yet, to accomplish nothing to commend it to popular favor.

Illinois is the only other State which has adopted this system of minority voting and representation. Her late Convention to revise the Constitution incorporated that plan into her organic law, and the first election under it of delegates to the lower House of the Legislature was held in the fall of 1872. And what, sir, has been the result? Why, sir, it has been far from proving satisfactory to the people. It was an *experiment*; of their

Constitutional Convention, begotten and projected by that body, in the first place, by an innovation upon the principles of true democracy, for it was asked for *only* by a very inconsiderable portion of the people. Two petitions from two different associations in the city of Chicago, and one from the citizens of one other county only in the State, were the only expression in its favor; and, sir, in that Legislature, thus elected, (and still sitting in the capital of that State,) a leading member, seeing so much inequality and injustice in its workings, submitted new articles, proposing amendments to their Constitution, repealing the sections providing for minority representation in the House of Representatives. In that member's remarks on the proposed repeal, he showed conclusively that the practical working of this minority system was to give an "*unjust and unfair advantage* to minorities," while, at the same time, "it worked *injustice to localities*."

Let me read his (the Hon. E. Canfield's) illustration:

"Let us look at the result as shown by the last election. Take a district having 8,476 votes, within a fraction of the average number of votes cast in a senatorial district at the last election; one fourth of that number is 2,119; then 2,120 votes on the average would elect a representative, and be equal to 3,178; the half of the balance of such entire vote. The cumulated vote, three votes to an elector, amounts to 6,360. One-half the cumulated vote of the balance of the average amounts to 9,534. On this basis of the senatorial vote, in thirty-two districts, fifty-four members were elected by less than 6,360 votes. They received on the average 5,340 cumulated votes, or 1,020 less than one-fourth of the average vote would amount to in the thirty-two districts of this State. In other words, in these cases 5,340 votes equal 10,044. I get this number by adding half of the deficit to half of the balance.

"But it is possible that the average senatorial vote does not afford a fair basis to test the question. Will it be fair to take each district by itself, take the aggregate vote—cumulations and all, for Representatives, and test the question by that? I am ready to do so, and test the question of equality upon the result shown in that way. Take, then, each district by itself—take the aggregate vote in such district for representatives; divide that aggregate by four, and see how many of the present members of the House were returned

by less than one-fourth of the votes cast in their respective districts. There are forty-eight members of the present House elected by less than one-fourth of the votes cast in the districts that elected them.

"The actual one-fourth vote on the average was 5,879 and a fraction; the vote by which they were elected was, on the average, 5,307 and a fraction. The vote was less than one-fourth of the actual vote of their own districts by 571 and a fraction, on the average.

"The next point I make is, that it is unjust to the counties, and to fair local representation. Now, that is without regard to the Senate. There are *sixteen counties* in this State that have no representation in the lower House. I submit the proposition without arguing it at all, that every county has interests peculiar to itself, and which ought to be represented in the popular house of the Legislature, especially if by its population it is entitled to a representative. The aggregate population of these sixteen counties is 237,992 souls, or over nine and one-third per cent. of all the population of the State. The present basis of representation in the House is one representative to 16,603 souls. *Six* of these counties have more than a full ratio for one member in that House; their aggregate population entitles them to fourteen members; by the proposed amendment they would be entitled to thirteen, leaving the three smallest to be annexed to adjoining counties."

That, Mr. Chairman, was the practical working of this anti-American system in Illinois. Their Constitution required the State to be districted, and three members to be elected in each district, the same as has been proposed here. Now, Mr. Chairman, this gentleman's figures, taken from actual election returns, show this result: That while this system was based on a plan to secure to the minority one member in every three in a district—that is, the *one third* of the members; yet it was found that forty-eight members were elected to the House of Representatives of the Illinois Legislature in 1872, by *less than one-fourth* of the votes cast in the districts that elected them. Sir, is not that giving an *unjust and unfair* advantage to minorities? His figures further show that there were *sixteen* counties in that State that had no representation at all in the lower House of the Legislature, while *six* of those counties had more than a full ratio for one member in that House! thus

working out the greatest injustice to large constituencies. The consequence is that the people of Illinois are already earnestly agitating the question of its entire abolition.

Yet, Mr. Chairman, this is the plan which the gentleman from Columbia says "will secure justice to the whole body of our electoral population!" (p. 142.) "will secure 'the just representation of the people in government'" (p. 140.) Sir, I pronounce this "minority system" a libel on popular government—it is essentially partial, imperfect, unjust and unfair to the whole body of electors in the Commonwealth. While it must be admitted, Mr. Chairman, that our old plan, the *majority vote*, to which we have been accustomed, and by which our popular government has been so successfully administered for near a century, has some imperfections, and in elections sometimes results in inequalities in representations, yet I doubt very much if any instance, of so glaring and unjust a character, ever occurred under its practical workings, as the one referred to in Illinois, and occurring under this minority system!

Mr. Chairman, all wise statesmen, and all thoughtful men, when maturing fundamental legislation relating to the interesting and important subject of representation in a republic, will feel, *first*, that the maintenance of the fundamental principle of republican government is *paramount*, and, *secondly*, that the *mode* of selecting the representatives of the electors, which secures the least *inequalities* in representation, should be rigorously adhered to. If this be true, sir, then every system destructive of these two cardinal doctrines in our government, should be indignantly frowned upon and discarded. And this system of "*limited*" and "*cumulative*" voting is at war with these principles of republican government, and should be rejected at once. Again, Mr. Chairman, this "minority system," if introduced into the fundamental law of the States, *will destroy the harmony and equality heretofore existing between the States and the general government under the Federal Constitution*. It would render impracticable some of the most important provisions of that contract. The Federal Constitution was formed and adopted by the required number of States, and under the then well-known "*American liberty system*" of voting. One of the provisions of that Constitution—the fifth article thereof—is that "the Congress,

whenever *two-thirds* of both Houses shall deem it necessary, shall propose amendments to this Constitution; or, on the application of the Legislatures of two-thirds of the several States, shall call a Convention for proposing amendments, which, in either case, shall be valid to all intents and purposes, as part of this Constitution, when ratified by the Legislatures of three-fourths of the several States, or by Conventions in three-fourths thereof, as the one or the other mode of ratification may be proposed by the Congress." It requires *two-thirds* of both the "Senate" and "House of Representatives" to concur in any proposed amendment to that Constitution, before it can be submitted to the Legislatures of the several States for their ratification.

Now, sir, will any gentleman on this floor contend for a moment that if this "minority representation" had been applied to the election of members of Congress in the several States, or even in three of the large States of the Union during the last decade, that the thirteenth, fourteenth and fifteenth amendments to the Federal Constitution could have received the constitutional vote of two-thirds of both Houses of Congress? Sir, those three wise and salutary amendments could not have prevailed; those amendments, so indispensable to ensure the utter destruction of a wicked and barbarising institution, so absolutely necessary to perpetuate freedom throughout this free land and to frustrate the wiles of the rebellious, *would, doubtless, have been entirely defeated.* For, sir, the history of those years of 1856-66, and 1869, when those amendments were adopted in Congress, tells us that the two great political parties of the country in Congress, (with but a few honorable exceptions,) took issue on those amendments as *party* issues, and notwithstanding the overwhelming voice of the *people* in their favor, in the several States, those amendments passed in the popular branch with the bare constitutional vote only. I did say, with a few exceptions, it was a party vote. All honor to those noble few who, entrusted with power, used it for the common good. All honor to those few, who in Congress during those trying years fought with those who fought the good fight for their country, against madness and oppression.

Mr. Chairman, this new plan of voting—"this minority representation"—if adopted by the States or any considerable number of them, would manifestly often have the

effect to suppress, in a large degree, the voice of the majority electors through their representatives in Congress, and therefore often, even in the direst emergency, would render the majority utterly powerless, in the peaceable manner prescribed, to alter, amend and reform the Constitution of the United States. Sir, any plan or mode of voting that would allow a minority, by means of double or triple voting, to entirely defeat the will of the majority in a *representative* branch of the government, whether in State or in the general government, is a direct violation of the fundamental principle of republican government, and will sooner or later beget violence and revolution.

Mr. Chairman, the perfect harmony and the practical working of the old system of representation of the people, in the hitherto successful relations existing between the several States of this Union and the government of the United States, should not be disturbed or endangered by this "*plague*"—this "minority representation," which was first begotten on royal English soil—first matured by the Tory administration of Lord Derby in 1867, in order to accomplish what? Why, sir, in order to dissipate and overcome in part the power of the Liberal party in the House of Commons. It was in the interest of the British aristocracy, sir. And, sir, it was advocated in Parliament by *Lords* and *Earls* of that kingdom, who in their debate on the subject uttered, with other sentiments equally abhorrent to every true American freeman, such words as the following: "There is a sort of worship of the *majority*, which, after all, is a mere political superstition!" No doubt, sir, the *nobility* of England both despised and feared the "*majority*" of the voters, but how delegates on this floor, professing adhesion to democratic principles and a decent respect for the people who elected them, can manifest so much repugnance to majorities in elections, I cannot imagine.

But, Mr. Chairman, the Hon. John Bright, who was a member of the English House of Commons when that subject was under discussion, a man amongst the few leading Englishmen who sympathized deeply with this country in the period of her severe trial from civil war—who is perhaps the most ardent reformer and the most earnest and able advocate of republican principles in all England—what did he say about this "minority representation?" Why, sir, with other

language equally strong in its condemnation, he said, "The whole matter is so monstrous and unconstitutional that I feel that I am humiliating you and myself in discussing it."

Yet, sir, that, the British Parliament, is the source whence the father of this new doctrine in this country, and the leading advocates of it on this floor, received their ideas of "*minority representation*" which they now seek to incorporate into the Constitution of a Commonwealth of freemen!!!—into a republican government!!!

Mr. Chairman, assuming in what I have said, and which I think no one will deny, that the principles of our government lie in the *Constitution*; that the *Constitution* is the *radix* of the tree of state—I have endeavored to show that, down deep, deep in the foundation of this organism lies the "*American Liberty System*" of voting—the majority system; and that to change or impair that system will be to endanger the whole beautiful and beneficent edifice of our government—State and national—our system of representative democracy; and that this "*minority representation*" is at war with both. I have also, I think, shown, sir, that this new system is but an experiment; that it is impracticable, as a uniform general rule, and that it even does not correct the occasional *inequalities* in representation to which our old system is liable—a virtue which is so largely claimed for it by its distinguished author and advocate on this side of the Atlantic.

Mr. Chairman, I have now shown what this system of minority representation cannot do; that it cannot improve our system of government. If time would permit, I might show what it would be very certain to accomplish.

First. It would, sir, accomplish *injustice*, in its practical results, to political parties in case of a vacancy happening by death or resignation of a minority member of the Legislature or other representative body—a case in point having actually happened in the Illinois Legislature last winter. A minority Republican from the county of Adams died, and his place was filled by an election, of course, and the majority put in nomination and elected a Democrat to fill the vacancy.

Second. It will make it clearly possible for a minority or even a *faction* of bad men to continue their favorites in office and in power, for bad and wicked purposes, and the majority, however virtuous, intelligent and patriotic, cannot pre-

vent it. (Buckalew, page 16 and 17, and page 49.)

Third. It would therefore *demoralize* more and more such representative, and dissipate in him all feeling of responsibility to the sovereign will of the people.

Fourth. It would make the procuring of *nominations* for office far more corrupt and baneful to the body-politic, than it ever has been, or can be under the old system, because this new system makes the *nomination* equivalent to an election. (Page XIV, "*Preliminary Remarks.*")

Fifth. It would therefore multiply the evils of the caucus. However bad now, under this new system the primary meetings and caucuses, because of the potency of a nomination, would be tenfold more corrupt and mischievous in their results. The "wire-pullers," the reckless bad men, would succeed in getting the nomination, and the people at the polls would be powerless to defeat their election.

Sixth. The nomination, under this system, being equivalent to an election, both with the *majority* and the *minority* parties, there would be little or no canvassing at the polls, by the masses, on account of fitness or personal merit—the minority, depending on their representative, would cease to watch with vigilance, and expose the wrong-doings of the controlling party, while he himself may often prove faithless to the duties of that minority and be found in secret combinations to cover up fraud and speculation. It is only a minority *out of power* entirely that will be vigilant to expose the corrupt political measures of those in power and warn the people of the threatening danger.

Seventh. This new system will naturally lead to a still greater corruption amongst the mass of electors than any system yet devised. Each single elector under the "*cumulative vote*" having as many votes to cast for any *one candidate* as there are candidates for the office, are not the inducements, both to *pay* and to *take bribes* for votes, correspondingly increased?

The dire evils, Mr. Chairman, of this new system, now proposed to be legalized by the fundamental law, its terrible consequences to republican institutions, cannot be portrayed in a single address. In a popular government it is agitation which purifies; it is essential to good government; while this new system generates repose and a want of vigilance in the masses. Sir, the minority *has not* the

right to govern; the majority must govern in a government based on the will of the people. It is the best, the most certain to reform all abuses of public servants. "The political revolution in New York city," says Governor Hoffman in his late message of 1872, vetoing a bill passed by the Legislature of that State proposing a charter for that city, based on this "minority representation" system, "the political revolution in that city," he says, "was wrought out by the *tremendous power* of the majority, not through any scheme of divided votes or of minority representation." Sir, this "*royal scion*" of "*limited*" or "*cumulative*" voting, begotten by British aristocracy, would have been powerless to work out the purification and deliverance of that despoiled and ill-governed people.

And why should not the majority continue to rule and govern in Pennsylvania? Are the people less intelligent and patriotic than in past years? Are they not, sir, more capable of self-government, more intelligent and patriotic than ever before?

Why should not the majority govern? Let us not adopt anything so radical and revolutionary as to afford the people of Pennsylvania a well-grounded apprehension of imminent danger to their hitherto propitious and successful popular government. Let not the influence of factious reformers betray this Convention into any untried schemes—into this change of the fundamental law, affecting so vitally the very *nature* of our government. I beg of this Convention to vote down the proposed amendment, and repudiate this "*new thing*" now, and whenever and wherever it is attempted to be applied to any of the representative departments of our State government. Mr. Chairman, I have not heretofore occupied much of the time of this house, and have detained it at this time only under a deep sense of public duty to the constituency I represent, and to the whole people of this, my native State. I have endeavored, to the best of my ability, to explain the revolutionary character of the proposed change and to caution this Convention to do no violence to our fundamental law. But should I be mistaken in expecting success in this most important matter, by and through this Convention, I will not despair, for I am sure an appeal to the sober common sense and the pure patriotism of the people of this Commonwealth will secure that success against this dangerous innovation. I will conclude by thanking

the Convention for their patience and attention.

Mr. MANTON. I am aware, Mr. Chairman, that this committee must be getting very tired of talk. I have never failed to remember when I rose in this body and attempted to talk that I might be encroaching upon the time of the committee, and therefore I have always made it a point when I have anything to say, to be very brief. I had intended to make more extended remarks on the question before this body than I shall attempt to do now. That clock admonishes me at three o'clock we adjourn, and we have but an hour and a few minutes left, and I shall now only occupy about five minutes of the time of the committee.

I will say right here that I am opposed to the proposition of the gentleman from Columbia (Mr. Buckalew.) I remember that on one occasion when a delegate was addressing the Convention and was asked by another, "which side of the question are you on," he had to stop to tell him. Therefore, I will say at the outstart that I am opposed to this system of electing officers. I am opposed to it for various reasons. I have examined this subject of cumulative voting and minority representation. I have looked at it in all its bearings. I have read the speeches of the gentleman from Columbia on this question, and I have read his book, and I am not convinced to-day any more than I was when I opened its pages and commenced its perusal. Therefore, after long years of study on this question, I have come to the conclusions which I will now briefly state, leaving all the argument with the gentleman from Lancaster, (Mr. D. W. Patterson,) because he has given us an elaborate speech and very many good ideas, all of which I concur in.

But, sir, I have come to the following conclusions: The right of a majority to rule in all civil cases has never been denied in this government. The submission of a minority to the will of the majority in all matters pertaining to legislation is the completeness of our republican institutions. Every citizen who exercises the right of suffrage does so with the expressed understanding that he will submit to the popular voice as expressed by the majority.

This system of minority representation was never thought of in this government until, in the greed of politicians for places they could not obtain, it became a favorite theme of theirs, a political hobby

on which they could ride into power. The old Whig party or the Democratic party of former days sought no such inventions. They were true to the theory of popular government, and the success of either party was submitted to with grace. No man thought to demand that his side should have more than what they were entitled to in such contests. They held, as we now hold, that all majorities were responsible for the acts of good or bad legislation.

This new-fangled idea is an encroachment on well established usages. It destroys the fundamental principles of popular will. It says that the majority shall not control, that the minority will not submit. If this system of cumulative voting or minority representation should be inserted in the Constitution, it would give an undue advantage to politicians, an excellent bait for the political trap. It would add strength to a party that has always heretofore been satisfied to contend for their political rights upon the merit of that right by holding the majority to a strict accountability for what it did. A bad man, one not worthy of place, could be elevated by it. It establishes a new rule in the Constitution which strictly recognizes party. I despise the word party in a Constitution. It says in language not to be misunderstood that where there is a clear unmistakable majority, a oneness of sentiment, that unity of sentiment shall not have the right to make the law or sit in judgment on the law only so far as their votes shall count in electing their favorite candidate.

This system does not give any new advantage to the majority and only takes privileges from that side and adds them to the other. It is like the unusual proposition found in a dishonest account; it carries two for every ten, and four for every twenty. It will never lift questions out of the political mire; it will never elevate or inspire majorities to extra exertions; it will not, in my opinion, in any way purify parties.

When a man is elected, it should not be for the aggrandizement of his party. The moment he assumes position, it is not for his party, but for all the people. He represents all the constituency of his district or State.

I shall, therefore, without entering into any further argument, cast my vote on this question on that well-established, well-formed principle, the will of the

majority, when fairly and honestly expressed through the ballot-box.

Mr. WHERRY. I deprecate, Mr. Chairman, as much as any member of this Convention the introduction of purely speculative questions into our deliberations. Nevertheless popular clamor on the subject imposes upon us the necessity of giving some consideration to a proposed experimental reform in the election of government officials. The symptoms of discontent on the part of the people with the existing representative scheme can neither be misunderstood nor disregarded. Popular elections under the present numerical majority rule have ceased to give, if indeed they ever did give, a true expression of the sentiments of the people, and [the people somehow or other have found it out. Representative bodies, such as our National and State Legislatures, fail to exhibit in miniature the body politic, fail to exhibit a true likeness of the community which they are supposed to represent. The true idea of a representative body is, as I had occasion once before to say, a microcosm, a miniature organism in which every element of society, every opinion, every sentiment, every interest, has its relative position and importance. To this true ideal will society grow as human interests complicate, and human relations and the science of government come to be better understood.

Now, sir, I desire to approach this subject of electoral reform with calm, yet earnest, deliberation. The problem demands of us the best effort we can give for its solution. The injustice and consequent evils of numerical majority rule in plural elections are too many and too great any longer to be tolerated. Let us take, by way of illustration, an example of the practical workings of majority rule under the existing electoral scheme, an exaggerated case it may be said, but it only the more broadly exhibits the injustice of the system. Suppose a county to contain six thousand voters who are divided as nearly as possible between two political parties, say three thousand one hundred belong to one party and two thousand nine hundred to the other—a not unlikely or unusual proportion. They proceed to elect three county commissioners who are, as you all know, the guardians of the most important county interests, constitute, in fact, a local legislature. The three thousand one hundred majority voters, submissive to party discipline, elect, as a matter of course, all

three commissioners. Each and every one of these three thousand one hundred voters votes for and elects, and is represented in the administration of county affairs in the persons of three separate representatives, is individually represented three times, or, in other words, is raised electorally to a power denoted by *three*—his function of citizenship is *trebled*. On the other hand, each and every one of the two thousand nine hundred minority voters is without any representation at all, without any voice whatever in the determination of affairs in which he has an equal and common interest with every voter belonging to the successful majority. He is reduced electorally to *zero* and rendered powerless as a factor in the problem of government. Here, sir, is a broad, but a fair exhibition of the result of that false principle which renders the present American system of numerical majority rule so unsatisfactory, so arbitrary, so unjust, so tyrannical.

Now, sir, if the representative character of our Democracy is to be preserved and improved, what is demanded is the introduction into our representative scheme of some principle which will operate to give equal electoral expression, equal civic function, equal representative value, to every voting citizen. If delegates will turn to page 121, of "Amendments and Suggestions," they will find a resolution which I had the honor to present to this Convention, relating to the particular question now under consideration. It should read in these words:

"Whether it consists with the true theory of representative democracy that the vote of one elector may count in the election of more than one person to the same constituent body."

Herein, in my judgement, is contained the germ of all true reform in representation, to wit, equality of citizenship, equal electoral value. No sound theory of representation will allow an elector to be represented more than once in the same constituent body. It will not allow one voter to count as more than one unit in the choice of officials when more than one are to be elected to the same position.

But I do not intend to advance the scheme of personal representation at this time. I desire only to state it, that the cumulative plan may be measured thereby. For, sir, I hold it to be self-evident that that system of elections cannot be just, cannot be consistent with the American idea of equal political rights, the ma-

chinery of which operates to give double or treble power to the vote of one citizen over the vote of his peer. I hope I may not be misunderstood on this question. I admit, for I have long felt, the great, the absolute necessity of electoral or representative reform. But, sir, I am not satisfied with this cumulative system. It might, I grant, in a measure modify the extremity of injustice now suffered in one direction, but still I look upon it as a mere make-shift, which, when it comes to be thoroughly understood in its applications by the professional "jobbers" in politics—the "place brokers"—may develop infinitely greater evils than those we now endure. For it still rests upon, as its basic principle, that monstrous absurdity in democracy, that a voter is entitled to secure by his vote the election of more than one representative to any constituent body, or, that one voter may count twice or three times as much as another in the same constituency of American freemen.

The correctness of this statement may readily be made to appear.

Applying the cumulative system to the example already adduced, each voter of the majority party votes for and secures the election of two representatives is represented by two individuals on the board of commissioners, as a political exponent is raised to the second power, while each voter of the minority party is represented but once, is but a unit in the electoral calculation, of but half the value, half the power of a voter in the majority.

My first objection, then, to the cumulative system is that it is based upon a false theory of representation. Whilst the introduction of it into our electoral scheme might wholly counteract some, and mitigate others, of the evils now so grievously complained of, it will, it must, eventually develope other and perhaps greater evils than the present.

The second objection that may be urged against the cumulative plan is that in result it does not differ materially from the confessedly bungling plan of limited voting—the plan applied to the election of election officers and jury commissioners. In fact it is but a complicated way of limiting the number of representatives which the numerical majority of a constituency may elect. Take an example of actual occurrence under the cumulative plan, cited in a late work on "Proportional Representation," (page 184.) Two representatives are to be elected in a constitu-

ency numbering 612 voters, 312 of whom constitute the majority party and 300 the minority party. The 312 majority voters can at best elect but one representative, whilst the minority of 300 also elect one. Virtually a limitation is placed upon the choice of representatives when every majority voter knows that every vote cast for a second candidate is cast in vain. When three persons are to be chosen the majority at its very best can elect but two while the minority are easily able, indeed can not be hindered from electing one. In truth, so far as the choice depends upon the casting of the votes, the election is a solemn farce. The result is inevitable and a canvass useless.

Again, if the principle on which the cumulative system rests, viz.: "That every voter is entitled to as many votes as there are persons to be elected," be even admitted to be a correct principle, it is plain that the application of it in this proposed plan must be very imperfect. For consider how great a waste of electoral power it allows. In the same constituency, spoken of before, (viz.: 612 voters,) where two delegates are elected, there has been a surplus, a waste, of 317 votes on the part of the 312 majority voters, and a waste of 293 votes on the part of the 300 minority voters. Or, stating it in what I conceive to be the only *just* terms of electoral power, to wit, individual or personal representation, on the side of the majority, 312 voters are taken to produce a result which 154 voters could as well have produced—a waste of 158 voters. So, on the side of the minority, 300 voters are taken to produce a result equal to the power of 154 voters—a waste of 146 voters; that is, in a constituency of 612 voters, under this plan of cumulation, there is an actual waste of 304 voters!—nearly one-half the constituency rendered unavailing!—forty-nine per cent. of inalienable franchise lost! If, in this same district, three delegates were to be elected, the majority, by giving one and a half votes to each of their two candidates would secure their election, but at an expense of seventy-two votes more than was necessary, while the minority, in securing the election of their one candidate, would expend 431 unnecessary votes! Or, to reduce it to a personal basis, 312 voters in the majority party were taken to do a work which 301 could as well have done, whilst 300 minority voters were expended in doing what could as well have been done by sixty-nine voters.

Remember that this is not a made-up case. It is one of the examples selected by the gentleman from Columbia to illustrate the workings of his favorite scheme. Surely an electoral system which allows so great a waste of electoral power, expends uselessly so much expressed opinion, cannot secure an ideal representation, cannot secure a representation embracing all the various shades of opinion and sentiment and interest existing in society to-day.

Moreover, the cumulative system is plausible and specious in that it professes to do that which in fact it does not do. It professes to give representation to successive majorities. It does no such thing. At the very best, and that only by the aid of party organization, it divides a constituency into two political segments of a certain relative strength, that strength depending upon the perfection of their organization and the skill and energy of their leaders, and gives a representation to the majority of each segment of voters. In other words, instead of a majority of the whole constituency determining the entire representation, the majority of each segment determines the entire representation to which the segment is entitled, (the exact result, and no more, attained by the limited system of voting,) and the minority of each of these segments is as virtually unrepresented as is the minority of the entire constituency under the existing system. Evidently then the aggregate number of unrepresented under the cumulative system must, by the recognized constitution of human nature, be nearly if not altogether as great as now.

And this leads me to remark, finally, that the tendency, nay the direct result, of the adoption of the cumulative system will be to establish a despotism of party; to weave iron links of party chains under which truth and right and progress will struggle in vain. It seems to me, sir, to be a scheme for taking the discussion and settlement of men and measures from the open field of politics—that grand arena in which the intelligence and the virtue of our citizens have ever won their proudest achievements—and confining them to the narrow and secret chambers of the party caucus, there to be moulded and fashioned and controlled at the dictation of professional "tricksters" and "ring managers." What reason can be given in the nature of things for dividing a constituency into *two* great political

parties and forcing all other interests and sentiments to achieve success, if they ever can achieve anything, through the dark ways and by the dubious devices of partisan chicanery? Is it statesmanlike? Is it deserving to be called a *free vote* when the very device and machinery of it puts the whole moral and material power of the State into the hands of two separate and bitterly contending political parties?

Mr. DARLINGTON. Mr. Chairman: I do not propose to detain the committee of the whole with many observations; but there is one view of the question which does not seem to have been presented by any one of those who have addressed themselves to this subject. The proposition of the gentleman from Columbia, (Mr. Buckalew,) if I understand it, is to elect the county commissioners and county auditors all at the same time; or at all events, the three commissioners at one time and the three auditors at another. I suppose, although he has not so stated it, that the same principle would apply, or he would seek to apply it, to the election of three directors of the poor in such counties as have an office of that kind.

It is now proposed to elect these gentlemen all at the same time in order to introduce into the system of elections the representation of one member of the minority party. In order to do this, the whole theory upon which this government has been based, and the whole practice of the government for the last seventy-four years is thrown aside or changed. I beg gentlemen to recollect that so long ago as 1799 the Legislature of Pennsylvania provided that the county commissioners should be elected all together in the first instance, and that the lowest in votes should serve for one year, the second lowest for two years, and the highest for three years; and that annually thereafter there should be only one of the county commissioners elected. From that day to this the government of Pennsylvania has been administered without change, so far as regards our county administration. Each year there has been a single commissioner elected in each county to take the place of one whose time had expired. The same is true in regard to county auditors, who were originally appointed by the courts, but who, so long ago as 1838, if I recollect aright, were made elective in the same manner to serve for the same length of time, one going out every year. Since this has been in operation, we have had in

the county of Chester also a board of directors of the poor, elected in the same manner, one going out of office each year, and thus from that date to this have these boards of commissioners, of auditors, and directors of the poor been elected, and they have administered the affairs of the government of the county.

That has been the rule all over this State. Every year in each county there has been but one gentleman elected to fill the single office of director of the poor, county commissioner, or county auditor, to serve as all the others serve, for three years. Now, has this been unsatisfactory? Let each delegate upon this floor ask himself and ask his constituents if he or any of them ever heard any complaints from one end of the State to the other of the operation of this system. It has been most salutary. There has been no constitutional provision requisite, but it has been the law as administered from the outset, and I ask you where is the evidence of its unsatisfactory results?

The gentleman from Columbia has pointed out to us two or three cases in which frauds were committed in the office of the county treasurer and in which the public records of those offices were destroyed. He instanced one such occurrence in his own county, one in Luzerne and possibly one in York county. But I put it to you as sensible men, whether in a period of upwards of seventy years, the discovery of a failure of this system in two or three counties, if working satisfactorily everywhere else, is sufficient ground upon which this committee of the whole ought to stand on going into a new experiment, or into what is assumed by some to be an improvement. Where is the evidence of the non-feasibility of the old scheme? Who is there to say that it has not worked honestly? No man in my county or in either of the counties of my district will venture to say that there has been any failure in the administration of the county affairs in any of them. Other gentlemen may answer for their own districts as they can. I say that for the district which I represent there has been no call for a change. It has been considered with us, by every man who has considered the subject at all, that it is a very valuable privilege that we should continue a man in office three years, and when another is to take his place that he should not step into that position along with two other raw men, but that he should find there

men who have had experience in administering the affairs of the county. The advantage of not having all raw men in our county office is a very great one and not lightly to be thrown aside. This proposed plan is to elect them all at the same time, and for no other reason on earth than to get into power in a county board a member of the minority party. Without going to work as they should, to convert the majority to their principles, they seek the spoils of office by getting one of a minority party into one of these little offices.

What will be the effect of this? Simply to change the general administration of the affairs of a county in order to get a member of the minority party into the board, and that is all. It will not change the responsibility of power. The government must still rest upon the shoulders of the majority. The party which happens to be in the minority, whether Democrat or Republican, must answer to the community for the fidelity of their trust. Upon them rest all power and all responsibility. Watch them if you please, watch them by a man in office, or watch them by men out of office; but at last the responsibility rests upon them.

This has been so in the past history of the State everywhere, and I want to know whether, in the sixty odd counties that compose our State, and the sixty odd boards of county commissioners and of county auditors and directors of the poor in as many counties as have that institution, there has been, for the last seventy-five years, anything which is fitly to be pronounced a failure in the administration of the affairs of our counties in this regard? By no means. The system has worked well, it has worked honestly, it has answered the wishes of the people everywhere; and it is not to be thrown aside because there have been defalcations in one, or two or three counties.

If you adopt such a principle as that, a fraudulent cashier of a bank would for the same reason entail upon the whole system of banks destruction, because it has not answered in that case. Railroads are not free from this evil. The Vermont Central railroad got into hands which diverted it from its purpose, used its funds, destroyed its books. What then? Should we give up all railroads or even that railroad? No; in other times it has occurred to other railroads and to other corporations; but still the general principle is the same, the thing itself is right, the

mal-administration in a single case must not lead us into new experiments which may involve us in more danger and difficulty than anything has done in the past.

Nay, further, your State government is not always a success—

The CHAIRMAN. The gentleman's time has expired. Is there objection to the gentleman continuing his remarks?

Mr. D. N. White, Mr. Lilly, Mr. Ainey, Mr. Campbell, Mr. Funck and Mr. Edwards rose.

The CHAIRMAN. Five gentlemen object to the delegate from Chester proceeding.

Mr. DARLINGTON. I move to insert the words "directors of the poor" after the word "auditors."

The CHAIRMAN. There is an amendment pending to strike out all after the fourteenth line. This is an amendment to the amendment. The gentleman from Chester will please indicate where it will be inserted.

Mr. DARLINGTON. Wherever it will come in. [Laughter.]

Now, Mr. Chairman, if I am in order, I wish to say a few words, and I wish to point out to this Convention precisely the results which are likely to occur from the adoption of such a principle as this; and in order to do it I was about saying that a failure in any instance in the administration of the government, whether of State or county, is not sufficient to make us throw aside the whole system. I will point you to a recent case in which our State government met with a serious loss, for which nobody seems responsible. I allude to the George Evans affair. The State was plundered by somebody; somebody got her money; somebody carried off her books; nobody was able to find anything.

Mr. LILLY. Is the gentleman speaking to the amendment?

Mr. DARLINGTON. I am endeavoring to do so.

Mr. LILLY. I think not.

Mr. DARLINGTON. I am trying to speak to the Convention.

The CHAIRMAN. The delegate from Chester says he is speaking to the amendment, and he will proceed.

Mr. AINEY. I wish to ask—

Mr. DARLINGTON. I will say no more about the Evans case, for some gentlemen seem sensitive about it and do not like to hear. [Laughter.] If I mistake not, even in the county of Allegheny they got a Democratic commissioner in at one time

Mr. D. W. PATTERSON. Yes.

Mr. DARLINGTON. Who had to be sent to jail.

Mr. HAY. I rise to state to the gentleman that his Republican colleagues went with him.

Mr. DARLINGTON. Very good. Now, take that case if you please; two Republicans and one Democrat were sent to jail, and yet the business of the county must go on. Why were they sent to jail? Not because they had stolen money, but because they would not raise any by taxation to pay their debts; they refused to obey the mandate of the law.

Mr. D. N. WHITE. They did not go to jail for that, but for bribery.

Mr. DARLINGTON. Instead of the county making an assignment, as she ought to have done if she was unable to pay her debts, or levying her taxes, the commissioners themselves were sent to jail.

Mr. D. W. PATTERSON. They took bribes.

Mr. EDWARDS. The gentleman is in error; the commissioners were sent to prison for bribery.

Mr. DARLINGTON. All the better. [Laughter.] That they got in prison was the great point. But my position is, that because the government failed in Allegheny county, you are not to throw aside the whole system; that does not justify us in introducing this untried experiment of getting in another party that might all have to go to jail, too.

Now, it must be remembered that it is only claimed for this system that it is an improvement, an improvement in the science of government, a new invention. Who invented it? Where has it been tried in regard to the administration of county affairs? Nowhere except in Allegheny. Nowhere in any State of the Union, or in any government on the face of the earth has this been tried. It is a new invention, and for that a gentleman of distinction is responsible. I know that this idea has been floating through the minds of some others in England, different phases of it, some the limited vote, some the free vote, and some some other plan. I know it has been floating through the minds of speculators; but the world knows also that it has not commanded the assent of the sober-thinking men of any country. In no country that is governed by the will of the majority can it ever succeed. Why is it introduced here? Because it is supposed to afford an opportunity to introduce this as an im-

provement. I should like to see some better evidences of the improvement than have been given yet.

Put three men in office, if you please, two of them of one party and one of the other, and have you a guarantee that the one will be more honest than the two? All are selected for probity and good conduct and character, each selected at different times, every man in the county voting for the man of his choice, and the choice of the majority put in that place of trust, and that repeated every year, or if you please, all done at once. What evidence is there that the minority man, whether he be a Democrat or Republican, will be more honest than his fellows? None whatever. The chances are that the majority men are as well selected and as much entitled to the credit of honesty and fair-dealing as the minority man.

Now, select your minority man by the cumulative principle of voting, the free vote, as it is sometimes called, and you cumulate upon him all the votes of the minority. Thus you force a man into office where he can have no power; you put him there for what? Not because he is the choice of the people of the county, but because he is selected by the minority of the county, and you assume that he has a right there because he represents the minority. There I take issue with the theory. The minority have no such right. They have a right to protection; they have a right of speech; they have a right to be heard; they have a right to remonstrate in or out of office; but I deny, *in toto*, the right of a minority to be in office in a republic where the government rests upon the majority, for if he is there he is there for mischief; he is there to mar the business of the government; he can have no power to shape it, it is only to mar it. I would, therefore, leave the government of the county, as well as of the State and of every community, in the hands of the majority, be it of what politics it may, because they must be responsible, and upon them and upon their shoulders it will always rest, although they may have to watch the minority at the same time.

I do not mean, Mr. Chairman, to take up the time of the committee further.

Mr. COCHRAN. Mr. Chairman: I wish to make a very few remarks and give one or two practical illustrations, and I hope not to trespass on the time of the committee, so as to be more wearisome or annoying than the circumstances in

which we are to-day placed make it so for any speaker to address them.

Mr. Chairman, if I thought that the pending proposition was to bring about what the gentleman from Lancaster (Mr. D. W. Patterson) and others have said, namely: To take the control of the country and of its government out of the hands of the majority and place it in the hands of a minority, I certainly should not be found advocating this amendment. But, sir, that is an assumption which the facts of the case and the argument do not sustain. If you assume that as your premises and build your argument upon it, of course you can make a very strong argument; but when the fact is that it does no such a thing, that it leaves the majority in the control of the government, local, State and general, and simply brings a new element into portions of that government, which is not now in fact represented, from the body of the people, then the argument falls to the ground for want of a foundation.

The simple proposition now before this Convention is a practical one that appeals to common sense and does not go very far down into theory, however wisely theories may be built up and constructed. I agree entirely, and I am very glad to find the gentleman from Chester (Mr. Darlington) goes that far in his amendment, that it should apply to the election of directors of the poor. I am glad to find that while he argues against the principle of the thing, he is willing to extend its application to other officers who are not even included in the proposed amendment.

But, sir, why should it not be that the minority should be heard in any of the parts of the government of this country? Why should their voice be stifled? Gentlemen get up here and say that they are constructedly represented, that when the majority, in spite of them and of every effort of theirs, has elected a certain set of men, those men become in contemplation of law, while they are the farthest possible in point of fact from it, the representatives of that minority. Why, sir, practically it is not true. They do not represent that minority; and if you go to these men and say to them that you ask a certain favor they reject and repel you because they do not consider themselves your representatives. You go to the Legislature of Pennsylvania, and you have here been contriving and forging chains to bind that Legislature hand and foot, and I have assisted in it—go to that Legislature at any time,

you who belong to a minority in any county of this State, and ask them for what you regard as a measure of simple justice, and they will turn around and tell you, "go to your own immediate representatives," and those men are the very men who are enlisted to do the very wrong against which you remonstrate, and your own representative will not even hear you.

Mr. D. N. WHITE. I would like to say to the gentleman that practically that is not true. I have been in the Legislature from a county that was represented all on one side, and I never asked a man's politics when he came to me and wanted anything done.

Mr. COCHRAN. Then the gentleman from Allegheny is largely an exception. I know, from personal experience of the fact, that what I have alleged here is correct. And, sir, what is the proposition now? It is simply that the oppressed minority, wherever it is, shall not over-rule the majority, but that they shall be heard in the matter of the expenditure of the taxes which they have contributed and in other matters of municipal government, for I am coming right down to the practical proposition here pending; what I have already said was merely prefatory.

This proposition is a simple thing which relates to local government, and let us discuss it with regard to its reference to local government alone. These larger questions may be discussed when they come up in their proper order. The amendment pending here, as I heard it read, is an amendment which simply provides a machinery by which the minority in any county may be represented in their boards of commissioners and county auditors. That is the whole of it, and it further provides—and it meets an objection there that was brought forward by my friend from Lancaster in his able and elaborate speech on this subject, that the successor, in case of a vacancy, shall be chosen out of the men who voted for the person who died, so that argument is entirely aside of the pending proposition. Now, is it not proper and right that in a matter which is simply ministerial, the minority should be represented, for the duties of these officers are ministerial duties?

It has been alleged here that it is a violation of the Constitution. Why, sir, our law has provided in years past for the election of judicial officers on the very same basis, for every judge of an election and every inspector of an election

is, by virtue of his office, a judicial officer, and when he comes to decide on the question of the right of a man to vote he acts judicially; and that provision of our law has stood for more than thirty years, stood the storms and tempests of that time, and there never yet has been the individual who, if it was unconstitutional, has brought that question to the test; and I say, sir, with an experience of that length of time, and with a recognition of it more or less direct by our judicial tribunals, the constitutionality of that law stands firm and unassailed up to the present day. And we have another class of local officers who have been referred to, ministerial, not judicial, your jury commissioners, and they too are elected on the same principle, and no one as yet has been found to bring before the judicial tribunals the question of the unconstitutionality of the election of those officers in the manner in which it has been provided for under your statutes.

Now, sir, with these things standing before me, with these things existing and unquestioned so far, I have no hesitation in expressing my belief that there was nothing unconstitutional in those laws, and that the amendment which is here proposed, is not at variance with the republican principles upon which our government is founded.

Now, Mr. Chairman, let me give you a practical illustration of this subject, and in doing so, I intend to be offensive to no one, and not even to impute wilful wrong to anybody; but I know a county in this State whose government has been in the hands of persons elected by the majority party entirely. What has been the experience of that county? The matter went on for years. Public sentiment began to be agitated. The grand jury at last took the question up and they insisted upon it that the affairs of that county should undergo an investigation in order to ascertain whether frauds existed, for the county was found to be upwards of \$300,000 in debt. It was my misfortune (for I neither desired nor sought it in the slightest degree) to be appointed by act of the Legislature one of the persons who were to look into that matter, and I have expended a good deal of time upon it. I have found a state of facts, of which I can give you a few instances. I have found in one case a sum of \$14,000 paid out to four men, which money had never been paid into the county treasury. It had been paid out of the treasury to certain parties,

who they were I do not know, but it had never got into the treasury. Somebody was at fault. Why did that thing occur? It simply occurred from the want of vigilance and attention on the part of the county officers, that at least, and I say no more. Why, sir, no longer ago than last Saturday, one of the auditors of the county testified in my presence, that they had allowed credit for paying out that money without the vouchers being produced, they having disappeared, and without inquiring or looking back to ascertain whether or not the money had ever been charged to any officer of the county.

Why, sir, when the board of auditors was appointed, and notice was given, as required by law, that they were going to sit on a certain day, the commissioners' office was broken into, and bills and vouchers and papers were taken out of it and destroyed by the arm-full. And when that board of auditors had proceeded and made some reports to the court, as they were required to do, the office which they held was broken into, and nearly every paper that was found there was destroyed; the very records of the court of common pleas were cut out, and the books were mutilated, so that there was not a single fact contained in those books that was any longer accessible.

The CHAIRMAN. The gentleman's time has expired.

Mr. DARLINGTON. In what county did that occur?

Mr. COCHRAN. It makes no difference in what county it occurred.

The CHAIRMAN. Is there any objection to the gentleman from York proceeding? Whoever objects will rise. There appears to be no objection.

Mr. COCHRAN. I could state much more on that subject if it were necessary to further fortify by facts the argument in favor of this proposition as it is proposed to be applied to local government in the counties.

Now, sir, I do believe that if the minority party in any county were represented in their boards of county commissioners and county auditors, things of that kind would not occur. It is the policy of this government, and it always has been its policy, and it is believed to be the true policy, that the minority should watch the majority, and that they should be put in a position to watch them with effect. I believe that a large part of the citizens of the county to which I refer, who vote with the majority party, were as much

aggrieved, were as much disgusted, annoyed and vexed by these transactions as any of the minority party, and I believe that a large proportion of them would prefer that their boards of county officers should be constituted in the manner provided in this amendment.

I think that common sense and reason dictate that this should be done. Our minorities in this country should be so strong, no matter what party is in power, as to be in some sort an effectual check upon the majority, and they should be put in a position where they could make that check effectual. If this is not so, then the danger is of the government rushing to destruction through the wild measures and the unrestrained power of the majority which has the control.

Sir, why is this Convention assembled? It is assembled for the purpose, as alleged, of reforming our Constitution. Why does this Constitution need reformation? Is it because our government has so completely carried out and illustrated the glowing pictures which we have heard from some gentlemen here this morning, that it is unnecessary that the people should apply some improvements, even some new inventions, if the gentleman from Chester will have it so, for the purpose of making their institutions work more smoothly and contribute more entirely to the public welfare and prosperity? That is what this Convention is for; and no proposition which is made here should be hooted down merely on account of its novelty. Let us have a reason assigned for introducing everything and a reason for voting against it. The proposition before us is a simple practical measure proposed for the benefit of the people of the several municipal divisions of the State, for the improvement of the management of their local affairs. It does not take the power, nor even the responsibility, out of the hands of the majorities in those counties respectively. The majority will still remain where the majority of the people put it, and that majority will be responsible; but they will act with more prudence and with more care when they have along side of them some one who will tell them: "Gentlemen, if you do this or that, it will be my duty to let the community know that it has been done."

I said, Mr. Chairman, that I did not intend to occupy the time of the committee long. I rose only for the purpose of making these few remarks. I pre-

pared nothing in advance. I simply wanted to make a brief statement and give an illustration which, I believed, would enforce the propriety of the adoption of this section. Having stated this, I shall detain the committee no longer.

MR. J. N. PURVIANCE. Mr. Chairman: I promise before I commence that I shall not occupy more than five minutes. I have no disposition at all to occupy the time of the committee, because I know they are very much exhausted.

The proposition now before us is one of more than ordinary importance, and one that has been prominently before the people of the State for several years. It has been discussed and well considered, and nowhere has it been looked upon as wholly a political question. It meets with favor and disfavor, very much according to localities.

The amendment of the distinguished gentleman from Columbia, (Mr. Buckalew,) proposes to change the present system of electing county commissioners and auditors. Instead of electing one annually, as is and has been the law and practice for a period of seventy-four years, he proposes that they shall be elected in the year 1875 together, and that each elector shall have the right to vote for only two, thus leaving one to be elected by the minority party, or in other words there would be no election as to one. I am opposed to the whole system as against the principle upon which our government is founded. Ours is a government of majorities, and that majority must rule and ever be responsible for the administration of government. Any other theory would destroy the equality of the elective franchise, and, if I mistake not, would be a violation of the Constitution of the United States as to the election of members of Congress. The principle, once admitted and applied to minor offices, would soon find friends to extend and enlarge its application. Governor Hoffman, of New York, vetoed a bill because of the pernicious principles which it contained on the very principle involved in the present discussion. His reasons I now read:

"The minority ought to be represented as fully as possible in proportion to its numbers in the public councils. But the minority has not the right to govern. It is not wise that it should share, in any degree, in the actual administration of affairs. The majority must govern. The useful sphere of duty for

the minority is to watch the governing party, to expose its wrong-doing, if any, to restrain it by this vigilance and exposure. Just so far as the minority is admitted to a share in the actual administration of government, to a share in executive duties, just so far is it weakened for the performance of its proper duty, that of vigilance over those in authority; just so far is its inclination to be vigilant lessened. It is only a minority out of power that will be faithful to the duties of a minority. Every member of the minority who is admitted to take part in the actual administration of public affairs, and all of his party whom he can influence, naturally acquire a tendency to defend the administration of which he forms a part, and, where they ought to be exercising a restraining power by their vigilance, they are often found helping to cover up things that need exposure. An administration that has its corps of defenders in both political parties will be much more likely to continue improper practices than if it relied for defense only on its own party friends, and feels that the opposite party is ready, in solid ranks, promptly to assail it if guilty of wrong-doing. I believe the clear, complete and undivided responsibility of one or other of the political parties into which the people, in all free communities, divide themselves, is essential to good government. For vigilance on the part of the people themselves this bill proposes to substitute the services of a few individuals put into partial power by the minority as watchers, which will tend to make the people rely on these few; and indifferent to their own duty of vigilance in their own affairs. These few hired watchers may become screens for errors and neglect of duty on the part of their associates and themselves.

"The government of the majority is the only government recognized by the Constitution of the United States and of the State. The majority controls and must control in legislation, and ought to be solely responsible for administration. When its representatives prove recreant to the trusts committed to them, a vigilant minority is quick to take advantage of the fact, and in turn it becomes the majority. The existence of a strong, vigilant minority, which, not being a sharer of power, has no motive to defend those in power, but every motive to expose them when doing wrong, is quite as essential to honest and faithful administration of

the affairs of the republic as is the existence of the majority in whose hands the actual management of public affairs is placed. This cumulative method for appointing heads of departments may have the effect of fatally lessening, at once, the sense of responsibility on the part of the majority and the vigilance of the minority. The majority rule prevails not only in the governments of the United States and of the State, but also in all municipal and moneyed corporations. To substitute in its place a plan like the one proposed, untried as yet anywhere, in the great city of New York, seems to me to be a most dangerous political experiment.

* * * * *

"JOHN T. HOFFMAN."

Mr. HUNSICKER. I ask leave to withdraw my amendment.

The CHAIRMAN. There is an amendment to that amendment pending.

Mr. DARLINGTON. I withdraw that.

The CHAIRMAN. The amendment to the amendment is withdrawn, and also the amendment of the delegate from Montgomery.

Mr. MANN. I move to strike out the entire section and substitute the following:

"The board of county commissioners shall consist of five members, who shall serve for three years, two of whom shall be elected in each two years out of three, and one member every third year. Whenever two are to be chosen each elector shall vote for but one, and the two having the greatest number of votes shall be declared elected."

I shall not detain delegates two minutes on this proposition. I offer this amendment to obviate the objection that was made to the section offered by the gentleman from Columbia, that he proposed to elect the whole board at the same time, that there would be a new election of the entire board and new officers coming in. This amendment proposes to elect two out of the five every two years, and then the third year to elect one. It will accomplish the same purpose that the amendment of the gentleman from Columbia does. It will give the minority two of the county commissioners out of five. It answers that objection, therefore, that has been made to the other amendment, and I submit it would be a great deal more satisfactory to the people, for they will understand at a glance its precise workings. Besides, it is in harmony with all the provisions we have

made either in the laws of the State or in the amendments proposed to the Constitution by this committee. It is the limited vote; and that puts it in entire harmony with our whole action, so that we shall not have one principle as applied to the Supreme Court and another to the election of county boards. I hope, therefore, that it will be acceptable to those who desire the minority to be represented in county boards at all events. I could not myself vote for the proposition of the gentleman from Columbia; and yet I desire to put myself on record in favor of having a minority in every board of county commissioners in the Commonwealth to watch the majority, for I believe it will have a wholesome influence. In my own county, for years, the commissioners have been of the same politics with myself, and I have therefore no complaint to make; but I believe it would be better for the Republican party of the county in which I live if there was a minority there watching its proceedings.

Mr. BROOMALL obtained the floor.

Mr. BUCKALEW. If the gentleman will give way, as it is very evident that we shall not get through to-day, I will move that the committee rise.

The CHAIRMAN. It is moved that the committee rise, report progress, and ask leave to sit again.

The motion was agreed to.

The committee accordingly rose, and the President having resumed the chair, the Chairman (Mr. J. W. F. White) reported that the committee of the whole had had under consideration the article reported by the Committee on County, Township and Borough Officers, and had instructed him to report progress and ask leave to sit again.

Leave was granted the committee of the whole to sit again to-morrow.

Mr. ALRICKS. I move that the Convention adjourn.

The motion was agreed to, and (at two o'clock and fifty-nine minutes P. M.) the Convention adjourned.

ONE HUNDRED AND NINTH DAY.

WEDNESDAY, May 28, 1873.

The Convention met at half-past nine o'clock A. M., Hon. W. M. Meredith, President, in the chair.

Prayer by Rev. J. W. Curry.

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

LEAVES OF ABSENCE.

Mr. HAY asked and obtained leave of absence for himself for a few days from to-morrow.

Mr. CHURCH asked and obtained leave of absence for a few days for Mr. Parsons, who is called to Harrisburg to attend the Supreme Court.

Mr. J. PRICE WETHERILL asked and obtained leave of absence for Mr. Cuyler for a few days from to-day.

Mr. LILLY asked and obtained leave of absence for Mr. Fell for a few days from to-day.

Mr. BRODHEAD asked and obtained leave of absence for himself from to-morrow until Tuesday next.

DECORATION DAY.

Mr. CURTIN. Mr. President: I offer the following resolution:

Resolved, That Friday, the thirtieth instant, being the anniversary upon which it is the custom to visit and decorate the graves of the soldiers of the Republic who gave their lives that our government might live, this Convention will not hold a session on that day, so that an opportunity will be afforded those of the members who desire to take part in the ceremonies; and that the Convention will hold a session on Saturday, May thirty-first, commencing at nine-thirty A. M.

The resolution was ordered to a second reading, and was read the second time.

Mr. DARLINGTON. I think there must be some misapprehension about this. Is not the thirty-first the day set apart for decorating the soldiers' graves?

SEVERAL DELEGATES. No; the thirtieth.

Mr. DARLINGTON. It is the thirty-first in our region. I know that is the day set apart by all the soldiers there.

Mr. BROOMALL. I move to strike out all after the word "ceremonies." I ask the reading of the resolution as it will then stand.

The CLERK read as follows:

Resolved, That Friday, the thirtieth instant, being the anniversary upon which it is the custom to visit and decorate the graves of the soldiers of the Republic who gave their lives that our government might live, this Convention will not hold a session on that day, so that an opportunity will be afforded those of the members who desire to take part in the ceremonies.

Mr. BAER. I ask for the reading of that portion of the resolution proposed to be stricken out.

The CLERK read as follows:

"And that the Convention will hold a session on Saturday, May thirty-first, commencing at nine and a half A. M.

The PRESIDENT. The question is on the amendment of the gentleman from Delaware.

The amendment was agreed to, there being on a division, ayes fifty-one, noes twenty-five.

The PRESIDENT. The question recurs on the resolution as amended.

The yeas and nays were required by Mr. Boyd and Mr. Darlington, and were as follow, viz:

YEAS.

Messrs. Alricks, Andrews, Armstrong, Baer, Bailey, (Huntingdon,) Bartholomew, Bigler, Black, Charles A., Bowman, Brodhead, Buckalew, Calvin, Cochran, Curry, Curtin, De France, Dunning, Fulton, Funck, Gibson, Guthrie, Hall, Horton, Hunsicker, Lamberton, Landis, Lawrence, Lear, Mantor, Minor, Mitchell, Mott, Palmer, G. W., Patton, Pughe, Purman, Purviance, John N., Rooke, Runk, Sharpe, Smith, Henry W., Stanton, Temple, Van Reed, Wetherill, J. M., Wherry, White, David N., White, Harry, Woodward, Wright and Meredith, *President*—51.

NAYS.

Messrs. Ainey, Baily, (Perry,) Barclay, Bardsley, Beebe, Boyd, Broomall, Brown,

Carter, Church, Corbett, Corson, Dallas, Darlington, Edwards, Hay, Hemphill, Lilly, Long, MacConnell, M'Clean, M' Culloch, Mann, Purviance, Samuel A., Ross, Russell, Simpson, Smith, H. G., Smith, Wm. H., Stewart, Walker, Wetherill, John Price and White, J. W. F.—33.

So the resolution as amended was agreed to.

ABSENT.—Messrs. Achenbach, Addicks, Baker, Bannan, Biddle, Black, J. S., Campbell, Carey, Cassidy Clark, Collins, Craig, Cronmiller, Cuyler, Davis, Dodd, Elliot, Ellis, Ewing, Fell, Finney, Gilpin, Gowen, Green, Hanna, Harvey, Hazzard, Heverin, Howard, Kaine, Knight, Littleton, MacVeagh, M'Camant, M'Murray, Metzger, Newlin, Niles, Palmer, H. W., Parsens, Patterson, D. W., Patterson, T. H. B., Porter, Read, John R., Reed, Andrew, Reynolds, Struthers, Turrell and Worrell—48

PROPOSED RECESS.

Mr. BRODHEAD. I offer the following resolution:

Resolved, That when this Convention adjourns on Friday, June 13th, it adjourns to meet on Tuesday, September 16th next.

On the question of ordering the resolution to a second reading, a division was called for and resulted, ayes two, noes not counted.

So the resolution was not ordered to a second reading.

Mr. BLOOMALL. I offer the following resolution:

Resolved, That when the articles are put on second reading, the Convention shall adjourn to meet on the _____ next, and that the articles be published in pamphlet form, and distributed for the information and criticism of the people of the State.

On the question of proceeding to the second reading and consideration of the resolution, a division was called for, which resulted thirty-seven in the affirmative, forty-three in the negative. So the resolution was not ordered to be read the second time.

LIMITATION OF DEBATE.

Mr. LILLY. I offer a resolution, which I ask to have read and laid on the table for future action.

The resolution was read as follows:

Resolved, That no delegate shall speak more than once on any question in Con-

vention or committee of the whole, nor more than ten minutes, nor shall the time be extended.

The **PRESIDENT.** The resolution will be laid on the table under the rules.

EVENING SESSION.

Mr. WHERRY. I offer the following resolution:

Resolved, That on and after Monday next there shall be, in addition to the daily sessions now provided for, a session upon each evening, excepting Saturdays and Mondays, to commence at seven and a half o'clock.

On the question of proceeding to the second reading and consideration of the resolution, a division was called for, which resulted thirty-six in the affirmative, forty-six in the negative. So the resolution was not ordered to the second reading.

EXPENSES OF CONVENTION.

Mr. HAY submitted the following report, which was read:

The Committee on Accounts and Expenditures of the Convention respectfully reports:

That it has examined the account of the Chief Clerk for expenditures made by him from the 24th day of March to the 26th day of May, instant, showing the payment during that time of \$4,060 32, and a balance in his hands on the 26th of May of \$511 23, and that the same is correct, according to the vouchers exhibited to the committee. An abstract of the account is herewith submitted, marked "A."

The following accounts have been presented to and examined by the committee.

1. For gas used in hall from April 19th to May 22d.....	\$61 64
2. Samuel Adams, for repairing locks and keys for desks of members at Harrisburg.....	24 00
3. Whiteside & Madara, for carpenter work, repairs, alterations, and materials used at hall, umbrella stand, &c.....	356 92
4. Walbert & Brother, ten tons coal delivered.....	79 00
5. George Bergner, stationery, inkstands, ink, &c.....	538 80
6. J. P. Kidd, brooms, brushes, buckets, &c.....	16 82
7. William McCarter, painting front door-way, screens, and glazing.....	10 50

8. John Thornley, 150 feet India rubber hose, couplings and branch pipe.....	\$36 00
9. James H. Orne, Son & Co., 15½ yards carpeting, stair rods and pads for stairs.....	55 00

Together amounting to the sum of 1,178 68

The committee has carefully examined these accounts. The Chief Clerk and Mr. John A. Smull, who acted as one of the clerks of the Convention at Harrisburg, certify that the stationery and other articles included in the bill of George Bergner were purchased for and used in the business of the Convention. It seems to the committee that there should be some officer of the Convention actually accountable for the care and safe keeping of all articles purchased for the use of the Convention. There is otherwise no sufficient check upon wastefulness in using as well as extravagance in purchasing.

The accounts of J. P. Kidd for brooms, &c., William M'Carter for painting, John Thornly for india rubber hose, J. H. Orn, Son & Co., for carpet and stair rods, and of Whiteside & Madara for carpenter work, &c., are certified to be correct by the chairman of the Committee on House of the Convention. The Committee on Accounts does not deem it proper—nor perhaps is it within its appointed functions—to exercise any discretion or supervision over accounts so certified from a committee of this body, unless they should be in its opinion manifestly not for proper expenses of the Convention.

In the settlement of the accounts of the Chief Clerk for expenses incurred during the recess of the Convention about the first of April, the committee has been guided by the communication of the Committee on House to the Chief Clerk, dated April 15th, 1873, informing him of the action taken by that committee under resolution of the Convention of March 28th, and which is hereto appended, marked B.

The following resolution is accordingly reported for the action of the Convention:

Resolved, That the aforesaid accounts of the Philadelphia Gas Works, Samuel Adams, Whiteside & Madara, Walbert & Brother, George Bergner, J. P. Kidd, William M'Carter, John Thornley, and James H. Orne, Son & Co., together amounting to the sum of \$1,178 68, be and the same are hereby approved; and that

a warrant be drawn upon the State Treasurer for said sum in favor of the Chief Clerk for the payment thereof.

The resolution was read twice and agreed to.

COUNTY OFFICERS.

Mr. MANN. I move that the House go into committee of the whole on the article reported by the Committee on County, Township and Borough Officers.

The motion was agreed to, and the House accordingly resolved itself into committee of the whole, Mr. J. W. White in the chair.

The CHAIRMAN. The committee of the whole have again referred to them the article reported by the Committee on County, Township and Borough Officers. At the time the committee last rose the question was on the amendment in the nature of a substitute proposed by the delegate from Potter (Mr. Mann) to the section proposed by the delegate from Columbia (Mr. Buckalew.) The amendment and the amendment to the amendment will be read.

The CLERK. The amendment of Mr. Buckalew is to insert as a new section the following:

"In elections of county commissioners and county auditors each elector may cast all his votes for a smaller number of persons than the whole number to be chosen, and candidates highest in vote shall be declared elected. Three commissioners and three auditors shall be chosen in each county at the general election in 1875 and every third year thereafter, whose term shall commence on the first Monday of January next following their election. And the terms of commissioners and auditors hereafter elected prior to 1875 shall expire with that year. Casual vacancies in the offices of county commissioner and county auditor shall be filled by the courts of common pleas of the respective counties in which such vacancies shall occur by the appointment of an elector of the proper county who shall have voted for the commissioner or auditor whose place is to be filled."

The amendment to the amendment is to substitute the following:

"The board of county commissioners shall consist of five members who shall serve for three years, two of whom shall be elected in each two years out of three; and one member shall be elected every third year. Whenever two are to be chosen each elector shall vote for but one,

and the two having the greatest number of votes shall be declared elected."

Mr. HUNSICKER. I offer the following amendment to the amendment:—

Mr. LILLY. The delegate from Delaware had the floor on the amendment of the delegate from Potter.

The CHAIRMAN. The Chair did not remember that the delegate (Mr. Broomall) had the floor.

Mr. BROOMALL. I will yield for the purpose of letting the amendment of the delegate from Montgomery be offered.

The CHAIRMAN. The amendment offered by the delegate from Montgomery is not in order now. The section offered by the delegate from Columbia was an amendment, and to that there is the amendment offered by the delegate from Potter.

Mr. BROOMALL. Mr. Chairman: This proposition of the gentleman from Columbia, it was to be expected, would meet with some favor in the minds of those of us who are in minorities in our respective counties, but I would remind gentlemen who incline to favor the proposition from that cause that the condition of political parties just at this time is exceedingly evanescent, and that no man knows how to give a sensible political vote upon any question in this body. It is for that reason that I have not from the commencement indicated by word, vote or act, to which of the political parties of the country I belong; and I doubt whether any gentleman present knows to which I belong from anything that has occurred since I was entitled to seat in this body. That is one reason. Another reason why I have not done so is because I think a political vote and a political act exceedingly improper here.

Those of us who are in minorities in our respective counties now, before two years go by may be in majorities; and let no man allow his mind to be biased by his present position when he reflects that that position may not last a year, in all human probability will not last two years. We are, therefore, in a condition to approach the question without regard to our political predilections and our political position, and to look at the effect of it as we may conceive it to be when it is put in operation.

Now, it is proposed that we should depart from the old, time-honored practice of keeping up continuous bodies of commissioners and auditors by electing one each year, and resort to the expedient of

electing three at once. It is argued here with great force, and I repeat it, that by doing so, we shall lose a very great advantage; we shall lose the advantage of a continuous experienced board, and will be thrown back once every three years upon entirely new men.

Again, it has been argued here with force, and I repeat it, that all expedients of this kind incline to favor the government of the country by political caucuses instead of by the people. This has been explained to the Convention by several gentlemen who have spoken on the subject, and I will not enlarge upon it, only to say that if the people are to be deprived of all that is good in self-government by being turned over to self-constituted caucuses of aristocratic politicians, we are just the body that ought to perpetrate that wrong, because we represent those self-constituted politicians and not the people. We are responsible, of course, to our constituents, but our constituents are the caucuses. The people had no choice in our election. To call us the representatives of the people is to talk mockery to them. They were bound to take those who were given to them by their leaders. They could do nothing else, and they pretended to do nothing else. A large proportion of us emanated at once from a committee of these gentlemen, and the rest of us were made by self-constituted committees of politicians in our respective counties and districts. So that if this deed is to be done, we are the proper parties to do it. We have already taken some steps towards depriving the people of the power of self-government when we require that they shall endorse their names upon their ballots, so that they cannot even secretly rebel against the decrees of these caucuses; and this step is an additional one in precisely the same direction.

I doubt whether anybody elected by the people would have done as we did two or three days ago upon the salary question. After declaring that the Legislature has not virtue enough to be trusted to fix its own salary, we deliberately go to work and raise ours one hundred and fifty per cent. above what it was when we took the oath of office here, and decree it to those of us who work and those of us who stay away alike. However, I will say nothing more about that question at this time. It was a wrong that will meet with its proper rebuke at the proper time and place. I only say that if we had been

chosen by the people instead of by caucuses and politicians, as we were, we would not have dared to defy the people in that particular as we did after denouncing their representatives for doing the same thing.

Now, the effect of this measure will be, in addition to what I have said, to rather favor corruption in the bodies in which we are trying to guard against it, because as soon as the minority which now watches with eagle eye the acts of the majority in power, have a representative inside the board, that minority outside will think its interests are sufficiently cared for and will become careless. Then one of two things will happen: Either the minority man inside these respective boards will be corrupted or he will be deceived; and it is a great deal easier to deceive a single man who you know is watching you and whom you see, than it is to deceive a whole community watching outside. The wrongs that are perpetrated by these boards, if any there are, and there are certainly none in my district—are done secretly, and it is just as easy for two commissioners or two auditors secretly to perpetrate a wrong and blind the third one as it is for three to combine to do it, and much easier than to deceive the whole outside minority party, all of them jealous, suspicious and watching; so that frauds will be favored rather than prevented by this measure, for the minority outside will cease to watch, having a representative inside, and the representative inside will be either corrupted or deceived.

Mr. Chairman, I will not take up time with this question, because it has been fully debated and because the Convention desires a vote. I am opposed to all these contrivances. I see nothing better than the old rule of government by the majority. If we resort to any of these expedients it will be a confession against our former principles, an admission that the government by the majority under such restrictions as are laid down in the organic law has proved a failure, and I am not prepared by my vote to confess any such thing. I am content with the will of the majority expressed under the proper constitutional guards, and shall vote against all these new contrivances for evading the will of the majority and deciding questions by political caucuses rather than by the people.

Mr. LILLY. I do not desire nor expect, sir, to go into any fine-spun theories for

or against the proposition which is before the Convention. Neither do I expect to be led off into any sophistry or special pleading on the subject. It appears to me that the gentleman who has just taken his seat (Mr. Broomall) has gone through that line entirely, and that he has not met the point at all.

I favor the proposition before the Convention—the section offered by the gentleman from Columbia, (Mr. Buckalew,) because I believe it will prevent corruption in majority counties. I believe it thoroughly and earnestly, and I have come to that conclusion after years of study, examination and experience. I believe—and I assert my belief without fear of successful contradiction—that there is not a majority county in the State of Pennsylvania that has been in the hands of one party for ten years, where there is not corruption. The gentleman from Delaware may say there is none in Delaware county. I do not know that there is, but I believe there is, and he has his eyes shut up by the majority inside. To talk about a minority watching outside is simply ridiculous. You might as well put a man at a stone wall ten feet thick to watch what is going on inside of it.

Mr. DARLINGTON. Will the gentleman from Carbon allow me to ask him a question?

Mr. LILLY. If you do not intend to make a speech, ask your question.

Mr. DARLINGTON. I do not want to make a speech, but only to ask a question.

Mr. LILLY. Very well; ask your question.

Mr. DARLINGTON. The gentleman says there are majority counties in which there is corruption. To what county does he refer?

Mr. LILLY. Your county, and every other.

Mr. DARLINGTON. Prove it.

Mr. LILLY. I may not be able to prove it, but I say that I believe it.

Mr. DARLINGTON. Has the gentleman any proof?

Mr. LILLY. I have already said that I believe it; I do not say that I can prove it.

Mr. DARLINGTON. Has the gentleman any proof?

Mr. LILLY. I say that I believe it, notwithstanding the gentleman says no. He has had his eyes closed and is not willing that they should be opened. [Laughter.] He has bandaged his own

eyes and is not willing to have the bandage removed.

Mr. Chairman, I live in a minority. In the county where I resided, ever since its organization in 1843, it has been one way. There never was an opposition commissioner elected in that county in all this intervening time until last year. For years, I believe the business of that county was conducted honestly, but it was managed in a manner than which nothing could be more careless, and finally corruption came as the inevitable result of long-continued political rule in the interests of one political party. The consequence was that the people lost a great deal of money in that way. I know a gentleman who loaned that county, at the commencement of the war, one thousand dollars to help raise troops. In the course of eighteen months that one thousand dollars was paid back to him. Three or four years passed on and the old county commissioners' clerk died and a new county commissioners' clerk was appointed, and that new clerk sent word to this gentleman that his one thousand dollar bond was at the office and he could have the money for it whenever he would call. The man was half honest, and he said that the bond had been paid three or four years before. Yet there was not a single record of that fact in the office of the county clerk.

Mr. HARRY WHITE. May I ask the gentleman from Carbon a question?

Mr. LILLY. Yes, sir.

Mr. HARRY WHITE. Was that man reliable?

Mr. LILLY. What man?

Mr. HARRY WHITE. The man who had loaned the one thousand dollars.

Mr. LILLY. That part of the question I will not answer. [Laughter.]

Mr. HARRY WHITE. Who was he?

Mr. LILLY. Who was who? [Laughter.]

Mr. HARRY WHITE. The man who loaned the one thousand dollars.

Mr. LILLY. "Me." [Laughter.]

Mr. HARRY WHITE. Thank you!

Mr. LILLY. I believe that during the continuance of the term of that old commissioners' clerk he was perfectly honest; but he fell into the groove that every county commissioners' clerk in the State has fallen into. There is a new commissioner elected in each county every year. When he takes his seat he finds upon the board two old commissioners, and when the new commissioner asks his colleagues what the forms of business are, they say,

"The clerk knows all about it; we just come here and go through the routine and leave the clerk to take care of matters." And all they do is to sign in blank orders on the county treasurer, and the county clerk fills them up for any amount he pleases.

Ah, but gentlemen say the auditing of the accounts will correct all that. What do the county auditors amount to? Nothing at all. When the auditors go to audit the accounts of the treasurer—and I know something of that matter, for I have been on the board of auditors myself—the treasurer says, "I have paid certain amounts of money on these warrants. I do not know what this money has been spent for. That is none of my business and it is none of your business, because here are my orders bearing the seal of the county and the names of the commissioners, with the attestation of the clerk, and we cannot go behind them. These are my vouchers. All I have to do is to pay them when presented. All you have to do is to see that the amounts are right—that the items of my account have been properly paid."

I alluded to my own county and said that in that county—and my experience is that it is the same all over the State—the commissioners' clerk and the commissioners' office have been able to hoodwink such men as the gentleman from Chester (Mr. Darlington) and the gentleman from Delaware, (Mr. Broomall,) and the corruption in these offices is not discovered. And beside that, these county officers are the political friends of these gentlemen, and they do not want these irregularities discovered because it would defile their own nests. They therefore do not want this business found out. In my own county the old commissioners' clerk, who I said died, was a perfectly honest man, I do not doubt his integrity, but in the inevitable order of things, under the system of uninterrupted majority succession, he fell, as do all others in the same situation, into careless habits of business and the records of the office were not complete.

Mr. LAWRENCE. May I ask the gentleman from Carbon a question?

Mr. LILLY. I have no objection, unless the gentleman desires to make a speech. I do not desire to have that taken out of time.

Mr. LAWRENCE. I know the gentleman from Carbon is very earnest upon this subject. Is there not a practical difficulty in this question—

Mr. LILLY. I see the gentleman from Washington intends to make a speech, and not to ask me a question.

Mr. LAWRENCE. I do not want to make a speech; I only want to ask a specific question.

Mr. LILLY. Very well, then, ask your specific question.

Mr. LAWRENCE. If you happen in the convention to nominate a bad man, how do you get clear of him?

Mr. LILLY. Let him be elected if you please.

Mr. LAWRENCE. How will he be elected?

Mr. LILLY. Let him be elected, but his party in our county will say to that man, "We expect you to give us all the information about what is going on inside," and if he does not do it the whole party will be in opposition to him. The majority is not allowed to cover up this because they say both parties are responsible. I know that was the case in Allegheny county.

Mr. LAWRENCE. Do you give the people any choice at all?

Mr. LILLY. Of course the people have a choice. They are not bound to vote for anybody that is nominated. But my idea is this: I am not wedded to the cumulative system or any other system, but I want minority representation in the administration of county affairs. I do not care how it is got at. This is the only plan by which we can in this Convention get at it. If you can show me any other plan or any other way to get at it that is better than this, I am ready to take it; but I want minority representation.

A few years ago, in this same county of Carbon, there were advertisements for building a new jail. Specifications and plans and everything of that kind were laid down. It was advertised for letting, and the bids ran all the way from \$50,000 to \$125,000. The contract was let to the man who bid \$68,000. He belonged to the majority and he was a responsible man, a man of wealth sufficient to have built the jail and given it to the county if necessary. He commenced building it. About three months after, it did not come out publicly but leaked out by degrees, that the commissioners had allowed him to abandon the contract and he was building it by the day, and he was to receive, and did receive \$10,000 for superintending the building of the jail. To this day the taxpayers of Carbon, even the majority, do not know what that jail cost, but as near

as we can get at it, that county jail cost \$150,000, and it was let for \$68,000.

I do not want to consume the time of the Convention any longer, but I say it is necessary to cure this state of affairs, which I believe exists in all counties where a majority has had control for years, because that is human nature. Believing that to be the case, I am in favor and have come to the conclusion that minority representation in county affairs is actually necessary for the purity of conducting the business. For that reason, I shall vote for it.

Mr. DE FRANCE. Mr. Chairman: I do not rise for the purpose of discussing this question, because it has been discussed pretty thoroughly. I am in favor of some kind of minority representation, but as we have been called upon here by some gentleman for proof of the bad effects of majority rule, I merely wish to cite a case where the election of commissioners for a long time of one party has worked very badly. There is a case in my district. I do not know the circumstances of the case near as well, I presume, as one of the delegates from Venango county; but there was a suit, and it seemed to be proved by the evidence, if I understood it, that for a long time it had been the habit of the commissioners of the county to give out the contracts for bridges and for everything else that they could to the men who would pay them the most money individually for such favors. That was an evil, it seems to me, and it could not have arisen, I think, if the minority had been represented, or could not have gone to such a great extent as it did. It amounted to thousands of dollars, my recollection is.

Mr. BEEBE. The gentleman says it would not have occurred with minority representation.

Mr. DE FRANCE. Not to such a great extent, certainly.

Mr. BEEBE. Does he recollect the case in Allegheny county where there was minority representation for that purpose?

Mr. DE FRANCE. That has been discussed. Does the gentleman wish to ask me a question?

Mr. BEEBE. Do you recollect that case?

Mr. DE FRANCE. I do recollect that case. I believe the man was elected by jobbery, in the first place, in that case.

Mr. BEEBE. Elected by the minority?

Mr. LAWRENCE. He was nominated by a caucus first, as would be the case under this system.

Mr. BEEBE. I recollect he got into the penitentiary.

Mr. DE FRANCE. Mr. Chairman: Yesterday my friend to the left from Bucks county (Mr. Lear) stated that he intended to submit some remarks to show the falsity, as I understood him, of minority representation. I listened to him very carefully, and doubtless it was my fault that I did not understand the demonstration; but I could not see a particle of reasoning in his argument. There has been some talk here in reference to the two Constitutional Conventions—that of 1837 and this. Now, Mr. Chairman, if we take the debates of the Convention of 1837-38, there were more than half of the debates of that Convention that were political talk, and nothing but political talk, from beginning to end. It seems to me that this Convention, although it was constituted as some gentlemen think it ought not to have been, has compared favorably with any Convention that has ever been held in this State in that regard.

Now, the gentleman from Chester says there are some men here having no constituents.

Mr. DARLINGTON. A great while ago; not in this debate.

Mr. DE FRANCE. This is the first opportunity I have had to notice it.

Mr. DARLINGTON. All right.

Mr. DE FRANCE. Now, sir, in my district the Republicans have fourteen thousand votes, according to the vote for Governor, and the Democrats have nearly eleven thousand votes. Add them together, and you have nearly twenty-five thousand. We were allowed three delegates, and, according to equity and honesty, we ought to have a delegate for eight thousand votes. That would certainly give the Democrats in that district a delegate, it seems to me. The talk is here that there is a difference. The talk is here that the majority—and the meaning of the majority is just a little over half—should have the right to rule in all cases. We do not deny that. There is no person who denies that. We admit that the majority must rule; but shall the minority not be heard at all? Shall we have nothing to say? If you, Mr. Chairman, and I and Mr. Boyd, are placed on an island, would it be right for us to hang him without saying a word about it? If he deserved hanging, perhaps we should have a right to try him, and would do so; but he

ought to be heard in every particular, and the minority in these counties ought to be heard; they ought to be able to watch the majority.

It is said that if a bad man is nominated there is no way under this plan to defeat him. If a bad man is nominated, one-third of the good men can defeat him. If you nominate a bad man, just one-third or one over one-third can beat him all the time. He is a great deal easier beaten than in the other way. It seems to me that this Convention is making a mistake. The first principle of government is that the people shall rule. That is the first principle; and it is not that just a bare majority shall rule without hearing the minority at all. That is not the intention. The majority must rule in the counties in which they have two commissioners, but the minority will be there to express their opinion about it, and have their say in it just like every man has his day in court. The minority ought to be there. They have a right to be heard. You cannot afford, Mr. Chairman, to say that fourteen thousand men shall disfranchise entirely ten thousand, and that they shall not have any say at all. The minority have as much right to be heard as the majority. We have no right to rule; we have no right to decide; we have no right to govern; but, sir, we have a right to be heard. That is all I have to say. I am in favor of this proposition.

Mr. D. N. WHITE. Mr. Chairman: This is called a measure of reform, and I rise to protest against it under that name. The distinguished gentleman from Columbia, (Mr. Buckalew,) who is distinguished especially as the advocate of this system which he calls reform voting, presents to this Convention this measure as a measure of reform. If it is a measure of reform it is the duty of every honest man to support it. I profess myself to be a friend of reform; but I must be convinced that a measure is a measure of reform before I can give it my assent.

The great argument that has been presented here in favor of this proposition is that the system of requiring judges and inspectors of the election to be of different political parties has worked well. I assert that there is no parallel in the two cases at all. When you elect men to watch over your elections, that is a purely political matter. There is no chance for personal emolument. Each man desires that his party should succeed. Of course it is proper and right in that case that

you should have in the room men of both political parties to see that no frauds are committed; but I deny that the case is at all parallel when you come to the commissioner's office.

The gentleman knows, and every man who has been in a deliberative body knows, that separate and apart from political questions, men do no act as politicians. For instance, if a matter is brought up before the Legislature in which it is asserted that there is corruption, you do not find that the Republicans vote all on one side and the Democrats on the other; but the honest men of both parties will be generally found on the one side and the dishonest men on the other. When you come to a purely political question, then men will divide according to their politics.

Now, what politics are there in the commissioners' office? I deny that a gentleman elected from the minority party is any more likely to watch over the interests of the county than one elected from the majority party. His party predilections will not hold him at all. In that instance in Allegheny county, which has been referred to, one of the Republicans and the Democrat joined together, and they became the majority, and ruled everything. They were in the majority. And so it might be under this new system. You get a man in there from the minority party. What interest has he then in the party?

Mr. WOODWARD. Does the gentleman allude to the days of repudiation in Allegheny county?

Mr. D. N. WHITE. No, sir, I am not alluding to that at all.

Mr. WOODWARD. I know something about those days.

Mr. D. N. WHITE. That has been cast in the teeth of Allegheny county in this Convention often enough without the very distinguished gentleman from Philadelphia casting it into our teeth again.

Mr. WOODWARD. I understood you to say that that was a mixed commission that repudiated the debt.

Mr. D. N. WHITE. No, sir, I did not say so.

Mr. WOODWARD. You do not allude to that period?

Mr. D. N. WHITE. No, sir.

Mr. WOODWARD. You allude to some other enormity?

Mr. D. N. WHITE. Yes, sir. I allude to the time when we had a Democratic commissioner in the commissioners' of-

fice, and he, with one of his colleagues, a Republican, entered into a system of bribery so extensively that they were discovered, and both were tried and condemned to the work-house.

Mr. HAY. What became of them afterwards?

Mr. D. N. WHITE. They were pardoned out, I believe. [Laughter.] It was asserted that one of them, the Democrat, was about to die from disease, and the Governor, out of compassion, pardoned him.

Mr. C. A. BLACK. Did he not pardon them both?

Mr. D. N. WHITE. Yes.

Mr. C. A. BLACK. Why did you not say so?

Mr. D. N. WHITE. He pardoned them both.

Now, Mr. Chairman, our present system is to have a new man in the commissioners' office, fresh from the ranks of the people, every year. He comes there, if the people were wise in their selection, with honest motives and purposes, desiring to do what is right. If the members who are in are corrupt, they may possibly corrupt him, or they may not; but you have that chance, and you have a person fresh from the people to watch their proceedings; but under the system originated by the gentleman from Columbia you put three men in there for three years, and they are there, a close corporation, and there is no reaching them at all.

Mr. CORBETT. I should like to ask the gentleman a question. In the county of Allegheny, under the law appointing jury commissioners, was it not the habit there to draw jurors altogether or nearly altogether from one party? The reason I ask the question is that I have been informed that that was the practice, and I want to know whether it is true or not.

Mr. D. N. WHITE. I am not able to say whether it is so or not; but I can say for the information of the gentleman that I have been informed by the judges of the courts that the system has worked badly in Allegheny county.

Mr. CORBETT. That is, the system of jury commissioners.

Mr. D. N. WHITE. Yes, sir. It has worked so badly that there was an attempt made to repeal it last fall. It has rendered our juries less acceptable, less useful, less able than formerly. For some reason or other, I do not know how it is, it has not worked well with us, however it may have worked elsewhere

Now, under this new system you put three men in there for three years, and you have no fresh men from the people to come in. What right have you to say that this minority man will be any more honest than the majority men? There is nothing political in the office. He is there to discharge certain ministerial duties. If he is a dishonest man, he is just as likely to join with any other dishonest man who may be in the board to rob the county, as if they all belonged to one party. It will not make a particle of difference in that regard, but you place yourselves in a condition that you cannot change that office for three years.

Then, again, when you do change, you put in three fresh men, unless you re-elect one, men who know nothing about the business of the office. They have to depend upon their clerks, and the business of the county will become very much disorganized. I think in a great many instances it is the clerks that do the mischief, leading men astray. We generally select as commissioners, men from the country, farmers and others, who know but little about business, and the business may be very large. I have no doubt, as has been stated, that the commissioners have been the victims of contractors and others in building jails and court houses, increasing the expense enormously because they were wholly ignorant of everything connected with building, everything connected with finance. In my opinion, the whole system is wrong and ought to be changed; but I can see no reform whatever in this mode of electing them. I think, on the contrary, it will produce disaster; and I especially warn gentlemen not to put it in the Constitution. If you want to try it, try it by means of the Legislature, and if it does not work well you can change it; but if you place it in the Constitution, it is altogether beyond your control, and if it works disastrously, you cannot change it. I simply desired to utter my protest against it as a matter of reform.

Mr. BEEBE. I just wish to say a word in explanation of the remark made by the gentleman from Mercer (Mr. De France) in regard to the commissioners of Venango county. The little stealings that he speaks of as extending over a series of years were not exactly as he states. One board of commissioners made some arrangements for making a little something out of their contracts. They were Republicans. Their successors, also Re-

publicans, ascertained the fact, brought suits, obtained the verdicts, and vindicated the county fully and thoroughly, instead of uniting in the spoils as in the case of the parties mentioned by the gentleman from Allegheny. The only peculiarity about it was that the party against whom the verdicts were obtained went over to the reformers at the last election.

Mr. AINEY. Mr. Chairman: I do not understand that this starts any new question of political philosophy or that it requires extended deliberation or protracted debate in order to arrive at what is best for the people whom we represent in this Hall. It seems to me that it is more a question of business, and my vote upon the measure will be determined more by how the proposition will immediately affect the interests of my people, than by any question of political philosophy about which we have heard so much on both sides, in this discussion.

It is objected that the measure proposed by the gentleman from Columbia, (Mr. Buckalew,) which has been designated as his particular measure—which I deny—upsets and overturns the majority rule. Did I understand it in that light, I should oppose it. I understand the reverse to be true. It recognizes in the very terms of the section itself the right of the majority to rule, but gives effect to the next principle contended for by the opponents of the section, that the minority should watch the majority. I agree that it is properly the mission of the minority to watch the majority. Now, this section is intended to give effect to that principle; to place the minority in a position where they *can* watch. Is it not absurd to say that the minority shall watch the majority, shall watch a board of commissioners in a county where the majority have entire control, where they have an entire monopoly of the board, and their proceedings are secret and the public excluded from any knowledge of their transactions? Is it not absurd to say that the minority in such a case can watch the majority? Put them in a position where they can watch; and do not first blindfold them, and then bid them watch and protect their interests. Give them a representative in the board, and then they are in a position to watch, and not until then.

Now, I am in favor of the principle of allowing minority representation in the board of auditors. The auditors throughout our Commonwealth in the different counties are generally composed of young

politicians. It is the stepping-stone in politics; it is one of the first offices the young politician usually fills in a county. Now suppose there has been a defalcation—suppose there has been corruption in the board of commissioners, is it likely that those young politicians, though young men of average capabilities and average honesty, are going to break their political necks by exposing such board of commissioners and bringing reproach upon their party? I say to the gentleman from Allegheny that while a minority man is no more likely to be honest than the majority of the board, it is less likely that he will combine with them to cheat or combine in any act of corruption. There is no incentive, when it comes before the board of auditors, to conceal any bad faith because there are representatives from both political parties; and the inducement which would prompt a one-sided board of auditors to conceal and hush up any improper action would not apply if the board of auditors was mixed.

I regard this matter, as I said at the commencement of my remarks, simply a question as to its practical effect. How will it affect the people? I believe it will result in great good independent of the mere abstract question of right or wrong of the principles involved in it.

I do not think it necessarily raises the question of minority representation. Upon that question I shall probably have something to say when it properly comes before the House. I say I do not regard the principle of minority representation as immediately involved here. It is more properly a question of the best mode of transacting municipal business—how the business interests of the people of the respective counties will be best protected. I sincerely believe they will be greatly promoted by the adoption of this section.

One word more. I do not see any force in the objection which has been urged against this section in that it prevents the continuous character of the board. Is there any reason why a good commissioner, who has performed his duties faithfully, cannot be re-elected at the end of his term? Cannot we trust that matter in the hands of the people when they come to elect the new board? If an official has discharged his duty faithfully, to the end of his term, can he not be re-elected? I submit there is no substance in the objection. It need not interfere with the continuous character of the

board if the people desire it continued. If it will protect the people, let us adopt the section. If the people desire to continue a commissioner two, three, or any number of years, they have it in their hands, and if their servants have been faithful to their trust they will be likely to be re-elected.

Mr. STRUTHERS. Mr. Chairman: I rise briefly to state the reasons upon which I will found my opposition and my vote on this proposition.

I am opposed to the section for the following reasons:

It strikes down the freedom and equality of elections asserted in the Bill of Rights, already sanctioned and asserted by this Convention in committee of the whole, and essential to the maintenance of republican freedom.

It is a political, partisan measure which assumes that majorities are not trustworthy, but must be subjected to the surveillance of the superior intelligence and honesty of minorities.

It is novel and revolutionary, requiring obedience to party dictation rather than to the voice and will of the people.

It is a measure introduced here from England, where the aristocracy, hard driven by the growing intelligence of the people demanding their rights, attempted to quiet them by a delusive proposition of this kind, thus still holding them still under the yoke of subserviency.

It is a fraud upon the people, disfranchising majorities and doubling up on minorities.

It introduces the new and extraordinary features of maintaining political parties as constitutional law.

It is in every feature subversive of freedom, and anti-democratic.

It cannot be sustained on the ground of expediency; all destructive encroachments on the rights of the people have been initiated in that insidious way. I therefore beseech delegates to consider well before they commit this great mistake.

Mr. BAER. Mr. Chairman: Although from a minority district, I cannot say that I am entirely in favor of the proposition of the gentleman from Columbia (Mr. Buckalew.) While I am willing to vote for a system of minority representation, it is with great difficulty that I bring myself to the point of voting for the principle of cumulative voting. It may be true that by either device the same results may be obtained; and if the same re-

sults can be obtained by the cumulative plan that are to be reached by the minority representation, I still prefer that these results should come from minority representation instead of from a system of cumulative voting. We have had instances through the country, during the short period of the existence of this principle, which to my mind argue strongly against it. Not long ago, at a local election in one of the boroughs of this Commonwealth, at which one of the best men of the town was a candidate for council—being a Republican, a president of a bank, and a man who stood as high as any man in this State—a few waggish Democrats made up their minds that inasmuch as the Republicans had foisted upon them the right of the negro to vote, they would cumulate their votes and elect a negro candidate against this bank president. And they did it. They actually got up a huge, lazy, lubberly negro—who was a disgrace to his race because he was not of the character that many of his race are, and by cumulating their votes upon him they elected him over the head of one of the best men in the country. Now, Republican as the defeated candidate was, there was no justification in that act on the part of the Democrats. They did not vote for the negro on principle, but simply because they had an opportunity to vote into office an obnoxious man belonging to the opposition.

Now, I am opposed to that. It may be said that the same thing might be done under the minority plan, but I do not believe that it could be; I do not believe that the whole Democratic party of that town would have stooped to such a trick as that. You might find a few in any party who would be willing to do so dirty an act, but the majority of the party would not have committed themselves to it; there is an opportunity of filling these offices by minority representation on a principle that I understand is included in an amendment offered by the gentleman from Montgomery—not now before the Convention; I trust that amendment will be brought before the House in order that we may have a chance to vote upon it. If that be done, I shall certainly support it. But if it is rejected, much as I am opposed to this principle of cumulative voting, I shall support the present amendment, without committing myself to it beyond first reading.

I will support it, if for no other reason, because the gentleman from Delaware has used an argument which to me is overwhelming in favor of minority representation. That argument was that this Convention, constituted as it was by minority representation, when the question of salary came up, increased their compensation 150 per cent., and therefore as this body, framed on a minority representation plan, had failed in this respect, the system could not be trusted in any other regard. The gentleman would have us infer from this that no Convention elected in any other way would have increased its salary at all. Sir, I deny that this argument has any weight in that direction, and I also deny that this Convention has increased its salary a single iota. This body has not increased its compensation, because to raise that which does not exist is an impossibility. You cannot increase what must be created, and all that this Convention did was to create its salary.

As far as this compensation is concerned, there is no man in this Convention, not even excepting the gentleman from Delaware, (Mr. Broomall,) or the gentleman from Chester, (Mr. Darlington) who will say that the amount named by this body was too much. No one has had the nerve to rise and make that statement. Not a bit of it. The only question that is now raised on this matter of salary is the miserable question of expediency, and that can be readily settled. How much does the gentleman from Delaware want as his salary? Let him and the gentleman from Chester name their own compensation. Let them put it on record, and then, when we have closed our labors here, let them receive that sum and receipt for it and no more. Then we will know how to test and gauge their virtuous indignation on the question of salary. I believe the gentleman from Delaware himself voted for \$2,000. Now, is the gentleman dissatisfied with the decision of the question because the amount was not fixed at his own figure? If so, let him take no more than the \$2,000. There is no complaint on this score, with a very few exceptions. I know that some gentlemen voted against the salary because they wanted more, but if this question were let alone and not brought up and agitated to be kicked about like a football by the press of the State, no word of dissatisfaction would be heard in reference to our action.

I refer to this question of salary now, trusting that it will hereafter forever lie at rest. The question of minority representation is in no way connected with it. This body is not a political organization, and when the salary question came up we did not treat it like a political issue. We showed that a majority of this Convention were not looking ahead for political preferment, and when there was a duty imposed upon them by the Legislature asking them to fix their salary, like men willing to do their duty, and with the consciousness that what was to be done was right, we did what has been done. Some men who were not in favor of the salary question being met here, act like political trimmers, who would have shirked the question here and referred it to the Legislature, where they would have raised a third house, an outside lobby, to lobby through a bigger sum than we have fixed, and some of them secretly pray that it may not be reconsidered. What would be the direct result of any reference of this subject to the Legislature? Nothing short of an increase. In the name of the majority of this Convention I protest against any further introduction of that question into the Debates of this body. The question of reconsideration has been settled by voting down the resolution of the gentleman from Chester, (Mr. Darlington,) which had less than half a dozen votes. If the question is to be brought up, let it be raised fairly, put before the House, under and in pursuance of the rules, and let it be settled forever by putting on record the amount that these dissatisfied gentlemen desire to receive. Then let them receive what they vote for and no more, and ask the approval of their constituency. I am not afraid to meet mine and take the responsibility of my vote, because I know that the people are always willing that their public servants shall be paid. Not one in ten thousand would have ever dreamed that the members of this Convention were raising their salary if it had not been so stated here. Not one in ten thousand of the people of the Commonwealth would raise a word of complaint on the subject if some of our own body did not seek to make political capital out of the subject.

Mr. MANN. I do not consider, from the evident disposition of the Convention, that the amendment I have offered will be as acceptable as that of the gentleman

from Montgomery (Mr. Hunsicker.) Therefore I withdraw my amendment.

Mr. HUNSICKER. I now renew my amendment.

The CHAIRMAN. It will be read.

The CLERK read as follows:

"To strike out the section and insert: Three county commissioners and three county auditors shall be elected in each county and shall serve for three years. In the election of said officers each qualified elector shall vote for only two of these persons, and the three persons having the highest number of votes shall be elected."

Mr. HUNSICKER. Mr. Chairman: I have nothing new to offer in support of this amendment. It is the limited vote, it has been thoroughly discussed, and I have no doubt that it is well understood by every member of the committee of the whole. I will therefore only say, in answer to the gentleman from Delaware (Mr. Broomall) and in answer to several other gentleman who have made the same objection, that this amendment will always give the people power to change the majority of a board. The majority of a board can be always subject to the control of the people, because each elector will vote for two persons, and the whole board goes out of office every three years. There will, however, be always one of the minority party in the board, and if the majority party shall be guilty of fraud or of rascality in any shape, the minority party in the county at the next election, by nominating two, will change the political complexion of that board for the next three years and have the majority the other way. It distinctly recognizes the principle that the majority shall rule.

Mr. BROOMALL. I would suggest that there is a much simpler mode of keeping a minority man always in the board and to have the election as it is now every year, and that is that instead of the man who gets the highest number of votes being considered elected, every third year you declare elected the man that gets the lowest number of votes.

Mr. MANN. Mr. Chairman: I do not think the delegate from Delaware who made that last argument considered that he was making a very sound one. It is a mere attempt to sneer down this proposition, a proposition made in good faith; and he will take notice that this proposition comes not from minority counties, but from majority counties, and this reform, as I hold it to be, started by the gentleman

from Columbia, was introduced by a delegate from a majority county, and it is advocated upon this floor mainly by delegates coming from majority counties. There was, therefore, no force whatever in that part of the gentleman's argument which referred to the uneasiness of delegates because they were in the minority in their counties. It comes from the uneasiness of delegates from majority counties who have felt and seen the danger of having the whole financial affairs of the State administered without check.

Irresponsible power is always dangerous. There is no sensible man in the Commonwealth who would consent for a moment that the Legislature of Pennsylvania should be entirely made up of men of one party. Why? Because there would be an irresponsible power, and such power has always been dangerous. It is just as dangerous in the administration of counties. The very same argument in favor of having a minority in the Legislature is just as strong in favor of having a minority in a county board. The same reasons apply precisely because irresponsible power is always dangerous, and the nearer parties can be balanced in any body the safer it is for the people.

My friend from Allegheny, who made an argument this morning, (Mr. D. N. White,) spoke, I have not the slightest doubt, precisely as he felt. He claims to be a reformer, and he is one; there is no question of that; but he certainly misapprehends the chief reason given by the advocates of this measure when he asks, will the minority representative be any more honest than the majority? Clearly nobody supposes that he will be. Nobody pretends that the member of the board of county commissioners from the minority will be more honest than the others. What is claimed is that, coming from a different party from the others, he will have more inducement to revise and criticize the action of his fellows than he would have if he belonged to the same party. Now, is there any delegate who does not know that it is more difficult to condemn and expose the action of your friends than of your opponents?

Mr. D. N. WHITE. I should like to ask the gentleman a question, with his permission?

Mr. MANN. Certainly.

Mr. D. N. WHITE. At the time the nine million bill was up in the Legislature the Republicans had a majority in both Houses; but I ask, did not the friends of

that measure in both parties go together, without regard to party?

Mr. MANN. Mr. Chairman: I do not conceive that that is a question in point. I do not see what possible bearing that has upon the question before this committee. I hold that the nine million bill was as just and honest a measure as was ever introduced into the Legislature. The question of the gentleman, therefore, has no bearing upon any view that I can take of this subject. I do not care to discuss that matter here: I was ready to discuss it in the Legislature. What I allege is, that the representative of the minority in any capacity in the Legislature, in a county board, is more active, more diligent in pointing out the errors and mistakes of his fellows than he would be if he was in the majority. Who does not know that when the Congress of the United States was made up mainly of one party, the country was in great danger from the irresponsible power which they exercised? True, the necessities of the case at that time justified it, but no one believes that it would be a happy condition to continue for any great length of time; and the nearer that Congress and the Legislatures of the several States are to being equally balanced, the greater is the safety of the people.

It is idle, Mr. Chairman, for the delegates from Chester and Delaware to say that there are no irregularities in the administration of affairs in their counties. It is known to every intelligent man that there are all over this Commonwealth great irregularities, and that the expenditures of the counties are above what they need be if a thorough and economical administration of the affairs of each county was had. There is no intelligent man who does not know that the tax could be reduced if there was a stricter supervision of the affairs of the county. When the entire composition of these two bodies, the county commissioners and county auditors, is all of one party, there is no revision and no criticism whatever. What the county commissioners do, the auditors approve, and there is no criticism and exposure of the affairs of the county in the nature of things. It requires this change in order to protect the interests of the people and to bring down the taxes now imposed upon them to that standard that might be and ought to be made by a proper administration of the affairs of the county.

Mr. GIBSON. Mr. Chairman: I dislike very much to extend this debate any further; but I wish to say a few words, because I think this is a subject of much more importance than many gentlemen suppose. I come, sir, as is well known, from a county where one political party is largely in the majority; but I feel it my duty to advocate in this Convention what I consider to be right.

The question now before the committee I understand to be nothing more than a constitutional provision as to how the financial officers of the counties of this Commonwealth shall be conducted; that is, who shall constitute the boards that are to receive and disburse the moneys of the municipal corporation which a county is declared to be. Such officers might be appointed by the judges of the courts; they might be appointed by the Governor; but it is supposed that the people have the right to say through the ballot-box by whom the finances of the county shall be disbursed. The argument in favor of the people electing their county commissioners and county auditors is equally strong in favor of the proposition that is now submitted to this Convention; I mean the amendment to the Constitution as submitted by the gentleman from Columbia.

If you say the people shall take part in the selection of the financial officers of the county, certainly all the people ought to take part in it; and if there is any virtue at all in the proposition of minority or proportional representation, here is the place at which it can be applied better than any other; here would be a test as to the benefit of it, and a test as to its practical operation.

Sir, it is the bane of this country that questions of national politics which divide the people into two or more political parties, should permeate every branch of society, so that when we come to the election of judges or county officers the divisions of the people on national questions determine the result. If the majority of the people of the county, of one political way of thinking, are to elect the officers who are to take care of the finances of the county, then a particular class of citizens have the right to determine how their money shall be disbursed. In Republican counties the Republicans would have a right to say, and in Democratic counties the Democrats would have a right to say, how their moneys shall be disbursed.

Sir, is that right? On the face of it does it appear right? Therefore, sir, a class of persons who may not entertain those same political views certainly should have some right to be represented in a matter of such importance. Why should the views of citizens upon questions of national politics give them any more right to the control of the finances of a county than their views upon any other questions, whether religion or any other subject? That is the idea that I wish to submit to this committee, that under the present system, whichever political party has a majority in any particular county, that class of citizens have the preference in saying who shall administer the finances of that county.

But under the system that is proposed, the majority, as I understand it, are to elect two, while the minority will have an opportunity of securing one representative at least in the board. It is a question, not of suffrage or of the right of suffrage, but it is a question as to how a certain board shall be constituted, and the main objection to the present system is that men of a certain class of political views have the absolute control in the particular district in which they have the majority.

An objection has been made to the proposition submitted by the gentleman from Columbia, that you put in men who are unacquainted with the duties of their office. Sir, the receipt and disbursement of the finances of a county is not a matter of such very great difficulty that it should be continued from year to year by persons holding the office by what is known as the rotation system. Every board of county commissioners will have its counsel, as a matter of course, to instruct them with regard to the legal questions that may arise, and in many of the counties a clerk of the commissioners is elected by the people; and that clerk need not be elected at the same time, and he will be acquainted with the routine of duty. I do not think there is any serious objection to the proposition because it puts a new board in office.

One other objection has been made, but which, I think, has been sufficiently answered, and that is, that the minority member of the board can exercise no control. That may be so; but while those who are elected by the majority control the disbursement of the finances, he can exercise a vigilance which can be exercised in no other way. Those of us who

live in counties that have large majorities, I think, are better able to judge of the manner in which those who are elected from a certain political party manage the finances, and use and abuse them, than those who come from other counties where there is a difference of opinion and where the contest is close.

I do not feel, sir, that this question involves at all the great question as to the right of suffrage, upon which it has been argued so strenuously this morning, but I think it is simply a question as to the manner in which the financial board in the several counties shall be constituted in the Constitution we propose to submit to the people.

MR. STEWART. This question has been discussed at great length, and I dislike very much to delay the action of the committee upon it, even for a moment, but a thought has occurred to me in connection with this matter, which is sufficient to control my action, even without any regard to the question of whether the system of limited voting or cumulative voting is sound or false in theory. It seems to me that the provision contemplates the protection of the people against themselves, and because it does this it is vicious.

These county commissioners and auditors and all county officers are elected by the people themselves, and taking things as we find them they are elected according to the political complexion of the particular county. Sir, this is all wrong. The gentleman from York (Mr. Gibson) recognizes this fact, that there is no reason under the sun why political questions should be allowed to enter into these elections; but the fact remains that such considerations do determine the election of these officers. The people are governed by these considerations in the choice of their county officers, and although it be most unwise, not to use a stronger word, it is proposed by this amendment to encourage them to continue to act in this way by devising some way to protect them against the calamitous results that are sure to follow such action on their part. I say that is all wrong. The people have the remedy in their own hands. Why regard political considerations when they come to the election of officers such as these? There is no reason for it, as I have said. Then, having the remedy in their own hands, let them apply it. If they choose to put their allegiance to their party over and above considera-

tions of public interest and private duty and private rights, what ought to be the result? They ought to suffer the consequences. Let us recognize this fact, and trust them to learn it in time, if in no other way, by the same experience that taught the people of the city of New York. Experience is often a dear schoolmaster, but his lessons are heeded better than those of any other. If unheeded, the individual or people who disregards them ought to suffer the consequences which he or they might have averted. County commissioners and county auditors can and should be elected without regard to their political convictions; they can be selected out of the people of the county, not because of their political opinions, but because of their peculiar fitness for those positions. When such considerations govern we shall have good county officers, and county affairs will be properly administered.

Now, sir, I conceive the weakness of this whole plan to be just here—that it is protecting the people against themselves. It implies that it is right and proper that politics should enter into the election of these officials. Either this, or that it is impossible to get the people to act independently of political considerations upon this subject. I don't believe that either is correct, and I have no idea that many of the gentlemen who favor the amendment differ from me in this. So long as the people have a sufficient remedy in their own hands, and refuse to apply it, give them no other remedy; do not compromise with an abuse in this way, but let the people recognize the truth as we see it here to-day, that all this malfeasance in office and mal-administration in county affairs results from their attachment and fealty to party in contests where parties can be allowed to interfere only at the cost of good government.

MR. MINOR. Mr. Chairman: At this late hour of the discussion I shall confine myself to a single proposition. It is one which I have arrived at after listening to all that has been said on both sides, and it is this—that no matter how full these propositions may be of merit, no matter how many defects they may contain, it is utterly impossible for us at this time to decide upon and adopt that which we can say we know is better than all others.

Now, sir, look at that point for one single moment. The gentleman from Columbia (Mr. Buckalew) has presented one plan, which was argued for a long

time. Its defects were pointed out. Then the gentleman from Potter (Mr. Mann) offered another. Its defects were pointed out, and it was withdrawn. The gentleman from Montgomery (Mr. Hunsicker) offers another, which is strongly opposed by some and favored by others. The gentleman from Cumberland, (Mr. Wherry,) supposing that he had demolished the present system, and also all those now offered, has given notice that he will offer another, which is better, in his judgment, than any yet suggested. The gentleman from Somerset, (Mr. Baer,) on the other hand, has given notice that he will propose yet another. All of these systems have their merits, and all of them have their demerits.

Then you may go beyond that, and refer to the system called the personal representative system; and I think, also, the Hare system, which differs from all these, advocated by a very distinguished man, and yet he himself, on further examination, has abandoned his own theory and adopted another.

Then, again, take up the one that is before us. If it is the cumulative vote, will you allow fractions, or will you require persons to vote full votes, or what will you do?

And so I might go on and multiply and multiply the propositions on this subject almost *ad infinitum*. These things are all comparatively new; they are comparatively untried. The Legislature and our communities have both said that they themselves do not know yet which is the best. The Legislature adopted, in some boroughs in this State, upon request, this system in one or the other of its modifications, and then, after a time, repealed the whole of them. They applied it again to this Convention. They have applied it in the appointment of jury commissioners; and so it goes. Now, sir, if we would stand here and act as statesmen, as wise men, we will endeavor to take that which we know is the best; and if the circumstances are such that we cannot decide it, we will leave it to that time and place when and where it can be decided.

One word further. It is admitted that it is just as competent for the Legislature to apply this system in any of its various forms as it is for us. It is not a question of power; it is simply a question of expediency. They have in the past shown no disposition whatever to turn the cold shoulder to any merits that any of these

various systems may present. As I said, they have adopted the system in two or three cases and repealed it in others. That being so with these new and comparatively untried experiments, can we say here that we know which is the best and then fasten it upon the people for an unlimited term? It is a characteristic of all new things that they may have merits, and yet it is unwise to tie ourselves down to the first, or the second, or perhaps the third form in which they may be presented. I therefore do not say that any or all of these propositions are destitute of merits, but I do say there are defects in them all. I will mention but one; and that is, that under one phase you may put in a minority bad man and the majority cannot keep him out. This is substantially admitted. There is a defect which cannot be got over in the form now presented. Time may develop some mode of doing it. I say, then, let us leave this matter out of the Constitution; leave it to the Legislature; so that as time, experience, and matured wisdom shall develop its merits and also disclose its defects, the one may be adopted and the other avoided.

MR. BIGLER. I do not intend, Mr. Chairman, to enter into the discussion of this main question at all. It has not occurred to me that, for the proper understanding of the proposition before us, it is necessary to enter into an examination of our representative and elective system in any enlarged sense. This measure is intended to accomplish a single purpose, to wit: To give a representation to the minority in the several county boards where county business is transacted. I am entirely willing, representing a county that is largely Democratic, that the other side should be represented in the board of county commissioners and auditors. I think it would be wholesome, although I agree that if the minority man be a bad man and the majority should elect one of the same character they could, united, transact the business corruptly; but the chances are that it will be otherwise.

But I rose simply to say that the original proposition and the pending amendment are intended to accomplish the same object, and for one I very much prefer the amendment; in other words, I prefer the limited to the cumulative vote. I think the amendment will accomplish all that the gentleman from Columbia has in view, and it would be applicable to these business affairs; it would also be

consistent with what we have already done; for we have applied this principle to the election of judges of the Supreme Court. In my judgment it is not open to the numerous objections raised against the other proposition. It is certainly less so to my mind, for there are very strong objections to the other. I rose simply to express my decided preference for the limited over the cumulative vote. I hope therefore that the amendment of the gentleman from Montgomery may be adopted.

MR. LAWRENCE. Mr. Chairman: I do not think if we should spend a week on this great question and be able at the end to defeat the proposition, the people would complain of the loss of time. I look upon this as one of the most important questions we have discussed and voted upon, and I have listened to this discussion for the last two days with great interest. I will not now detain the committee except to express a few objections I have to the amendments. Every man knows that this is a most radical change in our system; and although my good friend from Columbia (Mr. Buckalew) may say that it is only applicable to the county boards of commissioners and auditors, there is not a man who does not know that that is a mere commencement, an entering wedge by which this new system of voting shall be carried into the Legislature, and everywhere else if possible. This system has been partially tried—only partially, I admit—and so far as I know it is already condemned by public sentiment wherever it has been tried. It is an innovation on the old plan of electing by a majority, the plan of our fathers, the system under which we have existed and prospered, by which the people had a right to rule, and have ruled, and ruled successfully and prudently and wisely.

I believe my friend from Columbia, by his personal influence in the Senate, when he was in that body a few years ago, induced the Legislature to adopt this system as applicable to the school boards and town councils of the different boroughs in the State. I know that it was made applicable to the election of councilmen in the borough in which I live. I saw it tried there. I hear other gentlemen say they have seen it tried. My friend from Somerset (Mr. Baer) gave us a notable instance this morning in which it had been tried to his knowledge. I say from my personal experience that I do not know a man in my region of country, of either party, that desires it to-day.

Why, sir, that cumulative system of voting, as my friend from Somerset says, gives the very worst men in the community the power of being elected to the council in any borough or to the school board, if you choose, by giving him the power to cumulate whatever number of votes can be concentrated upon himself. I will give you an instance. I know a borough in this State where there was a man running for council—not a colored man, but a man who was not in any sense the choice of the citizens—a man who was opposed to all public improvements; a man who had a large estate in the borough, but was opposed to the improvement of the streets, side-walks, &c. And yet he obtained the nomination, and by getting a majority of persons of his class to cumulate on him their votes was elected. The votes cumulated on him and elected him to the council. I only mention this as an instance to show how an unpopular man or how a man who is opposed to the policy of the majority of the people can elect himself.

How will it be in reference to nominations? There is where the important question comes in. The trouble is not so much in the election at the polls as it is in the bad nominations made by the ring leaders, and I could refer you to several counties in this State where it is said these rings have ruled supreme. My friends from Allegheny all know how it has been charged in that county, and yet do you not know that a man who wants the nomination under this system has an inducement to labor to get it, because the nomination is equal to an election. My friend from Greene county knows how it is in Greene county with the Democratic party. A nomination there is equal to an election always; and hence the contest is for the nomination at the primary meetings and not at the polls. So it will be in every instance if you apply this system. You will find men going into the different townships getting the politicians, the corrupt politicians, if you please, to assist in their nomination, and the man who has the most means and can get the most of these township politicians will always get the nominations for these county offices. Take Allegheny or take Washington, if you choose, as an instance. You should always have a choice. At this very time we have in the Republican party in our county at least half a dozen good men named for commissioner. But suppose one of these men to be a rich

man, a corrupt man, and a bad man, and suppose he goes around, as he might, into the different townships and get the township politicians to instruct for him and give him the nomination, he would be nominated in the county convention, and I ask you how you would defeat him under this system? You make a nomination for the people and you make it in this very way, and the man who is the least acceptable to the people probably, or the man who would make the poorest officer, secures his nomination, and the people have no choice afterwards. His election is secure.

Mr. C. A. BLACK. Allow me to ask the gentleman a question?

Mr. LAWRENCE. Certainly.

Mr. C. A. BLACK. What has this to do with the election?

Mr. LAWRENCE. The man is blind who cannot see the effect of it, because, as I said this moment, that is the very objection to this thing. If my friend from Greene will only have that christian virtue called patience, I will tell him how it applies.

I asked my friend from Carbon this morning a question which indicated the whole thing, and I say to him now, and he will find it to be so, that it will not be the people who will elect these men; it will be the county conventions, the rings, and it will be the State conventions that will nominate the candidates for judge under this system, and why? Because the nomination, I say again, is equal to an election. Does not my friend from Greene know that in his party in his own county the contest always is for the nomination and not at the polls; that the man who gets the nomination in his party is sure to be elected? And under this system, how much more certain is it? You nominate three men. Take my own county. We Republicans nominate two men; the Democrats nominate one, or *vice versa*, as you choose. We present them to the people, and the people are bound to vote for the men we nominate or have no choice at all, as these are all the candidates in the field. So it is with the Democratic party. If they nominate one man and present him to the people, they are bound to take him, bound to elect him, just as my friend from Bucks said the other day in talking about the constitution of this Convention, the manner in which it was selected. He said that the ring at Harrisburg

had nominated the ticket at large. That may be true; but it reminds me of a friend of mine who once said that the Pennsylvania railroad company had elected a United States Senator a few years ago, and he did not know but they had elected a better man than the Legislature could have done; and I was on the ticket at large. I know that a committee went out and reported names, as he says, to the Convention; but for my part I never even saw the bill under which we were elected until the day before the nomination; and his statement may be true or it may not be true. If it was true of one party, I suppose it was true of the other party; and if you bring this up as a sample it ought to be an argument against the system of my friend from Columbia. But I say there is not a man here who does not know that this will be carried into State conventions and county conventions. How can it be otherwise? You make it impossible for a man to be defeated in your county, Mr. Chairman, where you have ten thousand majority; do you not know that you have politicians there who will manage the nominations; a certain class of men will be nominated, and do you not know that the people have no chance and are bound to take the nominee? They cannot call another convention and nominate somebody else, or they will not do it. Then who elects? The people go to the polls on the second Tuesday of October and merely ratify what the committee or convention has done in primary assemblage.

I heard my friend from Lancaster (Mr. D. W. Patterson) yesterday, who made a most able argument against this whole thing, and I say an unanswerable argument. I listened to it all through, and I say, without disparaging anybody here, that it is an unanswerable argument on this whole question. He referred to Illinois. Now let me refer to Illinois for a moment. I heard one of the Senators of the United States, who is a very observant man, in the State of Illinois and knows as many men in the State as any other citizen in it, say that it was a most iniquitous system, and that if the people had an opportunity now they would vote it down by one hundred thousand majority; and he mentioned an instance in one county where a rich man, a corrupt man, a bad man secured the nomination at the primary meetings and thrust himself before the people, and they could not defeat him and he was elected.

Mr. AINEY. I desire to know whether it would not be easier to defeat a bad man, nominated under this system, than under the old, and for this reason under the system which now prevails?

Mr. LAWRENCE. How defeat him?

Mr. AINEY. I desire to know whether it would not be more practicable and easier to defeat an objectionable man under this new system?

Mr. LAWRENCE. I am on just that very question.

Mr. AINEY. The gentleman will bear with me until I explain. Taking the gentleman's county for example, two are nominated on the Republican side and one on the Democratic side. A bad man is nominated on the Democratic side. His party is not satisfied with him, it is easy to solicit and procure some proper Democrat to offer himself independent. The hands of the Republicans are tied; they cannot put up a third man; they can only elect their two men. The fight is then wholly between the two Democrats. Every Democrat, however ardent and devoted, can be loyal to his party and vote against the bad man, and thus make it easy to elect a good man over the bad nominee. It is the cry of loyalty to party now and the danger of defeating both that prevents that being done under the present system. Is not that so?

Mr. LAWRENCE. If the gentleman's premises were right, the conclusion might be right; but the gentleman knows very little about the politics of Washington county if he supposes that after a nomination, anybody will run independent. I say that the nomination is equal to an election in nine-tenths of the counties of the State, not only for auditor but for county commissioner, under this system of cumulation.

Now, let me go back to Illinois. I say that in several counties, as the Senator to whom I refer stated in debate, bad men were elected to the Legislature of Illinois by securing the nomination before the people, and the people had no choice; they had to vote for them or not vote at all; and they were elected. The same gentleman said that if they had that question before them now, it would be voted down by a very large majority—they are so tired of it. It is an innovation on the old plan of electing, an interference with the rights of the citizens. Why should not the majority rule? Why should not the majority in Washington county or Northampton or any other county of the State—a major-

ity of the legal voters rule? Is not that the doctrine of our fathers? Is not that the democratic system under which we have lived and prospered? Now here in this Convention we propose to make a radical change, one that cannot be altered. If it was done by the Legislature I would not think so much of it. You got it through the Legislature three years ago applicable to the councils in the boroughs of the State, and it was repealed in less than three years. Look at the statute book of the Legislature last winter and you will find it repealed. If you put it in the fundamental law you cannot wipe it out by an act of Assembly. You must abide by it until the Legislature adopt measures for an amendment of the Constitution.

The CHAIRMAN. The gentleman's time has expired.

SEVERAL DELEGATES, (to Mr. Lawrence.) Go on.

The CHAIRMAN. If delegates object to the gentleman from Washington continuing, they will rise. The Chair hears no objection.

Mr. DE FRANCE. Under this system does not the majority rule, and must it not necessarily?

Mr. LAWRENCE. How did the gentleman then expect to elect his minority candidate?

Mr. DE FRANCE. I advocated minority representation, but the majority always must rule.

Mr. LAWRENCE. That is admitting the whole argument. They ought to rule. The majority ought to rule everywhere where men are sensible and intelligent. Why should not that be the rule? I say, Mr. Chairman, that the people understand this question better than we think they do. You must not suppose that the people expect you to take away the right from them, to elect whom they please, and to say that by some chicanery and some management, some amendment to the Constitution or some legislative enactment, you can run somebody into office in a minority county where the people are opposed to him. That is the idea. Now let me tell my friends, what was well said here by somebody else and better said than I can say it, that parties pass away, but the government should live until the world itself is burned up. Parties, and I do not know but that this great party to which you and I belong, will pass away. It has done more for this country than any party ever did for any

country since the days when Caesar flourished or Philip subjected the nations of the earth—it has been a great living organization that has done great things for this country; but I do not say it will live forever, and I do not believe it will live if it is not governed by wise and beneficent principles and controlled by honest men.

If it does not meet the expectations of the people it ought to die, just as the old Democratic party died or as any other party will die when it becomes corrupt and forgets the interests of the people in trying to advance the interests of individuals. I do not say that this Republican party will die this year or next year, but the Democratic party or some other party will come into power after a while, and then if this provision be now adopted it will return to plague them. We are not legislating for any political party, not for the present advantage or the future interest of either of the political parties that at present divide the State, but we are here to frame a fundamental law for the people for all time to come; and hence I say that the man is not wise who will to-day put this great innovation, this new idea, containing what my friend here (Mr. Buckalew) and some other good, honest men like him, call reform voting into our fundamental law, giving the minority party the right to elect members of the county boards. Corruption will not be prevented by a minority representation. In Allegheny, county where they had two Republicans and one Democrat, gross corruption prevailed.

MR. LILLY. Will the gentleman from Washington permit himself to be interrupted?

MR. LAWRENCE. Certainly.

MR. LILLY. I suppose that the instances to which the gentleman refers were the only instances in which corruption was found out. [Laughter.]

MR. LAWRENCE. Does not the gentleman from Carbon know that when he makes any such statement as that, he underrates the intelligence of the people? Does not the gentleman suppose that the people are intelligent enough to find out whether their public servants are cheating them and practicing fraud in the administration of their offices? I am sure that in Carbon county they have sufficient honest men to prevent their officers from practicing fraud in the different departments of the government of that county. We can always find honest men who, by the system of the majority vote as it at

present exists, can be secured to fill any positions necessary for the administration of our county affairs, and I do not think that it is wise at this time to change that system.

More than that, I am satisfied that the people do not desire the change. I know that in my county the Democrats do not seek to change our present mode of voting. I know that the Republicans do not want this new plan introduced, and the people of the State do not want it.

The gentleman from Columbia has presented an innovation on the plan of voting, and says that it is a reform. It has never been tried in this country, except in the two instances to which I have referred, in the State of Illinois, and if it had been found beneficial in the boroughs and townships where it was there tried, why would the people have asked for its repeal in less than three years? They asked to have it repealed because they saw that it was the source of more trouble and confusion than the old plan, and just as it resulted on that small scale, so it will in a county, and so it will in a State.

This system, if adopted, will render a nomination an election. Go to any State Convention after the adoption of this Constitution, which will not be until after the next State Conventions meet, and take any office for which nominations are to be made. Take the two judges to be nominated, one by each party, and what will you find? In the Republican party the politicians from all the counties in the State will come there to nominate their particular favorite and labor to secure his nomination. And why? Because it is certain that he will be elected. When the gentleman from Lycoming, near me, and myself were nominated at Harrisburg on the State ticket at large to this Convention, with twelve other gentlemen, was it not certain that we would be elected? The people could not defeat us because there was nobody else in the field, and so it will be even with the judges of the Supreme Court. Every politician in the State—the corrupt ones if you choose—will crowd to Harrisburg and they will present their favorites. They may present men of merit, but they may make unwise selections, and if they do, the people will be tied down and fettered as Sampson was under the green withes of the Philistines when shorn of his strength, and unable to burst the bands that bind them, because when they go the polls they will find only the nominees of the

Conventions, not the nominees of the people, but the nominees of the active ring politicians.

I am opposed to this whole system. The people ought to have the right to choose their officers, to defeat a bad nomination or endorse a good one. I remember when I was a boy that when we once had four members of the Legislature to elect we had numerous candidates offering themselves. Then the people had a choice, and while the system remains unchanged they will always have a choice. But change our present plan and introduce this new notion, and at once you have another system, a caucus system, a Convention system. Under the present plan bad men can be defeated. Under the proposed plan bad men, if nominated, must be elected.

I hope we shall vote this section down. The men who advocate this new system here to-day will have to answer to the people for taking away from them the right to choose their own officers and electing them in another way, under the form of law.

Mr. BUCKALEW. Mr. Chairman: I am glad to hear the voice of the gentleman from Washington (Mr. Lawrence) in favor of purity throughout the land in elections and against any interference by politicians with the nominations made for support by the people. Of course we are in a state of Arcadian simplicity at present, and it would be distressing if we were precipitated into a vastly evil condition of things by the adoption of either of the propositions before the committee of the whole. But while the gentleman, rightfully and righteously, perhaps, denounces evil in high places and in low, one thing is certain, that he has made a most extraordinary speech in regard to his statements of fact, which are both extravagant and inaccurate. It is not true that in the State of Illinois the experiment of honest, fair, reformed voting has failed, or that it is condemned by any large amount of public opinion in that State. The late member at large from the county of Centre, (Mr. M'Allister,) whose death we lament and will regret until the end of our labors, put his hand in his pocket and obtained from that State a statement which each member of this Convention has received, giving the most complete analysis of details in regard to the election of representatives under the new plan in that State, and exhibiting how completely this result—

Mr. LAWRENCE. Will the gentleman from Columbia permit a question?

Mr. BUCKALEW. Certainly.

Mr. LAWRENCE. Who wrote that statement? My statement came from sound enough authority, General Logan.

Mr. BUCKALEW. This statement was prepared by Mr. Matteson and Mr. Myers, of the city of Chicago, than whom there are no more respectable or intelligent gentleman in that State.

I say that that experiment was completely successful, and was so successful that in choosing one hundred and fifty-three representative from fifty-one senatorial districts of that State, each party obtained precisely its just representation in the legislative body; and a proposition of amendment in hostility to this change, made in the Senate by Senator Canfield, from whose speech we had an extract yesterday, was put down or disapproved by almost common consent in both the Senate and House of Representatives. I tell the gentleman from Washington that he is not well-informed upon the progress of reform in the West. Before he attempts to prejudice our judgment upon this subject he should inform himself of the facts.

Another point. With what extraordinary denunciations this simple proposition that the minorities in counties shall be represented in their own governments has been met. We are told that it is a thing unheard of, without precedent or example in our past history or in the history of free government anywhere. Why, sir, you have now upon your statute book a law which has been in force ever since 1867 for electing county officers upon the very plan proposed by the gentleman from Montgomery. You elect in every county in the State, and have elected since 1867, two jury commissioners by the limited vote, each voter voting for but one; and these jury commissioners discharge the same duties with regard to the selection of jurors' names and with regard to the drawing of jurors that were formerly performed by county commissioners. The duties of county commissioners in part, by that statute, were transferred to those new officers who are to be elected in contempt of that great principle of the majority grabbing everything for which the gentleman from Washington and some other gentlemen so strongly contend.

Is it then new? You have it now in your law, and you are acting under it

constantly. If you consent to this proposition proposed by the gentleman from Montgomery, you will send to the people precisely what their own Legislature passed in principle half a dozen years ago, and under which they have voted ever since, and which they do not intend to give up and go back to the old, unjust, pernicious system in choosing these officers. If you adopt this amendment—and this is one strong recommendation of it—if you adopt the amendment of the gentleman from Montgomery, for that is pending, and I speak to that at present, and provide that *all* the people of a county shall be represented in a board of county commissioners, of course you will afterwards abolish your jury commissioners. You will have no necessity for them any longer. There were just-minded majorities in the cases of some boards of county commissioners, but there were others that selected jurors in some other counties altogether from their own political friends. If you re-organize properly the boards of county commissioners you can dispense with jury commissioners, and you will have a tribunal or authority much better constituted for the selection of jurors than you have now, because there are some inconveniences and imperfections connected with this system of jury commissioners, thought it is infinitely better than the old plan was. One of the great advantages which I expect for the people from the adoption of the amendment with regard to county commissioners is that, so far as selecting jurors is concerned, you will have a still greater improvement upon the present improved plan.

New! We have had this very plan in operation since 1839 in every election district of this State. New! Have not two-thirds of the members of this Convention been chosen on this plan? New! Have not they chosen judges in New York and in Chicago under it? New! Has not the law of Great Britain since 1867, in relation to Parliamentary elections, contained this plan? The gentleman from Washington is talking as if his audience were not booked up. Perhaps he is not booked up himself.

Mr. LAWRENCE. Will the gentleman allow me to explain?

Mr. BUCKALEW. Certainly.

Mr. LAWRENCE. I said that it was new in this State, and I repeat that the only place in which this system has been

tried it has been repealed. I refer to cumulative voting.

Mr. BUCKALEW. I am speaking to the amendment of the gentleman from Montgomery.

Mr. LAWRENCE. I was not.

Mr. BUCKALEW. That amendment is now pending, and is the question to be voted upon. The other question I will come to presently. I treat one subject at a time.

Gentlemen have read for our edification an extract from a veto message by Governor Hoffman of New York, (undoubtedly a first class man, a man of great ability in our country,) a veto which, however, was to some extent influenced by political pressure from the city of New York. I desire to put into the Debates along with that extract others from the same source. In his annual message to the Legislature on the fifth of January, 1869, Governor Hoffman said: "If a plan shall be devised which will give to the political minority, within a city, a just representation in its councils, we shall doubtless secure better results in municipal government than have ever been attained."

In his message of the second of January, 1872, he said: "If any plan can be devised for giving, in the legislative branch of the city government, by election, a just and proportionate representation to the minority, it would be a wholesome improvement."

Mr. J. N. PURVIANCE. Will the gentleman from Columbia pardon a question?

Mr. BUCKALEW. Certainly.

Mr. J. N. PURVIANCE. Was that before or after the veto message of Governor Hoffman from which I read yesterday?

Mr. BUCKALEW. It was at the same session.

Mr. J. N. PURVIANCE. Before or after the veto message?

Mr. BUCKALEW. The veto message was after this annual message.

Mr. Chairman, if it were necessary to quote authority, I would quote from the inaugural address of Governor Hendricks, of Indiana, made to the last session of the Legislature of that State, covering this subject; but I do not choose to refer to authority. What I choose to say is this: That that veto of a bill, which was to some extent in the interest of the political minority in New York city, was a mistake with regard to the inclusion in it of some hasty remarks

upon this particular subject; but it would be doing its author injustice to say that his criticisms upon the free vote were unqualified. They were made somewhat in suggestive form, and the strength of his objection to the bill was that it impaired the principle of unity and responsibility in the government of the city of New York—executive unity in administration. And with reference to that point the veto stood upon impregnable ground.

Mr. J. N. PURVIANCE. Does the gentleman mean to say that Governor Hoffman attached his signature to a message not written by himself, and which contained an expression of principles repugnant to his convictions and judgment?

Mr. BUCKALEW. Certainly I do not intend to impeach his candor any more than his capacity, but to regret that he could not give to reformed voting more deliberate consideration than was possible in the closing days of a legislative session. In regard to the manner in which it was proposed to vote for aldermen in the city of New York, his objections, in my judgment, are entitled to but little weight, for he stated, absurdly enough, that under the proposed plan of electing nine aldermen from a district a corrupt man obtaining the votes of a corrupt elector would have his power to influence an election increased nine times!

The CHAIRMAN. The gentleman's time has expired. ["Go on."] Is there any objection to his proceeding? No delegate rises to object, and the gentleman from Columbia will proceed.

Mr. BUCKALEW. A statement so palpably absurd must have been prepared in the haste of the closing hours of the session by somebody else, and been inadvertently admitted into that document. But the main objection suggested to the free vote feature of that bill was that of unconstitutionality. Now, if there is a principle of constitutional law established in the United States it is that the Legislature of a State possesses all power legislative in its nature which is not expressly withheld from it by the people in granting the constitutional power or inconsistent with the grants of power which have been made in the Federal Constitution to the government of the United States; and inasmuch as neither in the Constitution of New York, nor of Pennsylvania, nor of any other State, has there been a limitation imposed upon the legislative power with regard to its regulation

of the manner of casting votes, it follows that complete constitutional authority exists in every Legislature in all cases to pass laws upon this particular subject.

But let us come down a little later; do not let us stop with the year 1872. The Legislature of New York has recently enacted a statute for the government of that city, and although some of its provisions have been complained of as bearing a partisan character, upon this subject of reformed voting in that city for the local Legislature no general complaint has been made. They have provided that the aldermen of the city of New York shall be elected thus: Three members from each senatorial district of the city, each voter to vote for two, the three highest to be elected; and six aldermen to be from the city at large, no voter to vote for more than four. That law has received the sanction of Governor Dix, and is a statute of that State; and by the way Governor Dix was a member of the committee which recommended the free vote when it was accepted previously under Governor Hoffman by the Legislature of that State.

Here then you have the principle of the amendment of the gentleman from Montgomery. (Mr. Hunsicker) applied the present year by the Legislature of New York to the government of New York city, and this I suppose will answer any reference on the ground of authority to that State.

I find it necessary to refer to one or two other points, but I will do so briefly. Gentlemen object that the terms of the commissioners are all to expire at the same time; that three being elected in 1875 and every third year thereafter, the terms of all must necessarily expire at the same time. Instead of this being an objection, it is one of the strongest recommendations of this change. It is just, expedient and politic in the highest degree that at regularly recurring intervals the people of every county and every municipality in this State shall have the power to change entirely their local government. If there be abuses in that government, at regularly recurring periods they should be permitted to change at least the majority of their officials and thus effect any reform they may desire. If it be a question in regard to the policy of erecting a new prison or of constructing a new court house, which may cost them \$100,000 or \$150,000, is it not right that they should have the opportunity of re-electing a board

which is in favor of or against the particular measure, or substituting a new one? And so with regard to other matters of policy in the government of a county. Let the people have this opportunity when their judgments are made up on county policy of changing the officers by which that policy shall be executed. As it is now, public opinion may be ripe and formed upon particular questions, and yet the majority of their officials can defy them for a period of two or three years. That will be changed under the new plan.

There is another thing: Favoritism and abuse have grown up connected with the system of running county government by commissioner's clerks, and it will be important that a fresh board every third year shall pass upon the question of appointing the commissioners' clerk. If he has been meddling in the politics of the county and rendering himself obnoxious; if he has been neglectful of his duties in the office in which he has been placed; much more, if he has been corruptly faithless to the public trust confided to his charge, there should be a fresh body of men to pass upon his claims, and not the commissioners nominated yearly through his management of the collectors and the county patronage.

Mr. DARLINGTON. Is not the gentleman aware that under the present system the clerk is appointed every year?

Mr. BUCKALEW. Certainly, a formal appointment every year; but, observe, he is appointed by men holding over year by year—two associated with him for one or two years always holding the power to re-appoint him in their hands.

One other point, sir, and I shall leave the subject. Gentlemen are wonderfully captivated with the idea of having the people free to choose between candidates at an election. They view with distrust, and some with intense disfavor, the idea that a party nomination shall be in ordinary cases of course successful. They say, you put this subject into the hands of nominating bodies of politicians and deprive the people of an opportunity of choosing between candidates.

Mr. Chairman, under the new as well as under the old plan of voting, nominations will be made by nominating bodies. Under either plan, precisely the same source—a Convention or caucus—will produce the nomination. The only question is whether the nominations of one Convention shall be almost uniformly successful,

or whether those successful nominations shall be divided between two Conventions, and in the case supposed of the possibility of the people choosing between two hostile entire tickets for all the offices that are to be filled, what is the practical fact in our politics? *It is that very balance-of-power vote which is our trouble and difficulty at present*, that impressionable vote, that corruptible vote, which in city and country is all the time in the corruption market and which holds the fate of parties and of candidates in its hands. This change extricates politics from the dominion of those interests, and I expect their hostility to it from the beginning; hostility here if their voices can penetrate into this chamber, and hostility at the election upon the amendments which we shall prepare.

Mr. LAWRENCE. Allow me to ask the gentleman a question. That is one point I was trying to make, that the corrupt man would get the corrupt vote all the time, and this would give him absolute power.

Mr. BUCKALEW. And I am answering the gentleman by pointing out that the objection is fallacious. How absurd was the case he presented, as an objection. One man of wealth and some influence in a particular town, it seems, was a candidate for council, and a certain proportion, a fifth or sixth of the voters of the town, united upon him and elected him. The majority of the town was opposed to his views of policy in the town; but he was put into the council. Well, sir, what of it? He goes into the council with one vote out of six, the majority of the town of five-sixths represented by five votes, and he wielding one powerless for mischief. And yet the voters who voted for him had a just right to be represented.

Mr. LAWRENCE. That was not the case at all, because it gave him a majority vote and put him in the board.

Mr. BUCKALEW. The gentleman was speaking about his election, and objecting to *him*. I do not know about other candidates, for they were not mentioned. Under the old plan of voting in such a case as that mentioned, what would this rich man and corrupt man, if you please, do? Here are two party tickets in the town to be set up, six men on each side. He has a large pecuniary interest it may be, involved in the election; there is a majority of but fifteen or twenty for one party or the other. What does he do? He puts his pocketbook into the election and he

carries himself, if a candidate on one ticket, and five others with him; in other words, an expenditure of a moderate sum just turning the scale between parties. This balance of power vote carries six members of the council; whereas in the case taken, under the plan now proposed, it carries but one.

However, Mr. Chairman, that is wandering from the immediate question. I desire to say—

Mr. LAWRENCE. I dislike to interrupt the gentleman, but one of his main arguments is that it is always better to have a minority to watch the majority in all public bodies. Is not that the argument?

Mr. BUCKALEW. Yes.

Mr. LAWRENCE. I want to know if there was not a strong, active, vigilant, and able minority in the Legislature for the last ten years, and have they prevented corruption?

Mr. BUCKALEW. I am not sure about the whole minority. There are grave doubts about it. I do not think this business of legislative corruption is by any means a party matter.

Mr. LAWRENCE. I know it is not.

Mr. BUCKALEW. I do not think that these corrupt influences are very select in looking after their instruments in the Legislature.

Mr. Chairman, a number of gentlemen on the floor have expressed a strong preference for the amendment of the gentleman from Montgomery, (Mr. Hunsicker,) the limited vote, precisely similar to the plan on which most of the members of the Convention were elected; and in deference to their opinions, I am willing to take that amendment. For my own part, I greatly prefer the amendment as authorized by the Committee upon Suffrage, which was moved by me, and is the subject-matter under consideration; but at this stage of the debate, under the limitations of time and under the pressure of fatigue which are upon us, as a matter of course I shall not go into an argument and draw a distinction between the two. I content myself, therefore, by saying that, for the present, I hope every friend of minority representation in county government, in boards of commissioners and auditors, will vote for the amendment of the gentleman from Montgomery.

The CHAIRMAN. The question is on the amendment offered by the delegate from Montgomery, (Mr. Hunsicker,) which will be read.

The CLERK. The amendment is to strike out the amendment of the gentleman from Columbia (Mr. Buckalew) and insert in lieu thereof:

"Three county commissioners and three county auditors shall be elected in each county and shall serve for three years. In the election of said officers each qualified elector shall vote for only two persons, and the three persons having the highest number of votes shall be elected."

The amendment to the amendment was agreed to, there being on a division, ayes fifty-nine, nays thirty.

The CHAIRMAN. The question now recurs on the section offered by the delegate from Columbia as amended by the delegate from Montgomery (Mr. Hunsicker.)

Mr. H. W. SMITH. Is it in order to move an amendment to that amendment?

The CHAIRMAN. It is.

Mr. H. W. SMITH. I move to amend the amendment by striking out "two" and inserting "one," so that each elector shall vote for but one person. I do not intend to occupy time by making a speech, but so much has been said about "rings" and dishonesty in both the great political parties, that I think there ought to be an opportunity given to the good citizens of all parties to vote for independent and honest men.

The CHAIRMAN. The question is on the amendment to the amendment, offered by the delegate from Berks (Mr. H. W. Smith.)

The amendment to the amendment was rejected.

Mr. BUCKALEW. I desire to inquire whether the clause in relation to the filling of vacancies in these boards is included in the amendment? I do not suppose the gentleman from Montgomery desires to strike that out.

Mr. HUNSICKER. Oh, no; I do not propose to strike that out.

Mr. BIDDLE. Let the section be read as amended.

Mr. BUCKALEW. I want to retain that provision about filling vacancies. That is necessary.

The CHAIRMAN. The section will be read with that addition to it. The Clerk understood, and so did the Chair, that the amendment of the delegate from Montgomery was a substitute for the whole section.

Mr. D. N. WHITE. It was so stated.

The CHAIRMAN. Perhaps the better plan would be to move to amend by adding that clause.

Mr. BUCKALEW. I move that amendment to the amendment.

The CHAIRMAN. The amendment of the delegate from Columbia will be read.

The CLERK read as follows:

"Casual vacancies in the office of county commissioner and county auditor shall be filled by the courts of common pleas of the respective counties in which such vacancies shall occur, by the appointment of an elector of the proper county who shall have voted for the commissioner or auditor whose place is to be filled.

Mr. D. N. WHITE. We have just voted that down, and how can we now vote it up again? We have just struck out those words. I raise a question of order on the amendment.

The CHAIRMAN. The amendment of the delegate from Montgomery was offered as a substitute for the whole section, and it prevailed. Now, the delegate from Columbia moves an amendment to it, embracing only a part of the first section.

Mr. D. N. WHITE. He moves to restore what we have just stricken out by a vote of the Convention.

The CHAIRMAN. Not the whole of it, only a part. The Chair decides that this amendment is in order. The question is on the amendment just read to the amendment.

The amendment to the amendment was agreed to, there being on a division, ayes, fifty-one, noes, twenty-four.

The CHAIRMAN. The question now recurs on the amendment as amended.

Mr. HUNSICKER. I would add an amendment to this section, to include the board of directors of the poor, but the difficulty is that the poor system is not uniform throughout the State. In some counties the board of directors consist of three, and in other counties each township is a poor district and elects an overseer. I simply desire to make this explanation as the reason why I do not offer such an amendment.

The CHAIRMAN. Does the delegate offer that as an amendment?

Mr. HUNSICKER. No, sir.

The CHAIRMAN. The question then recurs on the amendment originally offered by the delegate from Columbia (Mr. Buckalew) as amended.

Mr. MINOR. I move to amend by striking out after the word "county" the words "who shall have voted for commissioner or auditor whose place is to be filled," so as to leave it to the courts to appoint from the whole county and not

confine the selection to any set of persons. I therefore move that amendment.

Mr. BUCKALEW. Of course that amendment is not strictly in order at this time. I desire, however, to make a word of explanation. In the bill pending in the Legislature for two sessions, which was reported but not acted upon, careful provision was made on this subject of filling vacancies. It was provided that the courts should receive any respectful petition from citizens of the county who had voted for the officer whose seat was to be filled, and should appoint the person so recommended, assuming that he was fit and capable. As a matter of course, the details to execute all these sections of the Constitution will have to be provided by legislation. There will be no difficulty about it.

The CHAIRMAN. The question is on the amendment to the amendment, offered by the delegate from Crawford (Mr. Minor.)

Mr. LILLY. Is that in order? Have we not just voted in the words that he proposes to strike out?

The CHAIRMAN. They were voted in with other words.

Mr. LILLY. He can move to add words, I agree; but he cannot move to strike out what has just been voted in.

The CHAIRMAN. The question is on the amendment to the amendment.

The amendment to the amendment was rejected.

The CHAIRMAN. The question now recurs on the amendment as amended, which will be read.

The CLERK read as follows:

"Three county commissioners and three county auditors shall be elected in each county, and shall serve for three years. In the election of said officers each qualified elector shall vote for only two persons, and the three persons having the highest number of votes shall be elected. Casual vacancies in the office of county commissioner and county auditor shall be filled by the courts of common pleas of the respective counties in which such vacancies shall occur, by appointment of an elector of the proper county, who shall have voted for the commissioner or auditor whose place is to be filled."

On the question of agreeing to the amendment as amended, a division was called for and taken.

The CHAIRMAN. On this question the ayes are fifty-six and the noes thirty-four, though the Clerk reports that some gen-

tlemen have voted on both sides. [Laughter.]

Mr. STANTON. I was about to call the attention of the Chair to that fact. I saw gentlemen standing up on both sides.

Mr. LEAR. That is cumulative voting. [Laughter.]

The CHAIRMAN. The Chair decides that the amendment as amended has been carried.

Mr. MACCONNELL. I offer the following as a new section:

"The terms of office of all county officers shall begin on the first Monday of December next after their election."

I offer this amendment to fix a thing which is now very uncertain. By act of Assembly a number of county officers have their terms fixed for the first Monday of December next after their election; but in regard to coroners and commissioners there is no provision on the subject. I think it is desirable to have it fixed so that it cannot be changed by any arrangement of these officers or by the Legislature.

The amendment was agreed to, there being, on a division: Ayes, fifty-one; noes, thirteen.

The CHAIRMAN. The article is gone through with.

The article being completed, the committee of the whole rose, and the President having resumed the chair, the Chairman (Mr. J. W. F. White) reported that the committee of the whole had had under consideration the article reported by the Committee on County, Township and Borough Officers, and had directed him to report the same with amendments.

The amendments were read and ordered to be entered on the Journal.

The amended article, as reported by the committee of the whole, is as follows:

ARTICLE XIV.

SECTION 1. County officers shall consist of sheriffs, coroners, prothonotaries, registers of wills, recorder of deeds, county commissioners, county treasurers, county surveyors, county auditors, clerks of the courts, district attorneys and such others as may from time to time be established by law: *Provided*, That the Legislature may declare what offices shall be incompatible; and no sheriff or treasurer shall be re-eligible for the term next succeeding the one for which he may be elected.

SECTION 2. County officers shall be elected at the general elections and shall

hold their offices for the term of three years if they shall so long behave themselves well and until their successors shall be duly qualified. All vacancies shall be filled in such a manner as the Legislature may direct.

SECTION 3. All county officers who receive compensation for their services shall be paid by salary to be prescribed by law, and all fees attached to any county office shall be received by the proper officer for and on account of the State or county as may be directed by law: *Provided however*, That the annual salary of any such officer shall not exceed the aggregate yearly amount of fees collected by him.

SECTION 4. The Legislature shall provide by law for the strict accountability of all county, township and borough officers, as well for the fees which may be collected by them as for all public or municipal moneys which may be paid to them.

SECTION 5. Any person shall be eligible for election to any office of any county, township or borough, respectively, of which he is a qualified elector.

SECTION 6. Three county commissioners and three county auditors shall be elected in each county and shall serve for three years. In the election of said officers each qualified elector shall vote for only two persons, and the three persons having the highest number of votes shall be elected. Casual vacancies in the office of county commissioner and county auditor shall be filled by the courts of common pleas of the respective counties in which such vacancies shall occur by the appointment of an elector of the proper county who shall have voted for the commissioner or auditor whose place is to be filled.

SECTION 7. The terms of all county officers shall begin on the first Monday of December next after their election.

ORDER OF BUSINESS.

Mr. D. N. WHITE. I call for the order of the day.

Mr. BIGLER. I move that the Convention proceed to the second reading and consideration of the report of the Committee on the Legislature.

The PRESIDENT. That is the regular business in order. Is it the pleasure of the House to proceed to the second reading and consideration of that article? ["No. No."]

Mr. HARRY WHITE. Allow me to ask a question of the Chair. May I ask what

became of the report of the Committee on Public and Municipal Debts and Sinking Funds, if we have any report of that kind?

The PRESIDENT. The Chair must refer to the Journal and the clerks.

Mr. HARRY WHITE. May I ask of the Chair whether we have a report of that kind on the Clerk's table?

The PRESIDENT. The Chair is informed that no such report is at the desk.

Mr. HARRY WHITE. May I inquire also if we have a report from the Committee on State Institutions and Buildings?

The PRESIDENT. No, sir.

Mr. HARRY WHITE. May I also ask the Chair whether the chairmen of these several committees are going to report or not?

The PRESIDENT. There is no report on the table from these committees. The question now is on proceeding to the consideration of the article on the Legislature.

The motion was rejected, there being: Ayes, thirty-one; less than a majority of a quorum.

ELECTIONS AND ELECTORS.

The PRESIDENT. The next business in order is to proceed to the second reading and consideration of the article reported by the Committee on Suffrage, Election and Representation.

The motion was agreed to, and the Convention proceeded to the consideration of article on suffrage, election and representation.

The PRESIDENT. The article is now on second reading. The first section will be read.

The CLERK read 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.

Mr. WHERRY. I move to strike out the words "be an elector and," so as to read:

"Every person possessing the following qualifications shall be entitled to vote at all elections," &c.

The PRESIDENT. The question is on the amendment of the delegate from Cumberland (Mr. Wherry.)

Mr. WHERRY. Mr. President: I offer this amendment simply to perfect the phraseology of the section. It must be apparent to every gentleman who reads the section that it is tautological. To "be an elector" is to be "entitled to vote;" and to be "entitled to vote" is to "be an elector." There can be no reason in common sense why the idea should be duplicated in two phraseologies.

The amendment was rejected.

Mr. CAMPBELL. I offer the following amendment: Strike out of the third line the word "male." I do not propose to discuss the question, as it has been fully discussed already, but merely to call for the yeas and nays on it so as to get the record right.

Mr. BROOMALL. I second the call for the yeas and nays.

Mr. GIBSON. I move an amendment to the amendment, to strike out the words "male person" and substitute the word "freeman."

The CHAIRMAN. The question is on the amendment to the amendment.

Mr. CAMPBELL. I suggest to the gentleman from York to withdraw his amendment so that we may have a direct vote on the amendment which I have offered. His amendment to it does not seem germane.

Mr. GIBSON. I will withdraw it for the present so that the vote may be taken on the amendment of the gentleman from Philadelphia.

The PRESIDENT. The yeas and nays will be taken on the amendment of the gentleman from Philadelphia.

Mr. DARLINGTON. Now I presume we understand that all who vote for this proposition are in favor of female suffrage? ["Yes!"] That is the distinct question and I shall vote for it.

The PRESIDENT. The question is on the amendment of the delegate from Philadelphia (Mr. Campbell.)

The yeas and nays were required by Mr. Campbell and Mr. Broomall, and were as follow, viz:

Y E A S .

Messrs. Addicks, Ainey, Beebe, Broomall, Campbell, Carter, Cochran, Craig, Darlington, Horton, Howard, MacConnell, Mann, Mantor, Patton, Purviance, Sam'l A., Rooke, Temple, Wetherill, J. M., Wherry, White, David N. and Wright—22.

N A Y S .

Messrs. Alricks, Armstrong, Baer, Bailly, (Perry,) Bailey, (Huntingdon,) Biddle, Bigler, Black, Charles A., Boyd, Brown, Buckalew, Calvin, Church, Corbett, Curtin, Dallas, De France, Edwards, Ellis, Finney, Funk, Gibson, Green, Guthrie, Hall, Hanna, Hay, Hazzard, Hemphill, Heverin, Hunsicker, Lamberton, Landis, Lawrence, Lilly, Littleton, Long, M'Camant, M'Clean, M'Culloch, Minor, Mitchell, Newlin, Patterson, D. W., Porter, Pughe, Purman, Purviance, John N., Read, John R., Reed, Andrew, Ross, Runk, Russell, Simpson, Smith, H. G., Smith, Henry W., Smith, Wm. H., Stanton, Stewart, Struthers, Van Reed, Walker, Wetherill, John Price, White, Harry, White, J. W. F., Woodward and Meredith, *President*—67.

So the amendment was rejected.

ABSENT. — Messrs. Achenbach, Andrews, Baker, Bannan, Barclay, Bardesley, Bartholomew, Black, J. S., Bowman, Brodhead, Carey, Cassidy, Clark, Collins, Corson, Cronmiller, Curry, Cuyler, Davis, Dodd, Dunning, Elliott, Ewing, Fell, Fulton, Gilpin, Gowen, Harvey, Kaine, Knight, Lear, MacVeagh, M'Murray, Metzger, Mott, Niles, Palmer, G. W., Palmer, H. W., Parsons, Patterson, T. H. B., Reynolds, Sharpe, Turrell and Worrell—44.

Mr. HUNSICKER. Mr. President: Before we proceed further, I wish to call attention to the fact that the first vote was taken when the members had not the printed article before them. I voted against the amendment offered by the gentleman from Cumberland (Mr. Wherry) and I move to reconsider the vote by which that amendment was rejected. I am satisfied it is right.

The PRESIDENT. Is the motion to reconsider seconded by another gentleman who voted with the majority?

Mr. DE FRANCE. I second it. I voted with the majority.

The PRESIDENT. It is moved and seconded to reconsider the vote by which the amendment offered by the gentleman from Cumberland (Mr. Wherry) was rejected.

The motion to reconsider was agreed to.

The PRESIDENT. The question recurs on the amendment of the gentleman from Cumberland, to strike out in the second line the words "be an elector and."

Mr. WHERRY. May I be permitted to make an explanation again? ["Certainly."] I offer this amendment, Mr. President, simply to correct the phraseology of the section. It is now tautological. It is the same thing "to be an elector" and "to be entitled to vote." There can be no reason why this expression should be repeated in two separate phraseologies. One of them is quite sufficient. If a man is an elector, he is entitled to vote; and if he is entitled to vote he surely is an elector.

The amendment was agreed to.

Mr. DALLAS. I move to further amend the section, by making the fourth line read, "shall be a citizen of the United States," instead of "shall have been a citizen of the United States at least one month." I do not desire to detain the Convention with any remarks on this subject. In committee of the whole I had the very kind and patient attention of the body on this question; and it is therefore due to the Convention that I should not consume any further time upon it, but I call for the yeas and nays.

Mr. DARLINGTON. I second the call.

Mr. CAMPBELL. I merely wish to say that I hope this provision requiring one month's citizenship previous to the election will be stricken out. It is unjust to our foreign born citizens. I think if this section passes in this form every foreign born citizen of the Commonwealth of Pennsylvania will be justified in voting against the Constitution. I do not desire to see such an invidious distinction made in this Constitution.

Mr. LILLY. In committee of the whole this subject was very elaborately debated and the wrong designed to be remedied was stated fully. The question was then very well understood and the section was adopted by a very considerable majority. I do not desire to go into debate again, nor to restate what I stated on that occasion. I think this is a very salutary provision, which will save an immense deal

of perjury in the State of Pennsylvania, especially in the mining regions, just before the elections.

The PRESIDENT. The yeas and nays have been called for on the amendment of the gentleman from Philadelphia (Mr. Dallas.) The Clerk will call the roll.

The question being taken by yeas and nays resulted yeas twenty-seven, nays sixty-six, as follow :

Y E A S.

Messrs. Addicks, Alricks, Boyd, Campbell, Corbett, Dallas, Ellis, Guthrie, Hall, Hay, Hemphill, Heverin, Landis, M'Camant, M'Clean, Read, John R., Reed, Andrew, Ross, Runk, Sharpe, Smith, H. G., Temple, Wetherill, J. M., Wetherill, Jno. Price, Wherry, Woodward and Wright—27.

N A Y S.

Messrs. Ainey, Armstrong, Baer, Bailly, (Perry,) Bailey, (Huntingdon,) Bartholomew, Beebe, Biddle, Bigler, Black, Charles A., Broomall, Brown, Buckalew, Calvin, Carter, Church, Cochran, Craig, Curtin, Darlington, De France, Dunning, Edwards, Finney, Funck, Gibson, Green, Hanna, Hazzard, Horton, Howard, Hunsicker, Lamberton, Lawrence, Lear, Lilly, Littleton, Long, MacConnell, M'Culloch, Mann, Mantor, Minor, Mitchell, Newlin, Patterson, D. W., Patton, Porter, Pughe, Purman, Purviance, John N., Purviance, Samuel A., Rooke, Russell, Simpson, Smith, Henry W., Smith, Wm. H., Stanton, Stewart, Struthers, Van Reed, Walker, White, David N., White, Harry, White, J. W. F. and Meredith, *President*—66.

So the amendment was rejected.

ABSENT. — Messrs. Achenbach, Andrews, Baker, Bannan, Barclay, Bardsley, Black, J. S., Bowman, Brodhead, Carey, Cassidy, Clark, Collins, Corson, Cronmiller, Curry, Cuyler, Davis, Dodd, Elliott, Ewing, Fell, Fulton, Gilpin, Gowen, Harvey, Kaine, Knight, MacVeagh, M' Murray, Metzger, Mott, Niles, Palmer, G. W., Palmer, H. W., Parsons, Patterson, T. H. B., Reynolds, Turrell and Worrell—40.

Mr. HARRY WHITE. I move to amend by striking out the words "a male person," in the third line, and inserting "every freeman." I will not enlarge on the discussion of the question at this moment. I offer the amendment here for the same reason which induced me to of-

fer it in committee of the whole. The observations which I made when it was up before are applicable now. I find that the exact words which I propose are in the old Constitution. They are well defined, well understood, and they will not insult a large portion of the people who insist and demand that they shall be recognized here. I prefer the old form of expression.

Mr. SIMPSON. I will suggest to my friend from Indiana that the first line would not correspond very well with his proposed amendment, reading as it does: "Every person possessing the following qualifications," and then proceeding to say: "Every freeman." I do not think they would agree very well together.

Mr. HARRY WHITE. I thank my friend for his suggestion. I presumed the text still stood as it was originally. I modify my amendment, and move simply to strike out the word "person," and insert "freeman," in the first line. I can subsequently move to strike out the words, "male person," in the third line, and insert "freeman." I now simply move, to test the sense of the Convention, to strike out the word "person," in the first line, and insert "freeman."

Mr. H. G. SMITH. I would suggest to the gentleman from Indiana that he can attain the object that he desires, I think, in better language, if he will leave the first and second lines stand as they are, and insert the word "freeman" in the third line, in place of the words, "male person." The word "freeman" has been defined by our courts, and is well understood.

The PRESIDENT. The question is on the amendment of the delegate from Indiana (Mr. Harry White.)

Mr. HEMPHILL. I move to amend by striking out the words, "male person," in the third line, and inserting "white freeman;" and on this I call for the yeas and nays.

The PRESIDENT. That is not now in order. The question now is on the amendment of the delegate from Indiana (Mr. Harry White.)

The amendment was rejected.

Mr. BROOMALL. I move to strike out the whole section, and insert in lieu of it —

The PRESIDENT. That motion is not now in order. It is first in order to perfect the section by way of amendment, before a motion to strike it all out is made.

Mr. BROOMALL. I wish to have my amendment before the House to be voted on when the proper time comes.

Mr. HEMPHILL. Is my amendment now in order?

The PRESIDENT. It is.

Mr. HEMPHILL. Then I move to strike out the words, "male person," in the third line, and insert "white freeman;" and on this amendment I call for the yeas and nays.

Mr. BOYD. I second the call.

The PRESIDENT. The yeas and nays are called for on the amendment of the delegate from Chester, (Mr. Hemphill,) to strike out the words, "male person," in the third line, and insert "white freeman."

The question being taken by yeas and nays resulted, yeas seven; nays eighty, as follow:

YEAS.

Messrs. Biddle, Boyd, Gibson, Hemphill, M'Camant, Ross and Woodward—7.

NAYS.

Messrs. Addicks, Ainey, Alricks, Armstrong, Baer, Bailly, (Perry,) Bailey, (Huntingdon,) Bartholomew, Beebe, Bigler, Black, Charles A., Broomall, Buckalew, Calvin, Campbell, Carter, Church, Cochran, Corbett, Craig, Curtin, Dallas, Darlington, De France, Dunning, Finney, Funck, Green, Guthrie, Hall, Hanna, Hay, Hazzard, Heverin, Horton, Howard, Hunsicker, Lamberton, Lawrence, Lear, Lilly, Littleton, MacConnell, M'Culloch, Mann, Mantor, Minor, Mitchell, Mott, Palmer, G. W., Patterson, D. W., Patton, Porter, Pughe, Purman, Purviance, John N., Purviance, Samuel A. Reed, Andrew, Rooke, Runk, Russell, Sharpe, Simpson, Smith, H. G., Smith, Henry W., Smith, Wm. H., Stanton, Stewart, Struthers, Temple, Van Reed, Walker, Wetherill, J. M., Wetherill, Jno. Price, Wherry, White, David N., White, Harry, White, J. W. F., Wright and Meredith, *President*—80.

So the amendment was rejected.

ABSENT.—Messrs. Achenbach, Andrews, Baker, Bannan, Barclay, Bardsley, Beebe, Black, J. S., Brodhead, Brown, Carey, Cassidy, Clark, Collins, Corson, Cronmiller, Curry, Cuyler, Davis, Dodd, Edwards, Elliott, Ellis, Ewing, Fell, Fulton, Gilpin, Gowen, Harvey, Kaine, Knight, Landis, Long, MacVeagh, M'CLean, M'Murray, Metzger, Newlin, Niles, Palmer, H. W., Parsons, Patterson,

T. H. B., Read, John R., Reynolds, Turrell and Worrell—46.

Mr. D. N. WHITE. I move in the third line to strike out the words "male person" and insert "freeman."

Mr. HARRY WHITE. May I ask my friend from Allegheny to insert the words "being a freeman?"

Mr. D. N. WHITE. I call for the yeas and nays on my amendment.

Mr. BOYD. I second the call.

Mr. D. N. WHITE. I want to restore the language of the old Constitution.

The PRESIDENT. The yeas and nays are called for on the amendment of the delegate from Allegheny, (Mr. D. N. White,) and will be taken.

The yeas and nays were taken, and were as follow, viz:

YEAS.

Messrs. Addicks, Ainey, Alricks, Bailey, (Huntingdon,) Biddle, Bigler, Boyd, Broomall, Carter, Craig, Dallas, Darlington, Finney, Gibson, Hemphill, Heverin, Horton, Howard, Lawrence, Long, MacConnell, M'Camant, M'CLean, M'Culloch, Mann, Patterson, D. W., Patton, Porter, Pughe, Purviance, John N., Purviance, Samuel A., Rooke, Simpson, Struthers, Van Reed, Wetherill, J. M., White, David N., White, Harry and Meredith, *President*—39.

NAYS.

Messrs. Armstrong, Baer, Bailly, (Perry,) Bartholomew, Black, Charles A., Bowman, Buckalew, Calvin, Campbell, Church, Corbett, Curtin, Dunning, Edwards, Ellis, Green, Guthrie, Hall, Hanna, Hay, Hazzard, Hunsicker, Lamberton, Lilly, Littleton, Mantor, Minor, Mitchell, Mott, Palmer, G. W., Purman, Reed, Andrew, Ross, Runk, Russell, Sharpe, Smith, H. G., Smith, Henry W., Smith, Wm. H., Stanton, Stewart, Temple, Walker, Wetherill, John Price, Wherry, White, J. W. F., Woodward and Wright—48.

So the amendment was rejected.

ABSENT.—Messrs. Achenbach, Andrews, Baker, Bannan, Barclay, Bardsley, Beebe, Black, J. S., Brodhead, Brown, Carey, Cassidy, Clark, Cochran, Collins, Corson, Cronmiller, Curry, Cuyler, Davis, De France, Dodd, Elliott, Ewing, Fell, Fulton, Funck, Gilpin, Gowen, Harvey, Kaine, Knight, Landis, Lear, MacVeagh, M'Murray, Metzger, Newlin, Niles, Palmer, H. W., Parsons, Patterson, T. H. B., Read, John R., Reynolds, Turrell and Worrell—36.

Mr. BIGLER. I move to amend the ninth line by striking out—

Mr. D. N. WHITE. Ought we not to adopt each line; or do we wait until the whole section is gone through with?

Mr. BIGLER. The whole section is now before us. I move to strike ought the word "two" and insert "three," in the ninth line, so as to require three months' residence in the election district instead of two months immediately preceding the election.

The PRESIDENT. The question is on the amendment of the delegate from Clearfield.

Mr. BUCKALEW. Mr. President: I shall not detain the Convention on this subject beyond a minute. I simply desire to express the opinion that what the Convention has already done in this matter has entitled it to the gratitude of every honest man. I know of no provision which you have adopted so well calculated to purify the ballot-box as the requisition of a residence of two months in the election district, instead of ten days, which is all that is now required. Looking at this question as it progressed here, thinking about it as I did, I have so expressed myself. I have been for a long time of the opinion that three months would be a better length of residence to require than two months.

I merely rose to express that opinion and to submit the question to the Convention. As it stands now, it is one of the best things that have been accomplished here; and I shall await the disposition of the Convention, not even calling for the yeas and nays, or pressing my amendment, if there seems to be serious opposition to it.

The PRESIDENT. The question is on the amendment.

The amendment was rejected, there being, on a division: Ayes, thirty-four; noes, forty.

Mr. BROOMALL. Is my amendment now in order?

Mr. HUNSICKER. I desire to offer an amendment to the section.

Mr. BROOMALL. Very well, I will wait.

Mr. HUNSICKER. I move to amend by striking out the fifth paragraph.

The PRESIDENT. The Clerk will read the part proposed to be stricken out,

The CLERK read as follows:

"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. HUNSICKER. I do not desire to make a speech upon this amendment; I simply desire to state the object I have in presenting it. I am one of those who believe that voting is not a mere privilege but a duty, and I believe it should be made as easy as possible for an honest man to participate in the forms of government. I believe it to be, measurably at least, a property qualification to require the payment of a tax, and therefore I have moved to strike it out.

On the question of agreeing to the amendment, the yeas and nays were required by Mr. Hunsicker and Mr. Minor, and were as follow, viz:

YEAS.

Messrs. Addicks, Andrews, Campbell, Carter, Dallas, Gibson, Hemphill, Hunsicker, Minor, Ross, Smith, H. G., and Temple—12.

NAYS.

Messrs. Ainey, Alricks, Armstrong, Baer, Baily, (Perry,) Bailey, (Huntingdon,) Bartholomew, Biddle, Bigler, Black, Charles A., Bowman, Boyd, Broomall, Buckalew, Calvin, Cassidy, Church, Cochran, Corbett, Craig, Curtin, Darlington, De France, Dunning, Edwards, Finney, Funck, Green, Guthrie, Hall, Hay, Hazard, Heverin, Horton, Kaine, Lambertson, Lawrence, Lear, Lilly, Littleton, Long, MacConnell, M'Camant, M'Clean, M'Culloch, M'Murray, Mann, Mantor, Mitchell, Mott, Palmer, G. W., Patterson, D. W., Porter, Pughe, Purman, Purviance, John N., Purviance, Samuel A., Reed, Andrew, Rooke, Runk, Russell, Sharpe, Simpson, Smith, Henry W., Smith, Wm. H., Stanton, Stewart, Struthers, Van Reed, Walker, Wetherill, J. M., Wetherill, John Price, Wherry, White, David N., White, J. W. F., Woodward, Wright and Meredith, *President*—79.

So the amendment was rejected.

ABSENT—Messrs. Achenbach, Baker, Bannan, Barclay, Bardsley, Beebe, Black, J. S., Brodhead, Brown, Carey, Clark, Collins, Corson, Cronmiller, Curry, Cuyler, Davis, Dodd, Elliott, Ellis, Ewing, Fell, Fulton, Gilpin, Gowen, Hanna, Harvey, Howard, Knight, Landis, MacVeagh, Metzger, Newlin, Niles, Palmer, H. W., Parsons, Patterson, T. H. B., Patton, Reed, John R., Reynolds, Turrell, White, Harry, and Worrell—42.

Mr. ALBICKS. I move to amend by striking out, in the third paragraph, the words "and paid at least one month." That would make the paragraph read, "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 before the election."

Mr. D. W. PATTERSON. I move to amend the fifth paragraph by striking out the words "one month" and inserting the words "ten days," so as to read "assessed at least two months and paid at least ten days before the election."

The amendment to the amendment was rejected.

The PRESIDENT. The question is on the amendment of the gentleman from Dauphin.

The amendment was rejected; the ayes being seven, less than a majority of a quorum.

Mr. DARLINGTON. I move to amend by striking out the words "two years" in the fifth paragraph and inserting the words "one year."

The effect of this, as the Convention will perceive, is to require every one to pay his taxes once a year, if he prizes the right of suffrage enough to do so, and not every two years.

The amendment was rejected.

Mr. TEMPLE. I move to amend by adding at the end of the section the words "into the county treasury."

The amendment was rejected.

Mr. RUSSELL. I move to amend the section in the third paragraph by inserting between the word "elector" and the word "of" the words, "or a native born male citizen." I will state the object of the amendment. Many young men leave the State before they are twenty-one years of age, and they come back into the State after they have arrived at twenty-one. Under this provision they cannot vote until they have remained here one year, and this section puts them in a worse condition than it does foreigners.

Mr. BUCKALEW. This point was considered by the Committee on Suffrage, Election and Representation, and that committee were in favor of some such provision, but they were unfortunate in getting the phraseology of it into the section as adopted by the committee of the whole. I think it is a very good amendment.

On the question of agreeing to the amendment proposed by Mr. Russell, a

division was called for, which resulted, forty-five in the affirmative and thirty-one in the negative. So the amendment was agreed to.

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

Mr. BROOMALL. I offer the following amendment:

Strike out the whole section and insert:

"In elections by the citizens, every free-man of the age of twenty-one years, having been a citizen of the United States one month and having resided in this State one year and in the election district where he offers to vote sixty days immediately preceding such election, and within two years paid a State or county tax which shall have been assessed at least two months and paid one month before the election, shall enjoy the rights of an elector; but a citizen of the United States who had previously been a qualified voter of this State and removed therefrom and returned, and who shall have resided in the election district and paid taxes as aforesaid, shall be entitled to vote after residing in the State six months: *Provided* That freemen, citizens of the United States between the ages of twenty-one and twenty-two years, and having resided in the State one year, and in the election district sixty days as aforesaid, shall be entitled to vote although they shall not have paid taxes."

Mr. President, I have offered this amendment with a view of preserving the old Constitution wherever there seems to be no necessity for change. The language of the old Constitution is well understood. We have lived under it for a long time. A great deal of it has been adjudicated, and I, for one, am opposed to unnecessary changes in it. In this section, I have taken the language of the old Constitution and made the changes corresponding with the changes we have made here, and no more. I like the language of the old Constitution in that particular better than the language of the present section, because the language of the old Constitution is somewhat more elegant. I like it better also because it is the language of the old Constitution. I do not think the people ever called this Convention for the purpose of making mere verbal changes, and I think the less change we make the better the people will like our work. In all cases where some public necessity does not demand the change, there should be none.

The PRESIDENT. The question is on the amendment of the gentleman from Delaware.

Mr. BROOMALL. On that motion I call for the yeas and nays.

Mr. COCHRAN. Before the yeas and nays are called, I desire to ask the attention of the gentleman from Delaware (Mr. Broomall) to the fact that in drawing his amendment he has omitted to include the amendment which has just been adopted by the Convention on the motion of the gentleman from Bedford (Mr. Russell.)

Mr. BROOMALL. I have no objection to including that amendment, and I will modify my amendment accordingly.

The PRESIDENT. The amendment will be modified as suggested by the gentleman from Delaware.

Mr. LILLY. Does this amendment provide for a residence of one year?

Mr. BROOMALL. Yes, sir, it provides for everything that has been done, including the tax.

Mr. D. W. PATTERSON. Let us stick to the old Constitution.

Mr. BROOMALL. Mr. President: I ask that the amendment as modified be now read.

The CLERK read as follows:

"In elections by the citizens every free-man of the age of twenty-one years, having been a citizen of the United States one month, and having resided in this State one year, and in the election district where he offers to vote sixty days, immediately preceding such election, and within two years paid a State or county tax, which shall have been assessed at least two months, and paid one month before the election, shall enjoy the rights of an elector; but a citizen of the United States who had previously been a qualified voter, or native born citizen of this State, and removed therefrom and returned, and who shall have resided in the election district and paid taxes as aforesaid, shall be entitled to vote after residing in the State six months. *Provided*, That freemen, citizens of the United States, between the ages of twenty-one and twenty-two years, and having resided in the State one year, and in the election district sixty days, as aforesaid, shall be entitled to vote, although they shall not have paid taxes.

Mr. WOODWARD. Mr. President: I hope that this amendment will not prevail. It was one of the faults of the old Constitution that the qualifications of an

elector were always contained in long sentences. You could not develop a single question, and then raise a single case, without reading the whole of a long sentence. Now, the amendment of the gentleman from Delaware makes that particular objection worse. The beauty of the present section, as adopted in the committee of the whole, is that it disposes the different subjects of the qualifications of an elector under different heads, so that when a case arises, no matter what the question may be, any lawyer, or anybody else, can see at once under which head it comes, and form an intelligent opinion upon it without any difficulty. I have had some experience in difficulties arising under the old cumbersome section in the Constitution of 1833, which the gentleman from Delaware now proposes to restore; and I hope, for that reason, if for none other, that the Convention will vote down the amendment and adopt the section as reported from the committee of the whole.

Mr. DALLAS. I move to amend the amendment by striking from it the words "having been a citizen of the United States for one month."

The amendment to the amendment was rejected.

The PRESIDENT. The question is on the amendment of the gentleman from Delaware (Mr. Broomall.) On this question the yeas and nays have been called for, and the Clerk will call the roll.

The yeas and nays were taken as follows, viz:

Y E A S .

Messrs. Addicks, Ainey, Biddle, Bowman, Boyd, Broomall, Gibson, Hay, Kaine, M'Clean, Mann, Patterson, D. W., Purviance, John N., Struthers, White, David N., White, Harry and Meredith, *President*—17.

N A Y S .

Messrs. Alricks, Andrews, Armstrong, Baer, Bailly, (Perry,) Bartholomew, Bigler, Black, Chas. A., Buckalew, Calvin, Campbell, Cassidy, Church, Cochran, Corbett, Curtin, Dallas, Darlington, De France, Dunning, Edwards, Finney, Funck, Green, Guthrie, Hazzard, Hemphill. Hunsicker, Lamberton, Landis, Lawrence, Lear, Lilly, Littleton, Long, MacConnell, M'Camant, M'Culloch, M'Murray, Mantor, Minor, Mitchell, Mott, Palmer, G. W., Porter, Pughe, Purviance, S. A., Reed, Andrew, Rooke, Ross, Runk, Russell, Sharpe, Simpson, Smith, H. G., Smith, Henry W.,

Smtih, Wm. H., Stanton, Temple, Van Reed, Walker, Wetherill, J. M., Wetherill, J. Price, Wherry, White, J. W. F., Woodward and Wright—68.

So the amendment was rejected.

ABSENT.—Messrs. Achenbach, Bailey, (Huntingdon,) Baker, Bannan, Barclay, Bardsley, Beebe, Black, J. S., Brodhead, Brown, Carey, Carter, Clark, Collins, Corson, Craig, Cronmiller, Curry, Cuyler, Davis, Dodd, Elliott, Ellis, Ewing, Fell, Fulton, Gilpin, Gowen, Hall, Hanna, Harvey, Heverin, Horton, Howard, Knight, MacVeagh, Metzger, Newlin, Niles, Palmer, H. W., Parsons, Patterson, T. H. B., Patton, Read, John R., Reynolds, Stewart, Turrell and Worrell—48.

THE PRESIDENT. The question is on the section as amended.

The section was agreed to.

THE PRESIDENT. The next section will be read.

The Clerk read as follows :

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.

Mr. HARRY WHITE. I move to strike out all after the word "ballot" in the first line and insert the following :

"Except those by persons in their representative capacities, who shall vote *viva voce*."

I have just one observation to make on this question. It was discussed at length when we were in committee of the whole. The reasons for objecting to the provision as I find it in the section on my files have increased by my communion with the people. I am satisfied it would be no reform to change the language of the old Constitution in this respect which I have sought to retain in offering this amendment. Delegates will observe that this expression occurs in the old Constitution:

"All elections shall be by ballot, except those by persons in their representative capacities, who shall vote *viva voce*."

I have offered the amendment exactly in the language of the old Constitution.

Mr. D. W. PATTERSON. I merely wish to remark that in all my association with

citizens since this section went through the committee of the whole, I have found but three citizens—two Republicans and one Democrat—who were in favor of this change. The universal sentiment in my community is in favor of the language of the old Constitution. This amendment brings it back to that; and I do hope we shall not adopt this section, which passed through the committee of the whole, and destroy the secret ballot, the continuance of which I am certain is desired by the people.

Mr. LILLY. From what the gentleman from Lancaster has said, I think the information he got must have been because of the manner in which he put the case to the people, because I have also gone among the people and I have not found the first man outside of this Convention who would say that he was against this provision, after it was fairly explained to him. If you go to any citizen and say we are going to take away the secret ballot from him, that is one thing; and he will declare at once, "we do not want that done." But this whole question was fully discussed in committee of the whole, and it was shown that this did not destroy the secrecy of the ballot.

I will further state that it is the only remedy to secure the purity of the ballot-box in this city or out of it. As far as I am concerned, I am going to vote to purify the ballot-box; I came here for that purpose, and I will vote to go in that direction every time I am called on to cast a vote. I have seen citizens of all parties in the State; I have had them coming to me in the first place and saying to me, "What do you want to do this for? It is all wrong." But after explaining it I never found one yet who was not very willing to concede that this was right. They said that they did not have it in their power to secure the purity of the ballot-box now, and they wished to preserve the secrecy of the ballot; but, after discussing it, they were willing to be troubled this much, to the extent of putting their names on the backs of their tickets to protect the purity of elections. I am strongly of the opinion that this is the only thing brought forward here that will go very far in the direction of purity.

Mr. SIMPSON. Mr. President: I have made it my business to inquire among my constituents as to the propriety of this change as we have it in the text before us, and I have yet to meet the first citizen of my district who is not in favor of this

section as reported by the committee, when he understands the nature and purport of it. I have talked with them in the cars, I have talked with them in business places, I have talked with them at my home; and there is not a single one but when he understood the nature of this proposition before us—not the amendment of the gentleman from Indiana (Mr. Harry White) but the section as reported by the committee—endorsed it, because without it there can be no reform in securing an honest election.

Mr. ALRICKS. I move the following amendment to the amendment: Strike out the section and insert:

"All elections shall be by ballot, and the ballots shall be numbered by a special officer elected or appointed for that purpose, who shall write the name of the elector and the number of his ballot in a book prepared for the purpose; and said officer shall number each ballot and deliver to the elector a certificate setting forth the number of his ballot. The officer having charge of the book containing the names of the voters and numbers of their ballots shall not reveal the number of said ballot except as before provided, unless the said election shall be contested; and the said book shall be put in a box, which shall be sealed, and at the expiration of one year said book shall be burnt up, if not required as aforesaid.

The PRESIDENT. This amendment is not now in order. The question is on the amendment of the gentleman from Indiana (Mr. Harry White.)

Mr. BROOMALL. Is it in order now to move to amend the part that is proposed to be stricken out by the gentleman from Indiana?

The PRESIDENT. Certainly.

Mr. BROOMALL. Then I move to amend it by striking out all from line five to the end of the section, in the following words:

"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."

The section will then 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 officers opposite the name of the elector who presents the ballot."

Mr. HARRY WHITE. I raise the point of order right here, to avoid confusion, that the gentleman seeks to amend that which I propose to strike out. I submit to the Chair that that is not in order at this time.

The PRESIDENT. It is in order to amend by striking out a particular part of the clause.

Mr. HARRY WHITE. I proposed to strike out and insert. The delegate from Delaware proposes to amend the part which I propose to strike out.

The PRESIDENT. That is in order as an amendment to the amendment.

Mr. H. G. SMITH. I beg leave here to remark, in reply to my colleague, (Mr. D. W. Patterson,) that I took pains while at home to ascertain the opinion of the people upon this question. It is true that at first blush there was opposition; but I met no man who upon understanding that this would be a full protection and ensure that his ballot would be found in the box and counted as recorded, or that if a fraud were perpetrated the fraud would be exposed—I found no man who was not willing to submit to whatever inconvenience might be occasioned by it.

Mr. WRIGHT. Mr. President: I would favor the striking out of these last four lines, and the objection that I have to that provision is this: The poll is at school houses and other voting places where there are not accommodations for writing, and it would put people to inconvenience to require them to write their names upon their tickets. I have no objection to the ballots being numbered to correspond with the number on the tally inside, and I think that is as far as the section ought to go. It should simply provide that the votes should be by ballot and that every ballot should be numbered in the order in which it is received and the number recorded. I therefore favor the amendment of the gentleman from Delaware, to strike out the last four lines.

The PRESIDENT. The question is on the amendment of the delegate from Delaware (Mr. Broomall) to the amendment of the delegate from Indiana (Mr. Harry White.)

On the question the yeas and nays were required by Mr. Ainey and Mr. J. W. F. White and were as follow, viz:

YEAS.

Messrs. Addicks, Ainey, Alricks, Andrews, Bailey, (Huntingdon,) Bartholomew, Beebe, Biddle, Black, Charles A.

Bowman, Boyd, Broomall, Calvin, Church, Cochran, Craig, Darlington, Edwards, Finney, Funck, Green, Hazzard, Horton, Landis, Lawrence, Littleton, MacConnell, M'Camant, M'Clean, M'Culloch, Mann, Mantor, Minor, Patterson, D. W., Pughe, Purviance, John N., Purviance, Sam'l A., Rooke, Ross, Runk, Smith, Henry W., Stanton, Stewart, Struthers, Walker, Wherry, White, David N., White, Harry, White, J. W. F., Wright and Meredith, *President*—51.

N A Y S.

Messrs. Armstrong, Baer, Baily, (Perry,) Bigler, Buckalew, Campbell, Cassidy, Corbett, Curtin, Dallas, De France, Dunning, Ellis, Gibson, Guthrie, Hay, Hemphill, Heverin, Hunsicker, Kaine, Lamberton, Lear, Lilly, Long, M'Murray, Mitchell, Mott, Palmer, G. W., Patton, Porter, Purman, Reed, Andrew, Russell, Sharpe, Simpson, Smith, H. G., Smith, Wm. H., Van Reed, Wetherill, J. M., Wetherill, Jno. Price and Woodward—41.

So the amendment to the amendment was agreed to.

ABSENT.—Messrs. Achenbach, Baker, Bannan, Barelay, Bardsley, Black, J. S., Brodhead, Brown, Caray, Carter, Clark, Collins, Corson, Cronmiller, Curry, Cuyler, Davis, Dodd, Elliott, Ewing, Fell, Fulton, Gilpin, Gowen, Hall, Hanna, Harvey, Howard, Knight, MacVeagh, Metzger, Newlin, Niles, Palmer, H. W., Parsons, Patterson, T. H. B., Read John R., Reynolds, Temple, Turrell and Worrell—41.

THE PRESIDENT. The question now is on the amendment as amended.

MR. FUNCK. I offer the following amendment to the section, to come in beginning at the fifth line, with the residue of the section just voted down added, so as to read:

"In the city of Philadelphia and in such other election districts as the Legislature may hereafter direct, 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."

THE PRESIDENT. That amendment is not in order at this time. The question is on the amendment of the gentleman from Indiana, (Mr. Harry White,) as amended.

MR. HARRY WHITE. I ask that it be read.

THE PRESIDENT. The amendment is to strike out all after the word "ballot" in the first line and insert, "except those by persons in their representative capacities, who shall vote *viva voce*."

MR. KAINE. I offer the following as a substitute for the section—

THE PRESIDENT. It is not in order now.

MR. KAINE. Then I offer it as an amendment to the amendment:

"And no ballot shall contain the name or names of candidates for more than one office. Persons acting in representative capacities shall vote *viva voce*."

THE PRESIDENT. The motion is not at present in order. The question is on the amendment of the gentleman from Indiana (Mr. Harry White.)

On this question, the yeas and nays were required by Mr. Bartholomew and Mr. Baily, (Perry,) and were as follows, viz:

Y E A S.

Messrs. Addicks, Ainey, Andrews, Baer, Baily, (Perry,) Bartholomew, Beebe, Biddle, Black, Charles A., Bowman, Broomall, Church, Cochran, Darlington, Edwards, Finney, Funck, Hay, Horton, Lawrence, Littleton, MacConnell, M'Camant, M'Culloch, Mann, Mantor, Minor, Patterson, D. W., Purman, Purviance, John N., Rooke, Ross, Runk, Smith, Henry W., Stanton, Struthers, Walker, Wetherill, J. M., White, David N., White, Harry, White, J. W. F. and Meredith, *President*—42.

N A Y S.

Messrs. Alricks, Armstrong, Bailey, (Huntington,) Bigler, Boyd, Buckalew, Calvin, Campbell, Cassidy, Corbett, Craig, Curtin, Dallas, De France, Dunning, Ellis, Gibson, Green, Guthrie, Hazzard, Hemphill, Heverin, Hunsicker, Kaine, Lamberton, Landis, Lear, Lilly, Long, M'Clean, M'Murray, Mitchell, Mott, Palmer, G. W., Patton, Porter, Pughe, Purviance, Samuel A., Reed, Andrew, Russell, Sharpe, Simpson, Smith, H. G., Smith, Wm. H., Stewart, Temple, Van Reed, Wetherill, Jno. Price, Wherry, Woodward, Worrell and Wright—52.

So the amendment was rejected.

ABSENT.—Messrs. Achenbach, Baker, Bannan, Barelay, Bardsley, Black, J. S., Brodhead, Brown, Caray, Carter, Clark, Collins, Corson, Cronmiller, Curry, Cuyler, Davis, Dodd, Elliott, Ewing, Fell, Fulton,

Gilpin, Gowen, Hall, Hanna, Harvey, Howard, Knight, MacVeagh, Metzger, Newlin, Niles, Palmer, H. W., Parsons, Patterson, T. H. B., Read, John R., Reynolds and Turrell—39.

Mr. KAINE. I now move my amendment as a substitute for the section.

The PRESIDENT. The amendment will be read.

The CLERK. The amendment is to strike out all after the word "ballot," in the first line, and insert, "and no ballot shall contain the name or names of candidates for more than one office. Persons acting in representative capacities shall vote *viva voce*."

Mr. KAINE. That contains precisely the language of the old Constitution, with the exception of the provision that the Legislature shall not hereafter provide any manner of voting otherwise than by a single ticket. In 1839, I believe it was, the Legislature passed a law providing that the same class of candidates should be placed upon the same ticket; so that the voter, unless he gave himself a great deal of trouble, had to vote for men whom he did not like to vote for at all. I want to restore, if possible, the single secret ballot. I hope the amendment will prevail.

Mr. COCHRAN. The gentleman from Fayette will allow me to suggest that from the language of the amendment, as I heard it read, I supposed they were to vote for but one candidate on the ballot. Suppose two candidates are to be elected for a particular office; does he expect to have only one ballot for each man?

Mr. KAINE. That is not the language of the amendment. The amendment covers the difficulty precisely. I will ask the Clerk to read it. I prepared it with a great deal of care in order to obviate that very difficulty.

The CLERK read the amendment.

Mr. LILLY. I hope that amendment will not prevail for the reason that was stated when we were in committee of the whole on this article. I know that in Luzerne county, where they have this system, and have twenty-seven different tickets to vote, quite a number of election districts can never get their vote polled in consequence of it. I can see no objection whatever to having all the county officers on one ticket, and all the State officers on another, putting those of the same class on one piece of paper. I hope the amendment will be voted down.

Mr. KAINE. I desire to modify the amendment so as to allow that portion of it to come in after the word "ballot," in the fourth line.

Mr. S. A. PURVIANCE. Not to interfere with what we have already done.

Mr. KAINE. Not to interfere with what we have already adopted.

The PRESIDENT. The amendment is withdrawn.

Mr. KAINE. No, sir, the amendment is not withdrawn. The amendment is now modified so as to insert after the word "ballot," in the fourth line, these words: "No ballot shall contain the name or names of candidates for more than one office."

The PRESIDENT. The question is on the amendment of the gentleman from Fayette (Mr. Kaine.)

Mr. WOODWARD. I trust that amendment will not be adopted. I agree entirely with what was said by the gentleman from Carbon, (Mr. Lilly,) that in Luzerne county these secret separate tickets have proved one of the most prolific sources of fraud and imposition that the wit of man has ever invented. A very large portion of the population there vote without examining their tickets. If you require them to be separate ballots, they will be put up in bundles and a string tied around them, and passed over to the voter, who puts them in without ever examining them, and into that bundle—

Mr. KAINE. If the gentleman will allow me to ask him a question—

The PRESIDENT. The gentleman on the floor cannot be interrupted. He will proceed with his remarks.

Mr. WOODWARD. I have no objection to any proper question.

The PRESIDENT. It is out of order to interrupt a gentleman while on the floor.

Mr. WOODWARD. I have said about all that I wanted to say. I say, into this bundle of tickets, ten or fifteen sometimes, which are fixed up and tied with a string, the rogues insert the name of the man whom they want voted for, and multitudes of honest men will tell you after the election was over that they never meant to vote for this man, that man and the other man at all, and did not know they had done so. It was only when they found they had been cheated by some distributor who had been bought, that they found that they had voted exactly opposite to that which they intended to vote.

When the gentleman and other gentlemen are so anxious to preserve the ballot to the people, I think they ought to give it to them in such a way that they can enjoy it; and if a man makes up his mind to vote for Mr. A B, I should think he ought to be protected by this government in doing so; but under the Constitution as the gentleman from Fayette proposes to fix it, he cannot vote for Mr. A B, especially if he is an ignorant man and does not read his tickets, but he votes for the man the rogue chooses to put into this bundle of tickets for him. You have no idea of the extent to which this villainy has been practiced in Luzerne county. Hundreds and thousands of votes have been surreptitiously polled in that way. After the law was passed providing for a general ticket with all officers of one grade upon that general ticket, and which I believe is now the law all over Pennsylvania except in Luzerne county, they went to the Legislature and got the law changed for Luzerne county so as to make it just what the gentleman wants to make it now for the whole State, and the elections since that change have been more corrupt than ever before. It has been an instrument of fraud and rascality, and it was got from the Legislature for the purpose of being used as an instrument of fraud and rascality, and it has been used with a vengeance in that county. Mr. President, this Convention has made no such mistake as it will make if it adopts the amendment of the gentleman from Fayette.

Mr. KAINE. I was not aware that they had the old law in Luzerne county. I supposed they voted there under the general slip law as we do all over the State; and I guess the gentleman would find as many and more frauds in Luzerne county under the slip voting than he does under the old system. The single secret ballot has been the system of Pennsylvania since the adoption of the Constitution of 1776, and there has been no complaint of the kind suggested by the gentleman from Philadelphia who has just taken his seat. It is only within these latter days that in Luzerne county and in Philadelphia, and, perhaps, in some other localities of the State, these frauds have crept into the ballot-box, not because of the single ticket, but because of an inherent disposition in the parties managing the elections to commit fraud. The trouble in the present system is that the tickets have all to be printed upon one slip, and a voter has to

vote that slip or go to a very great deal of trouble. He must vote a slip; he must vote for all the officers or for a particular class of officers on a single ticket. They may not be printed. He may write one, and he may strike out the name of A B and insert the name of C D, but that is attended with a great deal of trouble and is very seldom resorted to. I should like to know of the gentleman from Philadelphia if it is not just as easy for one of the men in Luzerne county who manages their elections and manipulate their tickets to do it with a single ticket. Is it not much more easily done when he has but a single slip to operate on than if he has to take ticket by ticket and make up a ballot for the voter? You vote for members of the Assembly on a single ticket. If there are two members elected from the county or the district, they are on that ticket. You vote for a Senator; you vote for a county commissioner; you vote for a sheriff; you vote for a Supreme judge; but all the State officers must be upon a single ticket. The Governor, Auditor General, Surveyor General—every State officer—must be on one of those slips; all the county officers must be on another slip. A man has not that liberty of choice under the act of 1869 that he had under the old law. I submit to the gentleman from Philadelphia that he is mistaken in regard to this system affording any more facilities for fraud than the old system, and I therefore hope that the amendment will prevail.

Mr. DUNNING. Mr. President: The gentleman from Fayette tells us that it is of recent date that frauds have been discovered in elections. I am glad to believe, sir, that these extensive frauds do not date back so very far; but if the gentleman had had the experience during the last four or five years that we have had in Luzerne county upon this particular question, I do not believe he would waste any time in advocating the principle of voting that is now in existence in Luzerne county. We had for one single year the privilege of voting, as the rest of the State of Pennsylvania has voted since the law of 1869 was passed, for all the candidates upon a single slip; but it was soon changed; a little stroke of legislation was brought about for the benefit of Luzerne county alone, and we were brought back again under the old manner of voting, compelling us to fix up from ten to fifteen or eighteen separate tickets to be cut and folded, whereas in other counties

they may vote upon a single slip. And if you do not go through the process of preparing the tickets, cutting them, and tying them up, when a gentleman goes to the polls and desires to vote and has not a whole day to spend, he finds the tickets printed, lying there in sheets, and there are fifteen or eighteen candidates to be voted for, and if he undertakes to make up a proper ticket for himself it will take him one hour to do it, let him be as expeditious as he can.

But there is another feature about this which has been referred to by the gentleman from Philadelphia. These tickets are cut and tied up, and they are put in the hands of men none too scrupulous, none too honest; perhaps the distribution of these tickets goes into the hands of men who will put tickets in that bundle to mislead gentlemen who go to the polls and have not half a day or a whole day to spend there. They will go and ask for a ticket and take that as the one they are asking for, and it contains the names of gentlemen they desire to vote for, but perhaps one-half that entire bundle is made up of names that the voter does not want at all, and a fraud is perpetrated upon him because he has not time to examine those tickets.

Again, sir, where you have 400 or 500 voters coming to one poll, it is an endless job to count that number of tickets; 400 or 500 men each vote from fourteen to eighteen tickets; and it is an endless job to count them. I do not see the difficulty in the way of the single-ticket plan that the gentleman from Fayette finds. Here are all the names placed upon a slip. If the voter does not like the names he finds on that slip of paper, it is allowable for him to draw a line through and write the name of the candidate he desires to support; and then he has got a clean, clear sheet of paper before him to do this on, and he votes a single ticket, or not to exceed three tickets, instead of having fifteen to eighteen tickets.

I hope we shall have no such matter as this introduced into the fundamental law of this State. I hope we shall not go back, but will pursue the same course that has been pursued in other counties than Luzerne.

Mr. BARTHOLOMEW. I desire to say but a word or two on this proposition. I opposed this new idea in relation to numbering the ballots when it was before the committee of the whole. I did it on the ground that I believed the secret ballot

was the most vital and important right that a freeman should hold. I believe now, and I take occasion to say, that I think striking that from the fundamental law of this State will do more to defeat this Constitution before the people than any other act of this Convention, and I think it is right that it should. That was the only guard, the only trust, the only power of real rule that the people possessed and held within their hands. Strike that from them, and you leave them under a political tyranny, the greatest that ever existed in any country, the political tyranny of our day and of our generation which marks every man that does not follow its dictates.

I simply take occasion now to enter my protest against this whole section. I have taken occasion to record my vote against it before; and I know that this vote will meet with my approbation hereafter, as it will with the approbation of many men who totally differ from me on this floor on this occasion.

But I am opposed to the amendment of the gentleman from Fayette; and it just shows the condition of things that we are getting into by this change of system. We propose to have every office voted for upon a single ticket; the average number perhaps will be twelve or fifteen voted for. As I understand the section that we have adopted, it requires every elector to write his name upon each ballot that he casts.

SEVERAL DELEGATES. No; that is stricken out.

Mr. BARTHOLOMEW. I am glad it is stricken out. It requires, however, that each ticket shall be numbered. ["Yes."] Now I ask gentlemen on this floor if there are sixteen or eighteen single tickets to be voted, each elector to select his ticket, each ticket to be numbered, and each election officer to number the ticket, how many electors' votes can be received at a single ballot-box in the course of eight or nine hours. About seventy-five, I am told, are all that can be received in that time now. I understand the districts are so fixed that they shall not have more than three hundred voters. I undertake to say that if you adopt this proposition that each ticket shall be numbered by the voter and that the election officers shall also number each ticket, and you have this many voters in each election district, the officers can never receive the votes at all; it is a physical impossibility. I do not see that anything is to be gained by it.

My friend from Philadelphia says that he is opposed to it on the ground of fraud. I undertake to say there is just about as much fraud one way as the other. If you have half a dozen officers to vote for, the names can be inserted in the ticket, and it is done. It is the duty of every citizen to know what ticket he votes. I do not care whether it is a whole slip or a single ticket, it is his duty to look at the names on his ticket; and if he does not do that the chances are that in this demoralized state he is likely to be cheated. He should do it and must do it. It is a duty imposed on him. But when you talk about the principle of conducting an election with what you have already adopted in this Convention, I assert, and I think I assert it truthfully, that it will be a physical impossibility for three hundred single tickets to be selected, put together, numbered by the electors, and numbered by the officers, to be received in the time the polls are open now for the reception of votes.

The PRESIDENT. The question is on the amendment offered by the gentleman from Fayette (Mr. Kaine.)

The amendment was rejected.

Mr. LILLY. I offer the following amendment, to come in at the end of the section as it now stands: After the word "ballot," in line four, insert "and any elector may write his name on the back of his ticket."

I want the poor privilege for myself, if nobody else does, that I may know what ticket I vote in a contested case. There is no right to put it there now. I propose that an elector may write on his ticket his name if he chooses, and then it can be followed up. In the case cited in committee of the whole by the gentleman from Columbia, (Mr. Buckalew,) a contested case in which he was one of the judges, the election board cheated three of their members out of their votes, and nine other respectable citizens, in one hour. Three of the election officers themselves came forward and swore, and nine other respectable citizens of the precinct swore the same, that they voted a certain way in one particular hour, and that there was not a single vote proclaimed from the window or returned as having been polled for that candidate during that hour. If these election officers and these nine reputable men had had the right to put their names on the back of their tickets, this could not have been done.

I desire to do everything in this Convention that I can to prevent fraud in

elections. I think it was a very bad thing to vote down the directory clause that you must write down your name; but when you will not do that, at least allow me, and every elector who chooses, the right to write his name on his ballot if he wishes to do so.

Mr. D. W. PATTERSON. I want to ask the gentleman from Carbon if there is any law, fundamental or otherwise, which now prevents a man from writing his name upon his ticket?

Mr. LILLY. Yes, sir. His ticket would be rejected by every election officer in the Commonwealth, if he did his duty, if that ticket were presented with the name of the voter written upon it.

The PRESIDENT. The question is on the amendment of the gentleman from Carbon, and the amendment will be read.

The CLERK read: Add after the first paragraph: "Any elector may write his name on the back of his ticket."

On this question the yeas and nays were required by Mr. Lilly and Mr. Hunsicker, and were as follow, viz:

YEAS.

Messrs. Bailey, (Huntington,) Boyd, Broomall, Buckalew, Calvin, Campbell, Cassidy, Church, Corbett, Dallas De France, Dunning, Ellis, Funck, Gibson, Green, Guthrie, Hanna, Hay, Hazzard, Hemphill, Hunsicker, Lamberton, Lear, Lilly, Long, M'Clean, M'Murray, Mitchell, Mott, Palmer, G. W., Patton, Porter, Reed, Andrew, Runk, Russell, Sharpe, Simpson, Smith, H. G., Smith, Wm. H., Stewart, Van Reed, Wetherill, J. M., Wetherill, Jno. Price, Wherry, White, Harry, Woodward, Worrell, Wright and Meredith, *President*.—50.

NAYS.

Messrs. Addicks, Ainey, Alricks, Andrews, Baer, Baily, (Perry,) Bartholomew, Beebe, Biddle, Bigler, Black, Charles A., Bowman, Brown, Cochran, Craig, Darlington, Edwards, Finney, Horton, Kaine, Landis, Lawrence, MacConnell, M'Camant, M'Culloch, Mann, Mantor, Minor, Pughe, Purviance, John N., Purviance, Sam'l A., Rooke, Ross, Smith, Henry W., Stanton, Struthers, Walker, White, David N. and White, J. W. F.—33.

So the amendment was rejected.

ABSENT.—Messrs. Achenbach, Armstrong, Baker, Bannan, Barclay, Bardsley, Black, J. S., Broadhead, Carey, Carter, Clark, Collins, Corson, Cronmiller,

Curry, Curtin, Cuyler, Davis, Dodd, Elliott, Ewing, Fell, Fulton, Gilpin, Gowen, Hall, Harvey, Heverin, Howard, Knight, Littleton, MacVeagh, Metzger, Newlin, Niles, Palmer, H. W., Parsons, Patterson, D. W., Patterson, T. H. B., Purman, Read, John R., Reynolds, Temple and Turrell.—44.

Mr. HUNSICKER. Mr. President: I move that the Convention do now adjourn.

Mr. WOODWARD. I ask my friend from Montgomery to withdraw that motion for a moment. I wish to make a motion in the order of business.

Mr. HUNSICKER. I withdraw for that purpose.

Mr. BROOMALL. May I ask the Chair in what position the question now stands on my motion to strike out the clause about endorsing ballots?

The PRESIDENT. The gentleman from Indiana (Mr. Harry White) moved an amendment to strike out all that follows after the first line of the clause and to insert certain words. The gentleman from Delaware (Mr. Broomall) moved as an amendment to that amendment to strike out all after the first paragraph. The amendment to the amendment was agreed to, and then the amendment of the gentleman from Indiana as amended was disagreed to. The Chair is of the opinion therefore that the words moved to be stricken out by the amendment of the gentleman from Delaware (Mr. Broomall) now stand as a part of the section.

Mr. BROOMALL. I desire to state that my motion was to amend by striking out the last paragraph. I asked if it was in order to move that a part of the section be stricken out. I understood the Chair to say that it was in order, and then I moved my amendment, which was agreed to.

The PRESIDENT. The gentleman from Delaware has correctly stated the question, but the amendment of the gentleman from Indiana, to which his amendment was an amendment, was voted

down, and the effect of that vote is that the part of the section which the amendment of the gentleman from Delaware proposed to strike out is left in.

Mr. BROOMALL. Mr. President: Would it be in order to now move to strike it out?

The PRESIDENT. Yes, sir.

Mr. BROOMALL. Then I move to amend the second section by striking out the last paragraph.

Mr. DALLAS. Is there not a motion to adjourn pending?

The PRESIDENT. No, sir. The motion to adjourn was withdrawn, and the delegate from Philadelphia (Mr. Woodward) has the floor.

RESIGNATION OF MR. GOWEN.

Mr. WOODWARD. I move that the resignation of Mr. Gowen, now lying on our table, be accepted and referred to the delegates at large who were elected by the same constituency. ["Aye!" "Aye!"]

Mr. DARLINGTON. I desire to inquire whether any answer has been received from Mr. Gowen to a letter addressed to him by a great many gentlemen of this Convention asking him to withdraw his resignation. I signed that letter cheerfully and do not desire to have any action taken upon the subject until that is heard from.

Mr. WOODWARD. Mr. Gowen has not withdrawn his resignation.

Mr. BROOMALL. Then I insist that until we receive his answer we take no action on that subject.

The PRESIDENT. The question is upon the motion of the gentleman from Philadelphia (Mr. Woodward.)

The motion was not agreed to.

Mr. BROOMALL. I believe I have the floor on my motion to amend.

The PRESIDENT. The Chair has recognized the gentleman from Delaware.

Mr. HUNSICKER. I renew my motion to adjourn.

The motion was agreed to, and (at three o'clock P. M.) the Convention adjourned.

ONE HUNDRED AND TENTH DAY.

THURSDAY, May 29, 1873.

The Convention met at half-past nine o'clock A. M., Hon. W. M. Meredith, President, in the chair.

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

PETITIONS AND MEMORIALS.

Mr. PATTON presented a memorial of citizens of Bradford county, praying for the recognition of Almighty God and the christian religion in the Constitution, which was laid on the table.

Mr. LAWRENCE presented a petition of citizens of Chester county, praying that the Constitution be so amended as to allow women to vote on all questions relating to schools and education, which was laid on the table.

SESSION ON MONDAY NEXT.

Mr. WRIGHT. I offer the following resolution:

Resolved, That the session on Monday next shall commence at twelve o'clock M.

On the question of proceeding to the second reading and consideration of the resolution, the yeas and nays were required by Mr. Harry White and Mr. Lawrence, and were as follow, viz:

YEAS.

Messrs. Ainey, Alricks, Andrews, Armstrong, Baer, Bailey, (Huntingdon,) Barclay, Boyd, Brown, Buckalew, Corson, Dunning, Ellis, Funck, Green, Hanna, Harvey, Hunsicker, Lamberton, Landis, Lilly, M'CLean, Mitchell, Newlin, Palmer, G. W., Patton, Pughe, Purman, Purviance, Sam'l A., Rooke, Ross, Runk, Sharpe, Simpson, Smith, H. G., Stanton, Temple, Van Reed, Wetherill, J. M., Wherry, White, J. W. F., Woodward and Wright. —43.

NAYS.

Messrs. Baily, (Perry,) Beebe, Bigler, Black, Charles A., Bowman, Brodhead, Broomall, Calvin, Carter, Cochran, Corbett, Craig, Curtin, Dallas, Darlington, De France, Edwards, Guthrie, Hazzard, Horton, Howard, Knight, Lawrence,

Lear, MacConnell, M'Culloch, M'Murray, Mann, Mantor, Minor, Mott, Patterson, D. W., Porter, Purviance, John N., Reed, Andrew, Russell, Smith, Henry W., Smith, Wm. H., Stewart, Struthers, Walker, Wetherill, Jno. Price, White, David N., White, Harry and Meredith, *President*. —45.

So the Convention refused to order the resolution to a second reading.

ABSENT.—Messrs. Achenbach, Addicks, Baker, Bannan, Bradsley, Bartholomew, Biddle, Black, J. S., Campbell, Carey, Cassidy, Church, Clark, Collins, Cronmiller, Curry, Cuyler, Davis, Dodd, Elliott, Ewing, Fell, Finney, Fulton, Gibson, Gilpin, Gowen, Hall, Hay, Hemphill, Heverin, Kaine, Littleton, Long, MacVeagh, M'Camant, Metzger, Niles, Palmer, H. W., Parsons, Patterson, T. H. B., Read, John R., Reynolds, Turrell and Worrell. —45.

SESSION ON SATURDAY.

Mr. W. H. SMITH. I move that when the Convention adjourns to-day it adjourn to meet at half-past nine o'clock on Saturday morning. I think we ought to save all the time we can in this weather.

The motion was rejected.

ADJOURNMENT TO TUESDAY.

Mr. G. W. PALMER. Mr. President: I offer the following resolution:

Resolved, That when this Convention adjourn it be to meet on Tuesday next at half-past nine o'clock A. M.

On the question of proceeding to the second reading and consideration of the resolution, a division was called for, which resulted forty-three in the affirmative, thirty in the negative. The resolution was read the second time.

Mr. ALRICKS. I move to amend by adding "at the State Capitol, in the city of Harrisburg."

Mr. HOWARD and Mr. CORBETT called for the yeas and nays on the amendment.

Mr. HUNSICKER. I move to postpone the subject for the present.

The motion to postpone was not agreed to; the yeas being thirty-three, less than a majority of a quorum.

Mr. G. W. PALMER. I hope that this resolution will prevail. We have agreed to dispense with the session on Friday and on Saturday, and it is perfectly apparent to every gentleman here that three-fourths of the members of this House will go home this afternoon or tomorrow. It will be impossible for nearly all of them that live at a distance of a hundred miles to get back here to attend a session on Monday. Consequently we shall have no quorum on Monday morning, and we shall probably have another such scene as last Monday week. I hope not; but—

The PRESIDENT. The Chair will remind the gentleman that his remarks are not pertinent to the question. The question is on the amendment, which concerns the place of meeting, upon which the yeas and nays have been called for.

On the question of agreeing to the amendment of Mr. Alricks, the yeas and nays resulted as follows:

YEAS.

Messrs. Alricks, Baer, Baily, (Perry,) Beebe, Black, Charles A., Bowman, Cochran, Corbett, De France, Funck, Hazzard, Howard, Lambertson, Lawrence, MacConnell, M'Clellan, M'Culloch, M'Murray Mann, Mitchell, Purviance, Sam'l A., Reed, Andrew, Russell, Stewart, Van Reed, Walker, Wherry, White, David N., White, Harry and White, J. W. F.—30.

NAYS.

Messrs. Addicks, Ainey, Andrews, Armstrong, Bailey, (Huntingdon,) Baker, Barclay, Bigler, Boyd, Brodhead, Broomall, Brown, Buckalew, Calvin, Carter, Church, Corson, Craig, Dallas, Darlington, Dunning, Edwards, Ellis, Green, Guthrie, Hanna, Harvey, Heverin, Horton, Hunsicker, Knight, Landis, Lear, Lilly, Long, Mantor, Minor, Mott, Newlin, Palmer, G. W., Palmer, H. W., Patterson, D. W., Patton, Porter, Pughe, Purman, Purviance, John N., Rooke, Ross, Runk, Sharpe, Simpson, Smith, H. G., Smith, Henry W., Smith, Wm. H., Stanton, Temple, Wetherill, J. M., Wetherill, Jno. Price, Woodward, Wright and Meredith, President.—62.

So the amendment was not agreed to.

ABSENT.—Messrs. Achenbach, Bannan, Bardsley, Bartholomew, Biddle, Black, J. S., Campbell, Carey, Cassidy, Clark, Collins, Cronmiller, Curry, Curtin, Cuyler, Davis, Dodd, Elliott, Ewing, Fell, Finney, Fulton, Gibson, Gilpin, Gowen,

Hall, Hay, Hemphill, Kaine, Littleton, MacVeagh, M'Camant, Metzger, Niles, Parsons, Patterson, T. H. B., Reed, John R., Reynolds, Struthers, Turrell and Werrell.—41.

Mr. BAER. I move to amend by striking out all after the word "resolved," and inserting the following:

"That this Convention, when it adjourns, will adjourn to meet in Bedford on Tuesday, June 10th, at ten o'clock."

The amendment was not agreed to.

The PRESIDENT. The question is on the resolution.

Mr. STANTON. Will an amendment be in order?

The PRESIDENT. Yes, sir.

Mr. STANTON. I move to strike out "Tuesday" and insert "half-past twelve o'clock Monday."

Mr. J. PRICE WETHERILL. I rise to a question of order. My point of order is this: The Committee on Rules has reported that the time of meeting should be fixed for every day except Saturday, between the hours of half-past nine and three o'clock; and as this was an order and a rule, these amendments are out of order.

Mr. NEWLIN. I will say that the report of that committee has been laid on the table. It has never been acted on.

Mr. DARLINGTON. I move to amend the amendment by striking out twelve and a half, and inserting nine and a half as the hour of meeting on Monday.

Mr. J. M. BAILLEY. I move to amend the amendment by striking out "twelve and a half o'clock" and inserting "six o'clock P. M."

The PRESIDENT. That is not in order. There is an amendment to the amendment pending.

Mr. BIGLER. I move to lay this whole question on the table.

The motion to lay on the table was agreed to, there being on a division, yeas forty-two, noes thirty-four.

LEAVES OF ABSENCE.

Mr. PORTER. I ask leave of absence for Mr. Fulton for a few days on account of sickness.

Leave was granted.

Mr. S. A. PURVIANCE. I ask leave of absence for myself for next week.

Leave was granted.

Mr. ROSS asked and obtained leave of absence for Mr. Hemphill for to-day.

Mr. BUCKALEW. I ask leave of absence for Monday next.

Leave was granted.

Mr. BEEBE. I ask leave of absence for myself for one week.

Leave was granted.

Mr. CARTER. I ask leave of absence for three days from Monday next.

Leave was granted.

Mr. NEWLIN. I ask leave of absence until Monday at one o'clock for Mr. Sharpe.

Leave was granted.

Mr. J. M. WETHERILL. I ask leave of absence for myself for Monday.

Leave was granted.

Mr. PURMAN. I ask leave of absence for myself for Monday. It will be impossible for me to be here on Monday.

Leave was granted.

Mr. AINEY. It will be impossible for me to be here on Monday. I therefore ask leave of absence on that day.

Leave was granted.

Mr. D. N. WHITE. I ask leave of absence for a few days from Monday.

Leave was granted.

Mr. FUNCK. I ask leave of absence for myself for a few days next week.

Leave was granted.

Mr. STEWART. I ask leave of absence for a few days from Monday next.

Leave was granted.

Mr. LANDIS. I ask leave of absence for myself until Tuesday morning. I am obliged to go home on account of sickness in my family and for other reasons.

Leave was granted.

Mr. G. W. PALMER asked and obtained leave of absence for himself for Monday.

Mr. WHERRY asked and obtained leave of absence for himself until Monday at one o'clock.

Mr. BOYD asked and obtained leave of absence for himself for a few days from Monday next.

Mr. VAN REED asked and obtained leave of absence for himself for Monday.

ADJOURNMENT TO TUESDAY.

Mr. LILLY. It appears to me apparent that there will be no quorum here on Monday. I voted to lay on the table the resolution to adjourn until Tuesday. I now move to reconsider that vote.

Mr. STEWART. I second the motion to reconsider. I voted with the majority.

On the motion to reconsider, the yeas and nays were required by Mr. Mann and Mr. Corbett, and were as follow, viz:

YEAS.

Messrs. Ainey, Alricks, Andrews, Armstrong, Baer, Bailey, (Huntingdon,) Bar-

clay, Bartholomew, Black, Charles A., Bowman, Boyd, Brodhead, Broomall, Brown, Buckalew, Church, Corson, Dunning, Ellis, Funck, Green, Hanna, Harvey, Hazzard, Hemphill, Heverin, Hunsicker, Lamberton, Landis, Lear, Lilly, Long, M'Clellan, Mitchell, Mott, Newlin, Palmer, G. W., Palmer, H. W., Patterson, D. W., Patton, Porter, Pughe, Purman, Purviance, Sam'l A., Rooke, Ross, Runk, Russell, Sharpe, Smith, H. G., Stanton, Stewart, Van Reed, Wetherill, J. M., Wherry, Woodward and Wright—57.

NAYS.

Messrs. Addicks, Bailly, (Perry,) Bidle, Bigler, Calvin, Campbell, Carter, Corbett, Craig, Curtin, Dallas, De France, Edwards, Fulton, Guthrie, Hall, Horton, Howard, Lawrence, Littleton, MacConnell, M'Culloch, M'Murry, Mann, Mantor, Minor, Purviance, John N., Read, John R., Reed, Andrew, Smith, Henry W., Smith, Wm. H., Struthers, Temple, Walker, Wetherill, Jno. Price, White, David N., White, Harry, White, J. W. F. and Meredith, *President*—39.

So the motion to reconsider was agreed to.

ABSENT.—Messrs. Achenbach, Baker, Bannan, Bardsley, Beebe, Black, J. S., Carey, Cassidy, Clark, Cochran, Collins, Cronmiller, Curry, Cuyler, Darlington, Davis, Dodd, Elliott, Ewing, Fell, Finney, Gibson, Gilpin, Gowen, Hay, Kaine, Knight, MacVeagh, M'Camant, Metzger, Niles, Parsons, Patterson, T. H. B., Reynolds, Simpson, Turrell and Worrell—37.

The *PRESIDENT*. The question recurs on the motion to lay the resolution on the table.

The motion was not agreed to, the yeas being twenty-two, less than a majority of a quorum.

The *PRESIDENT*. The question recurs on the amendment to the amendment, offered by the gentleman from Huntingdon, (Mr. J. M. Bailey,) to strike out Monday at twelve and one-half o'clock, and insert, Monday at six o'clock P. M.

The amendment to the amendment was rejected.

The *PRESIDENT*. The question recurs on the amendment offered by the gentleman from the city (Mr. Stanton.)

Mr. STANTON. I withdraw that amendment.

The *PRESIDENT*. The amendment is withdrawn. The question is on the resolution which is that when the Convention

adjourns to-day, it be to meet on Tuesday next at nine and one-half o'clock A. M.

STREET IN FRONT OF HALL.

Mr. MANTOR. Mr. President: I desire to make an inquiry, through you, of the House Committee; and that is, what action, if any, has been taken to throw something in the street around the Hall to deaden the sound? I know, Mr. President, how difficult it is to keep this House in order. We cannot hear back here with these windows all open. I hope the House Committee will take immediate action on this subject, and I inquire through you what action they have taken.

The PRESIDENT. Does the gentleman make any motion? If not, reports of standing committees are in order.

DECORATION DAY.

Mr. CURTIN. I desire to say, Mr. President, that when I yesterday made the motion for an adjournment over to-morrow, I supposed that the ceremony of decorating the soldiers' graves occurred in the morning. I find by the morning papers, however, that it does not occur until two o'clock in the afternoon. I should therefore be very happy to have the resolution reconsidered and amended so as to provide for an adjournment at half-past twelve o'clock to-morrow, allowing us a morning session. I therefore move to reconsider the resolution passed yesterday.

Mr. DE FRANCE. I second that motion.

The PRESIDENT. It is moved to reconsider the resolution passed yesterday providing for an adjournment over to-morrow. The motion is not debatable.

Mr. BROOMALL. It is utterly impossible for us to understand what the question is here.

The PRESIDENT. The resolution will be read for information.

The CLERK read as follows:

Resolved, That Friday, the thirtieth instant, being the anniversary upon which it is the custom to visit and decorate the graves of the soldiers of the Republic who gave their lives that our government might live, this Convention will not hold a session on that day, so that an opportunity will be afforded those of the members who desire, to take part in the ceremonies.

The PRESIDENT. This resolution was passed yesterday, and it is now moved that the vote by which it was passed be reconsidered. The question is on the reconsideration. That question is not de-

batable. On the question of reconsideration the yeas and nays have been called for, and the Clerk will call the names of members.

The yeas and nays being required by Mr. De France and Mr. J. R. Read, were as follow, viz:

YEAS.

Messrs. Bailly, (Perry,) Beebe, Black, Charles A., Bowman, Boyd, Calvin, Carey, Carter, Church, Cochran, Corbett, Corson, Curtin, Darlington, De France, Edwards, Elliott, Ellis, Guthrie, Hanna, Hazzard, Horton, Howard, Lawrence, Lear, Lilly, MacConnell, M'Clellan, M'Culloch, M'Murray, Mann, Mantor, Minor, Purviance, Samuel A., Reed, Andrew, Russell, Smith, H. G., Smith, Wm. H., Stewart, Wetherill, Jno. Price, Wherry, White, David N., White, Harry and White, J. W. F.—44.

NAYS.

Messrs. Addicks, Ainey, Alricks, Andrews, Armstrong, Baer, Bailey, (Huntingdon,) Bartholomew, Biddle, Bigler, Brodhead, Broomall, Brown, Buckalew, Craig, Dallas, Dunning, Finney, Funck, Green, Hall, Harvey, Heverin, Hunsicker, Knight, Lamberton, Landis, Littleton, Long, Mitchell, Mott, Newlin, Palmer, G. W., Palmer, H. W., Patterson, D. W., Patton, Porter, Pughe, Purman, Purviance, John N., Read, John R., Rooke, Ross, Runk, Sharpe, Smith, Henry W., Stanton, Temple, Van Reed, Wetherill, J. M., Woodward, Wright and Meredith, President—53.

So the motion to reconsider was rejected.

ABSENT.—Messrs. Achenbach, Baker, Bannan, Barclay, Bardsley, Black, J. S., Campbell, Cassidy, Clark, Collins, Cronmiller, Curry, Cayler, Davis, Dodd, Ewing, Fell, Fulton, Gibson, Gilpin, Gowen, Hay, Hamphill, Kaine, MacVeagh, M'Camant, Metzger, Niles, Parsons, Patterson, T. H. B., Reynolds, Simpson, Struthers, Turrell, Walker and Worrell—36.

STREET IN FRONT OF THE HALL.

The PRESIDENT. Reports of committees are now in order.

Mr. BROOMALL. I desire to inquire of the House Committee whether anything has been done in pursuance of the order of the House to prevent the noise of the street from getting into the Hall. It is utterly impossible to do business here without closed windows, and with closed windows we cannot sit in this weather.

Mr. ADDICKS. If it is in order, I will with pleasure make the explanation. The House Committee are faithfully attending to their duty. I think it is but twenty-four hours since the resolution was adopted, and in the city of Philadelphia the quantity of tan required to cover the street is not to be got at every corner.

Last night I went to Kensington, four miles from here, to get the tan. This morning, at an early hour, the man was at my house to state at what price it could be laid down. As soon as the committee meets and concurs with my views the thing will be done.

ADJOURNMENT TO HARRISBURG.

Mr. MACCONNELL. Mr. President: I offer a resolution —

The PRESIDENT. It is not in order at this time. Reports of committees are in order.

Mr. MACCONNELL. I ask leave then to offer a resolution.

The PRESIDENT. Shall the gentleman have leave to offer a resolution at this time?

Leave was granted.

The PRESIDENT. The resolution will be read.

The CLERK read the resolution as follows:

Resolved, That when this Convention adjourns on Friday of next week it will be to meet at Harrisburg on Tuesday, September second, at twelve o'clock.

On the question of proceeding to the second reading and consideration of the resolution, a division was called for, which resulted twenty-five in the affirmative. This being less than a majority of a quorum, the Convention refused to allow the resolution to be read a second time.

ELECTIONS AND ELECTORS.

The PRESIDENT. The next business in order is the second reading and consideration of the article reported by the Committee on Suffrage, Election and Representation. Will the House agree to proceed with the second reading and consideration of the article? ["Aye." "Aye."] That article is before the House on second reading.

When the Convention adjourned yesterday afternoon the question was on the amendment of the delegate from Delaware (Mr. Broomall) to the second section of the article. The amendment will be read.

The CLERK. The amendment is to strike out all after the first paragraph.

Mr. BARTHOLOMEW. What is it proposed to strike out?

The CLERK read the words proposed to be stricken out, as follows:

"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. BROOMALL. I do not desire to speak upon this amendment. I only desire to say that this is the amendment which I offered yesterday, and which was agreed to, but which afterward fell because the amendment to which it was attached fell. As the House once adopted this amendment I presume they will do it again.

On the question of agreeing to the amendment, the yeas and nays were required by Mr. Bartholomew and Mr. H. W. Smith, and were as follow, viz:

YEAS.

Messrs. Addicks, Ainey, Alricks, Andrews, Bailly, (Perry,) Bailey, (Huntingdon,) Bartholomew, Beebe, Biddle, Black, Charles A., Bowman, Boyd, Broomall, Brown, Carey, Carter, Church, Cochran, Corson, Darlington, Edwards, Finney, Funck, Hall, Hanna, Hazzard, Horton, Knight, Landis, Lawrence, Littleton, MacConnell, M'Clean, M'Culloch, Mann, Mantor, Minor, Newlin, Palmer, H. W., Patterson, D. W., Pughe, Purman, Purviance, John N., Purviance, Samuel A., Rooke, Ross, Runk, Smith, Henry W., Stanton, Stewart, Struthers, Walker, Wetherill, J. M., Wherry, White, David N., White, J. W. F., Wright and Meredith, *President*—68.

NAYS.

Messrs. Armstrong, Baer, Bigler, Brodhead, Buckalew, Calvin, Campbell, Cassidy, Corbett, Curtin, Dallas, De France, Dunning, Ellis, Guthrie, Harvey, Heverin, Howard, Hunsicker, Lamberton, Lear, Lilly, Long, M'Murray, Mitchell, Mott, Palmer, G. W., Patton, Porter, Read, John R., Reed, Andrew, Russell, Sharpe, Simpson, Smith, H. G., Smith, Wm. H., Temple, Van Reed, Wetherill, Jno. Price, Woodward and Worrell—41.

So the amendment was agreed to.

ABSENT.—Messrs. Achenbach, Baker, Bannan, Barclay, Bardsley, Black, J. S., Clark, Collins, Craig, Cronmiller, Curry,

Cuyler, Davis, Dodd, Elliott, Ewing, Fell, Fulton, Gibson, Gilpin, Gowen, Green, Hay, Hemphill, Kaine, MacVeagh, M'Camant, Metzger, Niles, Parsons, Patterson, T. H. B., Reynolds, Turrell and White, Harry—24.

Mr. TEMPLE. I move the following amendment:

Before the word "each," in the fifth line, to insert, "in every city containing over two hundred and fifty thousand inhabitants," and the remainder of the section which has been stricken out.

The PRESIDENT. The words to be inserted will be read.

The CLERK. The amendment is to add to the section as it now stands the following words:

"In every city containing over two hundred and fifty thousand inhabitants, 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. TEMPLE. For the purpose of saving time I desire to withdraw this amendment, so as to allow the delegate from Lebanon (Mr. Funck) to introduce one, if it is in order.

The PRESIDENT. The amendment is withdrawn.

Mr. FUNCK. I offer the following amendment:

Add to the section as it stands; "In the city of Philadelphia, and in such other election districts as the Legislature may hereafter direct, 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. W. H. SMITH. I move to amend the amendment by providing that in all elections for State officers throughout the State, the name shall be endorsed on the ballot as proposed.

The PRESIDENT. The question is on the amendment to the amendment, to strike out all that relates to particular localities and insert the provision as to all elections for State officers.

The amendment to the amendment was rejected.

The PRESIDENT. The question recurs on the amendment.

Mr. HANNA. I had hoped, Mr. President, that we were about forming a Constitution containing only general principles. I therefore regret to see anything like an invidious distinction. Why my friend from Lebanon should propose this amendment I cannot understand. It does not come from the city of Philadelphia. It applies only to the city of Philadelphia, concerns it alone; and why should we be separate from the State in this respect?

Upon the principle contained in the report of the committee the Convention has taken decided action; namely, to strike out the whole plan proposed of requiring the name of the elector to be endorsed on the ballot. While I, for one, have voted with the members from the interior against that, I am surprised and regret that this proposed distinction should be submitted. We want it not in the city of Philadelphia; we have not asked for it; and therefore I cannot understand why this invidious distinction, as I deem it, has been submitted to the Convention. I do trust that the Convention will not adopt it. All the arguments that can be used against making it applicable to the entire State can also be used against making it a part of the system of elections in Philadelphia. If there are difficulties incident to carrying on an election throughout the interior by compelling every voter to endorse his name upon his ballot, and if he cannot write to have another elector endorse his name and attest it, I submit that there are a thousand more reasons against adopting such a principle in the elections of the city of Philadelphia. I submit that it would be a physical impossibility to carry on the elections under that system. We have now in the city of Philadelphia over a hundred thousand voters. A large proportion of those voters are hard working mechanics and laboring men. Are we to impose a restriction upon them which, in fact, is denying them the right of suffrage? These men cannot spend time about the polls either in writing their names or in obtaining some one else to write their names for them. The difficulty attendant upon this plan was suggested yesterday by the gentleman from Schuylkill (Mr. Bartholomew) when he spoke to the provision requiring the ballots to be numbered by the election officers and entered upon the voters' lists with the corresponding number. Now, we propose to

say that the voters must, in addition, endorse their names or have them endorsed on the respective ballots. If we carry out the principle proposed by this Convention, that the election districts shall only contain three hundred voters, I submit it will be a great difficulty to carry on the election in that way. At the present time we have five or six, sometimes seven hundred voters in an election district, and they all get their votes in during the ten hours of election day. They can be voted now at the rate of sixty to seventy an hour; but it is proposed to throw around the elective franchise such a restriction, such a difficulty, as will not only deter them from going to the polls, but by reason of other difficulties will cause a great many to lose their votes.

As I said, I oppose this amendment because it is making a distinction which is not asked for. The people of Philadelphia have not requested it. It is only an experiment, it is only an invention, so to speak, of some genius who supposes that he will in this way correct all the frauds and corruption and demoralization which have been alleged on the floor of this Convention as existing in the city of Philadelphia, and nowhere else. I deny it. The people of Philadelphia are just as competent to conduct their elections in the way they want them as the people in the interior. All we ask is to be let alone. We want no outside interference. If this Convention is to lay down a plan of carrying on the elections throughout the State, why not let the elections in the city of Philadelphia be carried on in the same way? If we are to be separated from the rest of the State, if there is to be, in effect, a barring of us out from the rights and privileges of citizens of the State, let us know it and let us understand our position. But, sir, we are part of the Commonwealth of Pennsylvania, and I insist that when this Convention adopts an organic law, a system of general rules, it should be made applicable to the entire State, and we in Philadelphia, as a part of the Commonwealth of Pennsylvania, do not desire to be left out in the cold. If there are any advantages, rights or privileges to be enjoyed by the people of the Commonwealth, we as a part of the Commonwealth desire to stand upon the same platform, the same basis, and to be governed as citizens in the interior are. I therefore submit, and I trust my colleagues from Philadelphia will support me in this,

that if you adopt a rule applicable to the State, it should apply to the city also.

Mr. BOYD. I desire to offer as an amendment to the amendment—

The PRESIDENT. It is not in order at present.

Mr. BIGLER. Mr. President: This is a very important question. I have voted uniformly for retaining this provision as it stands. I am satisfied that its influence will be wholesome. I voted to apply it to the entire State; and on the principle of doing all the good I can where I cannot do all I would, I shall vote to apply it to the city of Philadelphia.

Several objections have been urged against this proposition. One is that it would be a matter of inconvenience. Well, sir, it is somewhat inconvenient to go to an election. In the country it often takes an entire day. A minute will answer to write the name of the elector on the ballot. So far as my observation goes, I should say the citizens gathered at the polls will be quite as well employed in writing their names on the backs of their tickets as they would be in the things which usually employ them.

Another objection has been interposed against it, to wit: that it would disturb the secrecy of the ballot, and thus affect the independence of the laborers and operatives in our manufacturing establishments, mines, &c. There was a time in my life when I should have concurred in that view, but I think otherwise now. The laborers of this State in all the departments of industry are a very independent body of men. They vote just as they see proper, and I am proud to say that they rarely hesitate to declare how they will vote. Take our mining regions in this State, and I say without any hesitation that the terror is on the other side. The laborers are the men who have the power, and if terms are to be dictated they can dictate them. In the last election I heard employees telling their employers, without any hesitation, how they would vote. Some of mine, who at an early day said they would vote for Mr. Buckalew for Governor, seemed to take pleasure in telling me afterwards that they had changed their minds and would not do it.

I think the whole tendency of this proposition would be to purify the ballot and to elevate the sentiment which surrounds the ballot. One of the ideas that occur to me just at this moment is that it would break up to a considerable extent this

practice of handing tickets over to the elector to be placed in the box without knowing what names are on them. If the citizen is required to endorse his name on the ballot, he will look at it; he will scrutinize it; he will give some care to the discharge of this great duty of voting. He will understand better what he is about to do.

I do not see that there is anything in it that should offend the sensibilities of Philadelphians, certainly not in comparison with what they have said about themselves and about the measure of corruption that prevails here in the ballot-box. Why, sir, unless it be possible to provide some remedy for this political disease, it will destroy the whole political system. I regret as much as much as any man can regret, the necessity for resorting to any measure of this kind; but the sentiment here and the testimony is so universally in favor of some thorough and radical reform on the part of the ballot that I feel impelled to support the pending measure, and I hope it will prevail even in this reduced form. I would very much prefer it if applied to the whole State.

Mr. LANDIS. Mr. President: I desire simply to submit a word or two on this question. When this article was before the committee of the whole I had the honor to submit an amendment proposing something similar I believe to the proposition now before the Convention. I desired at that time to confine it to the large towns and cities of the Commonwealth because I did not believe the thing was practicable in the country for reasons which I gave then, and which I do not propose here now to repeat. But so far as the amendment will concern large cities, I am entirely in favor of it. I believe there is no other one method in the manner of conducting elections that will more conduce to reform, that will better prevent frauds, and secure for the people of the large cities a faithful and honest election than just some such proposition as this.

Now, sir, this morning, on the general proposition, I recorded my vote in the negative, because it applied to all the election districts of the State, the rural as well as the urban; but as it is now before the Convention the proposition is to be confined entirely to cities with a population exceeding two hundred and fifty thousand. Coming up, therefore, in that shape I am in favor of it.

The great objection that was urged against adopting it throughout the State at large was on account of the practical inconvenience resulting to the elector. In the various portions of the State where the population is widely scattered and where many persons do not go to the polls until towards the close of the day, it was thought they would not be able to vote with that convenience which should be afforded them. Those objections however do not pertain to the city. Here, no matter at what hour they may come to the polls, all facilities can be furnished them for the purpose of depositing their votes. The electors are there to witness the recording of the name. The other necessary appliances for writing the name on the ticket will all be furnished, and no matter at what hour of the day it may be, the electors will be enabled to comply with the provisions of the amendment, and their vote will be deposited. When you have established this method of voting in the large cities, you will have done that which I think will prevent to a very great extent corruption and fraud in the conduct of our elections, and the people in the country are alike with you interested in securing fair elections in the large cities, seeing that the honest votes of the country are overcome by the frauds of the corrupt men in the cities.

It has been stated here as an objection to this measure that it will not prevent fraud, because it is urged that men will still go on and commit fraud in the elections. To that let me reply that where it becomes perfectly manifest that on the contest of the election afterwards all frauds can be discovered, you will deter men from committing fraud. Men will not deliberately commit fraud when they see that there is a prospect of fraud being detected and finally of the election being set aside.

I have merely risen for the purpose of stating why I am in favor of this amendment, and why I expect to vote for it, seeing that I have voted against the main proposition, and having stated these reasons, and they being sufficient, in my mind, to satisfy me why I should so vote, I will urge nothing further in favor of it. I hope the amendment will be adopted.

Mr. KNIGHT. I rise to say, Mr. President, that I fully concur in what my colleague (Mr. Hanna) has stated, and I entirely disagree with the remarks made by the gentleman from Blair (Mr. Landis.) I think it is not proper for gentlemen

from the country to determine what we require in the city of Philadelphia. The principle of this amendment has been very properly voted down as to the whole State, and I look upon it as a gross insult to the inhabitants of Philadelphia that it should be renewed here by gentlemen from the country trying to force it upon the people of Philadelphia. If they are able to take care of their interests under the law, we are able to take care of ourselves under the same law, and we want no special provisions degrading the people of this city below the level of the freedmen of the South. The negroes of the South have the right to vote on a free ballot; but here you seek to trammel the citizens of Philadelphia and say they must vote an endorsed ballot. Is there any gentleman in this Convention who would say of himself that it was necessary that he should endorse his ballot? I judge there is not one. Why should they be here to determine for others? They have no right to require of others what they are not willing or do not deem necessary for themselves.

We know, sir, that all the public institutions—railroads and others—where they elect their officers by the stockholders, vote by secret ballot, and it is proper and right that they should. Why should the citizens of Philadelphia or any other city of this State, with a population of over two hundred thousand or two hundred and fifty thousand, have this imposition forced upon them—I call it nothing less? We are perfectly and entirely capable of taking care of ourselves; and when gentlemen desire to pass a law to govern and act equally on the whole State, if it is a proper one, I am with them and will go for it; but I do not wish them to force anything upon the citizens of Philadelphia which they are not willing to accept for themselves.

MR. BIDDLE. Mr. President, the right of suffrage is the basis of all our institutions; it is a short term for "representative government;" and the notion of supposing that this right should be different in the different quarters of the State strikes me, with all respect to those who advocate the opposite view, as unwise to the last degree. From the very first, from the Constitution of 1776, down to the present article under discussion, a passage to which I shall point in a minute, a provision has existed by which the people of this State have always declared that the rules and regulations in regard to elections shall be "free and equal." You

find it here now in the fifth article of the Declaration of Rights, which has been reported to this House with small variations. You find it in the fifth section of the very article we are now discussing: "All laws regulating elections by the people, or for the registry of electors, shall be uniform in their operation throughout the State." And yet by this amendment you propose to deal differently with the city of Philadelphia from the rest of the Commonwealth.

What is the reason for this? A great cry has been made here about the unfairness of elections in this city. Except for the present uneven, unfair and oppressive registration law, there is not the slightest necessity for anything like a radical change. My deliberate conviction is that if this clause is introduced, thousands of electors in Philadelphia will have their independence struck at and will become the mere instruments to record the votes of some power behind them. I differ altogether from the distinguished gentleman from Clearfield, (Gov. Bigler,) who spoke upon this subject. Philadelphia is the manufacturing city of the Union; and it seems to me idle to discuss at this time the influence which is exercised over the operative by the employer. This is a direct invitation to ascertain in advance what the vote of the elector will be; it is a direct blow at his independence; and while I have steadily voted against every provision of this kind with regard to the State at large, I shall vote if possible with more determination against its application to a particular section of the State.

It is invidious; it is unfair; it is a departure from our normal system under which we have lived for nearly a hundred years as a republic. It is a mere experiment; and so far as experience goes, so far as the teachings of the past teach us anything, they teach us all in one direction. It may be very well for gentlemen to get up and say here that the laboring man is the master and that the employer is the servant. I do not believe anything of the kind. I am satisfied, and the Legislature of this State by enactments has shown its marked opinion in the same direction, that there is such a thing as influence. Hence you have statutes making it penal for employers to interfere with the right of suffrage.

I do trust that gentlemen from the country will not be misled into the belief that this is demanded by the people of

Philadelphia. The delegation here is about equally divided so far as I understand, and I think it a radical mistake to introduce anything like partisan politics in the discussion of this question. I think it a most vital blunder to array politically, as it were, one side of the delegation from Philadelphia against the other side. It is a thing always unwise, and it strikes me most improper in a body like this and upon a question like this. We know no politics here. These questions have nothing to do with politics. The politics of to-day will not be the politics of next year. We are trying to frame a Constitution on principle; and why the outcry of one side of this house should be regarded as expressing altogether the opinion of the people of the city of Philadelphia, I am at a loss to understand. I believe most cordially that my friend, who is looking at me, from Philadelphia, (Mr. Knight,) and the gentleman on the other side of the House, (Mr. Hanna,) represent quite as truly the sense of the electors of Philadelphia upon this subject, as other gentlemen who tell us it is otherwise; and I do hope, mainly because this is partial, because this is against all our former teachings, because this is a radical change applied to one particular section of the community, that gentlemen will vote it down. Be your enactments what they may on this subject, let them be uniform, let them be equal, let them be the same everywhere. Give us the same laws in all respects—which we have not now here in the city on this most vital subject—and no complaint will hereafter be uttered on this subject. As I stand here now, I believe firmly that until the present unfair and unjust registry law was introduced—while I cannot say that frauds were not committed, for that cannot be said in regard to any section of the State—the true sense of the people of this community always had fair expression at the ballot-box, and the result was in the main a true verdict. Such would not happen under the plan now proposed, and I hope that the amendment will be voted down.

MR. J. PRICE WETHERILL. Mr. President: I only desire to say, in answer to the arguments offered by my friend from Philadelphia, (Mr. Biddle,) that they seem to be resolved into two objections to the amendment that is now before the Convention; and the first is the want of uniformity. The gentleman believes that in every article which we adopt there should be uniformity, and therefore he

says that Philadelphia should not be discriminated against or be placed in a position different from any other section of the State. To prove that position, he read from section fifth of the article now under consideration: "All laws regulating elections by the people, or for the registry of electors, shall be uniform in their operation throughout the State." I hope that the gentleman will also read another section of this article, because if he will refer to section nine, he will see there clearly and distinctly that in large cities it is impossible to have laws which will work for Philadelphia as well as for other portions of the State. In peculiar instances, under peculiar circumstances, the laws must be different. For proof of this, I refer to section nine, of the present article: "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." This shows that while in one section of this article we have provided that laws shall be uniform, yet when the committee of the whole came to further consider the subject they found that in large cities there are peculiar circumstances which must require peculiar legislation, and therefore in the ninth section it was provided how it should be done. I think that is a clear, and, to my mind, a satisfactory answer to the remarks of the gentleman from Philadelphia in regard to the desirableness of uniformity.

In regard to the undue influence of the employer over his workmen, I do not think it is worth while for me to say one word upon that subject. I believe that when we are considering matters upon second reading, all unnecessary debate should be set aside; and as this question was thoroughly discussed in the committee of the whole, the whole matter gone over, and a conclusion arrived at entirely in opposition to the views of my colleague from Philadelphia, it seems to me entirely unnecessary to now discuss that subject.

In regard to the views and the wishes of the people of Philadelphia, I hold my position, as I believe every delegate from Philadelphia holds his, from his constituents with only one instruction, and that

that is that he will do what in his opinion he deems right and proper in the premises. I know of no other instruction, I know of no other wish, and I do not think it fair upon this floor to use the argument that our constituents desire thus and so, and therefore the delegates representing them should act thus and so. As far as Philadelphia is concerned, I believe that the people of Philadelphia do not desire to control the delegates upon this floor by any such influence.

One more word and I am done; and it is simply to state why I shall vote for this amendment. But two months ago, after a very elaborate discussion, after the matter was gone over thoroughly, when we examined the matter in all its bearings, a majority of this Convention decided that the amendment for the State was a proper one, that the amendment for the State would stop frauds, and that the amendment for the State should be passed. Now to-day, with a house not nearly so full as then, and by a bare majority of those present at this time, that action has been reconsidered. I believe, sir, that what the House did in committee of the whole it did well, and was for the general good of the people of the State. I believe that its action then was the true course, and I believe that that action was correct throughout; and for that reason, if I can have a chance to give to Philadelphia in that respect the benefits of such a cure, if I can have a chance to secure to Philadelphia what a majority of this House said was right and proper for the State, I think I shall have done my duty to my constituents.

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

Mr. J. PRICE WETHERILL. Certainly.

Mr. TEMPLE. I desire to say but one word—

The PRESIDENT. The gentleman from Philadelphia (Mr. J. Price Wetherill) has the floor and must not be interrupted. Has the gentleman yielded the floor?

Mr. J. PRICE WETHERILL. I had said all that I intended to say, but I am willing to answer any question that my colleagues desire.

Mr. KNIGHT. The gentleman states that previously we voted in favor of this proposition in committee of the whole, and that now the Convention seems to be against it. I assume that this is because since that action was taken the delegates have had an opportunity to consult their constituents and have ascertained that

the sentiment of the people was against the proposition. I have myself consulted with a number of gentlemen on this subject, and among all with whom I have spoken I have only found one who agreed with the idea. I believe that if this provision is inserted for the city of Philadelphia it will do more to defeat the ratification of the Constitution than almost any other act we can commit. My candid opinion is that if this provision be inserted the city of Philadelphia will give seventy thousand majority against the Constitution.

Mr. J. PRICE WETHERILL. I can only say in reply that I believe it will be just the reverse.

Mr. TEMPLE. In answer to the delegate from Philadelphia who has just taken his seat, (Mr. Knight,) and also to the distinguished gentleman who spoke somewhat earlier in this debate, (Mr. Biddle,) let me say that six weeks ago this proposition was adopted in the committee of the whole by a large majority.

Mr. BEEBE. By only four.

Mr. TEMPLE. Well, by a majority. It was adopted and it should not now be changed. The people are satisfied with our action then had and they show their acquiescence, because although our action was published throughout the State and announced in all our newspapers, there has not been a single protest received from the people of Philadelphia or the people of the State against it.

The gentlemen from Philadelphia who have spoken on the other side of this question undertake to tell us that the people are against this measure, and one eminent delegate from this city proclaims that if it be continued in this article it will cause the rejection of the Constitution in Philadelphia by seventy thousand majority. I assume to say that there is no evidence of that fact. There has not been a single demonstration made against the action of the committee of the whole. On the contrary, I beg leave to state to the delegates who have warned us of the great majorities that will be rolled up against this Constitution because of this provision, that I believe I have come in contact with the people as much as they have, and I say in my place upon this floor that I have not met with a single person in this city who has not endorsed the action of this Convention in adopting this section as applicable to the whole State.

And again, it is very likely that I have come in contact with the class of people referred to by the distinguished gentleman from Philadelphia, (Mr. Biddle,) the laboring men and the mechanics, and I say that I have conversed with no working man who has not endorsed the action of the Convention, and they do so for the simple reason that they believe that when they cast their ballots and express their will through the peaceful channel of the ballot-box, this section will be an entire safeguard to secure an honest count of that ballot.

It is quite refreshing to hear my colleague from the city (Mr. Hanna) rise on this floor and say that he is in favor of a general election law, and that he does not believe in invidious discrimination, and yet it is only a few days since my learned friend took occasion in his seat in this Convention to take exception to the language of another delegate who was denouncing these very invidious discriminations.

MR. WOODWARD. Mr. Chairman: I do not propose to enter into this discussion; but when my friend on the left (Mr. Knight) and the gentleman in the rear (Mr. Biddle) undertake to speak for Philadelphia in the way that they have done here to-day, I rise for the purpose of saying to them that there is in Philadelphia, an association of as respectable Philadelphians as are to be found on this floor, or anywhere in this city, called the Reform Association, men of property and of intelligence, of character and of position, and there is nobody on this floor authorized to speak for those people in the manner in which they have been represented this morning by the two gentlemen to whom I allude, because that association have spoken for themselves. They have laid upon our desks printed statements going to show that elections in Philadelphia are a criminal farce as they are carried on under existing law, a mere caricature of a popular election. They have not dealt in generalities but they have specified particulars; and when gentlemen rise here to speak for the people of Philadelphia, I ask them to speak for the Reform Association of Philadelphia, and they will hold a different language from that which you have heard from these gentlemen. Why, sir, there is no glozing speech about "slight irregularities" to cover up the systematic iniquities that are practiced in Philadelphia elections.

The gentleman (Mr. Knight) intimates that this city can give seventy thousand majority against our amendment. Well, sir, a gentleman of the greatest respectability told me that that was exactly the figure which a ring man who was talking to him fixed; and when he expressed a doubt whether the opponents of this amendment could give seventy thousand he was told, "Oh, yes, we can give any majority we please, and we have fixed it at seventy thousand." [Laughter.] I was struck, when my friend mentioned that figure to-day, with the identity of that amount, coming to me from "the ring" in one direction, and coming to the ears of this Convention from a gentleman claiming to represent Philadelphia on this floor. Seventy thousand is the fixed amount, with the intimation, however, that it can be increased if necessity requires.

Now, take not only the Reform Association and their testimony, but take the contested election of M'Clure vs. Gray, of which we have heard, which occurred here in this city. The chairman of the legislative committee (Mr. Buckalew) told us, when this subject was up before, just as a specimen brick, of twelve men, three of whom were officers of that election, who were cheated out of their votes between the hours of eleven and twelve o'clock, I believe. Twelve men came forward and swore before that committee that in one election division, between eleven and twelve o'clock, they voted for Mr. M'Clure. The election officers certified that in that hour there was not a single vote cast for Mr. M'Clure in that precinct! That was established under oath before a legislative committee; and yet gentleman stand up here and undertake to speak for the people of Philadelphia and to tell you that there is no occasion for reform here in this regard!

MR. KNIGHT. I objected to this as a special provision for Philadelphia.

THE PRESIDENT. The gentleman on the floor cannot be interrupted.

MR. WOODWARD. You do not want any special provision for Philadelphia! Then why did you not make it general as to the State? If gentlemen do not want a special law for Philadelphia, why not extend it over the whole State? We did that in committee of the whole. We did it after full debate; we did it by a large majority. Now, why should this Convention go back upon its own action?

Gentlemen say they are informed by the people thus and so. As one gentleman

from Philadelphia (Mr. Temple) remarked just now, I have not heard of a single remonstrance sent in by the people; and those gentlemen who undertake to interpret the people on all occasions and on all questions ought to remember that they have no special access to the people that is denied to other folks. I am one of the people; I have lived among the people all my life; I know the people of Pennsylvania as well as any gentleman on this floor; and it is in vain for gentlemen to constitute themselves special interpreters of the people of Pennsylvania. I deny that the people of Pennsylvania have expressed or entertained any objection to the amendments that we agreed to in committee of the whole. On the contrary, so far as I have heard any expression from them they have been regarded with favor; and when "the ring" has polled its seventy thousand majority against this amendment here in the city of Philadelphia, if you would let it go to the people of Pennsylvania they would adopt it by more than one hundred and seventy thousand. Such is my belief in regard to the people of Pennsylvania.

Mr. President, my learned friend (Mr. Biddle) spoke of the uniformity of election laws and he is opposed to this amendment in its application to Philadelphia because it does not apply to the rest of the State. He was careful to vote against it as applied to the rest of the State. But what sort of uniformity have we under the Philadelphia registry law at this moment? That law does not prevail in the rest of the State. It is a law manufactured and maintained for the rogues, manipulated and handled by the rogues, and it is confined to this city of Philadelphia, and it is of such a quality that the rogues in this city of Philadelphia can make any majority for anything that they please without regard to how the people vote. That is not a uniform law. The gentleman insists upon keeping the people of Philadelphia under this partial, unreasonable, dishonest law. I want something in the Constitution that will cut up all such partial and unfair legislation by the roots and cast it out as a worthless weed which shall never annoy any portion of the people of this Commonwealth again, that shall never put the honest men of the community into the hands of the rogues of the community, which is exactly the effect of the Philadelphia registry law at this moment.

Mr. President, preferring myself that this should be the uniform rule through-

out the whole State, a majority of the Convention as constituted this morning having voted that down, I do think that it is of the very last importance that the Convention should give this degree of protection to the honest people of Philadelphia; and if any gentleman wants to know what the honest men of Philadelphia desire on this subject, I refer him to the Reform Association, whose club they will find up Chestnut street, a very comfortable place to resort, and they will find there some very respectable people who have not been represented on this floor this morning by what you have heard.

Mr. BEER. I merely rise, sir, to correct what I deem to be an error on the part of the gentleman from Philadelphia (Mr. J. Price Wetherill.) There was not a large body of the Convention in session at the time this question was taken in committee of the whole. My recollection of it is, and I am so informed by the Clerk, that there was scarcely more than a bare majority of a quorum, and that the vote as then taken was forty-two to thirty-eight; and at least three of the gentlemen of this Convention told me at the time that they so voted for the purpose of getting it out of the Committee of the Whole to come up on second reading when they would reverse their votes on the final reading. I said to them then that I thought they had made a mistake because the fact that it had so gone to second reading by a vote of the Convention would be used as it has been used this morning.

Mr. AINEY. Mr. President: I sincerely regret the disposition shown this morning to debate over again this question which was so exhaustively debated on the first reading, and I hope that it is not an indication that every question heretofore brought before this Convention, and which has been thoroughly debated, is to be debated over again. I believe this body is as well prepared to vote intelligently on this question as we should be if it were debated continuously from now to the end of next week. This is all I rose to say.

Mr. FUNCK. Mr. President: I owe it to myself to state the reasons which have induced me to offer this amendment, and I am very glad to avail myself of the opportunity to say to the delegation from Philadelphia why I think it is necessary that this amendment should be adopted. Now I am free to say that there is no delegate on this floor who is more averse than I am to the incorporation in the organic

law of the State of a provision which has only a sectional operation. But the delegates on this floor owe it to themselves and they owe it to the large and intelligent and honest constituency which they represent, that something should be done to protect the purity of the ballot. When I came here that was one of the objects which I had in view, and so far as I know myself I shall honestly endeavor to accomplish that purpose; and I do not care an iota whether it affects the party with which I am connected or whether it does not, because no honest man can desire that his party should triumph by foul or unfair means.

When we assembled here it was supposed by some of the gentlemen on this floor that the principle embodied in my amendment was indispensably necessary to protect the purity of the ballot box; and the reasons which were assigned by the gentleman who argued the question exhaustively on this floor were that in the city of Philadelphia the elections were not honestly held, that men were counted out here who were honestly elected, and other men were counted in who never received a majority of votes. Then this measure was suggested as a good means by which that injustice could be prevented, and the proposition was submitted that the principle should extend over the whole State. Now my idea is that exceptional cases require exceptional remedies. In the city of Philadelphia these frauds are perpetrated. Now let us apply the remedy to the city of Philadelphia, and the amendment which I have submitted is large enough to allow the Legislature hereafter, as occasion may arise, to apply the same principle to any other district in the State. It is undoubtedly a clog upon the ballot; it is a qualification that we put upon it; and so far as that goes, I am sorry that it is necessary; but as it is necessary, let us apply it only to that case where these frauds have been committed.

Some gentlemen seem to think that it is presumptuous on the part of a delegate from the country to submit an amendment of this character affecting the city of Philadelphia. Now I say, in answer to that, the voters of the country are just as much interested in general elections as the citizens of Philadelphia are; interested that the votes which are cast in Philadelphia should be honestly cast and honestly counted, because they affect the result in the whole State; and when the

people vote for general officers, the choice of the majority may be defeated in this way, and therefore we in the rural districts are just as much interested in having pure and honest elections as the citizens of Philadelphia.

These are the reasons which have induced me to submit this amendment. I do not desire to interfere with the peculiar arrangements of the politicians of Philadelphia particularly, because I am no politician; but I desire to secure the people a means of voting honestly, of protecting the ballot, of having the ballots honestly and fairly counted, so that the voice of a majority of the freemen of this Commonwealth may determine in every election who is to be elected. That is why I have submitted this amendment. I would vote for it as a general provision unhesitatingly if you could show me that frauds to any extent were perpetrated in our elections in the country, because whenever a community is so debauched as to be unable to hold pure and honest elections, the people from the districts where honest elections are held owe it to themselves and to them to come to their rescue, to see that the purity of the ballot is maintained, and that the principle which underlies our system of government is preserved; for if election boards can count in whom they please and count out whom they please, what is the use of going to an election at all? It is but all an idle farce; it amounts to nothing.

I should have no objection to qualifying this amendment, if that will meet the desire of the delegation from Philadelphia, so as to apply only to general elections. If they have any amendment of that kind to submit, I shall cheerfully accept it as a modification of my amendment; but so far as general elections go, I think I am perfectly justified in offering it, and shall insist on having a vote upon it.

MR. WORRELL. While this proposition is before the Convention I desire to call attention to the fact that it has been determined by the legislative body of this Commonwealth that some special provision is necessary for the conduct of elections in the city of Philadelphia. It was upon the ground of existing fraud which needed correction that the present registry law was passed. It was argued before the Supreme Court and its constitutionality asserted upon the ground that it was in the interest of pure elections. I

take these facts as announcing the principle. A majority of both branches of the Legislature, the representatives of the people, and the Governor, have determined that some special regulation is necessary for the city of Philadelphia. The objection to the present infamous registry law is that it is in the interest of fraudulent elections and not in the interest of the pure and fair exercise of the elective franchise. The proposition now before the Convention merely recognizes the principle that in populous and compact districts some special regulations are necessary—a principle which has been enacted into law and the constitutionality of the law affirmed by the Supreme Court. It is simply a proposition that elections shall be conducted in such a way that a pure and fair expression of the opinion of the people may be arrived at through the ballot-box. It does not take away from the people the control of their elections. It leaves the administration of the election laws with the people, but provides a certain guarantee for a true enunciation of the will of the people at the ballot-box.

Upon this question I will say that threats are made now in the city of Philadelphia by those having control of the machinery of the present registry law, that by the appointment of election officers to conduct the election on the amendments to the Constitution, a large and overwhelming majority will be given against every proposition which this Convention has adopted.

I think as the registry law has been upon the statute books for years, and has been insisted upon as necessary to a fair election in Philadelphia, it is too late now to say that a special provision may not be made applicable to the city of Philadelphia. I trust therefore that this amendment will be adopted.

Mr. MANN. For the reason that I shall vote for the fifth section of the article under consideration, which provides that "all laws regulating elections by the people or for the registry of electors shall be uniform in their operation throughout the State," I shall vote against the amendment now offered. I believe that this Convention was called for the very purpose of cutting up, root and branch, every feature of special or local legislation, and I have uniformly voted against all propositions to make distinctions against any part of the State. I believe it is the special duty of this Convention to set its face against every proposition of this kind.

For that reason I shall vote against the amendment. I am against it as a general rule, and I am against it more determinedly as a special rule for the reasons given so ably by the gentleman from Philadelphia (Mr. Biddle.)

I should, however, have kept silent and voted without giving any reason for my vote if it had not been for an attempt to mislead the delegates or the public as to the action of this Convention. It is alleged by the gentleman from Philadelphia (Mr. J. Price Wetherill) that when this proposition was adopted in committee of the whole there were a greater number of delegates present than there are now. When that vote was taken in committee of the whole there were eighty-four members voting, forty against the proposition, and forty-four for it. To-day there are forty-one voting for that same proposition—only three absentees—but there are sixty recording their names against it; showing the presence this morning of one hundred and one delegates when it comes up for final consideration against eighty-four when it was considered in committee of the whole. But suppose there is a change; what are we reading these sections over the second time for if it is not that the delegates shall record their sober second thought upon the propositions? But when the facts are so different from those represented I cannot sit quietly and allow this impression to be made on the public.

Mr. J. PRICE WETHERILL. I desire to interrupt the gentleman.

The PRESIDENT. The gentleman cannot be interrupted.

Mr. MANN. I take these figures from the published statement in the papers of the next day, and they are corroborated by the Clerk's statement this morning, only he makes it two less than my remembrance. As stated by the gentleman from Venango, on the first vote in committee of the whole, after this question was thoroughly discussed, the proposition was voted down, and then there was an effort made by some very zealous men going around among delegates pleading with them to reconsider it and allow it to go in and come up again for consideration, and they obtained a bare majority upon that consideration. It was barely permitted to come up again for a vote. That is the history of this case. There never was a majority in this Hall in favor of this proposition, as the votes have shown. The majority against it has increased every time it has been presented, and the

majority against it in the Commonwealth has increased as it has been discussed, for it is a proposition to subject the laboring men of Pennsylvania to the supervision and dictation of the capitalists of the State. For that reason I am opposed to it in the State and opposed to it in any city of the State.

Mr. BUCKALEW. I must say a word in consequence of what has fallen from the gentleman from Potter. The Committee on Suffrage has proceeded from the beginning on the theory that as far as possible the rules for holding popular elections should be fixed in the Constitution and placed beyond the power of the Legislature to tamper with them. Let that be accepted as the general explanation for the great body of the provisions contained in the two articles which they have reported. The present amendment does not depart from the policy upon which we have acted. If we think proper to establish a regulation for cities which shall be different from that applied to the sparse, scattered populations of the interior, it must be upon good reason and for special causes appealing to us; and it will not militate in the slightest degree, it will not be at all inconsistent with that provision to which the gentleman has referred, to wit, that the Legislature shall not have any power in enacting laws for the regulation of elections to discriminate between different parts of the State. It may be very well in the Constitution, if good cause be shown, to draw a distinction as to a particular regulation between dense and thin communities, and at the same time eminently wise not to permit the Legislature of the State to make such discriminations in the laws which they shall hereafter enact. In short, what we are now engaged upon is a constitutional regulation of elections. What is prohibited in the section to which the gentleman has referred is legislative regulation of elections, and it may possibly be wise to put such a curb on the legislative power in view of the experience which we have had in this State of the disturbance to which our election laws are liable by the introduction into our Legislature of influences from special political or local interests.

Now, sir, a word upon this amendment itself, as it relates to the general matter which our committee have had in charge. With a great deal of reluctance I have voted for the application of this provision to the whole State, not because I thought

it was not open to objection, and to a serious objection, but because I supposed that the necessity was upon us to adopt some regulation of this kind. The objection to this provision, the endorsement of the name upon the ballot, is its inconvenience. I do not think there is any objection upon the ground that it invades the secrecy of the ballot, because speaking in the main it does not do that. It will have no such effect practically, while all the advantages of the secret ballot in popular elections, which are great, will be retained; but unquestionably it is an inconvenience to the voter to be obliged to endorse his name upon his ballot or to obtain the endorsement of his name by another elector of the district. It will compel every voter to whom the regulation shall be applied to do something more than he now does, and so far there is a just and proper objection to this regulation, whether applied to cities alone or to the whole State. The argument of inconvenience justly lies against it.

Now, it has been strongly and properly insisted from the beginning of this debate that in perhaps three-fourths of the State there is no argument to overbalance this objection of inconvenience; that in the counties of the interior, the agricultural counties, where mining and other productive interests have not congregated peculiar classes of voters, there is no necessity of this endorsement of the name to guard against fraud and abuse at elections; and that consideration undoubtedly produced the majority yesterday and the majority again this morning in favor of striking out this provision in the present section. Gentlemen representing these communities in the interior have felt that they were about to impose upon their constituents an inconvenience without any corresponding advantage, and therefore many of them with considerable reluctance voted to strike out this division. It is now proposed to retain it as to cities and to authorize the Legislature hereafter, if they think proper to extend it, say to such counties as Luzerne, and possibly Schuylkill, and some others where the necessity of such regulation may be shown, still more evidently hereafter that it has been heretofore. It would be perhaps ill-advised for this Convention, not representing the people in exactly a legislative capacity, to select the particular counties to which it shall apply, nor can we foresee exactly what counties will need it hereafter and what counties will not. There-

fore its extension will be properly left to legislative discretion according to the experience of the future.

Now, in cities the inconvenience, which constitutes the objection to this measure, is much less than in the interior. In the interior it is almost impracticable beforehand to distribute tickets. Men often reside miles away from the place of election, scattered over a broad surface, and it is impracticable almost to distribute your tickets in advance at the places of residence, to have them prepared so that the voter when he comes up, perhaps late in the evening of an election, shall not be compelled on the election ground to prepare his ticket by writing upon it; but in the city it is different. There the interest of candidates running for city offices and the interests of political parties concerned in State elections will produce the thorough distribution of tickets in every precinct of this city before the election. They are now distributed, they will be distributed into every domicile and every place where voters are found, before the election, and they will be prepared by the people at their own homes or at their places of business before they go to the polls, and the practical result will be, in my judgment, that there will be less of electioneering, of interference with the voter upon the election ground. He will deliberately, beforehand, prepare his ballot by endorsing his name upon it, and passing to the election ground at the proper time he will deposit it without interference from others and without delay. It will therefore, in my judgment, not be very inconvenient in this city and in other cities of the State to which it may be extended hereafter, and, therefore, we have simply before us this proposition as the legitimate result of the reasoning.

Is there such necessity in the city of Philadelphia, and will there probably be such necessities in other cities and counties of the State hereafter, as will justify us in placing this provision in the Constitution? All I have to say upon that question—and that will conclude my remarks—is this: That the Committee on Suffrage, Election and Representation have been unable to devise, have been unable to hear of any provision except this which will reach election boards and curb them. We know of no other plan by which a ticket which has been placed in the hands of the election officers can be followed into the ballot-box and the vote of the elector vindicated against the fraud of the

election board. We know of no other mode of accomplishing that object; and because of the supreme importance of that question we were induced to overlook the inconvenience of this provision and propose it for the whole State. As that proposition has not been sanctioned by the Convention, the question now arises: Shall it be imposed partially by the Convention on this city, where it is most needed, and shall the power be left to the representatives of the people to extend it hereafter as occasion may require?

Mr. J. PRICE WETHERILL. Mr. Chairman: I rise to correct a statement made by the gentleman from Venango (Mr. Beebe.) In reply to the few remarks I made upon this question he stated that I was in error when I said that this amendment was passed in committee of the whole when there was a very large number of members present, and stated that there were present at the time only eighty-six members voting upon this question. Now, sir, I desire to correct him, and I would ask members to refer to page 123 of the Debates, volume two, where they will find that the final vote was taken upon the amendment; and so careful were the opponents of this measure to endeavor to secure its defeat that they cut it up into three divisions, and on the final vote on the third division one hundred and twelve members voted, and not eighty-six, as stated by the gentleman from Venango. I rose to correct the mistake which he made when he made that statement.

Now, in regard to the remarks of the gentleman from Potter (Mr. Mann.) He stated that the action taken to-day showed quite a full vote of one hundred and two; but I contend that the gist of the matter was settled yesterday, not to-day. We corrected a mistake to-day made by us in regard to the amendment offered by the gentleman from Delaware, (Mr. Broomall,) but yesterday we settled this question on a vote of ninety-four members present, and against a vote of this Convention in committee of the whole to reconsider of one hundred and five, and against a vote of one hundred and twelve on its final adoption; and I do hope that when gentlemen hereafter rise in their places to correct statements of others, they will be very careful that they are correct themselves.

Mr. CARTER. Mr. President: I desire to say a word to correct what I think is a great error that the gentleman from Columbia (Mr. Buckalew) has fallen into in

regard to the motive that actuated some of us from the counties in our votes in regard to this matter. He says that the objection was mainly on the point of convenience, and he admits the inconvenience of the requirement. Now, Mr. President, I would say to the gentleman that that was the least part of the objection many of us had. The chief ground of our objection is because we think it does destroy the secret ballot; because it destroys a great principle which has been the cherished policy of this State from the first. If it were absolutely necessary to protect the purity of the ballot-box, we should be willing to submit to inconvenience—to great inconvenience; but we do not believe that it is absolutely necessary, and it is for that reason that we object to it, and that it destroys the secret ballot. Therefore the question at issue between the gentleman and myself in regard to this matter would be: Does this destroy the secret ballot? I am astonished that the gentleman can say that it does not destroy it. If I am compelled to write my name on the back of the ticket, the judge of the election and other officers, in making the count, see my name perhaps; and when the ticket is opened and counted as is the case in the rural districts, with the neighbors standing all around, everybody sees my name and knows that I voted so and so, for or against a neighbor or friend whom I could not conscientiously support, but with whom I would desire to retain friendly social relations, thus introducing family feuds and quarrels. You thus insult me in telling me that I am protected in the exercise of the secret ballot. You add insult to the injury that is done me in depriving me of this great right which I think to be essential to the public good.

The delegate from Philadelphia (Mr. Woodward) on a certain occasion, in committee of the whole, admitted that the secret ballot was necessary to protect the interest of the weak and dependent; he said that it was found necessary in England for the protection of the dependent classes there; that was the term he used. Well, sir, have we no dependent classes here? Have the gentlemen no thought of them? Is everything working so harmoniously here? Is there no danger from the overshadowing control and influence of great corporations? Can we see no danger in the future that ought to be guarded against? Do we wish to stir

up excitement and hostility among various branches of families, where perhaps it may be necessary for a brother to vote against a brother, believing him not to be suitable for a particular office? I am told the election officer is required to take an oath under this provision to preserve the secrecy of the ballots; with all deference, I say it is mere tom-foolery to take an oath to preserve the secrecy! We know it would get out, and it would be known that such a man had forsaken his party perhaps, in some case, and that such a man had voted against his neighbor or his friend.

But the gentleman says that this matter is absolutely necessary. Does the gentleman forget that the committee of which he is now chairman has reported a number of things for the protection of the ballot? Does he attach no value to the increased residence in the district of now sixty days in place of ten? That is one thing to prevent colonization. Does he attach no value to the requirement of a man being a citizen thirty days? Does he attach no value to the other provision that he shall receive no promise, bribe, or anything of that kind, and that he shall be obliged to testify against himself if it be needed to convict in election fraud? All these things are to protect the purity of the ballot. This merely serves to follow it out to conviction in one particular case. That may, in view of all the foregoing, be dispensed with as unnecessary, in my opinion. You would destroy a great principle by what you propose. We are not ready, the people of the State are not ready, to sacrifice the secret ballot, whose value they know and appreciate, for any such experiments. It is necessary for the preservation of their liberties, that this is convenient, as admitted by the gentleman, and it is wrong in principle. My objection is more than to the matter of convenience. It is fundamental; it is radical. The proposition strikes at everything we cherish, and I sincerely hope that it will be opposed for the sake of the people of Philadelphia who do not with any unanimity desire to be thus deprived of their cherished rights to vote as they think best, without fear, favor or affection, undeterred and uninfluenced by those who would either wield the party lash or exercise any restraint or supervision over their sacred rights to vote as they desire.

Mr. BREBE. I desire simply to say a word in explanation. I admit the error in the number as designated by the gen-

tleman from Philadelphia (Mr. J. Price Wetherill) on the second day. My mistake arose from the report in the papers of the vote by division on the first day. I recollect now that we had a much fuller attendance on the second day. I do not see, however, that the fact redounds to the credit of the position assumed by the gentleman in regard to the majority being decisive, for while I admitted that the proposition was carried by four majority the record of the second day, referred to by himself, indicates that it was carried but by a bare majority of two, and that in connection with the statement I have already made that certain members of the Convention said that they voted for it merely for the purpose of having it come up on second reading; and this state of facts will hardly warrant the conclusion of the gentleman from Philadelphia.

Mr. LILLY. Mr. President: I do not intend to take up the time of the Convention, as I want to see a vote taken on this question as soon as possible, and I am very willing to be the last man to speak if gentlemen on this floor will vote as their judgments dictate. I am willing that every man shall vote as he feels constrained to by his conscience. Now, I have examined this subject all winter; we sat upon it in committee week after week; we heard everything that could be said upon the subject; the proposition we agreed to has been before the people of this State and canvassed pretty thoroughly; and what evidence of popular disapproval have we had? The gentleman from Columbia says we have not been able to devise any other single thing that in the opinion of a large majority of the committee would reach the great result—not in the opinion of the gentleman from Lancaster, I am willing to admit, but a large majority of the committee believed this to be the only thing which would prevent corruption at the elections in this city and other cities of the Commonwealth of Pennsylvania.

The gentleman from Lancaster talks about destroying the secrecy of the ballot. I aver here, in my opinion, that it will not even weaken it at all. It is ridiculous to say, as the gentleman from Lancaster says, that the tickets are opened when the neighbors stand around. The very section itself says that the officers shall be sworn to keep the room empty and see that the way a man votes is not promulgated. They are sworn not to divulge it except in a legal investigation,

and the whole theory that it seems to be breaking down the secrecy of the ballot does not amount to anything at all.

As I said, I am not willing to take up the time of the Convention, and appeal to them for a vote.

Mr. BOYD. I offer the following as an amendment to the amendment of the gentleman from Lebanon:

"All elections shall be by ballot, which shall be numbered by the election officers when received. In every city and borough the ballots shall be numbered by the election officers when received, and each shall have endorsed upon it the name of the elector written 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 PRESIDENT. The Chair will take this opportunity of stating that when reference was first made to proceedings in committee of the whole it escaped his attention, and afterward he did not deem it necessary to interfere because it might have been thought unfair that a reference to a question of fact which occurred in committee of the whole should not be allowed to be answered. The Chair, therefore, allowed the answer to be made; but he will now remind the House that the rules of order absolutely prohibit any reference to proceedings in committee, whether a standing or select committee, or a committee of the whole, in the debates on the floor of this House, and in future the Chair will enforce this rule.

Mr. BOYD. I will simply state that my amendment requires that all ballots shall be numbered as well those voted in rural districts as those that are voted in cities and boroughs; but it contains this condition: that while all ballots voted in cities and boroughs shall have the name of the voter written upon them, the ballots cast in purely rural districts shall only be numbered by the election officers. That, I believe, will relieve the difficulty.

The PRESIDENT. The Chair does not think that this is a proper amendment to the amendment.

Mr. BOYD. I offer it then as an amendment to the section.

The PRESIDENT. That would not now be in order.

Mr. BOYD. Why not, sir?

The PRESIDENT. There is already an amendment pending.

Mr. BOYD. That was voted down.

The PRESIDENT. The Chair will explain the question. An amendment was offered to which an amendment was proposed. The question being on the amendment to the amendment, it was not agreed to. The question is now upon the amendment.

The Chair will also suggest to the gentleman from Montgomery that his amendment also includes matter that the House has adopted, and there would not seem to be any propriety in adopting it again. In the first part of this section it has been already decided that: "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." That is included in the gentleman's amendment.

Mr. BOYD. I withdraw my amendment.

The PRESIDENT. The question then is upon the amendment of the gentleman from Lebanon (Mr. Funck.)

On the question of agreeing to the amendment the yeas and nays were required by Mr. Dallas and Mr. Funck, and were as follow, viz:

YEAS.

Messrs. Alricks, Bailey (Huntingdon,) Bigler, Boyd, Brodhead, Brown, Buckalew, Campbell, Cassidy, Corbett, Curtin, Dallas, De France, Dunning, Ellis, Funck, Guthrie, Harvey, Heverin, Howard, Hunsicker, Kaine, Lamberton, Lilly, Long, M'Camant, M'Cleau, M'Murray, Mott, Palmer, G. W., Patton, Read, John R., Reed, Andrew, Ross, Sharpe, Smith, H. G., Smith, Wm. H., Temple, Wetherill, Jno. Price, Woodward and Worrell—41.

NAYS.

Messrs. Addicks, Ainey, Andrew, Baily, (Perry,) Barclay, Bartholomew, Beebe, Biddle, Black, Charles A., Bowman, Broomall, Calvin, Carey, Carter, Church, Cochran, Corson, Craig, Darlington, Edwards, Finney, Hanna, Hazzard, Horton, Knight, Lawrence, Lear, Littleton, MacConnell, M'Colloch, Mann, Mantor, Minton, Newlin, Palmer, H. W., Patterson, D. W., Porter, Pughe, Purman, Purviance, John N., Purviance, Sam'l A., Rooke, Runk, Simpson, Smith, Henry W., Stanton, Stewart, Struthers, Van Reed, Walker, Wetherill, J. M., Wherry, White, David N., White, Harry, White, J. W., F. and Meredith, *President*—56.

So the amendment was rejected.

ABSENT.—Messrs. Achenbach, Armstrong, Baer, Baker, Bannan, Bardsley, Black, J. S., Clark, Collins, Crommiller, Curry, Cuyler, Davis, Dodd, Elliott, Ewing, Fell, Fulton, Gibson, Gilpin, Gowen, Green, Hall, Hay, Homphill, Landis, MacVeagh, Metzger, Mitchell, Niles, Parsons, Patterson, T. H. B., Raynolds, Russell, Turrell and Wright—36.

Mr. BOYD. I now offer my amendment.

The PRESIDENT. The amendment will be read.

The CLERK. The amendment is to strike out all after the words "Section 2," and insert in lieu of the matter stricken out:

"In every city and borough the ballots shall be numbered by the election officers when received, and each shall have endorsed upon it the name of the elector writt^r 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. On that amendment, I call for the yeas and nays.

Mr. WORRELL. I second the call.

Mr. HARRY WHITE. I rise to a point of order. This amendment seeks to reinsert that which the House has just stricken out. I understand that it is substantially the section as originally reported with the last clause which has been voted down this morning reinserted in some other form which is substantially the same.

The PRESIDENT. The amendment will be read for information.

The CLERK again read the amendment.

Mr. HARRY WHITE. That was voted down this morning.

The PRESIDENT. What does the gentleman from Montgomery propose to do with the clause that has already been agreed to?

Mr. BOYD. I offer this as a substitute for the section.

The PRESIDENT. The question is on the amendment, upon which the yeas and nays are called for.

The yeas and nays were taken, and were as follow, viz:

YEAS.

Messrs. Bigler, Boyd, Brodhead, Brown, Buckalew, Campbell, Cassidy, Curtin, Dallas, De France, Dunning, Ellis, Funck, Guthrie, Harvey, Heverin, Hunsicker, Kaine, Lamberton, Lilly, Long, M'Mur-

ray, Mott, Patton, Porter, Read, John R., Reed, Andrew, Sharpe, Smith, H. G., Smith, William H., Temple, Van Reed, Wetherill, John Price, Woodward and Worrell—35.

N A Y S.

Messrs. Addicks, Ainey, Alricks, Andrews, Baily, (Perry,) Barclay, Bartholomew, Beebe, Biddle, Black, Charles A., Bowman, Broomall, Calvin, Carey, Carter, Church, Cochran, Corbett, Corson, Craig, Darlington, Edwards, Finney, Hall, Hanna, Hazzard, Horton, Howard, Knight, Lawrence, Littleton, MacConnell, M'Camant, M'Clean, M'Culloch, Mann, Mantor, Minor, Newlin, Palmer, H. W., Patterson, D. W., Pughe, Purman, Purviance, John N., Purviance, Samuel A., Ross, Runk, Simpson, Smith, Henry W., Stanton, Stewart, Struthers, Walker, Wetherill, J. M., Wherry, White, David N., White, Harry, White, J. W. F. and Meredith, *President*—59.

So the amendment was rejected.

ABSENT. — Messrs. Achenbach, Armstrong, Baer, Bailey, (Huntingdon,) Baker, Bannan, Bardsley, Black, J. S., Clark, Collins, Cronmiller, Curry, Cuyler, Davis, Dodd, Elliot, Ewing, Fell, Fulton, Gibson, Gilpin, Gowen, Green, Hay, Hemp-hill, Landis, Lear, MacVeagh, Metzger, Mitchell, Niles, Palmer, G. W., Parsons, Patterson, T. H. B., Reynolds, Rooke, Russell, Turrell and Wright—39.

Mr. TEMPLE. I offer the following amendment, to come in at the end of the section.

"In the city of Philadelphia 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."

I simply desire to state to the delegates that this confines the proposition to the city of Philadelphia.

The PRESIDENT. The question is on the amendment.

Mr. TEMPLE. I call for the yeas and nays.

Mr. J. PRICE WETHERILL. I second the call.

Mr. BUCKALEW. I appeal to gentlemen not to insist on the yeas and nays. After the members have voted on a test question once, we cannot get another test vote, and it will only weaken the measure to be persisting in this way after the

sense of the House has been clearly expressed.

The PRESIDENT. Is the call for yeas and nays withdrawn?

Mr. TEMPLE. I withdraw it.

The PRESIDENT. The question is on the amendment.

The amendment was rejected.

Mr. HARRY WHITE. I move now to strike out all after the word "ballot," in the first line.

The PRESIDENT. The words proposed to be stricken out will be read.

The CLERK read as follows :

"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, and any elector may write his name on the back of his ticket."

Mr. H. W. SMITH. I ask for the yeas and nays.

Mr. J. R. READ. I second the call.

Mr. LILLY. We had a vote on this, a test vote, and it was carried two to one, and now the gentlemen insist on calling the yeas and nays.

Mr. H. W. SMITH. I wish to record my vote against disclosing ballots.

Mr. SIMPSON. I rise to a point of order. The amendment proposes to strike out certain words which have been put in by the Convention.

The PRESIDENT. They are proposed now to be stricken out in connection with other words. Is the call for the yeas and nays withdrawn?

Mr. H. W. SMITH. No, sir.

The PRESIDENT. The Clerk will call the names of members.

The question being taken by yeas and nays, resulted as follows :

Y E A S.

Messrs. Addicks, Ainey, Baily, (Perry,) Barclay, Bartholomew, Biddle, Bowman, Broomall, Campbell, Carey, Carter, Corson, Craig, Darlington, Edwards, Finney, Hall, Hanna, Hazzard, Horton, Knight, Littleton, MacConnell, Mann, Mantor, Minor, Newlin, Patterson, D. W., Pughe, Purman, Purviance, John N., Ross, Smith, Henry W., Struthers, Walker, White, Harry and Meredith, *President*—37.

N A Y S.

Messrs. Alricks, Baer, Bigler, Boyd, Brodhead, Brown, Buckalew, Cassidy, Church, Corbett, Curtin, Dallas, De France, Dunning, Funck, Guthrie, Harvey, Hever-

in, Howard, Hunsicker, Kaine, Lamberton, Lear, Lilly, Long, M'Camant, M'Clean, Mott, Palmer, H. W., Patton, Porter, Purviance, Samuel A., Read, John R., Reed, Andrew, Rooke, Runk, Russell, Sharpe, Simpson, Smith, H. G., Smith, Wm. H., Stanton, Stewart, Temple, Van Reed, Wetherill, J. M., Wherry, White, David N., White, J. W. F., Woodward and Worrell—51.

So the amendment was rejected.

ABSENT. — Messrs. Achenbach, Andrews, Armstrong, Bailey, (Huntingdon,) Baker, Bannan, Bardsley, Beebe, Black, Charles A., Black, J. S., Campbell, Clark, Cochran, Collins, Cronmiller, Curry, Cuyler, Davis, Dodd, Elliott, Ellis, Ewing, Fell, Fulton, Gibson, Gilpin, Gowen, Green, Hay, Hemphill, Landis, Lawrence, MacVeagh, M'Culloch, M'Murray, Metzger, Mitchell, Niles, Palmer, G. W., Parsons, Patterson, T. H. B., Reynolds, Turrell, Wetherill, Jno. Price and Wright—45.

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

The section as amended was agreed to.

The next section was read, as follows:

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.

The section was agreed to.

The next section was read 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. I move to amend by striking out in the sixth line the words, "as fully as if they were" and inserting the words, "only when; so as to read, "only when present at their usual place of election."

Mr. President, I do not desire to discuss the amendment which I have proposed, inasmuch as on a previous occasion this same amendment received the attention of this body; but believing now, as I did then, that the experience of the past—

The PRESIDENT. To what does the gentleman refer? To the proceedings in committee of the whole?

Mr. Ross. Yes, sir.

The PRESIDENT. That is not in order. They can not be spoken of here.

Mr. Ross. Then, Mr. President, I desire to say that I think the experience of the past has indicated the propriety of a declaration of this character being affirmatively made in the Constitution of this State; and for the purpose of submitting the question to the sentiment of this Convention at this time, I now offer the amendment.

The PRESIDENT. The question is on the amendment of the delegate from Bucks (Mr. Ross.)

On this amendment, the yeas and nays were required by Mr. Bartholomew and Mr. Harry White, and were as follow, viz:

YEAS.

Messrs. Baer, Boyd, Brodhead, Dunning, Ross and Wetherill, J. M.—6.

NAYS.

Messrs. Addicks, Ainey, Alricks, Bailly, (Perry,) Bailey, (Huntingdon,) Barclay, Bartholomew, Biddle, Bigler, Bowman, Broomall, Brown, Buckalew, Calvin, Campbell, Carter, Cassidy, Church, Corbett, Craig, Darlington, De France, Edwards, Finney, Funck, Guthrie, Hanna, Harvey, Hazzard, Heverin, Horton, Howard, Kaine, Knight, Lamberton, Lawrence, Lear, Lilly, Long, MacConnell, M'Camant, M'Culloch, Mann, Mantor, Minor, Mott, Newlin, Palmer, H. W., Patterson, D. W., Patton, Porter, Pughe, Purman, Purviance, John N., Purviance, Samuel A., Read, John R., Rooke, Runk, Russell, Sharpe, Simpson, Smith, Henry W., Smith, Wm. H., Stanton, Stewart, Struthers, Van Reed, Walker, Wherry, White, David N., White, Harry, White, J. W. F., Woodward, Worrell and Meredith, President—75.

So the amendment was rejected.

ABSENT.—Messrs. Achenbach, Andrews, Armstrong, Baker, Bannan, Bardsley, Beebe, Black, Charles A., Black, J. S., Carey, Clark, Cochran, Collins, Corson, Cronmiller, Curry, Curtin, Cuyler, Dallas, Davis, Dodd, Elliot, Ellis, Ewing, Fell, Fulton, Gibson, Gilpin, Gowen, Green, Hall, Hay, Hemphill, Hunsicker, Landis, Littleton, MacVeagh, M'Clean, M'Murray, Metzger, Mitchell, Niles, Palmer, G. W., Parsons, Patterson, T. H. B., Reed, An-

drew, Reynolds, Smith, H. G., Temple, Turrell, Wetherill, Jno. Price and Wright—52.

Mr. DARLINGTON. I move to amend in the second line of the fourth section by striking out the word "any," merely as a matter of grammar and taste, so as to read: "Whenever any of the qualified electors of this Commonwealth shall be in actual military service." The sentence is complete without the word "any" before the word "actual."

The amendment was agreed to.

The section as amended was agreed to.

The fifth section was read as follows:

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 upon the registry.

Mr. BARTHOLOMEW. I move to amend the section by striking out all after the word "State," in the third line.

The PRESIDENT. The question is on the amendment of the delegate from Schuylkill to strike out the words, "but no elector shall be deprived of the privilege of voting by reason of his name not being upon the registry."

The amendment was rejected, the ayes being fifteen, less than a majority of a quorum.

Mr. DARLINGTON. I move to amend by striking out in the fourth line the words "upon the registry" and inserting "registered," so as to read "no elector shall be deprived of the privilege of voting by reason of his name not being registered."

The amendment was agreed to, ayes sixty, noes not counted.

Mr. BUCKALEW. Mr. President: I have some doubt about the clause of this section with regard to the registry of voters. The section was originally framed in connection with the first section of the article which dispensed with the tax qualification for voters. If the report of the committee had been adopted as to the first section, in the form in which it was reported, this clause would have some justification; but as the Convention has chosen to change the first section reported by the committee and to continue the tax qualification for voters, it follows that throughout most of the State the assessors will be used as the registrars, as the persons who will make out the tax lists on which the voting takes place. There will

be no necessity, therefore, in the interior of the State, for canvassers of election or officers of a similar character. There will be no necessity of a complicated machinery for the purpose of making up the list of voters, such as they have in the city of Philadelphia. And I am not sure that it would be expedient to compel the Legislature to put the business of making up the registry lists in the city in the hands of the assessors. I think, therefore, the Legislature should have the power of discrimination between the cities and the interior of the State. The section reads: "All laws regulating elections by the people, or for the registry of electors, shall be uniform in their operation." If my view of this subject is correct, it will justify the motion that I now make to strike out the words "or for the registry of electors," so that this section, if amended as I suggest, would simply require uniformity of legislation with regard to the regulation of elections throughout the State, and permit, if the Legislature thinks proper, the continuance of canvassers or somebody of a similar character in the cities.

The PRESIDENT. The question is on the amendment of the delegate from Columbia to strike out, in the first and second lines, the words, "or for the registry of electors."

Mr. J. W. F. WHITE. I merely have this remark to make in opposition to the amendment of the delegate from Columbia: This section requires all these laws to be uniform throughout the State. If the amendment should prevail, then the Legislature might pass special registry laws for different cities of the State. One object of the section was, if there be a registry law, that it shall be uniform throughout the State.

Mr. BUCKALEW. On the gentleman's argument this clause is unnecessary surplusage. All, I submit, that is needed for the proper registration of the voters of the State can be done under a law regulating elections. His argument, therefore, stands on an assumption which would take away all meaning in these words; so that in either event both phrases ought not to be employed.

Mr. J. R. READ. I desire to understand from the gentleman from Columbia whether the Legislature would be prevented from passing a law similar to the registry law we now have, if we strike out from this section the words "or for the registry of electors." To prevent such

special and invidious legislation was the very object with which those words were put in, as I understood at the time they were inserted; and it seems to me that the restriction is a salutary one. We are all in favor of having some general and just provision for the registration of voters; but I believe there are only a very few members who are in favor of having any special legislation upon that subject for particular localities. This being so, I cannot understand the objection made by the gentleman from Columbia, and I should like some explanation of it.

Mr. BUCKALEW. My explanation simply is that I do not want the Philadelphia registration law applied upon us throughout the whole State. There is no necessity for any such law in the interior where we can use our assessors in making up our tax lists. If you keep in this clause it will follow that if you retain your canvassers in the cities, you will have to apply that system in all parts of the State. I do not want to place in the Constitution such an obligation.

Mr. PURMAN. For the reason just stated by the gentleman from Columbia (Mr. Buckalew) I am in favor of the section as it stands and opposed to the amendment proposed by him. The registration law as it exists now in Philadelphia could never have been passed by the Legislature if all its provisions had been applicable to the whole Commonwealth. There never was a Legislature in Pennsylvania that would have extended the provisions of the registration law as applicable to the city of Philadelphia throughout the State. And if the Legislature is compelled to make the provisions of any registration law which it may pass uniform throughout the Commonwealth, then whatever registration law we have will be a fair one.

I repeat, Mr. President, that the members of the Legislature from the rural districts would never have voted for the present registration law if all its provisions had been applicable to the entire State. One of the unjust provisions of the present registration law is that it takes away the constitutional right of the elector to vote if his name is left off the register. This great power rests in the hands of the canvassers, and has been generally abused. The great and just complaint against the present registration law is that it has one rule for the city of Philadelphia and another for the rural districts. This section was put in for the purpose of

taking away this power from the Legislature.

I trust the section will pass as it stands, and that the amendment of the gentleman from Columbia will not prevail. I am compelled to oppose the amendment of the gentleman, notwithstanding the high regard I have for his opinion on all questions. This negative is necessary to prevent the Legislature in times of high political excitement and party pressure, under the *pretense* of regulating the right to vote, from taking away the right itself. In the first section we have declared the conditions upon which every male person shall vote, such as age, residence, citizenship, payment of taxes and the like, and now we are asked to leave this great right to the mercy of the Legislature. The opponents of this section wish to leave the power in the Legislature to disfranchise those legally entitled to vote, by giving a board of canvassers supreme power over the right of the elector. This is so manifestly unjust that it cannot receive the approval of a majority of this Convention. As a matter of course the gentleman from Columbia wishes and intends no such results; on the contrary he is the enemy of fraud and the friend of honest and fair elections.

The PRESIDENT. The question is on the amendment of the delegate from Columbia.

The amendment was rejected.

Mr. HARRY WHITE. I wish to call the attention of the Convention to the fact that if this section is passed as we find it on our files, there will be no virtue whatever in any registry law. This section reopens one of the evils sought to be guarded against hitherto in the enactment of registry laws. I speak only in the interest of honest elections; but every gentleman of experience and observation in cities and elsewhere in this Commonwealth must know that it is impossible to have an honest election without a registry law. You may criticise the character of the particular registry law that is passed; but you must have some registry law, in order to have honest elections. If we pass this section, however, our last state is worse than our first. I find here this provision: "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 registered." That is a constitutional invitation for persons

who make it a profession to practice fraud at the ballot-box, to continue to do so. This is an invitation to the "repeater" and the "rounder" to continue his profitable but nefarious business.

MR. LILLY. Under the law as it now exists in the State of Pennsylvania outside of the city of Philadelphia, there is not an election division in this State where a qualified elector cannot get in his vote, even though he is not registered. Outside of the city the registry law of our State requires a man's name to be on the registry; but if it is not there, and he goes to the election poll and finds that it has been left off by mistake or purposely, all he has to do is to fill up an affidavit, the form of which is printed and circulated at every election board, to cover every possible case where the man is a qualified elector, and swear to it, and then his vote must be received. All the committee intended to do in this case was to carry the same thing all over the State of Pennsylvania, by providing that if the assessor or the registering officer has failed to reach the elector and put his name upon the list of registered voters, he shall not thereby be deprived of his vote. That is the provision.

MR. HARRY WHITE. We should be very much instructed by the information given by the intelligent gentleman from Carbon, and should appreciate it very much if we were not all quite familiar with the provision of the law in that respect. We are aware of the fact that the registry law of 1869 has two features, one applicable to the rural districts and another applicable to the city of Philadelphia. Of course no gentleman in the country can be deprived of the constitutional right to vote if otherwise he has fulfilled the requisites, and the registry law of 1869 merely regulated the manner of proving his right to vote; but if a man's name is not found on the list of registered voters in the city of Philadelphia, under the act of 1869 he cannot vote. That feature of the law has been sustained by the Supreme Court of the State. So far then as the constitutional question is concerned, it has been decided that it is possible to pass a registry law and prohibit any man from voting whose name is not on the registry list. The reason why I object to this section is that it changes that rule; and if we pass this section and it becomes a part of the organic law, your registry law will be like a rope of sand. I speak in the interest of no party, in the

interest of no class of people. All agree in the propriety of some registry law. Not even the Reform Association that has been spoken of here to-day objects to that. Gentlemen all over this Commonwealth agree and unite in the platform that we must have a registry law; but if you provide in the Constitution that the fact of a man's name not being on the registry shall not deprive him of the right to vote, the law will be of no efficacy whatever.

MR. LILLY. The vote has just been taken on an amendment carrying out the idea of the gentleman from Indiana, and we voted it down. His remarks therefore are hardly applicable to the question now before us.

MR. WORRELL. Mr. President: I am so clear in my opinion with regard to the latter part of this section, that I cannot refrain from speaking upon it. What the gentleman from Indiana has just said, as to the effect of that part of the section, is entirely true.

The difficulty with regard to the registry law in this city is that the fact that a name appears upon the registry list is conclusive evidence that he has resided in the election division the length of time required to entitle him to vote; and no matter how overwhelming the proof to the contrary may be on election day, the election officers are prevented from receiving it and determining that the man has never lived in the division; but if a party can present himself upon election day and by the false oath of a single "repeater" or a single "rounder" get his vote in, I tell you there will be four or five hundred, or as many as a thousand votes polled in some divisions of men who have never resided there and who have no right to vote. I am not willing that the door should be open to such an extensive fraud as that, for it is only necessary to march the repeaters up in a line a thousand, if need be, and swear them that they have lived in the division the required length of time, and their votes go in. Adopt such a provision, sir, and it will be a means of monstrous fraud.

I want to put myself on record as opposed to this last clause of the section. There ought to be some time in regard to the conduct of elections when every citizen of the division can inquire as to the qualifications and right to vote of all persons whose names appear on the list; but if that is only to be determined on election day, when repeat-

ers are marched up in a line ready to vote, the votes will be put in by the hundred and, if necessary, by the thousand in particular divisions, in order to obtain a result that is desired. I intend to vote against this last clause of the section as I voted against it before, because it is only, in my opinion, in the interest of an unfair election.

Mr. J. N. PURVIANCE. Is it in order to move an amendment striking out any portion of this section?

The PRESIDENT. It is.

Mr. J. N. PURVIANCE. Then I move to strike out in the first and second line the words, "or registry of electors," so as to make the section read—

The PRESIDENT. That amendment has been already moved and voted down. It cannot now be renewed. The question is on the section as amended.

Mr. SIMPSON. Mr. President: I hope the Convention will vote down this section. I am impressed with the belief that if this section is adopted by the Convention and becomes a part of the organic law of the land, it will open the door to more fraud than anything we have had for the last ten or fifteen years.

The present registry law, although much objection has been made against it in certain quarters in Philadelphia, was designed to prevent fraud, and if honestly administered by honest officers will accomplish that purpose. It will prevent colonizing, it will prevent repeating, it will prevent all that kind of fraud that has been perpetrated over and over again in this city and in other places. From the very necessity of the case such a law must act unequally in some particulars. In the country districts where the houses are a quarter or a half a mile apart a man may know a large number of people living in a large section of country; but in this solidly-built city a man living on one side of a little square two hundred feet in length does not know one-tenth of the people who live within three hundred or four hundred feet of him; he cannot possibly know them; and it will be impossible for an election officer to be as familiar in the city with the names and places of abode of the voters as he is in the rural districts.

I trust, as the Supreme Court has sustained the existing registry law under our present Constitution, that this section will be voted down, so that the matter may remain as it is now to prevent fraud.

Mr. MANN. Mr. President: I call for a division of this section, the first division

to end with the word "State," in the third line.

The PRESIDENT. The question is on the first division of the section ending with the word "State."

Mr. DALLAS. Before the vote is taken I desire to say a word or two on this subject.

When we were considering the second section I heard the remark from several gentlemen about the room that the provision for endorsement of ballots was not necessary, because by the fifth section we would provide a remedy against the frauds which peculiarly afflicted the city of Philadelphia, and that therefore we might safely do without the endorsement of the ballots in this city. Now, sir, we have stricken out from this article that portion of section two which provided for the endorsement of ballots, and the Convention has refused to vote in an amendment which would make the endorsement of the ballot a pre-requisite in the city of Philadelphia.

Now it is proposed to strike out the fifth section, and it is stated that it is proposed so to strike it out for the reason that by remaining in it will be a vehicle of fraud, and we are told by the gentleman from Indiana that our registry laws, if that section be adopted, will be as ropes of sand. All I have to say in reply to that is that if our registry laws in the future are to be what they have been in the past, it is much better that they should be ropes of sand. They have been ropes of iron for evil in this city in the past, and it is well that they should be reduced in strength when their strength is only a power for evil.

Now, sir, what does this section provide? It provides in its first half, as it is intended to divide it, that all laws regulating elections shall be uniform. The purpose in that was that there should not be one law for the city of Philadelphia and one for the rest of the State; that in the Legislature we should not find, as we have found even sometimes in this Convention, that gentlemen were satisfied, being in a majority from the country, to impose anything upon this city, so that it was not imposed upon themselves as well, but that members of the Legislature in voting upon questions of election laws should all feel themselves oppressed by their responsibility to their home constituency by making their action apply to themselves as well as to us.

In its second half it simply provides that no elector shall be deprived of the privilege of voting by reason of his name not being upon the registry. There have been in the city of Philadelphia—no man present from the city familiar with these subjects will rise in his place and deny it—hundreds of lawful votes refused because the voters' names were not upon the registry. I say lawful but for the registry act. Now we have provided by this article that the number of voting places in this city shall be sufficiently great to reduce each division to two hundred and fifty voters. The difficulty from which the necessity of a registry arises is largely met by that provision. Two hundred and fifty voters in a division, in a small compact neighborhood, will be known by those who are the officers of election or by those who upon the one side or the other are volunteer watchers for their respective parties on the day of election, and it will be almost impossible in a division of that size for a repeater to ply his trade.

But, sir, if there be left merely a choice of fraud, if it be true as alleged that such a registry as would make a man's name upon it a necessity before he should be allowed to vote, is requisite in order to prevent repeating and fraud in that way, it is better that our frauds when they come should be against the law than that they should be fostered under the law such as this registry act has been.

Therefore, Mr. President, I trust that this section as an important section looking to the correction of frauds in elections will be adopted.

The PRESIDENT. The Chair is under the impression, on looking at the section carefully, that it is not divisible as is proposed by the gentleman from Potter (Mr. Mann.) If the gentleman will read the second clause in connection with the first, he will see that it could not stand separately if the first clause were rejected.

Mr. MANN. May I inquire whether a motion has been made to amend the section by striking out the second part?

The PRESIDENT. That motion has already been moved and voted down, and therefore it is not again in order. The question is on the section as amended.

Mr. MANN. I hope the friends of this section will give the subject a little consideration, and I trust the vote just spoken of by the Chair will be reconsidered. I do not believe the section can pass with

that clause in. It certainly is an open invitation to fraud with that clause in it.

Mr. M'CLEAN. I desire to offer the following as a substitute for the section—

The PRESIDENT. That cannot be done. The gentleman can move to amend by striking out and inserting.

Mr. M'CLEAN. Then I offer it as an amendment, to strike out all after the words "section five," and insert: "The Legislature shall enact no law for the registration of electors."

I desire to say that there have been so many provisions adopted already for the protection of the ballot-box that it seems to me there is no necessity whatever for any registry law for the city of Philadelphia or for any part of the State. Among the qualifications of an elector we have a provision that he shall have paid a State or county tax which shall have been assessed at least two months before the election and paid one month before the election. I ask gentlemen to reflect upon the condition we were in before there was such a thing known as a registry law. We flourished and prospered as a Commonwealth without it. Our tax assessment laws answered every purpose.

In addition, it is proposed that the courts of common pleas shall appoint overseers of elections, and in large cities election districts are to be so divided as that they shall not contain more than two hundred and fifty voters, which is an answer to the argument employed by the gentleman from Philadelphia (Mr. Simpson.) Rather than have citizens deprived of the right of suffrage, as they have been in Philadelphia by means of the registry law, which has been a blot upon the history of legislation in this Commonwealth, I would say that there is no necessity for any registry law; and I propose this amendment in order to test the sentiment of the Convention.

Mr. TEMPLE. I simply desire to refer to one specific thing, which I think is somewhat amusing. I think delegates will comprehend it if they will think for one moment. The distinguished delegate from Indiana (Mr. Harry White) in speaking this morning upon the amendment which was discussed so fully, opposed it upon the broad ground that it made an invidious distinction in regard to the city of Philadelphia; and yet when we come to discuss this section, the distinguished delegate from Indiana opposes it because it is uniform in all its opera-

tions. That is one of the weighty arguments used here as against this section!

Mr. HARRY WHITE. Will the delegate allow himself to be interrupted?

Mr. TEMPLE. Certainly.

The PRESIDENT. The gentleman on the floor cannot be interrupted. The rule is not for the convenience of individuals, but of the House.

Mr. HARRY WHITE. Can I explain?

The PRESIDENT. Not now; the delegate from Philadelphia (Mr. Temple) is on the floor.

Mr. TEMPLE. I only call the attention of the House to this fact in order that delegates may see the character of arguments used to vote down all the sections that have been adopted heretofore.

Mr. Chairman, I do not propose to discuss this question at any length; but I submit that if this section is to be voted down and the Constitution left as it is in this regard, or anything like it, under the decisions of our courts, solemnly made and recorded in the reports, there is no power in the courts under the registry law as it has existed heretofore in the city of Philadelphia to compel the placing of men's names upon the list of voters. About this point there can be no dispute. The distinguished delegate from the Fourth district (Mr. Simpson) will bear me out in saying that the court of common pleas of this county have said that under the registry law of 1869, notwithstanding there were hundreds and thousands of names stricken off the lists, there was no power in the court to have them replaced.

Mr. HARRY WHITE. I will merely say in explanation that "the distinguished delegate from Indiana" did not make an observation about the amendment offered by the very distinguished gentleman from Philadelphia.

Mr. TEMPLE. I did not say my amendment.

Mr. HARRY WHITE. I did not make any observation on that subject whatever; and of course the gentleman's criticism, so far as I am concerned, is groundless. I will make this observation before I sit down: If delegates will turn to the third page of the report of the Committee on Legislation they will find this provision: "No local or special law shall be passed for the opening and conducting of elections, or fixing or changing the places of voting."

Mr. HUNSICKER. It seems to me that this section or the substitute offered by

the gentleman from Adams (Mr. McClean) is absolutely essential if we would make of any binding force the qualifications we have prescribed for electors.

If I understood aright the delegate from Indiana, (Mr. Harry White,) he declared that under the third article of the old Constitution the electors of the rural districts could not be deprived of their constitutional right to vote provided they had the necessary qualifications; and yet it is a part of the history of this Commonwealth that by an act of the Legislature that third article was stricken dead by an act of Assembly in the city of Philadelphia, and it was in the power of two of the board of canvassers to erase from the list of voters every name that appeared thereon, and there was no authority in the Commonwealth to restore them to their rights as citizens and electors. Is the provision which we have already partially adopted, the first section of this article of our amended Constitution, any more binding, any more obligatory upon the Supreme Court of the State than was the third article of the present Constitution? If you allow the Legislature to pass a registry law and to prescribe the qualifications of voters, they can by a statute practically nullify every one of the provisions you have adopted in the first section of this article, because the language of the third article of the present Constitution is as plain, as clear and as distinct as it was possible to be. Let me read it;

"In elections by the citizens, every white freeman of the age of twenty-one years, having resided in this State one year, and in the election district where he offers to vote ten days immediately preceding such election, and within two years paid a State or county tax, which shall have been assessed at least ten days before the election"—

May? No—

—"Shall enjoy the rights of an elector."

And yet our Supreme Court hold that that word "*shall*" means nothing, and that by a registry law the ballot-boxes of Philadelphia can be corrupted, and through the votes of Philadelphia the State of Pennsylvania can be corrupted and the voice of the people stifled and destroyed. What are we here for? We are here to correct abuses; and if this is not an abuse tell me where you will find one.

If the Legislature had it in their power to pass a registry law which did nullify

the third article of the present Constitution, when it is well known that a considerable number of those holding seats in the Legislature of Pennsylvania were never elected, but were counted in by means of this most infamous registry law, it becomes us as the representatives of the people, in the interest of reform, not to be afraid to speak out, but by our votes on this question place upon the record such a provision that no court in the State of Pennsylvania dare disregard it.

I am not particular whether the amendment or the original section prevails, but I want one of them to prevail; and I hope my friend from Potter (Mr. Mann) will ponder well before he presses his motion to strike out the latter part of this section, which says, "but no elector shall be deprived of the privilege of voting by reason of his name not being registered;" because in that is the only salvation, in that is the only guarantee that the elector will not be deprived of his constitutional right to vote. As I have already demonstrated, if the board of canvassers strikes his name from the list, he cannot vote, though he possesses all the constitutional qualifications. Therefore the section as it stands, or the amendment offered by the gentleman from Adams, is just the thing we want, and if we do not adopt the one or the other we might as well vote down this whole article because it will amount to nothing at all.

Mr. BIDDLE. I trust this section will remain as it is. It does not make it compulsory upon the Legislature to require the registration of electors. All that it does require is, that if registration is provided for by legislation, it shall be uniform throughout the State; and then there is this wholesome saving clause, that if a man's name is left off, by accident or by design, he shall be entitled to prove his right to vote on the day of election. Now, it is just the difference in the law in regard to registration as applied to this city and the law in regard to registration as applied to the rest of the State that has been the fruitful parent of all the evils that have been talked of so much. I know of my own knowledge of some of the oldest citizens, who have resided for upwards of twenty years in a precinct, having had their names by design kept off the list, although the thought of changing their residence never entered their minds. If I chose to go into personal experience, I could verify what I say by an appeal to personal experience.

I trust, without going into any extended remarks, that this section will remain. It is right, it is fair to all; and it demands nothing like compulsory registration on the rest of the State unless the people, through the Legislature, desire it.

The PRESIDENT. The question is on the amendment offered by the gentleman from Adams (Mr. M'Clellan.)

The amendment was rejected.

The PRESIDENT. The question recurs on the section as amended.

Mr. BUCKALEW. Mr. President: This section originated I believe with the member from Philadelphia who spoke a few moments since (Mr. Dallas;) but the last clause, the one which it is proposed to vote upon separately, was framed by the gentleman from Centre, the chairman of the Committee on Suffrage, (Mr. M'Allister,) in consequence of a consideration of that point by the committee. Gentlemen will remember the earnestness and zeal of that member with reference to this subject.

My criticism before was upon the body of the section. The point I raised was determined; and I understand that by the vote then taken it follows that if through the interior of the State we use our assessors for the purpose of making up election lists, the assessors in Philadelphia must be used for the same purpose, or if in the cities special officers are appointed to make these lists, then special officers must be appointed throughout the State. I am not complaining of the decision of the Convention; I am stating now what this section means after the rejection of my proposed amendment.

The last clause, however, the one that it is proposed to strike out, is a saving clause of the right of every elector of the State against any registering officer hereafter. The undoubted fact is that the officers in Philadelphia appointed to make up the lists do purposely exclude the names of honest voters, and every year hundreds and hundreds, if not thousands, of your fellow-citizens, having just as much the right to vote as you have, are compelled to struggle with these officers in order to have their names put on the lists, and under a meagre provision of law they go to the court of common pleas and in a summary manner try to get an order of the court to have their names put on. I have heard of a case where a man was kept trotting two days at a time to get his name put on the list, visiting the officers and visiting the court, taken away from his

business—as undoubted a voter as there was in the city of Philadelphia, and at the moment, too, a member of the Legislature of the State, a representative of the people.

I know of a case of a neighbor of mine, a merchant visiting the city to transact business with a commercial establishment here, which employed a considerable number of men, not one of whom had obtained his vote at the election just closed; I mean last fall. Every one of them lost his vote; a part of them had not been put on these lists, through the intentional omission of the officers who made the registry, and the rest of them had been personated at the polls.

We have adopted certain provisions with regard to the right of voting. A man shall have resided a certain length of time in the election district, paid a tax at a certain time before the election, and shall possess other qualifications. If he possesses these, he shall enjoy the rights of an elector, said the old Constitution; and we have incorporated the same provision here. Now, are we to have an additional provision that in addition to all other qualifications the canvassers shall agree that he shall vote? Gravely, are we to consider that question here and pass upon it in behalf of these officers? I choose to put here, if my vote can do it, in the Constitution a prohibition against the vagary of any court, high or low, in this State to uphold any statute which shall put in the hands of these registering officers the power to deprive any man of his vote.

Why, sir, under the act of 1868 in this State, and perhaps under prior laws, a man who had not been registered was subjected to considerable inconvenience. He was obliged on the day of election, if his name was not on the list, to prove his right to vote. He was obliged to have two witnesses to the facts necessary to establish his right. It was a great inconvenience to him. But that privilege of proving his vote at the election kept these officers in the line of their duty. They knew that by keeping a man's name off the list they would not deprive him absolutely of his vote, that there was still a remedy against them. Now, they are masters of the situation, and they can sport as they please with the votes of the people. They can give you lists of one hundred and sixty thousand when there is an honest enumeration of one hundred and twenty thousand or one hundred and thirty

thousand, and yet their lists are to be taken as absolute verity! They may have thousands of false names on those lists for repeaters to vote upon, and the proof in election contests is that these names are handed to repeaters and they come up and vote in the false names on the lists or in the names of voters who are absent at the time and known to be so. That is the way repeating is done.

This provision that every voter shall have a right to prove his vote at an election does not necessarily encourage repeating in any way whatever. The repeaters do not go to the trouble of calling up several witnesses in the district and establishing in a legal manner their right to vote. They vote upon names that are on the registry lists, and therefore the evil apprehended here by gentlemen is non-existing. I hope the body of this section and this provision in the latter part of it will be retained. That decision of the Supreme Court to which reference has been made was a decision of a divided court, two judges dissenting from the opinion, and I take it for granted that it was ill-advised.

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

The yeas and nays were required by Mr. Harry White and Mr. Bartholomew, and were as follow, viz:

Y E A S .

Messrs. Alricks, Andrews, Baer, Bailey, (Huntingdon,) Barclay, Biddle, Bigler, Boyd, Brodhead, Brown, Buckalew, Campbell, Carter, Cassidy, Church, Cochran, Corbett, Corson, Curtin, Dallas, De France, Dunning, Guthrie, Harvey, Hunsicker, Kaine, Knight, Lamberton, Lear, Lilly, Long, MacConnell, M'Camant, M'Clean, M'Culloch, M'Murray, Mann, Minor, Mott, Palmer, H. W., Patton, Porter, Purman, Purviance, Samuel A., Read, John R. Reed, Andrew, Ross, Runk, Russell, Sharpe, Smith, H. G., Smith, Henry W., Smith, Wm. H., Stanton, Stewart, Temple, Van Reed, Walker, Wetherill, J. M., Wetherill, Juno. Price, Wherry, White David N., White, J. W. F., Woodward, Worrell and Meredith, *President* —68.

N A Y S .

Messrs. Addicks, Ainey, Bailly, (Perry,) Bartholomew, Beebe, Bowman, Broomall, Calvin, Craig, Darlington, Edwards, Finney, Hanna, Hazzard, Lawrence, Mantor, Newlin, Patterson, D. W., Purviance,

John N., Rooke, Simpson, Struthers and White, Harry—23.

So the question was determined in the affirmative.

ABSENT.—Messrs. Achenbach, Armstrong, Baker, Bannan, Bardsley, Black, Charles A., Black, J. S., Carey, Clark, Collins, Cronmiller, Curry, Cuyler, Davis, Dodd, Elliott, Ellis, Ewing, Fell, Fulton, Funck, Gibson, Gilpin, Gowen, Green, Hall, Hay, Hemphill, Heverin, Horton, Howard, Landis, Littleton, MacVeagh, Metzger, Mitchell, Niles, Palmer, G. W., Parsons, Patterson, T. H. B., Pughe, Reynolds, Turrell and Wright—44.

Mr. STEWART, (at one o'clock and fifty-seven minutes P. M.) I move an adjournment.

The motion was not agreed to.

The PRESIDENT. The next section will be read.

The CLERK read section six as follows:

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.

Mr. ALRICKS. I move to amend the second line after the word "money," by inserting "reward," so as to read:

"Any person who shall give, or promise, or offer to give to an elector any money, reward or other valuable consideration for his vote," &c.

The PRESIDENT. The question is on the amendment of the delegate from Dauphin.

The amendment was agreed to.

Mr. BARTHOLOMEW. I move to amend, by striking out all after the word "election," in the eighth line. The words to be stricken out are:

"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."

I desire to say that whilst I believe this section contains matter that should be properly in the penal code prescribing a penalty for the commission of an offence, yet I think that with this provision in it as it stands it is certainly most objectionable. It strikes me that it is violative of all principles of criminal jurisprudence and of our Bill of Rights, in that it makes a man a self-accuser and deprives him of the right by reason of his own testimony or the testimony which he bears against himself.

Whilst I am in favor of the general proposition, not as a constitutional proposition, but as one that properly belongs to the penal code, yet I take it that it is clearly violative of all our previous understanding of what a man depends upon or should depend upon, in relation to a conviction for the perpetration of a wrong, not by his own testimony, but by the testimony of somebody else. For these reasons I think that at least this clause of the section should be stricken out.

Mr. LILLY. I hope that part will not be stricken out, because it is in spirit exactly as the law is to-day. If an elector goes to the polls to vote and is challenged, he has to swear that the challenge is not true. This leaves it just as the law is now, and I cannot see that you better it by striking this clause out. It is perfectly plain to me that that is what it means. Take the case now of a man who is challenged on account of not paying taxes. If he has not got the receipt he swears that he has paid his taxes within the time prescribed, and that allows him to vote. A man is challenged on the ground of non-residence, because he has not lived in the district two months, according to the Constitution; he has to swear that he has been a resident for that time. It is all just the same, and I cannot see any sense in striking it out.

Mr. DARLINGTON. I merely desire to say that this seems to me to be putting the oath upon the wrong person. It is the easiest thing in the world at the election polls for an evil disposed man to challenge your vote or mine upon the ground that we have been bribed or have been bribing others, and without the slightest probable cause for it; his mere allegation is to cast upon the elector the duty of proving himself innocent, for that is it. It is simply reversing the or-

dinary rule, applicable to all other cases in which a man is not called upon to defend himself until he is at all events shown to be guilty by the oath of somebody willing to make an oath against him. I object to his being called upon to swear at all until he is first attacked by the oath of somebody else.

Mr. BUCKALEW. Mr. President: This regulation, as has already been explained, is quite consistent with existing provisions of law. A man is challenged for non-payment of taxes; he proves the payment by his own oath. He is challenged for want of residence; he establishes that fact by the evidence of his neighbors. But I direct my attention to the amendment of the gentleman from Schuylkill. This clause of the section is necessary, and I will show him how it is so. The section is that a man who has offered or received a bribe shall forfeit his right to vote at the election. The question is, how shall that be determined? The Committee on Suffrage, Election and Representation thought the election officers should be concluded by the oath of the person challenged. There is not time to try the case; there is not time to call witnesses and hear evidence; and yet if you strike out this provision, as a matter of course the election officers, if they please, where a challenge is made, can stop the election while they go into a trial of that question. That would be intolerable. If we are to adopt such a provision at all, we shall have to regulate the manner in which the challenge shall be received and determined. Therefore the Committee on Suffrage, Election and Representation have added this simple provision that the voter may purge himself by his own oath. That is a summary manner of determining the case, and it must be determined in that manner if it is to be determined at all.

I therefore trust the amendment of the gentleman from Schuylkill will not be adopted.

The PRESIDENT. The question is on the amendment.

The amendment was rejected.

Mr. M'MURRAY. I offer the following amendment, to come in at the end of the section:

"When the right of any person to vote is challenged on the ground of an insufficient length of residence in the election district, the party challenged shall establish such right by at least one freehold elector of said district."

The amendment was rejected.

The PRESIDENT. The question is upon the section.

Mr. D. W. PATTERSON. Upon that I call the yeas and nays.

Mr. BUCKALEW. Before the vote is taken a verbal amendment is necessary, by reason of the one already made. The Convention has inserted the word "reward" in the first part of the section, and to make the section uniform it must also be inserted in the middle of the section. I move that amendment.

The PRESIDENT. It is too late to offer an amendment. The yeas and nays have been called for.

Mr. BUCKALEW. Then I ask unanimous consent to make this modification.

The PRESIDENT. Shall the gentleman from Columbia have unanimous consent to modify the section? ["Agreed."] It is agreed to, and the section will be so modified. The question is on the section, and the yeas and nays are called for. Is the call seconded?

Mr. MANN. I second it.

The PRESIDENT. The call will proceed.

Mr. HARRY WHITE. Let the section be read.

The CLERK read the section.

The question being taken by yeas and nays, resulted as follows:

YEAS.

Messrs. Addicks, Ainey, Alricks, Andrews, Baer, Bailey, (Huntingdon,) Bidle, Bigler, Bowman, Boyd, Brodhead, Brown, Buckalew, Calvin, Campbell, Carter, Cassidy, Church, Cochran, Corbett, Corson, Curtin, Dallas, Darlington, De France, Dunning, Edwards, Finney, Guthrie, Hanna, Hazzard, Horton, Hunsicker, Kaine, Knight, Lamberton, Lawrence, Lear, Lilly, Long, MacConnell, M'Camant, M'Clean, M'Culloch, M'Murray, Mantor, Minor, Mott, Palmer, H. W., Patton, Porter, Purman, Purviance, John N., Purviance, Samuel A., Reed, Andrew, Rooke, Ross, Runk, Russell, Sharpe, Simpson, Smith, H. G., Smith, Henry W., Smith, Wm. H., Stewart, Struthers, Temple, Van Reed, Walker, Wetherill, J. M., Wetherill, Jno. Price, Wherry, White, David N., White, J. W. F., Woodward, Worrell and Meredith, President—77.

NAYS.

Messrs. Bailly, (Perry,) Broomall, Craig, Mann, Patterson, D. W., Stanton and White, Harry—7.

So the section was agreed to.

ABSENT.—Messrs. Achenbach, Armstrong, Baker, Bannan, Barclay, Bardsley, Bartholomew, Beebe, Black, Charles A., Black, J. S., Carey, Clark, Collins, Cronmiller, Curry, Cuyler, Davis, Dodd, Elliott, Ellis, Ewing, Fell, Fulton, Funck, Gibson, Gilpin, Gowen, Green, Hall, Harvey, Hay, Hemphill, Heverin, Howard, Landis, Littleton, MacVeagh, Metzger, Mitchell, Newlin, Niles, Palmer, G. W., Parsons, Patterson, T. H. B., Pughe, Read, John R., Reynolds, Turrell and Wright—49.

The PRESIDENT. The Clerk will read the next section.

The CLERK read as follows:

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. STEWART. I move to amend by striking out all before the word "but," and inserting:

"In addition to such other penalties as may be prescribed by law for fraudulent violation of the election laws, the person so offending shall upon conviction be deprived of the right of suffrage for not less than two nor more than ten years, at the discretion of the court."

On the question of agreeing to the amendment, a division was called for, which resulted twenty-seven in the affirmative. This being less than a majority of a quorum, the amendment was rejected.

MR. CARTER. I move to amend by striking out all after the word "suffrage" and inserting "absolutely for a term of four years."

The PRESIDENT. The clerk will read the words to be stricken out.

The CLERK read as follows:

"But such right in any particular case may be restored by an act of the Legislature, two-thirds of each House consenting thereto."

MR. CARTER. Now read the section as it would be if amended as I propose.

The CLERK read as follows:

"Every person convicted of any fraudulent violation of the election laws, shall be deprived of the right of suffrage absolutely for a term of four years."

MR. CARTER. Mr. President: The reason for this amendment to me seems patent on its face. We have made a move in the right direction in prohibiting spe-

cial legislation, which, I think, will receive the approbation not merely of this Convention, but of the people of the State. But if we should pass this section without any amendment, we should be restoring special legislation in, perhaps, its most objectionable form. Every one must see that if the power to remit a forfeiture of the right of suffrage be left to the Legislature, any man having political influence, or having money, would, as soon as he was convicted, apply to the Legislature to secure pardon. This is so plain that the simple statement of the fact is sufficient. It certainly needs no argument to enforce this idea.

The section as it now stands seems also to blend the legislative and executive functions. We have provided for a Board of Pardons which, I hope, will be finally adopted. Now, surely we do not want to confer the power of pardon in this regard upon the Legislature. There should be no pardon for a man who commits a fraud at an election. The man who commits so great a crime against society should have the mark of Cain put upon him, and, as an expiation of his offense, be deprived, for a term, of the right of suffrage. I fix the term of four years, because that is the period that intervenes between our Presidential elections. Let him for that time wear that brand of infamy that he, when his fellow-citizens are enjoying this high privilege, shall stand apart as a marked man who has been convicted of this crime.

MR. DALLIS. Mr. President: I only want to say a word or two. The source from which this amendment comes entitles it to favor; but my objection to it grows out of the very circumstances to which the gentleman refers. I think to make it a punishment for a term of years is to make it a provision which should not be placed in the Constitution. I prefer to consider this section as one which fixes the qualifications of a voter and which says to this class of people, those who commit such a fraud as this, that they are not to be acknowledged among those of our citizens who are proper classes to exercise the elective franchise. Therefore I would make it a permanent provision and one that should not be limited by any term.

MR. CARTER. I should oppose that because it would practically destroy the effect. The punishment would be too great, and it would be like the case of

Cain when he exclaimed: "My punishment is greater than I can bear." If it is made absolute, it will not be enforced. I think the gentleman from Philadelphia is under a mistake in regard to the character of the provision we are considering. It is not merely to fix the qualifications of electors; it is to guard the ballot-box; it is to protect it. That view runs all through the article as reported by the Committee on Suffrage, Election and Representation, and I think that this is calculated with other things to effect some good.

The PRESIDENT. The question is on the amendment.

Mr. CARTER. I call for the yeas and nays.

Mr. D. W. PATTERSON seconded the call.

Mr. CORBETT. I suggest to the mover of the amendment that he leave out the word "absolutely." It is unnecessary and the clause will read better without it.

Mr. CARTER. I put it in at the suggestion of the distinguished gentleman from Columbia (Mr. Buckalew) this morning.

The PRESIDENT. The Clerk will call the roll on the amendment.

The question being taken by yeas and nays, resulted as follows:

YEAS.

Messrs. Andrews, Bailly, (Perry,) Bailey, (Huntingdon,) Beebe, Biddle, Bigler, Black, Charles A., Boyd, Broomall, Brown, Calvin, Campbell, Carter, Church, Cochran, Curtin, De France, Edwards, Finney, Hanna, Hazzard, Horton, Hunsicker, Kaine, Knight, Lawrence, Lear, Long, MacConnell, M'Culloch, Mann, Mantor, Minor, Patterson, D. W., Patton, Porter, Purman, Purviance, John N., Purviance, Sam'l A., Reed, Andrew, Ross, Russell, Wetherill, Jno. Price, White, David N., White, Harry, Worrell and Meredith, *President*—47.

NAYS.

Messrs. Alricks, Baer, Bowman, Buckalew, Cassidy, Corbett, Craig, Dallas, Darlington, Guthrie, Lilly, M'CLean, M'Murray, Palmer, H. W., Parsons, Runk, Sharpe, Simpson, Smith, Henry W., Smith, Wm. H., Stanton, Struthers, Temple, Walker, Wetherill, J. M., Wherry and Woodward—27.

So the amendment was agreed to.

ABSENT.—Messrs. Achenbach, Ad-dicks, Ainey, Armstrong, Baker, Bannan,

Barclay, Bardsley, Bartholomew, Black, J. S., Brodhead, Carey, Clark, Collins, Corson, Cronmiller, Curry, Cuyler, Davis, Dodd, Dunning, Elliott, Ellis, Ewing, Fell, Fulton, Funck, Gibson, Gilpin, Gowen, Green, Hall, Harvey, Hay, Hemphill, Heverin, Howard, Lamber-ton, Landis, Littleton, MacVeagh, M'Ca-mant, Metzger, Mitchell, Mott, Newlin, Niles, Palmer, G. W., Patterson, T. H. B., Pughe, Reed, John R., Reynolds, Rooke, Smith, H. G., Stewart, Turrell, Van Reed, White, J. W. F. and Wright—59.

Mr. DARLINGTON. I move further to amend this section by striking out the word "every"—the first word in the section—and inserting "any," and to strike out the word "any," before "fraudulent," in the same line, so as to read:

"Any person convicted of fraudulent violation of the election laws," &c.

The amendment was agreed to.

Mr. S. A. PURVIANCE. I move to strike out the word "fraudulent" in the first line, and insert the word "wilful."

The amendment was agreed to, there being, on a division: Ayes, thirty-seven; noes, nineteen.

Mr. H. W. PALMER. I offer the following amendment to come in at the beginning of the section:

"Any person who shall, while a candidate for office, be guilty of bribery, fraud, or wilful violation of any election law, shall be forever disqualified from holding an office of trust or profit in this Commonwealth, and."

And on that I call for the yeas and nays. I want to record my vote upon it.

Mr. HARRY WHITE. I second the call.

The question being taken by yeas and nays, resulted, yeas, fifty-nine; nays, seventeen, as follows:

YEAS.

Messrs. Alricks, Baer, Bailey, (Huntingdon,) Beebe, Biddle, Bigler, Black, Charles A., Boyd, Broomall, Brown, Buckalew, Calvin, Carter, Cassidy, Church, Corbett, Corson, Curtin, Dallas, Darlington, De France, Dunning, Edwards, Guthrie, Hanna, Hazzard, Horton, Hunsicker, Kaine, Lawrence, Lilly, MacConnell, M'Culloch, M'Murray, Mantor, Mott, Palmer G. W., Palmer H. W., Patton, Purman, Purviance John N., Purviance Sam'l A., Runk, Russell, Sharp, Smith H. G., Smith Henry W., Smith Wm. H., Stanton, Struthers, Temple, Wetherill J. M., Wetherill Jno. Price., Wherry, White David N., White,

Harry, White J. W. F., Woodward and Worrell—59.

N A Y S.

Messrs. Adicks, Andrews, Baily, (Perry,) Bowman, Cochran, Finney, Knight, Lear, M'Clean, Mann, Patterson D. W., Porter, Reed, Andrew, Ross, Simpson, Walker and Meredith, *President*—17.

So the amendment was agreed to.

ABSENT.—Messrs. Achenbach, Ainey, Armstrong, Baker, Bannan, Barclay, Bardsley, Bartholomew, Black J. S., Brodhead, Campbell, Carey, Clark, Collins, Craig, Crommiller, Curry, Cuyler, Davis, Dodd, Elliott, Ellis, Ewing, Fell, Fulton, Funck, Gibson, Gilpin, Gowen, Green, Hall, Harvey, Hay, Hemphill, Heverin, Howard, Lamberton, Landis, Littleton, Long, MacVeagh, M'Camant, Metzger, Minor, Mitchell, Newlin, Niles, Parsons, Patterson, T. H. B., Pughe, Read John R., Reynolds, Rooke, Stewart, Turrell, Van Reed and Wright—57.

MR. ANDREW REED. I move further to amend, by striking out "four" and inserting "six," so that the party will be deprived of the right of suffrage for six years.

THE PRESIDENT. The amendment is not in order. It proposes to strike out a part of the section which has just been voted in. The question is no the section as amended.

The section was adopted.

MR. HARRY WHITE. I move that the Convention do now adjourn. The House is very thin.

The motion was not agreed to.

THE PRESIDENT. The next section will be read.

The **CLERK** read as follows.

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. BUCKALEW. I move to amend the section, by adding the words, "except for perjury in such testimony."

The amendment was agreed to.

THE PRESIDENT. The question is on the section as amended.

MR. KNIGHT. Mr. President: In my judgment there is a conflict here with the present Constitution. The first section of the Declaration of Rights reads thus:

"All men are born equally free and independent, and have certain inherent and inalienable rights, among which are those of enjoying and defending life and liberty, of acquiring, possessing and protecting property and reputation, and of pursuing their own happiness."

By that provision a man is protected in his reputation. The section now before us provides that "in cases of contested elections, no person shall be permitted to withhold his testimony upon the ground that it may criminate himself." You oblige him to give evidence although it may be against his reputation.

The ninth section of the Declaration of Rights provides:

"That in all criminal prosecutions, the accused hath a 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 public trial by an impartial jury of the vicinage. He cannot be compelled to give evidence against himself, nor can he be deprived of his life, liberty or property, unless by the judgment of his peers or the law of the land."

There is a similar provision in the Constitution of the United States, in substantially equivalent words, as follows:

"In all criminal prosecutions, the accused shall enjoy the right to a speedy and public trial, by an impartial jury of the State and district wherein the crime shall have been committed, which district shall have been previously ascertained by law, and to be informed of the nature and cause of the accusation against him; to be confronted with the witnesses against him; to have compulsory process for obtaining witnesses in his favor, and to have the assistance of counsel for his defence."

And in the preceding article of the same Constitution we find this provision:

"Nor shall any person be subject, for the same offence, to be twice put in jeopardy of life or limb; nor shall he be compelled in any criminal case to be a witness against himself."

By this section you oblige a man to give testimony although he criminales himself, while in the Bill of Rights, which has been adopted in almost the same language that is found in the present Constitution, you say that a man shall have the right to protect his reputation and character, and in another place

you say he cannot be compelled to give evidence against himself. This seems to be an unjust contradiction. I think the whole section should be voted down.

Mr. BUCKALEW. The ninth section of the ninth article to which the gentleman refers is not at all inconsistent with this provision. That section he will observe commences, "In all criminal prosecutions," and then follow several clauses which he has read. "He shall not be compelled to give testimony against himself" means that when he is prosecuted, he shall not be required to go upon the witness stand and testify against himself; in other words, it is a prohibition against the French system of criminal trial where the defendant in a case is put upon his examination. That is all that means. And so in regard to the provision of the Constitution of the United States which is in general terms; the signification is precisely the same.

We do not propose by this section that a man shall be examined as a witness upon his trial. It is a provision by which the channels of information shall not be closed up to you in election investigations, with a careful and prudent reservation that the testimony given by the witness on no future occasion shall ever be used against him. I refrain from going over the general argument because it was gone into before and is already contained in our volume of Debates; but I think it will be a very valuable provision, and this same provision now is found in the law of Great Britain, from which we derived originally this common law security which is quoted to us.

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

Mr. HARRY WHITE. I have an amendment to offer to this section. After the word "elections," in the first line, I move to insert, "or in proceedings investigating elections."

Mr. President, I am in entire sympathy with this section. The delegates will remember that in the legislative article there was voted down (which, with all deference, I think was a mistake, and it will be renewed when the article comes up on second reading,) a provision which prohibited the testimony upon legislative investigations being used against a party in criminal prosecutions. I think that was an error, and I think the Convention will be satisfied of that.

The PRESIDENT. It is not in order to refer to what was done in committee of the whole.

Mr. HARRY WHITE. I will merely say that when the report of the Committee on Legislation comes up, I hope the Convention will adopt a provision of that kind.

Now, delegates will observe that this section merely provides for cases of contested elections. There are many other investigations besides those of contested elections. There may be elections by the Legislature of certain officers; there may be elections of Speaker, there may be elections of United States Senator, which require a legislative investigation; and just because the testimony of a guilty party may be used against him in a criminal prosecution, he will withhold his testimony. Now, I submit when we are making a provision in this regard, we ought to extend it to all cases that are likely to occur in investigating elections. I therefore move this amendment, and if the Convention adopts it, of course that testimony can be had upon those kinds of investigations, and no party can withhold it.

The PRESIDENT. The question is on the amendment.

The amendment was agreed to.

The PRESIDENT. The question recurs on the section as amended.

The section as amended was adopted.

The CLERK read the next section as follows:

SECTION 9. 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.

Mr. CAMPBELL. I move to strike out the words "two hundred and fifty," in the seventh line, and insert "one hundred." ["No!" "No!"]

Mr. HANNA. I move to amend the amendment by making it four hundred. ["No!" "No!"] I withdraw it.

The PRESIDENT. The question is on the amendment of the delegate from Philadelphia (Mr. Campbell.)

The amendment was rejected.

Mr. LILLY. I should like to move to strike out "two hundred and fifty," and insert "three hundred." ["No!" "No?"] I think if the members of the Convention will consider this matter for a moment in their minds, they will see that the number fixed here is too small. The expense of holding elections will be very considerably increased by making the districts so small, and you will have an immense number of election districts. If you make the number of voters in a district three hundred, I think the whole matter will be fairly under control, and even then you will probably not have more than two hundred or two hundred and fifty votes polled. I think three hundred will be about right.

Mr. DALLAS. I do not think the city of Philadelphia will complain of the expense if it obtains the reform that is hoped for from this section. Two hundred and fifty voters to a precinct is large enough in order to enable election officers and citizens to know those entitled to vote. I am willing, for one, to accept two hundred and fifty as a compromise; but I propose as an amendment to the amendment to strike out "three hundred" and insert "two hundred."

The PRESIDENT. The question is on the amendment to the amendment, to insert "two hundred."

The amendment to the amendment was rejected.

Mr. HANNA. I move to amend the amendment by making it "four hundred."

The PRESIDENT. The question is on the amendment to the amendment, to strike out "three" and insert "four."

Mr. HANNA. I should like to say a word upon that amendment. I think that four hundred is about the proper number. In the city of Philadelphia, at the October election last, there were three hundred and fifty-nine election divisions. The votes polled at that election were one hundred and seventeen thousand, four hundred and twenty-three, making an average of three hundred and twenty-one votes to each division. Now if we reduce the number of electors to be included within any election division, of course we increase the number of election divisions, and if we adopt the number three hundred or the number two hun-

dred and fifty it will give us a much greater number of election divisions in the city which are to be provided for, and, as the gentleman from Carbon well remarked, it will add an immense expense to the city of Philadelphia. The election places are to be provided; they are to be paid for, because at present as a recent act of Assembly provides that liquor shall not be sold on election day, we cannot obtain public houses in which to hold the election. Consequently we shall be forced to pay for polling places.

Again, sir, the expenses will be greatly increased by reason of the increased number of election officers; and the cost of printing, and all the other incidental expenses of the election will also be increased, so that we shall impose an additional burden on the taxpayers probably of from \$100,000 to \$150,000. Now if we limit the number of votes in a division to four hundred, there will be no difficulty whatever; all the votes can be polled. The whole number can be polled for the reason that in many of the election divisions at the present time we have polled from one hundred and eighty-nine to six hundred and seven hundred votes on election day; and by the Constitution which I have no doubt will be adopted by the Convention, we shall throw such safeguards around elections as will prevent fraud and corruption. The gentleman from Columbia who offered an amendment for the appointment by the courts of the supervisors or overseers of election has thereby secured officers who will protect the polls, they will see that none but correct ballots and proper votes are received, and everybody will be known in the election division just as well if there are four hundred votes as two hundred and fifty or three hundred.

I submit, Mr. President, that we ought to take the considerations mentioned into view and not hastily pass this section, not increase the number of election divisions in our large cities, not increase the expense to the voters, but let us adopt the mean I have just mentioned, of four hundred votes in a division, and everything will be done properly, and all fraud and corruption and improper voting prevented.

The act of Assembly under which we now live, called the consolidation act, provides that in every election division of the city of Philadelphia where there are over four hundred voters the people shall have the right to ask that that division shall be divided, and it can be divided;

and divisions are divided by the councils of the city almost weekly upon petition of the citizens. What more do we want?

Previous to the passage of the late act of Assembly we were obliged to hold the elections in public houses. We have not a sufficient number of school-houses. Although we have a public school-house, and more than one, in every ward of the city, yet we cannot have a public school-house or other public property in every election division of the city, and consequently we were obliged to hold the elections at public houses, and parties owning public houses were willing and glad to have the election held there because it increased their trade; but now we are driven from those places, they are obliged to close the saloons up, and the city must pay for election places, or else do as I am told they do in the city of New York, build booths or polling places upon the public streets.

Mr. President, I do hope that the Convention will consider this matter, and consider it in a way that I think will meet the approbation of the people of Philadelphia.

Mr. W. H. SMITH. Mr. President: According to all the arguments yet made it would seem that we were legislating for Philadelphia alone, and that only one of the cities of the State. The smaller number would seem to suit the whole State better than four hundred. While we are discussing things here I wish our friends would understand that there is some other territory and some other population than that which is in the city of Philadelphia.

Mr. DALLAS. I only desire to say in reply to the gentleman from Philadelphia (Mr. Hanna) that where a real reform is to be attained, the question of expense, unless it amounts to extravagance, is but a secondary consideration. He has truly said that we already, in the city of Philadelphia, have by law a provision that when a precinct contains more than four hundred voters it may be divided; but though we have that provision, the cry for reform in this respect comes up to us from this city. That is evidence that the number that he names is not satisfactory. I understand on the other hand that two hundred and fifty, an odd number, was arrived at as a compromise among conflicting views. I hope it will be retained.

Mr. J. W. F. WHITE. Mr. President: My colleague behind me (Mr. W. H. Smith) misapprehends this part of the

section. It applies only to Philadelphia and Pittsburg. This section requiring every election district, when the last preceding election shows a vote of two hundred and fifty, to be divided, applies I say but to two cities, Philadelphia and Pittsburg. I hope that we shall have no piece of legislation of that kind in the Constitution. I am utterly opposed to a rule of that kind applicable to all the election precincts in these two cities. I am willing to confer the power upon the courts to divide election precincts, whenever it becomes necessary in their judgment to have a division; and at the proper time I shall move to strike out of the sixth line all after the word "cities" and to strike out the seventh line; so that the section will then read:

"All districts in cities of over one hundred thousand inhabitants shall be divided by the courts of quarter sessions of said cities, whenever the court of the proper county shall be satisfied that the convenience of the electors and the public interests will be promoted thereby."

We have heard here often that the courts can be trusted on all these questions. Why not then leave it to the courts to say when an election district shall be divided, taking into consideration the number of electors, where they reside, and all the circumstances of the case, whether it would be judicious or not to divide it, even when there are two hundred voters in it; or if there should be two hundred and sixty in the district, if the voters of that district should not want it divided, because this will be an imperative provision. Why, merely because there are over two hundred and fifty voters in a district, put it in the Constitution that it must absolutely be divided? If every voter in the district should be opposed to it, or every voter except one, that one can bring the question before the court and then the court will be under an absolute duty to divide that district.

Why, sir, in some districts of the city of Pittsburg we have more than twice that number of votes and I venture to say that not a voter in the district of either party would want the district divided. The courts of our county have now the power to divide our election districts, as they have generally throughout the State. Unfortunately in Philadelphia they have a special law in reference to the division of their election districts, and now to get clear of the special law in Philadelphia they wish us to put a law in the Constitu-

tion not only applicable to them but also to involve Pittsburg in it.

I am opposed to fixing in the Constitution any number whatever, whether two hundred, three hundred, four hundred, or any other number, but just say that the court of the proper county may divide or shall divide a division whenever the convenience of the electors and the public interest may require a division. It seems to me exceedingly unreasonable that we should fix a number of that kind which

is imperative, no matter what the circumstances of the case may be; and, as one of the delegates from Pittsburg, I protest most earnestly against a principle of that kind being applied to our city.

Mr. BAER. I move that the House do now adjourn.

The motion was agreed to, and (at two o'clock and fifty-eight minutes P. M.) the Convention adjourned to meet again at half past nine o'clock A. M., on Tuesday, June 3.

ONE HUNDRED AND ELEVENTH DAY.

TUESDAY, June 3, 1873.

The Convention met at half-past nine o'clock A. M., Hon. W. M. Meredith, President, in the chair.

The Journal of the proceedings of Thursday last was read and approved.

YEAS AND NAYS.

Mr. STANTON. I offer the following resolution :

Resolved, That the yeas and nays shall be called on any question only at the request of twenty members rising to second the call of any one member, except on the final passage of any section.

The PRESIDENT. The resolution will lie on the table.

ELECTORS AND ELECTIONS.

The PRESIDENT. The second reading of the article reported by the Committee on Election, Suffrage and Representation is now in order. Will the Convention proceed with it? ["Aye." "Aye."] The article is before the House on second reading. When the House adjourned on Thursday, the ninth section of this article was under consideration. A motion was made by the delegate from Carbon (Mr. Lilly) to amend the same, in the seventh line, by striking out "two hundred" and inserting "three hundred." A motion was made by the delegate from the city (Mr. Hanna) to amend the amendment, by striking out "three," and inserting "four." The question is on the amendment to the amendment.

The amendment to the amendment was rejected.

The PRESIDENT. The question is on the amendment.

The amendment was rejected.

The PRESIDENT. The question recurs on the section, which will be read.

The CLERK read as follows :

"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."

The section was agreed to.

The PRESIDENT. The next section will be read.

The Clerk read as follows :

SECTION 10. All elections by persons in a representative capacity shall be *viva voce*.

The section was agreed to.

The PRESIDENT. The next section will be read.

The CLERK read as follows :

SECTION 11. 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.

Mr. BROOMALL. I desire to know whether, after action on this section is had, a new section would be in order, or whether a new section would have to be moved as an amendment to this section.

The PRESIDENT. The Chair has no idea what the amendment is.

Mr. BROOMALL. It is an amendment pertinent to the matter of the section, but it would be better as a new section than as an amendment to this section. The question I have asked the Chair is whether it is in order to move a new section at any stage of the article—or after any particular section has been acted upon?

The PRESIDENT. The Chair supposes it would be in order to move a new section at any time ; but, as action is had on entire sections, it would be better, perhaps, if amendments were moved to sections as read, if it will answer the views of gentlemen.

Mr. BROOMALL. Then I move the following amendment, to come in at the end of the section under consideration :

"Women having the qualifications here-in required for male electors shall be entitled to vote at all elections for school directors, and on all questions relating to the sale and use of intoxicating drinks, which shall be submitted to the electors."

I do not desire to say anything upon the amendment except that, if it is carried, I desire to have it submitted to a separate vote under the provision by which the requisite number of the Convention may require an article to be separately submitted for the approval of the people.

I will only add that if there are any gentlemen here who do not think a woman ought to have a voice in the education and management of her children, or a voice in the morals of her own neighborhood, such gentlemen ought to vote against this amendment. I call for the yeas and nays upon it.

MR. PARSONS. I second the call.

MR. BOYD. I move to amend, by striking out all after the word "directors."

THE PRESIDENT. The question is on the amendment to the amendment.

The amendment to the amendment was rejected.

THE PRESIDENT. The question recurs on the amendment, upon which the Clerk will call the yeas and nays.

The yeas and nays being required by Mr. Broomall and Mr. Parsons, were taken and were as follow, viz:

Y E A S .

Messrs. Ainey, Armstrong, Baker, Bowman, Broomall, Brown, Campbell, Corson, Craig, Darlington, De France, Dodd, Dunning, Edwards, Fulton, Hall, Hazzard, Horton, Howard, Knight, Lilly, MacConnell, M'Murray, Mann, Palmer, G. W., Palmer, H. W., Parsons, Patton, Porter, Rooke, Temple, Wetherill, J. M., White, J. W. F. and Wright—34.

N A Y S .

Messrs. Achenbach, Alricks, Andrews, Baily, (Perry,) Bailey, (Huntingdon,) Barclay, Bartholomew, Biddle, Bigler, Black, Charles A., Boyd, Buckalew, Calvin, Church, Corbett, Cronmiller, Curtin, Dallas, Davis, Ellis, Green, Hay, Hemphill, Hunsicker, Lamberton, Landis, Lawrence, Long, M'Clellan, M'Culloch, Minor, Mott, Newlin, Patterson, D. W., Purviance, John N., Reed, Andrew, Ross, Runk, Russell, Sharpe, Smith, Henry W., Smith, Wm. H., Stanton, Struthers, Turrell, Walker, Wetherill, Jno. Price, White,

Harry, Woodward, Worrell and Meredith, President—51.

So the amendment was rejected.

ABSENT.—Messrs. Addicks, Baer, Bannan, Bardsley, Beebe, Black, J. S., Brodhead, Carey, Carter, Cassidy, Clark, Cochran, Collins, Curry, Cuyler, Elliott, Ewing, Fell, Finney, Funck, Gibson, Gilpin, Gowen, Guthrie, Hanna, Harvey, Heverin, Kaine, Lear, Littleton, MacVeagh, M'Camant, Mantor, Metzger, Mitchell, Niles, Patterson, T. H. B., Pughe, Purman, Purviance, Sam'l A., Read, John R., Reynolds, Simpson, Smith, H. G., Stewart, Van Reed, Wherry and White, David N.—48.

MR. DARLINGTON. I move to amend the section by striking out all after the word "office," in the second line, and inserting in lieu thereof, "under the public school laws of this Commonwealth."

I wish merely to say a single word in explanation. This amendment alters the section only in one particular. It allows the appointment of females to the office of collector of taxes under the school laws. In my own town a man is appointed who sits in his office to receive the taxes. I know no reason why under similar circumstances a lady might not be elected. I wish school directors to have the opportunity of appointing females, when they please, to such an office.

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

The yeas and nays were required by Mr. Darlington and Mr. Boyd, and were as follow, viz:

Y E A S .

Messrs. Ainey, Baker, Bannan, Bowman, Boyd, Broomall, Brown, Campbell, Corson, Craig, Darlington, De France, Dodd, Edwards, Fell, Hall, Horton, Howard, Knight, Lilly, MacConnell, M'Culloch, M'Murray, Mann, Palmer, H. W., Parsons, Patton, Rooke, Runk, Temple, Wetherill, J. M., White, J. W. F. and Wright—33.

N A Y S .

Messrs. Achenbach, Alricks, Andrews, Armstrong, Baily, (Perry,) Bailey, (Huntington,) Barclay, Bartholomew, Biddle, Bigler, Black, Charles A., Buckalew, Calvin, Church, Corbett, Cronmiller, Curtin, Dallas, Davis, Dunning, Ellis, Fulton, Green, Guthrie, Hanna, Hay, Hazzard, Hemphill, Hunsicker, Lamberton, Lan-

dis, Lawrence, Long, M'Clean, Minor, Mott, Newlin, Palmer, G. W., Patterson, D. W., Porter, Purviance, John N., Reed, Andrew, Ross, Sharpe, Smith, H. G., Smith, Henry W., Smith, Wm. H., Stanton, Struthers, Turrell, Walker, Wetherill, Jno. Price, Wherry, Woodward, Worrell and Meredith, *President*—56.

So the amendment was rejected.

ABSENT.—Messrs. Addicks, Baer, Bardsley, Beebe, Black, J. S., Brodhead, Carey, Carter, Cassidy, Clark, Cochran, Collins, Curry, Cuyler, Elliott, Ewing, Finney, Funck, Gibson, Gilpin, Gowen, Harvey, Heverin, Kaine, Lear, Littleton, MacVeagh, M'Camant, Mantor, Metzger, Mitchell, Niles, Patterson, T. H. B., Pughe, Purman, Purviance, Samuel A., Read, John R., Reynolds, Russell, Simpson, Stewart, Van Reed, White, David N. and White, Harry—44.

Mr. DARLINGTON. Mr. President: I wish now, as the Convention is indisposed to make any change in the substance of this section, to make one in the form so as to put it in better shape, as I think. I therefore move to amend the section by striking out the word "of," where it occurs the second time, and inserting the words "in the;" by striking out the words "under the school laws," and inserting the words "public schools;" and by striking out the word "State," and inserting the word "Commonwealth."

The section thus amended would read: "Women of the age of twenty-one years or upwards shall be eligible to any office in the control or management of the public schools of this Commonwealth."

The amendment was rejected.

The PRESIDENT. The question is now on the section.

Mr. BUCKALEW. Mr. President: There has been some legislative action upon the subject of this section. On the tenth of January, 1871, Mr. Senator Turner, of Luzerne county, introduced in the State Senate a bill which was written by me, entitled "An act to authorize the choice of female directors of common schools," aiming at substantially the same object in view in this section. On the eighth of February, in the same year, that that bill was considered in the Senate, and after debate it passed by a vote of nineteen to thirteen; the yeas being Messrs. Allen, Anderson, Billingsfelt, Brooks, Buckalew, Connell, Crawford, Delamater, Duncan, Evans, Graham, Henszey, Kerr, Mumma, Nagle, Olmsted, Rutan, Turner and Warfel—19; the nays were Messrs.

Albright, Brodhead, Davis, Dechert, Dill, Findlay, Knight, Miller, Osterhout, Petriken, Purman, Randall and Wallace, *Speaker*—13.

This vote will be found on page 506 of the Senate Journal of that year. That bill was not acted upon in the House of Representatives. It was not considered in that branch, but the views which I then held upon this subject I still hold, and am therefore prepared to vote, and vote cheerfully, for this section in the article on suffrage and elections.

I think the laws relating to education, are distinguishable from any other part of our civil code with reference to the objects at which they aim and the persons to which they relate; and I confess it has always seemed to me eminently proper that the mothers of our children should have a voice in their education and control away from homes as well as at home, while they are of tender years. That maternal control and care which they exercise at their own home may very properly be extended to the public school in which they are gathered day by day to receive instruction in knowledge. It has always seemed to me that women were particularly qualified for one duty which is charged upon school directors; I mean the duty of visiting the schools, of exercising actual and constantly recurring care over the management and conduct of the teachers and the state of discipline maintained in them. Very many women have leisure for this duty which men have not. It is a duty which is neglected, very greatly neglected, by men chosen to the office of school director throughout the State. Women will perform it.

Again, Mr. President, you are well aware that many ladies of intelligence, and some of them of property, in the State, are disposed to bestow special attention upon this business of education in the schools, and they are content to sacrifice time, and some money also, in pursuing this object.

Without dwelling upon the various points which are legitimate for consideration here, I have this to say: That with a very clear judgment of the utility and advantage of this section, I shall cast my vote in its favor.

But gentlemen have said that this is an entering wedge, as they express it, to female suffrage. It has no relation to that subject—no legitimate, or at all events no necessary, connection with it. It is simply a provision that the male electors

in school districts in this State, where they have women of special capacity for this duty, may select them. Instead of this advancing or tending to advance the movement of women suffrage, in my judgment its tendency will be the other way. One of the grievances now complained of on behalf of women and in view of which the extension of suffrage to them is demanded, is that they are at present excluded from the public schools, from all control and management in the public schools. In the discourses to which we listened last winter in this Hall in behalf of female suffrage, careful gentlemen who paid attention to those addresses will have observed that the strongest point always made was upon this specific subject of the exclusion of women from any control or care of their own children in the public schools and educational establishments of the country. Now, when we authorize their selection by the regular electors of this State for the business of the control and management of educational institutions, we shall have removed this complaint, and consequently the argument based upon it in favor of a radical change in our laws of suffrage by the extension of suffrage to women. At all events, upon this point the argument is at least balanced. Instead of the adoption of this provision advancing the woman suffrage movement it will have no effect whatever, if it does not tend to the discouragement of that measure.

MR. HAY. Mr. President: I desire to say but a word in giving the reasons why I shall vote against this section. It provides that persons shall be eligible to office to whom we have denied the right to vote. I think it is a most singular absurdity to propose that we should give to persons the right to hold office to whom we have already denied the right of voting for persons to fill such offices. To say that a person who has not the qualifications of an elector may be nevertheless elected to official position is to state something most remarkable and anomalous, and I can see no sufficient or sound reason why women should be permitted to hold one public office and be restricted from holding any other. I shall vote against this section for this reason.

I shall also vote against the section because it does not require that women who may be elected to offices of control or management under the school laws of the State shall be citizens of the State or of the United States. It is certainly highly

improper that any persons should be permitted to hold office in our State who have not been admitted to citizenship. Under this section our whole system of public schools might be put under the control of strangers, of those who had no interest whatever in their right management or in their success, and who had no part whatever in our political system. The section is indeed of such an objectionable and inconsistent character that if adopted it will, I have no doubt whatever, cause many votes to be cast against the whole instrument which contains it.

THE PRESIDENT. The question is on the amendment.

The question being put, a division was called for, and the ayes were fifty-two.

The yeas and nays were required by Mr. Hay and Mr. Simpson, and were as follow, viz:

YEAS.

Messrs. Achenbach, Addicks, Ainey, Armstrong, Baker, Bannan, Barclay, Bartholomew, Bowman, Broomall, Brown, Buckalew, Campbell, Carey, Cochran, Corbett, Corson, Craig, Curtin, Darlington, De France, Dodd, Dunning, Edwards, Ellis, Fell, Fulton, Green, Guthrie, Hall, Hazzard, Horton, Howard, Hunsicker, Knight, Lamberton, Lear, Lilly, MacConnell, M'Murray, Mann, Mott, Palmer, G. W., Palmer, H. W., Patton, Porter, Reed, Andrew, Rooke, Stanton, Temple, Turrell, Walker, Wetherill, J. M., Wetherill, John Price, Wherry, White, Harry, White, J. W. F., Woodward, Wright and Meredith, *President*—60.

NAYS.

Messrs. Alricks, Andrews, Baily, (Perry,) Bailey, (Huntingdon,) Biddle, Bigler, Black, Charles A., Black, J. S., Calvin, Church, Cronmiller, Davis, Hanna, Hay, Hemphill, Landis, Lawrence, Long, M'Clean, M'Culloch, Minor, Newlin, Patterson, D. W., Purviance, John N., Ross, Runk, Sharpe, Simpson, Smith, Henry W., Smith, Wm. H., Struthers and Worrell—32.

So the section was agreed to.

ABSENT. — Messrs. Baer, Bardsley, Beebe, Boyd, Brodhead, Carter, Cassidy, Clark, Collins, Curry, Cuyler, Dallas, Elliott, Ewing, Finney, Funck, Gibson, Gilpin, Gowen, Harvey, Heverin, Kaine, Littleton, MacVeagh, M'Camant, Mantor, Metzger, Mitchell, Niles, Parsons, Patterson, T. H. B., Pughe, Purman, Purviance, Sam'l A., Read, John R., Rey-

nolds, Russell, Smith, H. G., Stewart, Van Reed and White, David N.—41.

The CLERK read the next section, as follows:

SECTION 12. 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 public prison.

Mr. AINEY. I call for the yeas and nays on the adoption of this section.

Mr. HEMPHILL. I second the call.

Mr. COCHRAN. I wish to move an amendment to the section, if it is in order.

Mr. AINEY. I withdraw the call for the yeas and nays in order to allow the gentleman an opportunity to offer his amendment.

The PRESIDENT. The call for the yeas and nays is withdrawn.

Mr. COCHRAN. I move to amend the section by striking out the words, "nor while a student of any seminary of learning."

On the question of agreeing to the amendment, the yeas and nays were required by Mr. Cochran and Mr. De France, and were as follow, viz:

YEAS.

Messrs. Ainey, Baker, Black, Charles A., Cochran, Corson, De France, Horton, Howard, Mann, Patterson, D. W., Runk, Sharpe, Temple, Turrell and White, J. W. F.—15.

NAYS.

Messrs. Achenbach, Addicks, Alricks, Andrews, Armstrong, Bailly, (Perry,) Bailey, (Huntingdon,) Bannan, Barclay, Biddle, Bigler, Black, J. S., Bowman, Broomall, Brown, Buckalew, Calvin, Campbell, Church, Corbett, Craig, Cronmiller, Curtin, Darlington, Dunning, Edwards, Ellis, Fell, Fulton, Green, Guthrie, Hall, Hanna, Hay, Hazzard, Hemphill, Heverin, Hunsicker, Lamberton, Landis, Lawrence, Lear, Lilly, Long, MacConnell, M'Clean, M'Culloch, M'Murray, Minor, Mott, Palmer, G. W., Palmer, H. W., Patterson, T. H. B., Patton, Porter, Purman, Purviance, John N., Read, John R., Reed, Andrew, Rooke, Ross, Simpson, Smith, Henry W., Smith, Wm. H., Stan-

ton, Struthers, Walker, Wetherill, J. M., Wetherill, John Price, Wherry, White, Harry, Woodward, Worrell, Wright and Meredith, *President*—75.

So the amendment was rejected.

ABSENT.—Messrs. Baer, Bardsley, Bartholomew, Beebe, Boyd, Brodhead, Carey, Carter, Cassidy, Clark, Collins, Curry, Cuyler, Dallas, Davis, Dodd, Elliott, Ewing, Finney, Funck, Gibson, Gilpin, Gowen, Harvey, Kaine, Knight, Littleton, MacVeagh, M'Camant, Mantor, Metzger, Mitchell, Newlin, Niles, Parsons, Pughe, Purviance, Samuel A., Reynolds, Russell, Smith, H. G., Stewart, Van Reed and White, David N.—43.

Mr. AINEY. I offer the following amendment: Strike out all after the words "section twelve," and insert, as a substitute, the following:

"The Legislature shall define by law what act and intention of an elector shall gain or lose a residence."

I have no desire to detain the Convention with any extended remarks; but if members will but direct their attention to this section, they will find it exceedingly imperfect and limited. It attempts to define what act or circumstance of an elector shall gain or lose for him a residence; but it is limited in its scope to two or three classes of individuals, and certainly there are other classes as important. In some parts of the State some of these are allowed to vote; in others this right is refused them. I submit that the question of residence, under our election laws, is an exceedingly uncertain one. It would, perhaps, be difficult to find two election boards throughout the Commonwealth, at any given election, who, if a given question was submitted as to the right of an elector to vote under the same circumstances, who would decide it alike. I think it would be wise for us to require of the Legislature the enactment of a comprehensive law that shall define specifically what act and what intention of the elector shall gain or lose for him a residence.

The PRESIDENT. The question is on the amendment of the delegate from Lehigh (Mr. Ainey.)

The amendment was rejected.

The PRESIDENT. The question is on the section.

Mr. LILLY. I offer the following amendment: Add to the end of the section the words:

"An elector's residence for the purpose of voting shall be in that district where

he actually resides, residence to be proven, when challenged, by the oath of self and two duly qualified electors."

This question of residence has given more trouble in every election in the Commonwealth than any other subject that has ever arisen. Almost every election officer entertains a different opinion on the question; and in my own experience, where the question has been brought before an election board, hardly any two members of that board have agreed as to what actually constitutes residence. I do not pretend to state that this amendment which I have offered defines residence in the best manner in which it can be done; but I want to make the residence of an elector a permanent thing. I want this Convention to say arbitrarily what is residence so far as the elector is concerned. At present different views are entertained upon the subject in almost every part of the State, and the views of election boards in different counties, and in different election districts of the same county, are widely dissimilar. The trouble that has grown out of these different opinions is simply endless.

This amendment, if it is adopted, will settle the question in such a way that every man will understand it, and every election board will understand it. I have simply provided that residence shall be proven, if it be challenged, by the oath of the man challenged and two duly qualified electors of the district who will swear that the man has resided in the district long enough to qualify him to vote.

I really hope the Convention will adopt this amendment. Hitherto, in our deliberations, we have not been able to agree upon any particular form in reference to this subject. It has been thoroughly and fully discussed; and without desiring to refer to any action had in committee up to this time, I suppose I shall not be out of order in referring to the fact that we have not been able to agree upon anything in relation to this matter. This amendment will settle the subject, and I hope it will be adopted.

The amendment was rejected.

Mr. GUTHRIE. I move to amend by striking out the last words in the section, "nor while confined in a public prison."

I wish to say, simply, that if these words are stricken out I shall vote for the section; if they are not stricken out, I shall vote against it. I have no idea that the vote of an honest man shall be

cancelled by the vote of a felon from a public prison.

Mr. WORRELL. I desire to call the attention of the gentleman from Allegheny to the fact that if these words are stricken out, I suppose the section would apply to those who might be confined in a public prison on account of default of bail, even although guilty of no crime.

Mr. GUTHRIE. I withdraw the amendment.

The section was agreed to.

The PRESIDENT. The article has been gone through with. The question is on ordering it to be transcribed for a third reading.

Mr. BUCKALEW. I move to amend the title by striking out the word "representation" and transposing the words "election" and "and," so as to make the title read "suffrage and election."

The PRESIDENT. The title is not before the House. The article is on second reading; and it is only on third reading that the title can be before the House.

Mr. BROOMALL. I offer the following additional section, to come in as section thirteen.

"A special election shall be held at such time as shall be fixed by law, not less than one year nor more than three years after the adoption of this Constitution, at which the legal voters of the State shall decide by ballot whether the right of suffrage shall be extended to women; and if the result shall be in the affirmative, women having the qualifications herein required of male electors, shall thereafter be entitled to vote at all elections."

On the question of agreeing to the additional section, the yeas and nays were required by Mr. Broomall and Mr. Darlington, and were as follow, viz:

Y E A S .

Messrs. Addicks, Ainey, Baker, Bowman, Brodhead, Broomall, Campbell, Corson, Craig, Darlington, Edwards, Fell, Horton, Howard, Knight, Lear, MacConell, Mann, Palmer, H. W., Patterson, T. H. B., Patton, Rooke, Struthers, Temple and Wright—25.

N A Y S .

Messrs. Achenbach, Alricks, Andrews, Armstrong, Baily, (Perry,) Bailey, (Huntingdon,) Barclay, Bartholomew, Biddle, Bigler, Black, Charles A., Black, J. S., Boyd, Brown, Buckalew, Calvin, Carey, Church, Cochran, Corbett, Cronmiller,

Curtin, Cuyler, Dallas, Davis, De France, Dodd, Dunning, Ellis, Fulton, Green, Guthrie, Hall, Hanna, Hay, Hazzard, Hemphill, Heverin, Hunsicker, Lamberton, Landis, Lawrence, Lilly, Long, McClean, McCulloch, McMurray, Minor, Mott, Newlin, Palmer, G. W., Patterson, D. W., Porter, Purman, Purviance, John N., Read, John R., Reed, Andrew, Ross, Runk, Sharpe, Simpson, Smith, H. G., Smith, Henry W., Smith, Wm. H., Stanton, Turrell, Van Reed, Walker, Wetherill, Jno. Price, Wherry, White, Harry, White, J. W. F., Woodward, Worrell and Meredith, *President*—75.

So the additional section was rejected.

ABSENT.—Baer, Bannan, Bardsley, Beebe, Carter, Cassidy, Clark, Collins, Curry, Elliott, Ewing, Finney, Funck, Gibson, Gilpin, Gowen, Harvey, Kaine, Littleton, MacVeagh, McCamant, Mantor, Metzger, Mitchell, Niles, Parsons, Pughe, Purviance, Samuel A., Reynolds, Russell, Stewart, Wetherill, J. M. and White, David N.—33.

MR. STANTON. I move to reconsider the vote taken on section nine. I voted by a mistake. I voted for the section.

THE PRESIDENT. Is the motion to reconsider seconded by a gentleman who voted with the majority?

MR. BOWMAN. I second the motion. I voted with the majority.

THE PRESIDENT. The question is on the motion to reconsider.

The motion was not agreed to.

THE PRESIDENT. The Chair will observe that he understands that the chairman of the committee who reported this article desires to move its commitment at the present stage of the proceedings. If so, the motion is now in order; but it will not be in order after the question of transcribing for a third reading has been taken.

MR. BUCKALEW. I move that report number three be referred to the Committee on Revision and Adjustment.

THE PRESIDENT. It is moved that the article under consideration be referred to the Committee on Revision and Adjustment.

The motion was agreed to.

USE OF HALL.

THE PRESIDENT. The Chair asks leave to present a communication at this time. Shall he have leave? ["Yes!"] It is agreed to, and the communication will be read.

The CLERK read as follows:

Hon. WM. M. MEREDITH,

President Constitutional Convention:

MR. PRESIDENT: Many ladies of Philadelphia have requested me to ask of you and the gentlemen of the Constitutional Convention the use of the Convention Hall, on Wednesday evening next, for the purpose of hearing an address from Dr. William C. Swann, president of the Philadelphia Fountain Society; subject—"Personal Reminiscences of Great Men of the Past."

Respectfully,

ELIZABETH S. BLADEN.

June 3, 1873.

THE PRESIDENT. If no motion is made the communication will be laid on the table.

MR. NEWLIN. I move that the request be granted.

The motion was agreed to.

ELECTION BOARDS.

THE PRESIDENT. The next business in regular order is the second reading of the article reported by the Committee on the Executive Department.

MR. BUCKALEW. If the Convention will pardon me, I desire to state that the second article reported by the Committee on Suffrage is connected intimately with the article we have just disposed of and belongs to the same general question. If it suits the convenience of the Convention I propose to move to proceed to the consideration of report No. 22, relating to election boards.

THE PRESIDENT. It is moved that the Convention proceed to the second reading and consideration of the article (No. 22) reported from the Committee on Suffrage, Election and Representation, entitled "Of Election Boards and Contested Elections."

The motion was agreed to.

THE PRESIDENT. The article is before the Convention on second reading. The first section will be read.

The CLERK read as follows:

SECTION 1. District election boards shall consist of a judge and two inspectors, to be chosen annually by the citizens, each elector having the right to vote for the judge and one inspector, and each inspector shall appoint one clerk to assist the board in the performance of its duties; but the selection of the first election board in any new district, and the filling of vacancies in election boards, shall be by judicial appointment, or otherwise, as shall be provided by law. Members of

election boards shall be privileged from arrest upon any day of election and while engaged in making up and transmitting returns, except arrest upon warrant of a court of record, or judge thereof, for an election fraud, felony, or for wanton breach of the peace; and in cities they may claim exemption from jury service, or from selection upon jury lists, during their term of service.

The section was agreed to.

The PRESIDENT. The next section will be read.

The CLERK read as follows:

SECTION 2. No person shall be qualified to serve upon an election board who shall hold or shall within two months have held any office, appointment, or employment in or under the government of the United States or of this State, of any city or county, or of any municipal board, commission or trust in any city, save only justices of the peace and aldermen and persons in the militia service of the State; nor shall any election officer be eligible to an election to any civil office to be filled at an election at which he shall serve, save only such subordinate municipal or local offices below the grade of city or county offices as shall be designated by general law.

Mr. HANNA. I move to amend this section in the second line by striking out the words "or shall within two months have held."

Mr. HARRY WHITE. I hope this amendment will prevail. I cannot see the force of placing a constitutional prohibition on a man who has been complimented by his fellow-citizens by an election to an office, from acting as an election officer. It is a thankless office at best in the larger portion of this Commonwealth, and I do not see why a man who has received the confidence of his fellow-citizens by holding some office, should have this badge of practical disfranchisement placed upon him. I think one of the evils of the times is the degradation of office-holding. I hope this Convention will not assume that every man who happens to hold a public office in this Commonwealth is unfit at the expiration of his term of office to act as an election officer. There is some propriety in not permitting him to act as an election officer while he is in the enjoyment of his office, but not after his office has expired. I hope the amendment will be adopted.

Mr. LILLY. This section was drawn in this way for a very good purpose, and I

think the Convention will agree with me if they reflect upon it for a moment. It has been the practice heretofore in order to get certain men into the election board who held office in Philadelphia and other parts of the State, for them to resign their offices the day before the election and be appointed in the election board, serve there, do the dirty work of the election, and then be re-appointed to their positions the next day. That is the difficulty that we wish to get rid of. By adopting the amendment now offered by the delegate from Philadelphia, you will take the heart out of the whole thing, you will spoil just what the Committee on Suffrage and the committee of the whole desire to obviate by this section. It is of no use whatever simply to exclude an office-holder from acting on the election board. You must leave this language in, because, as I say, the practice has been for them to resign the day before election and be re-appointed the day after election.

Mr. HANNA. Mr. President: I offered this amendment without any consultation with any member of the Convention, and simply for the reasons which have been so well stated by the gentleman from Indiana (Mr. Harry White.) It strikes me as exceedingly unjust to provide any such restriction as this, that no person for two months after he has resigned any public position, or held any public office, shall be allowed to act as an election officer. Now, sir, the objection stated by the gentleman from Carbon (Mr. Lilly) can be just as well applied to the section as it stands if we adopt it, because if it is true, as stated by him, that persons holding public office resign the day before election and then are re-appointed the day after the election, they can do that very same thing if we adopt the section as it stands.

Mr. LILLY. Two months is rather too long a time.

Mr. HANNA. It says, "no person who shall hold or shall within two months have held any office," &c. Could not that person say upon the election day, "I do not hold any public office," if he resigned the day previous, just as well? I submit that it is unjust, unwise and improper to place any such restriction upon citizens.

Why, sir, if we adopt the Constitution as provided for us here in Convention, we have decided that all cities having a population of over one hundred thousand shall be divided by the courts of quarter sessions into election divisions or precincts with two hundred and fifty voters.

What will be the consequence? In one single city in this Commonwealth we shall have five hundred or six hundred, probably seven hundred, election divisions. Each of these election divisions is to have its proper complement of election officers to be taken out of the two hundred and fifty voters of that division. There will be six or eight election officers; their clerks; and then, in addition, the overseers or supervisors to be appointed by the court, and where will we obtain in these small election divisions a sufficient number of election officers if we place such a restriction as this upon the people? I submit there will be a great difficulty in obtaining citizens who are willing to act as election officers out of that small number of electors. And now, in addition to that, we propose to say that no man shall be an election officer who shall have held a public position two months prior to election day. I submit it is well enough to go as far as I propose, and to that I see no objection. I am willing, for the purpose sought to be gained by the committee, to adopt that provision, and say that no person who shall hold any office, appointment or employment under the government of the United States, or of this State, or of any city, shall be an election officer. I am willing that all the election officers shall be independent of and separate from all connection with official positions; but I am not willing to say that any man who has resigned an office or appointment within two months of an election shall be disqualified from acting as an election officer. I hope the amendment I have offered will be adopted.

Mr. BUCKALEW. This provision will affect very few officers whose terms of office have regularly expired before the election. There are no offices that expire a month or two before the general election anywhere in the State. The terms of these offices begin in the winter, or in the city I suppose they begin in the spring. Therefore the argument that an officer whose term has expired cannot serve in these election boards, has no force. What is intended here is to cover the case mentioned by the gentleman from Carbon, the resignation of persons holding employment under city and county governments in this State, for the purpose of being put into the election boards in order to manage and manipulate the elections—a fact which has transpired most prominently in election contests in recent years. Why, sir, in this city these per-

sons literally swarm in election boards. Over and over again in the case of M^r. Clure vs. Gray did it appear that police officers of this city resigned their places the day before the election and were re-appointed the day afterwards, or they filed their resignations and had them lying in the proper office and then withdrew them afterwards, dodging the general law, and numerous cases were referred to in former elections.

I say then that this section will not interfere with any appreciable number of officers whose terms of office have regularly expired by limitation of time, because they will not expire within two months before the elections to which the section refers; and this provision, upon which the committee was entirely agreed, is necessary in order that this section shall have its complete effect. Without it, it may be made a farce. After carefully providing that a person holding official place or employment under the government shall not serve upon election boards, if you do not put in this provision fixing a reasonable time beforehand that the election officers shall not have held such places, the whole thing can be evaded.

THE PRESIDENT. The question is on the amendment of the delegate from Philadelphia (Mr. Hanna.)

The amendment was rejected.

Mr. HAY. I move to amend the section by striking out all after the word "serve" in the eighth line.

THE PRESIDENT. The part proposed to be stricken out will be read.

THE CLERK read as follows:

"Save only such subordinate municipal or local offices below the grade of city or county offices as shall be designated by general law."

Mr. HAY. I propose this amendment because, for one, I am unwilling that any person should be the judge of his own election, and because my experience, so far as it has gone in such matters, serves to satisfy me that the frauds in elections are committed not more or mainly for the purpose of sustaining the general ticket voted for at an election than for the purpose of electing persons to these petty offices.

Mr. LILLY. This clause was inserted in the section for this reason: In the county in which I reside I know we have two or more townships where there are not enough intelligent, educated men to hold the election outside of these officers who

are to be excluded by the Legislature below county officers. Now, the position of justice of the peace, assessor of the township, and quite a number of these offices have to be held by one single man; and in small townships, out in the wilderness as it were, this becomes actually necessary. I have in my mind's eye now a township in which if you exclude all officers from the election board you would stop the election; you would not have men enough there to carry on and hold the election.

The PRESIDENT. The question is on the amendment of the gentleman from Allegheny (Mr. Hay.)

The amendment was rejected.

Mr. SIMPSON. I move to insert in the fifth line, after the word "aldermen," the words "notaries public." The reason why I make this motion is this: The Governor, under the present law of the Commonwealth, has the power to appoint just as many persons as he pleases notaries public, and commission them. If this section be adopted in the form in which it now stands, those persons cannot serve as election officers, and yet they hold no office that entitles them to anything except such fees as they may make in the performance of their business, which is merely clerical; and it will deprive the citizens of the right to select good clerks and good accountants for the performance of the duty of election officers. This section will permit a man who holds a position as alderman or justice of the peace to serve as an election officer, although he is receiving fees under his commission, and yet it denies to the notary, who has not the power of the alderman, the right to perform the same duty. An alderman may issue a warrant and send a man to prison; a notary public has no such power, and I cannot understand why a notary public should be excluded, when an alderman is permitted to serve; and believing that it would be an advantage to the citizens to have such men serve in the capacity of election officers, I make the motion to insert these words:

The amendment was agreed to, there being, on a division, ayes sixty-one, noes seventeen.

The PRESIDENT. The question now is on the section as amended.

The section was agreed to.

The PRESIDENT. The third section will be read.

The CLERK read as follows:

SECTION 3. The courts of common pleas of the several counties of the Common-

wealth shall have power, within their respective jurisdictions, to appoint overseers of election to supervise the proceedings of election officers, and to make report to the court as may be required; such appointment to be made for a part or for all the districts in a city or county, or in a ward or other division thereof, whenever the same shall appear to the court to be a reasonable precaution to secure the purity and fairness of elections. Overseers shall be two in number for an election district, and shall be persons qualified to serve upon election boards and in each case members of different political parties. Whenever the members of an election board shall differ in opinion, a majority of said board and said overseers, acting together, shall decide the question of difference. In appointing overseers of election all the law judges of the proper court (able to act at the time) shall concur in the appointment made.

Mr. BUCKALEW. There is an omission in this re-print. In the ninth line after the word "boards," the word "therein" was inserted in committee of the whole.

The PRESIDENT. It is moved to insert the word "therein" after the word "board" in the ninth line.

The amendment was agreed to.

Mr. BUCKALEW. Mr. President: I have a single remark to make on this section. It was fully debated in committee, so that I presume it will be convenient for us here to vote without debate. My remark is this, that since the Convention have determined to strike out from the second section of the prior article reported by the Committee on Suffrage, the provision that electors shall have their names endorsed upon their tickets, the great check which the Committee on Election, Suffrage and Representation had provided upon election officers, is removed from our report, and this provision is the only one which remains as an efficient check upon the election boards themselves in the conducting of elections. I hope, therefore, especially now since the other provision has been omitted, that this section in its integrity will be retained.

Mr. CUYLER. I move to strike out, in the sixth and seventh lines, the words, "appear to the court to be," and insert the words, "be asked for by the petition of five citizens, lawful voters of such election division, setting forth that such appointment is."

I have but a word to say in support of the amendment. I am unwilling to leave

an absolute discretion in the courts upon this subject. I am unwilling to consent that if the court itself shall be of opinion that it is or is not a reasonable precaution to secure the purity and fairness of elections, they may or may not allow this appointment. I think it ought to be a right in the citizen, and that in the hands of judges who are elected by the people, the selections of political parties, the power is too dangerous to be lodged in them without the possibility of review. I feel this to be more important in view of the very remarks which the gentleman from Columbia has just now made.

It was my misfortune to be absent last week when the section was under review which provided for the subscribing of ballots by electors. If here, I would have desired to appeal to the Convention with the utmost possible earnestness on the subject, at least to have left in that which had been originally placed there by the committee of the whole; or, if I could not have accomplished all that I desired, to have added to it an option in the elector either to subscribe his ballot or to vote an open ballot, as he might prefer. I do believe that the method we have adopted amounts practically to nothing so far as the purity of the elections in the city of Philadelphia is concerned, and I do believe that the people of Philadelphia will come to feel when they read the work of this Convention on that subject, that we have achieved nothing whatever on that which is the most important thing and which should have commended itself to our consideration. But the Convention has acted on that subject; that article has been disposed of, and it is too late to be now discussed; but the amendment that I have now proposed seems to me to be a reasonable one, and one that will improve the provision of the section materially.

Mr. BUCKALEW. Mr. President: I am opposed entirely to the principle of this amendment. I may say, in the first place, that matters of detail like that suggested by the amendment must necessarily be provided by legislation, because the Legislature must follow our work here article by article and provide details; it is impossible for us to do it. And they may provide how the question of appointing overseers shall be brought before the courts, whether by petition or otherwise, and if by petition how many citizens shall sign it; whether it shall be signed by citizens of the election district or simply citizens of the city or county. But

I am opposed to this particular regulation, whether in a Constitution or in a statute, for this reason: Take the case of Philadelphia; an election is pending; a large number of candidates are running at large in the city, and candidates for State offices are running. I would authorize the courts to make appointments for all the precincts in a particular ward upon a general petition from the ward, or to make certain appointments in the city on a general petition from the inhabitants of the city. I would not put the power of the court within the control of a certain number of petitioners in the infected district itself. Observe, this is not a question in which the district where you appoint overseers is singly interested. It is a question of general interest to the whole ward, the character of which may be involved in the character of the elections held within it; or the question may be interesting to all the inhabitants of the city. Take, for instance, the case of a reform organization, such as was in the city of New York attempting to purge the Augean stables of that city. What was done? The reform organization presented its ticket. In such a case as that I want to authorize the courts, upon the petition of the general reform organization, and upon due proof made, to appoint these election officers in districts where the inhabitants of the special district may not ask for it, because it is not a question confined in its interest or importance to the inhabitants of that district. But as I said before, this is, in my judgment, a matter for legislation.

Mr. DALLAS. Mr. President: I rise for the purpose of saying a very few words in support of the amendment offered by my friend from Philadelphia (Mr. Cuyler.) The section, as the Convention will observe, provides that the court, upon an application made to it for the appointment of watchers under this section, will consider two things judicially: *First*, whether watchers are a reasonable precaution to secure the purity and fairness of elections; and, *second*, that the court should pass upon the qualifications of the persons to be watchers. That, sir, is giving us less than we have already for protecting the purity of elections through the instrumentality of authorized observers of the conduct of the officers at the polls. We have now, by act of Assembly, the right of petition in citizens of the election district to be affected to the court for watchers, and the

court, whether its judges think it right that the citizens should have them or not, are required to appoint, and the only question under that act of Assembly which the court may pass upon is the fitness of the persons named to be watchers. This section, therefore, gives us, as I have said, less than we already have. I believe that it should not be left to the court to say (for the court cannot know) whether it is a reasonable precaution in each precinct that the citizens should be provided with watchers to observe the conduct of the election. The citizens, or any five of them who are voters of that district, should have the absolute right to have them.

There is nothing in the objection that such appointments will affect not only divisions, but at times wards, and sometimes even an entire city or the State itself, and that, therefore, it should be left to the court and not to the citizens of any particular precinct—"the infected district," as the gentleman from Columbia puts it. There can be found five men in every election district who are not implicated in fraud and whose interests and whose party associations will make them desirous to have watchers appointed. There will always be in the most "infected districts," five men willing to ask for watchers, if there be any reason to ask for them; and if five men in any district think that they ought to have them, then it should be their absolute right to have them, and the court should only determine upon the qualifications of the men to be appointed. In this view, sir, you will observe that the subject of this amendment is not one of a legislative character any more than is that of the residue of the section. The amendment is not directed to matter of detail and does not, as the delegate from Columbia seems to suppose, provide *how* the court shall be applied to—whether by petition or otherwise, more than does the section itself. I take it that under the section it would, just as under the amendment, be necessary that a petition should be presented to the court in order to invoke the exercise of the jurisdiction proposed to be conferred. The difference is as to what such petition must contain and what the court must do. It is by this amendment simply proposed to say to the court, "you must" instead of "you may." That is all.

Mr. BROOMALL. Mr. President: I desire simply to state that I cannot vote for

this section, and that I do not think the amendment much helps it. It seems to me to be better calculated for an engine of fraud in elections than anything I have seen or heard of for a considerable time. In a great majority of the districts in the State there is but a single common pleas judge, and let us imagine that common pleas judge up for re-election. This gives him the power to put in every election district in his district two friends who can control the decision of the election officers, and who, in the event of the election officers differing, can reject or admit any vote that suits their friends. I know these overseers must be taken from the different political parties, but he would be a very strange judge of the court of common pleas who cannot find a friend in each election district of the opposite political complexion. I shall therefore vote against the section.

The PRESIDENT. The question is upon the amendment of the gentleman from Philadelphia (Mr. Cuyler.)

Mr. MACVEAGH. Let it be read.

The CLERK read as follows:

Strike out of the first sentence the words "appear to the court to be" and insert "to be asked for by the petition of five citizens, lawful voters of such election division, setting forth that such appointment is."

On the question of agreeing to this amendment, the yeas and nays were required by Mr. Dallas and Mr. Cuyler, and were as follow, viz:

YEAS.

Messrs. Achenbach, Addicks, Ainey, Alricks, Armstrong, Baily, (Perry,) Bailey, (Huntingdon,) Bannan, Barclay, Biddle, Bigler, Black, Charles A., Bowman, Boyd, Broomall, Brown, Calvin, Campbell, Carey, Church, Corbett, Corson, Craig, Cronmiller, Curtin, Cuyler, Dallas, Dodd, Edwards, Ellis, Fell, Green, Guthrie, Hall, Hanna, Hay, Hazzard, Hemphill, J. Heverin, Horton, Howard, Hunsicker, Knight, Lamberton, Landis, Littleton, MacVeagh, McCulloch, M'Murray, Patterson, D. W., Patterson, T. H. B., Patton, Purviance, John N., Read, John R., Reed, Andrew, Ross, Runk, Sharpe, Smith, Henry W., Smith, Wm. H., Stanton, Struthers, Temple, Van Reed, Walker, Wetherill, J. M., Wherry, White, J. W. F., Woodward, Worrell, Wright and Meredith, *President*—72.

NAYS.

Messrs. Andrews, Baker, Bartholomew, Buckalew, Cochran, Darlington, Davis, Do

France, Dunning, Fulton, Lilly, MacConnell, M'Cleane, Mann, Mantor, Minor, Mott, Palmer, G. W., Palmer, H. W., Porter, Purman, Rooke, Simpson, Turrell, Wetherill, Jno. Price and White, Harry—26.

So the amendment was agreed to.

ABSENT. — Messrs. Baer, Bardsley, Beebe, Black, J. S., Brodhead, Carter, Cassidy, Clark, Collins, Curry, Elliott, Ewing, Finney, Funck, Gibson, Gilpin, Gowen, Harvey, Kaine, Lawrence, Lear, Long, M'Camant, Metzger, Mitchell, Newlin, Niles, Parsons, Pughe, Purviance, Samuel A., Reynolds, Russell, Smith, H. G., Stewart and White, David N.—34.

Mr. TURRELL. I move to amend by striking out, in the third sentence, the words "and said overseers, acting together." If this clause be left in the section, the Convention will perceive it is practically adding two members to the election board, because it makes it the duty of these overseers to assist in deciding questions which come before the board. To this I am opposed. I do not think very much of the whole section, but I am specially opposed to giving to any judge or judges the appointment of two members of the election board to go in there with those officers who have been elected by the people and take part in and control the decision of the board on the questions that may arise before them. The election board is elected for the purpose of holding elections. The primary object of these overseers is intended to be to see that the election is fairly and properly conducted and perhaps aid the board in that respect. It is not designed that these overseers shall take part as election officers or that they shall decide questions which arise before the board.

For these reasons, I am opposed to this clause, and I hope the Convention will strike it out. There is another objection to it, which is that there is no provision made for these overseers after their appointment to be qualified, and they will not therefore act under the sanction of an oath.

Mr. J. N. PURVIANCE. I move to amend the amendment by striking out the third sentence.

The PRESIDENT. The amendment is capable of that modification. Will the gentleman from Susquehanna accept the modification?

Mr. TURRELL. I accept it.

The PRESIDENT. The amendment is so modified. The Clerk will read the words proposed to be omitted.

The CLERK read as follows:

"Whenever the members of an election board shall differ in opinion, a majority of said board and said overseers, acting together, shall decide the question of difference."

On the question of agreeing to the amendment, the yeas and nays were required by Mr. Turrell and Mr. Darlington, and were as follow, viz:

Y E A S .

Messrs. Addicks, Ainey, Bailey, (Huntingdon,) Baker, Bannan, Bartholomew, Biddle, Bowman, Broomall, Calvin, Carey, Church, Cochran, Corson, Darlington, Davis, Dodd, Edwards, Fell, Guthrie, Hanna, Hay, Hazzard, Horton, Howard, Knight, Lawrence, Littleton, MacConnell, MacVeagh, M'Culloch, Mantor, Minor, Parsons, Patterson, D. W., Purviance, John N., Rooke, Ross, Runk, Simpson, Smith, Henry W., Smith, Wm. H., Stanton, Struthers, Turrell, Van Reed, Walker, White, Harry, White, J. W. F. and Meredith, *President*—50.

N A Y S .

Messrs. Achenbach, Alricks, Armstrong, Baily, (Perry,) Barclay, Bigler, Black, Charles A., Black, J. S., Boyd, Brodhead, Brown, Buckalew, Campbell, Cassidy, Corbett, Cronmiller, Cuyler, Dallas, De France, Ellis, Gilpin, Green, Hall, Hemphill, Heverin, Hunsicker, Lamberton, Landis, Lilly, Long, M'Cleane, M'Murray, Mann, Metzger, Mott, Palmer, G. W., Palmer, H. W., Patterson, T. H. B., Patton, Purman, Read, John R., Reed, Andrew, Sharpe, Smith, H. G., Temple, Wetherill, J. M., Wetherill, Jno. Price, Wherry, Woodward, Worrell and Wright—51.

So the amendment was not agreed to.

ABSENT. — Messrs. Andrews, Baer, Bardsley, Beebe, Carter, Clark, Collins, Craig, Curry, Curtin, Dunning, Elliott, Ewing, Finney, Fulton, Funck, Gibson, Gowen, Harvey, Kaine, Lear, M'Camant, Mitchell, Newlin, Niles, Porter, Pughe, Purviance, Samuel A., Reynolds, Russell, Stewart and White, David N.—32.

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

Mr. MACVEAGH. The question is now upon the section. I would like to appeal to the Convention to consider whether or

not it is necessary to put this section in the Constitution. There certainly are very grave objections to it, which everybody will admit; and unless a very clear and definite necessity exists for it, it is certainly undesirable to insert it. In the first place it imposes upon all your judges the duty of distinguishing, of their own motion, (without any information, without any knowledge brought to them in any manner,) the politics of their appointees. It requires the judge in every county to designate the politics of his appointee by the mere fact of the appointment made by him, which seems to me exceedingly undesirable. In the next place we are now about to take a new lease of the elective judiciary, and here in the hard and fast lines of the Constitution you propose to put it in the hands of that elective judiciary to control your election boards.

There is no reason in the nature of things, however much there may be in its history, why the elective judiciary of Philadelphia should not become the hissing ~~and~~ the by-word that the elective judiciary of New York has become—none whatever; and who sincerely desires to add to the power of such judges as have sat in judgment in New York city the power of controlling your election boards, and giving them that power beyond the possibility of recall? The gentleman from Philadelphia (Mr. Dallas) declares that the Legislature has already enacted this section virtually, has enacted a stronger law than the section was as reported. Now, does there exist a necessity to impose this duty upon the judges under the elective system? Is it wise to put this statute into the Constitution with the knowledge that we are to elect our judges? Will not the elective judiciary have strain enough and weight enough to carry without putting non-judicial and partisan duties upon it?

I submit to the Convention that it would be wiser, in my judgment, however gentlemen may differ from me, to vote this section down. We have put a good many safeguards around the ballot, and we will put many more. If this is absolutely necessary, put it in also; but I confess I am utterly unable to see benefits in its favor outweighing the evils that I foresee as likely to result from its adoption.

Mr. LILLY. Mr. President: If the gentleman from Dauphin had been here the last ten days and listened to the debates of the Convention we should have been

spared the speech he has just made, because this section was thoroughly discussed within the last ten days. Every objection the gentleman has made to it has been met in that time, and I repeat if he had been here we should have been spared the speech and he would have spared himself the trouble of making it.

Mr. HARRY WHITE. I rise to a point of order. My point of order is that the honorable delegate from Carbon is alluding to what occurred in committee of the whole.

The PRESIDENT. Was the gentleman referring to what occurred in committee of the whole?

Mr. LILLY. I am referring to the whole proceedings of this Convention.

The PRESIDENT. It is out of order to refer to what occurred in committee of the whole.

Mr. LILLY. I do not desire to pursue that point any further at any rate.

The PRESIDENT. The Chair sustains the point of order. It is out of order in the House to make reference to the proceedings of committees, whether the committee of the whole or any other committees.

Mr. LILLY. I was going on to say that this section was intended to place around the ballot-box the protection of honesty. The gentleman opposed to this section starts out with the position that every judicial officer in the Commonwealth is a rascal, or likely to become one. Now I think that at least a majority of the judges of the Commonwealth will be honest men. I do not know of any judges that are not honest men now, and I believe they will continue to be so. I believe this power is provided in the proper place. The judge is not to appoint two politicians of the same stripe; he is not to appoint two men of the same political party, but he is to appoint two of the best men in the election districts, and if they differ in politics and agree that the election board are acting dishonestly and doing wrong, they ought to have the power to overrule it. It appears to me that it is really necessary that that should be the case, and, wherever properly called upon, the judge should exercise this power of appointment.

Now, I aver here, as I believe, that there will be not twenty election districts outside of the counties of Allegheny and Philadelphia where at any election the courts will be called upon to appoint these supervisors, and so we have here a great noise about very little. It is something

for the city of Philadelphia and the mining districts of the Commonwealth, where corruption has been known and proved to be so great as to destroy the whole power of the people in an election. Now, this section is calculated to remedy that, and I hope the Convention will vote it in.

Mr. SIMPSON. Mr. President: I wish simply to correct an error that has fallen from the lips of the gentleman from Dauphin in relation to the practice in Philadelphia. There is no such practice in this city as provides for the appointment of men to control election officers. It does not exist here. The officers who are selected under the law decide the questions; and although there are overseers or persons appointed to watch and examine and see that the election is conducted properly, they have no say whatever in the process; they must stand still and simply make notes of what goes on, and they have no power to interfere with the election officers. I shall vote against this section because it contains such a clause as will allow a person appointed by a court to interfere with the right of an election officer in the performance of the duty he is sworn to perform.

Mr. J. M. BAILEY. If the Convention is determined to pass this section, I hope that it will require the judges to appoint the overseers of the election from among the residents of the district. I therefore move to insert after the word "district," in the eighth line, the words "shall be residents therein," and to strike out the word "therein" in the ninth line.

The PRESIDENT. The question is on the amendment of the delegate from Huntingdon.

The amendment was agreed to.

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

Mr. DARLINGTON. There is still an objection to this section, as I think, which has not yet been stated. The Convention will perceive that it calls for the appointment of these overseers from two political parties. Now, what is to become of the third political party? In Chester county we usually have three, one Democratic, one Republican, and one Total Abstinence or Temperance party. Suppose the judge is called upon to appoint two gentlemen to watch over an election, and he has a friend in the Democratic party and a friend in the Temperance party that he can trust, what chance have the Republicans to have any good watcher there? Or suppose, if you please, that he appoints

one Republican and one Temperance man, what chance have my Democratic friends to have the election watched? It seems to me that where there are more than two political parties we ought to have more than two overseers. If there are three parties, as there are in many counties, you had better make an overseer of each political party, if they are to be appointed at all. For my own part, I am opposed to the whole section.

On the question of agreeing to the section as amended, the yeas and nays were required by Mr. Cuyler and Mr. Hunsicker, and were as follow, viz:

YEAS.

Messrs. Achenbach, Alricks, Armstrong, Bannan, Bigler, Black, Charles A., Boyd, Brodhead, Brown, Buckalew, Campbell, Cassidy, Church, Corbett, Cronmiller, Curtin, Cuyler, Dallas, De France, Dunning, Ellis, Gilpin, Guthrie, Hall, Hazzard, Hemphill, Heverin, Hunsicker, Lamberton, Landis, Lilly, Long, M'Clean, M'Murray, Mann, Metzger, Mott, Palmer, G. W., Palmer, H. W., Parsons, Patterson, T. H. B., Patton, Purman, Read, John R., Reed, Andrew, Ross, Sharpe, Smith, H. G., Smith, Henry W., Smith, Wm. H., Temple, Van Reed, Wetherill, Jno. Price, Wherry, Woodward, Worrel and Wright—57.

NAYS.

Messrs. Addicks, Ainey, Andrews, Bailly, (Perry,) Bailey (Huntingdon,) Baker, Bartholomew, Biddle, Bowman, Broomall, Calvin, Carey, Cochran, Corson, Craig, Darlington, Davis, Dodd, Edwards, Fell, Fulton, Green, Hanna, Hay, Horton, Howard, Knight, Lawrence, Lear, Littleton, MacConnell, MacVeagh, M'Colloch, Mantor, Minor, Patterson, D. W., Porter, Purviance, John N., Rooke, Runk, Simpson, Stanton, Struthers, Turrell, Walker, White, Harry, White, J. W. F. and Meredith, *President*—48.

So the section as amended was agreed to.

ABSENT.—Baer, Barclay, Bardsley, Beebe, Black, J. S., Carter, Clark, Collins, Curry, Elliott, Ewing, Finney, Funck, Gibson, Gowen, Harvey, Kaine, M'Camant, Mitchell, Newlin, Niles, Pughe, Purviance, Sam'l A., Reynolds, Russell, Stewart, Wetherill, J. M. and White, David N.—28.

The CLERK read the next section, as follows:

SECTION 4. The trial and determination of contested elections of electors of President and Vice President, of Senators and Representatives in the Legislature, and of all public officers, whether State, judicial, municipal or local, shall be by the courts of law regularly established, or by one or more of the law judges thereof. The Legislature shall by general law designate the courts and judges by whom the several classes of election contests shall be tried and regulate the manner of trial and all matters incident thereto; but no such law assigning jurisdiction or regulating its exercise shall take effect as to any contest arising out of an election held before its passage.

Mr. BUCKALEW. By a mistake in copying, the words "regularly established" in the fourth line were retained. They are quite unnecessary. Of course there can be no court of law not regularly established. I therefore move to strike out the words "regularly established."

The amendment was agreed to.

Mr. DARLINGTON. I do not know how it may strike other gentlemen of this Convention; but I very much doubt our power to say anything about the election of electors of President and Vice President. I therefore move to strike out, in the second line, the words, "of electors of President and Vice President."

It is well understood that the Legislature of the State, under the Constitution of the United States, may appoint electors for President and Vice President of the United States, and that was practiced formerly in some of the States, and perhaps it is yet in some of them. In this State we have provided for the election of electors of President and Vice President. If I recollect aright, there is a provision for the determination by that body itself of any contested election of any member of it. I very much doubt the propriety, even if it were an open question, of casting upon any court in the State the power to decide upon the election of those electors, the result of which might be that they would not decide in time for those officers to cast the vote for President and Vice President. It would be very easy to protract the investigation and inquiry, and it might be put over beyond the time when these gentlemen are to discharge their duties. It would be found to be very impracticable, and I take it to be entirely unconstitutional to do so. It is a matter which depends upon the legislation which Congress may prescribe on the

subject or which may be prescribed by the government of the United States. I think we might well omit that from this provision.

Mr. BUCKALEW. This is a necessary provision, and it is remarkable that it has been omitted heretofore in our Constitution and laws. The Constitution of the United States renders the decision of the question raised by the gentleman from Chester perfectly clear. In the second section of the second article of the Constitution of the United States it is provided:

"Each State shall appoint, in such manner as the Legislature thereof may direct, a number of electors equal to the whole number of Senators and Representatives to which the State may be entitled in Congress," &c.

It is, therefore, by express provision, a subject for State regulation, and for State regulation alone. I undertake to say that the Congress of the United States have no power over the subject of the appointment or election of electors of President and Vice President, the manner in which they shall be chosen, how returns shall be made, or how contests in regard to votes cast for them shall be tried; and what confirms this view is that the Congress of the United States have never passed any law on the subject; it is wholly without regulation. Now, sir, it is a public necessity that provision should be made, and be made at an early day, in each of the States with reference to this important question, because at any Presidential election which may occur hereafter a dispute in any one State with reference to the choice of electors may precipitate the people of the United States into a revolution, and there is no legal and regular mode provided, at least in this State, for the determination of such a dispute. Therefore, the committee very properly included the case of the contested election of electors of President and Vice President in this article.

My own idea is that the Legislature will provide on a subject of such great gravity as this, in case a dispute shall arise, that a prompt application shall be made to the Chief Justice of the State and that he shall designate two of his associate judges who shall sit with him and decide the dispute in a summary manner. It may not be a question in regard to the casting of illegal votes in a particular district. It may be a pure question of law arising upon the return, and upon the return of any one of

all the sixty-seven counties of the State, and being a judicial question it ought to have and it must have a judicial decision if it is to be decided properly. This is precisely one of the questions you cannot put into the hands of any political tribunal. My idea is that the Legislature, when they come to this subject, will make provision that the Chief Justice of our Supreme Court, with any two of his associates selected by him, shall hear the case in a summary manner. Well, sir, they will have something more than a month after a Presidential election before the electoral college is to meet, and by proper expedition of the case they may pass upon almost any difficult question of law that may be involved in a Presidential election. They may also make inquiry into any matter of fact. It is possible that in the case of a large fraud in such a city as Philadelphia, involving an inquiry into the elections in a very large number of election districts, there may not be time; but if a difficulty of that kind arises the Congress of the United States will have to make some provision to accommodate the States. They will have to make provision for a different time for the meeting of the electoral colleges.

Mr. MACVEAGH. I should like to ask the gentleman a question. Will he tell us what has been the practice when such difficulties have heretofore arisen? Certainly they must have arisen in the history of the government?

Mr. BUCKALEW. Certainly there has never been a contest in this State.

Mr. MACVEAGH. But in other States.

Mr. BUCKALEW. I do not know what difficulties they have had in other States on the subject; but I presume they have had some mode of determining disputes.

Mr. MACVEAGH. Then I will ask the delegate from Delaware (Mr. Broomall) if he has any experience on the subject? I should like to know for my part, and I suppose the House would.

The PRESIDENT. The gentleman on the floor cannot be interrupted.

Mr. BUCKALEW. Of course, Mr. President, the committee have no feeling on this subject. They only think that it is a necessity that some provision should be made. We have here charged this duty on the Legislature to pass a proper law upon the subject.

Mr. D. W. PATTERSON. Mr. President: It seems to me that we are about to enter on what has been heretofore untrodden ground in this matter. We have not even

an example, I believe, in the whole Union, of any proceedings of this kind as to contested elections of Presidential electors, Senators and Representatives of the Legislature. It proposes to put into the hands of the courts all questions of contested elections of electors of President and Vice President, Senators and Representatives in the Legislature, and to take away from the legislative department of the government the right to judge of the eligibility of its own members, though it is the supreme power of the State. But what more? Not only is it committed to the law judges of the several courts, but the Legislature is to designate the courts and the judges. One Legislature will designate a partisan judge, or perhaps a judge who may seem to make a partisan decision, and that consideration will outrage the sentiments of the opposite party. The opposite party next winter may be the dominant party and they will appoint another judge, thus bringing discontent and ridicule upon the judiciary, which you want to stand high above all politics and all suspicion. This certainly is very dangerous ground for us to tread upon.

The chairman of the committee says the committee had no party feeling or any other than a proper becoming and patriotic feeling on this subject. I hope not. I hope that that feeling does prevail here, and that any other than a regard for the public good does not exist in the Convention. This proposition is a new one, has certainly no part here, and is certainly a very new step, untrodden heretofore, and it seems to me very dangerous. I shall be constrained, with my present convictions, to vote against this section, and I think for the sake of safety this Convention should vote against it.

Mr. BROOMALL. I simply desire to answer the question propounded to me by the gentleman from Dauphin (Mr. MacVeagh.) As far as I remember, there has been no case of a contested election of Presidential electors in any State since the adoption of the Constitution. There was, however, a case raising some of the same difficulties that a contested election of electors would raise. At the first election of General Grant the question arose whether the votes of the electors of the State of Georgia should be counted, inasmuch as the State of Georgia was in that peculiar transition state which made it a little difficult to decide whether it was or was not one of the States of the Union, and the plan hit upon there was to dodge

the question. Every one saw the importance of it and saw that at some time or other that question or the similar one of a contested election of electors will precipitate the country into civil war, that it is only a question of time, unless some plan should be resolved upon to decide these important questions. What we did then was to declare what would have been the result in either event; and inasmuch as that result was the same, we decided that Grant and Colfax were elected. If the result had been changed by the reception or non-reception of the vote of Georgia the chances are that we should have been plunged at once into civil war, and the same thing will happen when a contested election of electors shall present itself to the country; I mean if the case in which the contest occurs will decide the question between the two political parties; so that the importance of this provision it is impossible to over-estimate.

I am in favor of the provision not so much because I like it as because I see nothing better, and because something is necessary. If we are going to avoid war, it is necessary that we should provide for the settlement of difficulties by some other means than war. I admit what my colleague says, that the time will be too short to make much investigation into a contest where it involves disputed facts; but it is only an act of Congress that fixes the time of the meeting of the electors, and when the attention of the country is called to this question, Congress will see the importance of postponing the time longer than the month that is now allowed for the purpose of permitting these contests to be settled. I repeat, every one to whose attention the matter was called in the case of Georgia saw it in the same light and saw that at some time, as matters stand, we shall be plunged into civil war, and that we only have to await the case of a contested election where the result of the contest will turn the scale.

The PRESIDENT. The question is on the amendment.

The amendment was rejected.

Mr. CAMPBELL. I offer the following amendment: Strike out in the second and third lines, the words, "Senators and Representatives in the Legislature." This is merely to allow the Legislature to judge of the qualifications of their own members.

Mr. BUCKALEW. I desire to say that the gentleman is entirely mistaken. This does not prevent the members of each

House from judging of the qualification of their own members. It only provides for contested elections.

Mr. CAMPBELL. That is my object.

The PRESIDENT. The question is on the amendment.

The amendment was rejected.

Mr. HARRY WHITE. I move to strike out all after the word "law," in the fourth line, and insert the following:

"In such manner as shall be prescribed by general law; but no such law shall apply to any contest arising out of an election held before its passage."

This amendment is entirely in the spirit of the section. It merely abbreviates and condenses the section while it expresses all that is, I apprehend, necessary to accomplish. In the first section of the article on the Legislature, as we now have it reported from the committee of the whole, we have this language:

"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 always been in favor of this provision and I am in favor now of having the provision placed in this article in harmony with the provision already approved in the article on the Legislature. The amendment I now offer simply affects the phraseology of the section under consideration. Its phraseology is somewhat confusing, and I apprehend that by striking out all after the word indicated and merely providing that these contests, when they may arise, shall be decided in such manner as shall be prescribed by general law, and then prohibiting the Legislature from passing a general law applicable to any particular case, we shall accomplish everything that can be desired.

Mr. BUCKALEW. I desire to inquire whether I understand this amendment correctly, and whether it will prevent the Legislature from providing that a part of the judges of the court of common pleas shall hear an election case?

Mr. HARRY WHITE. Not at all.

Mr. BUCKALEW. Otherwise, it is merely a matter of phraseology and not of consequence as matter of debate. It would be extremely inconvenient in a period of disturbance, in a time of popular excitement, to require the ten or twelve law judges of the court of common pleas of this city in which it is proposed to consol-

idate the present district court and common pleas, to sit together to hear any contested case; and it would be also extremely inconvenient in certain cases to require all the several judges of the Supreme Court to sit in a case where one or three would be sufficient. And so in regard to the seven or nine judges in Allegheny if the two courts there shall be consolidated.

This section was carefully drawn to authorize the Legislature to confer this jurisdiction upon the law courts entirely or a part of the judges thereof; not to select particular judges by name, as some gentlemen suppose, but to designate how the judges shall be selected; as, for instance, they may provide that one or two or three judges oldest in commission should in all cases try the particular issues. I prefer—unless the gentleman can show me that his phraseology is better—the section as the Committee on Suffrage, Election and Representation have drawn it, because every word was carefully considered.

MR. HARRY WHITE. I am not at all tenacious about mere phraseology. I think, however, that the briefer and more comprehensive we make our expressions, the better. The expression which is to be found in the amendment I have indicated is certainly as comprehensive as can be desired, and it is in harmony with the section which was adopted, after debate, in the report of the Committee on the Legislature. If this phraseology is followed here, there will be an entire harmony between the two sections of the two articles.

Then, furthermore, delegates will observe that the amendment which I have offered contemplates the decision of contested elections by the courts of law in such manner as shall be designated or prescribed by general law. That omits the expression "or by one or more of the judges thereof." This omission is my intention, and I think it wise that it should be so. The Convention will understand that this is a grave question. It is an organic change in our law. The present method of trying contested elections is before the Legislature, and we are transferring that great responsibility, which may affect the political complexion of that body, and ultimately the peace of the Commonwealth, from that tribunal to the courts of the Commonwealth. I think it wise that that transfer should be made. I am opposed, however, to plac-

ing in the organic law the privilege of having these contests decided by one law judge. If this delicate responsibility is to be exercised and this duty is to be fairly performed, it ought to be done by the courts; it ought to be done in a place where justice is judicially administered; it ought to be done where it is open to all the public; it ought not to be by a judge sitting at his chamber, if such a thing is possible, as some gentlemen suppose. It ought to be done in court; and all these suggestions that by reason of the multiplication of cases which may be investigated, the court will be too heavily burdened by the introduction of this new business, must be answered by the statement that the Legislature will have to provide sufficient judicial force.

Then, I submit, in the district court of the city and county of Philadelphia and of the county of Allegheny, or in any other county where they have more than one judge, it is competent for one judge to hear civil complaints, to hold the civil side of the court; and it is very easy for the judges to arrange among themselves the time, and the place, and the person who shall hear this case, and when it is then heard, it is heard by a judge, not a judge alone, sitting as a judge, but sitting in the court.

That is what I desire. I desire this to be a judicial proceeding, disposed of as other judicial proceedings are. That is one of the purposes and objects of my amendment.

MR. BUCKALEW. As the gentleman has now explained his amendment, it bears exactly the character I supposed it did. It strikes out the authority given to the Legislature to designate the courts and judges by which election contests shall be tried, and it prevents a part of the court hearing and determining any contest. It would be simply monstrous to require the whole court to sit and hear a question of contested election.

MR. HARRY WHITE. I would just suggest to my friend from Columbia that this has been done in the courts of this city in the contested election case of *Mann vs. Cassidy* and in other cases.

On the question of agreeing to the amendment of Mr. Harry White, a division was called for, which resulted twenty-one in the affirmative. This being less than a majority of a quorum, the amendment was rejected.

MR. MACVEAGH. Mr. President: I cannot see the wisdom of transferring the

absolute decision of political questions of such grave importance to the judicial branch of the government, especially to elective judges. This is a serious question; and certainly the country has not been enamored by some of the results that have come from handing over the political power of the government to a judge. We have seen it tried recently in Louisiana, where one political party went before the judiciary to organize the State government. Gentlemen know whether or not it has acted well. Judges are but human, and we know perfectly well that political questions have given rise to terrible scandal in our own State and in the Supreme Court of our own State. What was more wretched as an exhibition of the judicial character than the scramble and the scandal about naturalization papers in this State a few years ago? What lawyer's cheek in this State did not blush for shame when he read it? What lawyer's cheek does not blush for shame when he thinks of the usurpation in Louisiana, where the State government was organized by a judge and where to-day the people of Louisiana are governed by the mandate of a judge, and not by their own elections? I do not know who was elected there; I do not know anything about that; all I do know is that a judge ought not to have decided the question; and I submit that now to ask the people of this country to give the entire power of their political action into the hands of an elective judiciary is something that I cannot and dare not endorse. We elect politicians to our judgeships, and then we ask our judges to decide upon our political departments of government.

It is, as the gentleman from Indiana has said, a very grave step; and he is convinced that it ought to be taken. If the judges could have been made non-partisan, I should have been disposed to vote for it, although, as I reminded the Convention once before, a non-partisan judiciary, like that of England, has utterly broken down under the burden of the decision of contested elections. They have this law in operation there now, and Mr. Justice Keogh, in delivering the Galway judgment, literally broke himself as a judge in the United Kingdom. His judgments as between man and man are worth nothing in the public opinion of Ireland to-day. He was hunted out of Ireland after he made his decision in the Galway case and fled to the police of London for protection. That is the result of

handing over political power to the judges. The naturalization scandal in Pennsylvania is one of these results, and the Louisiana scandal is another; and now you propose that the political machinery of the State of Pennsylvania shall be delivered over to the judges, that the whole country shall be delivered over to anarchy in case a contest arises as to the election of Presidential electors until the judges of the State shall decide who is to be the President of the United States!

The Constitution of the United States says distinctly that the Legislature shall prescribe the method of choosing the Presidential electors. You propose here to say that the judicial department of the government shall prescribe it. The language of the Constitution of the United States is very specific indeed, that they shall be appointed in such manner as the Legislature shall appoint, and under it you could not make a mandatory provision upon the Legislature to hand this power over to the judiciary. It may be said that you direct the Legislature that it shall be done by the Judiciary, but the men who wrote that Constitution had in mind the division of the powers of government between the legislative and the judicial branches, and they put this great political trust into the legislative department as, it seems to me, a political question to be kept away from the judiciary.

I am sorry to trouble the Convention; but, as I feel obliged to vote against the section, I have regarded myself as constrained to state the reasons for that vote.

MR. BIDDLE. I desire simply to say that I concur heartily and entirely in everything that has been said by the gentleman from Dauphin (Mr. MacVeagh.) I shall vote against the section.

MR. WHERRY. It strikes me that the view that the gentleman from Dauphin has taken of this section is an extremely narrow view. Undoubtedly it is not the purpose of this section to hand the political power of the government over to the judiciary. The section is based upon the principle that the right to hold an office is a right to be determined by law, as any other right is to be determined. It is not a question whether this or that man, representing this or that political party, shall hold the office; but it is simply a question for a court and a jury to determine whether this or that man holds the office by legal right. That is all, that and nothing more. It is not imposing upon the judicial department any extra-judi-

cial work. It is purely and emphatically a proper matter for the judiciary to determine. It is the object and the purpose of the judiciary to see that the law is applied. Why shall they not apply it in rights growing out of popular elections as well as any other rights, rights of property or rights of persons? I trust that this section will pass just as it came from the committee of the whole. It is, in my humble judgment, the best reform which the Convention has yet considered, and if incorporated in this article it will serve largely in relieving this State from more odium than any single section which we can possibly pass.

On the question of agreeing to the section, the yeas and nays were required by Mr. MacVeagh and Mr. Knight, and were as follow, viz:

Y E A S.

Messrs. Achenbach, Alricks, Armstrong, Bailey, (Huntingdon,) Bannan, Bigler, Black, Charles A., Black, J. S., Boyd, Brodhead, Broomall, Brown, Buckalew, Calvin, Cassidy, Church, Corbett, Cronmiller, Curtin, Dallas, De France, Dunning, Ellis, Fulton, Gilpin, Green, Guthrie, Hall, Hay, Hazzard, Hemphill, Hunsicker, Lambertson, Landis, Lilly, Long, M'Clellan, Mott, Palmer, G. W., Parsons, Patterson, T. H. B., Patton, Porter, Purman, Read, John R., Reed, Andrew, Rooke, Ross, Sharpe, Smith, H. G., Smith, Henry W., Smith, William H., Van Reed, Wherry, Woodward, Worrel and Wright—57.

N A Y S.

Messrs. Ainey, Baily, (Perry,) Baker, Bartholomew, Biddle, Bowman, Campbell, Carey, Cochran, Corson, Darlington, Davis, Edward Fell, Hanna, Horton, Howard, Knight, Lawrence, Littleton, MacConnell, MacVeagh, M'Culloch, Mann, Mantor, Minor, Newlin, Palmer, H. W., Patterson, D. W., Purviance, John N., Runk, Simpson, Stanton, Struthers, Turrell, Walker, White, Harry, White, J. W. F. and Meredith, *President*—39.

So the section was agreed to.

ABSENT.—Messrs. Addicks, Andrews, Baer, Barclay, Bardsley, Beebe, Cartor, Clark, Collins, Craig, Curry, Cuyler, Dodd, Elliot, Ewing, Finney, Funck, Gibson, Gowen, Harvey, Heverin, Kaine, Lear, M'Camant, M'Murray, Metzger, Mitchell, Niles, Pughe, Purviance, Samuel A., Reynolds, Russell, Stewart, Temple, Wetherill, J. M., Wetherill, John Price, and White, David N.,—36.

The PRESIDENT. The article is gone through with; and the question is, shall it be transcribed for third reading?

Mr. BUCKALEW. I move that the article be referred to the Committee on Revision and Adjustment.

The motion was agreed to.

RESIGNATION OF MR. GOWEN.

Mr. WOODWARD. Mr. President: I ask leave to make a motion.

The PRESIDENT. Shall the gentleman have leave? ["Yes!"]

Mr. WOODWARD. The gentleman from Columbia having moved to refer the article just acted on to the Committee on Revision, I beg to observe that there is no chairman of that committee here. Mr. Gowen, who was the chairman, resigned some time since. On my motion once before, the Convention resolved by a large majority not to accept his resignation. I now rise for the purpose of renewing that motion. I move that the resignation of Mr. Gowen be accepted and that the filling of the vacancy be referred to that portion of the delegates at large who were elected on the same ticket with him. I do not know whether this motion is debatable or not, but if it be debatable I have this to say—

The PRESIDENT. The motion is debatable.

Mr. WOODWARD. I consider it due to Mr. Gowen that we should not call his name every time the yeas and nays are taken, and publish in the papers and in our Journal that he is an absentee, when he has in fact resigned, as he had a right to do. He sent in his resignation, which I suppose he had a right to do. He not only has not withdrawn it, but I have a note from him written very recently, positively refusing to withdraw it. It stands where he placed it. I knew it would stand there, because Mr. Gowen is a man who acts upon evident conviction; he is not a trifler; he does not undo to-day what he did yesterday. He stands where he placed himself. He resigned; he is no longer a member of this body.

Now, I say this body owes it to Mr. Gowen to not hold him up as a seeming absentee from the sessions of this body as they do by calling his name every time the yeas and nays are taken. Then the Convention owes it to itself to bring in some man in his place. I do not know that we can bring in so good a man, but we will do the best we can if you give us a chance. You need a man at the head of this committee to whom you have just

referred the article last acted on, and which will become in our future deliberations a very important committee.

For these several reasons I have submitted this motion, but I give notice to the Convention I will never make the motion again. I will consider it on this occasion a finality as far as I am concerned.

The PRESIDENT. It is moved that the resignation of Mr. Gowen be accepted, and that the appointment of his successor be referred to the committee of delegates at large who were voted for on the same ticket with Mr. Gowen.

Mr. LILLY. I opposed the acceptance of Mr. Gowen's resignation with the hope that he would withdraw it, and for that reason I opposed it on both occasions. I took the liberty of addressing him a letter on the subject in my own way, about ten days or two weeks ago. He held the letter several days, and finally answered it and told me that upon mature deliberation he should insist on resigning. If the Clerk will read the letter I will send it to the desk.

The CLERK read as follows:

POTTSVILLE, May 30, 1873.

WILLIAM LILLY, Esq.,—DEAR SIR:—Yours of the twenty-sixth is received. I cannot but be gratified by your remarks; but I feel that it would be improper for me to withdraw my resignation. I accepted the position of a member of the Convention at great personal inconvenience to myself, and think it is better that I should not attend hereafter. I trust therefore that my resignation will be accepted.

Very truly yours,

F. B. GOWEN.

The PRESIDENT. The question is on the motion that Mr. Gowen's resignation be accepted and the appointment of a successor referred to the fourteen delegates at large elected on the same ticket with him.

The motion was agreed to.

RECOGNITION OF GOD.

The PRESIDENT laid before the Convention the following communication, which was read and laid on the table.

UNITED PRESBYTERIAN GENERAL ASSEMBLY—SECOND CHURCH, PHILADELPHIA, June 3, 1873. }

To the Constitutional Convention, now in session in this city: The General Assembly of the United Presbyterian Church, having met for deliberation also in this city, send greeting:

Inasmuch as the United Presbyterian church is largely located in the State of

Pennsylvania, and as this State, in virtue of its geographical position, its population, resources and moral power, is largely influential among the other States of this Union, important results, both in the interest of religion and morality, will follow from your present action, ask leave respectfully to represent that the christian religion, being the religion of this world by Divine Constitution, and destined to prevail over all the world, it is desirable that our civil Constitutions be conformed to this fundamental truth, acknowledging the supremacy of Almighty God, the truth of christianity, and the obligation of the Divine Law, and that we claim the blessing and protection of the sovereign ruler of the world for ourselves and our posterity.

We feel ourselves at liberty to speak freely on this subject on account of its connection with our origin and continuous history, and inasmuch as we have solemnly testified against the establishment and support of the church by the State, as being prejudicial to the interests of both, this, however, leaves us free to affirm that civil government is ordained of God and that the civil ruler is God's minister, that both should acknowledge God, whose servants they are; and that both laws and administrations should be conformed to His revealed will as contained in the Holy Scriptures.

All of which is respectfully submitted to your consideration on behalf of the General Assembly of the United Presbyterian church.

By Committee { G. C. VINCENT,
JAMES P. LYTLE,
WM. S. OWENS.

EXECUTIVE DEPARTMENT.

The PRESIDENT. The next thing in order is the second reading of the article reported by the Committee on the Executive Department.

Mr. DARLINGTON. I suppose it would be more in order, if it be regular, to take up the article on the Legislature. ["No." "No."] I move that we proceed to the consideration of the article reported by the committee on the Legislature.

Mr. CURTIN. I call for the regular order.

The PRESIDENT. The order of the day is called for. The first business in order is the article reported by the committee on executive department. Will the House proceed to its second reading and consideration?

The question being put, it was determined in the affirmative. The Conven-

tion accordingly proceeded to the second reading and consideration of the article reported by the Committee on Executive Department, being report No. 7.

The PRESIDENT. When this article was last under consideration on second reading, the question was on the second section, which will be read.

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 president 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. HARRY WHITE. I observe that the first section has been passed over and the second section is read. May I ask the Chair why that is?

The PRESIDENT. The Chair stated that the first section was agreed to on second reading, on a previous occasion; and the question now is on the second section.

Mr. HARRY WHITE. I was not aware of that.

The second section was agreed to.

The next section was read, as follows:

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.

Mr. BRODHEAD. I move to amend by striking out the words "capable of holding" and inserting the words "eligible to." The difficulty with this phraseology is that in case of the Lieutenant Governor becoming, by the operation of our laws and the laws of death, Governor, he cannot hold the office. It is not the intention of the Constitution to prevent a man of that kind holding it, but to prevent a

man being re-elected for a second term, I take it.

The PRESIDENT. The question is on the amendment.

Mr. WHERRY. I move to amend the amendment by striking out all after the word "election," in the second line of the section.

The PRESIDENT. That is not strictly in order as an amendment to the amendment. The propositions are separate and distinct.

Mr. WHERRY. I withdraw it.

The PRESIDENT. The question is on the amendment.

The amendment was agreed to.

Mr. WHERRY. Now I move to amend the section by striking out all after the word "election," in the second line, in these words: "And shall not be capable of holding the office for the term next succeeding the term for which he was elected."

The amendment was rejected.

Mr. BUCKALEW. I submit an amendment on which I desire the yeas and nays recorded in order to place myself on the record. It is to strike out after the word "for," in the third line, the words "the term next succeeding the term for which he was elected," and insert "any third consecutive term."

This amendment raises directly the question whether the Convention will retain the provision in the present Constitution or not. I am in favor of retaining it, making a provision that the Governor shall not be elected for the third term, permitting him to hold his office for two terms if the people choose to re-elect him for a second. I suppose I am at liberty to state simply that on a former occasion I made some observations upon this particular proposition, and I do not choose to repeat what was then said by me. The more I have reflected since, the more strongly am I in favor of permitting the people of this State to choose their principal executive officer for a second term if they choose to do so.

The whole argument which has been applied to the question of re-electing the President of the United States fails altogether in the case of the Governor, for the Governor of your State has no consideration to bestow. The principal function which he can perform for the people is to stand as a breakwater against improper legislation, to defend the rights of the people against ill-considered, improvident and corrupt laws; and in performing

that duty of course he is always obliged to make enemies. Where an officer is faithful to this popular trust in our State government, I would permit the people to continue him for a second term. When he has been tried and known to be faithful and useful, I would permit them to continue him, instead of running the risk of trying a new officer in that station who may turn out to be less fit. I think the men who framed our old Constitution judged wisely, and that it is sufficient to say that he shall not hold more than two terms consecutively, so that at reasonable recurring intervals there should be a change in this office.

But gentlemen seem to run away with the idea that it is popular with the people to have officers in office but a single term. Now, sir, that argument relates to two classes of offices only: First, those which are lucrative, those which pay well, as for instance a sheriff or a treasurer in the city of Philadelphia, who handles large amounts of money and is supposed to make a good deal of money during a single term—especially the sheriff—and who by reason of his connection with the people is in a situation to electioneer actively for his own re-election. It is well enough that such officers should be confined to a single term; and although I have never agreed to the proposition myself, there is some force in the argument when applied to such an office as that of President of the United States, with a prodigious mass of public patronage in his hands, the disbursement substantially of enormous sums of money to individuals scattered all over the United States, in every county and district from one end of the country to the other, of not permitting the incumbent to use that enormous power to continue himself in office. I grant that there is force in that argument, although there is an argument upon the other side into which I need not enter.

But neither of these considerations to which I have referred applies to the office of Governor. It is not an office of great profit. Nobody who holds it can from his salary save any considerable amount of money, and he has no patronage to bestow which will control elections to secure his own re-elevation to the office which he has held. Therefore, in my judgment, as to this officer, the argument is overwhelming in favor of the provision of the old Constitution permitting the people to re-elect a faithful and true officer to the seat in which he may have discharged

his duties faithfully. I hope, therefore, the Convention will vote with me against this proposed change of introducing the one term principle in the Constitution with reference to the Governor of this Commonwealth.

Mr. CURTIN. It will be observed by the Convention, Mr. President, that by this article the tenure of the Governor is lengthened one year, and that the principle of ineligibility after one term of service applies to the officers of the executive department. If the reasoning of the learned delegate from Columbia is applicable to a Governor who has held a second term, it is certainly equally applicable to one who has held but a single term, because if the people (as would be proper enough) should choose to re-elect a man Governor of the State, and he discharges his duties faithfully and to their satisfaction, there is no reason, on the process of reasoning of the gentleman, why they should not elect him for a third, or fourth or fifth term, or indeed continue him in office during his entire life.

The delegate says that the objection to the principle of re-election is properly applicable to the President of the United States, because of his patronage; but that it is not as applicable to the Governor of Pennsylvania as it is to officers having the receipt and disbursement of large sums of money, because the Governor of Pennsylvania has little patronage. Why, sir, there are a hundred disappointed men in the appointment of every one man to office. The appointing power gains one fast and faithful friend, but he disappoints many who are applicants; and I doubt much whether the mere power of appointment to office strengthens the hands of executive power or gives the Executive the means of holding his office more than one term.

There is more power in the hands of the Executive for continuing his office and procuring a renomination in the veto power than in the appointment of all the officers of the Commonwealth if you restored it to him to-day. While you retain in the hands of the Executive the power to check legislation or the power to promise legislation, you give him a much stronger means of procuring a renomination than the mere power of appointment to office would give him.

Then, again, if it be true that the power of pardon in this Commonwealth has been used for selfish purposes or has been controlled by corrupt means, (of which I

have very serious doubts,) there is in the exercise of that power continually in the hands of the Executive of the State a means of procuring his continuance in office.

Sir, this section is designed for the purpose of giving notice beforehand to the Executive that he can retain his place for but four years, so that he may devote himself to the duties of his office, to enlarging the power and the consequence of the State, to checking improper legislation, to discharging all his duties faithfully, and to giving peace, prosperity and happiness to the people. There is no part of this report to which the committee gave more deliberate consideration, upon which they were more unanimous in opinion, and upon which, in my opinion, the Convention should hesitate less, and I am only surprised that a delegate of the intelligence and experience of the gentleman who has just taken his seat, should object to this saving and conservative part of the report.

On the question of agreeing to the amendment, the yeas and nays were required by Mr. Buckalew and Mr. MacVeagh, and were as follow, viz:

Y E A S.

Messrs. Alricks, Brown, Buckalew, Corson, Fulton, Hay, MacVeagh, Mann, Mantor, Minor, Newlin, Patterson, D. W., Patton, Runk, Smith, H. G., Wherry and Woodward—17

N A Y S.

Messrs. Ainey, Armstrong, Baily, (Perry,) Bailey, (Huntingdon,) Baker, Bannan, Bartholomew, Biddle, Bigler, Black, Charles A., Black, J. S., Bowman, Boyd, Broomall, Carey, Cochran, Corbett, Cronmiller, Curtin, Dallas, Darlington, Davis, De France, Dodd, Dunning, Fell, Gilpin, Guthrie, Hall, Hazzard, Hemphill, Horton, Howard, Hunsicker, Knight, Lamberton, Landis, Lawrence, Lilly, Littleton, Long, MacConnell, McClean, McCulloch, Mott, Palmer, G. W., Patterson, T. H. B., Porter, Purviance, John N., Read, John R., Rooke, Ross, Sharpe, Simpson, Smith, Henry W., Stanton, Struthers, Turrell Van Reed, Walker, Wetherill, J. Price, White, Harry, Worrell, Wright and Meredith, *President*—65.

So the amendment was rejected.

ABSENT.—Messrs. Achenbach, Addicks, Andrews, Baer, Barclay, Bardsley, Beebe, Brodhead, Calvin, Campbell, Carter,

Cassidy, Church, Clark, Collins, Craig, Curry, Cuyler, Edwards, Elliott, Ellis, Ewing, Finney, Funck, Gibson, Green, Hanna, Harvey, Heverin, Kaine, Lear, M'Camant, M'Murray, Metzger, Mitchell, Niles, Palmer, H. W., Parsons, Pughe, Purman, Purviance, Samuel A., Reed, Andrew, Reynolds, Russell, Smith, Wm. H., Stewart, Temple, Wetherill, J. M., White, David N. and White, J. W. F.—50.

MR. DARLINGTON. I move to amend in the first line by striking out the word "four" and inserting "three," so that the Governor shall hold his office for three years and be ineligible to re-election.

The amendment was rejected.

THE PRESIDENT. The question is upon the section as amended.

The section was agreed to.

Section four was read as follows:

SECTION 4. A Lieutenant Governor shall be chosen in the same manner, at the same time, and for the same term, and 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.

Section five was read as follows:

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 sixth section was read as follows:

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. DARLINGTON. I suppose the word "of" in the second line to be a misprint, in the expression, "of this State." I move to strike it out.

The amendment was agreed to.

The section as amended was agreed to.

Section seven was read as follows:

SECTION 7. The Governor and Lieutenant Governor shall at stated times receive for their services a compensation, which shall be neither decreased nor diminished after their election nor during the term for which they shall have been elected.

The section was agreed to.

Section eight was read 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.

Mr. LAMBERTON. I move in the second line to strike out the word "this" and insert "the," so as to read, "army and navy of the Commonwealth," to correspond with the phraseology in the other sections.

The amendment was agreed to.

The section as amended was agreed to. Section nine was read 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 nays and shall be entered on the Journal.

Mr. WORRELL. In the eleventh line I move to strike out the word "officer" and insert the words "office or."

The PRESIDENT. The Chair was about to observe that there was evidently a misprint in this line.

Mr. CURTIN. It is a mis-print. It should read "in a judicial office or in any other elective office."

The PRESIDENT. By unanimous consent the correction will be made. The chair hears no objection and it will be made.

Mr. DARLINGTON. I move to amend in the second line by striking out "two-thirds" and inserting "a majority." The Committee on the Executive Department and the committee of the whole have adopted this two-thirds principle.

The PRESIDENT. It is not in order to refer to anything done in committee of the whole.

Mr. DARLINGTON. Well, Mr. President, in some way the principle of two-thirds has got into this section. The question which I wish to submit to the calm consideration of the Convention is whether that is right. Why require the advice and consent of two-thirds of all the members of the Senate to the appointment of the Secretary of the Commonwealth and the Attorney General? With that provision in the Constitution, it is in the power of any minority, a trifle over one-third of the Senate, to baffle the Executive very considerably. I think you have it safe enough when you require the advice and consent of a majority of all the members of the Senate instead of two-thirds. In times of high political excitement it would not be difficult to imagine that a minority of the Senate who would be deemed somewhat factious, (but faction sometimes exists in that body as well as in some others,) might easily say to the Governor, "you shall not have that gentleman for your Secretary of the Commonwealth, nor this other gentleman for your Attorney General," although he might be acceptable to a large majority of the members of the Senate.

For myself, I very much doubt the propriety or policy of requiring the assent of the Senate at all to the appointment of these two officers. They are the confidential advisers especially of the Governor, and he is responsible for them and for their conduct. He should have the power, in my judgment, of appointing them without any control whatever; but if that view be not acceptable to the Convention, he should, at all events, not be controlled by more than a majority of the Senate. I apprehend the power of appointment would be entirely safe against any improper use of it if the ma-

majority of the Senate only were required to assent.

The PRESIDENT. The question is on the amendment of the delegate from Chester.

Mr. MACVEAGH. I call for the yeas and nays on that amendment.

Mr. WOODWARD. I do not know that I understand the amendment. If it is what I suppose it is, I am going to vote for it.

Mr. DARLINGTON. My amendment is to strike out "two thirds" and insert "a majority."

Mr. CORSON. Mr. President: I favor the amendment proposed by the gentleman from Chester. I think in a State like Pennsylvania, where we are frequently so evenly divided that on joint ballot one party has but one majority in the Legislature over the other, it would tie up an administration and clog the very wheels of government to have such a provision as this in the Constitution, because a factious set of men in a Legislature could prevent your Governor from proceeding with the administration of public affairs. I remember the time when the distinguished gentleman from Columbia was elected to the Senate of the United States by one majority on joint ballot. At that time, when his party had but one majority in the Legislature, such a clause as this, if those with whom I have been pleased to act in the past had felt disposed, could have prevented a Governor if of the other party from having a Secretary of the Commonwealth and an Attorney General.

But it seems to me that not only this amendment ought to be adopted, but that section nine ought to be a part of section eight or else the pronoun "he" at the beginning of the section should be stricken out and the word "Governor" inserted. I submit to the chairman of the committee that the pronoun "he" there is not the proper word. It should be "the Governor shall nominate, and by and with the advice and consent of two-thirds of all the members of the Senate appoint," because it is a separate and distinct section and is in no way connected with any other section; and therefore it is not grammatically correct as it now stands.

Mr. WOODWARD. Mr. President: I heard the gentleman from Chester very imperfectly. I thought his amendment was to strike out all that part of the section which subjects the appointments of the Governor, so far as the Secretary of State and the Attorney General are con-

cerned, to the concurrence of the Senate. For that amendment I was disposed to vote; but as between the concurrence of two-thirds and of a bare majority of the Senate, I have nothing to say. I do not care anything about that.

This subject was considered very carefully in the Convention of 1837, and that body was sufficiently disposed, as you know, sir, to restrain executive patronage; but the Convention considered when they came to the appointment of the Attorney General and the Secretary of State that they were so peculiarly cabinet officers of the Governor and necessarily in such confidential relations with him, that it was due to him and to the dignity of his office that he should be left entirely free in the choice of those officers; and therefore, while they subjected his appointment of judges and other officers to the concurrence of the Senate, they did not impose any restraint upon him so far as the Attorney General and the Secretary of State were concerned. The rule of the Constitution of 1837 has worked no inconvenience, so far as I know, in this regard, but on the contrary I think it has been found to be useful. We have on this floor two gentlemen who have occupied the office of Governor, and I appeal to them to know if any inconvenience has resulted from the rule which the Convention of 1837 insisted upon retaining in the Constitution. We have not heard from them as yet any evidence on that subject, and so far as I know, though I am not familiar with executive matters at Harrisburg, no inconvenience whatever has resulted.

Mr. BIGLER. With the permission of the gentleman—

The PRESIDENT. The gentleman on the floor cannot be interrupted.

Mr. BIGLER. I suppose he may be with his consent.

Mr. WOODWARD. The gentleman will have an opportunity to answer my question when I have finished the few observations I have to make.

Mr. President, what we have found for thirty-five years to work well, I think we shall do well to let alone. I do not approve of such a palliative as the gentleman from Chester county proposes by striking out "two-thirds" and putting in "a majority," but I want to strike it all out and make these two officers dependent for their appointment and for their continuance in office upon the will and pleasure of the Governor. Surely, sir, the Governor of this Commonwealth

of Pennsylvania, now with our four millions of people, and our immense interests of all kinds, ought to have a couple of confidential advisers to advise him, men that are selected with a view to his own convenience and the proper discharge of his official duties. If that was a good rule in 1837, it is a much better rule now in 1873. Therefore, sir, I move, if I am in order, to amend the motion of the gentleman from Chester, by striking out all those words that impose any limitation or restriction upon the Governor in the appointment of the Attorney General and the Secretary of the Commonwealth. My motion will be to strike out all the words in the first part of this section, except the word "appoint," so as to read: "He shall appoint a Secretary of the Commonwealth and an Attorney General, during pleasure," &c.

Mr. DARLINGTON. I accept that as a modification of my amendment.

The PRESIDENT. The amendment will be so modified, and the question is on the amendment as modified, which is to strike out the words, "nominate, and by and with the advice and consent of two-thirds of all the members of the Senate."

Mr. ARMSTRONG. Mr. President: This question received very grave and deliberate consideration, not only from the Committee on the Executive Department, but when it was under consideration in committee of the whole—

The PRESIDENT. The Chair would observe that it is not in order to refer to the debates in committee of the whole.

Mr. ARMSTRONG. I am referring to a fact simply within the knowledge of the Convention.

The PRESIDENT. The Chair begs the gentleman's pardon. He stated that this had received careful consideration. That refers to proceedings in committee of the whole, to refer to which is a breach of the order of the House.

Mr. ARMSTRONG. Then, sir, I will state that I suppose it is the intention of the Convention to provide reasonable safeguards which shall lift all the officers of the Commonwealth, so far as practicable, out of merely political influence. I believe that this State suffers, in common with every other State, very greatly from the degradation of politics. One of the difficult problems which meets this Convention, as it will every Convention in any of the States, is the mode of elevating the officers in whom the trusts of the Commonwealth are reposed from the deg-

radation which, to a greater or less extent, now hangs around political office. It is not, I think, much to the purpose to refer to what occurred twenty or thirty years ago, for politics have advanced as rapidly if not more rapidly than other departments of the government, and it has come to pass that confessedly the officers of the government of this State and of other States are under political influence from which they ought to be exempt, and that subordinate officers are very largely appointed purely by reason of their political affinities and not by reason of their fitness for office.

Now, if we are to have a government in this State which is to exercise its functions for the best interests of all its people, it should be lifted so far as it can be out of the mere influence of politicians. If the Senate is composed of a mere majority of either party, and the Executive is of the same party, he could scarcely make a nomination which would not be confirmed by a majority of the Senate. The purpose of this provision is that men shall be selected for these positions upon their merit and not as a reward merely of political services. The Senate of our State is at present composed of thirty-three members. A majority would be seventeen. It would require twenty-two members in a Senate of thirty-three to concur in approving a nominee suggested by the Governor. Is it too much to suppose that five members of an opposing party would give their assent to a nomination which was eminently fitting and proper to be made? And if it be said that they might refuse their assent to a person who is merely to be rewarded for political services, I say it is right, and it is the very thing and purpose which this section is intended to advance. I think there is no danger in it. It would compel the Governor to recommend for office persons of admitted ability and fitness, and if such persons are recommended I cannot conceive that there would not be found five members of the opposition party willing to concede such an appointment to the majority of the Senate and to the Executive of the State. But it would be conservative and would prevent these offices from being made the mere reward of political service; not but what persons of political influence and political service ought to be in many instances appointed, but they ought to be persons whose fitness would commend them in some degree to the approbation of the

opposition party, whichever side it might chance to be.

I believe that this section is right as it stands, that it can work no injury to the Commonwealth, but will greatly improve the quality and the fitness of the officers by whom these functions are to be exercised.

Mr. J. N. PURVIANCE. I move to further amend, in the third line, by striking out the words, "and an attorney general." It will then read:

"He shall nominate, and by and with the advice and consent of two-thirds of the Senate, appoint a Secretary of the Commonwealth during pleasure."

The PRESIDENT. That amendment is not in order at this time. The question is on the amendment of the gentleman from Chester, to strike out all requiring the concurrence of the Senate in the appointment of the Attorney General and Secretary of the Commonwealth.

Mr. J. N. PURVIANCE. When it is in order, I will make the motion I have indicated.

Mr. HARRY WHITE. Mr. President: I shall cheerfully vote for the amendment offered by the delegate from Philadelphia (Mr. Woodward.) There are some things which we have a right to assume, one of which is that the people of this Commonwealth will not elect a man to the office of Governor in whom they have no confidence. We may differ in opinion on this subject; we may think the people have made a mistake; and yet under our theory of government we are bound to assume that the majority of the people of the Commonwealth will only elect persons for the chief executive office in whom they have confidence, and when the forms of the election have been gone through with and the selection is recognized, and the individual selected is inaugurated as the chief executive officer of the Commonwealth, he should be clothed with all the prerogatives of his great office; he is responsible only to his God and to his constituents; and since that responsibility is expected of him, why not give him the privileges that will enable him properly to discharge his duties? No divided responsibility should rest there.

Pennsylvania stands more prominent in this respect than any of the other States of the Union. In our sister State of New York they elect a Secretary of the Commonwealth and an Attorney General. The recent commission to remodel

their Constitution has recommended a change and the adoption of the system which obtains in Pennsylvania. So some other States that have had the experience of a number of years are now seeking to have that change made so as to come to the system we hitherto have had in Pennsylvania.

Mr. President, the Attorney General and Secretary of the Commonwealth are the two advisory officers of the Executive, and if he has any privileges at all, if he is to be held responsible for the policy of his administration, give him the means by which he can exercise his choice and exercise his discretion in selecting his confidential advisers.

Mr. President, I am in favor, with all my heart, of the amendment offered by the delegate from Philadelphia, and I point with pride to the experience of the Commonwealth for the last half century in vindication of the policy of this amendment. I hope it will prevail.

Mr. CURTIN. Mr. President: I trust the Convention will give this amendment full consideration before they agree to it. I should be very sorry indeed to take away any of the dignity of the office of Governor of the Commonwealth, or to change its responsibility either to the people or to God, in the language of the gentleman from Indiana (Mr. Harry White;) but I would put around the Governor of this State precisely the same restraints that you put around other officials; and while he is enjoying the full dignity of his office, I think it is proper that the people should understand that they have something to do with the appointment of high official functionaries. The Governor of Pennsylvania has no cabinet as a cabinet. He is supposed to consult the Attorney General, and at his pleasure the Secretary of the Commonwealth; but it must be remembered there are other parties to the relation of these officials, the Governor, the Attorney General and the Secretary of the Commonwealth, who have important interests. The Attorney General and the Secretary of the Commonwealth have both very important official powers entirely disconnected with the Governor. You will find your statute book full of laws giving increased power to the Secretary as well as to the Attorney General. The Attorney General has in his hands, entirely independent of the Governor of the State—by virtue of an act of Assembly—the entire prosecution of the claims of the Commonwealth: he has

the collection of the public money; he pursues the defaulters. The Attorney General and the Secretary of the Commonwealth, under our laws, are both members of the sinking fund commission, the most important commission in reference to the taxation of the State and the payment of the public debt and the maintenance of the faith and honor of this State that we have. Throughout, the action of the board of sinking fund commissioners is entirely independent of the Governor of the State. In the exercise of these powers the people of the State have more interest than the Governor; but he is given in this section, as reported by the committee, the full power to appoint at his pleasure a Secretary of the Commonwealth and an Attorney General; but as in other States the people elect the Secretary of the Commonwealth and the Attorney General, or officers having similar powers, in this State we continue to give the Governor the power to appoint, but we say to your Governor when he appoints his Attorney General and his Secretary of the Commonwealth at his pleasure and removes them at his will, that as they exercise very important official functions over which the Governor has no control and for which he is not responsible, the people shall have some interest in the appointment; and we therefore interpose the Senate, representing the body of the people, confirming the appointment, precisely as all officers are appointed under the Constitution of the United States.

We do not go back to elect these officers by the people. We give the Governor the appointment of these two men who are to a large extent his confidential advisers, but at the same time we provide in this article of the Constitution that he shall submit the names of these officers to the Senate of the State, representing the body of the people and that if he appoints unfit men, the representatives of the people shall have the power to reject his nominations and compel him, while he seeks confidential advisers and appoints his friends, to appoint men fit for the place; and we provide that the people shall have some voice in declaring who are fit and who are not fit.

It is true, as has been said, that it is not likely that the people of Pennsylvania—and there is great consolation in the fact—are to elevate to this high position men who will not be careful that they discharge the duties faithfully. That may

be true in the past; we take it for granted it is so; but I suppose I am in a position to say here that the people of Pennsylvania do not always choose the wisest or the best man for Governor. Sometimes it is possible they may make a mistake. Nor may they always choose a man who will hold the heavy responsibility so eloquently described by the gentleman from Indiana as feeling his allegiance to his God and his responsibility to his constituents; and if ever it should turn out that such a man by a mistake of the people should get into this most important office in the State, and select for his constitutional advisers an Attorney General and a Secretary of State of the Commonwealth of his own kind who might be connected with him, it would be proper, as the committee thought, that the people should have some voice; and we therefore referred to the Senate the confirmation or rejection of such appointments.

MR. MACVEAGH. Mr. President: It seems to me quite clear that the result of this provision will be very much as the gentleman from Lycoming (Mr. Armstrong) has stated; the only difficulty is whether that is a desirable result—that is, that whoever is Governor shall be required to select, for his confidential advisers, such members of his own party as are not obnoxious to his political opponents. That is the proposition; it goes just that far. In times of great political excitement it is asking a great deal of Senators of one political party to vote to confirm in places of high trust and power obnoxious political opponents. Think of the political divisions through which this country has passed, and think of gentlemen who would have been nominated by any Governor of this State with great credit as his Attorney General or as his Secretary of the Commonwealth, and how many gentlemen of the opposite political party would have thought of voting for them? Are there not lawyers in this body to whose legal opinions we all listen almost with reverence, whom gentlemen of one political party never could have voted to confirm as Attorneys General if their vote was necessary to their confirmation; not that we had any doubt of their capacity; not that we had any doubt of their integrity; but because we differed so radically upon fundamental questions, vital, radical questions, upon their legal interpretation, that we ought not to be asked to take the responsibility of

voting against them or for them? And yet this puts it in the power of a minority in the Senate to dictate positively the appointees of the Governor. That is what it amounts to; and instead of the danger which the gentleman from Centre, the delegate at large (Mr. Curtin) foresaw, just the other danger would arise, and that is that the Governor would be driven to form a "ring" with his political opponents, or a small section of them, for their votes to confirm his appointees. I submit we have never gone so far as this to prevent the Governor from having confidential officers of his own selection unless they were acceptable to a considerable section of his political opponents.

Mr. BIDDLE. Mr. President: It strikes me that the remarks of the gentleman from Dauphin who spoke last are not strictly applicable to the amendment. The amendment is to strike out the concurrence of the Senate or of any body at all and to allow the Governor to appoint the Secretary of the Commonwealth and the Attorney General without any restriction upon his selection. I, for one, am opposed to lodging any such power in the hands of the Executive. This subject has been treated a little as if the Governor's responsibilities were altogether to look to the future and indeed to look to the next world. Now, responsibility to the Governor's God may be an excellent thing for him; but it is of very little value to the people of this Commonwealth; and responsibility to constituents where you have just decided that he shall be ineligible to a second term, does not amount to a great deal. I think that in regard to officers so vastly important as these two functionaries, and who in many of the States of this Union are elected directly by the people, the stamp of approval of the representatives of the people should be upon them. I hope, therefore, that the amendment will not prevail.

In regard to the particular form in which the concurrence is to be given, that may be discussed hereafter. I prefer the form in which the section stands at present; but I concede that is not precisely the point that is before the House now. The question is directly, by this amendment, whether you shall allow the Governor at pleasure, without any control, to select these two officers, or whether you will have the check of a body of the people's representatives upon him. I hope the amendment will not prevail.

Mr. BIGLER. I have only a word or two to add to what has been said on this subject. I am very sure, sir, that any one who has served in the office of Governor would not insist that the entire power should be given to the Executive as a matter of courtesy; and what has been said by the distinguished delegate from Centre (Mr. Curtin) ~~of that point~~ covers the whole case, ~~as has been said~~ by the delegate from this city (Mr. Biddle.) The Secretary of the Commonwealth and the Attorney General have very important duties ~~which are not at all~~ connected with the Governor, and he would feel it a grave responsibility to select, without consulting the Senate, officers to places so important. It would not be entirely consistent with what we do on other subjects. In appointments less important the advice of the Senate is taken, and I should say that the report as it stands before us is very much better than it will be if amended. I can remember very well a condition of things when the proposition of the distinguished gentleman from the city (Mr. Woodward) would have been entirely proper, when the duties of the Attorney General and those of the Secretary of the Commonwealth were connected almost exclusively with those of the Executive Department. But it is otherwise now, and I think in view of the important duties devolving upon these officers by the law alone and not by the Executive, it would be very proper to consult the Senate, and I cannot see any great objection to requiring the two-thirds vote. Occasions may arise when that would be an important and valuable restriction.

I had made up my mind, in view of what little I know of this subject, in the way of experience, that it would be better to put this restriction in. Indeed I can see that it is the spirit of the Convention in reference to all the departments of the government. We propose to give them large powers it is true, but at the same time we are endeavoring to throw around the legislative department as well as the executive, unusual restraint. We are endeavoring to avoid the errors of the past, and considered in that spirit I cannot see any objection to this restriction upon the executive department. I am confident that if any gentleman in the sound of my voice entertains aspirations in that direction, and if he should at any future time find them gratified, he will be delighted to see this restriction upon

his power, and have the responsibility, instead of resting upon him exclusively, reposed, at least partially, somewhere else.

The **PRESIDENT**. The question is on the amendment.

On the question of agreeing to the amendment, the yeas and nays were required by Mr. Darlington and Mr. Harry White, and were as follow, viz:

YEAS.

Messrs. Baily, (Perry,) Bartholomew, Carey, Cochran, Corson, Craig, Darlington, Guthrie, Knight, MacVeagh, Patterson, D. W., Smith, H. G., Stanton, White, Harry, Woodward and Meredith, *President*—16.

NAYS.

Messrs. Achenbach, Ainey, Alricks, Andrews, Armstrong, Bailey, (Huntingdon,) Baker, Bannan, Biddle, Bigler, Black, Charles A., Black, J. S., Bowman, Boyd, Broomall, Buckalew, Calvin, Campbell, Church, Corbett, Cronmiller, Curry, Curtin, Davis, De France, Dunning, Edwards, Ellis, Fell, Fulton, Gilpin, Hay, Hazzard, Horton, Howard, Hunsicker, Lamberton, Landis, Lawrence, Lilly, Long, MacConnell, M'Cleane, M'Culloch, M'Murray, Mann, Mantor, Metzger, Mott, Newlin, Palmer, G. W., Palmer, H. W., Parsons, Patterson, T. H. B., Patton, Porter, Purman, Purviance, John N., Read, John R., Reed, Andrew, Rooke, Runk, Sharpe, Simpson, Smith, Henry W., Smith, Wm. H., Struthers, Turrell, Walker, Wetherill, Jno. Price, White, J. W. F. and Worrell.—72.

So the amendment was rejected.

ABSENT.—Messrs. Addicks, Baer, Barclay, Bardsley, Beebe, Brodhead, Brown, Carter, Cassidy, Clark, Collins, Cuyler, Dallas, Dodd, Elliott, Ewing, Finney, Funck, Gibson, Green, Hall, Hanna, Harvey, Hemphill, Heverin, Kaine, Lear, Littleton, M'Camant, Minor, Mitchell, Niles, Puzhe, Purviance, Sam'l A., Reynolds, Ross, Russell, Stewart, Temple, Van Reed, Wetherill, J. M., Wherry, White, David N. and Wright—44.

Mr. NEWLIN. I move to amend by striking out, in the second line, the words, "two-thirds," and inserting the words, "a majority."

On the question of agreeing to the amendment, the yeas and nays were required by Mr. Harry White and Mr. Newlin, and were as follow, viz:

YEAS.

Messrs. Ainey, Alricks, Andrews, Baily, (Perry,) Baker, Bartholomew, Broomall, Calvin, Cochran, Corson, Darlington, Davis, Fulton, Green, Guthrie, Hanna, Knight, MacVeagh, M'Culloch, Newlin, Palmer, H. W., Patterson, D. W., Rooke, Simpson, Struthers, Wetherill, John Price, White, Harry and White, J. W. F.—28.

NAYS.

Messrs. Achenbach, Armstrong, Bailey, (Huntingdon,) Bannan, Biddle, Bigler, Black, Charles A., Black, J. S., Bowman, Boyd, Brodhead, Buckalew, Campbell, Church, Corbett, Craig, Curry, Curtin, De France, Dunning, Edwards, Ellis, Fell, Gilpin, Hay, Hazzard, Hunsicker, Lamberton, Landis, Lear, Lilly, Long, MacConnell, M'Cleane, M'Murray, Mann, Mantor, Metzger, Minor, Palmer, G. W., Parsons, Patterson, T. H. B., Patton, Porter, Purman, Purviance, John N., Read, John R., Reed, Andrew, Ross, Sharpe, Smith, Henry W., Smith, Wm. H., Stanton, Turrell, Walker, Wherry, Woodward, Worrell and Meredith, *President*—59.

So the amendment was rejected.

ABSENT.—Messrs. Addicks, Baer, Barclay, Bardsley, Beebe, Brown, Carey, Carter, Cassidy, Clark, Collins, Cronmiller, Cuyler, Dallas, Dodd, Elliott, Ewing, Finney, Funck, Gibson, Hall, Harvey, Hemphill, Heverin, Horton, Howard, Kaine, Lawrence, Littleton, M'Camant, Mitchell, Mott, Niles, Paghe, Purviance, Samuel A., Reynolds, Runk, Russell, Smith, H. G., Stewart, Temple, Van Reed, Wetherill, J. M., White, David N. and Wright—45.

Mr. J. N. PURVIANCE. I now move to strike out in the third line the words, "and an Attorney General."

The **PRESIDENT**. The question is on the amendment of the delegate from Butler.

On the question of agreeing to the amendment, the yeas and nays were required by Mr. Harry White and Mr. J. N. Purviance, and were as follow, viz:

YEAS.

Messrs. Andrews, Baker, Broomall, Calvin, Campbell, Cochran, Corson, Craig, Darlington, Edwards, Hanna, Knight, M'Cleane, M'Murray, Mantor, Purviance, John N., Sharpe, Simpson, Struthers and Meredith, *President*—20.

N A Y S.

Messrs. Ainey, Alricks, Armstrong, Bailly, (Perry,) Bailey, (Huntingdon,) Ban-
nan, Bartholomew, Biddle, Bigler, Black,
Charles A., Black, J. S., Bowman, Boyd,
Brothead, Buckalew, Church, Corbett,
Curry, Curtin, Davis, De France, Dun-
ning, Ellis, Fell, Fulton, Gilpin, Green,
Guthrie, Hay, Hazzard, Howard, Hun-
sicker, Lamberton, Landis, Lawrence,
Lear, Lilly, Long, MacConnell, M'Cul-
loch, Mann, Metzger, Minor, Mott, New-
lin, Palmer, G. W., Palmer, H. W., Par-
sons, Patterson, D. W., Patterson, T. H.
B., Patton, Furman, Read, John R., Reed,
Andrew, Rooke, Ross, Smith, Henry
W., Smith, Wm. H., Stanton, Temple,
Turrell, Walker, Wetherill, John Price,
Wherry, White, J. W. F., Woodward and
Worrell—67.

So the amendment was rejected.

ABSENT.—Messrs. Achenbach, Addicks,
Baer, Barclay, Bardsley, Beebe, Brown,
Carey, Carter, Cassidy, Clark, Collins,
Cronmiller, Cuyler, Dallas, Dodd, Elliott,
Ewing, Finney, Funck, Gibson, Hall,
Harvey, Hemphill, Heverin, Horton,
Kaine, Littleton, MacVeagh, M'Camant,
Mitchell, Niles, Porter, Pughe, Purviance,
Samuel A., Reynolds, Runk, Russell,
Smith, H. G., Stewart, Van Reed, Weth-
erill, J. M., White, David N., White
Harry and Wright—45.

The PRESIDENT. The question is on
the section.

Mr. DARLINGTON. We have made no
provision here for the appointment of the
Superintendent of Public Instruction. In
this section we provide for the appoint-
ment by the Governor of the Secretary of
the Commonwealth and Attorney Gene-
ral, and then we say "and such other
officers as he is or may be authorized by
law to appoint." Now, by the provision of
the Constitution on the subject of public
education we have provided that the Su-
perintendent of Public Instruction shall
be appointed by the Governor and Senate.
Now, I propose to insert in the fourth line
of this section "by the Constitution or."
Then it will read "such other officers of
the Commonwealth as he is or may be
authorized by the Constitution or by law
to appoint."

The PRESIDENT. The question is on
the amendment of the delegate from
Chester.

The amendment was agreed to.

Mr. DARLINGTON. I beg leave also to
move an amendment in the sixteenth

line. The words are, "the next annual
election of representatives." "The next
general election" would be a better
phrase, it strikes me. I move to strike
out "annual election of representatives"
and insert "general election."

The amendment was agreed to.

Mr. DARLINGTON. I move also, in the
thirteenth line, to strike out "three calen-
dar months" and insert "sixty days."

I do this for the purpose of supplying
the vacancy by the election of all officers
wherever it occurs sixty days before the
day of the general election. I submit that
that is entirely ample and twice the lapse
of time that is usual in the counties for the
formation and construction of parties and
their tickets.

The amendment was rejected.

Mr. SIMPSON. I inquire whether there
has been any change made in the nine-
teenth line. If not, it will be necessary
to change the nineteenth line by striking
out the word "annual" and inserting
"general," and striking out the words "of
representatives," so as to conform to the
previous amendment.

Mr. CURTIN. To make it uniform, that
is correct.

The PRESIDENT. The question is on
the amendment of the delegate from Phil-
adelphia (Mr. Simpson.)

The amendment was agreed to.

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

The section as amended was agreed to.

The PRESIDENT. The next section will
be read.

The CLERK read as follows:

SECTION 10. He shall have power to re-
mit fines and forfeitures, to grant re-
prieves, commutations of sentence and
pardons except in cases of impeachment;
but no pardon shall be granted nor sen-
tence commuted except only upon the
recommendation in writing of the Secre-
tary of the Commonwealth, Attorney
General, Superintendent of Public In-
struction, Secretary of Internal Affairs, or
any three of them, after full hearing of
the parties upon due public notice in open
session; and such recommendation, with
the reasons therefor at length, shall be re-
corded and filed in the department.

Mr. LAMBERTON. In the fourth line I
move to strike out the word "only."

The amendment was agreed to.

Mr. LAMBERTON. After the final "the"
in the eighth line I move to strike out the
word "department" and insert, "office of
the Secretary of the Commonwealth."

The amendment was agreed to.

Mr. LAMBERTON. I now move to strike out the words "of the parties" in the sixth line.

The amendment was agreed to.

Mr. DE FRANCE. In the second line, after the word "pardons," I move to amend by inserting the words, "after conviction."

Mr. President, I wish to say a few words upon this question. After thinking over the question for a long time, I see no good reason why this State should retain the power to pardon before conviction, and the only reason that I have heard is as to the case of riots. It seems to me that every person ought to be tried for his crimes, and if men choose to commit offences it would be time enough, it seems to me, to pardon them after conviction.

Now, if we go by what has been done in other States, there are only five States in the American Union that allow pardons to be granted before conviction. In Alabama it is after conviction; in Arkansas, after conviction; California, after conviction; Connecticut, after conviction; Delaware, generally. Florida, the Governor, justices of the Supreme Court and Attorney General have the right to pardon after conviction. It is so in Illinois, in Indiana, in Iowa, and in Kansas. In Kentucky the power is to pardon generally. In Louisiana the pardoning power is in the Governor and the Senate after conviction. In Maine it is in the Governor and council after conviction. In Maryland it is general; the Governor has the power there generally. In Massachusetts it is in the Governor and council after conviction. In Michigan it is in the Governor after conviction; in Minnesota, in the Governor after conviction; in Missouri, in the Governor after conviction; in Nebraska, in the Governor after conviction; in Nevada, in the Governor, justices of the Supreme Court and Attorney General after conviction. In New Hampshire it is in the Governor by and with the advice and consent of five persons elected for a council, after conviction; in New Jersey it is in the Governor and a majority of the court of appeals, six judges, after conviction; in New York it is in the Governor after conviction; in North Carolina, after conviction; in Ohio, after conviction; in Oregon, after conviction; in South Carolina, after conviction; in Tennessee, after conviction; in Texas, in the Governor after conviction; in Vermont, in the Governor and council generally; in Virginia, in the

Governor after conviction; in West Virginia, in the Governor after conviction; in Wisconsin, after conviction.

There are but five States in the American Union in which the power of pardon until after a man is convicted, is allowed. Why should it remain in this State? Is there any possible reason for it, except in the case of riots, and in that case it does not seem to me that there would be very much trouble in the matter. I think the Convention ought to adopt this amendment or something like it. At first it was thought that the Governor would not have the appointing power of a majority of his council. It will be clearly so in this case. The Governor will have the power to appoint a majority of his council and it will all be in his hands. I trust that the Convention will agree to this amendment.

Mr. BIGLER. I desire to make a few remarks on this section. It is a subject of the very gravest importance, and certainly ought to command the serious consideration of this Convention. It is just one of the features of government which the people have expected this Convention to reform. I can think of no feature of the public service in our State upon which there has been so much unpleasant scandal—

The PRESIDENT. The question is now on the amendment of the gentleman from Mercer, not on the section itself.

Mr. BIGLER. Then I will defer my remarks for the present.

Mr. SIMPSON. I trust the amendment of the gentleman from Mercer will not be adopted. This question was very fully discussed in the Convention and was thoroughly understood. This is a power that has been vested in the Governor of the Commonwealth since the organization of the Commonwealth down to the present hour, has very rarely been exercised, very rarely indeed, and as often for good as it possibly could be for bad. I trust it will be left just where it is now, that the power will not be taken away from the Governor, so that in the case of riots where a man ought not to be convicted and put upon a jury trial, the Governor may have the power to save the expense of a trial.

Mr. BIDDLE. I trust I am strictly in order when I refer to a speech made by a member of this House, the gentleman from Columbia, which is to be found on page three hundred and seventy-seven of volume two of our Debates.

The PRESIDENT. It is not in order to refer to prior debates.

Mr. BIDDLE. Well, I wish I had the ability to repeat the arguments made by that honorable gentleman against the proposed amendment. It is almost a matter of demonstration that in cases of civil tumult and the like, where large masses of people unwittingly, ignorantly offend against the law, some such power as this must be lodged somewhere, and it ought to be in the hands of the Executive, to pardon before conviction; otherwise, you will be compelled to go through the form of a conviction in order to pardon people who have sinned merely through ignorance. I do trust that this amendment will not carry.

The PRESIDENT. The question is on the amendment of the gentleman from Mercer (Mr. De France.)

The amendment was rejected.

The PRESIDENT. The question now is on the section.

Mr. BIGLER. Mr. President: I alluded to the importance of this question and that it was one which entitled it to the serious consideration of the Convention. It is entitled to that consideration in view of what our past experience has been, for undoubtedly on this subject the State has been greatly wronged. I have never had the slightest idea that the scandal that became current at different periods, in the history of the State, had any serious foundation, and perhaps it will continue to be so if this power is lodged in the Executive alone; but I think a very wise step has been taken already by the committee and the Convention in concluding to associate with the Governor some concurrent jurisdiction. I am decidedly in favor of that measure. The little experience I have had in that department impressed upon me the importance of it, not only as regards the public service, but to the Executive himself. It is one of those perplexing, harrassing and distressing duties in which any man will find himself in need of counsel and advice.

Why, sir, I could relate here some incidents connected with pardons which would probably astonish this Convention and astonish the people of the State. I will only allude to a single one because of its extraordinary character. I do not hesitate to say that a pardon was extorted from me on one occasion. I was literally forced to grant a pardon; but I could not have granted that pardon had these restrictions been thrown about the use of that power. That incident occurred in

this city under very peculiar circumstances. Going from the Girard House on Chestnut street on my way to the State House I was intercepted by a very feeble old lady who had the arm of a boy. He said to her, "Grandmother, this is the Governor;" and she introduced the subject of a pardon. I shall not give any names except that of the boy. She called him Jack. She said she must have Jack pardoned, to which I replied, "Why, madam, I do not know anything about Jack." She said Jack must be pardoned. She was very frail, and whilst I endeavored to allay her anxiety, she fastened her long, slender fingers through the button holes of my coat, and there she clung. A crowd collected. After some time I saw an old friend, Jesse R. Burden, who seemed to come to the rescue of the Governor. We were obliged to remove the old lady from the street, but she would not yield the hold she had of my coat; the pardon of Jack she would have. And, sir, she commenced to threaten the Governor of the State—not indeed that she would take his life, or the usual threat made to Governors that the election should be upset in the coming fall; but she threatened to die on the spot unless I would promise to pardon Jack. Dr. Burden earnestly advised me to pardon him, and I wrote to my friend in front of me (Mr. C. A. Black) to send a pardon in that case. Now, sir, that was a very bad pardon. Jack was back in the penitentiary again in the space, I believe, of about thirty days.

I mention this incident to impress this body, if possible, with the importance of having some concurrent jurisdiction with the Executive over this subject of pardons. You may have tender-hearted men in that office hereafter who will be literally unable to resist the pressure which is brought upon them by distressed mothers and sisters. The committee reporting this section have moved in the right direction. They have concluded to associate with the Governor other officers of the government. But, sir, I am fearful that this plan as it stands will not answer very well, and I desire to call the attention of those who have the subject in charge to that fact. I think some concurrent jurisdiction ought to be established; but I cannot see how this provision of the committee can be carried out.

Let us look at it practically. Some one feels that injustice has been done in a

given case or that there are sufficient reasons for a pardon, and he proceeds to Harrisburg to obtain it. Under this provision it would be necessary to see the Secretary of the Commonwealth, the Attorney General, the Superintendent of Public Education, and the Secretary of Internal Affairs and get all those gentlemen together in order to prevent the application for a pardon. I will not say that that would be impossible, but it would be a matter of great inconvenience. I venture to say that applications would be made there repeatedly when it would be found that some of these gentlemen would be absent, and this interview which is provided for here, this discussion of the case, could not proceed. If we are to provide for pardons at all, it seems to me we ought in some measure to consult the public convenience. There ought to be some way of doing it. Heretofore the applications have been directly to the Governor, and he granted or rejected the application; but under this section it is necessary to approach all these officers and get their assent, because the Governor is forbidden to grant a pardon unless the petition is signed by the Attorney General, the Secretary of the Commonwealth, &c. I do not see how that section could be carried out.

In addition to that, I would say from my observation at Harrisburg that any minor duty imposed upon any gentleman elected to a higher office is very likely to be neglected. The Attorney General perhaps would be more inclined than any other to give some attention to this subject; but the superintendent of your public schools is so entirely separated from this subject and also the Secretary of Internal Affairs that they would not feel that they were required to drop their other duties and call a meeting or to come together for the particular purposes of a pardon.

Now, Mr. President, I desire to suggest to my friend in front of me, the chairman of the committee, who has this subject in charge, that probably this provision can be put in better form, and I will offer what I have here as a substitute. I do not enter into any argument on the subject. I do not think it is required that we should do anything more than reason together. It cannot be that there is any feeling or any desire amongst any of us here except to do that which is for the best on the subject. I will read what I suggest as a substitute:

"The power to remit fines and forfeitures, and grant reprieves and pardons, except in cases of impeachment, shall be vested in the Governor, and he shall exercise it in the manner following, to wit: He may reject any or all the applications made to him for the remission of fines and forfeitures, and reprieves and pardons, but no pardon shall be granted without the concurrence, with the Governor, of the Attorney General, Secretary of the Commonwealth, Superintendent of Public Instruction and Secretary of Internal Affairs, or a majority of them."

I mean to change it so far that the application shall be made to the Governor, that he shall consider them primarily, and you will see how this business will proceed. Applications as heretofore will be made to the Governor. In all probability he will reject three-fourths of them, but those that he considers meritorious he will retain, and he will invite these gentlemen to consult with him on the subject, and where a majority of them concur with him the pardon will be granted. Now, sir, I think this will be in practical form, and will be a protection not only to the public, but to the Governor himself.

MR. D. W. PATTERSON. Will the gentleman allow me to move an adjournment?

MR. BIGLER. Certainly.

THE PRESIDENT. The gentleman on the floor cannot be interrupted.

MR. BIGLER. I beg to say that I am bound to obey the rule, and therefore shall yield the floor.

MR. D. W. PATTERSON. I move an adjournment.

MR. ARMSTRONG. Before that motion is put, I trust the amendment offered by the gentleman from Clearfield will be printed because it is a matter of importance.

THE PRESIDENT. It has not yet been sent to the Chair, and a motion to adjourn is interposed.

MR. D. W. PATTERSON. I withdraw the motion for that purpose.

THE PRESIDENT. The gentleman from Clearfield moves to amend, by striking out all after the word "section" and inserting what will be read.

THE CLERK read as follows:

"The power to remit fines and forfeitures, and grant reprieves and pardons, except in cases of impeachment, shall be

vested in the Governor, and he shall exercise it in the manner following, to wit : He may reject any or all the applications made to him for the remission of fines and forfeitures, and reprieves and pardons, but no pardon shall be granted without the concurrence, with the Governor, of the Attorney General, Secretary of the Commonwealth, Superintendent of Public

Instruction, and Secretary of Internal Affairs, or a majority of them."

The PRESIDENT. If there be no objection, this amendment will be ordered to be printed.

Mr. BUCKALEW. I move that the Convention adjourn.

The motion was agreed to, and (at three o'clock P. M.) the Convention adjourned.

ONE HUNDRED AND TWELFTH DAY.

WEDNESDAY, June 4, 1873.

The Convention met at half-past nine o'clock A. M., Hon. Wm. M. Meredith, President, in the chair.

Prayer by the Rev. J. W. Curry.

The Journal of yesterday was read and approved.

COMPENSATION OF MEMBERS.

Mr. LANDIS submitted the following preamble and resolution :

WHEREAS, This Convention did on the twenty-second of May, 1873, pass a resolution reported by a select committee to whom was referred the question of the compensation of the members of the Convention, which resolution recommended the payment to each member of \$2,500; and whereas, the act of 1872 calling this Convention and naming the compensation of members was by the act of the ninth of April, 1873, so far as this question is concerned, repealed, and the subject referred to this Convention; therefore,

Resolved, (1.) That it is the sense of this Convention that it is improper to determine any amount of compensation in excess of the amount originally fixed by the act of 1872.

(2.) That the action of the Convention adopting the report of said select committee, May twenty-second, 1873, be hereby rescinded.

(3.) That the President is authorized to draw his warrant, and the Chief Clerk to countersign the same, on the State Treasurer, in favor of each member, to an amount not exceeding \$1,000, and the question of additional compensation, if any is necessary, is referred to the next Legislature.

On the question of proceeding to the second reading and consideration of the resolution, the yeas and nays were required by Mr. Landis and Mr. Hunsicker, and were as follow :

YEAS.

Messrs. Alricks, Armstrong, Baer, Baily, (Perry,) Biddle, Bigler, Black, Charles

A., Boyd, Brodhead, Broomall, Calvin, Cochran, Darlington, Fulton, Gilpin, Guthrie, Hemphill, Hunsicker, Lamberton, Landis, Lawrence, M'CLean, M'Murray, Patterson, D. W., Purman, Purviance, John N., Reed, Andrew, Reynolds, Rooke, Ross, Smith, Henry W., Struthers, Wetherill, J. M., Wetherill, Jno. Price, White, Harry and Meredith, *President*—36.

NAYS.

Messrs. Achenbach, Addicks, Andrews, Bannan, Bartholomew, Bowman, Brown, Carter, Church, Corbett, Corson, Cronmiller, Curry, Curtin, Davis, De France, Dodd, Dunning, Edwards, Ellis, Gibson, Green, Hall, Hanna, Harvey, Hay, Horton, Howard, Lilly, Long, MacConnell, Mann, Mantor, Minor, Mott, Newlin, Palmer, G. W., Palmer, H. W., Parsons, Patterson, T. H. B., Patton, Porter, Pughe, Runk, Russell, Smith, Wm. H., Stanton, Temple, Turrell, Van Reed, Walker, Wherry, White, J. W. F. and Wright—54.

So the resolution was not ordered to a second reading.

ABSENT.—Messrs. Ainey, Bailey, (Huntingdon,) Baker, Barclay, Bardsley, Beebe, Black, J. S., Buckalew, Campbell, Carey, Cassidy, Clark, Collins, Craig, Cuyler, Dallas, Elliott, Ewing, Fell, Finney, Funck, Hazzard, Heverin, Kaine, Knight, Lear, Littleton, MacVeagh, M'Camant, M'Culloch, Metzger, Mitchell, Niles, Purviance, Sam'l A., Read, John R., Sharpe, Simpson, Smith, H. G., Stewart, White, David N., Woodward and Worrell—42.

FILLING OF MR. GOWEN'S VACANCY.

Mr. WOODWARD submitted the following report, which was read and laid on the table :

We, the subscribers, to whom it was referred to appoint a delegate to supply the vacancy occasioned by the resignation of F. B. Gowen, do report that we have agreed to appoint and hereby do appoint Edgar Cowan, of Westmoreland, to fill said vacancy.

Witness our hands this third day of June, Anno Domini 1873.

(Signed) GEO. W. WOODWARD,
WM. L. CORBETT,
JOHN H. CAMPBELL,
A. A. PURMAN,
WM. BIGLER,
A. G. CURTIN,
WM. H. SMITH,
J. S. BLACK,
S. C. T. DODD,
GEO. M. DALLAS,
JAS. ELLIS,
R. A. LAMBERTON.

YEAS AND NAYS.

Mr. STANTON. Mr. President: I call up the resolution I offered yesterday, which was laid over under the rule.

The PRESIDENT. The resolution will be read for information.

The CLERK read as follows:

Resolved, That the yeas and nays shall be called on any question only at the request of twenty members rising to second the call of any one member, except on the final passage of any section.

Mr. J. N. PURVIANCE. Would it be in order to amend that resolution?

The PRESIDENT. Nothing is in order now but the vote on proceeding to the second reading and consideration of this resolution or proposed rule. The question is on that motion.

The motion was agreed to, there being, on a division: Ayes fifty-six, noes forty-one.

Mr. COCHRAN. I ask for the yeas and nays.

The PRESIDENT.. The call is too late; the question has been decided.

The resolution was read the second time.

The PRESIDENT. The resolution is before the House.

Mr. LILLY. I move to amend by striking out "twenty" and inserting "five."

Mr. CHURCH. I move to amend the amendment by striking out "five" and inserting "ten."

Mr. DARLINGTON. I move to postpone the further consideration of this resolution and the amendments, indefinitely.

On the question of agreeing to this motion the yeas and nays were required by Mr. Cochran, and Mr. Harry White, and were as follow, viz;

YEAS.

Messrs. Addicks, Ainey, Alricks, Baile, (Perry,) Bailey, (Huntington,) Bartholo-

mew, Bigler, Black, Charles A., Bowman, Boyd, Brown, Calvin, Clark, Cochran, Cronmiller, Curtin, Darlington, Fell, Hall, Hemphill, Hunsicker, Lilly, MacVeagh, M'Camant, Mann, Patterson, D. W., Purman, Reed, Andrew, Rooke, Runk, Russell, Smith, H. G., Smith, Henry W., Struthers, Walker, Wetherill, J. M., Wetherill, Jno. Price, White, Harry, White, J. W. F., Woodward and Meredith, *President*.—41.

NAYS.

Messrs. Achenbach, Andrews, Armstrong, Baer, Bannan, Biddle, Black, J. S., Brodhead, Broomall, Carter, Church, Corbett, Corson, Curry, De France, Dodd, Dunning, Edwards, Ellis, Fulton, Gibson, Gilpin, Green, Guthrie, Hanna, Harvey, Hay, Hazzard, Horton, Howard, Lambertson, Landis, Lawrence, Long, MacConnell, M'CLean, M'Murray, Mantor, Minor, Mott, Newlin, Palmer, G. W., Palmer, H. W., Parsons, Patterson, T. H. B., Patton, Porter, Pughe, Purviance, John N., Reynolds, Ross, Smith, Wm. H., Stanton, Temple, Turrell, Van Reed, Wherry, Worrell and Wright—59.

So the motion was not agreed to.

ABSENT.—Messrs. Baker, Barclay, Bardsley, Beebe, Buckalew, Campbell, Carey, Cassidy, Collins, Craig, Cuyler, Dallas, Davis, Elliott, Ewing, Finney, Funck, Heverin, Kalne, Knight, Lear, Littleton, M'Culloch, Metzger, Mitchell, Niles, Purviance, Sam'l A., Read, John R., Sharpe, Simpson, Stewart and White, David N.—32.

The PRESIDENT. The question is on the amendment to the amendment, to strike out "five" and insert "ten."

Mr. HARRY WHITE. Mr. President: I shall vote against the amendment and vote for the least number. I understand the original amendment was to strike out "twenty" and insert "five." The amendment to this amendment is to strike out "five" and insert "ten." I shall vote for the smallest number, and then I shall take pleasure in voting against the resolution. I look upon it as an infringement of the right of any delegate here who desires to go upon the record. I call the attention of the Convention to the fact that in the old Constitution we find this provision:

"Each House shall keep a journal of its proceedings, and publish them weekly, except such parts as may require secrecy; and the yeas and nays of the members, on any question, shall, at the desire of

any two of them, be entered on the journals."

By solemn constitutional enactment, since we have been a government, on the most trivial matters of legislation, the yeas and nays are recorded in both branches of the Legislature on the request of any two members. I submit, then, that this Convention, forming the hard lines of a constitutional enactment, should not change the rule of the old Constitution in this regard. I hope that the resolution will not prevail.

Mr. STANTON. I have no desire to say anything on this subject, but I trust the Convention will adopt the resolution. My object in offering this resolution for the amendment of the rules was to prevent so much filibustering as we have witnessed here. I think the ridiculous way in which we have been calling the yeas and nays on unimportant questions has sufficiently shown the necessity of some such provision as this. Gentlemen will remember that this resolution will not prevent any two members of the Convention from calling for the yeas and nays on the passage of any section. It only refers to amendments to a section. Yesterday we had the yeas and nays called continually, each call occupying nearly ten minutes. As the rule now stands, a motion may be made to strike out a single word in a section, simply for a little buncombe, and any two gentlemen can call for the yeas and nays, and then we are detained for ten minutes by the calling of the roll. The design of the resolution is merely to prevent the useless waste of time in that way. Any two gentlemen, under this resolution, can still call for the yeas and nays on the adoption of any section; I would go with the gentleman from Indiana so far as that; but I do not think the yeas and nays should be called on these little trivial amendments which gentlemen do not expect to carry, but only offer and call for the yeas and nays upon them in order to put themselves on the record to gratify their constituents. I trust that the resolution will pass.

Mr. DARLINGTON. I hope, sir, it will not pass. I do not suppose there is a single gentleman here prepared to charge his fellow-members, or any one of them, with an intentional waste of time; but each man here has a duty to perform under the sanction of his qualification and of his honor, and he should be allowed to place upon the record every vote that he sees fit to give with regard to any matter

that comes before this Convention. The gentleman from Philadelphia should remember that it is not the vote upon the perfected section that is always of importance, but it is the vote upon the various amendments to perfect it. They are quite as important, and more so, oftentimes, than the final vote. I do hope that we shall adhere to what is now the constitutional provision, that the yeas and nays may be called upon the request of any two members, and that in amending this Constitution we shall not take the bit in our mouths and run away with ourselves.

Mr. BOYD. I move to refer this subject to the Committee on Rules.

The PRESIDENT. The question is on the motion of the gentleman from Montgomery (Mr. Boyd.)

The yeas and nays were required by Mr. Harry White and Mr. Boyd, and were as follow, viz:

YEAS.

Messrs. Ainey, Bailly, (Perrv,) Bailey, (Huntingdon,) Bigler, Black, Charles A., Bowman, Boyd, Cochran, Corson, Cronmiller, Curtin, Dallas, Darlington, De France, Edwards, Ellis, Fell, Fulton, Gibson, Hall, Hay, Hemphill, Hunsicker, MacVeagh, Mann, Patterson, D. W., Purman, Rooke, Runk, Russell, Smith, Henry W., Struthers, Temple, White, Harry, White, J. W. F., Woodward and Meredith, *President*—37.

NAYS.

Messrs. Achenbach, Addicks, Alricks, Andrews, Armstrong, Baer, Bannan, Biddle, Black, J. S., Brodhead, Broomall, Brown, Calvin, Church, Clark, Corbett, Curry, Davis, Dodd, Dunning, Gilpin, Green, Guthrie, Hanna, Harvey, Hazzard, Horton, Howard, Lamberton, Landis, Lawrence, Lilly, Long, MacConnell, M'Camant, M'Clean, M'Culloch, M'Murray, Mantor, Metzger, Minor, Mott, Newlin, Palmer, G. W., Palmer, H. W., Parsons, Patterson, T. H. B., Patton, Porter, Pughe, Purviance, John N., Reed, Andrew, Reynolds, Ross, Smith, H. G., Smith, Wm. H., Stanton, Turrell, Van Reed, Walker, Wetherill, J. M., Wetherill, Jno. Price, Worrell and Wright—64.

So the motion to refer was not agreed to.

ABSENT.—Messrs. Baker, Barclay, Bardsley, Bartholomew, Beebe, Buckalew, Campbell, Carey, Carter, Cassidy, Collins, Craig, Cuyler, Elliott, Ewing, Finney,

Funck, Heverin, Kaine, Knight, Lear, Littleton, Mitchell, Niles, Purviance, Samuel A., Read, John R., Sharpe, Simpson, Stewart, Wherry and White, David N.—31.

The PRESIDENT. The question now is on the amendment to the amendment, to strike out "five" and insert "ten."

The amendment to the amendment was agreed to, there being, on a division: Ayes, thirty-seven; noes, thirty-two.

The PRESIDENT. The question now is on the amendment as amended, to strike out "twenty" and insert "ten."

The amendment was agreed to: Ayes, seventy-four, more than a majority of the whole House.

The PRESIDENT. The question is on the resolution as amended, which will be read.

The CLERK read as follows:

Resolved, That the yeas and nays shall be called on any question only on ten members rising to second the call of any one member, except on the final passage of any section.

On agreeing to the resolution as amended, the yeas and nays were required by Mr. Cochran and Mr. Bailly, (Perry,) and were as follow, viz:

YEAS.

Messrs. Achenbach, Andrews, Armstrong, Baer, Bannan, Barclay, Biddle, Bowman, Brodhead, Broomall, Buckalew, Calvin, Carter, Church, Corson, Curry, Davis, Dodd, Dunning, Finney, Fulton, Gilpin, Green, Guthrie, Hanna, Harvey, Hazzard, Horton, Howard, Lamberton, Landis, Lawrence, Lilly, Long, MacConnell, M'Clellan, M'Culloch, M'Murray, Mantor, Metzger, Minor, Mott, Newlin, Palmer, G. W., Palmer, H. W., Parsons, Patton, Porter, Pughe, Purviance, John N., Reynolds, Ross, Runk, Russell, Smith, Wm. H., Stanton, Turrell, Van Reed, Wetherill, Jno. Price and Wherry, —60.

NAYS.

Messrs. Addicks, Ainey, Alricks, Bailly, (Perry,) Bailey, (Huntingdon,) Baker, Bartholomew, Bigler, Black, Charles A., Black, J. S., Boyd, Brown, Campbell, Clark, Cochran, Corbett, Craig, Cronmiller, Curtin, Dallas, Darlington, De France, Edwards, Ellis, Fell, Gibson, Hall, Hay, Hemphill, Heverin, Hunsicker, MacVeagh, Mann, Ratterson, D. W., Patterson, T. H. B., Purman, Reed, Andrew, Smith, H. G., Smith, Henry W., Struth-

ers, Temple, Walker, Wetherill, J. M., White, Harry, White, J. W. F., Woodward, Worrell, Wright and Meredith, President—49.

ABSENT. — Messrs. Bardsley, Beebe, Carey, Cassidy, Collins, Cuyler, Elliott, Ewing, Funck, Kaine, Knight, Lear, Littleton, M'Camant, Mitchell, Niles, Purviance, Sam'l A., Read, John R., Rooke, Sharpe, Simpson, Stewart and White, David N.—23.

The PRESIDENT. The resolution is agreed to.

Mr. HARRY WHITE. Mr. President: May I rise at this time to a question of order, to call the attention of the Chair to rule No. 40, which provides that no rule shall be altered without a majority of two-thirds.

The PRESIDENT. Rule No. 40 applies to a case where a rule is to be suspended for a particular occasion as for the reading of articles twice on the same day. It then requires a two-thirds vote. By the twenty-fourth rule, if the gentleman will refer to it, it is required that a resolution altering the rules shall lie on the table at least one day. No body could ever be absurd enough, in the opinion of the Chair, to attempt to tie itself up so that a majority could not alter the rule; and such a rule if it were adopted would be in effect utterly void.

Mr. D. W. PATTERSON. This alters the thirty-third rule also, which says that two delegates may call for the yeas and nays. It virtually alters it.

The PRESIDENT. That rule is superceded by the rule just adopted. The Chair has decided the question once or twice before.

SEAT OF A DELEGATE.

Mr. ALRICKS. Mr. President: I rise to a question of privilege. First in time, first in right. Mr. Gowen having resigned his place, I ask the unanimous consent of the House to be permitted to occupy the seat which he held here.

Mr. LILLY and Mr. J. PRICE WETHERILL moved that the gentleman have leave to take the vacant seat of Mr. Gowen, and the motion was agreed to.

VOTING ON THE YEAS AND NAYS.

Mr. HAZZARD. Is it in order to offer a resolution at this time?

The PRESIDENT. If there is no objection the gentleman will have leave. The Chair hears none.

Mr. HAZZARD. I offer the following resolution:

Resolved, That on calling the yeas and nays, any member neglecting to vote when his name is called shall not vote without the consent of the House.

On the question of proceeding to the second reading and consideration of the resolution a division was called for and the ayes were twenty-seven—less than a majority of a quorum voting. So the Convention refused to order the resolution to be read the second time.

BOUND VOLUMES OF DEBATES.

Mr. MACVEAGH asked and obtained leave to offer the following resolution:

Resolved, That the Committee on Printing be requested to consider the propriety of restricting the number of bound volumes of the Debates to be furnished to the Convention to one thousand copies of each volume, instead of five thousand copies thereof as now ordered.

On the question of proceeding to the second reading and consideration of the resolution, Mr. H. W. Palmer and Mr. MacVeagh called for the yeas and nays.

The PRESIDENT. The call must be seconded by ten gentlemen rising.

The following gentlemen rose: Messrs. MacVeagh, H. W. Palmer, Hay, Landis, Ainey, Hanna, J. W. F. White and De France—8.

The PRESIDENT. The yeas and nays are not ordered.

The question being put on ordering the resolution to a second reading, it was determined in the negative.

EXECUTIVE DEPARTMENT.

The PRESIDENT. The next business in order is the consideration on second reading of the article reported by the Committee on the Executive Department. Will the House proceed with it? ["Aye." "Aye."] The article is again before the House. The pending question is on the amendment offered by the gentleman from Clearfield, (Mr. Bigler,) which will be read.

The CLERK. The amendment is to insert in lieu of section ten, the following:

"The power to remit fines and forfeitures and grant reprieves and pardons, except in cases of impeachment, shall be vested in the Governor, and he shall exercise it in the manner following, to wit: He may reject any or all the applications made to him for the remission of fines and forfeitures and reprieves and pardons, but no pardon shall be granted without the concurrence with the Governor of the

Attorney General, Secretary of the Commonwealth, Superintendent of Public Instruction and Secretary of Internal affairs, or a majority of them."

Mr. BIGLER. I ask permission to modify my amendment, and send it to the Secretary to be read.

The PRESIDENT. It cannot be modified at this stage.

Mr. BIGLER. I suppose I may move to amend the amendment.

The PRESIDENT. Certainly.

Mr. BIGLER. Then I move in the second and third lines to strike out the words "and he shall exercise it in the manner following, to wit;" and in the third and fourth lines to strike out the words "made to him for the remission of fines and forfeitures and reprieves and pardons," and insert after the word "but" the words "shall grant," and to strike out the words "shall be granted," after the word "pardon." I ask that the amendment as proposed to be amended be read.

The CLERK. The amendment, if amended as proposed, will read:

"The power to remit fines and forfeitures and grant reprieves and pardons, except in cases of impeachment, shall be vested in the Governor. He may reject any or all the applications, but shall grant no pardon without the concurrence with the Governor of the Attorney General, Secretary of the Commonwealth, Superintendent of Public Instruction, and Secretary of Internal Affairs, or a majority of them."

The PRESIDENT. The question is on the amendment to the amendment.

Mr. BIGLER. It is but just to myself to say that in proposing this amendment yesterday, I had prepared it in a very different form. The alteration now made is mainly in language.

Sir, I desire to call the attention of the Convention for a minute or two to this amendment, and I shall be done with this subject, for it was with the utmost reluctance that I proposed any amendment to the proposition of the committee. Knowing how thoroughly this subject had been discussed, and how unwelcome probably amendments would be; but I have felt it to be a duty.

In a very few words yesterday I expressed the strong objection I had to the plan that is before us. In the first place, it would lead, I think, to vexatious delay, as I said yesterday, amounting to almost impracticability in its operations. Then

again it provides for a proceeding in a kind of court. The very first manifest effect would be that all applications for pardons would necessarily go into the hands of lawyers, to be attended to before this court at Harrisburg. To my mind, this is a serious objection. In my recollection, the most of the applications for pardon came to Harrisburg in a very simple form. Some person brought the record with all the reasons and petitions in favor of it, and it was presented to the Governor for consideration; but under this section, it would be necessary to have a lawyer who could appear before a public body and discuss the question and present the application for pardon. I think the influence would be injurious. Besides, it seems to me in the amendment I propose there is sufficient protection to the public and to the Executive himself. He is associated with four leading public men equally with himself concerned in the public welfare and in the public judgment on a great question of this character. For these reasons I shall vote for the amendment I have submitted and hope it may prevail.

Mr. J. N. PURVIANCE. I move further to amend the amendment.

The PRESIDENT. No further amendment is in order. The question is on the amendment to the amendment.

The amendment to the amendment was agreed to, there being on a division, ayes fifty-two; nays thirty-nine.

The PRESIDENT. The question now is on the amendment as amended.

The question being put, it was declared that the amendment was not agreed to.

Mr. BIGLER. Was that on the amendment I offered?

The PRESIDENT. It was.

Mr. BIGLER. On that I want the yeas and nays. I hope they will be granted.

Mr. HARRY WHITE. I second the call for one.

The PRESIDENT. The Chair will withdraw his decision. It requires ten gentlemen to rise to support the call.

Mr. BIGLER. I withdraw the call.

The PRESIDENT. The call for the yeas and nays is withdrawn. The amendment is rejected. The question is on the section.

Mr. HAZZARD. I offer an amendment, to insert after the word "notice," in the seventh line, the words "published in the county where the sentence was pronounced." I think this is a proper amendment. If notice is to be given at

all, it ought to be given to the persons interested. If an advertisement were published, for instance, in the city of Harrisburg, it would not give notice to the parties who are especially interested in the case. It might be published there and never come to the knowledge of any of the parties interested. I think the amendment is eminently proper and should be adopted. If due public notice is published in the county where the sentence was pronounced, it will give notice to the parties who ought to have notice.

The amendment was rejected.

Mr. CUYLER. I move to strike out in the fifth line, the words "Superintendent of Public instruction," because it seems to me he is an officer who has nothing to do or ought to have nothing to do with any such question. I do not see any reason why he should be included.

The amendment was rejected.

Mr. BUCKALEW. I move the following substitute for the section—

The PRESIDENT. No substitute is in order. A motion to amend, by striking out all after the word "section," and insert other matter would be in order.

Mr. BUCKALEW. I make that motion, to strike out all after the word "section" and insert the following:

"The Senate shall, within ten days after its organization at each regular biennial session, appoint, by open vote, four persons to constitute an Advisory Board of Pardons for the two years next ensuing, upon the recommendation of at least three of whom the Governor shall have power to grant reprieves and pardons; and no reprieve or pardon shall be otherwise granted by him except that in capital cases he may respite the execution of sentence until the action of the said board can be had, and that in an emergency in case of war or insurrection against the authority of the State, he may, in order to the restoration of peace and submission to the laws, proclaim conditional amnesty to offenders engaged therein. In choosing the members of said Advisory Board of Pardons, each Senator shall vote for two persons, one at least of whom shall be learned in the law, and exercising, or qualified to exercise, the office of president judge of a court of common pleas under this Constitution; and the four persons highest in vote shall be declared elected. Provision shall be made by law for regular and special meetings of said board for the public hearing upon notice of all cases brought

before it, for the reasonable compensation of its members (without increase or diminution thereof pending the term of service,) and for filling any casual vacancy in said board by an appointment to be made by the same or by a majority of the same Senators who shall have chosen the member of said board whose place is to be filled.

The PRESIDENT. The question is on the amendment.

Mr. BUCKALEW. Mr. President: I have presented this amendment as embodying my own views upon this subject of a check on the granting of pardons in this State, without any very sanguine expectation that the Convention will accept it, as it only expresses the view of a member without the endorsement of a committee, and involves a radical change from the report which has been made by the committee on the subject of executive pardons; but I desire to leave upon the records of this Convention this expression of my views upon this very interesting subject.

Now, sir, the report of the committee, independent of the provision which was added that hearings should be open before the advisory officials, in my judgment provides no check at all. The Attorney-General, the Secretary of the Commonwealth and the Superintendent of Public Instruction are appointed by the Governor himself. The Secretary of Internal Affairs will ordinarily be elected along with the Governor, and we shall therefore have in almost every conceivable case a Governor with his intimate political associates, three of them appointed by himself, to pass upon this question of granting pardons. I am afraid, sir, that the only practical effect of this provision in the Constitution will be simply to embarrass the action of the Governor in these cases, to produce a great deal of delay, of trouble, and of difficulty, without any substantial or useful result. Certainly this arrangement will provide no check upon executive action, and the proposition which I have made does provide such a check while it would result in the constitution of a proper advisory board in the Constitution.

My idea is that the Senate of the State, under a provision of this kind, would ordinarily select, say the president judge of the court of common pleas of Dauphin county as one of these persons to the advisory board. He would always be upon

the spot and prepared to act in these cases without delay. I take it for granted also that the Senate would, where they had confidence in the Attorney General, select that officer as another member of the board; and then two additional citizens not learned in the law or possessing the qualifications of a president judge of a court of common pleas. Thus we should have a tribunal made up in part of professional men and in part of laymen, which would meet my idea of a constitutional tribunal of this kind, and they would constitute an efficient check upon any abuse by the Governor in the granting of pardons, because they would derive their authority from an independent and intelligent source; and, being selected every two years by the Senate, any abuse in this Board of Pardons, any popular objection to their action, could be remedied by changing the incumbents regularly by the representatives of the people. I would be willing, in fact I think it would be very well, to take one feature of the amendment offered by the distinguished member from Clearfield, (Mr. Bigler,) that this Board of Pardons should act only on cases referred to them by the Governor. I would not require that every application should be sent to this board, because these applications are, I believe, very numerous, and a large number of them on their face are without much merit, and in cases of that sort a summary preliminary examination by the Governor will satisfy him that pardons ought not to be granted; and only in cases where his mind shall be in doubt will he transfer the consideration of them to this advisory board.

With one additional point, Mr. President, I shall leave the subject. The check most required in these cases of granting pardons is a check upon pardons for violations of the election laws of the State and for a few offenses of a similar class where political appeals are made to the Governor which he cannot in any ordinary case resist. I take it for granted that a Governor of the Commonwealth would accept it as a great favor if the people would place such a protection to him in the Constitution; that he should not be subjected to enormous political pressure in these cases which now are disposed of by him under circumstances not promotive of the public interests.

Sir, we do require a check upon executive pardons in political cases. In those cases after the courts have fairly

and fully tried an indictment and sentenced a man to punishment, he ought to undergo the punishment unless afterwards he shows to an independent board of pardons that a mistake was made in his trial, that he is innocent, or that for some other overwhelming reason he ought to be relieved.

Now, sir, in this city and at other points in the State you need this also as a protection to the community, that men convicted of these offenses shall not be discharged. Why, sir, a man desirous of violating the election laws in this city now is morally certain that if he incurs a conviction, if his case is taken through the preliminary stages of a hearing before a magistrate, of a hearing before a grand jury, of a trial in court, of a motion in arrest of judgment, or for a new trial—if all these stages be passed and he is pronounced guilty, still it is a moral certainty that his political friends will appeal to the Governor and get him pardoned. And hence it is that fraud runs riot; hence it is that the citizen does not prosecute these offenses. He knows that at the end, after the expense of toilsome proceedings, justice will fail by the executive pardon; and any Governor, as ordinarily constituted, cannot resist these appeals. We know that, sir, from the history of the past; and I say this without intending to reflect upon any individual who has been in the executive chair in this State.

My amendment, therefore, will be most salutary in its effect upon the administration of public justice; and what we need now, Mr. President, above most things, is discipline and, when necessity calls for it, chastisement of public offenders. The law is lax and loose in its administration; the guilty escape, and those disposed to commit crimes go forward upon their career with impunity, at least with strong hopes of escaping detection and punishment. As long ago as the time of the great law-giver of Athens, we had this point impressively put by him, and as I happen to have the extract at hand I will read it:

"Fain am I thus, Athenians, to advise
What evils under anarchy arise,
How discipline the public weal maintains,
Curbs wicked men with penance and with chains;
How she can tame the wild, the proud put low,
And wither mischief ere to strength it grow;
How straighten crooked justice, and assuage
The might of passion and unruly rage;
Under her sway confusion, discord cease,
And men abide in fellowship and peace."

* Create an Advisory Board of Pardons which will not let loose offenders convicted under your law, and you will have secured a guarantee for that discipline which is a necessity in a free State, as it is in States organized under other forms of government. We need it now in this Commonwealth, and such an amendment as I have proposed will measurably secure it.

Mr. President, I at all events submit this amendment and desire to have the yeas and nays recorded upon it.

The PRESIDENT. Is the call for the yeas and nays seconded?

Mr. ARMSTRONG. Perhaps the vote should not been taken on this section without at least one word on behalf of the report of the Committee on the Executive Department?

The PRESIDENT. The question is not upon agreeing to the amendment, but whether the yeas and nays shall be taken. Those who second the call for the yeas and nays will rise.

Mr. Harry White, Mr. Curtin, Mr. Corson, Mr. Ross, Mr. Minor, Mr. McClean, Mr. Dallas, Mr. T. H. B. Patterson, Mr. J. Price Wetherill, Mr. Cuyler, Mr. Hay, Mr. Calvin, Mr. Woodward, Mr. Curry, Mr. Brown, Mr. Carey, Mr. Baker, Mr. Struthers and Mr. Darlington rose.

The PRESIDENT. The call for the yeas and nays is seconded by the requisite number. The gentleman from Lycoming has the floor.

Mr. ARMSTRONG. Mr. President: The gentleman from Columbia has expressed very ably to the House the evils to be corrected, and except for his conclusion the Convention would have supposed that he was earnestly advocating the section under consideration.

We all agree in the necessity of restraining the exercise of the pardoning power, but I submit to the Convention that the measure which the gentleman from Columbia suggests as an amendment does not by any means reach so conclusively or effectually to the remedy which the gentleman admits ought to be provided.

In the first place, his amendment proposes the creation of a body of new officers, to be paid by the Commonwealth, upon whom duties more or less onerous are to be placed, but not sufficient to justify the creation of such a board, especially when the purpose to be accomplished by the creation of such a board

can be better attained by the mode embraced in the section.

Again, his amendment does not propose that a record shall be made of the conclusions of the board. I regard it as a matter of great consequence that the proceedings shall be not only public, but that there shall be a record made of the reasons for granting it, accessible to all persons who may be interested in the question. Nor will it be any answer to suggest that this is a question within the power of the Legislature, because in dealing with a question of this importance we should make it perfect on its face, and express in the Constitution all that appertains to the proper and full exercise of this great power.

Again, there is nothing in the amendment which provides that the proceedings of the Court of Pardons shall be in public. They may under the provisions of this amendment exercise the functions of their office secretly, while the section as it stands obviates, as I believe, all these difficulties. I call the attention of the Convention to the fact that the Court of Pardons—or the Board of Pardons, if the gentleman prefers so to call it—is constituted out of officers of the State having other duties to perform and paid by the Commonwealth, and therefore it involves no additional expense. Nor is the duty such as to impose upon them a duty foreign to the ordinary exercise of the functions imposed upon them.

The section also provides that no pardon shall be granted except upon full hearing, and that this hearing shall be upon public notice in open session, and that the recommendations for a pardon, with all the reasons for it, shall be made a public record, the reasons and recommendations filed and recorded so that there may be a record in the office which shall be at all times accessible to the people. In this circumstance is found one of the greatest safeguards against the improper exercise of this pardoning power. All that they do will be made a public record to which the public can at all times refer, and which will hold these officers accountable for any improper action they may take in the premises.

I think for all these reasons, and for others that might be stated, that this amendment is not a judicious one and that the Convention ought to sustain the section of the article as it has been reported from the Committee on Executive Department.

Mr. MACVEAGH. We can very well understand, Mr. President, why the gentleman from Columbia proposes this amendment, for it seems to be in entire harmony with the previous action of the Convention in some important respects, inasmuch as that action looks towards the delivery of the executive department, bound hand and foot, to the legislative department of the government. Yesterday we agreed, after all we have said about the legislative department of the government, that if one-third of the Senate entertain objections to any gentleman, the Governor shall not choose him to be one of his confidential advisers either as Attorney General or as Secretary of the Commonwealth. I think it is logically in the line of that conclusion to now put the entire pardoning power, for virtually this is doing it, in an irresponsible body elected by the Senate, without record of their own conduct, and of course without any responsibility to public opinion or to any legitimate control.

The report of the Committee on the Executive Department, on the other hand, hedges around the exercise of this power with the approval of recognized public officers, responsible in their public capacity, and who will not be apt to outrage public opinion; but instead of that the gentleman from Columbia proposes that the Senate shall select its favorites to perform this important executive duty. He says that he would recommend the Senate to elect the distinguished president judge of the Dauphin district and the present distinguished Attorney General of the State. How much weight will the Senate pay to his recommendations, does he suppose? What guarantee does this Convention possess that they will not select utterly irresponsible and utterly improper persons as this advisory board? What responsibility can attach to this board when they owe nothing to the people? It seems to me, also, that we ought not to allow it to be said here, without explicit denial, that either in the past or in the future any man violating the election laws of Pennsylvania, at the end of his trial was or now is secure of an executive pardon. I do not believe that ever was true in the past; I do not believe it is true to-day; and I shall not consent that the ballot-box stuffers in this city, or in any election district in the Commonwealth, shall hear it proclaimed from this floor that they may violate our laws with impunity, unless it is accompanied with

my protest against the truth of the statement.

The gentleman says that the existence of this evil is one of the reasons for his board of pardon-brokers, for such they will become. I trust it is not so. Bad men have been pardoned, perhaps inexcusably pardoned, in the past; bad men will be pardoned in the future; but I trust no man has ever yet sat in the executive chair of this State, and I trust no man sits there to-day, and that no man ever will sit there, who has ever pardoned, or will, knowingly, at the pressure of political partisans, pardon repeated violations of the election laws or any violation of those laws, unless his conscience was or is convinced either that the conviction was improper, or that public justice and the integrity of the ballot, and the purity of elections would be as well guarded by the release of the alleged criminal as by his further punishment.

All these little contrivances, all these little amendments that gentlemen sit down to write and which they think, when written, will produce the millennium when the lion and the lamb shall lie down together as the prophet foresaw, will not accomplish that result. I grant you that they may help toward it; but unless a public sentiment is behind them that gives vitality to them, that makes the infraction of the election laws a high crime punishable properly with an infamous and a long punishment, you cannot enforce them; and that an experienced legislator should rise here and endeavor to persuade this Convention that you will secure purity for the ballot-box by letting the Senate of Pennsylvania elect a board of pardon-brokers, I confess is to me a very great surprise.

I trust therefore the section as reported by the committee at least will be adopted, and if we may not trust the Executive of our State, then at least let us trust him surrounded and protected by other recognized public officers and not by the irresponsible appointees of a branch of a Legislature which by common consent, day after day, we have declared to be unsafe depositaries of the slightest legislative power.

Mr. BUCKALEW. I desire to modify my amendment.

The PRESIDENT. The amendment may be modified if there be no objection.

Mr. BUCKALEW. I propose to add at the end of the amendment these words:

"The sessions of the Advisory Board of Pardons shall be public, and all proceedings thereof shall be filed of record in the office of the Secretary of the Commonwealth."

The PRESIDENT. The amendment will be so modified.

Mr. CURTIN. Mr. President: Were it not for the source from which the amendment emanates and the manner in which it is pressed on the consideration of this Convention, I should add nothing to what has been so well said by the delegate from Dauphin.

Now, Mr. President, notwithstanding all that has been said in this Convention and all that we gather from the clamor of public opinion, or it may be sometimes the liberal comments of the press, I asseverate that there is no power placed in the hands of a single individual under the Constitution of Pennsylvania that has been so rarely and so little abused as the pardoning power. A man who is considered of consequence enough and has the ability and the integrity to be chosen by the people of this great Commonwealth to fill the office of Chief Magistrate, when approached in the exercise of this most important and beneficent power, will exercise it with great caution indeed; and after all, I cannot remember now of any number of cases of pardons granted in Pennsylvania for violations of the election laws. I believe that during the six years I had the honor of occupying that chair, I pardoned but one man for such an offense, and I pardoned him not on the application of my political friends, but I withheld the pardon against a constant pressure until the man defrauded asked for the pardon, and then I let the convicted man out. And I think that about that will be the experience of the gentleman near me, (Mr. Bigler,) who has had the misfortune to sustain the same kind of pressure for pardons and the same unmitigated and uncontrolled and unlicensed abuse which follows the executive exercise of that power.

Now, sir, it is the design of the section to break that pressure upon the Executive, to put between him and this constant pressure for the exercise of the pardoning power some intermediate tribunal where the application can be heard, where the hearing can be in public and upon due notice, as is provided for in this section; that is, that before the pressure comes to the Executive the party shall be heard and the reasons for the pardon and the

objections made to it shall be filtered through this intermediate board.

The learned and distinguished delegate from Columbia county wishes to arrive at the same result. The only difference is that he proposes to multiply public officers, to increase the expense of the Commonwealth, to make it the special business of men elected by the Senate to be the advisers of the Governor in the exercise of the pardoning power. He leaves with the Senate of Pennsylvania, the majority of that body in harmony with the political sentiments of the Executive, as has been properly designated by the delegate from Dauphin, the selection of a board of pardon-brokers. That is exactly what it would be.

Now, Mr. President, in the selection of men in all the exercises of official functions in the discharge of legislative and judicial and executive duties we must trust the citizens of the Commonwealth. If you elect them by the Senate of Pennsylvania, or by the Legislature of the State, or by the body of the people through the ballot-box, or under the choice of the Executive of the State, when you come down to the exercise of official power and place it in the hands of citizens, you must trust men. The question is whether you had better entrust this matter to a board of gentlemen selected by the Senate of Pennsylvania, made up as that body now is from the body of the people, but containing within it, if one tithe of what is said here is true, men not very well calculated to select pure men for the discharge of these delicate official functions; and it is not impossible that inside of your Senate you might find a "ring" connected with applications for pardons! They might select their friends, and when there are usually pending before the Executive from some seven hundred to a thousand applications for the pardoning power, a pressure from home might be brought to bear on the Senate of the State, or looking to future elections delegates might be promised, and all the thousand avenues by which politicians seek to gain power might be found to exist in the Senate, and you might have just what the delegate from Dauphin has denominated a board of pardon-brokers, who would hold the Governor by the throat in the exercise of the pardoning power which he should execute, remembering his allegiance to his God and his duty to his fellow-citizens. I would

rather trust it to the Executive as it now stands.

In this section it is given to the Attorney General and to the Secretary of the Commonwealth. Though their nominations by the Governor are confirmed by the Senate, they have other high duties to perform. It is made the collateral of the duties of their offices. They are at Harrisburg and they are paid for their services, so that there is no increase of expense or of public officers; and in the wild hunt for official place you would not find them use means of corruption. And added to that is the Secretary of Internal Affairs and the Superintendent of Schools, and it was expected at the time this section was reported that two of these officials would be elected by the people and two appointed by the Governor. It is to be expected that the people of the State will elect men of high character to any of these places, and surely the history of this Commonwealth shows that the Executive is always careful in the selection of his Attorney General and his Secretary of State. I trust, therefore, that the amendment offered by the delegate from Columbia will be rejected, and that this section will meet the approbation of the Convention.

Mr. COCHRAN. I shall vote for the amendment offered by the gentleman from Columbia (Mr. Buckalew.) I shall vote for it for the simple reason that it brings into this Council of Pardons the judicial element, which is lacking in the other provision, and which I think is very important. I spoke of that before. Believing that the appointment by the Senate is just as good and as little liable to objection as any other method of appointment that can be devised, that we are just as likely to reach a fair selection in that way as by a nomination by a political convention which may be under the control of a "ring" as well as the Senate of the State, I shall vote for this amendment in order to get the judicial element fairly represented in this Council of Pardons.

THE PRESIDENT. The question is on the amendment as modified, on which the yeas and nays have been called. The amendment will be read by the Clerk.

THE CLERK read as follows:

"The Senate shall, within ten days after its organization, at each regular biennial session, appoint, by open vote, four persons to constitute an Advisory Board of

Pardons for the two years next ensuing, upon the recommendation of at least three of whom the Governor shall have power to grant reprieves and pardons, and no reprieve or pardon shall be otherwise granted by him except that in capital cases he may respite the execution of sentence until the action of the said board can be had, and that in an emergency in case of war or insurrection against the authority of the State he may, in order to the restoration of peace and submission to the laws, proclaim conditional amnesty to offenders engaged therein. In choosing the members of said Advisory Board of Pardons each Senator shall vote for two persons, one at least of whom shall be learned in the law and exercising, or qualified to exercise, the office of president judge of a court of common pleas under this Constitution, and the four persons highest in vote shall be declared elected. Provision shall be made by law for regular and special meetings of said board, for the public hearing upon notice of all cases brought before it, for the reasonable compensation of its members, (without increase or diminution thereof pending a term of service,) and for filling any casual vacancy in said board by an appointment to be made by the same or by a majority of the same Senators who shall have chosen the member of said board whose place is to be filled. The sessions of the Advisory Board of Pardons shall be public, and all proceedings thereof shall be filed of record in the office of the Secretary of the Commonwealth."

MR. BUCKALEW. I wish the latter part of the amendment, the modification, to read: "The proceedings of said Advisory Board of Pardons shall be filed of record in the office of the Secretary of the Commonwealth," omitting the requirement of public sessions, because that is a part of the amendment.

THE PRESIDENT. The amendment will be so modified. The question is on the amendment as modified, on which the yeas and nays have been ordered.

The question being taken by yeas and nays, resulted, yeas seventeen, nays eighty-seven, as follow:

YEAS.

Messrs. Achenbach, Alricks, Barclay, Brodhead, Buckalew, Campbell, Cochran, Dallas, Ellis, Hall, M'Clellan, Patton, Purman, Read, John R., Smith, Henry W., Smith, Wm. H. and Wright—17.

NAYS.

Messrs. Ainey, Andrews, Armstrong, Baer, Baily, (Perry,) Bailey, (Huntingdon,) Baker, Bannan, Bartholomew, Bidle, Bigler, Black, Charles A., Bowman, Boyd, Broomall, Brown, Calvin, Carey, Carter, Church, Clark, Corbett, Corson, Cronmiller, Curry, Curtin, Cuyler, Darlington, Davis, Dodd, Edwards, Ewing, Fell, Finney, Fulton, Gibson, Gilpin, Guthrie, Hanna, Harvey, Hay, Hazzard, Hemphill, Heverin, Horton, Howard, Hunsicker, Knight, Lamberton, Landis, Lawrence, Lilly, Long, MacConnell, MacVeagh, M'Culloch, M'Murray, Mann, Mantor, Minor, Palmer, G. W., Palmer, H. W., Parsons, Patterson, D. W., Patterson, T. H. B., Porter, Purviance, John N., Reed, Andrew, Reynolds, Rooke, Runk, Russell, Simpson, Smith, H. G., Stanton, Struthers, Temple, Turrell, Van Reed, Walker, Wetherill, J. M., Wetherill, Jno. Price, White, Harry, White, J. W. F., Woodward, Worrell and Meredith, *President*—87.

So the amendment was rejected.

ABSENT.—Messrs. Addicks, Bardsley, Beebe, Black, J. S., Cassidy, Collins, Craig, De France, Dunning, Elliott, Funck, Green, Kaine, Lear, Littleton, M'Camant, Metzger, Mitchell, Mott, Newlin, Niles, Pughe, Purviance, Samuel A., Ross, Sharpe, Stewart, Wherry and White, David N.—28.

MR. ALRICKS. The section as it now stands confers upon the Governor of the Commonwealth a power that was not conferred by the Constitution of 1790 nor by the Constitution of 1838. It gives him the power of fixing the term of service for the sentence of every criminal convicted in every court in this Commonwealth. The commutation of sentences is here provided for. I move, therefore, to strike out in the second line the words "commutations of sentence."

The amendment was rejected, there being yeas fourteen, less than a majority of a quorum.

MR. CONSON. I believe we have now come back to the section as reported by the committee. I move to strike out all after the word "impeachment" in the third line, and that will leave it read exactly as the Constitution reads now, with the exception that in the second line the words "commutations of sentence" are included, which I think is a very wise addition. I submit the amendment, and

after it is stated from the desk, I shall have a few remarks to make upon it.

The PRESIDENT. The question is on the amendment to strike out all of the section after the word "impeachment" in the third line.

Mr. CORSON. I cannot believe that this section was inspired by the good gentleman who is chairman of the committee; but I must conclude that it is the offspring of the vulgar clamor against the use of the pardoning power.

The gentleman from Mercer, (Mr. De France,) whose heart is full of kindness for all his race, and who thinketh no evil, in an unguarded moment yesterday sought by an amendment to squeeze out of the new Constitution all the mercy that was left by the committee; but we rejected it, and I trust we will reject all other impediments to the freest access to the throne of executive clemency.

We must not lose sight of the example of which we read:

"And the Scribes and Pharisees brought unto him a woman taken in adultery; and when they had set her *in the midst*,

"They say unto him, Master, this woman was taken in adultery, in the very act.

"Now Moses in the law commanded us that such should be stoned; but what sayest Thou?

"But Jesus stooped down and with his finger wrote on the ground as though he heard them not.

"So when they continued asking him, he lifted up himself and said unto them. He that is without sin among you, let him first cast a stone at her.

"And again he stooped down and wrote on the ground.

"And they which heard it, being convicted by their own consciences, went out one by one; beginning at the eldest even unto the last; and Jesus was left alone, and the woman standing in the midst.

"When Jesus had lifted up himself and saw none but the woman, he said unto her: Woman, where are those thine accusers? hath no man condemned thee?

"She said, no man, Lord. And Jesus said unto her. Neither do I condemn thee; go and sin no more."

I would have the poor stricken wife, whose husband has been unfortunate; the husband whose wife has fallen; the father or mother whose son has been incarcerated, approach the Governor, untrammelled with shackles, and plead di-

rectly to the Executive ear. The old Constitution is in conformity with the old prayer we are taught to repeat, and in accord with the benign sentiments of the early settlers of Pennsylvania.

I never knew a Governor to grant a pardon except upon a petition of the prisoner and the people, and I treat with scorn and contempt the wicked insinuation that it ever has been with any occupant of our gubernatorial chair a corrupt source of revenue. I know many men who ought to have been pardoned who were not. Conviction sufficiently sets the seal of condemnation on the crime; pardon is the exercise of grace which shows magnanimity in the government and conduces to the reformation of the governed. Cruel and vindictive punishments are always unwise and never productive of salutary results.

"The quality of mercy is not strained;
It droppeth as the gentle rain from Heaven
Upon the place beneath. It is twice blessed;
It blesseth him that gives and him that takes.
'Tis mightiest in the mightiest: it becomes
The throned monarch better than his crown;
His sceptre shows the force of temporal power
The attribute to awe and majesty
Wherein doth sit the dread and fear of kings.
But mercy is above the sceptred sway;
It is enthroned in the hearts of kings,
It is an attribute to God himself,
And earthly power doth then show likest God's,
When mercy seasons justice."

Let us not attempt to dam up the divine attribute of mercy. Our good old ancestors left it free to all as God himself has left it free. I realize the truth that

"Eternal life still works eternal change;
If thou wouldst nourish an abiding thing,
Make the great Past thy servant, not thy king;
And be thy field the Present's boundless range."

But there are some things immortal, and there are the immutable laws of the living God. Pardon is what we all seek, and when the Christ, in the last article of life, hanging to the cross between thieves, was dying by the hands of murderers, he taught his fellow-men the divinity of the pardoning power when he exclaimed, "Father, forgive them."

If a plan can be devised to relieve the Executive of the oppressive burdens which the pardoning power devolves upon him, without restricting the right of the people to apply for, or the prerogative of the Governor to grant pardons, I will cheerfully give it my support; but I see my way clear only by allowing the law to stand as it is at present, and then the Governor must appoint his own mediators, make his own regulations and select

an advisory board to share his labors and responsibilities. Let us remember that when God in his eternal home conceived the thought of man's creation, he called to him the three ministers who constantly wait upon the throne, Justice, Truth and Mercy, and thus addressed them : "Shall we make man?" Justice answered, "Oh, God, make him not, for he will trample on thy laws;" Truth answered also, "Oh, God, make him not, for he will pollute thy sanctuary;" but Mercy, falling upon her bended knees and lifting her eyes to the throne, exclaimed: "Oh, God, make him, and I will, with my care, watch over him and protect him in all the dark paths through which he must tread." Then God made man, and said: "Oh, man, thou art the child of Mercy, go deal with thy brother."

Every good man's heart, like every good constitutional code of laws, is full of mercy and love.

The PRESIDENT. The question is on the amendment of the delegate from Montgomery.

The amendment was rejected.

Mr. HEMPHILL. I offer the following amendment, to be found on page 84 of suggestions, to strike out the whole provision and insert :

The Governor shall nominate, and with the consent of the Senate, appoint six of the president judges of the court of common pleas to constitute with himself, and for the term for which he shall be elected, a Court of Pardons, and a majority of said court, of whom the Governor shall be one, may remit fines and forfeitures and grant pardons after conviction in all cases except impeachment; and no pardon granted before conviction shall avail the party pleading the same.

The amendment was rejected.

Mr. MANN. Mr. President: I move to strike out all after the second "the" in the fourth line to and including the word "three" in the sixth line and insert the following: "ex-Governors of the Commonwealth, or a majority of them."

Mr. President, my judgment is in favor of this section as reported with the exception of the board that is established by it. I believe some provision of this kind is needed to satisfy the public mind, but I do not believe that the advisory board established by this section will meet the expectations of the people. The objections made to this board by the gentleman from Columbia (Mr. Buckalew) it seems to me are unanswerable. They

are the appointees of the Governor with one exception. They are part of his family. It cannot be expected that they will differ very largely from the Governor; it cannot be expected that they will resist, especially in those cases where a strong pressure is brought to bear on the Governor, his wishes in this matter. It does seem to me that unless we change the character of the board established by this section to assist the Governor, we shall have accomplished very little.

The objection, I take it, to the manner of selecting the board provided in the amendment of the gentleman from Columbia, was that it created additional and unnecessary machinery. The amendment that I have offered will create no additional officer. It will simply call to the assistance of the acting Governor those who have acted previously to his being called to that office. They will of necessity almost be of different political parties; of necessity I say, because it cannot be presumed that the ex-Governors will all be of the same political complexion with the existing one. They will have been elected by the entire people of the Commonwealth, and they will therefore have the respect and confidence of the people of the Commonwealth; and this board, constituted as my amendment makes it, will be an independent body, and all the people will feel that they are independent; they will act upon their own individual judgment uninfluenced by the Executive acting at the time.

For these reasons I think this amendment or some similar amendment ought to be adopted. But as I am afraid the mind of the Convention is settled to take the section as it is, I do not propose to consume any time in a needless discussion of its merits. I simply desire to enter my protest against the organization of the board provided by this section, which I do not see will answer the expectations of the people.

The PRESIDENT. The question is on the amendment of the delegate from Potter.

The amendment was rejected.

Mr. BRODHEAD. I move to amend the section by adding :

"But no pardon or commutation of sentence shall ever be allowed for offenses against the election laws of the State."

The amendment was rejected.

Mr. J. M. BAILEY. I move to amend the section by adding the following provision :

"Provided, That no pardon shall relieve any person from the penalties imposed by this Constitution."

Mr. President, perhaps I had better state the purpose of this amendment. It will be recollected by the members of the Convention that for violation of the election laws we have provided a penalty depriving the offender of the right of suffrage for four years. I do not believe that it is the intention of any member of this Convention that the Governor's pardon should relieve an offender against that provision from that penalty. And the object I have in view in offering this amendment is to prevent such a result.

THE PRESIDENT. The question is on the amendment of the delegate from Huntingdon.

The amendment was rejected; there being on a division, ayes thirty-five, noes sixty.

MR. COCHRAN. I offer the following amendment to the section: Insert after the word "pardons" in the second line, the words "including all cases of attachments on which parties shall be committed to prison without limitation of term."

It will be observed that this amendment is different from any that have been previously offered to this section. It is designed to meet a class of cases which it appears to me ought to come under the merciful provisions of the law as well as others. There are some cases of attachment issued by our courts, under which parties are committed to prison, as for contempt in not obeying the orders of the court, and under their proceedings such persons are committed without limitation of time. In regard to those cases, I know of no remedy or no relief to be granted to the parties. The Legislature probably has no power to relieve the parties, and the courts cannot relieve them unless they purge themselves in such a manner as will be perfectly satisfactory to the courts. Then a man stands imprisoned indefinitely, without any term being fixed or any limit to the time of his imprisonment. He may have been convicted of the crime of embezzlement, or substantially the very same offense, and then if he is committed under a writ of attachment to prison without limitation, he must serve out his term under that conviction of embezzlement and then be sent back to prison without limitation of time, and there is no power to pardon or relieve him. No matter how guilty a man has been, the power of pardon

should under certain conditions be extended to him. No matter how guilty a man has been, certainly there ought to be a time when the prerogative of mercy may be extended toward him by the pardoning power of the Commonwealth. I know of one case in which an individual has lain in jail now for twelve years. He was tried for the offense of embezzlement, he was convicted and served out his term of embezzlement for two years, and he is in prison now under the attachment of the court for contempt in not producing books and papers. I think in a case of this kind it would be in perfect accordance with all our jurisprudence that there should be an opportunity allowed for the pardoning power to intervene in certain cases regulated and restrained as it is in this section, and let such a party go free.

MR. CUYLER. The thought that underlies a pardon is that there is no remedy left for an offender except pure grace; that he has passed beyond the power of a court to relieve him. These are the only cases heretofore in which the pardoning power has been extended. The cases alluded to by the gentleman from York are cases in which the party is still within the power of the court. The court which committed him for contempt has power to modify his imprisonment, to relieve or to discharge him whenever they think it be proper he should be discharged. But it would be an anomaly in our system for the Governor to intervene between the court and the execution of its order or sentence, relieving the party while he was directly responsible still to the court. That would be an utter anomaly to our whole system. I hope, therefore, that the Convention will vote this amendment down. As to the other illustration made by the gentleman from York, as to parties imprisoned for the non-payment of moneys, under sentence, that is already within the power of the Governor under the provisions of the section as it now stands.

The amendment was rejected.

MR. J. N. PURVIANCE. I move to amend, by striking out the words "upon due public notice and in open session."

THE PRESIDENT. The amendment of the gentleman from Butler is not in order, as the words he proposes to strike out were voted in yesterday. The question is upon the section as amended, and the section as amended will be read.

The CLERK read as follows:

"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 nor 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 full hearing upon due public notice and in open session; and such recommendations, with the reasons therefore at length, shall be recorded and filed in the office of the Secretary of the Commonwealth."

The section was agreed to,

The PRESIDENT. The next section will be read.

The CLERK read as follows:

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 section was agreed to.

The twelfth section was read as follows:

SECTION 12. He shall from time to time give to the General Assembly information of the state of the Commonwealth and recommend to their consideration such measures as he shall judge expedient.

The section was agreed to.

The PRESIDENT. The next section will be read.

The CLERK read as follows:

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 section was agreed to.

The fourteenth section was read as follows:

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 section was agreed to.

The fifteenth section was read as follows:

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 section was agreed to.

The sixteenth section was read as follows:

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 reconsider it. If after such reconsideration 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 reconsidered, 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 he shall file the same with his objections in the office of the Secretary of the Commonwealth and give notice thereof by public proclamation within thirty days after such adjournment.

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

"And no bill shall be signed by the Governor within five days of its passage by the Legislature, except the general appropriation bill."

Mr. President, I have offered this amendment at the instance of a late distinguished member of this Convention,

who now occupies a very conspicuous place in this Commonwealth. It was suggested by him to myself, after an experience of a few months as Attorney General, that it would be proper to offer this amendment when the report of the Committee on Legislation came before the Convention. I have thought proper to offer it at this time. It is designed, as the Convention will observe, to correct one of the great evils of the times, one of the great evils resulting from the hasty approval of bills passed by the Legislature. It so happens that a committee of gentlemen coming from some locality, representing some interest, will approach members of the Legislature at Harrisburg and will be able to hasten through the Legislature some act of Assembly in the interest of their locality. They then have the act hastily transcribed and sent over to the Executive department, and there by personal importunity and by beseeching the departments—to their annoyance somewhat—the result is that, occasionally, the Governor gives a hasty approval to some bill. To correct this difficulty it has been suggested that a provision shall be inserted in the Constitution requiring the Governor to withhold his signature from any bill passed by the Legislature for five days after its passage.

On the question of agreeing to the amendment proposed by Mr. Harry White, a division was called for, which resulted ayes fifty-three, noes thirty-one. So the amendment was agreed to.

THE PRESIDENT. The question is upon the section as amended.

MR. HARRY WHITE. Allow me to suggest one other amendment, to strike out in the last sentence, the words, "General Assembly," and insert the word "Legislature." That is in harmony with the residue of the section.

MR. BIDDLE. Mr. President: I wish to say that the language of this section is precisely the language of the existing section of the Constitution: "Unless the General Assembly by their adjournment." I can see no reason for making the change. It is the same all through the section and other sections.

MR. HARRY WHITE. Allow me to inform my friend from Philadelphia that he is somewhat mistaken —

MR. BIDDLE. No, sir; I have it before me.

MR. HARRY WHITE. The bulk of the section is identical with the present Constitu-

tion, but that change was made. The gentleman will observe that under the old Constitution the bill was not acted upon finally by the Governor until within three days of the commencement of the next session. We have changed that. There is the change from the old Constitution. Now, I merely propose to strike out the words "General Assembly" and insert the word "Legislature," because we have changed it all through the rest of the article.

MR. BIDDLE. No, sir, the gentleman misunderstands me, and I think he misunderstands the existing clause of the Constitution entirely. We have changed nothing in regard to the General Assembly. It is "General Assembly" in the twelfth section and the thirteenth section we have just passed.

THE PRESIDENT. The question is on the amendment.

The amendment was rejected.

MR. HAY. I propose an amendment to the section, to insert after the words "two-thirds of" in the sixth line the words "all the members elected to;" and to insert the same words after the words "two-thirds of" in the eighth line.

My reason for offering the amendment is that in the article on legislation—I think in the eighth section of that article—we have required the assent of a majority of all the members elected to each House to the passage of bills. In this article the language of the old Constitution has been retained, by which a bill may be passed over a veto by a majority of a quorum—less than the number required to pass the bill originally. We have now required the assent of fifty-one members of the lower House to the passage of any bill. Under this section, unless it is altered, thirty-four members may pass it over a veto.

SEVERAL MEMBERS. Two-thirds.

MR. HAY. Two-thirds of a quorum, and I think we ought to require that the assent of two-thirds of all the members elected shall be requisite to the passage of a bill after it has been disapproved by the Governor.

MR. WORRELL. I would suggest to the gentleman that the language should be, "two-thirds of the members composing the House." It might be that for some reason a few of those elected might not be qualified, or there might be vacancies. It ought to be "two-thirds of the members composing the House."

The PRESIDENT. The question is on the amendment of the delegate from Allegheny (Mr. Hay.)

The amendment was agreed to, there being on a division, ayes forty-nine; noes thirty-two.

Mr. ARMSTRONG. I should like to have the amendment read, merely for the purpose of ascertaining the verbiage of it.

The PRESIDENT. The amendment is no longer before the House.

Mr. ARMSTRONG. I know that it is not, but I ask that it may be read for information.

The PRESIDENT. That part of the section containing the amendment just adopted will be read for information.

The CLERK read as follows:

"If after such reconsideration two-thirds of all the members elected to that House shall agree to pass the bill, it shall be sent, with the objection, to the other House, by which it shall likewise be reconsidered; and if approved by two-thirds of all the members elected to that House, it shall be a law."

Mr. WORRELL. I move to amend by inserting the word "forthwith" after the word "proceed," in the fifth line. I do this merely to raise the question for the consideration of the Convention as to the time at which a veto message shall be considered. It became a very important question during the session of the last Legislature whether a veto message should be considered when it was sent in to the House or whether the consideration of it could be postponed for a day or for a number of days, until such time as the members saw fit to proceed to its consideration. It has become an important constitutional question, and I think we ought to determine either the one way or the other, that it shall be considered forthwith, or that each branch of the Legislature can determine for itself when it will proceed to its consideration.

Mr. HARRY WHITE. I move to insert the word "immediately," after the word "reconsider," in the fifth line.

Mr. WORRELL. I accept the amendment.

The PRESIDENT. The amendment is so modified.

Mr. HARRY WHITE. Mr. President: Just one word. This is an exceedingly important and practical question. The question arose last winter upon the consideration of a very important bill vetoed by his excellency, Governor Hartranft. The question was raised in the Senate as

a question of order; and the Speaker of the Senate decided that it was the duty of the Senate, in which the bill had originated, to immediately proceed to reconsider it. This was deferred to. It so happened that a few days afterwards another gentleman was occupying temporarily the chair when a similar question arose, and he took a different view of the rule and decided otherwise. Thus the question rests; and hence it is eminently a practical question, and it is proper that it should be settled in the Constitution. There are to-day hundreds of bills—I speak advisedly when I say hundreds of bills—which have been vetoed and lie in the archives of one or other of the chambers on a motion made by some member to postpone for the present the consideration of the question. Now I submit that we ought to set the matter at rest.

Mr. MACVEAGH. Mr. President: I trust the Convention will not insert this word "forthwith," and will not insert the equivalent word "immediately," suggested by the gentleman from Indiana. It seems to me that neither the House nor Senate could be in a condition to immediately proceed to reconsider a bill after hearing a veto message read from the clerk's desk. In the first place it is very difficult to get the drift of the argument of a veto message. Very often these are upon constitutional questions, which have not been suggested to the minds of members, and to ask members to vote immediately, without having an opportunity to see in print the reasons stated, without having an opportunity to investigate or to weigh for one moment the arguments, even if they are not legal, against the bill, seems to me improper. It does occur to me that a proper respect for the Executive would require that some little time be given. A gentleman on my right suggests three days, but certainly the veto message ought to be printed upon any grave question, and it ought to be considered. I think no time ought to be named in the Constitution, but I submit that the reasons cannot be properly considered immediately upon hearing the message read from the clerk's desk. I submit now that gentlemen here can hardly appreciate the force of any proposition just by hearing it read, and especially read from manuscript which very often is difficult to read; and the intelligence is not sufficiently bright in the average member of this Convention even, let alone the average member

of the Legislature, to catch the full import of an argument upon a constitutional question, and to vote yea or nay, merely upon hearing a veto message read from manuscript. I sincerely trust, therefore, that the amendment will not be adopted.

I was about to say that I see no practical disadvantage from simply postponing a bill when the Governor has vetoed it. If its friends do not feel able to pass it by a two-thirds vote, it dies by the adjournment of the Legislature. Why not let it die in that way if they prefer it? Its friends can always call it up and have a vote upon it, and I see no necessity for inserting any time; but I certainly do hope the Convention will not require it to be voted upon, yea or nay, immediately upon hearing the veto message read in manuscript at the clerk's desk.

MR. LILLY. I see one objection to this amendment of the gentleman from Indiana, and that is that we have just put in an amendment that a bill must have a vote of two-thirds of the members elected to each body to be passed over a veto. A quorum is a majority merely. The veto message may come into the House where the bill originated when there is a bare quorum present, no two-thirds there, and it would take more than the whole body to pass it. That, I think, is a very strong objection to the amendment.

MR. TURRELL. MR. President: It is very clear to me that this amendment should not be adopted. My great objection to it is, in addition to what has been already said, that it is an attempt here to tie up the judgments and consciences of the members of the Legislature, and prevent them from judging at what time they will consider a matter before them, when they will take it up. I would leave them free to judge for themselves when they would consider that or any other measure; and we ought not to attempt to dictate to them that they shall take up this measure on this day or that day. Let them judge of the circumstances as they stand before them. Do not let us attempt to tie them up in the exercise of their judgment.

MR. BUCKALEW. MR. President: I am in favor of fixing the limit of three days to give time for printing and all reasonable consideration, and then that the veto shall have priority of business until disposed of. The gentleman from Indiana does not speak without knowledge on this subject. He speaks from his experience and the experience of every other member of the Legislature in recent

years. It is the common mode now of treating a veto message to postpone it, and then the friends of the measure will have the whole session, from the time the veto is received, to electioneer in the House to get up a vote to over-ride the veto; and more than one has been over-ridden by this means. I say that the House on the one hand ought to have an opportunity to consider deliberately the reasons of the Governor, have his message printed and laid before them, consider with care and thought as the member from Dauphin properly argued, and a period of three days would be adequate for that purpose. Then I would have the friends of the bill take their chance once for all. I would not allow them to go outside and get up influences to act upon the House during the whole of the remainder of the session. The effect of this is evil, and only evil, and that continuously.

I think, sir, as the gentleman from Dauphin has argued, that it would be inconvenient in all cases to consider the veto at once. The House cannot do it. I would therefore be willing to vote for an amendment requiring that the veto shall be considered within a period of three days after being received —

MR. MACVEAGH. Say five days.

MR. BUCKALEW. Or five days if the gentleman chooses, and that it shall have priority over other business until disposed of. I think an amendment of that kind would be right.

MR. WORRELL. When I offered this amendment it was merely to raise the question for the determination of the Convention, and I expected that those gentlemen who had had experience in deliberative bodies would suggest a proposition which would meet with general approval, and after having heard the arguments I am satisfied myself that there should be a limit of from three to five days.

But while we are on this question, I should like to say that in an important suit in this city, involving the appropriation of over a million of dollars by our city councils, it was shown by the record that a veto message which had been sent in by the mayor had been considered, and lost, and a motion to reconsider that vote had been postponed from day to day until a sufficient number was obtained to pass the bill over the veto of the mayor; and I was advised of the difficulty which arose in the Legislature last year, and I

thought it was proper that we should now give some construction to this Constitution in order that it might be known hereafter when a veto message is to be considered, and in order that there should be no such questions raised hereafter. If any gentleman will suggest three or five days, I will accept that as an amendment to the proposition.

MR. ARMSTRONG. Mr. President: It is to be observed that there ought to be some force *prima facie* to a Governor's veto, and that after the careful consideration of the Governor and a veto of any measure, it has no such merit *prima facie* as ought to commend it to the consideration of either the Senate or the House of Representatives as a matter deserving of precedence over and above all other legislation. I think this subject is better left to the discretion of the Senate and the House without any provision as to time of consideration. After a measure has been vetoed and is brought back to the Legislature, it requires that it should be passed by a two-thirds vote. This, of itself, is a very great safeguard, and the only safeguard which in ordinary cases is applied to legislation. It is at all times within the control of the Senate and the House by enforcing their rules of order, and it cannot be brought before either House except upon a suspension of the rules or in accordance with the rules. There seems to be no necessity, therefore, for this provision. It is a trammel upon legislation which seems to be entirely unnecessary and without any sufficient reason. I trust, therefore, that no attempt will be made in the Constitution to give constitutional precedence to measures which come back to the Legislature stamped with the disapprobation of the Executive. Such measures should always take their chances under the rules of the House and not have constitutional precedence.

MR. HARRY WHITE. I have no objection whatever to the limit of three days if the mover of the amendment will so modify it.

MR. WORRELL. I accept that.

MR. HARRY WHITE. Then I suggest that it be so modified as to read "within three days thereafter."

THE PRESIDENT. Is the modification accepted by the mover of the amendment?

MR. WORRELL. Yes, sir.

THE PRESIDENT. The question is on the amendment as modified.

MR. J. N. PURVIANCE. I would remark that the section as reported is precisely in the language of the present Constitution. I read from the present Constitution:

"If he approve, he shall sign it; but if he shall not approve he shall return it, with his objections, to the House in which it shall have originated, who shall enter the objections at large upon their journals, and proceed to reconsider it."

Not "proceed to reconsider it forthwith," or "within three days", or any period. We have preserved the provision of the present Constitution in the report of the committee, and I hope it may so pass the Convention.

THE PRESIDENT. The question is on the amendment.

The amendment was rejected, there being eighteen ayes, less than a majority of a quorum.

THE PRESIDENT. The question now is on the section as amended.

MR. MANN. I think the amendment prohibiting the Governor from signing a bill until five days after its passage will be an unnecessary clog upon him, and I therefore move to reconsider the vote by which that amendment was added to the section.

THE PRESIDENT. Did the gentleman vote with the majority?

MR. MANN. I did.

MR. WORRELL. I second the motion.

THE PRESIDENT. The question is on the motion to reconsider.

The motion was agreed to, there being, on a division: Ayes, thirty-seven; noes, thirty.

THE PRESIDENT. The question now is on the amendment.

MR. HARRY WHITE. I move to amend, by making it three days instead of five.

MR. LILLY. I hope both these amendments will be voted down and the matter left as it stands in the old Constitution. I think any man who is fit to fill the gubernatorial chair ought to have the manliness and the courage to resist all importunities to induce him to sign a bill before he is fully acquainted with its contents. I think the introduction of propositions of this kind shows that we have no confidence in the men who are to be elected Governors of this Commonwealth.

MR. DARLINGTON. I ask for the reading of the amendment and the amendment to the amendment.

THE CLERK. The amendment is to add at the end of the section: "But no bill

shall be signed by the Governor within five days of its passage by the Legislature except a general appropriation bill." The amendment to the amendment is to strike out "five" and insert "three."

The amendment to the amendment was agreed to, there being, on a division: Ayes, thirty-five; noes, thirty-four.

The PRESIDENT. The question now is on the amendment as amended.

The amendment as amended was rejected, there being on a division, ayes, thirty-four; noes, forty-four.

The PRESIDENT. The question now is on the section as amended.

The section was agreed to.

The CLERK read the next section, as follows:

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 repassed according to the rules and limitations prescribed for the passage of other bills over the executive veto.

The section was agreed to.

The CLERK read the next section, as follows:

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.

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

"But if the election of the Lieutenant Governor shall not be contested, then he shall exercise the authority of Governor until the question shall be decided.

The amendment was rejected.

Mr. DARLINGTON. I move to amend with a view of improving the section, if it so strikes the Convention, by striking out in the third line the words "the election of Governor or Lieutenant Governor and inserting "their election."

The amendment was rejected.

Mr. BUCKALEW. I have an amendment to propose, but I am in doubt whether to offer it to this or to the second section. For the purpose of raising the

question I will offer it as an addition to this section:

"The Chief Justice of the Supreme Court shall preside upon the trial of any such contest, shall decide questions regarding the admissibility of evidence, and shall, upon request of the committee, pronounce his opinion upon other questions of law involved in the trial."

I beg the attention of the Convention for a moment to this amendment. It is possible that it would be more appropriate at the end of the second section than at the end of the present one, although it would be in order of course at this point.

The committee reporting this article have, I believe, left the present Constitution unchanged in regard to the trial of contested elections for the office of Governor. They have not, as it appears, turned their attention to this particular point, or at all events they have proposed to us no change. Therefore the question recurs upon us, is the present arrangement of the Constitution for contesting elections of Governor a good one, a fit and safe one for the people in future times?

Recurring to the second section, the Convention will perceive that we have retained the Grenville plan for the trial of these contests, proposed by a distinguished English statesman about a century ago in the Parliament of Great Britain. That plan has been abandoned in England long since; has broken down under popular opinion. No vestige of it remains in that country. We have abolished it also by the action we have already taken in regard to contested elections of members of the Legislature. The only vestige of it left in the Constitution is the provision at the close of the second section of this article in regard to contested elections of Governor of the Commonwealth. Although it is not clearly expressed, I understand the committee intend the same arrangement to apply to the office of Lieutenant Governor.

Now, what is this committee? How is it drawn? The two Houses meet together in joint convention, and the names of all the Senators and all the Representatives are placed in a box or urn, and the names are drawn, and the parties alternately challenge off until a committee of thirteen is formed. The inevitable result of this proceeding is that all the strong, capable men in both Houses of the Legislature are challenged off the lists. Each party strikes off the strong, able, independent men

upon the other side, and the committee, when it comes to be formed out of the one hundred and thirty-three members of the Legislature will, inevitably, in all cases, be composed of the weakest, least fit, least competent members of the two Houses. That is the inevitable outcome of this plan.

Fortunately we have never had occasion, in this State, to try this plan, or it would have broken down long ago; and the very first experiment that is ever made in this State will put an amendment in the Constitution, unquestionably, on this subject. I desire to anticipate that time of evil by correcting, at least partially, this mischief now. If I had my way, I would not permit a committee to try a contested election for Governor or Lieutenant Governor, knowing, as I do, how that committee will be drawn and of what material it will be composed. But, sir, we can give to such a trial as that some sort of dignity; we can cast around it some considerable amount of security by providing that the sessions of this committee shall be presided over by the Chief Justice of the Supreme Court, who shall have power to decide all questions regarding the admissibility or rejection of evidence during the trial, and that he shall further pronounce his opinion, at the request of the committee, upon any question of law involved in the trial. That will give a judicial complexion to what otherwise would be a complete farce and subversive, unquestionably, in every possible case, of the ends of justice, unless the committee happened, by an accident, to be composed of members politically favorable to the proper side of the question at issue.

Now, observe the Chief Justice of the Supreme Court is admirably prepared for this duty. Under the Constitution as it will be amended, he will hold his office for twenty-one years; he will be the oldest judge in commission upon the bench; he will not be eligible to re-election; he will not be influenced by his ambition to be re-elected to a seat upon the supreme bench; he will in almost every possible case be a man advanced in years, ripe with experience, and with the confidence of the whole profession and people of the State about him; and it will not involve him in any difficulty or any possible disgrace to be called upon to decide questions of law upon a great trial in regard to who has been elected Governor by the people of the State. I do not propose to

make him a member of the committee to vote upon the merits of the question when they come ultimately to be decided, but that he shall determine questions of law pending the trial and that the committee, in case of a question of law arising other than that of evidence, may request his judgment and opinion upon that law question. By the addition of this provision you will change a most imperfect and most vicious system into one at least comparatively tolerable, and if the contest shall turn in considerable part upon questions of law you will have a great and invaluable security that the decision will be just and right.

Mr. President, I hope the Convention will agree to add this clause at this place; and if the Committee on Revision hereafter think proper to incorporate it in the second section of course they can place it there.

The PRESIDENT. The question is on the amendment.

The amendment was agreed to.

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

The section was agreed to.

The CLERK read section nineteen as follows:

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.

Mr. HANNA. I move to amend by striking out the word "fair," on the first line, before "register."

Mr. LAMBERTON. It is the language of the old Constitution.

Mr. HANNA. It seems to me that the word is unnecessary.

The PRESIDENT. The question is on the amendment.

The amendment was rejected.

The section was agreed to.

The twentieth section was read as follows:

SECTION 20. The Secretary of Internal Affairs shall exercise all the powers and duties devolved by law upon the Surveyor General, subject to such change as shall be made by law, 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.

Mr. WHERRY. I call the attention of the chairman of the committee to the word "mines," in the seventh line. It certainly is a duplication. The word "mineral" is sufficient to express the idea. "Mines" is a substantive, and all these other terms are adjectives qualifying "interests." I move to strike out the word "mines."

The amendment was rejected.

The section was agreed to.

Section twenty-one was read as follows:

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, 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 Instruction shall be duly qualified.

The section was agreed to.

Section twenty-two was read as follows:

SECTION 22. The term of the Secretary of Internal Affairs shall be four years, of the Auditor General three years, and of the State Treasurer two years. These officers shall be chosen by the qualified electors of the State on the day of the general election. No person elected to the office of Auditor General or State Treasurer shall be capable of holding the same office for two consecutive terms.

The section was agreed to.

The PRESIDENT. The article having been gone through with, the question is, shall the article be transcribed for third reading.

Mr. ARMSTRONG. There is a slight error which I think should be corrected in the seventh line of the twentieth section. The word "mines" I think should read "mining," because it is to be observed that the paragraph reads:

"And such duties relating to the charitable institutions, the agricultural, manufacturing, mines, mineral, timber, and other material or business interests," &c.

Mr. CURTIN. "Mining" was the word in the original draft.

The PRESIDENT. Does the House give unanimous consent to make the amendment? The Chair hears no objection, and

the correction will be made. The question now is, shall this article be transcribed for a third reading.

Mr. CURTIN. I move that the article be referred to the Committee on Revision and Adjustment.

The motion was agreed to.

LEGISLATION.

The PRESIDENT. The next business in order is the consideration of the article reported by the Committee on the Legislature.

Mr. HARRY WHITE. I move that the Convention proceed to the consideration of the article reported by the Committee on Legislation on second reading.

The motion was agreed to, and the Convention proceeded to the consideration on second reading of the article from the Committee on Legislation. (Report No. 9.)

The first section of the article was read as follows:

"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."

Mr. BUCKALEW. Since the general provision made in the report upon elections has been agreed to, I suppose the chairman of the Committee on Legislation will not care to retain the closing part of this section. It was adopted provisionally prior to the consideration of the general question of contested elections. If it comports with his view I move to strike out all after the word "members," in the second line.

Mr. HARRY WHITE. I hope the amendment will not prevail; not that I am devoted to this language over the phraseology of the section reported by the Committee on Suffrage and Elections, but there is no inconsistency whatever between the sections. This merely provides that contested elections of Senators and members of the House of Representatives shall be tried by the court of common pleas of the county where the returned member lives. The general declaration in the report of the Committee on Suffrage and Election is that contested elections of Senators and Representatives and other officers shall be tried by a court in such manner as shall be regulated by law. This merely defines the court. It is not at all inharmonious with the section in the other report.

Mr. BUCKALEW. I suspect that the chairman of the committee has not reflected on one or two points to which I wish to call his attention and that of the Convention.

This arrangement that these contested election cases shall be always tried by the court of common pleas of the county where the returned member resides is open to two fatal objections. In the first place, the contest may not be in that county at all; it may be in a county or at a point fifty or sixty miles distant. Take the case of a member of the Senate whose district is composed of four or five counties; the contest may be really in the county of A; and the member may reside two counties off, in the county of C; and yet by this provision the contest is to be tried in his own county without reference to the place where the dispute actually arises. That is the first objection.

Another objection is that the case is to be tried by the court of the county in which the returned member resides, so that in the ordinary case a president and two associate law judges, who are presumably his political friends, are to try the case in every instance, so that you have provided in most cases that the returned member shall have his contest tried by the court at his own door, composed of judges politically of the same opinions with himself. Now, if the Legislature think proper by general law to provide an arrangement of that sort, so be it; but if it works badly, it may be changed afterwards. I object to putting it here into the body of the Constitution.

Besides these two objections which I have stated, either of which in my judgment is sufficient, the fact remains that this whole subject is covered by the general provision which the Convention has already agreed to, which is simply that contested elections shall be tried by the regularly established courts of law, and that the Legislature shall have the duty charged upon it by general law of designating what court and judges are to hear these cases, and that they must make that regulation in every instance before the election is held or the contest arises, so that they cannot pass any law in reference to any pending case to influence it one way or the other.

I trust, therefore, that this clause will be struck out and that the general provision to which I have referred will be left as the only one on that subject.

Mr. HARRY WHITE. In answer to what the delegate from Columbia has remarked, I will read the fourth section of the article to which he refers:

"The trial and determination of contested elections of electors of President and Vice President, of Senators and Representatives in the Legislature, and of all public officers, whether State, judicial, municipal or local, shall be by the courts of law regularly established, or by one or more of the law judges thereof. The Legislature shall by general law designate the courts," &c.

Now, I say in answer to the objection made by the delegate from Columbia, that there is no incongruity between the two sections. The section under consideration merely provides that the contested election of a member of the Legislature shall be tried by the court of common pleas and shall be tried in the county where the member returned lives, in such manner as shall be designated by law. This leaves a large discretionary power to the Legislature in enacting general laws.

Besides that, no general law can be passed to affect any particular case occurring previous to its passage. I think there is wisdom in locating the trial of these contests. If you cast your eye over the Commonwealth you will observe that the different counties are of different politics and the judges of the courts are of different politics. This is as fair for one side as it is for the other.

Then, our districts are made up of several counties, and probably a Republican member returned for a district may live in a Democratic county, or, *vice versa*, a Democratic member may live in a Republican county; so that it is fair all through. I apprehend that the placing of this provision here will avoid a future conflict in the Legislature on this subject.

The PRESIDENT. The question is on the amendment of the delegate from Columbia (Mr. Buckalew.)

The amendment was agreed to; there being, on a division: Ayes, thirty-seven; noes, twenty.

Mr. HARRY WHITE. Is there a quorum voting.

The PRESIDENT. Does the gentleman raise any question on that point?

Mr. HARRY WHITE. I ask for a call of the House.

The PRESIDENT. Does the gentleman mean a count of the House?

Mr. HARRY WHITE. Yes, sir.

The PRESIDENT. A count of the House is called for. The Clerk will call the roll.

The roll being called, the following members answered to their names:

Messrs. Achenbach, Ainey, Alricks, Armstrong, Baer, Bailly, (Perry), Bailey, (Huntingdon,) Baker, Bannan, Barclay, Bartholomew, Biddle, Bigler, Black, Chas. A., Bowman, Boyd, Broomall, Brown, Buckalew, Calvin, Campbell, Carey, Carter, Cassidy, Church, Clark, Cochran, Corbett, Corson, Craig, Curry, Curtin, Dallas, Darlington, Davis, Dunning, Ellis, Finney, Fulton, Gilpin, Hall, Hay, Heverin, Horton, Howard, Hunsicker, Lambertson, Landis, Lawrence Lilly, Long, MacConnell, MacVeagh, M'Camant, M'Clean, M'Culloch, Mann, Mantor, Metzger, Minor, Mott, Palmer, G. W., Palmer, H. W., Parsons, Patterson, D. W., Patterson, T. H. B., Patton, Purman, Purviance, John N., Reed. John R., Reed Andrew, Reynolds, Rooke, Runk, Russell, Simpson, Smith, Henry W., Smith, Wm. H., Stanton, Struthers, Turrell, Van Reed, Walker, Wetherill, J. M., Wetherill, Jno. Price, Wherry, White, Harry, White, J. W. F., Worrell, Wright and Meredith, *President*.

The PRESIDENT. Ninety-one members are present, more than a quorum. The question is on the section as amended.

The section as amended was agreed to.

The second section was read as follows:

SECTION 2. 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 third section was read as follows:

SECTION 3. 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.

The section was agreed to.

The fourth section was read as follows:

SECTION 4. No law shall be passed ex-

cept by bill, and no bill shall be so altered or amended in the course of its passage through either House as to change its original purpose.

The section was agreed to.

The fifth section was read as follows:

SECTION 5. 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 members.

Mr. WHERRY. I am not so sure about the operation of the last sentence of this section. "No bill shall be considered unless reported from a committee." It seems to me to be a very binding obligation.

Mr. HARRY WHITE. If the gentleman will allow me I will offer an amendment to reach that difficulty. I move to strike out the words "reported from," in the second and third lines, and insert the words "referred to," and after the word "and," in the third line, insert the words "when returned therefrom," so as to read, "No bill shall be considered unless referred to a committee, and when returned therefrom," etc. If this change is not made I apprehend the section will give too much power to the committees of the respective bodies. Some bill may be referred and there will be no possibility of a majority of the Legislature getting it back from the committee. Hence I think it wise to strike out the word "reported," and insert the word "referred." The expression "printed," occurring where it does may create some confusion. "Printed" may contemplate the printing of a bill after it is read in place or contemporaneously with its being referred to a committee. I think it proper to add the words, "when returned therefrom," which will qualify the word "printed." Of course, it will be in the power of the House at any time to order the printing.

The PRESIDENT. The question is on the amendment.

The amendment was agreed to.

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

Mr. DARLINGTON. I move to amend, in the first and second lines, by striking out the words "but may be altered, amended or rejected in the other." Then it will stand, "bills may originate in either House." I suppose there is no doubt about the right of either House to amend a bill, and no doubt about the power to reject. I presume it does not mean any constitutional

provision on that point. The section will be perfect without it.

The PRESIDENT. The question is on the amendment of the delegate from Chester.

The amendment was agreed to, there being on a division ayes thirty-eight, noes twenty-five.

Mr. J. N. PURVIANCE. The language of the present section is: "Bills may originate in either House except bills for raising revenue, which shall originate in the House of Representatives." I move to amend this section as it now stands, by inserting after the word "house," in the first line, the words "except bills for raising revenue, which shall originate in the House of Representatives."

Mr. HARRY WHITE. I suggest to the gentleman from Butler that that is already provided for in the sixteenth section, and in so doing we have followed the language of the old Constitution in this regard.

Mr. MACVEAGH. Then I suggest that there is no propriety in putting in this section words declaring that bills may originate in either House. There is no possible need of those words. Of course, with the exception in the sixteenth section, which says that all bills for raising revenue shall originate in the House of Representatives, there is no propriety in saying that bills may originate in either House. Of course they may, unless it is prohibited.

Mr. J. N. PURVIANCE. It seems that the sixteenth section reaches the same object. I therefore withdraw my amendment.

The PRESIDENT. The amendment being withdrawn, the question is on the section as amended.

Mr. MACVEAGH. I move to amend by striking out the first sentence, so as to make the section read: "No bill shall be considered unless referred to a committee," &c. Then section sixteen will cover the case of bills for raising revenue, and of course all other bills may originate in either House.

Mr. HARRY WHITE. I have no objection to the amendment.

The PRESIDENT. The question is on the amendment of the delegate from Dauphin.

The amendment was agreed to.

The sixth section was read as follows:

SECTION 6. No bill shall be passed containing more than one subject, which

shall be clearly expressed in its title, except appropriation bills.

Mr. BUCKALEW. I desire to call the attention of the chairman of this committee to a consideration which seems to me to be important. We should not provide for the contingency of having this limitation on the Legislature in reference to the bills which may be passed to execute our amendments to the Constitution. Necessarily the bills that are drafted to execute our numerous new provisions will contain many subjects that will be in the nature of codifications. In the other States where this provision limiting bills to one subject expressed in the title has been adopted, they have carefully excluded from its operation bills in the nature of codifications of their laws, whether reported by a commission or passed in pursuance of amendments adopted to the Constitution. I am strongly in favor of a general provision of this kind; but I do not want it to hamper and embarrass legislation for two or three years after these amendments are adopted. I do not know whether the chairman of the committee has considered this subject; but if he has, I hope he will insert some amendment which will save the necessary legislation to carry into effect our amendments.

Mr. HARRY WHITE. Mr. President: In reply to the delegate from Columbia I will state that that matter has been considered, and inasmuch as we are making an organic law, it is deemed wise to make all this section as general as possible; and if it seems proper to the Convention hereafter to pass a saving clause in that regard, very well. I call the attention of the gentleman, as well as of the Convention, to the fact that in the report which was made by the commissioners to revise the Constitution of New York, they made a saving clause of this kind in a subsequent section; and when we approach the schedule, or when sections fifteen, sixteen, seventeen and nineteen of this article come up for amendment we can attend to this matter as in the bill reported to the Legislature by a commission appointed pursuant to law to revise the statutes; we can pass a subsequent section to meet all the cases contemplated by the delegate from Columbia.

The PRESIDENT. The question is on the section.

Mr. ARMSTRONG. I suggest a transposition of the language. The words "except appropriation bills," I think, will be more appropriate if inserted after the

word "bill" in the first line, so that it would read, "no bill except appropriation bills shall be passed," &c. I would modify it by inserting the word "general" before the word "appropriation."

The PRESIDENT. The question is on the amendment.

Mr. HARRY WHITE. The committee might have made several changes by transposition of words; but the desire of the committee in reporting the section merely was to adhere to the language of the old Constitution as nearly as possible. This is precisely the amendment passed by the Legislature in 1863 to the old Constitution: "No bill shall be passed by the Legislature containing more than one subject, which shall be clearly expressed in the title, except appropriation bills." That is the reason why we adhered to the text as we find it.

Mr. H. W. SMITH. Mr. President: Is it in order to move to amend the amendment?

The PRESIDENT. It is.

Mr. H. W. SMITH. Then I move to strike out the words, "except appropriation bills."

The PRESIDENT. That is not now in order. It would not be an amendment to the amendment.

Mr. MACVEAGH. I submit to the House that there can be no danger in this transposition. The amendment is a recent amendment; its language is certainly ill chosen; and the language suggested by the gentleman from Lycoming, it seems to me, it is very desirable to insert here. As that amendment was only passed in 1863, I see no necessity of adhering to the exact order of the language when we can improve it.

Mr. H. W. SMITH. I move to strike out—

The PRESIDENT. That is not an amendment to the pending amendment.

Mr. H. W. SMITH. I desire to record my vote against this clause of sticking everything into an appropriation bill, and there ought to be some way of bringing the question up.

The PRESIDENT. The easy way to bring it up will be to move an amendment when it is in order. The question now is on the amendment of the delegate from Lycoming (Mr. Armstrong.)

The amendment was agreed to.

Mr. H. W. SMITH. How does the section read now as amended?

The PRESIDENT. It will be read as amended.

The CLERK read as follows:

"No bill, except general appropriation bills, shall be passed containing more than one subject, which shall be clearly expressed in its title."

Mr. H. W. SMITH. I move to strike out the words, "except general appropriation bills."

I do not often detain the Convention with speaking, and I do not intend to speak long now; but I do say that in my humble judgment if there is anything that requires the object of the legislation and the object of a bill to be made known in the title, it is the appropriation of public moneys. Under the present clause in the Constitution, which was read a short time ago, excepting appropriation bills, look at the appropriation bills that the Legislature have passed, and they are nothing more nor less than legalized robbery and plunder; everything is stuck into the appropriation bills; it is wedged in; it is put in by compromise. Now, why cannot there be one appropriation bill to pay the expenses of the executive department of the government, another for the legislative department, another for the judiciary, and so on for different subjects? Look at your appropriation bills now. We have recently had the Governor stating when he approved an appropriation bill that he thought there was a half a million dollars, more or less, in the bill that ought not to be included in it; but a veto message on it would have detained the Legislature too long and perhaps produced more evil than good, and he made the best choice of two evils and approved the bill.

Although the Constitution of 1790, and that of 1838, amending the old Constitution of 1790, provide that the judges of the courts, the supreme judges and the president judges of the courts of common pleas shall at stated times receive an adequate compensation to be fixed by law, yet it seems under these words "stated times" the Legislature have for the last eight or ten years fixed and unfixed the salaries of judges, and from 1864 up to the present time they have said, that each judge is to receive sometimes "so much for the present year," sometimes "so much during the present year," and at other times "so much and no more." I only advert to this fact because I do not want to detain the Convention long, but if any gentleman can reconcile himself to the miserable toil of poring over the appropriation bills that have been passed during

the last eight or ten years he will find things of this kind almost without number, appropriating the public money. If there was a separate appropriation bill for each of the departments of government and for no other subjects, these things would be avoided.

I ask for the yeas and nays on this amendment, and I hope they will be granted. If the Convention disagrees with me I wish the opportunity to record my vote against the continuance of the present practice.

Mr. HARRY WHITE. Before the yeas and nays are ordered allow me to state that the object of the gentleman from Berks is accomplished in the seventeenth section. That section recites:

"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 public schools; all other appropriations shall be made by separate bill, each embracing but one subject."

Mr. H. W. SMITH. I want an appropriation bill for each of the subjects enumerated. That is what the people of Pennsylvania desire. When we come to the seventeenth section we can amend that too.

The PRESIDENT. The question is on the amendment of the delegate from Berks (Mr. H. W. Smith.)

The PRESIDENT. The yeas and nays are called for by the gentleman from Berks. Is the call seconded?

Messrs. Cochran, Boyd, Temple, Corson, J. W. F. White, Baker, T. H. B. Patterson, D. W. Patterson, Bigler, Horton, Newlin, MacVeagh and Darlington rose to second the call.

The yeas and nays were taken, and were as follow, viz:

YEAS.

Messrs. Achenbach, Baer, Boyd, Carey, Dallas, Finney, Gibson, Gilpin, Guthrie, Horton, Long, M'Murray, Purviance, John N., Smith, Henry W., Struthers, Van Reed and Worrell—17.

NAYS.

Messrs. Ainey, Alricks, Andrews, Armstrong, Baily, (Perry,) Bailey, (Huntingdon,) Baker, Bannan, Bartholomew, Biddle, Bigler, Black, Charles A., Bowman, Broomall, Brown, Buckalew, Calvin, Campbell, Cassidy, Clark, Cochran, Corbett, Corson, Craig, Cronmiller, Cur-

tin, Darlington, Davis, De France, Dunning, Edwards, Ellis, Fulton, Hall, Hanna, Harvey, Hay, Hunsicker, Lamberton, Landis, Lawrence, Lilly, MacConnell, MacVeagh, M'Camant, M'Clean, M'Culloch, Mann, Mantor, Mott, Palmer, H. W., Patterson, T. H. B. Patton, Porter, Pughe, Purman, Read, John R., Reed, Andrew, Reynolds, Rooke, Runk, Russell, Simpson, Smith, Wm. H., Stanton, Turrell, Walker, Wetherill, J. M., Wherry, White, Harry, White, J. W. F., Wright and Meredith, President—73.

So the amendment was not agreed to.

ABSENT.—Messrs. Addicks, Barclay, Bardsley, Beebe, Black, J. S., Brodhead, Carter, Church, Collins, Curry, Cuyler, Dodd, Elliott, Ewing, Fell, Funck, Green, Hazzard, Hemphill, Heverin, Howard, Kaine, Knight, Lear, Littleton, Metzger, Minor, Mitchell, Newlin, Niles, Palmer, G. W., Parsons, Patterson, D. W., Purviance, Samuel A., Ross, Sharpe, Smith, H. G., Stewart, Temple, Wetherill, John Price, White, David N. and Woodward—42.

Mr. DALLAS. I move to amend by striking out the words "except general appropriation bills" and inserting the words "bills containing appropriations only for the general and ordinary purposes of the government."

The purpose of this amendment is to define that these are not the class of bills intended to be excepted from the general operation of the section. In the seventeenth section we have a provision that 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 public schools." These are simply the ordinary and usual appropriations for the purposes of government, and I think that this entire section (No. 17) can be avoided by inserting here that "no bill except bills containing appropriations only for the general and ordinary purposes of the government shall be passed containing more than one subject, which shall be clearly expressed in its title."

I think the whole thing can be expressed in that way and thus save a section in an article which is already long,

Mr. HARRY WHITE. The same question which is raised by the gentleman from Philadelphia was before the Committee on Legislation which originally reported this article, and if this amend-

ment be agreed to the whole seventeenth section will probably be lost.

MR. DALLAS. That is just what I desire.

MR. HARRY WHITE. Yes, sir; but the section is very important. The wording of that section is much more special than that of the amendment. The phrase in the amendment is very comprehensive. "The general and ordinary purposes of the government" would open the door to a great many steals which would be committed under the guise of these "ordinary expenses."

The amendment was rejected.

THE PRESIDENT. The question is on the section as amended.

The section as amended was agreed to.

THE PRESIDENT. The next section will be read.

The CLERK read as follows:

SECTION 7. 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. HARRY WHITE. I desire to amend merely in order to perfect the section by inserting words which were omitted by an error. After the word "taken" there is an omission of the words "on the bill." I move to amend, by inserting these words.

The amendment was agreed to.

MR. J. PRICE WETHERILL. I move to amend by adding after the word "printed" the words "and distributed among the members of each House at least one day."

The amendment which I have just offered will make the section read: "All amendments thereto shall be printed and distributed among the members of each House at least one day before the final vote is taken." It seems to me that if you have a provision that an amendment must be printed before the final vote is taken and do not require the amendment to be printed and distributed at least one day before the vote is taken, the provision will be useless. By adopting the amendment which I have offered, you will not only compel the printing of all amendments at least one day before the

final vote is taken, but you will enforce also the distribution, which is the life of the whole thing, so that full and ample information will at all times be given to the members of both Houses."

MR. HARRY WHITE. The amendment of the gentleman is in harmony with the general idea of the section; but the Committee on Legislation in framing it were desirous of saving as many words as possible and therefore presented the section without any such requirement. But this would be done any how under this section. The Houses of the Legislature will have rules. They have rules now that regulate this subject, and of course bills and amendments will be printed. It is not necessary to pass this amendment to secure this.

MR. J. PRICE WETHERILL. I will only say one word in answer to the gentleman from Indiana, and that is that I have just received a copy of the provision on this subject from the commission assembled in Albany and they have taken care to introduce just such a clause as this into their article on this point. Therefore it seems to me that the remarks of the chairman of the Committee on Legislation do not apply, because if it seemed to be necessary to so distinguished a body as the commission revising the Constitution of the State of New York, it would equally well apply in this State.

MR. LILLY. Mr. President: It seems to me that to adopt the amendment of the gentleman from Philadelphia would be to protract legislation almost continuously. Under its operation any member of either House could keep a bill hanging indefinitely by offering an amendment and then have the bill lie over for a day for the purpose of printing the amendment, only to withdraw the amendment the next day and offer another in order to extend delay. Action on any subject could be thus postponed for months. An amendment to strike out a word or change a letter would suspend a bill for twenty-four hours. The effect of such a measure would be mischievous in the extreme, and if it be adopted the first Legislature that tries it and all Legislatures thereafter will give it unqualified condemnation.

MR. HARRY WHITE. The criticism of the gentleman from Carbon (Mr. Lilly) is not well taken. If he will observe that we have supplied the omitted words "on the bill," so as to make the section read, "all amendments thereto shall be

printed before the final vote is taken on the bill," he will see that the perfecting of the section in the way that it has been done will obviate the difficulty to which he has alluded. The supplying of these words does not make the section open to the objection of the gentleman from Carbon, because it is right and proper that when a bill has been amended, the whole subject shall be printed before the final vote is taken on the bill. It does not mean that amendment after amendment shall be printed as they are offered.

Mr. LILLY. I believe and so maintain that the amendment of the gentleman from Philadelphia (Mr. J. Price Wetherill) bears the stress that I have put upon it.

The PRESIDENT. The question is on the amendment of the gentleman from Philadelphia.

The amendment was rejected.

Mr. MACVEAGH. There seems to be a necessity for the insertion of two words that I would suggest to the chairman of the Committee on Legislation. I care nothing about it myself. After the word "against" the words "the same" seem to be wanting. The clause should read "the names of the persons voting for and against the same" so as to make it read more grammatically. I only make the suggestion. I care nothing about it at all.

Mr. HARRY WHITE. I apprehend that will be understood. I have no objection if the Convention choose to make the change.

The PRESIDENT. The question is on the amendment of the delegate from Dauphin.

The amendment was agreed to.

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

Mr. BUCKALEW. I move in the second line, after the word "amendments," to insert the word "made," so as to read, "all amendments made thereto shall be printed."

The amendment was agreed to.

Mr. BUCKALEW. There is another amendment I desire to make, and I am indifferent in which one of two ways it shall be entered. After the word "amendments" in the second line you may insert the words, "of substance," or if gentlemen regard the matter further and wish it, after the word "thereto" you may insert the words "not formal." I believe I will make the last motion, as it will be less liable to opposition.

The PRESIDENT. It is moved to amend the section by inserting after the word "thereto" the words "not formal."

Mr. HARRY WHITE. I hope the Convention will not adopt those words. They have been well considered heretofore. If they are adopted, the whole spirit and scope of this section may be defeated by indirection. It may be a question of opinion as to the formal or substantial character of an amendment offered, and thus the wise purpose of this provision may be defeated.

Mr. BUCKALEW. By this section, after a bill has been finally amended in matters of substance, it is sent to the public printer and printed entire and complete before the final vote is taken. Now the question is whether an error of grammar, or an error of style, or an inaccuracy of expression can be corrected by the House or not, before the final passage; or whether the Legislature shall be compelled to put bad grammar or bad words into a statute or incur a delay of two or three days. I think the chairman of the committee is drawing a fine sight on us when he wants to stop the Legislature from crossing t's and dotting i's and making other necessary corrections in bills on their passage.

The PRESIDENT. The question is on the amendment of the delegate from Columbia.

The amendment was rejected.

The section as amended was agreed to.

The CLERK read the next section as follows:

SECTION 8. 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.

The section was agreed to.

The CLERK read the next section as follows:

SECTION 9. 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 CLERK read the next section as follows:

SECTION 10. 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 ferries or bridges, or incorporating ferry and bridge companies, 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, grave-yards 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 ;

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, or providing or changing methods for the collection of debts, or the enforcing of judgments, or providing the effect of judicial sales of real estate ;

Regulating the fees, or extending the powers and duties of aldermen, justices of the peace, magistrates or constables ;

Regulating the management of public schools, the building or repairing of school houses, and the raising of money for such purposes ;

Fixing the rate of interest ;

Affecting the estates of minors or persons under disability, except after due notice to all parties in interest, to be recited in the special enactment ;

Remitting fines, penalties, and forfeitures, or refunding moneys legally paid into the treasury ;

Exempting property from taxation ;

Regulating labor, trade, mining, or manufacturing ;

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 the Legislature indirectly create such special or local law by the partial repeal of any general law ;

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 : *Provided, however*, That bills may be passed repealing local or special acts.

Mr. DARLINGTON. I suppose it will be more understandingly if we vote on this section item by item.

Mr. HARRY WHITE. I wish to make a verbal change. The word "providing," in the thirty-first line, should evidently be "prescribing"—"prescribing the effect of judicial sales of real estate."

The PRESIDENT. If there be no objection that change will be made. The Chair hears no objection. Does any gentleman call for a division of the section ?

Mr. BOYD. I do.

The PRESIDENT. The question will be on the first paragraph. The first paragraph will be read.

The CLERK read the first paragraph as follows :

"The Legislature shall not pass any local or special law"—

The paragraph was agreed to.

The CLERK read the next paragraph as follows :

—"Authorizing the creation, extension or impairing of liens."

The paragraph was agreed to.

The CLERK read the next paragraph as follows:

"Regulating the affairs of counties, cities, townships, wards, boroughs, or school districts."

The paragraph was agreed to.

The CLERK read the next paragraph as follows:

"Changing the names of persons or places."

The paragraph was agreed to.

The CLERK read the next paragraph as follows:

"Changing the venue in civil or criminal cases."

The paragraph was agreed to.

The CLERK read the next paragraph as follows:

"Authorizing the laying out, opening, altering, or maintaining roads, highways, streets, or alleys."

The paragraph was agreed to.

The CLERK read the next paragraph as follows:

"Relating to ferries or bridges, or incorporating ferry and bridge companies, except for the erection of bridges crossing streams which form boundaries between this and any other State."

The paragraph was agreed to.

The CLERK read the next paragraph as follows:

"Vacating roads, town plats, streets or alleys."

The paragraph was agreed to.

The CLERK read the next paragraph as follows:

"Relating to cemeteries, grave-yards, or public grounds."

The paragraph was agreed to.

The CLERK read the next paragraph as follows:

"Authorizing the adoption or legitimating of children."

The paragraph was agreed to.

The CLERK read the next paragraph as follows:

"Locating or changing county seats, erecting new counties, or changing county lines."

The paragraph was agreed to.

The CLERK read the next paragraph, as follows:

"Incorporating cities, towns or villages, or changing their charters."

The paragraph was agreed to.

The CLERK read the next paragraph, as follows:

"For the opening and conducting of elections, or fixing or changing the place of voting."

The paragraph was agreed to.

The CLERK read the next paragraph, as follows:

"Granting divorces."

The paragraph was agreed to.

The CLERK read the next paragraph, as follows:

"Erecting new townships or boroughs, changing township lines or borough limits."

Mr. WHERRY. I move to amend by striking out "or" before "boroughs," and inserting, "or school districts after the word "boroughs."

The amendment was agreed to.

The paragraph as amended was agreed to.

The CLERK read the next paragraph 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 CLERK read the next paragraph as follows:

"Changing the law of descent or succession."

The paragraph was agreed to.

The CLERK read the next paragraph 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; or providing or changing methods for the collection of debts, or the enforcing of judgments, or prescribing the effect of judicial sales of real estate."

Mr. BOYD. I move to strike out all after the word "tribunals," in the thirtieth line, so as to leave the Legislature free to pass stay laws when the emergency arises.

SEVERAL DELEGATES. They can by general law.

The PRESIDENT. Is the amendment insisted on?

Mr. BOYD. Yes, sir; I want a special law passed to meet an emergency of that kind, as this prohibits it. ["No!"] Suppose we have a panic or crisis and the whole business community of the State is about to be made bankrupt or be driven to the wall by process of execution, when the Legislature might be convened in spe-

cial session and pass a stay law that would relieve them from such emergency.

Mr. H. W. SMITH. For the whole State?

Mr. BOYD. Yes.

Mr. H. W. SMITH. That could be done.

The PRESIDENT. It is moved to amend the paragraph by striking out all after the word "tribunals."

Mr. DALLAS. I merely desire to say to the gentleman that if the panic he has in anticipation is a general panic, the Legislature would have power to pass such a law as he desires under this section; but if it was the special panic of one individual it would be improper that it should be passed.

The amendment was rejected.

The paragraph was agreed to.

The CLERK read the next paragraph as follows:

"Regulating the fees or extending the powers and duties of aldermen, justices of the peace, magistrates or constables."

The paragraph was agreed to.

The CLERK read the next paragraph as follows:

"Regulating the management of public schools, the building or repairing of school houses, and the raising of money for such purposes."

The paragraph was agreed to.

The CLERK read the next paragraph as follows:

"Fixing the rate of interest."

Mr. DARLINGTON. I do not know exactly what the scope of this may be. A general law fixing the rate of interest for the community is all right; but if a corporation, whether a railroad or church, wishes authority to borrow money and pay a higher rate of interest, it would have to have a special law, I suppose, for that purpose. Now, if it be desirable for any company engaged in any enterprise, a steamship company, if you please, a railroad company, a manufacturing company, to raise money at a higher rate of interest than others pay, why should they not be allowed to do it? I am against that paragraph.

The paragraph was agreed to, there being on a division, ayes fifty-seven; noes twelve.

The CLERK read the next paragraph as follows:

"Affecting the estates of minors or persons under disability, except after due notice to all parties in interest, to be recited in the special enactment."

Mr. CORBETT. I move to strike out all after the word "disability" in the thirty-eighth line.

The PRESIDENT. The question is on the amendment.

Mr. HARRY WHITE. May I be allowed to say a word about that? I merely want to explain that the words proposed to be stricken out were not originally in. The addition to this section is unnecessary and I concur entirely with the amendment offered by our friend from Clarion. The original section was "affecting the estates of minors or persons under disability," and the words "except after due notice to all parties in interest, to be recited in the special enactment," have been added. I apprehend all that is needed can be met by a general law clothing the courts with special powers. I hope these words will be stricken out.

Mr. ANDREW REED. I hope this amendment will not prevail. There are cases in conveyancing which arise sometimes where without a special enactment the ends and desires of the parties would be defeated. That matter was shown up very clearly by the gentleman from Philadelphia, (Mr. Woodward,) and these words were added on full consideration, and I trust we shall leave them in so that when the case arises in order to perfect titles it may be done. We cannot foresee now what cases may arise, and it is impossible to provide by general law for every case that will arise which may require some specific remedy; and if notice is given to all the parties in interest no injury can result.

The PRESIDENT. The question is on the amendment of the delegate from Clarion (Mr. Corbett.)

The amendment was rejected, the ayes being thirty-one, not a majority of a quorum.

The paragraph was agreed to.

The CLERK read the next paragraph as follows:

Remitting fines, penalties, and forfeitures, or refunding moneys legally paid into the treasury.

Mr. DARLINGTON. I am inclined to think we are running too fast here. Remitting fines, penalties, and forfeitures, must necessarily be by special law, if at all. You cannot remit a fine or forfeiture by general law. That is out of the question unless you make a general law to remit all fines and forfeitures, and I suppose that is not intended.

"Or refunding moneys legally paid into the treasury." Can you by general law refund money legally paid into the treasury? Surely not. What case is it necessary to provide for? Where money is legally, under a legal claim, paid into the treasury, or if you choose, paid by the payor under a mistake or misapprehension of his liability to pay and which in equity and good conscience ought to be refunded to him, how is he to get it back? Take the case of a man who is settling an estate and pays a collateral inheritance tax to the amount of thousands and tens of thousands of dollars under a misapprehension, legally paid to be sure because not compelled, or if compelled, paid legally, and yet the Legislature, the people, and everybody should come to the conclusion that it was unjust and improper, the State ought not to have it, and it ought to be refunded; how is it to be refunded, by a general law? I should like somebody to point out how it can be done by general law?

MR. C. A. BLACK. A court can ascertain the facts.

MR. DARLINGTON. Then you propose to authorize somebody to act specially. There is an inquiry to be made. Is that any better than by the Legislature voting it? I do not think it is. How are you to ascertain when fines, penalties, or forfeitures shall be remitted? Authorize somebody to do so, says the gentleman from Greene. Who is to do it? The Legislature are not to do it, but they are to appoint somebody else to do it. I think you will find that this kind of special legislation will be necessary and cannot be avoided with any justice to the citizens of the Commonwealth. I am opposed to so much restriction as that.

MR. PURMAN. Before the vote is taken I desire to say a word in explanation, that the Convention may understand the proposition before it. I think my friend from Chester (Mr. Darlington) is laboring under a misapprehension as to the meaning of the phrase "refund moneys legally paid into the treasury." The cases intended to be covered by this section are cases like the following: In the case of collateral inheritance taxes, every winter more or less of the moneys collected from that source and paid legally into the treasury are refunded by special acts of the Legislature. I do not refer to cases where in levying or ascertaining the amount of collateral inheritance tax there has been a mistake; such a case, for in-

stance, as where five hundred dollars has been paid in where there ought only to have been four hundred dollars. In all such cases under this section the one hundred dollars paid in excess of the true amount due the State would be refunded to the party paying without violating the Constitution.

The small estates scattered all over the Commonwealth are never represented before the Legislature, and therefore never have the collateral inheritance tax, which has been paid, refunded; but when you come to cases where there is a large sum involved, sufficient to induce the parties to visit Harrisburg and button-hole the members of the Legislature, the money is almost always refunded. Now, sir, I do not want such a result. I take the case of a collateral inheritance for illustration because it seems an apt one. Either abolish the collateral inheritance tax entirely, or after it is paid into the treasury let it remain there. And so also of every other tax legally paid into the treasury. If we adopt this paragraph as it stands, that abuse will be cut off. If we reject it, then in all cases throughout the Commonwealth where the collateral inheritance tax is \$100, \$200, \$300 or \$400, it will remain in the treasury, but when it amounts to a large sum it will always be pulled out. I remember that one of the fiercest contests I had while a member of the Senate of Pennsylvania was an attempt to prevent the pulling out of the treasury a large sum of money that had been paid on a bequest in this city to a rich corporation.

MR. DARLINGTON. No money can be paid from the treasury but in consequence of appropriations made by law. I should like to be informed by some gentleman better informed than myself how he proposes to refund to the citizens any money that has gone into the Treasury except by an appropriation by law, and that, too, a special law?

MR. PURMAN. I will answer the gentleman. I want it to be impossible for the Legislature to refund money that has been paid into the treasury and legally due under the law of the State to the Commonwealth. I know that no money can be paid out of the treasury except by appropriation, and all proper appropriations we do not propose to prohibit, but this is an improper one, and therefore we say that in cases of this kind it cannot be refunded. This clause of this section will not prevent the payment of money out of the treas.

ury by appropriations made by law, but it will prevent the *refunding* of money which has been paid into the treasury upon a legal claim of the State against the party or corporation paying the same, and yet leave power enough in the Legislature to correct all *mistakes*.

Mr. NEWLIN. I desire to call the attention of the Convention to the fact that there is now a general law which provides that in all cases where settlements have been made by the Auditor General and State Treasurer, an application may be made by the parties charged in that settlement, even after payment, for a re-settlement and a credit in case of any charge improperly made, even where it has been paid. So that under a general law now in existence, after moneys have been paid into the treasury the parties charged with the payment, having made it, may make application to the accounting department and get justice if they can show they are entitled to it.

The PRESIDENT. The question is on the paragraph.

The paragraph was agreed to, there being on a division: Ayes fifty-one; noes five.

Mr. HARRY WHITE. I desire to offer an amendment at this point as an additional paragraph. As originally reported there is an omission, and a very important omission. The amendment is to insert as a new paragraph the following:

"Creating, increasing or decreasing the salaries, perquisites or allowances of public officers during the term for which they were elected."

The amendment was agreed to.

The PRESIDENT. The next paragraph of the section will be read.

The CLERK read as follows:

"Exempting property from taxation."

The paragraph was agreed to.

The CLERK read the next paragraph as follows:

"Regulating labor, trade, mining or manufacturing."

The paragraph was agreed to.

The CLERK read the next paragraph, as follows:

"Creating corporations, or amending, renewing or extending the charters thereof."

The paragraph was agreed to.

The CLERK read the next paragraph, as follows:

"Granting to any corporation, association or individual any special or exclusive privilege or immunity."

The paragraph was agreed to.

The CLERK read the next paragraph, as follows:

"Granting to any corporation, association or individual, the right to lay down a railroad track."

The paragraph was agreed to.

The CLERK read the next paragraph, as follows:

"Nor shall the Legislature indirectly create such special or local law by the partial repeal of any general law."

Mr. HARRY WHITE. I confess this paragraph is somewhat confusing. I should be glad if some gentleman who was the friend of it when it was inserted would explain its provisions. I think I can see how it may confuse matters and give the Legislature a great deal of trouble and give rise probably to litigation in some cases. Unless my mind is changed, so far as I am concerned, I shall vote against it.

Mr. BROOMALL. I have very little doubt that the effort to create special legislation after these restrictions will result in the passage of general laws that ought not to be passed in many instances, and in the repeal of portions of them, leaving to stand just as much as would constitute the body of the special law asked for; and to prevent that is the object of this provision.

Mr. J. R. READ. I move to amend the paragraph by striking out the word "create" and inserting the word "enact." It seems to me that is a better word as applied to a law.

The amendment was agreed to.

The PRESIDENT. The question is on the paragraph as amended.

The paragraph was agreed to.

The CLERK read the next paragraph 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 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: *Provided, however*, That bills may be passed repealing local or special acts."

Mr. MACVEAGH. I should like to know why we should retain the words "manner, form, or," in the fourth line. The word "authority" certainly covers everything. It now reads: "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." The other words cover everything, certainly, and I move to strike out the words "manner, form, or," leaving it to stand on "the authority."

The amendment was agreed to; there being, on a division: Ayes, forty-five; noes, fifteen.

Mr. BROOMALL. I move to strike out the words, "and in no case where a general law can be made applicable," in the fifty-fifth and fifty-sixth lines. I think we have restricted legislation quite sufficiently without putting in words, the effect of which we cannot foresee. It is difficult to conceive of any possible case where you could not make a general law applicable, and yet I apprehend the cases in which we have prohibited special legislation are quite sufficient to meet the demands of the State at this time.

Mr. HARRY WHITE. Allow me to make an observation in this connection. These words were inserted after consideration, and are exceedingly material to accomplish the whole spirit and purpose of this section. They are not original with the Constitution of Pennsylvania. They are to be found in the Constitution of Indiana, which was the pioneer in its provisions against special legislation. They are to be found practically in the Constitution of Ohio. They are to be found in the Constitution of Illinois. The wisdom of these provisions has been sanctioned by experience, and has been adjudicated by the highest court.

I submit that it is impossible to prevent all local and special legislation in our changing industries and changing capital. It has been the effort of the committee to report a schedule here which reaches almost every possible case. The contingency may arise where some case has been forgotten and a general law would be more applicable and more suitable than a special law; and these are only cases that arise in the discretion of the Legislature, and where the Legislature have exercised that discretion it has been decided by the highest court that the law cannot be avoided; yet these words in the Constitution may be a rock for some member to stand upon in opposing some matter of special legislation.

They are in the spirit of reform, and I hope they will not be stricken out.

Mr. PURMAN. It is with great reluctance that I differ with the chairman of this committee (Mr. Harry White) in regard to the words proposed to be struck out. I agree with my friend from Delaware (Mr. Broomall) in his proposition to strike out the words "and in no case where a general law can be made applicable." After the Legislature has passed a special law, not forbidden by any of the hereinbefore prohibitions, they have exercised the discretion given by these words, and, therefore, pronounced by that act that a general law would not be applicable; in other words, they are the judges as to whether a general law is applicable to the subject matter about which they propose to pass a special act; and, having pronounced upon it, their judgment is conclusive, and the courts would be bound to so hold when the matter was brought before them for review. If the law was brought before the Supreme Court for review upon the question of the constitutional power of the Legislature to pass it, they would hold that the judgment of the Legislature was the end of the question; they had adjudged that a general law was not applicable, and that would be the end of it. It has been so held by the Supreme Court of the State of Indiana—a decision founded on reason and authority—and it would be so held in our court, I have no doubt, if the question should ever come up under this section of the Constitution. It would, therefore, be a false light, a stumbling block and a dead fall. It might do, as stated by the distinguished chairman, the gentleman from Indiana, as an argument in the Legislature against passing certain special or local laws, but as a provision in the Constitution, it seems to me, it would be a delusion, or, in other words, a mere cob-house to be knocked down at pleasure. When we carefully consider the words, "and in no case where a general law can be made applicable," we are forced to the conclusion that this supposed or *quasi* limitation upon the power of the Legislature imposes upon it the duty of determining whether a general law would be applicable in the particular case, and when it had exercised its *discretion* no court could review its discretion. This power to judge, in the particular instance, is given to the Legislature as a part of the apportionment of the powers of the State. And it is a fundamental rule of constitutional law, that whenever any

person or body politic is called upon to perform any constitutional duty, or to do any act in respect to which it can be supposed that the Constitution has spoken, it is obvious that a question of construction may at once arise upon which some one must decide before the duty is performed or the act done. Now, from the very nature of this case, this decision must be made by the Legislature upon whom the duty is devolved, or from whom the act is required. Suppose the Constitution requires the Legislature, in establishing a municipal corporation, to restrict its powers of taxation, and a charter is proposed which confines the right of taxation to the raising of money for certain specified purposes, but in regard to those purposes leaves it unlimited, or allows unlimited choice of purpose, but restricts the rate, in either of these cases the question arises whether the limitation in the charter is such a restriction as the Constitution intends. And in either of these cases, and in all other like cases, it follows that the department of government upon whom the duty is cast must determine the question, and, being one of *discretion*, can never be reviewed. The only argument that we can conceive, that can be made against the position that the right to judge when "a general law can be made applicable," is that it is a conditional limitation granted, and who shall judge when the condition or event has happened, when "a general law" cannot "be made applicable?" The obvious and reasonable answer is, that the power to judge is lodged in the Legislature. Thus in the case of *Martin vs. Mott*, (12 Wheaton, 19,) it was held that in exercising his power to call out the militia in certain exigencies, the President is the exclusive and final judge when the exigency has arisen. And in *Malony vs. Marietta*, 11 Ohio, it was held that the court cannot interfere with matters of legislative discretion.

And to take a judicial instance. If a court is required to give an accused person a trial at the first term after indictment, unless good cause be shown for continuance, it is obvious that the question of good cause is one for the court alone to pass upon, and that its judgment when exercised is, and must be from the very nature of the case, final. And so, also, whether "a general law could be made applicable" in a particular case is a question for the Legislature alone to pass upon, and that its judgment when exercised is and must be from the nature of the

case final. These plain and fundamental principles prove, first, that the words proposed to be stricken out do not limit the power of the Legislature beyond its discretion, but leaves it a matter of discretion, and secondly, that when the Legislature has exercised its discretion, its judgment is final. No court ever reversed an inferior tribunal for the exercise of its discretion, or declared an act of the Legislature unconstitutional where the power to enact the same was vested in the discretion of the law-making power.

MR. BIDDLE. I move to amend the amendment of the gentleman from Delaware by striking out in the fifty-fifth line the words "can be made," and substituting "is." It will then read just as it is now except that instead of "can be made," it will be, "and in no case where a general law is applicable."

THE PRESIDENT. The amendment is in order.

MR. BIDDLE. I do not know what "can be made" is. We all know what "is applicable." That is determined.

THE PRESIDENT. If "can be made" be struck out of the sentence it might seriously affect the amendment of the gentleman from Delaware. Does the gentleman from Philadelphia persist in his amendment?

MR. BIDDLE. It is a mere question of time. I withdraw it now.

THE PRESIDENT. The question is on the amendment of the gentleman from Delaware (Mr. Broomall.)

MR. HARRY WHITE. I wish to make an observation in reply to what has been said by the gentleman from Greene (Mr. Purman.) I do not want to discuss it, but these words are of vital importance to this section. They are almost the precise words to be found in the Constitution of Indiana, and allow me to say that in the case of *Genet vs. The State*, the Supreme Court of that State interpreted their meaning, and decided that where the Legislature had exercised their discretion and had passed a law which did not come under the prohibited clauses, no court would inquire into the exercise of that discretion; that of that discretion they were the supreme judges of the applicability of a general law or not. That is conceded; that has been adjudicated already, and I submit that by putting it in our Constitution now it is a rock for members to stand upon in resisting matters of special legislation; it would strengthen the arm of the reformatory

party in the Legislature to prevent iniquitous measures passing. But I agree that where a bill has been passed, and the Legislature has exercised its discretion, no other tribunal will exercise any reviewing power.

Mr. MACVEAGH. I submit that it is not our function here to put rocks in the Constitution on which reformers may stand in the Legislature and that it is not in order to provide weapons for them in the Legislature. If the language is utterly without force—as the gentleman declares it is—if it is simply referring it back to the Legislature to decide whether a general or special law may be passed, which certainly he has stated repeatedly—then I submit that for the purpose of putting rocks here for anybody to stand upon, we ought not to insert words in the Constitution about whose construction we are not at all agreed. I confess I cannot, in the short time I have had to look at it, come to the conclusion that our Supreme Court would take the view that the gentleman from Indiana and the learned gentleman from Greene agree in thinking it would. I think it must decide that this is one of the fundamental limitations of the law-making power, and that the courts must pass on the question whether the subject matter could be embraced in a general law as it must pass on the other limitations here and decide that question; and, inasmuch as the gentleman from Delaware has made it clear, to my mind at least, that this may give rise to very serious difficulties that we do not now foresee, as we have used language that certainly excludes any serious danger, or the possibility of any, in special legislation, it is, unwise to use such language as this about whose construction great doubt certainly will exist and arise, and whose result we are unable to foresee. I shall, therefore, vote against this amendment.

Mr. MACCONNELL. I hope the amendment will not prevail. In the Constitution of Ohio of 1850 there is a provision substantially the same as this, almost bodily the same as this. Shortly after the adoption of that Constitution the Legislature of Ohio attempted, in a number of cases, to avoid it, and the question was brought before the Supreme Court of Ohio, in a number of cases, to decide whether the special act was within the permission of the Constitution; and in as many as four or five cases, and perhaps more, the Supreme Court decided that it was prohibited by the constitutional pro-

vision and declared the acts void, being acts in regard to special matters which might be provided for by general act. I cannot agree at all with the gentleman from Indiana and the gentleman from Greene in saying that it is a matter exclusively for the decision of the Legislature. In the State of Ohio the Supreme Court has supervised the matter and pronounced otherwise.

Mr. ARMSTRONG. If it be in order I desire to move an amendment at this time. I move to amend in the fifty-fourth line by striking out the words "authority to grant" and also in the fifty-sixth line by striking out the words "where a general law can be made applicable, nor in any other case." The section as amended would read thus:

"Nor shall any bill be passed granting any powers or privileges in any case where such powers and privileges shall have been provided for by general law, and in no case where the courts have jurisdiction or are competent to grant the powers or give the relief asked for."

I take it that that covers the entire ground, and obviates much of the difficulty which has been suggested in debate.

The PRESIDENT. That amendment is not in order unless it be accepted as a modification by the gentleman from Delaware.

Mr. BROOMALL. I accept the modification.

The PRESIDENT. The question is on the amendment as modified.

Mr. HARRY WHITE. I am exceedingly sorry to trespass on the time of the Convention; but, much as we have considered this question, I wish to call the attention of delegates who have not considered it, to it for a moment. This is almost a transcript of the present amendment of the Constitution, which has been thought wise and proper in preventing a great deal of special legislation. Section nine of the eleventh article reads as follows:

"No bill shall be passed by the Legislature granting any powers or privileges in any case where the authority to grant such powers or privileges has been, or may hereafter be, conferred upon the courts of this Commonwealth."

That only takes from the jurisdiction of the Legislature the passage of bills giving powers where the courts have jurisdiction. Now, we have numberless general laws which authorize articles of association to be filed in the office of the Secretary of the Commonwealth, and orga-

nizing otherwise under special powers. I submit that in view of all these facts, in view of the fact that the words found in the section are to be met in all this class of cases, are well considered and have been adjudicated as far as the courts are concerned, we ought to leave them as they are. I am opposed to the amendment.

Mr. BIDDLE. Mr. President: I think the amendment offered by the gentleman from Lycoming (Mr. Armstrong) is very wise. It provides for both sets of cases, where there is general legislation, and where there is jurisdiction in the courts.

I do not believe that it is the law of Pennsylvania that the courts cannot decide whether the Legislature have infringed those provisions. On the contrary, I know that the law is the other way, because in regard to the provision found in the existing Constitution, section fourteen, article one, which provides that "the Legislature shall not have power to enact laws annulling the contract of marriage, in any case where, by law, the courts of this Commonwealth are, or may hereafter be, empowered to decree a divorce, the courts do entertain jurisdiction, and they do decide that the courts have power, and in many recent cases, reported in P. F. Smith's reports, members of the Convention can be pointed to decisions of that kind. It is the duty of the courts to ascertain where this objection is made, is it provided for by general law, or is it provided for by the courts of justice, to say whether it is or not, and I do not believe if the law of Indiana or Illinois is as stated it will ever become the law of Pennsylvania, because it strikes me as a legal absurdity. Courts must decide where the question is brought before them, whether the terms of the Constitution have been complied with. It is done every day. They are obliged to do it. They do it in regard to titles; they do it in regard to subjects comprised in legislation, and they do it just wherever the constitutional objection is made.

I, for one, never will consent to vote for such language as this: "Can be made applicable." What is the meaning of it? If it is applicable, then the court must decide it. What is the meaning of "can be made?" Is it supposed to intensify the phrase in any way? If it means something different from "is," it means what is wrong; if it means the same thing, then there are too many words—three words

instead of one. I hope the amendment offered by the gentleman from Lycoming will prevail.

Mr. HARRY WHITE. I do not want to be misapprehended. The delegate from Philadelphia, for whose judgment I have great regard, has misapprehended my statement. I stated that the Supreme Court of the State of Indiana have decided that where a bill has been passed which comes within the enumerated prohibitions in the Constitution, there the court will declare it to be void; but where a bill has been passed that does not come within those enumerations and is sought to be avoided by the general declaration that no special law shall be passed where a general law can be made applicable, there the exercise of jurisdiction by the Legislature cannot be inquired into by the courts; I refer to the case of *Genet vs. the State*, to be found in 39 Indiana Reports.

Mr. BUCKALEW. The Supreme Court have not decided what shall be the action and conduct of members of the Legislature. I am not disposed to trouble myself with what courts may say on the subject of a section like this, so much as its operation on members of the Legislature, which is now brought under this clause. Whenever it is morally possible to construct a general law covering the particular case, the Legislature cannot act. It may be greatly inexpedient to pass a general law, and in the particular case the statute may be a proper one, and yet in such cases that law cannot be passed. The gentleman will, on a moment's reflection, see that this clause added here is inconsistent with the whole of this section. This section goes on the assumption that we can enumerate the classes of special legislation in reference to which the Legislature shall not act. Now, when we are through the gentleman assumes that all that goes for nothing, and that he is to have a general provision which shall exclude the very same subjects, and any other possible cases where a general law can be enacted. Therefore, sir, the general body of this section seems to me to be inconsistent with this clause.

The PRESIDENT. The question is on the amendment.

The amendment was agreed to.

Mr. DARLINGTON. I move to strike out the word "bill," in the fifty-third line, and insert "law," and in the fifty-

eighth line to strike out the word "bills," and insert "laws."

The amendment was agreed to.

Mr. BRODHEAD. I move to further amend by adding the following words to the proviso:

"But in such manner as not to do injustice to the parties interested."

I have offered this amendment believing that the section as it stands leaves a door open for the passage of a great deal of special legislation. I believe that the proviso may be perhaps necessary; but as it is usual to put in a saving clause, I thought it best to offer my amendment here.

Mr. T. H. B. PATTERSON. Where do you propose to add your amendment?

Mr. BRODHEAD. At the end of the paragraph.

Mr. T. H. B. PATTERSON. Then I move to amend the amendment by adding the words "so as not to interfere with any vested rights."

Mr. BRODHEAD. I accept the modification.

On the question of agreeing to the amendment as modified, a division was called for, which resulted twenty-seven in the affirmative. This being less than a majority of a quorum, the amendment was rejected.

The PRESIDENT. The question is on the paragraph as amended.

The paragraph was agreed to.

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

Mr. BUCKALEW. Mr. President: I move to reconsider line fourteen, if it is necessary to make the motion. I desire to call the attention of the Convention to the words, "public grounds." This paragraph, as adopted, would preclude the Legislature from passing any act in regard to the public property of the State; for instance, the extending of the Capitol grounds in Harrisburg, which is a mooted question, and removing some old buildings in the corner, could not be done by the Legislature by the passage of any special law in reference to the subject. I do not think this section meets the purpose that was designed by the Committee on Legislation when they drafted it. It must have been intended for municipalities and not to be applicable to State trusts. I move to amend, to add the words "or other grounds not of the State."

The PRESIDENT. Does the gentleman move to reconsider?

Mr. BUCKALEW. That is my motion.

The PRESIDENT. How did the gentleman vote?

Mr. BUCKALEW. In the affirmative.

The motion to reconsider was agreed to.

Mr. BUCKALEW. I now move to amend by adding "or other grounds not of the State."

Mr. BIDDLE. Is it in order, as that paragraph has been reconsidered, to further amend by saying "public municipalities?"

The PRESIDENT. Yes, sir.

Mr. BIDDLE. Then I move to amend the amendment by adding the words, "or of public municipalities."

Mr. HARRY WHITE. I regret to differ with the distinguished gentleman from Philadelphia, (Mr. Biddle,) to whose views I always give great deference, but I would suggest to him that it was just to meet this class of cases that this section was designed. It was to prevent any local or special legislation relative to particular localities, and to require them to conform, as far as practicable, to a general law. I apprehend there will be no difficulty whatever in framing a general law on this subject that will wisely and equitably regulate these matters for municipalities.

Mr. BIDDLE. I am not at all clear that the reasons given by the distinguished gentleman from Indiana meet the case that I am about to put. It may be very expedient to pass a special law relating to the municipality of Philadelphia or of Pittsburg, or of any other city or borough of the State, and I cannot see any objection to it. It would be impossible to meet these cases by general law. I cannot understand how a general law would meet the particular necessities which would be required here in Philadelphia, or in Pittsburg, or in Erie, or in other parts of the State. There might be something, for instance, eminently proper with regard to the park of this city which would not apply to any other part of the State. Why should not such a law be passed? It is to be supposed that the representatives of the people from a particular locality will carefully watch the legislation respecting that locality and prevent injurious legislation. It may be most expedient to have a special law passed, and yet this paragraph would prevent it.

On the question of agreeing to the amendment to the amendment, a division was called for, which resulted twenty-one

in the affirmative. This being less than a majority of a quorum, the amendment to the amendment was rejected.

Mr. LILLY. I move to amend the amendment by striking out all after the word "grave-yard."

The amendment to the amendment was rejected.

The amendment of Mr. Buckalew was agreed to.

The paragraph as amended was agreed to.

Mr. HARRY WHITE. I ask unanimous consent to have a transposition made in the fifty-eighth line. The proviso reads "*Provided however*, That bills may be passed repealing local or special acts." I desire to strike out the words "*Provided however*," and insert the expression in the fifty-second line at the commencement of the paragraph, so as to read "But laws repealing local or special acts may be passed." That will make it more harmonious and abbreviate words.

The amendment was agreed to.

Mr. CUYLER. I was not present when the vote was taken on the thirty-seventh line relative to fixing the rate of interest. and I desire very much that two gentlemen who were present when that vote was taken and who voted in the affirmative, will be kind enough to move a reconsideration in order to allow me to present my views upon that subject.

Mr. DALLAS. I will make a motion to reconsider the vote by which that paragraph was adopted. I voted in the affirmative, and I make the motion now only for the purpose of giving the gentleman from Philadelphia a chance to make his explanation. My own mind is not changed upon the subject.

Mr. LAMBERTON. I second the motion to reconsider.

The PRESIDENT. Did the gentleman vote with the majority?

Mr. LAMBERTON. I did.

On the motion to reconsider, a division was called, which resulted forty-three in the affirmative and twenty-three in the negative. So the motion to reconsider was agreed to.

Mr. CUYLER. My object in asking for a reconsideration was not to discuss this question, which has been elaborately discussed here before, but simply to call the attention of the Convention to what the effect of this provision would be, if it were adopted, not upon the rate of interest, but upon the industrial enterprises of the State. If it remain, it will be a

constitutional provision that no local or special law shall be passed fixing the rate of interest. If that had been a part of the Constitution of Pennsylvania during the last thirty years, two-thirds of the great enterprises that have added so much to the wealth and to the prosperity of this State never could have existed, because it must constantly be the case that great corporations, or minor corporations, would be necessarily created to carry on great public enterprises, enterprises the importance of which all men would recognize, but which could not command the money which would be necessary for their purposes, unless special inducements were held out in those instances. I might refer to such a case as that of the American Steamship Company, under which we now have a new line of steamers from this port to Europe. If that company had been compelled to borrow money at six per cent., it never would have been organized, or if organized it could not have gone into operation. The same is true of a great many corporations of this State, in fact of nearly all of them. Unless they are permitted to sell their bonds below par, or unless they are permitted to pay a higher rate of interest than six per cent., they cannot command the necessary funds for their enterprises. And yet this paragraph provides that no special law in any special case shall allow any corporation to thus secure the funds necessary to carry on its enterprise by authorizing them to borrow at a higher rate of interest, either by the process of selling its bonds at a discount, or by the process of paying a higher rate of interest than six per cent. In either case, this paragraph would be disastrous in a practical point of view. The whole subject ought to be left to the Legislature to be regulated as occasion may require, and not be fixed by an iron rule in the Constitution itself.

Moreover, this paragraph, like most of the others, if not, indeed, all of the others in this section, was borrowed bodily from the new Constitution of the State of Illinois, from the Constitution of a people situated in a manner entirely different from the people of this State. They are a people whose communities are purely agricultural in their character, where the rate of interest may well be fixed throughout the State by one simple and uniform law; unlike the State of Pennsylvania, to which no such law could ever have any practical application. The people of the

State of New Jersey have found it necessary to fix their rate of interest by law. Adjoining the State of New York, where the rate of interest is fixed at seven per cent., the capital of the State of New Jersey would of course cross the border and find investment in New York, unless the same provision was made for them; and therefore the rate of interest in the State of New Jersey was fixed at seven per cent. for the benefit of those border counties which lie along the line of the State of New York.

Mr. DARLINGTON. Will the gentleman from Philadelphia allow me to make a suggestion?

Mr. CUYLER. Certainly.

Mr. DARLINGTON. Then I would remind him that the legal rate of interest in Illinois is ten per cent.

Mr. CUYLER. I am obliged to the gentleman for his suggestion. As he states, the legal rate of interest in Illinois is ten per cent. Commercial communities, manufacturing communities, may with great wisdom and propriety require a higher rate of interest than a community that is purely agricultural. But here it is proposed, by an inflexible rule in the Constitution of our State, forever to prevent the Legislature from recognizing those distinctions which do exist, and which the policy of the State, recognizing their existence, should permit the law to be adapted to.

Therefore I hope this clause will be stricken out. I for one have never had the faith that many gentlemen have had in general laws. It needs years of generalization from facts before the Legislature can wisely pass a general law. We are putting a clog upon ourselves, we are hobbling the progress of the Commonwealth for years to come, and perhaps for generations to come, by just such

provisions as this, instead of meeting the issue boldly and admitting the actual fact as it is. We must find some method by which we can secure a pure Legislature, and then entrust them with the large powers which the necessities of the public interests may demand. We are starting with the proposition that we cannot secure a pure Legislature, that we must deal with them as if they were rogues, men who should not be entrusted with power, and framing our Constitution accordingly. There, I think, is the radical mistake in the whole thing. So far as my judgment is concerned, I would cheerfully vote against the whole section; but for the reasons I have stated I think that the paragraph relative to fixing the rate of interest should not be made a part of the Constitution.

Mr. DALLAS. I concur entirely with the gentleman from Philadelphia that the fact that this is a special provision in the Constitution of Illinois should neither influence us in its favor nor militate against it. I am perfectly willing to consider this paragraph entirely on its merits. The question of whether there should be by law any limit to the rate of interest that may be paid for money is not the question involved here. If it were, it would be necessary for me perhaps to express my views upon it in considering this question.

Mr. BROOMALL. If the gentleman from Philadelphia will suspend his remarks, I will make a motion to adjourn. We cannot finish this question to-night.

Mr. DALLAS. I yield only for that motion.

Mr. BROOMALL. I move to adjourn.

The motion was agreed to, and at three o'clock and five minutes P. M. the Convention adjourned.

ONE HUNDRED AND THIRTEENTH DAY.

THURSDAY, June 5, 1873.

The Convention met at half-past nine o'clock A. M., Hon. Wm. M. Meredith, President, in the chair.

Prayer by Rev. J. W. Curry.

The Journal of yesterday was read and approved.

PROPOSED DAILY RECESS.

Mr. BOYD. I offer the following resolution:

Resolved, That a recess be taken each day from twelve and one-half o'clock to one o'clock P. M., and that the hour of adjournment shall hereafter be three and one-half o'clock P. M.

On the question of proceeding to the second reading and consideration of the resolution, a division was called for, which resulted, ayes, thirty-five; noes, forty-three.

So the Convention refused to order the resolution to a second reading.

LEAVES OF ABSENCE.

Mr. RUSSELL asked and obtained leave of absence for Mr. Calvin for two days after to-day.

Mr. DARLINGTON asked and obtained leave of absence for Mr. Hemphill for to-day.

Mr. H. G. SMITH asked and obtained leave of absence for Mr. Elliott for a few days from to-day.

Mr. RUNK asked and obtained leave of absence for Mr. Harvey for to-day.

PAY OF EMPLOYEES.

Mr. HAY, from the Committee on Accounts and Expenditures, reported the following resolution, which was twice read and agreed to.

Resolved, That a warrant for the sum of \$2,000 be drawn in favor of the Chief Clerk for the payment of employees and other expenses which he may be authorized to pay, to be accounted for by him in the final settlement of his accounts.

LEGISLATION.

The PRESIDENT. The first business in order is the further consideration on second reading of the article reported by

the Committee on Legislation. Is it the pleasure of the House to proceed to its consideration at this time? ["Yes."] It is before the Convention. When the House adjourned last evening, the question was on the adoption of the following paragraph in the tenth section of the article:

"Fixing the rate of interest."

Mr. DALLAS. Mr. President: It is true that the paragraph now under consideration is in the Constitution of Illinois; but I do not suppose that the committee who reported it claim any especial credit for it for that reason. But, sir, it certainly does not militate against this provision that a Convention sitting in a sister State for the same purpose for which we are convened here, saw proper to recommend it for adoption by the people of that State, and it certainly is not an objection to it that the voters of that great State of Illinois thought it wise to adopt it when it was so submitted to them.

I moved the reconsideration of the vote by which this paragraph was adopted, because I thought it was fair to the gentleman from Philadelphia (Mr. Cuyler) that he should be heard upon it, and because I thought it was fair to this Convention that we should have the benefit of his views in regard to it. The paragraph was adopted without much discussion, and I felt that though I had voted for it, it was quite possible that after hearing the gentleman from Philadelphia, than whom no man is more able to speak on such a subject, I might be convinced that my vote had been a mistaken one, and certainly, if I had been so convinced, I would cheerfully now vote differently; but after listening attentively and very carefully to every word that has fallen from that gentleman, I find myself confirmed in my previous view of this subject.

We have had from that delegate, on several occasions, brilliant eulogies upon the corporations of Pennsylvania. Mr. President, in all that he has said in praise of the great men (for they are great men) who have been the pioneers in our internal improvements, and who have con-

trolled and managed our great corporations, I heartily concur with him—just to the extent to which those corporations have truly been, as he truly says, blessings to this Commonwealth. It is true that they have made of our barren places fruitful fields; it is true that they have converted our unnavigable streams into practicable water channels; it is true, and happily true, that from one end of our State to the other, and all across it, they have given us a net-work of railways without which the material advancement of the Commonwealth would be immeasurably behind what it is to-day. For all that the men who have controlled and managed these corporations deserve and should have great credit; and no one will suppose that I am disposed to make simply wanton attacks upon corporations or their managers.

But, sir, the gentleman put this question upon the right ground when he claimed that we should not pass the paragraph under consideration, because it would deprive corporations of special advantages in the money market. That is the only reason given for opposition to this section. The gentleman has claimed that the benefits which we have received from corporations could not have been obtained without the concession of this special advantage to them, and that we cannot continue to enjoy these benefits unless corporations are allowed this special privilege in the future. I think this is a mistake, and I think this is claiming for corporations just what they should not have. It is claiming for them a special and exclusive privilege, equivalent to monopoly, and which it is not necessary that they should have to enable them to be of service to the people.

Sir, the money of a people is the sinew of their trade; it is the heart of their commerce and the soul of their prosperity. Give to any man, or to any set of men, the monopoly of your circulating medium, and you give them, in sober, simple truth, a monopoly of all the business of the State. No business can be conducted without capital, and it is the interest of every people to have their dormant capital converted into acting capital as quickly and as constantly as possible, and in such manner as to employ the energies and labor of as many of their citizens in the use of that capital as may be possible.

Now, sir, I say that in the past it has been an injury to this Commonwealth that the great corporations of the State of

Pennsylvania have been permitted by law to offer to the holders of the dormant capital of the State greater inducements than may be offered by individual citizens, to draw that capital into the activity of corporate business as against individual enterprise. There is no necessity for the continuance of this policy. The gentleman from Clearfield (Mr. Bigler) told us upon a recent occasion how, when a railroad is wanted in any locality, the citizens of that locality are likely to step forward and subscribe and lend their money, though probably at direct loss, in view of the incidental benefits which they anticipate will accrue to their locality; and where a railroad or other internal improvement is really wanted by the citizens to be directly affected by it, they do not require special inducements, in the shape of an extra rate of interest, to lead them to furnish the means necessary to build it. But, sir, if it were otherwise—if it were true that we cannot continue to enjoy those conveniences which we have under corporate power, and cannot create others without this special inducement to people to put their capital into corporate enterprises—still this paragraph of the section should pass, because it would not prevent the Legislature from hereafter passing any general law—applicable alike to individuals or corporations—by which any man or association of men seeking to build a railroad, or to establish a line of steamships, if you please, might go into the market and offer special inducements to lenders in order to borrow money. There would be nothing in this paragraph that would prevent it. The Legislature, in their wisdom, if they discover that special interests of the State require this sort of fostering in order to enable them to obtain necessary capital, can at any time say so. If they should think—I do not say so now—but if hereafter the Legislature should think it necessary to say that for the use of every railroad enterprise (corporate or otherwise) ten per cent. may be given for money, they may do so as well after the adoption of this paragraph as now.

I want this paragraph adopted, because as the Constitution stands now, the power to obtain this special privilege is not dependent upon the class of the enterprise but upon the character of the individual who asks it. Corporations can obtain the right to borrow money at ten per cent., if they choose, and for any purpose whatever; whereas nobody ever heard of any individual procuring the same privilege,

for any object under the sun. What is the reason for this distinction? Why should this privilege be made to depend, in the future as in the past, upon whether those who desire it are incorporated or not?

Just so far as you give corporations the power to borrow money at an excessive rate of interest, you give them control of the money of the State, for money will go where the highest price can be got for it; and by giving to corporations this special and exclusive right, by enabling them thus to grasp the funds of the State, you grant them a discriminating favor in all kinds of business, and not only in those for which corporations are properly and necessarily created. You give them the power to compete with every individual in this State, in every possible enterprise, and at great and most unfair advantage; and the result is that individual enterprise in every department of trade and business must be crushed and ruined. If corporations can draw all the capital of the State of Pennsylvania into their coffers, they will not stop at those purposes for which it is necessary to have corporations; but they will enter into every class and character of business, and that as a consequence of our direct disregard of the good general principle that individual enterprise (where individual enterprise is sufficient) should be fostered in preference to corporate enterprises.

The gentleman from Philadelphia (Mr. Cuyler) says that as we propose to reform the Legislature of Pennsylvania, we need not fear in the future the evils of the past. Why then strike out this paragraph? Why leave it open to the Legislature to do what you do not expect them to do? I do not care how many provisions we may enact to reform the Legislature, we should still not lead them into temptation. I call the attention of the Convention to the fact that the only mode we have thus far proposed for reform in this branch of our government, is restriction upon special legislation. That is the most important reform we have effected; and here, after we have restricted them by a long line of restrictions upon special legislation on every other conceivable subject, why should we be asked to make this peculiar omission in favor of corporations? What can be the reason for it? Why should we leave in the path of legislators to come the rock upon which their predecessors have split? The danger sought to be removed by this paragraph is just that

which the Legislature should not be required to encounter.

Sir, "not to speak it profanely," the prayer, "Lead us not into temptation," was taught by the Redeemer of the world to his apostles, and they were told to utter it, and it will not be amiss even in the future for the chaplain of our Legislature to still continue to repeat it, however much we may hope for reformation in the legislative body.

Mr. DARLINGTON. Mr. President: I do not propose to enter at length into the argument of this question; but I wish to point out one of the errors into which the gentleman from Philadelphia, in my apprehension, falls. He proposes to abolish all special legislation on the subject of capital. In other words, no association of individuals for any improving purpose, whether it be to develop the country in mines, manufactures, or in any other manner, shall ever have the privilege to acquire capital by paying a larger amount of interest than any individual may pay; and he says, should it become necessary, that they should have relief of this kind.

If I understand the gentleman from Philadelphia, he proposes to get over the difficulty of special legislation by allowing the Legislature to say that all railroad companies may borrow, or all improvement companies may borrow, or all canal companies may borrow, but you shall not allow the A or B or C company to borrow; and that is the way by which he says he gets rid of the difficulty of special legislation. Now I want to call the attention of the Convention to the idea which I think is well founded that no such legislation could be permitted for an instant without being obnoxious to the charge of special legislation, legislation for a class of individuals.

Mr. DALLAS. May I be allowed to explain?

Mr. DARLINGTON. I have no objection.

Mr. DALLAS. The gentleman has entirely misunderstood me. My suggestion was that the Legislature might by general law provide that any particular industry or class of business might have a special rate if in the wisdom of the Legislature it was proper, but not that any class of individuals, as a corporation, or men over thirty years of age.

Mr. DARLINGTON. I understand the gentleman perfectly, and I think I understand the answer to it. The moment you allow the Legislature to favor a par-

ticular class of interests, you are favoring the individuals engaged in that class and pursuit. In other words, you are specially legislating for a set of individuals engaged in a particular business, whether it be in the floating of steamships, the making of railroads, the developing of iron ore or coal or any other thing. You may aid the interest of coal, or iron, or commerce, but you shall not aid the interest of railroads.

Now, I take it this Convention will understand what any man who reads can understand, that you cannot under any prohibition of special legislation evade that provision by saying that cities of a certain class or population shall be allowed to borrow, or that persons engaged in the business of mining for coal or iron may borrow, or that persons engaged in the building of railroads may borrow at a higher rate of interest than others. This is all special legislation and will be entirely prohibited by such a clause in the Constitution. Gentlemen must not fancy, therefore, that they can prohibit the Legislature from doing what is right to be done, if it is right to do that which I suppose every one will agree it is right to do—allow even members of a corporations to borrow at a higher rate of interest than others may choose to give.

Where is the injury to result from this? Who is to be injured by allowing the Legislature to give to a corporation the power to borrow money at a higher rate of interest than anybody is compelled to give? Nobody but the corporation itself is injured; and thus in endeavoring to curtail the power of overgrown corporations, (which is the favorite theory of many gentlemen here,) you do it by compelling capitalists to lend to them at a lower rate of interest than they otherwise would; in other words, you benefit the corporations in your attempt to restrain them?

The whole question is, is it wise? Are we prepared in Pennsylvania to say that where individual enterprise may be thought insufficient and where associated capital is necessary to carry out any of the great enterprises of the land, the gentlemen thus associated in this enterprise, which by all is acknowledged to be right, shall not have the privilege of paying for the use of money a higher rate than my friend from Carbon, (Mr. Lilly,) who may mortgage his property if he pleases, a higher rate than anybody else can give or is obliged to give for the use of money? In other words, Mr. President, we are to

understand by this course of policy that you fix the rate of interest inevitably at a certain amount in the hope that a man who cannot offer as good security as another shall have as much capital as he who can offer the security; and thus you invert the laws of trade. This is all I wish to say.

Mr. LILLY. I do not desire to prolong this debate. I merely wish to say, in the first place, that I agree with everything the gentleman from Philadelphia (Mr. Dallas) said excepting that part of his remarks in which he gave the reason for his making the motion to reconsider which re-opened this debate, which I think was all wrong. When a gentleman stays away from this Hall to attend to other business, and then comes in here and asks a reconsideration of an article that we have gone through with, I think it is not doing justice to this Convention to grant any such request.

One word more in reply to the gentleman from Chester (Mr. Darlington.) I want to put these corporations exactly on the same platform with myself. He does not wish to do that. He desires to give those corporations the right to borrow at any price. But if I go into the market and pay more than the legal rate, which I am obliged to do, I violate the laws of the Commonwealth. I want to go into the market and pay what I feel able to pay, and what I must pay for money; But if I am restrained to any point, I want corporations restrained to that point also.

The gentleman from Chester inquires what harm comes of this? The injury is that corporations are enabled to go into the market and absorb all the capital of the State. Every man who has money to lend desires to obtain the most for it that he can, and if he can lend to corporations at ten per cent. while I am held down by law to six per cent., he will lend to them, and the consequence is that all the money of the State is thrust into the hands of these corporations. I am therefore in favor of this paragraph. I voted for it with a great deal of pleasure before, and I voted against the reconsideration because I thought the gentleman from Philadelphia, (Mr. Cuyler,) who came in here at half-past two o'clock yesterday and asked a reconsideration, had no right to it.

Mr. KNIGHT. Mr. President: I am in favor of leaving this paragraph as originally passed, and I trust the Convention will allow it to remain as it is. I believe it

is the interest of the people of the State that we should have a uniform general law on this subject, that every man and every corporation should be put upon the same platform, and when the people are sufficiently enlightened as to the difficulties under which we are now laboring, they may come to our rescue and give us something that will benefit all alike. I trust that the reconsideration will not be carried and that the paragraph will remain as originally passed by the Convention.

Mr. AINEY. Mr. President: I am constrained to oppose the adoption of this paragraph. I voted for it on first reading and I would vote for it now, but for the subsequent action of the Convention. In the light of its action in negating the report made by the gentleman from Philadelphia who has just taken his seat, (Mr. Knight,) which removed the unnecessary restrictions heretofore imposed on money, I am now constrained to oppose it. I believe the Convention will make a great mistake if they now incorporate this paragraph into the fundamental law. If this is to be our final action upon the question of interest, then there will be no more railroads built in this Commonwealth. The railroad companies of other States are authorized to pay high rates of interest, and unless railroad companies here are allowed to pay the same rates it is evident they will get no money. I undertake to say that there has been no important railroad built in this Commonwealth from the commencement of railroad enterprise to this day on the money paid in as stock alone. All of them have found it necessary to borrow some money on bonds. I am persuaded to believe that but little money, if any at all, has been borrowed at the legal rate of interest, six per cent., where the bonds have been negotiated at par. Now, I think it would be a mistake, an act of folly on the part of this Convention, to adopt this restrictive proposition unless it be the purpose of the Convention upon maturer consideration to adopt some provision which shall allow to money the same unrestricted liberal law which governs trade generally. If I could be assured that it would do this I would be glad to vote for the paragraph. Believing that the purpose of the Convention is different I shall vote against the clause.

Mr. MANN. The gentleman from Lehigh is certainly mistaken in the effect that this paragraph will have upon the railroad interests of the Commonwealth.

If this paragraph is adopted, railroad corporations will stand precisely as every individual is compelled to stand when he has bonds to sell. He sells them for what he can get, and the bonds themselves draw six per cent. There will be nothing to prevent the sale of bonds after the adoption of this paragraph any more than there has been before. Men all over the Commonwealth to-day are obliged to raise money by the sale of bonds at a discount, the bonds themselves drawing but six per cent. interest. The effect of this section will be simply to prevent special legislation in favor of particular classes. I think this Convention has committed itself to that principle, that hereafter all classes are to stand upon the same footing. Individuals are obliged to go into the market and sell their bonds now, and have been ever since the law regulating the rate of interest was passed, and there is no more difficulty in railroads doing that than there is in other individuals doing it. It does seem to me that all the objections raised to this paragraph are groundless, and that we shall be stultifying ourselves if we refuse to adopt it as it stands.

Mr. HUNSICKER. I desire to say but a word. I am opposed to this paragraph simply because it will drive people to do by indirection that which they cannot do directly. Here is a municipal corporation, a borough, that desires to erect water works or gas works, and it must go to the Legislature either by virtue of a general or special law and get an act passed to borrow money, and if they cannot get a rate of interest which will enable them to negotiate the loan in the market, they must stand a shave on the bonds. Is not that exactly the effect which this paragraph will have, that every person who goes into the market to raise money will be compelled to throw off of the principal enough to make up the deficiency in interest. I can see no possible use in this paragraph except to make us all indirectly law-breakers.

Mr. W. H. SMITH. Mr. President: I very much regret that this wholesome provision should have been reconsidered. If this body was authorized and required for any one purpose more than every other, it was to put an end, at once and forever, to special legislation, which has worked more injury to the people of this Commonwealth than any other single legislative evil that has ever befallen them. It is hardly necessary to enume-

rate the many pernicious uses to which it has been applied. It has been used to wrest from whole communities their common rights, and to bestow them on corporations and on individuals. It has taken from individual enterprise its fair and proper rewards to give them to a few men who, without industry or skill, but by the mere force of capital alone, have perverted the profits which were the legitimate possession of industry and skill. It has taken from cities the control of their own highways, and bestowed them, with the strong hand of the common robber, upon corporations, for the private gain of a few daring and unscrupulous men. It is continually used to strip one man of his property or the control of it and give it to another.

And now, while all this sort of outrage has been or will be struck down by the action of this body, it is proposed to spare the hands of special legislation which relates to the use of money alone. For if this line be stricken out, special privileges may be given to any banking corporation to charge what they please for money (or up to any limit, say it only shall reach ten per cent.,) while the legal rate of interest is still to continue at six per cent. In other words, the Legislature may, as it has often done heretofore, allow certain banks to take as high as ten per cent. interest, and all other banks and the people at large, if they take more than six, are simply *law-breakers*. This I know has been done to a great extent all over the State. In my own city there are several banks thus favored—perhaps ten, perhaps twenty, while all the rest are held to the head-letter of the general laws. I do not say the unfavored banks regard the law, but they may find some excuse for the infraction of it in the fact that it is unfair and unequal. For it is a grievance and a wrong for the State to say to one set of men, "you may take ten per cent. for your money," and to another, "if you shall take more than six you do it at your peril and to your disgrace—you will be law-breakers." And yet the money they respectively lend is of the same value precisely.

Mr. President, we have been told by the gentleman who desires this precious line expunged, that to retain it will be a check upon the enterprise of corporations organized for industrial and commercial purposes. They, he thinks, should be permitted to issue bonds at any rate above legal interest that they may please,

or that the profits of their undertakings may seem to warrant. I cannot see, sir, how this restraint can affect them. It is the custom, I believe, when a railroad or a steamship or a mining company wishes to raise money on bonds, for them to prepare them for the market, and set forth, truly or falsely, the securities on which they wish to base their loan. If they wish to sell their bonds for par, they make the rate of interest high enough to attain that end. But suppose they should feel bound to conform to the legal rate of six per cent. they would only have to take less for their bonds; that is all. If their security was good—and that is the main matter, I think—six cents would pay the interest on just as much money as six-sevenths of a seven per cent. rate. In other words, if a bond bearing seven per cent. interest would sell for par in the market, a six per cent. bond equally well secured ought to bring, say eighty-six cents at least. And by this way of arranging it, we should not hinder the good companies from borrowing money, and we should by keeping this line as it is, not commit the great mistake and the great wrong to the people of perpetuating special legislation in rates for money, for the sole reason that debtor corporations might be more conveniently accommodated. Sir, the policy of the State should not be made to bend to the supposed advantage of corporations. I trust, sir, that this line will not be touched for any purpose like this.

THE PRESIDENT. The question is on the division.

The division was agreed to.

THE PRESIDENT. The question is on the section as amended.

The section as amended was agreed to.

MR. HARRY WHITE. I offer the following, to come in at this point as an additional section:

"The Legislature shall, after the adoption of this Constitution, enact general laws to provide for all the cases enumerated in the foregoing section, and for all other cases which, in its judgment, may be provided for by general law."

MR. MINOR. I move to amend the amendment by striking out and inserting:

"In all cases in addition to those enumerated in this article, in which a general law is applicable, all laws shall be general and of uniform operation throughout the State."

The PRESIDENT. This amendment relates to a different subject from the amendment pending, and therefore it is not in order as an amendment to the amendment. The question is on the amendment of the gentleman from Indiana (Mr. Harry White) to insert a new section at this point.

Mr. EWING. Mr. President: I am unable to see what necessity there is for such a section as is now proposed. It certainly follows, as a matter of course, that the Legislature will pass such general laws, and it seems to me absurd to put a section in the Constitution to that effect. It is only burdening our record. We had better leave it out.

Mr. HARRY WHITE. Just a word of explanation. This clause is an admonition to the Legislature to pass general laws to meet all these cases and all other cases where, in its judgment, a general law can be made applicable. This is relieved of the objection which the clause, in the fifty-sixth line of the tenth section, had in the minds of several gentlemen here. Then I observe that a section almost similar to this has been adopted by the commission which recently reported amendments to the Constitution of New York. I hope it will pass.

Mr. TURRELL. We are not here, I think, to give a general admonition to the Legislature as to the discharge of their duties. They usually do their duty, and I do not think it is necessary to insert a last clause in the Constitution to carry out the provisions of this Constitution, which it shall require them to carry out. I have no doubt they will do it, and I do not presume that they will not discharge any duty incumbent upon them. This new section presumes that they are to be admonished and instructed by us in advance as to their duty, and I am opposed to it.

On the question of agreeing to the amendment, a division was called for, which resulted twenty-one in the affirmative.

The PRESIDENT. Not a majority of a quorum voting, the amendment is not agreed to.

Mr. HARRY WHITE. I call for the yeas and nays.

The PRESIDENT. The call comes too late, as the question is decided. The Chair will for the last time observe that if gentlemen desire the yeas and nays called, they should call for them before the decision of the Chair is announced.

Mr. HARRY WHITE. I beg pardon of the Chair but I could not hear the announcement of the Chair.

Mr. LILLY. We heard it in this part of the Hall.

Mr. HARRY WHITE. I could not hear the decision, and I respectfully ask that the yeas and nays be called.

The PRESIDENT. Is the call for the yeas and nays seconded?

Messrs. De France, Corson, Russell, J. W. F. White, Horton, T. H. B. Patterson, D. W. Patterson, Cochran, Joseph Bailly, Ainey and Boyd rose.

The PRESIDENT. The yeas and nays will be called. The Chair will take this opportunity to state that as the House has altered the rule as to calling the yeas and nays, he deems that the new rule requiring ten members to second the call of any one member applies only to votes upon amendments, believing it to be the right of any two members to call for the yeas and nays upon a section. Does the House agree with the Chair in that opinion? ["Aye." "Aye."]

The rule will be so understood. The yeas and nays will now be called on the amendment offered by the gentleman from Indiana as a new section, which will be read.

The CLERK read as follows:

"The Legislature shall, after the adoption of this Constitution, enact general laws to provide for the cases enumerated in the foregoing section, and for all other cases which, in its judgment, may be provided for by general law."

The yeas and nays were taken, and were as follow, viz:

YEAS.

Messrs. Achenbach, Ainey, Bailly, (Perry,) Barclay, Bardsley, Black, Charles A., Boyd, Calvin, Carey, Carter, Cochran, Corson, De France, Finney, Funck, Gilpin, Green, Guthrie, Hanna, Hazzard, Horton, Landis, MacConnell, Minor, Palmer, G. W., Patterson, D. W., Patterson, T. H. B., Russell, Struthers, Wetherill, Jno. Price, Wherry, White, Harry, White, J. W. F. and Meredith, *President*—34.

NAYS.

Messrs. Alricks, Andrews, Armstrong, Baer, Bailey, (Huntingdon,) Baker, Bannan, Bartholomew, Biddle, Bigler, Black, J. S., Bowman, Brodhead, Broomall, Brown, Buckalew, Campbell, Church, Clark, Craig, Cronmiller, Curry, Curtin, Dallas, Darlington, Davis, Dunning, Ed-

wards, Ellis, Ewing, Fulton, Gibson, Hay, Howard, Hunsicker, Knight, Lamber-ton, Lawrence, Lear, Lilly, M'Clean, M'Culloch, M'Murray, Mann, Mantor, Metzger, Mott, Palmer, H. W., Parsons, Patton, Porter, Pughe, Purman, Purviance, John N., Read, John R., Reed, Andrew, Reynolds, Rooke, Ross, Runk, Smith, H. G., Smith, Henry W., Smith, Wm. H., Stanton, Turrell, Van Reed, Walker, Wetherill, J. M., White, David N., Woodward, Worrel and Wright—72.

So the amendment was rejected.

ABSENT.—Messrs. Addicks, Beebe, Cassidy, Collins, Corbett, Cuyler, Dodd, Elliott, Fell, Hall, Harvey, Hemphill, Heverin, Kaine, Littleton, Long, MacVeagh, M'Camant, Mitchell, Newlin, Niles, Purviance, Sam'l A., Sharpe, Simpson, Stewart and Temple—26.

The CLERK read the next section of the article as follows:

SECTION 11. 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 evidence of such notice having been published shall be exhibited in the Legislature before such act shall be passed.

MR. BRODHEAD. I move to amend by striking out "sixty days" and inserting, "three weeks."

The PRESIDENT. The question is on the amendment.

The amendment was rejected, there being on a division less than a majority of a quorum voting in its favor.

MR. DARLINGTON. I move to amend by striking out the section, and inserting as follows:

"No local or special law shall be passed unless notice of the intention to apply therefor, with the names of the applicants, shall be published at least sixty days prior to the application in the locality where the matter or thing to be affected may be situated, and the evidence of such publication exhibited to the Legislature before such act shall be passed."

MR. BIGLER. I desire to make a suggestion to the gentleman from Chester. Would it not be better to say, "published in the county," instead of "published in the locality?" How would you fix a locality where there is no newspaper?

MR. DARLINGTON. I have no objection. I will modify the amendment by saying "county" instead of "locality." It will be perceived by the Convention that there is very little difference except in form. Instead of "bill" I say "law," merely changing the phraseology, and adding what I deem very material, that the publication of the notice of the application for a special or local law shall contain the names of the applicants, so that the public may know who it is that applies for it.

MR. HARRY WHITE. I trust the section will pass as we find it here. It will be observed that it is a general direction and contemplates the passage of a general law by the Legislature to regulate the details of this subject. I trust the general declaration which we find in this section will be preserved. If the amendment offered by the delegate from Chester is voted down, I mean to offer an amendment to strike out "sixty" and insert "thirty."

The PRESIDENT. The question is on the amendment of the delegate from Chester.

The amendment was rejected.

MR. HARRY WHITE. I move to strike out "sixty" and insert "thirty" before "days."

The PRESIDENT. The question is on the amendment of the delegate from Indiana.

The amendment was agreed to, there being, on a division, ayes forty-four, noes forty-three.

MR. DARLINGTON. Having failed in my amendment, I offer another. I move to strike out in the first and fifth lines the word "bill," and insert "law" in each case.

MR. HARRY WHITE. I hope that will not prevail, from the fact that we have provided in the fourth section of this article that no law shall be passed except by bill, and the word "bill" is used by design, because it designates what it means.

The PRESIDENT. The question is on the amendment of the delegate from Chester.

The amendment was rejected.

MR. BAER. I move to strike out the word "public," in the first line. The reason why I would have that word stricken out is that it is unnecessary as it stands, because any notice published becomes a public notice, and you provide

here for publishing a public notice; and therefore the word need not be in.

The PRESIDENT. The question is on the amendment of the delegate from Somerset.

The amendment was agreed to, there being on a division, ayes fifty-one, noes twenty-one.

Mr. MACVEAGH. I move to amend the section as amended by striking out "thirty" and inserting "ten" before "days." ["No. No."]

The PRESIDENT. "Thirty" has just been put in by the House. The motion is not in order. The question is on the section as amended.

The section as amended was agreed to.

The CLERK read the next section as follows:

SECTION 12. 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 signing, and the fact of signing to be entered on the Journal.

The section was agreed to.

The CLERK read the next section as follows:

SECTION 13. The Legislature shall prescribe by law the number, 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.

The section was agreed to.

The CLERK read the next section as follows:

SECTION 14. 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 section was agreed to.

The CLERK read the next section as follows:

SECTION 15. No law shall extend the term of any public officer, or increase or diminish his salary or emoluments after his election or appointment.

The section was agreed to.

The CLERK read the next section as follows:

SECTION 16. All bills for raising revenue shall originate in the House of Representatives, but the Senate may propose amendments as in other bills.

The section was agreed to.

The CLERK read the next section as follows:

SECTION 17. 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 public schools. All other appropriations shall be made by separate bills, each embracing but one subject.

The section was agreed to.

The CLERK read the next section, as follows:

SECTION 18. No appropriation shall be made to any charitable or educational institution not under the absolute control of the Commonwealth, other than normal schools established by law for the professional training of teachers for the public schools of the State, except by a vote of two-thirds of all the members elected to each House.

Mr. COCHRAN. This section seems to be fully covered by the fifth section of the report of the Committee on Education as it was adopted in committee of the whole.

It seems to me it is sufficiently covered there and in better form than it is here. If gentlemen will refer to the fifth section of the report of the Committee on Education, I would prefer that that section should stand in lieu of this.

Mr. DALLAS. Where is that section?

Mr. COCHRAN. The fifth section of the report of the Committee on Education reads as follows:

"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, either in

whole or in part, by any church or sectarian denomination."

MR. HARRY WHITE. I will make but one observation in answer to my friend from York. It seems to me proper to have a section of this kind in the legislative article. It more properly belongs here than under the head of education; and, furthermore, there is a distinction between the two sections. One is a general prohibition which excepts appropriations to normal schools in which the State has some interest.

MR. MACVEAGH. Mr. President: I trust that upon this section, which gave rise to very considerable discussion in the House before, and which the Convention is certainly aware marks a very distinctive departure from the previous history of this Commonwealth in matters of this kind, we shall have a vote by yeas and nays. It requires two-thirds of all the members elected to each House to enable the State to join any private individuals in the creation of any charity, however meritorious. If a great university were to be established and a public spirited citizen was willing to give all the money to endow it, it would require a two thirds vote of each House in order to secure the buildings in order to utilize the gift. There may be very great charities which the State could wisely aid to a limited extent and yet not take to herself the entire and absolute control of them. When this subject was here before, it was supposed that it was an unwise discrimination against charities of this character to require them to pass by more than a majority vote. The State is still protected by the veto of the Governor; and why gifts of this kind which appeal as little as any other legislation possibly can appeal to the sordid side of the character of the legislator, should have this guarantee about it, I am at loss to understand. As I desire to vote against it myself I hope that the yeas and nays will be ordered upon it.

THE PRESIDENT. Does the gentleman call for the yeas and nays.

MR. MACVEAGH. I do.

MR. WHERRY, Mr. De France, Mr. Brodhead, Mr. Horton, Mr. Bigler, Mr. J. W. F. White, Mr. Carey, Mr. Cochran, Mr. Woodward, Mr. Hay and Mr. Clark seconded the call.

The question being taken by yeas and nays, resulted yeas seventy-four, nays thirty-one, as follows:

YEAS.

Messrs. Achenbach, Ainey, Alricks, Andrews, Armstrong, Baer, Baily, (Perry,) Bailey, (Huntingdon,) Bannan, Bardsley, Bartholomew, Brodhead, Broomall, Brown, Buckalew, Calvin, Campbell, Carter, Church, Clark, Corbett, Craig, Cronmiller, Curry, Cuyler, Dallas, Darlington Davis, De France, Dunning, Edwards, Ewing, Finney, Fulton, Funck, Gilpin, Green, Hanna, Hay, Hazzard, Horton, Howard, Landis, Lawrence, Lear, Lilly, MacConnell, M'Culloch, M'Murray, Mann, Mantor, Parsons, Patterson, D. W., Patterson, T. H. B., Patton, Porter, Pughe, Purman, Read, John R., Reed, Andrew, Rooke, Ross, Russell, Smith, H. G., Struthers, Turrell, Van Reed, Walker, Wetherill, J. M., Wetherill, Jno. Price, White, David N., White, Harry, Wright and Meredith, *President*—74.

NAYS.

Messrs. Baker, Barclay, Biddle, Bigler, Black, Charles A., Bowman, Boyd, Carey, Cochran, Corson, Curtin, Ellis, Gibson, Guthrie, Hunsicker, Lambertson, MacVeagh, M'Clean, Minor, Palmer, H. W., Purviance, John N., Reynolds, Runk, Sharpe, Smith, Henry W., Smith, Wm. H., Stanton, Wherry, White, J. W. F., Woodward and Worrell—31.

So the section was agreed to.

ABSENT.—Messrs. Addicks, Beebe, Black, J. S., Cassidy, Collins, Dodd, Elliott, Fell, Hall, Harvey, Hemphill, Heverin, Kaine, Knight, Littleton, Long, M'Camant, Metzger, Mitchell, Mott, Newlin, Niles, Palmer, G. W., Purviance, Samuel A., Simpson, Stewart and Temple—27.

The next section was read as follows:

SECTION 19. No appropriation (except for pensions or gratuities for military services) 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. WHERRY. I offer the following amendment: Add to the end of the section these words: "Except by a vote of two-thirds of all the members elected to each House."

We have seen enough this morning, Mr. President, of the temper of the Convention, to be fully aware that the majority is determined to impose this iniquitous section upon the people of this Common-

wealth. I have no language strong enough to express my condemnation of the sentiment which prevails here to-day. I offer this amendment, not because I favor the section or the principle which it involves, but with the earnest, anxious hope that at least this much opportunity may be given for the expression of sentiments of charity and benevolence by the Commonwealth. I cannot understand, Mr. President, why the State in its capacity as a State may not express its benevolent feelings and sentiments as well as an individual, nor can I understand why the combined expression of benevolence and charity of the community through proper legislative action should be deemed any less holy, any less desirable, any less meritorious than the expression of those same sentiments of charity and benevolence through the individual. I have offered this amendment with the barest possible hope that the Convention will concede this much to the christian sentiment and christian charity of this Commonwealth, and I do ask that it shall prevail.

THE PRESIDENT. The question is on amendment of the delegate from Cumberland.

MR. MACVEAGH. Mr. President: Perhaps the views of the Convention are settled upon this subject; but even if they are, I cannot forbear calling its attention to the very grave considerations affecting it. Take the matter alone of the soldiers' orphans' schools of this State. It happened that owing to the efforts of the then Governor and the co-operation of the Legislature the State did appropriate generously, and I trust sufficiently, for the maintenance of the soldiers' orphans; but as a branch of that charity, some ladies, as I understand, in this city, conceived the idea of furnishing a home for soldiers' orphans, perhaps subsequent to the initiation of the idea in the Legislature. I think they call it, after the martyred President, "The Lincoln Home." What is there in the nature of the human heart, what is there in the history of this State, or of any organized community, that makes it unsafe to allow your Legislature to supplement the funds which these charitable people are willing to give for purely charitable purposes? If they will maintain and clothe and care for a hundred orphans, and provide three-fourths of the means to do it, why should you by a hard and fast line say that your legislators shall not consider the propriety

of giving the other fourth? Why should you compel the other three-fourths of the expense to be put upon the State also? Is there any advantage in getting rid of the name that may be chosen? Is there any advantage in getting rid of the religious exercises of any church? Are there advantages sufficient to compensate for such a policy? Have we gone so far from the christian faith that any form of that religion is so deleterious to the young mind that we would rather pay all the expense than allow the young to be taught christianity by any of the churches of the christian creed? I am utterly unable to see it. In going along the line of our railways I see everywhere beautiful buildings erected by christian churches, devoting their surplus funds to make a home for the aged, the infirm, the destitute; and instead of putting the whole burden of the support of these people on the tax-payers, they come only occasionally to the Legislature to get an appropriation. Why should not that body be allowed to consider the propriety of giving it?

I assure the Convention that the hearts of your legislators are not so pure, so filled with everything that is noble, that the approach of christian women or of christian men, in behalf of an unselfish and generous charity, will do them harm. These are not the schemes that give rise to great wrong. If it was your bounden duty to feed and clothe and educate the boys of your dead soldiers, as it was, why may you not in some instances, however nobly you rise to the height of that duty and opportunity, supplement the individual efforts of other people who wish to help in the same good work? You ought not surely to try to discourage these foundations for the poor and the destitute and the infirm everywhere. They grow out of the christian church. Whether you like it or not, it is still true that organized charity owes its birth to the christian church, and never flourishes in its full vigor except in alliance with some one of the forms of that church. Now, you propose to say that no charity that is allied with any branch of the christian church shall even have its claims considered by your Legislature.

Well, take another matter. Whether wisely or unwisely, you have decreed that black men shall be your voters; you have decreed that, therefore, they shall be elevated to the full level of the privileges of American citizenship. It is a well known fact that the safety of your

government depends upon the intelligence with which your suffrage is exercised. Now, it is a duty, a duty imposed by self-protection, to take care that if any one section of your citizens is less intelligent than another they should be educated to discharge the duty you have laid upon them. If some gentlemen in Chester county or elsewhere see fit, out of the abundance of their means and the charity of their hearts, to build a great institution which shall help to educate the black voters of your State, help to prepare them for the discharge of these duties—inasmuch as they take thereby a portion of your duty from you, why not allow them to do so? And so all over the State. Charities for the blind, charities for the poor, charities for infirm old women and maimed little children, are springing up everywhere throughout the borders of your State. Why not allow them to go and plead their cause before the Legislature? It is the money of the poor that is given. All your arrangements of taxation still come back to that, that to him that hath shall be given and from him that hath not shall be taken away even that which he hath. The poor man gets poorer, the rich man gets richer in consequence of the arrangements of modern society; and the taxes that go in relief of the poor are paid by the poor, and there is no reason whatever why the claims of these people should not be considered at least by your Legislature.

If any gentleman will look at the appropriation bill of the last session, I think he will be satisfied that it was not in such matters that special harm was done. I open it at random, and here is relief given to a hospital in the city of Scranton, for the miners I suppose, who are injured by the terrible accidents in your mines. Why should not the State go out to supplement the charity of the noble-hearted people at Scranton to help to care for these men thus torn limb from limb, very often not indeed to save their lives, but still to assuage their pain the few hours that are left to them? The Lincoln University is right before it; the Educational Home for Boys is right before that.

The next gift is to the noble and wide spreading University of Pennsylvania. She was last winter privileged to argue her cause at the bar of your Legislature. She sent there a gentleman who was qualified in every respect to present the cause of that great charity and to

win for it the considerate attention and the earnest sympathy of every fair-minded man. A young physician of this city stood before the joint committee of your Legislature, and I was privileged to hear him when he asked the Legislature to help them. He said they did not come empty-handed; they came with \$350,000 in money and they came with land of which the value was \$250,000 more, and they only asked that you should put up the buildings so as to make their money effectual to the assuagement of pain and the ministration of the wounded and the sick; and he pledged his honor that the University would know no lines and would confine herself to no distinctions, but would ask simply: "Has the applicant need of surgical treatment? If he has, here is a clean bed and an able surgeon and all the necessities of life at his command for nothing!" Why not allow these causes to be pleaded? Why not allow these charities to be supplemented? At least why not allow your Legislature to consider and decide the propriety of granting them? Yet the preceding section in connection with the present section will prevent it. Right in advance of that University is the Jefferson Medical College, the Western Pennsylvania Home for the Insane, the Pennsylvania Institution for the Instruction of the Blind, the Pennsylvania Deaf and Dumb Asylum; and then comes an appropriation to the Board of Public Charities. I trust that gentleman will allow the Legislature at least to consider the propriety in proper cases of supplementing the charitable efforts of our generous-minded people, whether or not they happen to labor under the disadvantage, as it seems to be considered here, of being connected with the Christian church.

Mr. HARRY WHITE. Mr. President: The full and sonorous tones of my eloquent friend who has just taken his seat (Mr. MacVeagh) always charm me; but if it had not been for his eloquence and his flattering manner, I should have been inclined to rise to my feet and state a point of order. The argument of my eloquent friend was quite proper to address to the Legislature, were he a member thereof, as doubtless he will be of some very important legislative body; but so far as his speech was applicable to the section under consideration, I could not see its relevancy, and I certainly must criticize my eloquent friend for having been unnecessarily diffuse upon this sec-

tion. If the delegate from Dauphin had paused and read carefully the two sections which are next to each other, one of which has been passed and the other of which is under consideration, he would have seen that his criticism of the section under consideration was not at all pertinent or proper.

The gentleman picks up the general appropriation bill of last year, which if I were allowed to do so, I could criticize properly, and remarks that he would not close the door of the Legislature to the large appropriations which it has hitherto made to the university of Pennsylvania and kindred institutions. Why, Mr. President, the section under consideration does not effect appropriations to institutions of that character. There are two sections which we have under consideration, and the one which has been passed provides that no appropriation shall be made to any charitable or educational institution not under the absolute control of the Commonwealth, except for normal schools, unless by a vote of two-thirds of the body. Thus, you will see that we are not damming up the fountains of charity in the Commonwealth. We are merely addressing an admonition to the Legislature: "You shall not unlock the doors of the State Treasury for a mere charitable purpose and give away the people's money, without two-thirds of the people's representatives voting in favor thereof." This, sir, is to effect a great reform, and is to prevent the system of log-rolling which has obtained hitherto, and has brought scandal and reproach upon those things which are done in the name of charity. We are merely changing the rule from a majority vote to a two-thirds votes in these cases.

Enough for that. The question more immediately under consideration is to reach another class of institutions. It is the policy of this government, and meets I believe the approbation of our constituents, to divorce church and State, and to say in this Constitution to the Legislature hereafter that when an institution is controlled by a denomination or by a sect you shall not make any appropriations whatever for it. This merely cuts up by the roots appropriations and all power to make appropriations to sectarian or denominational institutions.

I could, if it were in good taste, detail some instances of flagrant abuse which demand of this body reform in this direction. I can recall one instance where an

appropriation of \$8,000, was made to one denominational institution in the western part of this Commonwealth. It so happened when the conference committee met, and the Senate insisted upon the amendments which it had offered, that the House committee offered to recede from all their positions upon the bill provided the Senate committee would agree to an appropriation of \$8,000 to a certain sectarian institution. As a matter of discretion, to save the expenditure of money by delaying the session of the Legislature, it was agreed to by the Senate \$4,000 was paid over to the head of that sectarian institution, and when he came to draw the balance he was informed by the State Treasurer that the entire \$8,000 had been drawn. I do not say who got the extra \$4,000, but it is sufficient to say that the additional \$4,000 when I last heard of it had not been accounted for.

I have no improper observations to make when I remark that it is not impossible that some gentlemen who had something to with the appropriation secured that four thousand dollars. It is to stop cases of this kind, it is to correct such abuses, that we wish to put a stop to all appropriations by the Legislature to sectarian and denominational institutions.

There is another class of cases, of persons and communities. It is not necessary for me to discuss this. It has been fully discussed before, and I content myself with saying that in view of these cases, I hope the Convention will adopt this section just as it came from the committee of the whole.

Mr. CURGIN. Before the question is put, if the Convention will indulge me, I desire to make some remarks with reference to this section of the article. It seems to me that we have gone quite far enough in restraining the Legislature. One step more and we shall abolish it. It is true that this Convention is in the presence of a public sentiment—whether that sentiment is healthy or not—demanding reform in the Legislature, and especially some restraint on what is known as special legislation. And I am quite sure from the votes taken on section after section of this article, as it passed, that that is the prevailing sentiment of this Convention, and it is therefore unnecessary that I should say anything on that subject. But as I have an opportunity of speaking I take the liberty to say that unless you change our theory of government you cannot do without a Legislature. When

we declare ourselves to be a representative democracy and the people are represented by a body called the Legislature, you must clothe them with power commensurate with their positions as representatives of the people; and if the city of Philadelphia, or the smallest county in the State, or even the most obscure village in the State, requires legislation for its benefit in which the remainder of the people of the State have no interest, its people have the right to go to their Legislature and ask for it and the Legislature are bound to grant it, if what is asked is just.

That can no more occur, for to reach any grievance which a portion of the people of the State may hereafter suffer, your Legislature must pass a general law for the whole State. Aye, let the Convention go on and restrain the Legislature, and have the semblance, the mere mockery of a popular government by representation! If it is the pleasure of this Convention, send your representatives to Harrisburg hand-cuffed and gagged, but do not suffer the Commonwealth of Pennsylvania, through her Legislature, representing the people, to fail to give charity when charity is demanded by any part of the people of the State. What makes this great city so conspicuous in this country? It is not the fact that it is the historic place where the sentiment of liberty that had been struggling in the world for life for many centuries found its utterance in the Declaration of Independence. It is not that the Convention which framed our matchless Constitution sat here. It is that this city has been first and foremost in the great works of charity and benevolence which have made it the city of our pride. It is the pride of every Pennsylvanian who lives in the interior of the State that all the forms devised for extending charity and for the relief of suffering humanity have been sustained by contributions from the Treasury of the State.

We speak of individuals who have bestowed charity liberally with sincere praise. We are justly proud that in this country it has become a custom for men who have accumulated large wealth to signalize the close of their lives by the endowment of some institution where either charity is administered or education is conferred until a rich man who fails to do something in that direction receives the disapprobation of the people, and his wealth is not regarded as a blessing.

There is nothing so beautiful in the Christian character as charity, whether in a community, in an individual, in a State or in a nation, and while we praise these communities in Pennsylvania, while we lift up in the scale of morality the people that give most to charity, while we admire and reverence the individual charity which has made us famous, is this Convention prepared to declare that this Commonwealth—our gracious and beneficent mother—with her accumulated wealth, gathered from the mines, and the fields, and the mountains, and from the labors of her children, shall not take any of it from her coffers and give to suffering humanity a crust of bread, relieve poverty, clothe the destitute and give to ignorance the light of intelligence?

I heard, no matter where or when, the sprightly and eloquent young delegate from Luzerne county (Mr. H. W. Palmer) say that this policy was niggardly—a plain Anglo-Saxon term, somewhat Americanized; but I cannot but feel as a citizen of this Commonwealth that if you pass this section and tie the hands of the State and declare that Pennsylvania shall no longer give charity, that delegate properly called it a niggardly policy. The delegate from Dauphin (Mr. MacVeagh) has eloquently alluded to many of the charities of this State. I appeal to the chairman of the committee who reported this most obnoxious, this close, miserly, and mean section of this article, any language of reproach of our Commonwealth can be tolerated, but to be called mean! And do not put it on the fact that your Legislature can be bribed or corrupted! You have a Legislature; it is one of the constituent parts, nay the most important part, of your government. You pretend to have a representative democracy. The people find their voice there. They gather the money from the people and they distribute it. It is the money of the people given to support the people, given for the charities of the people; and I ask the chairman of the committee who reported this section to look out upon the street on Sunday morning and he will find there some hundred or more boys in blue marching to receive their religious instruction in the Episcopal church; and I appeal to that gentleman because he was a soldier of the Republic and suffered long and severe captivity and knows how much of suffering those endured who left sons while they fill honored graves, and I would have him to know that the

boys are of the Lincoln Institute, which by its constitution provided that the children should receive their religious instruction in the Episcopal church. He would cut off by this section all the appropriations of the public money to support that most beneficent and well regulated and governed institution! I am quite sure the gentleman could not have meant so much. It cannot be possible. The section strikes at appropriations to relieve communities; once enacted no community can receive an appropriation. Why, Mr. President, if any community in Pennsylvania is visited with a sudden and unexpected calamity, if Providence lays the heavy iron hand on any portion of the people of this State, and their sufferings are beyond the reach of individual charity and benevolence, will he deny to the people of the State through their representatives the right to relieve the stricken and suffering? This section is intended to prevent such appropriations as were made by the Legislature in support of the people who suffered by the raid of the rebels in 1864, and especially those of Chambersburg after it was burnt!

Now, Mr. President, the question is not whether the appropriations are right or wrong. Leave that to the members of your Legislature; and if the members of the Legislature, as has been repeatedly said on this floor, are the corrupt men they have been represented to be, if one tithe of what is said in reference to them on this floor be true, it is indeed alarming, but they represent the people and you must accept the condition; and if it be true that the Legislature of Pennsylvania must be restrained from giving the charity of this great Commonwealth, because the members are corrupt men, let it not be said that this enlightened body declared by solemn enactment, put into the organic law, that they never shall do charity again, even if the people send saints in place of men to represent them in the Legislature.

Mr. President, I am opposed to this section, and I shall take pleasure in recording my vote against it, and will forever regret if a majority of this Convention should sustain it.

Mr. HAY. Mr. President: When this subject was under consideration before, I proposed an amendment to the section, which I now renew.

The PRESIDENT. There is an amendment now pending.

Mr. HAY. My proposition is to strike out all after the word "section" and insert—

The PRESIDENT. That motion is not at present in order.

Mr. HUNSICKER. Mr. President: I hope that this section will be thoroughly discussed.

SEVERAL DELEGATES. It has been.

Mr. HUNSICKER. Yes; and I mean to discuss it a little while longer. I am not one of those who believe that this Convention monopolizes all the intelligence or wisdom of this State, and I do believe that there could be no greater insult offered to the religious people of this Commonwealth than by the adoption of this very section, because it strikes down Jew and Christian alike. It declares that no appropriation shall be made at any time, even by the unanimous vote of both branches of the Legislature, with the concurrence of the Governor, to any charity that is upheld by those who worship God Almighty. *It does do that very thing.* It is aimed at that, and I am surprised to find upon the floor of an intelligent Convention like this gentlemen who declare that our opposition to this section is in furtherance of an attempt to ally church and State, and that this section will prevent such union. What intolerant bigotry! What sort of connection between church and State is there in the Legislature extending the hand of charity to those who foster a charity and encourage it because of their religious beliefs?

If you adopt the amendment offered by the gentleman from Cumberland, and allow an appropriation to be made by a vote of two-thirds, that would be less objectionable; I should vote for that, but you have adopted a section which allows the Legislature to make an appropriation to a charitable or educational institution not under the control of the State and not controlled by any sectarian denomination by a vote of two-thirds, and now you insult the Legislature of this Commonwealth for all time to come by declaring in the organic law that upon the question of giving a few dollars to a charity upheld by those who worship God Almighty, the members of the General Assembly can never be trusted.

The distinguished gentleman, the chairman of this committee, has declared that upon one occasion eight thousand dollars were wrongly appropriated. Who is there upon the floor of this body who has not had his individual charity misapplied,

and is there any man worthy to be called a man who will, because he has occasionally misappropriated his charity and misapplied his benevolence, steel his heart against human misery and against human suffering, and fail to alleviate it when it appears? I trust not; and I do hope, although it is hoping almost against hope, that no public time will be spared in the denunciation of a section that is an insult to the Commonwealth for all time.

Mr. WOODWARD. Mr. President: If my objections to this section had been stated by any of the gentlemen who have spoken so acceptably this morning, I would have nothing to say. I am not in a condition to address the Convention on any such subject this morning; but I have an objection that has not been very distinctly stated, if at all, and it goes to the whole section. The rule by which the Legislature is to be restrained according to this section is, "denominational or sectarian institutions, corporations or associations." They are not to dispense any charities or appropriate any money to any corporation or association that can be called denominational or sectarian.

Well, now, sir, I do not quarrel with the policy of such legislative restraints; that is to say, I would not object to the Legislature refusing to make an appropriation to a particular institution because it was denominational or sectarian; but I have great objections to putting this rule into what my friend from Dauphin very happily calls the fast and rigid lines of the Constitution. For if we write it in there, we write it in for all time, and we say to the world, and especially to our posterity—because I suppose if we cannot instruct anybody else (I have not much hope of the present generation) we may, perhaps, be able to communicate some ideas to our posterity—we say to them that appropriations to objects that can be called denominational or sectarian are unworthy of a great State; that there is something about it that is pernicious, unpatriotic, improper. We give, in other words, to all those charities which anybody can with any degree of truth call denominational or sectarian a black eye for all time by putting this limitation into the Constitution.

Now, Mr. President, if any gentleman should propose that the Legislature of Pennsylvania should collect no money from the people of Pennsylvania to disburse in any form of charity I would agree to that. My belief is that the best

possible government is that which is felt the least by the people and which takes the least money out of their pockets, and I think it would be a very great improvement in political science if we would allow each man in Pennsylvania, when he has earned a dollar, to keep it in his pockets until he chooses to appropriate it to the objects of his choice. This withdrawing it from the laborer into the State Treasury to distribute it back again to any objects through a series of intermediate agents, who may plunder, who must certainly be paid for their services, is a principle of government that I cannot approve. I would allow the government to withdraw from the tax-payer just as little money as may be necessary to carry on and sustain the government. It is the duty of the people to sustain their government for mutual protection, but it should be an economical government, it should be economically administered, and every possible dollar should be left in the hands of the people, instead of every possible dollar being drawn out by the Treasury of the Commonwealth.

Now, sir, such being my political philosophy on this subject, I do not look with great favor upon legislative charities under any circumstances; but then my thoughts are not the rule for anybody except myself. The rule prevails nowadays of acting upon the high pressure principle of government. The general government is collecting enormous revenues out of the people; the State governments are collecting all they can collect out of the people; and then the question is presented to the legislative bodies that rule the two governments, federal and State, what shall we do with this money? What shall be done with it? That is a great question, and the way that question is dealt with is corrupting the morals and the manners of the people, eating out all the patriotism and honesty from the hearts of the people, and may ultimately prove our utter ruin, when we will begin to learn that it would have been better to organize our government and administer it upon more simple principles. But all this is by the way.

We are committed to this present extravagant form of government by which large revenues are collected from the people, and nobody proposes that the Legislature shall not have power to appropriate that money to charitable and religious purposes; but the learned chairman of this committee proposes that none of that

money shall be appropriated to any such object that is denominational or sectarian, as if it was a great crime to be denominational or sectarian. Right there comes in my objection to this section. I do wish that all men were of one mind on religious subjects. I consider these schisms in the church a very great misfortune. If I knew any way of curing them that was lawful and right I should like to see it applied.

But, sir, as in the political world to which I have alluded, we are born to this state of things. Every man has a private judgment that is better than the private judgment of anybody else. He shapes his religious views according to his private judgment, and no man can deny his right to do so. The consequence is that we have denominations, we have sects; and we shall continue to have them. I see no prospect of getting rid of them; I would be very sorry to get rid of them by any violent means; and as to getting rid of them by convincing the reason of sectarians, I have no hopes of that.

Mr. President, whenever this subject is up I am distressed with the appearance of my friend from Chester county, (Mr. Darlington,) who has placed himself before me. [Laughter.] I cannot forget that he is a distinguished Quaker. Nobody would do violence to the Quakers; but it may or may not be grateful intelligence to this body that they are dying out from the face of the earth. I understand that there are fewer Quakers in existence now than there were in the time of George Fox, who was their founder. They are disappearing like the mists of the morning. But then the sects are multiplying, and if the Quakers disappear, there will be other sects in their place, and plenty of them.

Mr. President, is it worth our while to give to denominations and sectarians the black eye that this provision proposes to give to them? I say it is not. I say it is unworthy of this Convention to do that, for the people of Pennsylvania are all denominational people. They are all sectarians. If they are not Quakers, they are Methodists or Presbyterians or Episcopalians or Roman Catholics, or called by some other name.

There is another sect that I have heard spoken of, said to have been spoken against in all places. They say they were first called Christians. I do not know when; I think in the life of Alexander Campbell. Sometimes they are called Campbellites. They are a sect, and in Kentucky

they are multiplying rapidly. They are growing there. They are not growing here, I believe. They have a right to grow too. They have a right to live. I would not treat them as Modocs by any means. [Laughter.]

We must tolerate all these things. I would not give any of these sects that kind of condemnation that this section proposes to give them. Charity not to be dispensed on sectarian or denominational principles! Where do your charities come from except from sects and denominations? How much would you have in Pennsylvania to-day if it had not been for the sects and denominations into which the people of Pennsylvania have been and are divided?

Stephen Girard did establish an institution here in which he provided that no sectarian minister should ever be admitted; but he did not exclude the christian religion even in its denominational features; he simply excluded the clergy; and the consequence has been that denominational christianity has been taught in the Girard college by laymen with a fidelity and a fullness that, perhaps, has not been surpassed in any church in this city. The will of Mr. Girard has not been violated for all that.

Why should we condemn all charities which anybody can call denominational or sectarian? I wish the chairman of the committee or some other gentleman would enlighten me on that point. That is my precise difficulty. I say the people of Pennsylvania are denominational, and they have a right to be. I say they are charitable; and I say, and no man can successfully contradict me in this assertion, that the charity which has sprung from the hearts and hands of the people of Pennsylvania has been in consequence of the denominational and sectarian religion that that people have professed. You take away the religion which these denominations and sects teach when you take away charity. Why, then, I ask, should we condemn a principle that lies at the base of all the christian charities of this broad land? I will not do it, sir. I am going to vote against this section. As to whether there shall be an appropriation by two thirds or a majority, I care nothing. I am opposed to the principle of denying to the Legislature the power to appropriate money because the object to which it is to be appropriated was founded or encouraged by some christian denomination or sect. I say that is a pernicious

principle. I agree with the gentleman from Montgomery (Mr. Hunsicker) that it is almost an insult to the people of Pennsylvania to put such a principle and such a declaration as that into our fundamental law.

Mr. President, I hope you will excuse me for occupying so much time.

Mr. CARTER. Mr. President: I shall vote for this section with, I think, as clear perception of my duty in the premises as I have felt on any question upon which I have voted since I have been a member of this body. I shall do so with all due deference to the opinions the distinguished gentleman from Centre, (Mr. Curtin,) who has expatiated so eloquently upon the merit of charity, and who, I know, will take no offense at my saying that much that he said did seem to me to be irrelevant to the matter before us.

The gentleman who has just taken his seat (Mr. Woodward) has said that we should not refuse to recognize sectarian or denominational charities as most important institutions. We do not desire to do so. The question is, shall we institute the policy in this State of granting to sectarian and denominational societies the hard-earned money of the people of the Commonwealth, or shall the charities of the State be bestowed upon those great, grand charities only which always appeal to the judgment and the conscience of every individual, such as the deaf, the dumb, the blind, the soldiers' orphans, and the like great charities? Gentlemen do not seem to consider that there is a great principle involved here. If we establish as a rule of conduct that we are to give to all denominational or sectarian societies that apply to us for aid, we are opening a door which it will be exceedingly difficult to close.

The gentleman from Dauphin (Mr. MacVeagh) appealed to some one to know what harm has arisen from it. I say harm has arisen in numberless instances. In the city of New York the municipal authorities, to curry favor with the dominant and most powerful religious organization of that city, has given away millions of property, it is said, for their use, ostensibly for charity—not that that they cared a straw for their opinions or had any sympathy with them, but to secure their votes. It seems to me that the charity of the State should be confined to those grand public charities which will ever and always demand the support

of two-thirds of each branch of the Legislature.

But, sir, I join issue with the principle announced by the gentleman from Dauphin, and stated and re-stated time and again by him, that the State should be quick to respond or supplement—I forget his exact words, but I give the idea—to all appeals made to it for charity. I think that idea is fundamentally wrong. It is not the business of the Commonwealth to be the public almoner to distribute charity. I join issue with that idea as being fundamentally and radically wrong. The Treasury of the State is for the legitimate wants of the State and for those great charities that I have designated. We do not array ourselves against denominational or sectarian societies, as such, at all. We know that they are the source from which charity flows in numberless cases, and perhaps in most cases; but that does not alter our position in the least. We should be exceedingly cautious in the bestowal of charity to those institutions which rest upon these denominational societies.

I apprehend, sir that no one act that we shall do will be more acceptable to the people than putting our foot down, as it were—our condemnation upon anything looking toward the result aimed at by the gentleman from Dauphin. I can see many evils that would arise from it that might be designated as if looking to that connection of the State with a religion. A member of the Legislature, having a large portion of his constituency belonging to one of the great or numerous churches, applies for aid and presses it with all the force he can, alleging that this is a charitable association under the control of the Lutheran, or whatever church, it may be, and he asks for aid. Another member says, "I will aid you if you will vote to give something to mine." Sir, we must close up this avenue. We propose to do nothing whatever towards restricting or curtailing the great sources of charity; but I repeat, the State is in no sense a public almoner to distribute the charities of the State promiscuously to the different denominational societies and charitable institutions under their control, which the gentleman from Dauphin thinks we should be so prompt to supplement.

Mr. BARTHOLOMEW. Mr. President: I propose to state my views on this subject briefly and not to trespass on the patience of the Convention.

I am in favor of the section as reported by the committee, and earnestly in favor of it. I believe it to be one of the most important sections reported by the Committee on Legislation. The whole point and the whole weight of the argument of those who are opposed to this section is that by introducing it into the Constitution of our State we blight and suspend charity. God forbid. I do not take this to be the proposition at all; but I take the proposition to be that in the time past we have had abuses by the misdirection and misappropriation of public funds by the Legislature for charities and for benevolent purposes to religious and denominational societies.

Now, let us think for one moment on this proposition; and it seems to me it is a very simple one to determine. We are forming a Constitution for the Commonwealth, the organic law for a State, and our people are to live under a government which we propose now to lay the foundations of. Now, what is the true object of government, because it all resolves itself right down to that proposition? Do we sustain a government, do we pay our taxes to it for the purpose of maintaining denominational or sectarian institutions? Is that the object of government? Have religious societies anything whatever to do with the government organized upon the principles of this Commonwealth or the principles of American institutions? Far from it. Therefore I claim that every appropriation for a charity which has gone into the hands of a religious denomination, made heretofore by the Legislature, has been made in open violation of the Constitution of Pennsylvania, which declares that there shall be no preference to any religious society or corporation.

I do not believe in the proposition that we are insulting religious societies or persons who are attached to religious denominations, by any such act as this; nor do I believe we are withering or tending to destroy charity, healthful, good charity—not the charity that claims the merit of money that it never contributed, but has taken from the State Treasury. On the contrary, we are encouraging that charity which is self-reliant, self-dependent upon the individual man or upon the individual society, not stunted because they expect aid by reason of adventurers who can get from the State that which does not belong to them, and then bespangle their charity as a denominational charity which

belongs to them, and to them alone, and have it announced and fabled and blown all over the land that they are the founders, the originators, and the builders and distributors of this great charity in the interest of a particular sect or denomination, when the truth is that the money never came from them at all! But they propose to get it from whom? From the people who belong to their sect and their denomination? No; but from the whole body of the tax-payers of this Commonwealth, a majority of whom may be diametrically opposed to them in religious convictions, in religious belief; and yet they are forced by this system of taking money from the treasury to sustain a creed, a sect, or a denomination to which they are hostile! Taxes are not collected upon such a basis. They belong to the whole people; they are not specially laid on anybody as a sectarian or a denominational individual, or as a member of a religious society, but as a citizen of the Commonwealth, for the purpose of enforcing the laws or carrying on the government as a government, not in relation to the individual society or denomination. It has nothing to do with that.

Now, I state another proposition; and it is that if you do not close the door against appropriations to sectarian or denominational societies, you make a danger that is not an apprehended one but a real one likely to come upon us. If the Legislature has a right to make an appropriation to a denominational society, why may it not be that a denominational society shall control the balance of political power and be the power in the Commonwealth, so that the only appropriations which you make at all shall be to one society, and bind the hands of the people by these appropriations to a single sectarian or denominational society that shall set up its institutions that shall be sustained by the government until you bind fast church and State—a church supported by the taxes of those who are against the cardinal principles of the faith on which it is erected!

I state another proposition. Almost every appropriation to a sectarian denominational charity or for such a benevolent purpose is a discrimination against the tax-payers. The institution aided is located in Philadelphia, for example; but it is sustained by the taxes of the people of the Commonwealth, of the whole body of the people; or it is located at Pittsburgh or at Pottsville, and that charity is

supported and sustained by public funds. Does it confer a benefit upon the whole population of the Commonwealth? It may upon the particular locality; but it is a discrimination against the whole Commonwealth. The whole bulk of the people do not benefit from it; but it is a special preference given to a particular locality, and that advantage is gained to it by the funds of the whole body of the people. I take it that it is wrong in principle. I take it that it is wrong, first, because government was not founded nor organized (at least according to the principles we pretend to stand upon) for the purpose of creating charities, religious or otherwise; and second, the taking of the funds of the whole people of the Commonwealth for a special or particular charity of some denomination of which they are not members or to which they do not belong is a misappropriation of their funds and destructive of their rights. Appropriations to denominational or sectarian bodies is a discrimination against the body of the people, from which a few derive benefit whilst the whole do not; and thus a fund is diverted which was raised for another and entirely different purpose and which should be applied to that purpose, to wit, the purpose of government.

I believe in the organization of charities by the State, as a matter of police regulation, or as a matter of public duty, the State standing in the place of the father. That is, its care for the sick should be of a State character; not of a denominational, but of a public nature, so that all alike shall have the door open, whether they be Baptists or Presbyterians, Jews or Gentiles, that alike those doors shall be open to them all. They should be founded upon the treasury, upon the money of the body of the citizens, and not of any particular class. Such an institution as that comports with the Commonwealth. But in doing that, do we destroy the private charity of the individual? I hope not.

We have been told that charities are the emanation of the christian belief. Sir, the christian religion has glories enough without claiming those to which it is not justly entitled. There were charities before the christian religion. There were charities wherever man breathes. It is his natural instinct, and the greatest charity to-day, perhaps, as a denominational charity, is that of the Mahomedan, where one-tenth of his actual net earnings he is bound to contribute to

charitable purposes, and I undertake to say that few christians equal that. We have enough of glory attached to our creed, and we ought to claim no more than is just. We need not do it.

We have instilled into us, through the christian church, the duty and the obligation of giving and giving freely; it is our first duty under its teachings, and under those teachings we cannot create private charities that will grow more healthful, that will become more enlarged, that will do more good if they are simply confined to the societies relying and depending upon themselves, not stunted and wilted by the expectation of taking that which does not legitimately belong to them. Let us stand, then, upon charity as it was taught in the creed of our Savior, and not attempt to throw denominational or sectarian preferences into politics, and try, by political influences or by mere religious political influences, to take from the treasury the taxes which belong to the State.

MR. BROOMALL. Mr. President: I am proud of the denominational charities of the State, and it is because I want to preserve their character as purely religious denominational charities that I want to keep bad men from polluting them with money out of the public treasury. I am proud of the charities of this city. You can see them everywhere, on every hand, founded by the sects, supported by no outside aid whatever, but by the sects; and it is because I want to preserve their purity that I desire to guard them against the polluting influences so well described by the gentleman from Indiana, the chairman of the committee who reported this article.

I read in the Constitution of the State, and we propose to re-ordain it here, that no preference shall be given to any form of worship or any religious denomination whatever; and it is in the spirit of that which I look upon as the highest christianity possible, that I ask this Convention to adopt this section as it stands. You cannot give charity for any purpose whatever to denominations, to sects, without giving some preference; and you cannot give the aid of the State to these charities without destroying their holy, their christian character.

I do not agree with the gentleman from Philadelphia (Mr. Woodward) who addressed the House a little while ago, that it would be desirable that there be but

one denomination of christians in the world.

I am not of that opinion at all. I think the beauty of the christianity of the United States consists in the fact that everywhere any individual may find some form of worship adapted to his religious capacities. Ah, the gentleman would by any lawful or right means bring us all under one sect, and doubtless that is the right sect in the estimation of the gentleman—his sect! I would do no such thing. I would not turn my head to make all the people of the world Quakers. I would not have the gentleman invested with the power by any process, lawful or otherwise, to make all the people of the world Episcopalians, because the moment you strike out of existence any one of the sects that now exist, you deprive some person somewhere of that spiritual aid which he most needs.

Now, it is because I believe in the multiplicity of the sects, it is because I believe in the freedom of religion, that I want the government not to pollute any one of them by giving it money. How is it that these sects get money from the State Treasury? They get three-fourths of that which is applied to them, and the other fourth goes to some Harrisburg lobbyist. No sect ever went to Harrisburg for money without giving a big percentage to some professional Harrisburg borer to get it, and no sect ever went there without coming away worse if it got the money than if it was refused. The gentleman from Philadelphia (Mr. Woodward) says, with some apparent gusto, that the religion of Penn is becoming extinct in the world. He enjoys the expression, but let me tell him—

Mr. WOODWARD. I call the gentleman to order.

Mr. BROOMALL. I do not desire to be interrupted.

The PRESIDENT. The gentleman from Philadelphia will state his point of order.

Mr. WOODWARD. I raise the point of order that when the gentleman alludes to what I have said in debate, that he is bound to speak the truth.

The PRESIDENT. The gentleman from Philadelphia will resume his seat. The remark he has just made is disorderly.

Mr. WOODWARD. The gentleman from Delaware attributes to me the remark that the religion of Wm. Penn is dying out in the world. I made no such remark. I said the Quaker sect was dying out.

Mr. DARLINGTON. I think that was a slight mistake.

Mr. BROOMALL. I accept the explanation of the gentleman. I do not understand that he has changed anything but mere words. The idea is the same. But I would remind him that there is more of the spirit of the religion of that sect, whose extinction he so much enjoys, in the government of the country than there is of any other sect. Where did we our peculiar American freedom of religion? Who stands up here against the demands of that gentleman that his sect should have their hands in the public treasury? Why, the gentleman from Chester, (Mr. Darlington,) probably, whom he sneeringly calls a Quaker, and others of the same small sect, and those who think with him; and the fact that they are not alone, but that the majority of this body is with them on this question, shows that, however they are dying out, the great principle of religious liberty, the rights of conscience, and the freedom of worshiping God in their own way, that originally was the peculiarity of a single small sect, has become the peculiarity of America and will become that of the world.

The gentleman says that we must tolerate these sects. Is that the word to be used in the nineteenth century towards any form of christianity? I repudiate—I denounce the expression. It belongs to the old world. It belongs to the day when a man had to consult somebody in power as to the manner in which he should perform his own duty to his Maker. *Tolerate the sects!* No, sir! Small as the sect which the gentleman seems to think so little of has become, it spurns the idea of toleration. It will not accept it. It demands to stand upon the same footing and be entitled to the same respect with the great church to which the gentleman has attached himself; and the still smaller sect of the gentleman from York (Mr. J. S. Black) claims precisely the same privilege. *Tolerate the Campbellites!* In the name of High Heaven, who is he that he should talk about permitting God to receive worship from man in any form that He may desire it by communication to the hearts and consciences of men? *Tolerate the sects!* It is quite time that that word, in that sense, was abolished from our vocabulary. It is abolished from our vocabulary in America in that sense. We deny the principle. We demand universal respect for the peculiarities of all the sects,

and universal freedom to worship God. We demand that the smallest of them, the least important of them in a political point of view, should stand as high as the proudest and the richest, and we will consent to nothing else. Now, sir, until we are willing to yield that principle we will demand that there should be some meaning attached to that phrase of the Constitution that says "no preference shall be given to any sect or denomination." We will demand that these strong sects shall not injure themselves or the community by having their paid emissaries poking their hands in the public treasury to scatter pollution all around. Why, for the gentleman's own sect, which has turned out as many of those noble charities as any one I know; for the sake of it that it, may be kept pure; for the sake of it that the small widows' homes, orphans' asylums and retreats for the reformed of all classes which we see scattered about everywhere under its auspices may be kept as they are, pure charities—I ask that the friends of that gentleman be kept away from the public treasury. What would he have thought of the Good Samaritan if, at the close of that glorious parable, it had been stated that the good man applied to the government of Jerusalem to be compensated for a part of that which he had expended in oil and wine for the wounded Jew. Would it not have degraded and desecrated that beautiful parable? It is to prevent these christian sects from becoming anti-christian that I desire to keep them away from the public treasury.

Mr. BROOMALL. I ask for the yeas and nays on this amendment.

The PRESIDENT. Is the call for the yeas and nays sustained?

Messrs. Boyd, Lamberton, Hunsicker, Campbell, Ainey, Wherry, Bowman, J. S. Black, Calvin, Russell, J. M. Bailey, Patton, Davis, H. W. Palmer, Ellis, Harry White, Newlin, Rooke and Pughe rose to second the call.

The PRESIDENT. The call is sustained.

Mr. J. S. BLACK. I offer the following amendment.

The PRESIDENT. Is it an amendment to the amendment?

Mr. J. S. BLACK. No, sir.

The PRESIDENT. Then it is not in order.

Mr. J. R. READ. I ask for the reading of the pending amendment.

The CLERK. The amendment is to add to the section these words:

"Except by the vote of two-thirds of all the members elected to each House."

The yeas and nays were taken on the question of agreeing to the amendment of Mr. Wherry, and were as follow, viz:

YEAS.

Messrs. Achenbach, Alricks, Armstrong, Baer, Bailey, (Huntingdon,) Baker, Biddle, Bigler, Bowman, Brown, Calvin, Campbell, Carey, Church, Clark, Craig, Curtin, Edwards, Ellis, Gibson, Hazzard, Hunsicker, Lamberton, Lear, Littleton, MacVeagh, M'Clellan, Palmer, G. W., Palmer, H. W., Patterson, D. W., Rooke, Runk, Russell, Sharpe, Smith, Henry W., Stanton, Wetherill, J. M., Wetherill, Jno. Price, Wherry White, J. W. F. and Worrell—41.

NAYS.

Messrs. Ainey, Baily, (Perry,) Bannan, Bardsley, Bartholomew, Black, J. S., Boyd, Brodhead, Broomall, Buckalew, Carter, Cochran, Corbett, Corson, Cronmiller, Curry, Dallas, Darlington, Davis, De France, Ewing, Fulton, Funck, Guthrie, Hanna, Hay, Horton, Howard, Landis, Lawrence, Lilly, MacConnell, M'Culloch, Mann, Mantor, Minor, Newlin, Parsons, Patterson, T. H. B., Patton, Porter, Pughe, Purman, Purviance, John N., Read, John R., Reed, Andrew, Reynolds, Ross, Smith, H. G., Smith, Wm. H., Struthers, Temple, Turrell, Van Reed, Walker, White, David N., White, Harry, Woodward, Wright and Meredith, *President*—60.

So the amendment was rejected.

ABSENT.—Addicks, Andrews, Barclay, Beebe, Black, Charles A., Cassidy, Collins, Cuyler, Dodd, Dunning, Elliott, Fell, Finney, Gilpin, Green, Hall, Harvey, Hemphill, Heverin, Kaine, Knight, Long, M'Camant, M'Murray, Metzger, Mitchell, Mott, Niles, Purviance, Sam'l A., Simpson and Stewart—31.

Mr. J. S. BLACK. I am in order now in offering an amendment. I move to amend the section by inserting after the word "educational," in the second line, the word "religious," and by striking out all after the word "community" in the third line, so that the section will then read:

"No appropriation (except for pensions or gratuities for military service) shall be made for charitable, educational, religious, or benevolent purposes to any person or community."

The PRESIDENT. The question is on the amendment of the delegate from York.

Mr. J. S. BLACK. Mr. President: It strikes me that that reconciles all the opinions that have been yet expressed on this section. Our sectarian friends, the gentleman from Philadelphia (Mr. Woodward) and he from Delaware, (Mr. Broomall,) have got together by the ears about nothing, as the sects usually do. [Laughter.] I understand them both to be wholly unwilling that any sect shall be patronized at all by the State, or that anybody else shall receive money out of the public treasury for charitable, benevolent, religious or educational purposes; and the section as I propose to amend it, by striking out all after the word "community," will be a prohibition against that thing being done. There does not seem to be any necessity then for saying that no such thing as that shall be done for the purpose of promoting the interests of any sectarian or denominational body inasmuch as they are excluded by the general words that the section previously contains. The word "religious" ought to go in there, however, because everybody admits that for such a purpose as that the public money cannot be properly used. It is a violation of the fundamental principle upon which our government is built.

It is, however, extremely probable that the purpose and intention of the framer of this section was to forbid the grant of public money to sectarian or denominational institutions which would be otherwise proper, and merely because they are sectarian or denominational. If it has not that meaning it has no meaning at all. But to say that you shall not give to a body of men or to an institution that has been established for any proper purpose whatever the aid of the State, merely because it has been established under the auspices of some religious denomination, is certainly an insult to the whole religious world. Therefore these last words either amount to nothing, or they amount to something a good deal worse than nothing, and ought to be stricken out.

On the general subject I have the same reasons for making no argument that Judge Woodward said would have prevented him, if they had existed before he spoke, from making any. He said that if his views had been fully expressed by anybody else who had spoken, he would not have opened his lips on the subject at all. Now, he has done that for me which nobody did for him, and therefore I am silent.

Mr. BUCKALEW. I take it for granted the gentleman from York hardly expects his amendment to be agreed to. If the section were so amended, it would be flatly inconsistent with the section immediately preceding the one which we are now considering; it would exclude the Legislature from powers therein clearly granted. Besides, the expression "any individual or community," I suppose would cover the case of an incorporated institution. The word "community," of course, is a very indefinite term; and I suppose it means in this section a political division of the State, a county, a town or other political portion of the community separated in some way from the remainder of the people of the State; so that on both grounds the gentleman's amendment is inadmissible.

Mr. President, I desire to vote for this section with certain words omitted from it, so that it shall contain a distinct enunciation of a single idea or principle; and if gentlemen will turn to the file and follow me, I will show in a word what I design. I desire to strike out after the word "to," in the third line, where it first occurs, to and including the word "to," where it occurs the second time in that line, and insert in place of the words stricken out, "or for the use of," so that the section will read in this manner:

No appropriation (except for pensions, &c.,) shall be made for charitable, educational or benevolent purposes to or for the use of any educational or sectarian institution, corporation or association."

There you have an original principle which was embodied in the first public document in our colonial history and which now the Constitution of our State, in the declaration read by the gentleman from Delaware, re-affirms, and which is re-enacted in the Constitution we propose to make.

I stand upon this principle here and elsewhere and am willing to stand or fall by it, that not one dollar with my consent shall be appropriated out of the common treasury of the people of Pennsylvania to any religious sect or society whatever, now or hereafter in any future time; no appropriation out of the common money, contributed by all our people, belonging to the dozens of sects and belonging to no sect at all, shall be made by the legislative power to or for the use of any sectarian society or institution. And along with this comes the other doctrine, that the government of this State shall in no future

time exercise the slightest control or influence over any religious society, sect, or institution.

This is what I understand by the complete severance of church and State, that the State shall not patronize the religious bodies, and the religious bodies shall not be subject to the State either as the condition of grants of money made to them or for any other reason whatever.

Mr. President, if you appropriate money to a school set up and controlled by a religious society, you virtually appropriate that money to the general purposes of that society and not to the school alone. If the State takes upon itself the support of a sectarian school, it releases the funds of that society for their other purposes, for the publication of books, for missionary service in the propagation of their faith, and for all the other purposes upon which a religious society enters; so that it is impossible to discriminate between the one object and the other in the appropriation of public money. You might just as well appropriate your money in a given case to the publication of sectarian books and to the payment of missionaries to propagate that faith as to appropriate it to the schools of the society. It is simply a question of the distribution of the funds which that society may have under its control, whether derived from the State or from the contributions of its own members. Therefore, there is no possible rule except a complete separation of the State from the pecuniary operations and action of the religious societies. The State ought to be connected in no way whatever with their performance, either as the patron of such a society or as the controller of the society in its operations.

There is but one additional point that I care to state, and it is this: There is a necessity for this proposed section. Already particular societies are found at the doors of the Legislature of this State, and the appropriations which they have obtained and are likely to obtain are open to great objections upon other grounds besides those already stated. In the first place, these appropriations will be capricious; one society will get them and another will not. The society that can command political influence, that has votes behind it, will pierce your treasury and obtain money; another society that does not enter or propose to enter into political action, that is not formidable as a political instrument, will get none of your money; and you will have favoritism

and gross inequality in these appropriations.

What comes next? Religious dissension and bitterness all over this State between the different religious societies, one getting more than its share and another justly indignant at the favoritism exercised by the Legislature of the State; and after a little, you will find a struggle going on constantly in both Houses of the Legislature between members belonging to different religious societies in the obtaining of appropriations for home purposes for their own communion and resisting those of others; and this thing is likely to become a scandal in future years. It has become so already in other States. In the State of New York, at every session of the Legislature now, prolonged and bitter debates, such as were indicated by some talking on this floor this morning, are becoming common there, a struggle after the moneys of the people of the State of New York for religious institutions in different parts of the State, and particularly in the city of New York.

Here is a necessity, then, for this provision in the Constitution. Let us say here in the fundamental law to the religious societies: "The Legislature has nothing to do with your charitable or your educational institutions; they can give no money to any of your respective organizations or associations in this State; they are confined to those institutions which are of a general educational or charitable character."

Now, sir, this section does not prohibit the Legislature from exercising the largest and widest liberality. They can appropriate all the moneys that can be spared from the public treasury, and they will not supply the demands of education and charity outside of the limitations of this section. They are to supply all our State institutions at Harrisburg, at Philadelphia and at Pittsburg. They are authorized, and they do now appropriate hundreds of thousands of dollars to non-sectarian institutions of charity in this city and in Pittsburg. None of those appropriations are touched upon by this section. The liberality and the charity of the people of this State can have free course through their Legislature hereafter as they have had in past times. Our appropriations for those objects through the Legislature are magnificent. They are to the honor and credit of our State; and if we retain this chapter of liberality and yet confine it to legitimate and non-secta-

rian purposes, it will be the source of unbounded blessing and advantage to our people in the future.

I join heartily with the committee in their general object, though I desire to strike out the words to which I refer. This prohibition of appropriation to any person does not seem to me to mean anything unless it is to a person to hold in trust for a sectarian purpose. That is covered by the words I propose to insert, "or for the use of." The office, therefore, of that term is completely filled by the amendment which I propose.

Then the prohibition of appropriations to any community seems to me to be unreasonable and unwise. If a particular town of your State is burned down so that the last roof within it is consumed, will you compel the Legislature to enforce the payment of all the taxes upon the property consumed for the year in which the destruction takes place? Will you prohibit the Legislature from authorizing the county treasurer to refund that portion of the taxes which has already been paid upon this consumed property for the year? Nay, sir, in a case of extreme calamity and suffering will you prohibit the Legislature, in extraordinary cases of this kind, from extending partial relief in other forms? I hope not. I hope that will be left to the discretion of the Legislature.

Mr. J. S. BLACK. As the gentleman from Columbia is apparently desiring to be very precise, I should like to understand from him what he regards as a sectarian institution. Of course he does not mean to say that this prohibition is confined merely to the churches. Now, suppose that a charitable institution, a school, an hospital, anything that it is desirable and proper in all respects for the State to promote by an appropriation of money, should turn out upon inquiry to have been established under the auspices of some religious society; will he say that for that reason alone, because it has been already patronized by a church, therefore it shall not be patronized by the State? Do I understand that that is what he means by a sectarian institution? I suppose it is, as he is silent.

Mr. BUCKALEW. I did not hear the question.

Mr. J. S. BLACK. Very well; I cannot help that.

Then I should like him to explain exactly what he means by saying that this amendment which I propose is nugatory, that it amounts to nothing, or that it nullifies the

preceding section. Every word that would have that effect standing alone would of course have that effect when what I propose to have stricken out is stricken out. How he can say that the words standing alone would come in conflict with the preceding section when they would not come in conflict without these words attached, I do not understand.

Mr. BUCKALEW. I do not understand this section to prohibit appropriations to an educational institution nor to a charitable institution the members of which belong to some religious society, but whose operations are entirely distinct from those of the religious society.

Mr. J. S. BLACK. What sort of a connection must the religious society have with the benevolent association in order to bring it within the prohibition of an appropriation by the State?

Mr. BUCKALEW. It ought not to have any with the society.

Mr. HARRY WHITE. May I inquire, before the vote is taken, if the amendment offered by the delegate from Columbia (Mr. Buckalew) was accepted?

The PRESIDENT. No amendment was offered by the delegate from Columbia. The question is on the amendment offered by the delegate from York (Mr. J. S. Black.)

The amendment was rejected.

Mr. BUCKALEW. Now I offer my amendment, to strike out, in the third line, the words "any person or community, nor to," and to insert "or for the use of." I ask that the section be read as proposed to be amended.

The Clerk read as follows:

"No appropriations (except for pensions or gratuities for military service) shall be made for charitable, educational, or benevolent purposes to, or for the use of, any denominational or sectarian institution, corporation or association."

Mr. HARRY WHITE. I simply wish to make one remark. The amendment offered by the delegate from Columbia will eviscerate the whole purpose of the section, and I hope it will not prevail. I will not enlarge upon the absolute necessity of having some constitutional provision on this subject.

Mr. AINEY. I move to amend the amendment by adding the words "person or community," so as to make the section read, if amended as proposed:

"No appropriation (except for pensions or gratuities for military service) shall be made for charitable, educational

or benevolent purposes to, or for the use of, any denominational or sectarian institution, corporation, association, person or community."

THE PRESIDENT. The question is on the amendment to the amendment.

MR. HOWARD. I hope the amendment offered by the delegate from Columbia will not prevail. He might better have moved to strike out the whole section. The object of this section is embraced in that word "community." We know what that word "community" is intended for. It has been fully discussed, and I presume delegates thoroughly understand it.

THE PRESIDENT. The question is on the amendment to the amendment.

The amendment to the amendment was rejected.

THE PRESIDENT. The question now is on the amendment of the delegate from Columbia (Mr. Buckalew.)

MR. MCLEAN. I call for the yeas and nays on that amendment.

Messrs. Wherry, Gibson, J. W. F. White, Hunsicker, Lamberton, Cochran, Carey, MacVeagh, Dallas, Calvin, Clark, Ellis and Curtin rose to second the call.

The question being taken by yeas and nays, resulted: Yeas, forty-six; nays, fifty-seven, as follow:

YEAS.

Messrs. Alricks, Armstrong, Baer, Bailey, (Huntingdon,) Bannan, Biddle, Bigler, Bowman, Brown, Buckalew, Calvin, Campbell, Church, Clark, Cochran, Corson, Curtin, Darlington, Davis, Edwards, Ellis, Guthrie, Hunsicker, Lamberton, Landis, Lear, Littleton, M'Clean, Metzger, Mott, Palmer G. W., Palmer H. W., Patterson D. W., Patton, Rooke, Ross, Runk, Russell, Sharpe, Smith, H. G., Smith, Henry W., Temple, Turrell, Wetherill, J. M., Wherry and White, J. W. F. —46.

NAYS.

Messrs. Ainey, Bailly, (Perry,) Baker, Bardsley, Bartholomew, Black J. S., Boyd, Brodhead, Broomall, Carey, Carter, Corbett, Craig, Cronmiller, Curry, Cuyler, Dallas, De France, Dunning, Ewing, Finney, Fulton, Funck, Hanna, Hay, Hazzard, Horton, Howard, Lawrence, Lilly, MacConnell, MacVeagh, M'Culloch, Mann, Mantor, Minor, Newlin, Parsons, Patterson, T. H. B., Porter, Pughe, Purman, Purviance, John N., Read, John

R., Reed, Andrew, Reynolds, Smith, Wm. H., Stanton, Struthers, Van Reed, Walker, Wetherill, Jno. Price., White, David N., White, Harry, Woodward, Wright and Meredith, *President*—57.

So the amendment was rejected.

ABSENT.—Messrs. Achenbach, Addicks, Andrews, Barclay, Beebe, Black, Chas. A., Cassidy, Collins, Dodd, Elliott, Fell, Gibson, Gilpin, Green, Hall, Harvey, Hemphill, Heverin, Kaine, Knight, Long, M'Camant, M'Murray, Mitchell, Niles, Purviance Samuel A., Simpson, Stewart and Worrell—29.

MR. CUYLER. I move to strike out in the third line the words "nor to any denominational or sectarian," and insert at the end the words "which is designed to advance denominational or sectarian purposes," so that the clause will read, "to any person or community, or to any institution, corporation or association designed to advance denominational or sectarian purposes."

Mr. President, if I may be permitted to say a single word in explanation of the purpose of this amendment, I do not comprehend distinctly what is meant by the words as used by the committee in their report. There are many institutions which are, in a certain sense, denominational or sectarian, and yet in a far wider and more important sense are not denominational or sectarian at all. There are many institutions which bear the names of denominations or sects but which are engaged, not in the promotion of denominational or sectarian purposes in any degree whatever, but simply in the broad, great work of christian philanthropy, with which we all of us sympathize, and which we would all of us desire to promote.

I may instance the Episcopal Hospital, a noble charity, which, although it bears the name of the Episcopal Hospital, opens its doors wide to all of every creed or sect or denomination whatsoever. It is simply doing the great work of christian philanthropy. I can perceive no reason why, as that institution is aiding the State in doing a work which the State would otherwise be bound to do, the State should not supplement the funds of such an institution by aiding it in the promotion of the great work in which it is engaged.

The use of such words as are contained in the amendment I have proposed will relieve that difficulty, and will, I trust, render the section such as should meet the approbation of the Convention.

The PRESIDENT. The question is on the amendment of the delegate from Philadelphia (Mr. Cuyler.)

The amendment was rejected.

Mr. DUNNING. I offer the following as a substitute for the section —

The PRESIDENT. A substitute cannot be offered.

Mr. DUNNING. I move then to strike out all that follows the words "Section 19," and insert in lieu of the matter the following:

"No appropriation shall be made to any denominational or sectarian institution, corporation or association."

This seems, sir, to be a question that exercises the minds of members of this Convention to a greater extent, perhaps, than almost any other question that has been before us for a number of days, and it is one in which the people of this Commonwealth are all deeply interested. We have been told by the gentleman from Philadelphia (Mr. Woodward) this morning that the people of this Commonwealth are sectarian, and that sectarian institutions exist all over this State and all over this country, a truth that is so apparent that nobody, in this enlightened day, for a moment would controvert it. The object of the substitution I propose for the section is to have in plain language a provision that will prevent the possibility of any sectarian denomination in the State of Pennsylvania at any time, under this Constitution, passing any law, if by chance they should have a majority in the Legislature, that would discriminate in favor of any particular sect or denomination in this State. I do not believe that it is the province, the duty, or the right of this Convention to put in the fundamental law anything that would allow one sectarian denomination to have advantages over another, and if we would prevent that, as we cannot tell from the standpoint that we occupy to-day what sectarian denomination, in ten, fifteen or twenty years to come, in the development of affairs in this State, may be in the majority, I do not believe we ought to put anything in the Constitution that would permit any body of sectarians to pass, by legislative enactment, any law that would give them advantages over other sects.

It has been well said here this morning that sectarianism exists and it will exist, and it is a well known fact that the party which has the majority will vote for those appropriations which look to the building up of their own sect. Individuals are not

very likely to vote for any proposition that will build up a sect in opposition to themselves.

Now, sir, the great purpose in this entire measure is to put it out of the reach of any sectarian body to vote these appropriations as against any other sectarian or religious body. It makes very little difference to me what the sect is which it is proposed to assist by such appropriations; they are entirely wrong in principle. My friend from Philadelphia (Mr. Woodward) has spoken very learnedly upon the subject of the sects and the different organizations of religious bodies. I listened to him with great attention; but I believe he could speak much more learnedly in regard to what is written by Coke and Littleton and Blackstone than he could upon subjects like this. Certainly he did not go back far enough when he undertook to state the time when one denomination was established. I do not know anything about Alexander Campbell's system; I believe he came from Kentucky; but when the gentleman spoke of the origin of the Christians, known by that name, I recalled to mind that I once read in a book that "they were first called Christians at Antioch," when that was a very distinguished city, a great many years ago. But that has little to do with this question. The point in which we are more interested than any other is to be careful that we put into this Constitution nothing that shall give any preference to any religious body, that shall enable it to step into our Legislature and because it happens to have a majority of the members, as may sometimes occur, allow it to control the appropriations that shall be made. We want to avoid that. Why, sir, if by chance any religious body in the Commonwealth of Pennsylvania should have a majority in the Legislature, do you suppose they will go back upon their own ideas and upon their own sect? We do not want to leave the fundamental law in such shape that they may vote to themselves appropriations and vote down appropriations for every other religious body or sect.

I think, if we adopt the proposition which I have offered, we shall have in this Constitution exact justice. The section as I propose to make it read, in connection with the section preceding it, will assert the great principle which a Constitution of the Commonwealth like ours should assert.

The PRESIDENT. The question is on the amendment of the delegate from Luzerne (Mr. Dunning.)

The amendment was rejected.

Mr. HAY. I desire now to renew the amendment of which I gave notice this morning and which is now lying on the Clerk's desk, to strike out all the words of the section and insert what is lying on the desk.

The PRESIDENT. The words proposed to be inserted 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 or maintained for objects limited or restricted by any particular religious, denominational, or sectarian views."

Mr. HAY. Mr. President: I desire to state in a single word the difference between the section under consideration and the amendment. The section forbids aid to any denominational or sectarian institutions whatever, no matter what may be their object or how general may be their benevolence. The amendment proposes to permit the Legislature to grant aid to institutions which are managed and controlled by different church organizations, provided that their objects are not limited in any way by the religious views of the founders and maintainers of the institution. That is the main difference between the section and the amendment. I ask that the yeas and nays may be taken on this amendment.

The PRESIDENT. Is the call for the yeas and nays seconded?

Messrs. Calvin, Wherry, Cuyler, Sharpe, MacVeagh, Cochran, Curtin, Hunsicker, De France, Church, Purman and M'Cleane rose to second the call.

The PRESIDENT. The yeas and nays are ordered.

Mr. HARRY WHITE. I will make a single observation with respect to this amendment. We have already voted on the proposition, and it has been voted down, and I will only remark that it leaves out entirely the words, "person or community."

Mr. HAY. I omitted the words, "person or community," in order that the amendment might not be embarrassed by the consideration of the question which is raised by those words. If the Convention desire to have those words added hereafter when this amendment is voted upon, if adopted, they can add them.

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The PRESIDENT. The question is upon the amendment of the gentleman from Allegheny, (Mr. Hay,) upon which the yeas and nays have been ordered.

The question being taken by yeas and nays resulted: Yeas, thirty-five; nays, sixty-three, as follows:

Y E A S.

Messrs. Armstrong, Biddle, Bigler, Black, J. S., Brown, Church, Clark, Cochran, Curtin, Cuyler, Edwards, Ellis, Gilpin, Guthrie, Hay, Hazzard, Hunsicker, Lamberton, Landis, Littleton, MacVeagh, M'Cleane, Mott, Palmer, H. W., Purviance, John N., Runk, Russell, Sharpe, Smith, H. G., Smith, Henry W., Smith, Wm. H., Temple, Wetherill, J. M., Wetherill, John Price and Wherry—35.

N A Y S.

Messrs. Achenbach, Ainey, Alricks, Andrews, Baily, (Perry,) Baker, Bannan, Bardsley, Bartholomew, Bowman, Boyd, Brodhead, Broomall, Buckalew, Calvin, Campbell, Carter, Corbett, Corson, Craig, Cronmiller, Curry, Dallas, Darlington, Davis, De France, Dunning, Ewing, Finney, Funck, Hanna, Horton, Howard, Lawrence, Lilly, MacConnell, M'Culloch, M'Murray, Mann, Mantor, Minor, Newlin, Palmer, G. W., Parsons, Patterson, D. W., Patterson, T. H. B., Purman, Read, John R., Reed, Andrew, Reynolds, Rooke, Ross, Stanton, Struthers, Turrell, Van Reed, Walker, White, David N., White, Harry, White, J. W. F., Woodward, Wright and Meredith, *President*—63.

So the amendment was rejected.

ABSENT.—Messrs. Addicks, Baer, Bailey, (Huntingdon,) Barclay, Beebe, Black, Charles A., Carey, Cassidy, Collins, Dodd, Elliott, Fell, Fulton, Gibson, Green, Hall, Harvey, Hemphill, Heverin, Kaine, Knight, Lear, Long, M'Camant, Metzger, Mitchell, Niles, Patton, Porter, Pughe, Purviance, Sam'l A., Simpson, Stewart and Worrell—34.

Mr. ALRICKS. Mr. President: It seems to me that this section requires amendment. There are words here which are not words of limitation, and it can be improved and shortened by striking them out. The intention of the Convention is that the Legislature shall be limited and shall not make appropriations for any such purposes, whether charitable, religious or otherwise. I move therefore to strike out the words "charitable, educational or benevolent," and to insert in the first line before the word "appropria-

tion" the word "gratuitous" and then to insert the word "any" after "for," so as to read :

"No gratuitous appropriation (except pensions or gratuities for military service) shall be made for any purpose to any person or community, or to any denominational or sectarian institution, corporation or association."

The amendment was rejected.

Mr. ARMSTRONG. I move to amend the section by striking it all out and inserting in lieu thereof these words:

"No appropriation shall be made to aid or promote any sectarian or denominational interest or purpose."

I have listened, Mr. President, with a great deal of interest to the debate on this question, and if I gather correctly the sense of the House, it is to limit and restrain by constitutional provision that which would be dangerous and which is becoming an abuse; but I do not understand that it is the purpose of the Convention to limit or restrain the proper charities of the State.

It is to be observed that in the eighteenth section we have guarded with great care against appropriations being made unadvisedly and for improper purposes, by requiring that they shall be passed by only a two-thirds vote of both the Senate and the House. There is, therefore, no necessity, I think, for a provision which shall absolutely prohibit the Legislature from such charity as extraordinary emergencies might require, as when calamities might overtake a portion of the community; and with the guard which is already placed upon it, that no such appropriation can be made except by two-thirds of both Houses, it seems to me to be sufficiently guarded to prevent abuse.

But the purpose of the present section is one in which I heartily sympathize. It is to prevent an appropriation of the funds of the State to promote any sectarian or denominational interest whatever. I do not think that a hospital—and the Episcopal hospital has been referred to—is necessarily a denominational institution, although it may be sustained in chief by the Episcopal denomination. I hold that to be a denominational institution which is intended to, and does, promote denominational interests. A school which is intended to teach the doctrines of the Episcopal church distinctively would be denominational; a school designed to teach the peculiar tenets of the Catholic church or of the Presbyterian church would be

denominational; but surely it is not denominational if either of those denominations should organize a society which promotes no distinctive denominational purpose, but which extends a broad and comprehensive charity, which promotes the general interest of all the people who are within the district accessible to it. Such I would regard the Episcopal hospital and the Presbyterian hospital in this city, and the great charities of the east and west and centre of the State. I can conceive of no good reason for refusing aid to a charity otherwise right simply because it may have been suggested by or be largely promoted by a particular denomination. As long as its purposes are purely in the exercise of general benevolence—in the spirit of that catholic liberality which distinguishes the christian religion—it is a mode of inviting the most liberal exercise of private charity to the great advantage of the public. Should any institution cease thus to exercise its trust, and pervert its organization to selfish ends, it would justly forfeit all claim to assistance except from those who sympathize in its narrow purposes—and would fall within the prohibitions of the section.

Now, we do not accomplish the purpose which I understand the Convention to have by cutting off appropriations for the great charities of the State. What this Convention mean, if I understand their sentiment, (and certainly that is all I intend,) would be to prevent the appropriation of one dollar of the public funds of this State to promote the denominational or sectarian views of any denomination whatever. That I would prohibit in express, distinct, unmistakable, and wholly unequivocal terms, and I see no necessity whatever for connecting it in any manner with the general charities of the State.

I have offered this amendment because I believe it cuts up effectually the only evil there is any reason to apprehend, and there is no necessity for extending the remedy beyond the evil to be remedied. I would not allow one dollar to be appropriated for any sectarian or denominational purpose; and yet I would not trammel the exercise of the most liberal charity of the State where it can be exercised, not for sectarian or denominational purposes, but for promoting those necessary charities which pity the sorrows of the poor, which lend a helping hand to the helpless and aids the sick and the miserable in distress, which they are themselves

powerless to remedy. Let us reach down to the root of the evil which we seek to remedy and not trammel it by a connection with other matters which have no necessary connection with it. I believe the amendment as now offered, if it be adopted, will be effectual for its purpose, to prevent the diversion of public funds for sectarian and denominational purposes and leave the charities of the State to the widest discretion of two-thirds of the Legislature, and guarded still further by the power of executive veto.

MR. MANN. Mr. President: The section under consideration was prepared with a view of remedying two evils. The gentleman from Lycoming (Mr. Armstrong) recognizes only one of them. The first evil which this section was intended to remedy is that of making such appropriations as the Governor of this Commonwealth was obliged to veto at the last session of the Legislature, and it is a growing evil; it is an evil of very short life, but if the remedy furnished by this Constitution is called for, it is not to be expected that the vetoes of the Governor shall long stand between the demand which will be made for such appropriations and the treasury. Only the veto of the Governor saved the Commonwealth from an appropriation during the last session that would have been an injustice to the people of the State, because it was special legislation of the very worst character, and that is the evil which this section attempts to remedy. It is only those who importune with the greatest facility and bring to bear upon the Legislature the greatest influences, improper as they usually are, that will succeed in obtaining such appropriations, and it is because of the experience which a number of the members of the Committee on Legislation had of precisely that character of demands upon the treasury that the first portion of this section was suggested, and this Convention has by various votes sustained the committee in saying that these appropriations shall not be made to persons or communities. They have by two votes this morning sustained the committee, and yet the amendment of the gentleman from Lycoming ignores those votes entirely and professes to say that it is only the latter evil which the Convention want to remedy. I assert that the indications are just as strong that they want to remedy the first evil as the last. For my part, I believe it quite as great and quite as likely to demoralize the

Legislature of Pennsylvania as the one aimed at in the last part of the section.

I trust, therefore, that the Convention having decided by large majorities over and over again that it is in favor of this section substantially as it stands, the opponents of it will allow the majority to come to a vote.

MR. HARRY WHITE. I rise to a question of order. This amendment has been voted on before.

THE PRESIDENT. Will the gentleman refer the Chair to the proposition?

MR. HARRY WHITE. The amendment offered by the delegate from Luzerne (Mr. Dunning) was precisely the same.

THE PRESIDENT. The Chair does not sustain the point of order.

MR. EWING. Mr. President: When this section was before the committee of the whole—

THE PRESIDENT. The gentleman cannot refer to the transactions and debates of any committee.

MR. EWING. Then I will say that at a different time there was what seemed to be a very exhaustive discussion of this question; and for one, I had hoped that we should have a vote upon it now without further discussion. I do not propose to go at length into the details of the discussion, in answer to those discourses which we before heard; but in reference to the subject-matter of the amendment offered by the gentleman from Lycoming it strikes me that he fails utterly to appreciate the evils that are intended to be remedied by the section under discussion. That section, or the substance of it, was reported to meet evils that members of the committee and of the House knew from their own personal knowledge to exist. Many of the members knew from their own personal knowledge that in numerous instances appropriations of public money were made to denominational institutions, to sectarian institutions, under the form of charity or under the form of an appropriation for education, whereas in truth and fact they were made for the purpose of promoting those denominational and sectarian bodies. That in fact is the form under which all those appropriations are made. No man in this State has ever thought of presenting a bill in the Legislature asking for an appropriation to promote denominational or sectarian purposes. That is not the form in which they seek it; it is not the form in which such appropriations have been made in other States; but they are made,

as I said before, under the form of a charitable appropriation, of an educational appropriation, and it is the only form which we have got to meet.

The third and fourth sections of the article on the Bill of Rights would go as far as the amendment proposed by the gentleman from Lycoming would go, and would meet all that evil; but what we want to meet is the specific evil of making appropriations nominally for charitable and educational purposes, but really for denominational purposes.

The **PRESIDENT**. The question is on the amendment of the delegate from Lycoming (Mr. Armstrong.)

Mr. **MACVEAGH**. I call for the yeas and nays on that question.

The **PRESIDENT**. Do ten gentlemen second the call for the yeas and nays?

Messrs. Bigler, Boyd, Ellis, Campbell, Wherry, Church, Hay, Runk, Buckalew, Armstrong, Cuyler, Sharpe, Cochran, G. W. Palmer, Clark, Guthrie, H. W. Palmer, M'Clellan, Corbett and Curtin rose to second the call.

The **PRESIDENT**. The yeas and nays will be taken on the amendment.

Mr. **WHERRY**. Is it too late to say a word on this subject? ["Too late." "Too late." "Question." "Question."] Mr. President, I desire simply to give expression to the hope that the friends of this iron-clad, misanthropical section reported by the committee will sustain the proposition now before the House.

The question being taken by yeas and nays, resulted: Yeas, twenty-nine, nays, sixty-four, as follows:

YEAS.

Messrs. Armstrong, Bigler, Church, Clark, Cochran, Corson, Curtin, Cuyler, Dunning, Edwards, Ellis, Gibson, Guthrie, Hay, Hunsicker, Lear, MacVeagh, M'Clellan, Mott, Palmer, G. W., Palmer, H. W., Patterson, D. W., Pughe, Runk, Russell, Sharpe, Smith, Henry W., Wetherill, J. M. and Wherry—29.

NAYS.

Messrs. Achenbach, Ainey, Alricks, Andrews, Baily, (Perry,) Baker, Bannan, Bardsley, Bartholomew, Biddle, Bowman, Boyd, Brodhead, Broomall, Buckalew, Calvin, Campbell, Corbett, Craig, Cronmiller, Dallas, Darlington, Davis, De France, Ewing, Fulton, Funck, Gilpin, Hanna, Horton, Howard, Lambertson,

Lilly, MacConnell, M'Culloch, M'Murray, Mann, Mantor, Minor, Newlin, Parsons, Patterson, T. H. B., Porter, Purman, Purviance, John N., Read, John R., Reed, Andrew, Reynolds, Rooke, Ross, Smith, H. G., Smith, Wm. H., Stanton, Struthers, Turrell, Van Reed, Walker, Wetherill, John Price, White, David N., White, Harry, White, J. W. F., Woodward, Wright and Meredith, *President*—64.

So the amendment was rejected.

ABSENT.—Messrs. Addicks, Baer, Bailey, (Huntingdon,) Barclay, Beebe, Black, Charles A., Black, J. S., Brown, Carey, Carter, Cassidy, Collins, Curry, Dodd, Elliott, Fell, Finney, Green, Hall, Harvey, Hazzard, Hemphill, Heverin, Kaine, Knight, Landis, Lawrence, Littleton, Long, M'Camant, Metzger, Mitchell, Niles, Patton, Purviance, Samuel A., Simpson, Stewart, Temple and Worrell—39.

Mr. **LAMBERTON**. I move to amend by inserting the words, "or civil," after the word "military," in the second line.

Mr. **HARRY WHITE**. I have no objection to that amendment.

Mr. **DARLINGTON**. I have.

The amendment was rejected; the yeas being twenty-two, less than a majority of a quorum.

The **PRESIDENT**. The question is on the section.

Mr. **HUNSICKER**. I call for the yeas and nays on the adoption of the section.

The **PRESIDENT**. Is the call seconded?

Mr. **WHERRY**. I second the call.

The yeas and nays were taken, and were as follow, viz:

YEAS.

Messrs. Achenbach, Ainey, Alricks, Andrews, Baily, (Perry,) Bannan, Bardsley, Bartholomew, Black, J. S., Bowman, Boyd, Brodhead, Broomall, Brown, Buckalew, Campbell, Carter, Corbett, Corson, Craig, Cronmiller, Dallas, Darlington, Davis, De France, Dunning, Ewing, Finney, Fulton, Funck, Gilpin, Hanna, Horton, Howard, Landis, Lawrence, Lilly, MacConnell, M'Culloch, M'Murray, Mann, Mantor, Minor, Mott, Newlin, Parsons, Patterson, D. W., Patterson, T. H. B., Porter, Pughe, Purman, Read, John R., Reed, Andrew, Reynolds, Rooke, Ross, Smith, H. G., Smith, Wm. H., Struthers, Turrell, Van Reed, Walker, Wetherill, Jno. Price, White, David N., White, Harry, White, J. W. F., Wright and Meredith, *President*—68.

N A Y S.

Messrs. Armstrong, Baker, Biddle, Bigler, Calvin, Church, Clark, Cochran, Curtin, Cuyler, Edwards, Ellis, Guthrie, Hay, Hazard, Hunsicker, Lamberton, Lear, MacVeagh, McClean, Palmer, G. W., Palmer, H. W., Purviance, John N., Runk, Russell, Sharpe, Smith, Henry W., Stanton, Wetherill, J. M., Wherry and Woodward—31.

So the section was agreed to.

ABSENT.—Messrs. Addicks, Baer, Bailey, (Huntingdon,) Barclay, Beebe, Black, Charles A., Carey, Cassidy, Collins, Curry, Dodd, Elliott, Fell, Gibson, Green, Hall, Harvey, Hemphill, Heverin, Kaine, Knight, Littleton, Long, M'Camant, Metzger, Mitchell, Niles, Patton, Purviance, Samuel A., Simpson, Stewart, Temple and Worrell—33.

The PRESIDENT. The twentieth section will be read:

The CLERK read as follows:

SECTION 20. 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."

Mr. DARLINGTON. I move to amend by striking out the words, "in any manner or event," leaving the section in all its force without those words.

Mr. HARRY WHITE. I merely desire to state that this is the exact language of the amendment of 1857.

Mr. DARLINGTON. I know it is.

Mr. HARRY WHITE. I hope it will be preserved as it is found in the old Constitution.

Mr. DARLINGTON. It is not part of the old Constitution. It is a part of a legislative amendment. The words "in any manner or event" are unnecessary and should be stricken out.

On the question of agreeing to the amendment a division was called for, which resulted twenty-six in the affirmative. This being less than a majority of a quorum, the amendment was rejected.

Mr. BROOMALL. I desire to call the attention of the Convention to the fact that in the report of the Committee on Taxation, Revenue and Finance, where this matter probably ought to be inserted, there is a provision that is somewhat larger than this, but covering this ground. The provision is in section seven:

"Neither the State, nor any county, city, borough, township or other municipality shall loan its credit or appropriate money to, or assume the debt of, or become a share-owner or joint owner in or with any private corporation or any person or thing whatever."

It embraces something more than this, but I do not know that there is any propriety in putting the same thing in both places. I think the right place for the section is in the article on Taxation, Revenue and Finance; but I do not object to adopting it here also, leaving it to the Committee on Revision and Adjustment to see that it does not finally appear in both places.

The section was agreed to.

The PRESIDENT. The twenty-first section will be read.

The CLERK read as follows:

SECTION 21. 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.

The section was agreed to.

The PRESIDENT. The twenty-second section will be read.

The CLERK read as follows:

SECTION 22. The Legislature shall not delegate to any special commission, corporation or association any power to make, supervise or interfere with any municipal improvement, money, property or effects, whether held in trust or otherwise, or to levy taxes or perform any municipal function whatever."

Mr. DALLAS. I move to amend, by adding to the section these words:

"And all such commissions now existing are hereby abolished."

Mr. CUYLER. I hope that amendment will not prevail. I do not design to enter into the discussion of the question because it has been very fully discussed in committee of the whole.

The PRESIDENT. The gentleman cannot refer to what occurred in committee of the whole.

Mr. CUYLER. It was the understanding of the Convention that the existing commissions should not be interfered with.

The PRESIDENT. The question is on agreeing to the amendment.

Mr. DALLAS. On that question I call the yeas and nays.

The PRESIDENT. Is the call seconded?

Messrs. Ainey, Hay, W. H. Smith, J. M. Wetherill, Purman, Campbell, Baer, Harry White, Ewing, Van Reed and Cochran rose to second the call.

The yeas and nays were taken and were as follow:

YEAS.

Messrs. Ainey, Alricks, Buckalew, Calvin, Campbell, Clark, Craig, Dallas, Ewing, Finney, Funck, Gibson, Guthrie, Hay, Hazzard, Hunsicker, M'Clean, Mann, Mantor, Metzger, Mott, Newlin, Purman, Reynolds, Ross, Smith, H. G., Smith, Henry W., Smith, William H., VanReed, Wetherill, J. M. and Meredith, *President*—31.

NAYS.

Messrs. Achenbach, Andrews, Armstrong, Baily, (Perry,) Bailey, (Huntingdon,) Baker, Bardsley, Biddle, Bigler, Black, J. S., Bowman, Boyd, Brodhead, Broomall, Brown, Carter, Cochran, Corbett, Coraon, Cuyler, Darlington, Davis, Edwards, Fulton, Gilpin, Lamberton, Landis, Lawrence, Lilly, MacConnell, MacVeagh, M'Culloch, Minor, Palmer, G. W., Palmer, H. W., Patterson, D. W., Patterson, T. H. B., Porter, Pughe, Purviance, John N., Reed, Andrew, Rooke, Runk, Russell, Stanton, Struthers, Turrell, Walker, Wetherill, Jno. Price, Wherry, White, David N., White, Harry, White, J. W. F. and Woodward—54.

So the amendment was rejected.

ABSENT.—Messrs. Addicks, Baer, Banan, Barclay, Bartholomew, Beebe, Black, Chas. A., Carey, Cassidy, Church, Collins, Cronmiller, Curry, Curtin, De France, Dodd, Dunning, Elliott, Ellis, Fell, Green, Hall, Hanna, Harvey, Hemphill, Heverin, Horton, Howard, Kaine, Knight, Lear, Littleton, Long, M'Camant, M'Murray, Mitchell, Niles, Parsons, Patton, Purviance, Samuel A., Read, John R., Sharpe, Simpson, Stewart, Temple, Worrell and Wright—47.

Mr. EWING. In the second line it has been suggested, and, I think, correctly, that the word "private" should be inserted before "corporation." It will then read:

"The Legislature shall not delegate to any special commission, private corporation or association."

I move to insert the word "private."

Mr. HARRY WHITE. I approve entirely of the suggestion made by the gen-

tleman from Pittsburg, and the word ought to be here, because it was in the section originally.

The PRESIDENT. The question is on the amendment of the delegate from Allegheny (Mr. Ewing.)

The amendment was agreed to.

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

"And no liability shall be incurred by any municipality except by authority of the councils thereof."

Mr. President, the effect of the amendment, if adopted, I take it, will be this, and that is the intention, not to abolish any existing commission; nor, if the proper authorities so desire, to prohibit the formation of a commission; but it will prevent the money of the municipality being used, and it will prevent liability being incurred, without the express vote of the councils and without the passing of an ordinance to meet the expense.

Mr. BIDDLE. If this amendment carries, the language is not quite broad enough. A borough is a municipality, but its government is not by councils. The amendmen ought to read, "councils or other government thereof," or "by the municipal authorities." There ought to be some word broader than "councils," because many municipalities are not governed by councils exclusively. I suggest that to the gentleman who has offered the amendment.

Mr. NEWLIN. I accept the modification.

The PRESIDENT. The question is on the amendment of the delegate from Philadelphia (Mr. Newlin) as modified.

The amendment was rejected.

The PRESIDENT. The question is on the section.

The section was agreed to.

The CLERK read the next section as follows:

SECTION 23. No act of the Legislature shall limit the amount to be recovered for injuries resulting in death or 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; nor shall any act 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.

Mr. HAY. Mr. President: It has been suggested to me that there is an omission in the last line of this section, which should be inserted in order to make the section operative as it was doubtless intended to be. I move to insert the words "limiting or," so as to read, "and existing laws so limiting or prescribing are annulled and avoided."

The PRESIDENT. The question is on the amendment of the gentleman from Allegheny (Mr. Hay.)

The amendment was agreed to.

Mr. CUYLER. Mr. President: I do not propose to discuss this section. It has already been elaborately discussed. Gentlemen will understand that the section is powerless as to existing corporations supposed to be affected by it. Under the wording of an act of Assembly now existing upon this subject, the act referred to was made part of the charter of every company which should formally accept it, and it is a contract between the company and the State. The reasons that led to the passage of the act need not be enumerated. They were persuasive of the legislative mind. They were founded upon a hard and bitter experience which had demonstrated the necessity of just such legislation. This section may operate upon future companies, but it will be entirely powerless upon existing corporations.

Mr. BUCKALEW. I do not wish it to be understood by the people everywhere that every member of the Convention agrees to that doctrine. I should like to understand what sort of consideration obtains from a corporation that simply accepts a liability that it shall not be sued at a certain time or that it shall not pay more than a certain amount of damages in a suit against it. What consideration does it give. When parties accept a charter they give a consideration, they invest their money; but when a supplement is passed to a general law regulating the remedies by or against corporations, the fact that a corporation acts under it and obtains advantages thereby does not make it in the nature of a contract! Or at least I desire to say that, so far as I am concerned, I do not agree to the construction of the gentleman from Philadelphia.

Mr. MANN. Mr. President: I simply wish to sustain the view of the gentleman from Philadelphia, that the reasons urged on the Legislature for the passage of what

is known as the calamity act were very persuasive. Quite a number of gentlemen were convinced by the persuasion. [Laughter.]

Mr. CUYLER. I would inquire of the gentleman the source of his knowledge on the subject, as he was a member of that very House.

Mr. HAY. Mr. President: For the purpose of improving the language of the section as I think, I move to strike out in the last line the words "so limiting or prescribing" and to insert the words "inconsistent with this section." Then there will be no possibility of misunderstanding what is the meaning of this phraseology.

The PRESIDENT. The question is on the amendment.

The amendment was rejected.

The PRESIDENT. The question is on the section.

The section was agreed to.

The CLERK read the next section as follows:

SECTION 24. No act of the Legislature shall authorize the investment of trust funds by executors, administrators, guardians, of 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.

Mr. J. PRICE WETHERILL. I desire to amend by striking out all after the word "corporation." It seems to me the latter part of the section is unnecessary, and at the same time there may be some confusion and doubt about the words "saving such investments heretofore made in good faith," which will lead to trouble. I cannot see any earthly reason why that latter clause should be inserted in the section.

Mr. BIDDLE. I wish to say that if the amendment is adopted it will in a great measure defeat the value of the section. Its result will be to give to two of the great corporations of this State the enormous power of having invested in their third and fourth lien securities the trust funds of this Commonwealth. In other words, it will give them a monopoly of the trust investments of this State, because unless the existing laws interfering with this provision are annulled, saving investments theretofore made under it, that effect will be produced.

Now, perhaps gentlemen of this Convention are not aware of what has been going on since this section was first introduced

I will call their attention to it. On the very day on which an attempt was made to reconsider this section in committee of the whole, the fourth of April, 1873, a law was passed, which I will read, to be found on page fifty-nine of the General Laws passed at the recent session of the Legislature, act No. 36, and you will see the way, by the title of this act and its language, in which this sort of right is given to these corporations :

"A further supplement to an act relating to orphans' courts, approved March 24, 1832."

That is the title of the act. This is the act itself :

"*Be it enacted, &c.,* That the provisions of the fourteenth section of an act entitled 'An act relating to orphans' courts,' approved March 24, 1832, be and they are hereby extended, so as to include the bonds which the Pennsylvania railroad company may issue from time to time, under and by authority of an act entitled 'A further supplement to the act incorporating the Pennsylvania railroad company, authorizing an increase of its capital stock, the issue of bonds, and the securing of the same by mortgage,' approved the eighteenth day of February, A. D. 1873."

That is to say, by this act introduced under that title, which would lead every man who did not read the words of it, and weigh them all after he had read them, to suppose it was an act merely relating to the jurisdiction of the orphans' court, authority is given to invest the trust funds of this Commonwealth, the property of the widows and orphans of this State, in a fourth mortgage without any limitation, because the act referred to, passed in February, was an act removing all limits to the issuing of stock, and giving the company the right to issue bonds to the same unlimited extent. I want to know whether this Convention is willing to confer such a power as that upon this corporation. If they are, then they will vote in favor of the amendment and vote to give two companies the monopoly of the trust funds of the Commonwealth.

I want to say something more. It was said on the floor of this House that there had been no instance of anything like a repudiation of the obligations of the companies in which authorization to invest the trust funds of the State was given. I deny that. I have on my table, and if I am asked I will read, an affidavit of de-

fence put in by one of the companies that now possess this power, by which they set up the defence of usury and the defence of title to a suit upon some of their very bonds which are in all respects similar to the bonds in which, by existing laws, authority is given to invest trust funds.

Mr. REYNOLDS. I hope the gentleman will read it.

Mr. BIDDLE. I will do so. It is an affidavit in the case of Handy *vs.* The Philadelphia and Reading railroad company, brought in the district court in this city, December term, 1849, No. 567. Gentlemen will recollect that at that time this company got an extension on its bonds. The following affidavit was put in to the suit by Mr. Handy, then a respectable citizen of this city, now dead, on several bonds which he held and sued upon.

"First. John Tucker being duly sworn saith, That he is the President of the Philadelphia and Reading railroad company, and has been so since the eighth day of January, 1844.

"Second. That the defendants crave that the plaintiff may demonstrate that he possesses the bonds sued on by producing them to the defendants, and also by so doing enable the defendants to admit or deny their genuineness.

"Third. That if the said bonds when produced shall prove to be the genuine bonds of the said company, then six of them were issued after the third day of April, 1845, viz: Those numbered 2,321, 2,733, 3,246, 3,576, 3,954, 4,653, and that the said company for these six bonds so issued received no greater consideration than the sum of \$3,600.

They were one thousand dollar bonds.

"That the defendants verily believe and expect to be able to prove on the trial of this cause that the said plaintiff, if he be the holder thereof, did not pay a larger or greater sum for the said six bonds than \$4,200.

"Fourth. That the defendants are advised and therefore believe that the plaintiff is not entitled to recover in this suit for the further reason, that it appears by the copies filed that the action is brought upon a sealed instrument, not in the name of the obligee therein."

Now, sir, on that affidavit the plaintiff, with as good a title as any man in this room to any piece of property he has got, was driven to assert that title before a jury and was forbidden to obtain a judgment for want of a sufficient affidavit of

defence. This is one of the companies to which this amendment if adopted will give the right to retain the investment of the trust funds of this Commonwealth.

Again, sir, the fluctuations in some of these securities are enormous. I have in my hand a table showing that within the last fifteen years some of these bonds have been down as low as fifty-five. It was asked, and asked with some show of reason, whether some of those investments which we had been disposed to call legal investments, had not been repudiated, and the answer was given by a gentleman over the way that they had not; but no fluctuation as enormous as this, I verily believe, has ever been shown in any other investments which trustees are now authorized by law to invest in. Possibly you may say there is an exception in the bonds of our own State. I know very well there was a time when this people were new to the subject of taxation, and when by inadvertence, not by design, the State interest was passed for one or two terms, that was the case; but that belongs to the history of the past, and I hope is buried for practical purposes forever.

I do trust that gentlemen will see the enormous importance of such funds as this section refers to being kept outside of the commercial operations of the country. There is no need, there is no necessity for it. There is no county, however small, in this State that has not the opportunity, if not of obtaining an investment of trust funds upon mortgage, of obtaining an investment in the funds of the United States or of the State.

I do not wish, in speaking of this amendment, to be led into going over the whole ground which was discussed very fully before; but I desire to say as emphatically as I can to the Convention, through its President, that the sole effect of this amendment will be to give practically the whole of the trust funds over to two corporations, because with the unlimited power of issuing stock, and with this act of Assembly, passed last April, giving trustees the right to invest in bonds which are commensurate in extent with the stock without limit, it requires no very prophetic eye to see where those trust funds will go. I hope this amendment will not carry.

MR. J. PRICE WETHERILL. Just a word in reply to the remarks of the gentleman from Philadelphia (Mr. Biddle.) As I said when this question was up before, the only important point for us to

consider is the question of safety; and I disagree very much indeed with the gentleman when upon that point he says the first mortgage bonds, (not the fourth mortgage bonds,) of the Pennsylvania railroad company and the first mortgage bonds of the Reading railroad company are not safe, That is precisely the issue that I take with the gentleman from Philadelphia. It is purely a question of safety.

Now, sir, if we come to look into this subject we shall find that trustees are tied down to a certain class of securities and to a certain class of investments. They must first invest in United States bonds; and what prudent trustee would invest in United States bonds at 118, only netting the party to receive the benefit of the trust about five per cent? That is the objection to that investment. Where the income is small, where it is barely sufficient to support the party receiving the benefit of the trust, of course the trustee desires to secure all the income that can be made out of it; and hence he declines to invest in governments at 118. The same remark applies to State bonds. Those that only have a year or two to run are selling at 106, and those having longer time at considerably more than that. So that with the exception of bonds and mortgages on real estate we are brought down in this city as legal investments for trust funds to the securities of the city of Philadelphia. They are the only ones to-day that will net the party six per cent., and they will hardly do that.

What is the consequence? The consequence is that the bulk of trust funds all drift in this direction. If the bonds of the Pennsylvania railroad company are equally safe as the securities of the city of Philadelphia, why should not these funds be invested in them? I can find a great many men in the city of Philadelphia whose knowledge of finance is fully equal to that of my colleague, (Mr. Biddle,) who will say that they believe the first mortgage bonds of these two companies equally good with the city sixes; and with our present municipal government and our fearful debt running up upon us—I do not know how much it is; possibly sixty millions to-day—it does seem to me that the financial management of those two companies is fully equal to the financial management of the city of Philadelphia, and therefore on the question of safety if I had anything to do with trust

funds, I would with perfect confidence, and with more confidence, invest in the first mortgage bonds of the two roads I have named than in the securities of the city of Philadelphia. Therefore, in order that a larger amount of interest may be obtained, that the full income may be made and returned to the parties who need it all, I think this privilege should be given.

Sir, I have some knowledge of the working of the trust companies of the city of Philadelphia. I had the honor to hold an appointment from one of the courts some time ago that required me to go carefully into this matter, and I think I speak with some experience when I say that no such result will occur as has been predicted by the gentleman from Philadelphia; that this monopoly of all the trust funds by these two railroad companies of which he speaks will not occur, because the trust funds have had this privilege for a year or two or more, and yet no such drifting securities in one or two directions did occur in the management of those companies to which I have alluded. I know from experience that such a state of things does not exist.

Now, sir, if we adopt this section as desired by my colleague from Philadelphia, how shall we know that these investments heretofore have been made in good faith or otherwise? I know that in trust companies they are extremely careful in all vestments to put the name of the party owning the trust in the bond; but in the case of coupon bonds payable to bearer, how can they identify them? How can they know whether the investments have been made in good faith as indicated by the section under consideration? Sir, it will lead to difficulty, it will lead to trouble, and for that reason I hope this portion of the section will be stricken out.

Mr. CUYLER. My distinguished colleague from Philadelphia (Mr. Biddle) argues for this section, of which he was the author, with the ingenuity and force of an advocate, but not with the breadth of a statesman. There are a thousand ills that may occur in the State for which there would be just as many reasons that this Convention should provide by a constitutional provision as there would be that they should provide for this. I can imagine scarcely any subject that concerns the welfare of our people generally which might not just as legitimately be made the subject of constitutional provision as this particular one.

What does this amendment propose to do? Does it propose to compel any trustee to violate his trust? Does it propose that anybody shall forfeit his intelligence and shall do this thing without advisement and without thought? Does it take away any guard that ought reasonably to exist to protect trust funds in this Commonwealth? Before trust funds could be invested in the securities of any corporation, it would be necessary, first, that the Legislature should agree to it with their knowledge of the condition of these corporations and their opportunities of investigation. It would be necessary, next, that the trustee himself in the exercise of his judgment should approve it. Both those safeguards must still exist if this constitutional provision be not inserted. If the law were left as it has been in the past, it would still be requisite, as I have just said, that the Legislature should approve, and that the private judgment of the trustee should approve the investment before it could be made.

Now what mischief has ever occurred? My friend from Philadelphia cites what to support his allegation that this mischief has occurred? He cites a case that occurred in the year 1849. But will the gentleman say to this Convention that at that period of time the bonds of the Reading railroad company were authorized investments for trustees? Will he say to this Convention that one solitary dollar of money was invested in 1849 by any trustee in the securities of the Reading railroad? Certainly not. At that period, which was almost cotemporaneous with the period of time when our State defaulted in the payment of her interest upon her debt, the Reading railroad company, a new corporation, one destined to be vastly beneficial to the people of this Commonwealth and to the prosperity of this city, was struggling with adverse circumstances, and she did temporarily interpose such affidavit of defense as that, but she paid every bondholder in full, dollar for dollar, in the end. Struggling with adverse circumstances at the moment, she availed herself of every technical legal defense she could find. My learned friend will not say to this Convention that the Reading railroad persisted in that defense or failed to pay that bondholder, dollar for dollar, all his money, although he had only given \$3,600 for some \$7,000 or \$8,000 of bonds.

Mr. BIDDLE. I do say they failed to pay when the money fell due.

Mr. CUYLER. They did not pay it when it fell due, perhaps. I presume they did not, as they were sued; but they paid it in the end, paid it with stupendous interest that had been charged, amounting substantially, as I conceive, speaking hastily, having listened to the affidavit of defense, to something closely approaching one hundred per cent. of interest, for the bonds had been bought at about half their face.

Now, a single word as to the Pennsylvania railroad company. My friend alludes to that and cites an act passed by the last Legislature authorizing an investment in what he is pleased to call a fourth mortgage. I deny the correctness of that statement. It is no fourth mortgage; it is a first mortgage.

Mr. BIDDLE. (In his seat.) I say it is not.

Mr. CUYLER. I assert that it is, and with larger opportunities of knowledge than the gentleman possesses.

Mr. BIDDLE. (In his seat.) I say it is not so.

The PRESIDENT. One moment. Does the gentleman (Mr. Biddle) rise to an explanation?

Mr. BIDDLE. (Rising.) What I mean to say is this, Mr. President, by way of explanation: That there is a first and a second mortgage preceding the two mortgages of the Pennsylvania railroad company in which the investments by law are now prescribed; and I stake my personal veracity on that proposition.

Mr. CUYLER. Well, I say to the Convention and to the gentleman that the fourth mortgage, to which he alludes, funds the first, the second and the third mortgages, upon which but a very small amount of bonds are outstanding; and I say to him again, although that mortgage is not yet created, the fourth mortgage, of which he speaks, that it includes \$51,000,000 of property at present cash market value, which is not included in either of the preceding mortgages, and I say that on my veracity, and I say that on my knowledge of the facts that I state. It is therefore no fourth mortgage; it is practically a first mortgage, and a first mortgage in which there is, or will be, more than two dollars, more than three dollars, of investment for every one dollar of liability upon that mortgage. And I say to the gentleman to-day that the securities of the city of Philadelphia, into which the trust moneys of this city are so largely drifting, because there is scarcely any

other investment affording them the opportunity of getting six per cent., are not as well provided for and are not as good a security for trust funds as these very bonds which he has thus denounced.

There is, therefore, Mr. President, no ill that requires a remedy. There is no necessity that we should say in the Constitution of the State by an iron and inflexible rule that the intelligence of the trustee, and the intelligence of the Legislature of the State in determining what are safe investments of trust funds shall not in the future, as they have been in the past, deemed an all-sufficient guarantee and protection for *cestuy que trusts*, or for trustees that may choose to invest their funds. But I call upon my friend to show this Convention, if he can, why the same rule that should call for the insertion of such a provision as this into the Constitution of the State should not lengthen out the Constitution of the State into a volume of constitutional provisions equal in size to the present Purdon's Digest, for there are hundreds and thousands of other possible cases that appeal just as strongly to this Convention to provide for by a constitutional provision as there could be for this particular provision which is sought to be inserted here.

The PRESIDENT. The question is on the amendment.

Mr. ALRICKS. I wish to say a word on this subject. I should be very sorry if this amendment were to prevail. I apprehend there are very few provisions in our Constitution more valuable than the one we are about introducing into it. Trust funds cannot be practically invested now in United States securities or in State securities. It is very probable that the United States government and State government are perfectly solvent. They can be best invested on real estate; and you can go to the docket and ascertain the value of that real estate; but what trustee can tell whether the Pennsylvania railroad company or any other railroad company this day is solvent or insolvent? Those companies are supposed to be very wealthy and they may be very wealthy; but I doubt very much whether the gentlemen connected with them know the fact of their solvency. I know in our section of country it is difficult enough for a private individual to know his own solvency; but if he owns large real estate you can ascertain the value of that real estate, and when you put a mortgage or a judgment upon that real estate you

can know whether it will be paid to a certainty or not. But who can tell anything about the indebtedness of any corporation? I apprehend even the gentlemen who are most intimately connected with the affairs of that corporation do not know the extent of the liabilities.

Now, we have to deal with trust funds; we have to deal with orphans and with widows, and with those whose funds are in the hands of other parties. I apprehend that it is the duty of this Convention, if they can in any way, to make the investment of these funds perfectly secure. I conceive that the Legislature are going out of their duty and their line of duty when they say that a trustee may invest funds in his hands in the bonds of any corporation. We have had in our own towns corporations, we have had our street railways; and the Legislature might have been invited to declare that trust funds should be invested in their securities; and if they had been, those trust funds would be thrown away.

I apprehend it is the duty of this Convention to take care of trust funds, to take care that the orphan is properly protected, and his trustee cannot protect him, in my humble opinion, if he loans the funds of that estate to any corporation. I know at this time that a person in my own city is thinking of investing some seven thousand dollars by a loan to a corporation, and I apprehend that it would be so insecure that I am very glad of the opportunity to say by the action of this Convention that that power shall not be granted to a trustee.

I hope, for one, that this amendment will not prevail, for I have heard this section spoken of by gentlemen who are largely interested in trust estates as being one of the most valuable provisions that the Convention has hit upon, and I heard those gentlemen with great surprise and great alarm look at the act of the Legislature enabling trustees to put the funds of those persons who were in their minority, or who could not manage their own estates, in the hands of corporations. Why, Mr. President, you will see from the very statement we have here that if these parties are to be put to suit, the very cost of prosecuting and recovering the claim might, to a large extent, exhaust their estates.

I hope, for one, that the amendment will not prevail.

The PRESIDENT. The question is on the amendment.

The amendment was rejected.

Mr. BOYD. I move to strike out and insert:

"The Legislature shall not authorize the investment of trust funds by executors, administrators, guardians, or other trustees except in ground rents or mortgages, the first liens on real estate worth twice the amount invested; and all laws inconsistent herewith are avoided, saving investments heretofore made thereunder in good faith."

Mr. President, the proposition as reported by the committee has been discussed to some extent and the views that have been expressed by some gentlemen who have had the floor is that all investments, as I understand, other than those that are embraced in my proposition, are unsafe. This proposition of mine, if adopted, will bring us back to the good and safe times when we all knew that trust funds were only invested in ground rents and first mortgages upon real estate, and all this legislation that we have had from time to time authorizing the investment of such funds in State bonds, city bonds, borough bonds, railroad bonds, and the like, have been innovations upon the time-honored custom of confining investments to first ground rents and mortgages. The object of this proposition that I have just submitted is to bring it back to that, for then there is a security, real and substantial, tangible and visible, by which every trustee will be perfectly safe, and then even such investments as those did not use to be made except under the order and decree of the orphans' court, and I would propose that that same system should continue in the future as in the past, so that there shall be absolute security in all trust funds when they are invested in this manner under the direction of the orphans court.

I am requested to give way for a motion to adjourn.

Mr. ANDREW REED. I move that the House adjourn.

The motion was agreed to; and (at two o'clock and fifty-nine minutes P. M.) the Convention adjourned.

ONE HUNDRED AND FOURTEENTH DAY.

FRIDAY, June 6, 1873.

The Convention met at half-past nine o'clock A. M., Hon. W. M. Meredith, President, in the chair.

Prayer by Rev. J. W. Curry.

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

MEMORIAL.

Mr. D. N. WHITE presented a memorial from the Temperance Alliance, of Pittsburg, praying the adoption, by the Convention, of the clause already agreed to in committee of the whole, prohibiting the sale of intoxicating liquors as a beverage, which was read and laid on the table.

LEAVES OF ABSENCE.

Mr. DARLINGTON asked and obtained leave of absence for Mr. H. W. Smith for a few days from to-day.

Mr. H. G. SMITH asked and obtained leave of absence for Mr. Mann for a few days from to-day.

Mr. LAMBERTON asked and obtained leave of absence for himself for a few days from Monday next.

Mr. CLARK asked and obtained leave of absence for Mr. Brown for a few days from to-day.

Mr. PURMAN asked and obtained leave of absence for himself for a few days from Monday next.

LEGISLATION.

The PRESIDENT. The business regularly in order is the further consideration on second reading of the article reported by the Committee on Legislation. Will the House proceed to the consideration of that article? ["Aye!" "Aye!"] It is before the Convention. When the House adjourned yesterday it had under consideration the twenty-fourth section of this article, the pending question being on the amendment offered by the gentleman from Montgomery (Mr. Boyd) on which he is entitled to the floor. The section and the amendment will be read.

The CLERK read the section as follows:

SECTION 24. 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 amendment of Mr. Boyd was read, being to strike out all after the words "section 24," and insert:

"The Legislature shall not authorize the investment of trust funds by executors, administrators, guardians or other trustees, except in ground rents or mortgages, the first liens on real estate worth twice the amount invested; and all laws inconsistent herewith are avoided, saving investments heretofore made thereunder in good faith."

Mr. BOYD. Mr. President: Until the passage of the general orphans' court act of 29th March, 1832, there was no statute which provided for the investment of trust funds. Prior to 1832, therefore, trust moneys were invested on the responsibility of the executor, administrator, guardian or trustee; and he was protected in the investments he made, provided they were made in good faith, and the court was of opinion that he had acted with prudence. In the course of that practice, some counties adopted one mode of investment, and others adopted other modes, so that there was no uniformity about it throughout the Commonwealth. With a view of having uniformity on that subject, the Legislature passed, in the 29th of March, 1832, an act providing for the investment of trust funds in the stock or public debt of the United States, or in the public debt of this Commonwealth, or in the public debt of the city of Philadelphia, or in real securities, the orphans' court being required to approve of the investments when made. This course was pursued without interruption for a period of nineteen years. These modes of investment only were recognized by the courts for nineteen years, and the first departure or

innovation upon the statute was by the act of the 8th of April, 1851, which authorized the investment of trust funds in the bonds of the county of Allegheny, the city of Pittsburgh and the city of Allegheny. These were the additional securities which were authorized for trust investments.

I will not pause to comment or consider the wisdom of this act of Assembly, and the propriety of authorizing the investment of trust moneys in the bonds of the city of Pittsburgh, for I believe that was about the time that she either did repudiate or tried to repudiate.

The next legislation was the act of the 9th of April, 1856, which authorized the investment of trust funds in the bonds of the borough of Allentown. The next act was that of 1865, authorizing these investments in the bonds and loans of Chester county. The next act was the act of 1870, April 1, in the bonds of the Pennsylvania Railroad Company, secured by the mortgage of July, 1867. The next was that of the 10th of July, 1871, authorizing trust funds to be invested in the public debt of the city of Williamsport. The next act upon this subject was that of the 29th of March, 1872, authorizing the investment of trust funds in the mortgage bonds of the Philadelphia and Reading railroad company; and the last act on that subject was the act of the 14th of April, 1873, authorizing the orphans' court of Adams county to direct the investment of trust moneys in the bonds of that county. Thus it will be observed that, with the exception of these five or six instances, there has been no departure from the act of 1832, except in the manner that I have pointed out.

My proposition is this, and I will offer an amendment to that effect when I conclude my remarks: I desire to amend so that we shall have trust funds invested in the stock or bonds of the United States, or the debt of this Commonwealth, or in ground rents and mortgages, and there stop, and leave all other districts of the State, with their securities, free to negotiate them in any way that they see proper.

The effect of this kind of legislation has been most pernicious, and for this reason: Take the county of Chester as an instance; trustees are authorized to invest trust moneys in the bonds of that county, whilst in the county of Montgomery no such authority is given.

Mr. DARLINGTON. You do not want any.

Mr. BOYD. The effect is that they drain our county of Montgomery of moneys which should be invested upon mortgage in our county, and which might be used by the people living in that county to improve their property, &c., whereas, the temptation to go into Chester is very great, because the bonds of that county are good bonds, the interest payable semi-annually, clear of taxes; and with all those inducements held out, as a matter of course this course to a great extent taps our county; and so it does throughout the State wherever there are border counties which have no bonds in which trust moneys can be invested to keep their own money at home, it will naturally get beyond their county, and it will lose the use of that money.

I maintain that that is unjust. If it is unjust that the counties throughout the State should be drained of their surplus funds by investing them in first mortgage railroad bonds, is it not equally unjust to have the money taken from those counties and invested in the counties where they have a county loan in which these trust funds can be invested?

Therefore it is that I have offered this substitute with the view of retaining for domestic and local purposes the money properly belonging to each county for its improvement. Everybody knows that it is next to impossible in any of the eastern counties of this State to secure \$5,000 on a farm worth \$20,000, unless you pay a bonus of five per cent. upon the principle and six per cent. interest, which is equal to eleven per cent., and when the year expires the money is sure to be called for, and if you want it to remain you have got to pay another bonus of five per cent., so that you are virtually paying eleven per cent. per annum.

Now, why is this difficulty in negotiating loans upon real estate security in the different counties? Simply because inducements have been held out by cities, boroughs and counties authorized to have these funds invested in their securities to so large an extent. If, therefore, we can preserve within our counties this kind of money, which is generally a permanent investment and can be always safely invested at the legal rate of interest, it is plain, therefore, that the people of the county where the trust money was made and where it properly belongs would al-

ways have the benefit of it for their internal improvements.

Therefore it is that I press upon this Convention for their serious consideration this subject, and ask them to restore the provision as to the loan of trust moneys to where it was in 1832, except in the bonds of Philadelphia, and where it remained for nineteen years before there was any innovation by this special legislation giving to the county of Chester, to the borough of Allentown, to the city of Williamsport, and a few other places that very few of us know anything about and most of us never heard of, this privilege. It will be observed that I do not include the city of Philadelphia, and I am well aware that the gentlemen from Philadelphia may ask, "If you are desirous of retaining the provisions of the act of 1832 intact, why is it that you leave out the bonds of the city of Philadelphia?" In the act of 1832, you will observe the debt of the city of Philadelphia is included. It covers bonds of the United States, bonds of this Commonwealth, bonds of the city of Philadelphia, and mortgages on real estate. I leave out the bonds of Philadelphia, because she ought never to have been put in there in the first place. She had no more right to any special privilege to have trust funds invested in her securities than any other county or city throughout the Commonwealth, and she has enjoyed that privilege and immunity quite long enough. If we are here for reform, let us do it in a way so that it shall not favor one portion of the State to the prejudice of another portion of it; let us have it uniform throughout the State. And hence it is that I leave out Philadelphia.

I am not going to stop here to consider whether the bonds of the city of Philadelphia are good. I have heard it stated upon this floor by very many responsible and good men, who seem to know something about it, that the city securities are exceedingly questionable; that you have a debt here of some say \$50,000,000, some say \$80,000,000, and some say \$100,000,000; so it is impossible to know exactly what it is. At any rate we do know that every now and then they have one or two hundred thousand or a million dollars stolen from the city treasury. We know that there is a certain sort of looseness and irregularity in the conduct of affairs here that is calculated to at least shake confidence in investments in such securities.

But conceding that they are perfectly

good and perfectly safe, why should the city of Philadelphia be privileged to have trust moneys invested in her securities to the exclusion of the entire balance of the State? I cannot see any reason for it, and I maintain it will come with bad grace from the city delegation if they stand up here and oppose this section upon that ground, because my answer, as I have already indicated, is, that you have enjoyed that immunity and privilege ever since 1832, and now we say you must relinquish it and let us be on an equal footing throughout the State. I therefore withdraw the section that I offered yesterday and substitute in lieu of it the following

— The PRESIDENT. The amendment cannot be withdrawn. It is open to amendment.

Mr. BOYD. Then I move to strike out all of the amendment and insert in lieu of it the following:

"No act of the Legislature shall authorize the investment of trust funds by executors, administrators, guardians or other trustees, except in the stock or public debt of the United States, or in the public debt of this Commonwealth, or in ground rents or mortgages on real estate; and all laws inconsistent herewith are annulled and avoided, saving such investments heretofore made in good faith."

The PRESIDENT. It is moved to amend the amendment, by striking out and inserting.

Mr. HARRY WHITE. Mr. President: A word of approval for this amendment. It meets my views entirely. The wisdom of the section itself seems to commend it to the Convention as it did to the majority of the delegates heretofore, and the amendment offered by the delegate from Montgomery is in entire harmony with the spirit of the proposition found upon our files, with the exception that it goes a little further. The delegate from Montgomery has properly said that the act of 1832 regulating the investment of trust funds was a wise one, and it was an evil day when the Legislature disregarded that solemn enactment and increased the power of the courts in the premises. The twenty-fourth section of this article contains this language:

"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."

This is to reach and prohibit the Legislature from authorizing the investment of trust funds in the bonds of railroads and other corporations of that character which may be *quasi* public and yet are private. It does not prevent the Legislature, however, from authorizing the investment in municipal securities. Now, Mr. President, I submit that when we are making this reform we should meet the evil in all its force and in all its strength. From time to time acts of Assembly have been passed, as stated by the delegate from Montgomery, to give credit and currency to certain municipal securities, which if they were put on the market to-day, although held in pursuance of that legislation by trustees, would not bring seventy-five per cent. of their par value. I will mention an instance, and there are delegates on this floor who can contradict me if it is not correct, in regard to the securities of the city of Williamsport. Possession of the municipal government was had there by certain interests—I do not say improperly—but at all events a debt was authorized, bonds issued, and to give them currency a gentleman (I have no charges to make against him, but it is sufficient to say that he succeeds from time to time in having great influence with the Legislature) packed his carpet-bag and came down to Harrisburg and secured the passage of an act of Assembly authorizing the investment of trust funds in the securities of the city of Williamsport, and to-day those securities, although held by trustees, would not bring in the market eighty cents on the dollar.

Such legislation from time to time has been had in peculiar interests, and I trust, while we are striking at the unwisdom of authorizing investments in private corporation securities, we shall reach the whole evil and prevent the Legislature authorizing investments in the securities of municipalities; that we shall retrace our steps and go back to the policy of 1832. The practical effect of that policy will be to increase the currency of mortgage securities. In Philadelphia we point with pride to the prosperity and growth of the city. Why is it? Owing to the fact that so much building and so much improvement has been made here by the proceeds of long loans. The policy of building bonus houses, the policy of advancements, which has extended the city over such a large area of territory, has been most beneficial to this

great city. Mortgage securities have been favorites in Philadelphia, and I submit if we pass this enactment we will increase their popularity, and those funds which hitherto have been seduced into municipal bonds will seek investment in mortgage securities, and thus we will contribute to the material prosperity of this and other communities. We will have a popular system of legislation, and I hope, therefore, the amendment offered by the delegate from Montgomery will prevail. It is in entire harmony with the spirit of the original system.

Mr. J. W. F. WHITE. I hope, Mr. President, that the amendment offered by the delegate from Montgomery will not prevail, and I doubt very much the propriety of any section of this kind in our Constitution. If I understand aright the amendment offered by the delegate from Montgomery, it would prohibit the investment of any trust moneys in the bonds or debt of any city, county, borough or other municipality in the State. I cannot vote for such a section in our Constitution. It does not follow because a mortgage is the first mortgage on real estate, that it is a better security than a railroad bond or the bond of a municipal corporation. Why, sir, you may take real estate in the city of Pittsburg or Philadelphia, and may have a first mortgage upon it. It may be improved property on one of the main streets of the city, and at the maturity of the mortgage it may not be worth half as much as it was at the time the mortgage was given. A fire may sweep away the improvements and leave the property worth less than the amount of debt.

We cannot, in a constitutional section, brief as such a section must be, provide a legislative enactment on this subject. You must unavoidably leave it to some extent to the discretion of the courts to authorize investments.

Why not leave to the courts to say whether corporation mortgages or municipal bonds are not as good security as a mortgage or a particular piece of real estate? Apart from that, the title to the real estate may be swept away. The court does not always go into the investigation of title when a mortgage is proposed. When they authorize trustees to invest money on a private or individual mortgage they trust to a great extent to the judgment of the trustees making the application, or of the counsel who makes the application for them. They may be

mistaken even where they do examine into the titles of property; and I repeat that property may depreciate in value or may be swept away by casualties and leave the security inadequate for the amount of money invested. As these matters have to be regulated by statute or left to the discretion of the courts, why not then leave to the courts the question whether municipal bonds or railroad bonds or a mortgage of a railroad company may not be as good, if not a better, security than private mortgages. Is it possible that by a provision in the Constitution we shall prohibit all trustees in the State of Pennsylvania from investing money in the municipal bonds of Philadelphia or of Pittsburg or of any county in the Commonwealth, simply because, as the gentleman from Indiana says, one city of the State—I believe he referred to Williamsport—got an act passed through the Legislature authorizing investment in their bonds, which depreciated?

Why, sir, I apprehend there can be no better security under the shining heavens than municipal bonds properly issued and authorized by law, because the whole taxing power is security for the payment of interest as well as principle. Such debts are peculiarly under the control and in the power of the courts. The mode of enforcing payment is far more efficient than in the case of a private or individual mortgage. I cannot, therefore, support the amendment offered by the gentleman from Montgomery, and I feel strongly inclined to vote against any section of the kind in the Constitution.

MR. CORBETT. I move to amend the amendment by striking out all after the word "in," in these words: "The stock or public debt of the United States, in the public debt of this Commonwealth, or in ground rents or mortgages on real estate. And all laws inconsistent herewith are annulled and avoided, saving such investments heretofore made in good faith," and inserting—

The PRESIDENT. The amendment to the amendment will not be in order at this time. There is already an amendment to an amendment pending. The question is on the amendment to the amendment, offered by the gentleman from Montgomery (Mr. Boyd.)

MR. BOYD. On that question I call for the yeas and nays.

The PRESIDENT. Is the call seconded? Messrs. Corson, Hunsicker, J. W. F. White, Dallas, Broomall, Corbett, T. H.

B. Patterson, H. W. Palmer, Guthrie, Russell, Minor Horton, Hemphill, Addicks, Bigler and D. N. White rose.

YEAS.

Messrs. Alricks, Bigler, Black, Charles A., Boyd, Broomall, Carey, Clark, Corson, Cronmiller, Darlington, Davis, Funck, Gibson, Gilpin, Hazzard, Hemphill, Hunsicker, Knight, Lamberton, Landis, Lawrence, Lear, MacConnell, M'Clean, M'Murray, Minor, Mott, Palmer, G. W., Palmer, H. W., Patton, Porter, Purman, Rooke, Ross, Smith, Henry W., Smith, Wm. H., Struthers, Walker, White, Harry, Woodward, Worrell and Meredith, *President*—42.

NAYS.

Messrs. Addicks, Ainey, Andrews, Armstrong, Baer, Bailly, (Perry,) Bailey, (Huntingdon,) Bannan, Barclay, Biddle, Bowman, Brown, Campbell, Church, Cochran, Corbett, Craig, Curry, Curtin, Cuyler, Dallas, De France, Dodd, Dunning, Edwards, Ellis, Ewing, Finney, Fulton, Guthrie, Hay, Horton, Howard, Lilly, M'Culloch, Mantor, Parsons, Patterson, D. W., Patterson, T. H. B., Pughe, Purviance, John N., Reed, Andrew, Reynolds, Runk, Russell, Simpson, Smith, H. G., Stanton, Turrell, Wetherill, J. M., Wetherill, John Price, Wherry, White, David N., White, J. W. F. and Wright—55.

So the amendment to the amendment was rejected.

ABSENT.—Messrs. Achenbach, Baker, Bardsley, Bartholomew, Beebe, Black, J. S., Brodhead, Buckalew, Calvin, Carter, Cassidy, Collins, Elliott, Fell, Green, Hall, Hanna, Harvey, Heverin, Kaine, Littleton, Long, MacVeagh, M'Camant, Mann, Metzger, Mitchell, Newlin, Niles, Purviance, Samuel A., Read, John R., Sharpe, Stewart, Temple and Van Reed—35.

The PRESIDENT. The question recurs on the amendment offered yesterday by the gentleman from Montgomery (Mr. Boyd.)

MR. CORBETT. I offer the following amendment to the amendment, to be in lieu of it:

"The Legislature shall not authorize the investment of trust funds, to be made without the approval of the court having jurisdiction of the trust, in any other securities than those of the United States and of the State, ground rents and mortgages which are first liens upon real estate.

The PRESIDENT. The question is upon the amendment of the delegate from Clarion (Mr. Corbett) to the amendment.

Mr. CORBETT. I call for the yeas and nays.

The PRESIDENT. On this question the yeas and nays are called for. Those who second the call will rise.

Messrs. Knight, Cuyler, J. M. Wetherill, Curtin, Hunsicker, Dallas, Boyd, Ellis, Ewing, Hay, Purman, Brown, Clark and Ross rose to second the call.

The PRESIDENT. The call is sustained. The Clerk will call the roll on the amendment to the amendment.

Mr. BIDDLE. Mr. President—

Mr. BOYD. I rise to a point of order. Can the gentleman from Philadelphia speak twice on the same subject?

Mr. BIDDLE. This is an amendment.

Mr. BOYD. I raise the question on him as he did on me.

The PRESIDENT. The Chair is not aware that the gentleman from Philadelphia has spoken at all on this amendment.

Mr. BIDDLE. Mr. President: If this amendment prevails, its effect will be really to neutralize the section. It is designed to enable, by an application to court, an investment to be made in these private corporation securities. Now, I put it to gentlemen here, what sort of a protection is an application to court? In the county in which I live, it is the merest matter of form that ever was gone through. Saturday after Saturday tens of thousands, aye, hundreds of thousands of dollars are invested in what are called legal securities by the mere nod of the head of the judge; and I suppose it is the same in other counties.

But suppose it is not; what sort of an investigation could a judge make? Suppose, for instance, an application for an investment in the fourth mortgage bonds of the Pennsylvania railroad, which are now made a legal investment by the act of April 4, 1873, is presented by a trustee; do gentlemen suppose that the court has the power to make an investigation into the condition of that company? It would take a year to do it; and even then it would be an unsatisfactory investigation. Are you to send for books and papers? Are you to ascertain whether the business has been a prosperous one or not? Are you, in other words, to ransack the archives of the company every time an investment is to be made? And yet, unless that is done, this proviso does not

afford the slightest security. It is the merest matter of form.

Now, why should these private corporations have this power? Does any human being suppose that trustees go to the Legislature asking for this? Why, sir, it is done in the interest of the companies. It is done to give them practically the control of all the trust funds of this community, departing from the original true line which we laid down in 1832.

Again, why should it be confined to two of these companies? There are other improvement companies that will come begging at the legislative door for this privilege with as much show of reason as these companies. There is the Lehigh Valley railroad, there is the Lehigh Navigation company, there is the North Pennsylvania railroad, who will urge their claims. Now, let gentlemen reflect. What I am about to say is sustained by the records of the courts; I speak by the card. Take the North Pennsylvania railroad company, whose first mortgage bonds are quoted to-day at ninety-eight. In 1867 they were sued on their coupons. They had defaulted for nearly five years, and they declined to pay interest on the coupons on the plea that by so doing the holder of the coupons would recover compound interest, that is to say, interest on interest; but they were defeated; and I turn gentlemen to the case of the North Pennsylvania railroad vs. Adams, 4 P. F. Smith, 94, where they will find the whole subject discussed. That is the way you are always met when it is the interest of these companies to stop payment either of principal or interest.

By an act of 1850, passed in the interest of the Reading railroad company, all the holders of the existing loan then due were held to have converted their old past due securities into new securities having twenty years to run, unless by a formal act they filed a dissent therefrom before a certain day. I have the act of Assembly on my table. Is that the sort of investment which a trustee should be asked to put trust funds in?

Let me contrast that with the investments which have been referred to by the gentleman from Montgomery. I thought yesterday, when he offered his amendment, which was certainly a great deal worse than his modification of it to-day, that it was done to kill the section, because to exclude investments in the bonds of the State and Federal governments

would be contrary to all our experience. There is no country that ever existed that has not authorized the investment of trust funds just in that way. But, in its modification of to-day, of course the amendment is not so bad. Still there is this essential distinction between municipalities, counties and cities, and private corporations. We know by the course the law has taken that if a municipality fails to pay its interest, the law compels its commissioners or its council—its municipal government—to levy a tax; and, although the remedy may be a tardy one, still it is a remedy. What remedy have you got in regard to a private corporation? Does not everybody know that the stock and bonds stand almost literally upon the same basis? As the one goes up or down, so does the other; and you always have a perfectly fair index of the value of the mortgage bonds by the price the stock is bringing in the market. Gentlemen may recollect that within sixteen years, that is to say, as late as October, 1857, the mortgage bonds of one of the companies which are now so highly favored were selling at nearly fifty per cent. below par—at fifty-five per cent. I have the quotations not only for that day, but for the two months of September and October, 1857. They ranged from seventy-seven down as low as fifty-five. What sort of a security is that for a trustee?

I do hope that gentlemen who feel interested in the principle involved in this section, which is a most important one, will vote against this amendment, because if it is carried the whole section might as well fail.

Mr. J. PRICE WETHERILL. I shall favor the amendment offered by the gentleman from Clarion, (Mr. Corbett,) and will briefly state my reasons therefor. The gentleman from Philadelphia (Mr. Biddle) states that most of the applications to the courts for the approval of investments heretofore have been a mere farce; that the parties desiring to make investments come to our court on Saturday morning and in a very rapid and careless manner the court approve of the investment. Why? Because the securities that are made legal by law are distinctly specified, and all other securities are thrown out, and therefore the court, knowing very well that as the trustees are limited to certain securities by law and the trustees come within the limit, of course the court have nothing to do but approve, and it is

a very rapid and apparently careless operation.

The gentleman from Philadelphia spoke forcibly about the security of all State loans, and about their stability, about their evenness of value, and the ability of the holder, if they do not pay the interest, to enforce the levy of a tax to pay the interest. Is this so? Let me refer that gentleman to the condition of some of the Southern State securities at the present time. These States do not pay their interest and there is a strong likelihood that they will not pay it for some years to come. Does the gentleman from Philadelphia consider their loans a safe investment? Is it not better to allow trustees to invest where the interest is promptly paid and the security beyond a doubt?

Then, in regard to municipal investments, there is the same variation in value; and I need not go back for a quarter of a century, as did the gentleman from Philadelphia, to show that a railroad company on one occasion saw fit, on account of a legal difficulty, not to pay its demand loans, when, unfortunately for the city of Philadelphia, although I believe her securities equal to any securities offered, I need not remind the gentleman that some of her warrants have not been paid on demand, and have been constantly in the market at a discount. We, by this amendment, compel the judges of the courts to look into the value of the securities, and thus make them perform a part of their duty, and if we give them this power, and if they approve of the security proposed, after careful examination, I am certain that that security will be good and reliable.

Now, look at the condition of the trust companies in the city of Philadelphia to-day. How do they invest their money? They are perfectly satisfied to invest their trust funds in the bonds of our municipality; and yet when you come to look at their own capital, their own security, the care which they take of their own stockholders, you will find that in the many million dollars of capital hardly a dollar is invested in city sixes. What clearer proof do you want than this of the advantages of this amendment? This whole matter should be thrown open to the approval of the court, and when a trustee comes forward to make an investment, and he says: "I with care and prudence have thought this security the

best," let the court, with the same care and prudence, look into the matter and give their endorsement thereon; but do not allow the court merely to examine the securities in a careless, superficial way, as alluded to; do not allow the judicial act of the court to be, as my colleague has stated, a mere farce. It is an insult to the court; it is an insult to us to say that we should continue that farce any longer. Let the judges of the court perform their duty, as they will be compelled to do by this amendment.

In the next place, there is a view of the case which the gentleman has overlooked. That is this: that the *trustees themselves* will be careful, independent of the court, how they make their trust investments. Why, the gentleman would seem to suppose that the parties having charge of these trust funds will take the money and invest it any and everywhere, and the weaker the security the more surely will they be to make the investment therein. That is not the fact, sir. I doubt very much whether all the trusts in the city of Philadelphia or State of Pennsylvania would go to prove any such thing. We have first the care of a prudent trustee named after ample consideration, and when he has, with care and prudence, made an investment, let the court also, by careful and thorough examination, make a prudent endorsement thereon. I do hope the amendment as offered will prevail.

MR. HARRY WHITE. I hope and trust this amendment will not prevail. If this amendment prevails it does by indirection that which cannot be done directly. Hear it, delegates:

"The Legislature shall not authorize the investment of trust funds to be made without the approval of the court having jurisdiction of the trust, in any other securities than those of the United States or this State, ground rents and mortgages which are first liens upon real estate."

Pass this amendment, and you will have no prohibition whatever in your Constitution. The Legislature may pass an act at any time authorizing investments, with the approval of the court, in any kind of security; and that is the very evil which is aimed at by the section under consideration. That evil gave rise to this section.

The delegate from Philadelphia (Mr. J. Price Wetherill) has grown eloquent in talking about the duty of courts. Why, Mr. President, every lawyer knows that a

court that has various duties to do cannot do otherwise on these matters than trust to the representations of counsel who represent the trustee, and of course he looks at this matter in the interest of his client or in the interest of the corporation, and he makes a representation on which the approval of the court is secured.

I trust and hope this amendment will be voted down, and then when the amendment is voted down, I trust some gentleman will offer an amendment to the section to include in the prohibition municipal securities. While I am on the floor I will remark that I do not regard municipal securities with favor. It is said no better security can be had than municipal securities. Why, Mr. President, the history of litigation in this Commonwealth is not in corroboration of that assertion. Look at the county of Allegheny in years gone by—and I have no reflection to make upon it; look at the county of Butler; look at the county of Lawrence, and the long litigation that resulted from the issuing of bonds in 1857 to the Northwestern railroad by various counties and municipalities of the Commonwealth.

But it is said by some gentlemen that those securities were paid in the end. They were paid, Mr. President, after the officials, in some instances, were thrown into prison, and after large amounts of counsel fees were paid out of trust funds to secure the payment of their honest dues. I trust and hope we shall not only prevent investments in private corporate securities or private corporations alone, but also in municipal securities. Look upon the market; go view the stock markets of this city to-day, and you will find the securities of many States and counties and cities of this Commonwealth at a depreciated rate. I hope, delegates, that we shall adhere to the principal of this section and vote down the amendment.

THE PRESIDENT. The question is on the amendment of the delegate from Clarion (Mr. Corbett) to the amendment of the delegate from Montgomery, (Mr. Boyd,) on which the yeas and nays have been ordered.

The yeas and nays were taken, and were as follow, viz:

Y E A S.

Messrs. Bowman, Boyd, Clark, Corbett, Corson, Curtin, Cuyler, Dallas, Darlington, De France, Ellis, Ewing, Fulton, Hay, Hazzard, Hunsicker, Lamberton,

Parsons, Read, John R., Reed, Andrew, Runk, Smith, Henry W., Wetherill, J. M., Wetherill, Jno. Price, White, David N., White, J. W. F., Woodward and Wetherill—23.

N A Y S.

Messrs. Achenbach, Addicks, Ainey, Alricks, Andrews, Armstrong, Baer, Bailly, (Perry,) Bailey, (Huntingdon,) Bannan, Barclay, Bardsley, Biddle, Bigler, Black, Charles A., Broomall, Brown, Campbell, Carey, Carter, Church, Cochran, Cronmiller, Curry, Davis, Dodd, Edwards, Finney, Funck, Gibson, Gilpin, Guthrie, Hemphill, Howard, Landis, Lawrence, Lear, Lilly, MacConnell, M'Clean, M'Culloch, M'Murray, Mantor, Mitchell, Mott, Palmer, H. W., Patterson, D. W., Patterson, T. H. B., Patton, Porter, Pughe, Purman, Purviance, John N., Reynolds, Rooke, Ross, Russell, Simpson, Smith, H. G., Smith, Wm. H., Stanton, Struthers, Temple, Turrell, Van Reed, Walker, Wherry, White, Harry and Wright—70.

So the amendment to the amendment was rejected.

ABSENT.—Messrs. Baker, Bartholomew, Beebe, Black, J. S., Brodhead, Buckalew, Calvin, Cassidy, Collins, Craig, Dunning, Elliott, Fell, Green, Hall, Hanna, Harvey, Heverin, Horton, Kaine, Knight, Littleton, Long, MacVeagh, M'Camant, Mann, Metzger, Minor, Newlin, Niles, Palmer, G. W., Purviance, Samuel A., Sharpe, Stewart and Meredith, *President*—34.

Mr. HUNSICKER. I offer the following amendment to the amendment:

"No act of the Legislature shall authorize the investment of trust funds in any other securities than those of the United States and of this State, unless such investment be approved by the court having jurisdiction over such trust."

Mr. CORBETT. That is the same amendment that has just been voted down.

Mr. HUNSICKER. It is not the same amendment by any means.

The PRESIDENT. The Chair will observe that while these amendments are strictly in order, it would be conducive to the convenience of the Convention if they were not presented as amendments to the pending amendment, but were presented after that be acted on.

Mr. HUNSICKER. I will explain the difference between my amendment and that of the gentleman from Clarion (Mr. Corbett.)

The PRESIDENT. Will the gentleman from Montgomery withdraw his amendment for the present?

Mr. HUNSICKER. Certainly.

The PRESIDENT. The question then recurs on the amendment of the gentleman from Montgomery (Mr. Boyd.)

The amendment was rejected.

Mr. HUNSICKER. I now renew my amendment and ask that it be read.

The CLERK read as follows:

"No act of the Legislature shall authorize the investment of trust funds in any other securities than those of the United States, and of this State, unless such investment be approved by the Court having jurisdiction over such trust."

Mr. HUNSICKER. The purpose I have in offering the amendment is to allow trustees to invest in any good security. The difference between this amendment and the one offered by the gentleman from Clarion (Mr. Corbett) is that this will not allow the Legislature to pass acts authorizing the investment in ground rents and first mortgages without the approval of the court. It is well known that in certain portions of the State mortgages are created that are called purchase money mortgages for much larger amounts than the property is worth, and if the Legislature had it in its power to declare that a trustee could be relieved from liability to his *cestui que trust* because he had invested in one of these securities, it would be offering a premium for a corrupt man to join in speculations with these bogus mortgagors. This substitute of mine provides that there shall be no investment authorized by any special act of Assembly, that there shall be no act of Assembly passed authorizing trustees to invest trust funds in any other sort of securities except State or National, unless it is by a decree of the court having jurisdiction over the trust.

It seems to me that should meet the approval of the gentlemen who are in favor of the spirit of this section, because it is not to be presumed, in the first instance, that the trustee himself is dishonest, and in the second instance that the court will not do its duty. We must leave a margin for honesty. We cannot by the Constitution absolutely guard against the dishonest devices of men. To put in a provision which is purely legislative, which makes it obligatory on the Legislature to pass no law authorizing the investment in a first mortgage secured by real estate owned by a railroad company,

seems to me to be absurd. I have offered this amendment in perfect good faith and hope it will be adopted.

The amendment was rejected.

MR. LAMBERTON. I move to amend by inserting after the word "any" in the third line the words "municipal or."

The amendment was rejected.

THE PRESIDENT. The question recurs on the section.

The section was agreed to.

THE PRESIDENT. The next section will be read.

THE CLERK read as follows :

SECTION 25. 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.

The section was agreed to.

The twenty-sixth section was read as follows :

SECTION 26. 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.

The section was agreed to.

THE CLERK read the next section as follows :

SECTION 27. No obligation or liability of any railroad, or other corporation, held or owned by the Commonwealth, shall ever be exchanged, 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.

The section was agreed to.

THE CLERK read the next section as follows :

SECTION 28. 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 contents and agreements shall be void.

The section was agreed to.

THE CLERK read the next section as follows :

SECTION 29. When the Legislature 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. ANDREW REED. Mr. President: I move to amend by adding at the end of the section the words "unless each subject shall receive the vote of two-thirds of the members composing each House."

It is possible that the Legislature may be convened in session for some particular purpose, and there may be a subject presented at that time which might require some legislation, which would be evident to every member of the Legislature. I conceive that a subject that would receive two-thirds, not only of those present but of all the members composing the Legislature, could not have anything very wrong in it; and it might save a great deal of trouble and expense to consider it at that time. I apprehend that there would be nothing very vicious or nothing of which the people of the State could complain in legislation on a subject that should receive two-thirds of the votes of all the members of each House. Unless this provision is in, the section would prevent the Legislature from considering matters which every man in the State might be desirous to have considered, and the Governor would have to call an extra session of the Legislature for that purpose or the people would probably have to wait for two years, because we have now provided—if it is passed as we have passed it in committee of the whole—that our Legislature shall meet only every two years. This amendment may prevent the expense of calling an extra session of the Legislature.

THE PRESIDENT. The question is on the amendment of the delegate from Mifflin.

The amendment was rejected.

The question is on the twenty-ninth section.

The section was agreed to.

THE CLERK read the next section as follows :

SECTION 30. 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.

MR. BROOMALL. Mr. President: I desire to ask the chairman of the committee who reported this article, whether he really intends that the joint rules of both

Houses shall be subject to the veto of the Governor. It would look as if this section embraced that and probably some other things. I should like to ask him whether there are not matters in which the concurrence of both Houses is asked that it would not be proper to submit to the Governor and subject to his veto, and whether this section is not a little too general in its language. I should like to know what particular grievance it is intended to remedy.

Mr. HARRY WHITE. Mr. President: In answer to the delegate from Delaware, I will state that this is the precise language of the old Constitution, which I will 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," &c.

This section is an exact transcript of the language in the old Constitution. The delegate will also understand, as he will see in the publications of the acts of Assembly from time to time, that there are joint resolutions, which are in the nature of bills and require the signature of the Governor. A mere concurrent resolution regulating the proceedings of the bodies and the discharge of their business has never been held to require the signature of the Governor.

The PRESIDENT. The question is on the section.

The section was agreed to.

The CLERK read the next section, as follows:

SECTION 31. A member of the Legislature who shall solicit, demand or receive, or consent to receive, directly or indirectly, for himself or for another, from any company, corporation or person, any money, office, appointment, employment, testimonial, reward, thing of value or enjoyment, or of personal advantage or promise thereof, for his vote or official influence, or for withholding the same, or with an understanding expressed or implied that his vote or official action shall be in any way influenced thereby, or who shall solicit or demand any such money, or other advantage, matter or thing aforesaid, for another, as the consideration of his vote, or official influence, or for withholding the same, or shall give or withhold his vote or influence in consideration of the payment or promise of such money, advantage, matter or thing to another, shall be held guilty of brib-

ery, within the meaning of this Constitution, and shall incur the disabilities provided thereby for said offense, and such additional punishment as is or shall be provided by law.

Mr. HARRY WHITE. I move to amend by inserting after the word "section" the following, which will be a new section:

"Any bill passed in disregard of the provisions and directions prescribed in this article for the passing of bills in the Legislature shall be void; but the certificate of the Governor, with his approval, that all the provisions hereinbefore prescribed have been observed in the passage of such bill shall be conclusive, and when the validity of any law certified as having become such, without the signature of the Governor, 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 passing such law, the same shall be adjudged to be void."

Mr. President, a word or two of explanation. The Convention will observe that this is an exceedingly important section. This is a penal provision, and without some section of this kind the careful directions we have provided for the manner of passing bills will be void. When this article was originally reported from the Committee on Legislation, the following section was contained in the report:

"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 the forms of legislation in both Houses as hereinbefore prescribed have been observed in passing such law, the same shall be adjudged by said court to be void."

Mr. President, I never had the privilege of talking to the delegates and explaining the nature of this section. The section now offered differs, however, materially from the section which I have just read. I apprehend there will be no question of the necessity of some penal provision of this kind. The necessity of it was suggested to my mind by a remark of a very distinguished member of the

Senate of Pennsylvania, who in discussing our provisions about the passage of bills remarked, "Suppose a bill is not read upon three different days; suppose the yeas and nays are not called; suppose the printing is not done; the bill passes, is certified as having passed, and signed by the Governor; what will all your careful provisions amount to?" True enough. Now, for the purpose of requiring the observance of all these directions, this section is offered. Its necessity is apparent. It has been apprehended by some gentlemen that it may affect vested rights. Some investments may be made on the strength of an act of Assembly, and it may be ascertained afterwards that that act of Assembly has not been passed, and thus vested rights will be affected. No such difficulty can occur under the section as read. You will observe that it makes a general provision, first, that any bill passed in disregard of these provisions shall be void; but the certificate of the Governor, in connection with the approval of the bill, shall be conclusive evidence that all these forms have been regarded. But you will observe that some bills can become laws without the signature of the Governor. For instance, if a bill remains in his hands for over ten days without his approval or disapproval, or if it is passed by two-thirds over his veto, it becomes a law. Those are special cases. There must be some way of ascertaining that all the forms of legislation have been regarded. Hence the provision that in those cases where laws are certified as having become such without the signature of the Governor, it shall be lawful for the court, where the validity of the law is questioned, to inquire and see if these forms have been complied with. This section is broad and comprehensive, carefully prepared, absolutely necessary to the reforms which we are enacting here, and I hope will receive the sanction of the Convention.

Mr. CORBETT. I hope this section will not pass. It makes the certificate of the Governor conclusive. If he certifies, it does not make any matter whether there be any form observed in the Legislature whatever, it will be conclusive and become a law. I am entirely opposed to any such provision.

Mr. H. W. PALMER. The absurdity of this proposition is apparent on the face of it. That some provision should be made for contesting acts of Assembly that are passed in contravention of the provisions

of this article is apparent, and the Committee on the Judiciary have under consideration an article looking to that end; but this section provides that the courts shall inspect the journals of the Legislature and that the judges of the various counties shall travel down to Harrisburg and look at the journals of the Legislature, and if they find that something has not been done which ought to have been done, they shall therefore declare an act of Assembly void. With all due respect to the chairman of this committee, I say that proposition is absurd. It does not partake in its character of a judicial investigation. It has not got about it any of the requisites that such a provision ought to have. After the discussion that has been had on this subject, no matter when and no matter where, I suppose there is no need of saying anything more about it.

Mr. ARMSTRONG. I trust I shall not transcend the rule of the Convention in reminding them that on the nineteenth of March last, when this subject was under consideration, a proposition was then debated looking to a mode in which acts of Assembly which had been passed by fraudulent means should be brought to the notice of the courts and declared to be void, and after considerable discussion upon that subject, by common consent, it was referred to the Judiciary Committee. It is under consideration in that committee, and if they can bring their minds to the conclusion that it is proper to submit any proposition that has not more of danger than advantage in it, such a proposition will be submitted to this House before any great length of time. I think this proposition as it now stands, will be highly injudicious and very dangerous, and it ought not to be passed. The Judiciary Committee will report on this subject at an early day.

Mr. TURRELL. The Convention will remember that yesterday we passed a section which reads in this wise:

"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 signing them, and the fact of signing them shall be entered on the Journal."

That is a protection against the difficulty which is spoken of by the Chairman of the committee. It is true it may be said that if the speaker and the clerk were in

collusion the Journal might be made up to show that these requisites had been complied with, and if that were done then the requirement which the gentleman from Indiana makes, allowing the courts to inspect the journals, would amount to nothing.

Mr. EWING. I hope this amendment will not pass. We had this subject under discussion in the committee of the whole and I shall not repeat what was said there to any considerable extent. It is objectionable to my mind for several reasons. It makes the certificate of the Governor conclusive evidence. The Governor has no proper means of ascertaining whether the bill has been passed in accordance with these provisions or not.

But I rose simply to repeat that I do not agree with the interpretation that is put on some of these provisions by certain gentlemen. I hold that without any such provision as this, unless a bill has been passed by a vote of a majority of all the members, and unless the Journals show that vote so recorded and the yeas and nays taken, the bill is not a law and can be inquired into by the courts, under the provisions we already have. I think that without any such provision as that contained in this amendment, a failure to follow the sections which we have passed, which are merely directory in regard to the methods of legislation, would not invalidate the law; but where it is a part of the essence, where it is mandatory, the law is invalid without any such section as that proposed by this amendment.

Mr. DARLINGTON. I have only a word to add to what has been said. The proposition of the gentleman from Indiana or any proposition that may be submitted by the Committee on the Judiciary looking to this end, seems to me to be ill founded and to result in nothing but mischief. In the trial of any case, civil or criminal, before any court, whenever it shall please the party defendant in a criminal case or either party in a civil case, to allege that the law which is drawn in question in the trial of either was improperly passed, it contemplates the determination of this collateral issue in the midst of the trial of the issue between the parties or between the Commonwealth and the accused. It is so crude and so imperfect that I cannot conceive that any proposition can be contrived that would do any good under such circumstances.

Mr. MACVEAGH. I submit to the Convention that there is a question which is

not open to the objection raised by the gentleman from Chester, not a collateral issue at all, and it is that branch of this matter that I suppose the Judiciary Committee has under consideration; that is, to inquire into the matter of the buying of a law, the use of corrupt and fraudulent means to secure the passage of a bill. You can investigate every other act; you can investigate the judgment of the highest court of judicature if you allege that it was fraudulently obtained. The courts hear those accusations always. Why not about an act of the Legislature? I trust that somewhere we shall put into this Constitution the right to every man who says his adversary has bought a law, whenever that law is attempted to be used as a sword against him, to defend upon that ground and to have an investigation and determination of the question whether the law was corruptly obtained or not.

As to the compliance with the directory provisions of the Constitution, I think the certificate of the Secretary of the Commonwealth, or the Governor, or the Attorney General or any responsible public officer is an amply sufficient guard in that matter; but the vital, fundamental question whether the bill was bought or not, whether the bill is a fraud or not, I think should be investigated and decided as it is in every other question, by the courts of justice.

Mr. HARRY WHITE. Mr. President: I regret exceedingly to obtrude myself on the Convention again on this subject; but a number of gentlemen around me do not understand the exact situation. The Convention understands that I offered this amendment as a new section; it is not as an amendment to the section which has been read, but it comes in as a new section, and if this section is adopted, section thirty-one becomes thirty-two. I make this explanation that gentlemen may understand the question.

There are some delegates who suggest that under this we shall never know that an act of Assembly is passed. They positively have not comprehended the proposed section or its meaning. You will observe that this section provides that any bill passed in disregard of the provisions of this section—that is, if it has not been read on three different days, if it has not been printed—shall be void; but if the Governor, the head of the executive department, certifies, with his approval of the bill, that all the forms of legislation

have been regarded, that shall be conclusive. So that is an end to that. But as to any bill that has become a law without the signature of the Governor, a court of record is authorized to inspect the record, not to go like itinerants to Harrisburg, but inspect the record like they inspect the records of any other department of the government, certified copies, if you please; or the production of the original journals themselves under a subpoena issued with a clause of *duces tecum* in it would secure the result. We must have some way of ascertaining whether all these forms have been regarded with respect to laws that have not been approved by the Governor, and the provision which I have suggested meets that.

But it has been said by the gentleman from Dauphin, and I certainly think it worthy of consideration, that he would have some other provision and would authorize an inquiry into fraud in the passage of an act of Assembly. Mr. President, I hope the day will not come in Pennsylvania when we shall have so loose a system that the validity of a law shall depend upon the oral testimony of witnesses to be called on the stand to ascertain whether fraud or corruption has been used in its passage. It is well known by every lawyer in this Commonwealth that, according to the decision of Chief Justice Marshall in the great Georgia case of *Fletcher vs. Peck*, you cannot go behind the certificate of the executive officers as to the validity of a law. I do not want to invite that; I do not want to make a statute like a rope of sand, existing now and not existing at the next moment. While I want certainty about the statutes, I want some test, I want some touchstone by which their validity will be made conclusive and at the same time we shall be assured that all the forms of legislation have been regarded in their passage.

The certificate of the Governor as made now is: "This first day of April, 1873, approved. J. F. Hartranft, Governor." Now, in addition to that certificate, I want to require by this provision the Governor to add "that in the passage of this bill all the forms of legislation as prescribed in the first article of the Constitution were observed," or words to that effect. That will be an assurance that the law in all its forms has been regarded, and it will be a security.

I submit that there is nothing in the argument that if you authorize the court to inspect the records as to those laws

which may be passed without the signature of the Governor, there will be no more want of security than exists to-day. It is complained by some gentlemen that a court in Berks county or Lancaster county or here and there ought not to be authorized to inquire into the constitutionality of an act of Assembly. Why, Mr. President, I will not insult the intelligence of this Convention by saying that day after day that is done in our courts where the question is raised, where an act of Assembly has more than two subjects in its title or the subject-matter is not indicated in the title or it is an act of legislation upon a subject over which the courts take jurisdiction. The constitutionality of that act of Assembly is raised in an inferior court, and a writ of error of course lies to take it to the Supreme Court. We do not seek to change the law in that respect. The only change we propose is to authorize the courts to inspect the records, the journals, to see that the forms of legislation have been regarded in the passage of the law.

THE PRESIDENT. The question is on the amendment of the gentleman from Indiana (Mr. Harry White.)

The amendment was rejected, the ayes being twenty-one, less than a majority of a quorum.

THE PRESIDENT. The question is on section thirty-one, which has been read.

The section was agreed to.

THE CLERK read section thirty-two as follows:

SECTION 32. 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.

The section was agreed to.

Section thirty-three was read as follows:

SECTION 33. Any person who may have offered or promised a bribe, or solicited or received one, may be compelled to testify in any judicial proceeding against any person who may have committed the offense of bribery as defined in the foregoing sections, and the testimony of such witness shall not be used against him in any judicial proceeding:

and any person convicted of the offense 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.

Mr. BUCKALEW. That requires an amendment to make it correspond with an analogous section. It should read: "And the testimony of such witness shall not be used against him in any judicial proceeding, except in prosecutions for perjury committed in such testimony," or something equivalent.

The PRESIDENT. The question is on the amendment of the delegate from Columbia.

The amendment was agreed to.

Mr. HARRY WHITE. I move to amend further, by inserting after the word "proceeding," where it first occurs, the words "and the person so compelled to testify shall be exempt from punishment for the offense concerning which he shall be required to testify."

The amendment was rejected.

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

The section as amended was agreed to.

The PRESIDENT. The thirty-fourth section will be read.

The CLERK read as follows.

SECTION 35. The Legislature shall have no power to pass retrospective laws, but may, by general laws, authorize courts to carry into effect, upon such terms as shall be just and equitable, the manifest intention of parties and officers, by curing omissions, defects and errors in instruments and proceedings arising out of their want of conformity with the laws of this State.

Mr. HARRY WHITE. I offer the following new section, to come in here as thirty-four:

"Nothing in the foregoing section shall affect the validity of any existing statutes in relation to the offense of bribery."

I merely desire to call the attention of the Convention to the fact that we are enacting a new provision about bribery and we already have statutes on that subject. It is to avoid confusion that I have introduced this section, and it simply provides that nothing in the foregoing section shall affect the validity of our present statutes on this subject.

Mr. BUCKALEW. That is matter for legislation.

The amendment was rejected.

The PRESIDENT. The question is now upon the section.

Mr. WOODWARD. Mr. President: I am apprehensive that this thirty-fourth section contains a mischievous principle. I think the Convention itself has decided that the principle in this matter is vicious. The section seems to prohibit retrospective legislation, and that on the surface looks fair and proper. But, sir, when some other article, which I do not now remember, was before the Convention—I think the gentleman from Montgomery understands the matter better than I do—an amendment was moved to that, designed to continue in the Legislature the power of curing defects in titles, a power that has always existed in the British Parliament, which is one of the common law modes of conveyance, recognized by all writers on the common law, and it is indispensable in a great community at times to cure mere formal defects that can be cured in no other way. I say that the Convention, in the article to which I refer but which I cannot now designate, have already adopted that principle; that is, they continued that power in the Legislature, and that upon the soundest reason.

If you adopt this section exactly as it is expressed, you seem to repeal all such provisions and repudiate all such principles. You would deny to the Legislature the power by a retrospective act of taking out of the title of an estate a difficulty which could be taken out of it in no other way, a power which has never been abused in Pennsylvania so far as I know. It has been used in multitudinous instances, greatly to the advantage of widows and children, and it doubtless will be so used in the future unless we undesignedly and unwittingly deny the power to the Legislature. My objection to this section is that it seems to deny that power, a power which is very indispensable, and which the Convention in another article decided to continue in the Legislature.

I hope the section will either be modified or voted down. As it stands I think we will both contradict ourselves and work an injury to the State.

Mr. HARRY WHITE. I hope that this section will be voted down. I agree with the gentleman from Philadelphia that the principle which it contains is vicious, and that if adopted it will lead to confusion from time to time. There is no necessity for or wisdom in transferring to

the Legislature judicial functions which they ought not to have.

The section was rejected.

The PRESIDENT. The thirty-fifth section will be read.

The CLERK read as follows:

SECTION 35. 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.

The section was agreed to.

The PRESIDENT. The thirty-sixth section will be read.

The CLERK read as follows:

SECTION 36. The sale of intoxicating liquors, or mixtures thereof, containing the same for use as a beverage, shall hereafter be prohibited. The Legislature shall, within one year from the adoption of the Constitution, enact laws with adequate penalties for the enforcement of this provision.

Mr. H. W. PALMER. I move to amend by striking out the word "intoxicating" and inserting the word "distilled;" and on that subject I ask leave to consume three minutes of the time of the Convention. I make this amendment in the interest of the cause of temperance and of temperance reform. I should be as glad as any one to aid in wiping out the whole accursed traffic in distilled and fermented liquors both. But the vote taken in the State within the last few months satisfies me that entire prohibition is not at present practicable. I am therefore willing, and I believe that the temperance people of the State are willing, inasmuch as total relief cannot be obtained, to accept partial relief. I believe that a partial prohibition, such as this amendment will provide, would receive a large majority of the votes of the people of the State. Taking into consideration the peculiar habits and tastes and education of a large proportion of our citizens, it seems to me that there could be no doubt of the success of this provision, and if the evil cannot be entirely exterminated, no friend of reform ought to stand in the way of a partial extermination. It is to these fiery distilled liquors that the evils of intemperance are to be mainly attributed. It is the whiskey and brandy and rum that put the devil into the hearts of men.

Now, that some measure of reform should be adopted by this Convention seems to be apparent. No man who is at all familiar with the annals of crime

will deny that ninety-five per cent. not only of all crime, but of all the suffering and wretchedness in this Commonwealth, can be traced to the use of ardent spirits. It costs the people of Pennsylvania more to drink whiskey than to bear all the rest of the burdens of society put together twice over. It is a fearful voluntary tax that they have laid upon themselves, and they are crying for relief. The thousands of petitions that have been laid upon our tables attest the truth of that fact.

Relief in some form must be given, we do not dare refuse it. I ask it in the name of the multitudes of sore-hearted women, mothers, sisters, wives and daughters of this Commonwealth, who sit in the darkness of despair, and out of whose lives the light of hope has been crushed by the monster rum. I ask it in the name of the hecatombs of trembling victims of a habit relentless as death and remorseless as the grave. I ask it in the name of the little children, pale, haggard, hungry and tattered, shivering on the threshold of a comfortless life, victims without their fault or consent, of the vice of intemperance. I ask, in the name of the tens of thousands who have petitioned in this behalf the poor privilege of voting for a prohibitory section in the organic law of the Commonwealth. And this we dare not refuse.

Mr. WORRELL. I shall vote against this section because it is essentially a matter of legislation—

The PRESIDENT. The question is not upon the section, but upon the amendment.

Mr. WORRELL. I am speaking to that. I shall vote against the whole subject, because it is essentially a matter of legislation.

The PRESIDENT. The gentleman must bear in mind that the section is not under consideration.

Mr. WORRELL. I am not speaking to the section. I am speaking to the amendment. Action upon the subject ought to be remitted to the consideration of the Legislature.

The PRESIDENT. The amendment only is before the Convention.

Mr. WORRELL. I am speaking to that. I shall vote against the whole section because it is essentially a matter of legislation.

The PRESIDENT. The Chair is compelled to insist that the question is on the amendment and not on the section. Is the House ready for the question?

Mr. WORRELL. I thought I was addressing myself to that.

Mr. D. N. WHITE. Upon the amendment I call for the yeas and nays.

The PRESIDENT. Is the call sustained?

Messrs. Russell, Horton, Edwards, Hunsicker, Howard, Bannan, Baker, Church, H. W. Palmer, Lilly, Patton, Curry, Cochran, Wright, T. H. B. Patterson, Lawrence, Landis, Jos. Bailly, Broomall, Andrews, Hemphill, Ellis, Heverin, Temple and Wherry rose.

The PRESIDENT. The call is sustained.

Mr. HARRY WHITE. Mr. President: Before the call of the yeas and nays is had, I want to make an observation, which is the last one I design to make upon this section. I hope the amendment offered by my friend from Luzerne will not prevail. I have no answer to make to the very touching and proper appeal he has made to this Convention. I have no remarks to make upon the subject of temperance in the abstract or in the concrete. I had the honor to be instructed by the committee of which I have the privilege of being chairman to report this amendment after careful consideration, it having been prepared by those gentlemen whose hearts are actively enlisted in this movement for the action of this Convention, to be submitted finally to a separate vote, and if it should receive a majority of the votes of this Commonwealth, to become part of the Constitution, but not otherwise.

I have no remarks to make as to its propriety or its impropriety, Mr. President. It was reported by the committee. I shall vote for it as a delegate in obedience to the instructions not only of the committee, but of at least 30,000 petitioners in this Commonwealth. It was the pleasure of this body by a resolution to order that all the petitions that were sent to this body, on this subject, and presented, should be referred to the Committee on Legislation. A decent respect and regard for the great right of petition, at least respect and regard for the character of the petitioners, required that they should receive some action at our hands. Not one remonstrance has been presented from any locality of this Commonwealth. I feel myself as a delegate at large of this Commonwealth instructed to vote upon this question, to give the voters of the Commonwealth the privilege to express themselves at the ballot-box upon the question. I take pleasure in yielding as-

sent to their request, and as they vote I shall be satisfied.

The PRESIDENT. The question is on the amendment of the delegate from Luzerne, (Mr. H. W. Palmer,) upon which the yeas and nays have been ordered. The Clerk will call the roll.

The question being taken by yeas and nays resulted—yeas thirty-two, nays sixty-three, as follows.

YEAS.

Messrs. Alricks, Andrews, Bailly, (Perry,) Bannan, Biddle, Black, Charles A., Bowman, Brown, Carey, Corbett, Curtin, DeFrance, Dodd, Edwards, Ewing, Funck, Guthrie, Hanna, Lawrence, Lear, Lilly, M'Culloch, M'Murray, Palmer, H. W., Patton, Pughe, Purviance, John N., Rooke, Simpson, Smith, Wm. H., White, J. W. F. and Woodward—32.

NAYS.

Messrs. Achenbach, Addicks, Baer, Bailey, (Huntingdon,) Bigler, Boyd, Broomall, Buckalew, Campbell, Carter, Church, Clark, Cochran, Craig, Cronmiller, Curry, Darlington, Davis, Dunning, Ellis, Fell, Finney, Fulton, Gilpin, Hay, Hazard, Hemphill, Heverin, Horton, Howard, Hunsicker, Lamberton, Landis, MacConnell, MacVeagh, M'Clean, Mantor, Minor, Patterson, D. W., Patterson, T. H. B., Porter, Purman, Read, John R., Reed, Andrew, Reynolds, Ross, Runk, Russell, Smith, H. G., Smith, Henry W., Stanton, Struthers, Temple, Turrell, Van Reed, Walker, Wetherill, John Price, Wherry, White, David N., White, Harry, Worrell, Wright and Meredith, *President*—63.

So the amendment was rejected.

ABSENT.—Messrs. Ainey, Armstrong, Baker, Barclay, Bardsley, Bartholomew, Beebe, Black, J. S., Brodhead, Calvin, Cassidy, Collins, Corson, Cuyler, Dallas, Elliott, Gibson, Green, Hall, Harvey, Kaine, Knight, Littleton, Long, M'Camant, Mann, Metzger, Mitchell, Mott, Newlin, Niles, Palmer, G. W., Parsons, Purviance, Samuel A., Sharpe, Stewart and Wetherill, J. M.—37.

Mr. WORRELL. Mr. President: I shall vote against this section because it is essentially a matter of legislation. Action upon this subject should be remitted to the Legislature. And I submit that the difficulties and delays attendant upon an amendment of the fundamental law should admonish us not to insert in the Constitution a proposition which may require consideration in advance of the

meeting of the next Constitutional Convention.

Mr. C. A. BLACK. I move to amend by striking out the section and inserting the following:

"The Legislature shall have power at any time to submit to a vote of the qualified citizens of the Commonwealth the question whether the sale of distilled, fermented, or vinous liquors, or any of them, to be used as a beverage, shall be prohibited.

Mr. HARRY WHITE. The Legislature has that power now.

The PRESIDENT. The question is upon the amendment.

The amendment was rejected.

Mr. D. N. WHITE. I move to strike out "one" in the third line and insert "two," so as to make it "two years."

The PRESIDENT. The question is on the amendment of the delegate from Allegheny.

The amendment was rejected.

Mr. CAMPBELL. Mr. President: An appeal has been made here on behalf of the "temperance men" of the Commonwealth to pass this section. Now, I claim to be a temperance man, perhaps a better one than a good many who advocate this section, for I have never even tasted spirituous or malt liquors in my life and hope I never will; but I am going to vote against this section on principle. I do not believe the vice of intemperance can be reached by means of legislation of this character. All sumptuary laws—and a law of this kind is a sumptuary law of the worst character—have been found to fail always in the past and I think will always be found to fail in the future.

I believe in getting at the temperance question by means of moral persuasion, or moral "suasion," as it is sometimes called—by inducing the individual to abstain from drinking intoxicating liquors. If you can induce the individual to so abstain you will necessarily decrease the supply of such liquors, and decrease the evils of intemperance. I have the honor to be the president of a total abstinence association numbering nearly seven hundred able-bodied men; I have also the honor to be one of the representatives of an association for total abstinence purposes, the members of which number, in the county of Philadelphia and the three surrounding counties, from ten thousand to twelve thousand men. All of those men have taken a total abstinence pledge—a pledge to

abstain from the drinking of malt or spirituous liquors of any kind.

Now, we believe in our association that the way to decrease the vice of intemperance is by taking this pledge and observing it, and by getting the men to stay away from the taverns and avoid drinking intoxicating liquors. By acting in this manner we will create a proper temperance spirit among the people. We do not believe in passing temperance laws of this character—laws which attempt to enforce a prohibition against the sale of liquor, when it cannot be enforced. It is, in our estimation, a perfect farce, especially in the large cities and other densely populated sections of the Commonwealth. Such laws have never been enforced heretofore, and we do not believe they can be properly enforced hereafter. Unless there exists a decided temperance feeling among the people themselves, and they individually abstain from the drinking of intoxicating liquor, legislation of this kind cannot be forced upon them. The very effect of it is the contrary of that which the persons urging this kind of legislation desire. It leads to a violation of the laws, to the transfer of drinking from the taverns to the private residence, and to increased evils of intemperance generally. A man who has the appetite for intoxicating drinks now goes to the public house; adopt a proposition of this kind and he will make his own house a tavern; and the very evils that these mistaken friends of temperance complain of will be rendered far worse. I shall, therefore, upon principle, as a temperance advocate from my infancy, (as I hope I shall be until my death,) vote against this section.

Mr. BUCKALEW. Mr. President: Upon this general subject a settlement was made in the Legislature of this State a year ago last winter. That settlement went out to the people of the State as a law. All our citizens were informed that they were to conform to that law and that should be an adjustment so far as the action of the government was concerned on this subject. That is known as the "local option law." It provides that once every thirty-six months a vote shall be taken in every county and city of this Commonwealth upon the question of granting licenses by the courts. Those counties that vote against license will have this proposition applied, and if it works badly they can vote differently at the end of three years of trial and restore the system of license.

Now, sir, that compact, if I may so describe it, between the opponents and the friends of license ought to stand until it is tried; and I believe that is the judgment of the people throughout the State. I undertake to say that if you put an amendment among our other constitutional amendments on this subject you will affront and offend a large amount of public sentiment in the State. I have all the time looked upon this proposed amendment, whether submitted to a separate vote or not, as an amendment above all others calculated to put in peril the work of this Constitutional Convention. Sir, there are large masses of voters of this State who will not willingly submit to be called upon to vote on this question now, under the direction of this Convention, in view of what has taken place in the Legislature, and they will vote against all your amendments as well as this, even although it be submitted separately.

Here are a great many millions of dollars of invested property which cannot be speedily changed, engaged in the business of manufacturing spirituous and malt liquors, and many additional millions engaged otherwise in connection with the license system of this State. Now, is it worth while to array all these powerful interests against the work of this Convention? I submit then, Mr. President, that the best thing the Convention can do will be to quietly drop this subject and leave it where it is now placed, in the hands of the people in every city and county of this State.

Now, sir, we know perfectly well that in this city of Philadelphia, where a vote is to be taken on this very question in October next, there will be a majority of probably forty or fifty thousand against the local option law. Three years hence it may be different; public opinion here may change. The friends of this measure can, year after year, assail public opinion in all the modes by which it can be influenced, and whenever they shall get a public opinion to obtain such a law as they desire, they will have it here in this city without any further action by either Convention or Legislature.

Sir, this looks like trifling with the people. They were called upon to vote this spring in nearly every county of the State on this subject, and they voted. Are we not to respect their opinion? Gentlemen get up here and talk about the petitions that have been sent to us in favor of this provision, and they say there

have been no remonstrances. Of course there has been no remonstrance sent here. Those opposed to this provision have their opportunity at the polls. What we do is merely by way of proposal. They have a vote upon our work. Therefore, there was no necessity for their remonstrating. But I undertake to say that if this Convention had plenary power over this subject, and it was supposed we were likely to put in the Constitution a total prohibition clause absolutely, without any vote of the people, we would have heard a very loud voice against it. Therefore, there is no force in that argument.

I trust this section will not be agreed to upon the two grounds I have stated—first, that a complete measure, such as the friends of prohibition desire, is already in the hands of the people, and they can adopt it in every city and county of the State whenever their minds are made up; and, again, upon the other ground that now to put any provision on this subject among our amendments will be to endanger the success of the great work that this Convention has been appointed to perform.

Mr. DARLINGTON. I do not see myself that there ought to be any objection to submitting this question as a separate and distinct proposition to the people of Pennsylvania. It has never yet been submitted to them in that form. "Local option" means only the application or rejection of this principle in particular localities, and that is all that the Legislature have as yet allowed the people to decide upon; that never met with my approbation. Temperance man as I am—reasonably temperate—I never yet believed in the policy of any locality having the right to sell liquor while a neighboring locality was denied the privilege. It only has the effect to make people pass over a township, borough, ward or county line into a neighboring locality where liquor may be procured. It does not answer the end designed. It is not effectual as a check to the spirit of intemperance. There is no remedy, in my apprehension, that will not embrace the whole State, and even then it will be ineffectual to a certain extent, because beyond our boundaries, in New Jersey, in Delaware, in Maryland, and the other adjoining States, those living along the border can pass the line and obtain the forbidden fruit. It will to a certain extent be ineffectual in those cases; but, nevertheless,

great good may be attained by the adoption of it, if such shall be the pleasure of the people throughout the State, although the law may be evaded in some instances.

It is no sufficient argument against the propriety of any provision in the Constitution or law that is liable to be evaded and that the people will not obey it. To say this, would be to say that you must not legislate or provide by constitutional enactment at all, because there will be some evil-minded persons in every community who will disregard the provisions of the Constitution and disregard the laws. That is not therefore the proper principle upon which to base our action. We are to inquire, would it be for the best interests of the whole people, or would it not, to prohibit utterly the manufacture and sale of intoxicating drinks?

I do not assume that I ought to decide that question here. I do not assume that the friends of temperance ought to ask it to be decided here. All we ask is the privilege of submitting this question of total prohibition throughout the limits of the Commonwealth to all the people of the Commonwealth. If they say that it shall not be prohibited, then away with your local option laws; they are productive of no substantial good. If, on the contrary, they say that the best interests of the people of the State require that there should be total prohibition throughout the State of the sale or manufacture, or both, of intoxicating liquors, then we understand that a great step has been taken in the march of civilization and improvement. All that we ask, therefore, is, and we implore the members of this Convention to aid us in passing this provision, because we cannot submit it to the people without receiving the sanction of a majority of this body—that you will adopt this provision with the distinct understanding, which one-third of the members may demand, that it shall be submitted to the people as a separate and distinct proposition.

Are we afraid to trust that question to the votes of the people of Pennsylvania? I, for one, am not afraid to do it. They may decide in one way or the other, and when that decision shall be made, for one, I am ready to abide by it.

Nor do I think we need have any apprehension whatever of the danger to which the gentleman from Columbia seems to allude, that a vote upon this question will be at all indicative of what shall be the judgment of the

people upon the other provisions of the Constitution. Submit it as a separate proposition, and every man will vote upon it irrespective of his preference with regard to the other measures. I do not believe it would endanger the success of the Constitution at all. That question will be decided upon its merits. Now, are we afraid to submit this question, which is acknowledged by all to be a most important question, to which the attention of the Legislature has been directed, to which the attention of the people of the several counties has been directed, to the votes of the whole people of the State? This is the only way in which it can be effectually done. Put this provision in the Constitution, and then let it be demanded, and I will be one to demand, that it shall be presented as a separate proposition; if rejected, it will not affect the vote of the people upon the rest of the Constitution at all; if it is adopted, it will not affect the vote upon the rest of the Constitution. What we ask, and what I think the friends of temperance have a right to ask of the members of this body is, to aid them in submitting that distinct proposition to the people of the Commonwealth.

MR. MINOR. I rise simply to offer a verbal amendment, to erase the word "thereof" in the first line. It is obviously surplusage, and I make the motion in pursuance of the views of the gentleman who originally offered the section.

The amendment was rejected, there being on a division, ayes fifteen, less than a majority of a quorum.

MR. D. N. WHITE. I offer the following amendment, to come in at the close of the section.

"Which shall not go into operation until after the expiration of two years from the date of its adoption."

MR. PRESIDENT, The reason I offer this amendment is that a provision should be adopted to give all persons engaged in the manufacture of liquors, either fermented or distilled time to get out of the business. That was a strong argument made use of in our county last year when the local option vote was taken, and great sympathy was created for the liquor men who then had large stocks on hand. To obviate all difficulty on that question, I offer this amendment; and it is no more than just, probably.

The argument of the gentleman from Columbia is that the people of this State will vote down the Constitution because

we present them a separate amendment on this subject; that they will therefore vote down the Constitution, though satisfied with it, because we present a separate amendment for their vote on this question. I say the argument is fallacious and there is no sense in it at all. Just as well might the temperance people of the State vote down the Constitution because we do not put in the prohibitory clause. There is just as much force in the argument on one side as on the other.

Now, I say to the gentlemen of this Convention that there is an immense number of voters in this State, the very best men in the State, whose hearts are throbbing with anxiety in regard to this question. You may vote it down; you may not permit them to have even a chance of saying by their votes whether they wish this provision or not; you may, apparently, cowardly yield to the voice of the liquor dealers of this State and say you will not even give the people a chance to vote on this question—

THE PRESIDENT. The use of the word "cowardly" is not proper as applicable to any action of the Convention.

MR. D. N. WHITE. Well, Mr. President, it seems hard to get in a word any way any more with regard to a question such as this, which interests the people of this State. Men, women and children are suffering to-day under the evils of intemperance, and they ask us for this privilege of voting on a question of this kind. Can it hurt anybody? It does not hurt your Constitution. If it is voted down by the people, as you say it will be, let it be voted down; but for God's sake, for humanity's sake, give us a chance to get a vote on the question before the people.

MR. TEMPLE. Mr. President: I desire to give very briefly my reasons for voting against this section, if it is now in order to do so.

THE PRESIDENT. The question is no the amendment of the gentleman from Allegheny.

MR. TEMPLE. I will wait until that is voted on.

The amendment was rejected, there being on a division ayes forty-two, noes forty-three.

MR. H. G. SMITH. Mr. President: I have only a word or two to say; I promise not to detain the Convention for any length of time.

When the vote was taken on this proposition before, and I voted against it, I

voted against it upon principle. I voted against it with my eyes as wide open to the evils of the traffic in intoxicating liquors as any man in this body. If I believed that this section could be adopted and that by its adoption it would do what the friends of temperance claim, I would vote for it. On the day when it was under consideration before, the people of this State were voting whether they would apply the principle of prohibition in their several localities. The city of Philadelphia, which will be certain to give a sweeping majority against any such proposition, did not then vote, but in the residue of the Commonwealth the principle of prohibition was voted down.

MR. D. N. WHITE. Forty-two counties voted for it.

MR. H. G. SMITH. The gentleman says there were forty-two counties for it. I will make a note of that and answer it directly. I did hope, sir, when the returns of that election came in, when the temperance men were assured from the votes of the people that no such proposition as this could by any possibility be carried—that there was practical sense enough among the temperance men of this Commonwealth to stand by what they had already acquired. If, as the gentleman from Allegheny (Mr. D. N. White) says, they have carried forty-two counties in favor of prohibition on the local option issue, since it has been decided to be constitutional by the Supreme Court of this Commonwealth, the temperance men have gained in that manner fully as much as they had a right to expect under the circumstances and more than they could gain this day. They have placed this question in a position where they will have an opportunity to test the workings of prohibition. For a period of three years, if the law be allowed to stand as it now is in this Commonwealth, prohibition will be tested by the people of the State in different localities; and the Legislature will be slow about repealing the local option law, though the effort will be made persistently and decidedly. I speak from political information acquired from the habitual reading of the newspapers of the different counties of this entire Commonwealth and from a knowledge of movements that are now being made; and I tell the advocates of temperance on this floor that the coming campaign with regard to candidates for the Legislature will be conducted throughout this Commonwealth upon this very question. I tell

them that the liquor interest—and it is a potential one, with money at its control and a disposition to use it—carried this Commonwealth in the recent election. That interest, in connection with that feeling against any sumptuary laws which many men hold to upon principle, will be felt in future elections. These two things taken together will be likely to return to the next Legislature, in the lower House at least, a majority in favor of the repeal of the local option law as it now stands. If you submit this proposition to the people of this Commonwealth, let them vote for it throughout the State, and if it be voted down the Legislature will be certain to take the gentleman from Chester at his word and repeal the local option law as soon after the assembling of that body as it can be done.

If I were advocating here an increased sale of intoxicating liquors; if I desired to take away from the temperance men of this Commonwealth every inch of vantage ground that they have gained; if I wished to deprive them of all the advantages they have acquired, and to leave them nothing except what it is charged that some of them want—the chance of setting up a separate political organization and of presenting their question in that shape—if I wished to deprive them of every moral and legal prop which they have secured, I would desire nothing more earnestly than that this proposition should be submitted to the people, being certain that it would be voted down by an immense majority, and that the repeal of the general local option law, and of every special law of that kind on the statute books of this Commonwealth, would be attained at once.

Now, in conclusion, desiring to see this question fairly decided, being honestly in favor of its being tried, and of its being determined whether prohibition will work for good or for ill, I appeal to the temperance men on this floor to withdraw this proposition. If they are earnest and honest; if they mean what they say; if they are men of practical wisdom, they will do so. If they do not do so; if they succeed in securing a submission of this section to the people of the whole Commonwealth, they will find it voted down by an overwhelming popular majority; and they will find themselves left without an inch of vantage ground to stand upon in the future.

Mr. BIGLER. Mr. President: I must ask the indulgence of the Convention for

a very few minutes. It is due to myself that I should say a few words in explanation of the vote I am about to give. I had signified an inclination to favor a submission of this question to the people; but I have changed that opinion and I desire to state why.

The delegate from Lancaster (Mr. H. G. Smith) has stated what has occurred on the subject of the local option law, and I agree that the result on that subject has clearly indicated that at this time any similar proposition would be voted down by the people of the State, and such a result would greatly damage the cause of temperance. I agree, sir, that from the standpoint of a temperance man, a man willing to adopt any reasonable measure to advance the cause of temperance and to banish the vice of intemperance from the land, I believe it to be unwise and inexpedient at this time, to submit the pending measure to the ordeal of a popular vote. I have reluctantly come to this conclusion.

I yield to no man on this floor, whether he be a professed temperance man or otherwise, in an anxious desire to get clear of the vice of intemperance and to interpose any proper power against it and to wield any reasonable influence against it. I intend hereafter, as I have done heretofore, to interpose all the personal influence I may have; but I have concluded that I shall not advance the cause of temperance by submitting this proposition at this time. I think the effect would be prejudicial.

Beside we have other duties here, and other considerations are to be weighed. It may be proper to consider how far other measures may be embarrassed or affected, and other ends to be accomplished by this Convention. I think it will be agreed that this question was not the primary cause, it was not amongst the great purposes for which this Convention was brought into existence. It was the general demand for reform in legislation and reform in general political disorders that brought forth this Convention. I agree on this question with the distinguished delegate from Columbia, (Mr. Buckalew,) that, however you may shape this matter at present, it will certainly embarrass, if not defeat, the work for which we have been called together. I know that it has been suggested that one-third of the members of this Convention will have the right to insist upon the submission of this proposition separately to the vote of the

people. Whether that be technically so or not, I do not know; but of this I am not certain.

I regret the circumstances that constrain me to enunciate the determination at which I have arrived, but when I do it I only express that which I have the best reason in the world for believing to be true. In view of all these considerations I have made up my mind, painful as it is to me, to vote against a measure that some friends of temperance in the State may think essential to that great and good cause.

Mr. TEMPLE. Mr. President: I desire to state very briefly my reasons for voting against this section. In addition to those already stated by various gentlemen who have spoken on this subject, I claim and I ask the delegates on this floor to seriously consider whether, if this section be adopted, it is not a great and a serious discrimination in favor of the more wealthy classes of people.

This section does not say that intoxicating liquors shall not be drank in the State of Pennsylvania or used in any other manner. It simply forbids the manufacture or the sale of intoxicating liquors in this State. If I were in favor of this prohibitory clause, which I am not, I certainly should not vote for it in this shape. It prohibits only the sale; it merely speaks of the sale of manufactured liquors in this Commonwealth. What would be the result of this? The result would be that persons who are able to purchase liquors outside of the Commonwealth and bring them into our borders would have the right to have them and use them in their houses as long and as often as they choose; whereas, persons who are not able to buy liquors in large quantities would be prohibited from the use of them as a beverage at all.

I submit this as a practical suggestion. It is an unjust discrimination against the sale of liquors in favor of a certain class of people and ought not to be placed in the Constitution. It is even worse than the local option law, passed during the last session of the Legislature, because if that law be found to be impracticable, if the people desire its repeal, that power is not removed from them and they will have a right to repeal it in the next three years. The people control that question; but suppose, forsooth, that this section shall be adopted as part of the Constitution, the question will pass out of the hands of the people because it will be in-

corporated into the organic law. That, however, I do not anticipate, for I do not believe that if we adopt this measure here, the people will ever endorse our action; and it seems to me to be the merest child's play to present to the people a section which they will unquestionably reject. It is merely child's play to experiment with the people as the gentleman from Chester would have us do.

Does it not seem rather singular to the delegates upon this floor that some persons who are not in favor of recognizing God in the Constitution are in favor of inserting a prohibitory clause like this? To me this does not seem consistent, and it is not consistent. It has been claimed by the distinguished gentleman from Luzerne (Mr. H. W. Palmer) that the people should adopt this section in behalf of the widows and the orphans and the homeless children of the Commonwealth. If such an argument as that could prevail here, if this Constitutional Convention were to recognize a cry like this or petitions such as these, in this particular regard, where would be the appeals coming from all parts of this Commonwealth in regard to other matters that might be submitted to the people for their ratification? I yield to no delegate upon this floor in recognizing the abuse of the use of spirituous liquors; but I submit that both the use and the abuse of spirituous liquors would be indulged in to a greater extent in this Commonwealth, under any such measure as is here proposed, than at the present time. This has been proved by the result of prohibitory laws in other cities and other States; and if this clause be inserted in the Constitution the effect here would be the same as in the city of Boston. Under their prohibitory law there have been one-third more arrests than ever before in the same period of time for drunkenness and disorderly behavior. I remember when there was a prohibitory law in the State of Delaware.

Mr. D. N. WHITE. There is one there now.

Mr. TEMPLE. The gentleman from Allegheny says there is one there now. I will not assert on this floor that that law is executed, but I undertake to say that in the city of Boston the arrests for drunkenness and disorderly conduct were increased one-third by the passage of the prohibitory law. Such has been the history of those laws in every State where they have been adopted; and I believe it would be a greater evil to the people to

adopt this section than to allow our present laws to remain.

Mr. CLARK. My vote on this section is to be viewed simply as favoring a separate submission of this question to the vote of the people and not as favoring or opposing the sentiment of the section. I will support the section upon that ground.

Mr. BEAR. Mr. President: I wish to give a reason for the vote that I shall give. I am opposed on principle to all constitutional and legal restraints upon this question, but at the same time I am willing to yield my own opinions and go so far as to submit the matter to the vote of the people, because it is not certain what the majority of the people of the State desire in reference to this subject. Therefore it should be submitted to them in order to ascertain what the majority upon the subject is, whether the temperance people or the liquor people prevail, and what construction they will give to such an issue as this. I am willing to give both sides an equal chance and see whether the people will vote this measure up or down. Nay, I am not only willing, but I think it is a matter of right and duty that we should submit this subject to the vote of the people, in order that their final judgment may be put upon it and it be settled forever.

We cannot afford to array the temperance men against our action. There is no wisdom in arraying them against our reformed Constitution, and if after our first action we recede, the temperance men will say that we changed front on account of the pressure of the liquor men, and their influence will be thrown against our work, and it will be defeated. We have made our decision; let us abide by it, and it will carry with it the balance of our work and preserve some good out of all that we have been trying to do here. For that reason I shall vote for the section.

Mr. J. W. F. WHITE. I rise not for the the purpose of discussing this question, but to explain my vote. On a former occasion, in committee of the whole, I advocated and voted for this section as a separate amendment, to be submitted to a vote of the people. I did it at that time believing that a large majority of the people of the State wanted such a proposition submitted to them as a separate amendment, and believing, too, that a large majority would vote for it, and such I believe was the general understanding in the committee of the whole at that

time. I am now satisfied, by the vote that was taken in last March, that a majority of the people of the State do not want this amendment.

I never favored incorporating it in the Constitution absolutely, but simply submitting it to a vote of the people. Believing, as I now do, that the measure would be voted down if submitted, I shall vote against the section. If submitted and voted down it will do the cause of temperance a great deal more injury than not to submit the question at all. It is said that there are forty-two counties of the State that now have prohibition under the local option law. If we should now submit this constitutional section to a vote of the people of the State and a majority of the whole State should vote against it, what would be the effect of that vote upon those counties where prohibition now exists? I believe the effect would be disastrous to the cause of temperance. It would be a strong argument for the repeal of the local option law and most likely lead to that result. That would discourage and dishearten the advocates of temperance. A vote on a constitutional amendment would be conclusive and final for many years to come, perhaps for an entire generation. Under the local option law the question may be reconsidered every three years.

Such being my most decided convictions, I shall now vote against the submission of this section as a separate amendment. I do so as a temperance man, and, as I believe, in the interests of temperance. I am willing to go as far as any other man in promoting that cause. But it is not now a question of *principle* so much as a question of *expediency*. Is it expedient, at this time—just on the heels of the late vote—to submit the question again to a popular vote? I may be mistaken, but acting upon the honest convictions of my own judgment, I must vote against it.

Mr. M'CLEAN. Mr. President: I think it is right and proper that every gentleman who desires an opportunity of expressing the reasons for the vote that he shall give upon a subject of as great public interest as this, should have it afforded him. I have had no opportunity heretofore, and I now desire simply to state why I shall vote against the section.

I have the honor to represent the county of Adams, which has voted against prohibition and in favor of li-

cense. My colleague and myself have the honor to represent a district composed of the counties of York and Adams, which voted against prohibition and in favor of license. And, I may say, I have the honor, in common with all the gentlemen on this floor, to represent a State which has passed very recently upon this issue and voted against prohibition. For that reason I shall here now vote against it.

I think there has been a sufficient expression of the sentiment of the people at this time on this question, and I am opposed to flinging it back in their faces now. I can and do assure you that even if this section is adopted here and submitted separately to the popular vote, it will have the effect of prejudicing a vast proportion of the people of this State against every good measure that we may have accomplished in this body. I fully concur with the sentiment expressed upon this subject by the gentleman from Columbia (Mr. Buckalew.) I know it, from mingling with my people at home, to be the fact that if this section is carried out and submitted separately, it will provoke prejudices against the whole work of this Convention. The effect of the adoption of this section will be irritating upon the people. They will say that they have already decided the question for themselves, and that it is neither right nor proper that they should be called upon to pass upon it again, though in common with the other questions submitted in the Constitution.

Mr. President, in saying what I have I do not wish to be understood as not being a friend of temperance. I am willing to go as far as any gentleman on this floor in measures for the promotion of temperance or for the suppression of the evils of intemperance, but it is because I believe that this is not practicable for the reasons I have given that I shall vote against the section.

Mr. CURRY. Mr. President: I cannot see any impropriety in any member of this Convention voting for the section as it stands. I certainly feel surprised by the course many of the members of the Convention this morning have taken upon this subject. I confidently expected those who voted for this section once, to vote for it again; but I am to infer from what I have heard that many who voted for the section sometime ago propose to vote against it now. For my part I shall vote now as I voted first. I have seen no

reason why I should change my opinion; I have seen no reason why I should change my vote on the subject. I find in the vote that was taken March 21, 1873, a number of counties, I believe forty-two, voted in favor of prohibition. Some forty thousand six hundred and ninety-six votes were cast in favor of the measure submitted to the people.

Now, the question and the only question before us is, shall we submit this as a separate proposition to the people of this Commonwealth? I cannot see any good reason why we should not. The people have demanded it everywhere all over this broad Commonwealth. All they ask is that we should submit this as a separate proposition, and they will decide it.

Mr. H. G. SMITH. I desire to ask the gentleman—

The PRESIDENT. The gentleman on the floor cannot be interrupted.

Mr. CURRY. I was going to state that if we submit this as a separate proposition to the people of Pennsylvania they will decide it for themselves; and I am quite sure that if we fail to submit it, in other words, if we refuse the people of this Commonwealth a chance to vote for or against this proposition, it will endanger every other proposition that we may submit to them. The people of the Commonwealth are anxious that a fair expression should be had.

There is no impropriety in this; there is no inconsistency in this. I fail to perceive anything in this proposition that would jeopardize one sentence of any other portion of the Constitution which we may submit, because it will be separate. But the objection comes up, will not the people of Philadelphia, as they have not yet been heard, come out in strong force against the temperance movement. This question has been presented. We have no right to estimate how that will be; but some sixty-five counties have been heard from in the Commonwealth, and out of that number forty-two counties have declared in favor of temperance; and being asked to submit this proposition, I claim it is nothing more than fair, it is nothing more than just to the people of this Commonwealth, that we should submit it, and therefore, with all my heart, as I voted first I vote last for the section before the Convention.

Mr. BIDDLE. Mr. President: I feel constrained to differ from the gentleman who has just taken his seat. I have a

very decided conviction that the introduction of this section into our Constitution, though it be put before the people as a separate section—which, by-the-by, is not here provided for—will very seriously jeopard the adoption of such a Constitution as we may prepare and submit. The people interested pecuniarily in this subject, (and it is idle to shut our eyes to the large pecuniary interests which are struck at,) will hardly stop to discriminate nicely between the various portions of our work. They will look just where they are struck at or their interests are affected, and they will see here in this section a determination to break down that which has been built up slowly and in which millions of dollars are invested. I therefore felt the force of what was said on this subject by the gentleman from Columbia, and on that ground, as well as on other grounds, I shall vote against this section.

But there are other considerations. The gentleman who has just sat down makes the opposition to intemperance the basis of his support of the section. Well, sir, if I believed that there would be the slightest efficacy in this section, if adopted, to stay the evil which has been painted with so much earnestness, and sometimes, also, with a good deal of imagination here, I might be disposed to vote for it; but I do not believe anything of the kind. I believe all sumptuary laws are worse than useless. I believe they are passed in the interest of a certain class, a most excellent class of people, but whose zeal too often outruns their discretion; and I believe when they are so passed they are often meant to be disregarded. In a word, I believe with the man in Massachusetts who, when he was asked how the people of his neighborhood were in regard to the Maine liquor law, said: "We are all in favor of the law, but we are all agin its execution." [Laughter.] I believe that will be precisely the effect of introducing such a statute as this into your Constitution. It would be a permanent blot in the whole instrument, because, let gentlemen consider, bad as it may be to have the transitory fugitive laws which are passed by your Legislature disregarded, how much greater will be the evil when a fundamental principle written in the Constitution, made one of the bases on which the whole of our society and legislation rest, becomes a mere mockery and a bye-word? I cannot, by my vote, consent to such a proceeding as this.

I felt the force of what was put so well by the gentleman from Luzerne (Mr. H. W. Palmer) and I voted for his amendment because there is undoubtedly a very wide distinction between the two classes of intoxicating drinks. This Convention did not choose to adopt that amendment. I cannot help thinking that there is a great deal of truth in what the Massachusetts man said. This becomes with them what they call a contest for principles, and they are so engrossed in what they call the contest for principles that they do not seem to care much whether they are executed or not, for they have gained their point. I shall therefore vote against this section altogether.

Mr. J. M. BAILEY. Mr. President: I regret that I am obliged to cast a vote against what some consider a great temperance reform; and as I intend to vote against this section, I desire that the record shall show that I do so only because I do not believe, with many of my temperance friends, that this is a reform in the cause of temperance. It is a fact scarcely to be denied that the measure proposed by the section will be voted down by the people by an immense majority, and the great temperance reform, that has now acquired a foothold in our Commonwealth, will, by an adverse vote on this question, receive a severe blow, which it cannot well bear, and it will drive it back a whole fifty years.

For this reason, as well as those given by the eminent gentleman from Clearfield, (Mr. Bigler,) and other gentlemen in this Convention, I shall vote against this section, but not because I have any feeling against a true temperance reform.

Mr. WRIGHT. Mr. President: I had been disposed to rather congratulate myself that this whole question was settled when it was before this body on another occasion. I was gratified with the large vote then given for the section, and I supposed that as we agreed on it then it would go to the people for their ratification or their rejection. But it seems that some changes are going on. That was a grand remark of the orator of Ashland, that he would rather be right than be President. But there are some men now who would rather be Presidents or judges than to be right.

I plant myself, sir, upon the abstract principle, and by that I will stand or fall. Thank the Lord, I am not a candidate for

office. I voted against the amendment of my brother from Luzerne (Mr. H. W. Palmer) because it was not broad enough in its scope. To be sure it struck down the distiller; but that other fraternity of the craft much more numerous would have other places open for the destruction of the citizens nevertheless.

Now, sir, allusion has been made to the local option vote, but it was lost in the State by only ten thousand. I think that is a pretty close vote considering the immense population of Pennsylvania. What right has any man to say that if the vote were taken to-day it would go differently, that it would go the other way. My impression is that if the vote had been taken one week or one month after it was, the result would have been far different. The friends of temperance never imagined their power; they never counted upon the large majority that would be given for it in many of our counties.

Why, sir, my county, that little Commonwealth, to my utter astonishment, in all her districts with the exception of three of her cities went against the sale of intoxicating liquors, and if the vote had been taken the day after, that vote would have been doubled. The friends of temperance were astonished and surprised at the power that they displayed.

Now, it is said that that is a declaration of the opinion of the people and we must stop at that, and some whose knees tremble a little back down and say, "The question is decided, and I will vote to-day against what I voted for yesterday." I do not belong to that class. I shall vote to-day as I voted before, and if there are not ten men to go with me my vote shall be recorded on that side of the question. The people have a right to ask this, and they have asked it. I have had the honor of presenting at that table petition after petition, and all on the same side. Not one upon the reverse side has been presented to me; and I deem it to be my duty, representing those petitions, to stand here to-day and to state how I shall vote on this question. You will find me, sir, where you found me before. I believe that if there is anything the people ask for or demand to-day, it is an opportunity of deciding by their own ballots whether this monster that has had control so long shall be restrained, or whether he shall be permitted to go onward in the work of destruction. I go for the section as reported by the committee: I believe it to

be right and just, and I am not confined or restricted by any question of policy or by any fear of responsibility.

Mr. T. H. B. PATTERSON. Before the vote is taken I desire to say one word. I shall not detain the Convention one minute. I wish to say on behalf of Allegheny county, that Allegheny county is for temperance to-day; that the vote on the local option law taken there was a gross fraud; that whole precincts were counted out in the ballot-box, and many wards in our city gave majorities that they had not legal voters to represent.

Now, I wish to ask this Convention to pause one moment, and I ask the men who are turning their faces on the position they took on this question before, to consider where they are placing themselves. The people of Pennsylvania ask simply for a separate submission of this question. The committee to whom this question was referred and who reported this section for separate submission, with the distinct understanding that it should be so submitted, did so on the petitions of thousands of the people of Pennsylvania. Since the local option law was voted upon, the only petitions that have come in here have come asking for the submission of the identical section as we passed it in committee of the whole. Now, I ask delegates to stand up to their principles, and give the people an opportunity to vote fairly and squarely on this question. If the liquor men are as powerful with the people as they appear to have been in this Convention, then the result is not doubtful.

If there is a question of principle involved here, and it was right for us to pass the section in committee of the whole, it is right to pass it now. The vote on the local option law has nothing whatever to do with the question. That was a question of locality, and the measure was actually defeated in many localities not because they were opposed to the principle, but because by the terms of that law it went into immediate effect and would have involved the destruction of property to the amount of millions of dollars. That was the argument used in our county and all over the State as a plea to get temperance men to stay at home, and thousands and thousands of temperance men in our county and all over the State staid at home because by that law their neighbors' property would be involved in destruction, and not because they were in favor of liquor as against local option.

Sir, if we are to be influenced by the argument that if this section is submitted as a separate proposition, we would simply be declaring that the people of Pennsylvania are such stupid fools that they will vote down other provisions of the Constitution which would be for their benefit, because we had insulted the liquor men by submitting a question of this kind; if such a position is correct, then I say we had better shut up shop, abandon our work, and go home to-day. If we are to be scared out of every reform by being told that if we submit a section that will be obnoxious to a few men here and there, they will turn in and defeat our whole work, then I say we had better quit at once.

But, sir, I desire to say further that liquor men of our county have told me that they wanted this submitted as a separate clause. They said they had no objection to it; they wished to have a fair, square vote of the people on this question and see what their relative strength was; they were not afraid of it, but desired it, and hoped the Convention would so submit it.

Now, gentlemen, let us stand upon principle. Let us stand by our votes as we have recorded them before, and if the people desire to vote down this section they will do so, but they will respect the integrity of the men who stood up for their principles and gave the people what they asked. But if we go back upon our former action because we are scared by the local option law and say that the proposition we adopted was not a principle, but a mere question of expediency, the people of Pennsylvania from one end of the State to the other will look upon us with contempt as a set of demagogues and politicians. I ask for a fair, square, conscientious vote from every delegate on this question of a separate submission of this section, as it shall be submitted. There is not a member of this Convention who is in favor of it, that asks for its submission along with the rest of the Constitution. All intend this section to be submitted separately.

Mr. MACVEAGH. I desire simply to say that I have listened to this debate from the beginning to the close, and I have not yet heard any advocate of this proposition offer a single reason why it is a proper measure for a Constitutional Convention to incorporate into the fundamental law.

Mr. HOWARD. Since this matter was considered in committee of the whole—

The PRESIDENT. The gentleman cannot refer to what occurred in committee of the whole.

Mr. HOWARD. I am not going to refer to what occurred there; I only refer to a certain point of time, and I simply say that since that time this question has been submitted to a vote of the people, and it has been submitted to a vote of the people of Allegheny county. I believe it was fairly submitted, and I believe that each party struggled to bring out its vote at the polls. As some evidence at least of what the opinion of that county is, I may say that the two members of the Legislature that prominently voted against the local option law, were the only two that were unanimously renominated by the people to go back to Harrisburg and represent them; and after a strong and exciting canvass between eight and nine thousand of a majority was polled against this measure. The temperance men were beaten by that large majority. I feel disposed myself to obey the voice of the people on this question. It has been submitted to them as fairly as we ever could submit it by this Constitution, and therefore it is that I am opposed to this section and shall vote against it. I favored it before, but I oppose it now because I believe the people are hostile to it.

The PRESIDENT. The question is on the section, on which the yeas and nays have been ordered.

The question being taken by yeas and nays, resulted, yeas forty-four; nays sixty, as follows:

YEAS.

Messrs. Andrews, Baer, Baily, (Perry,) Baker, Bowman, Broomall, Brown, Carter, Clark, Cochran, Craig, Curry, Darlington, DeFrance, Dunning, Finney, Fulton, Funck, Hazzard, Horton, Lambertson, Landis, Lawrence, Lear, MacConnell, M'Murray, Mantor, Minor, Palmer, G. W., Palmer, H. W., Patterson, T. H. B., Patton, Porter, Purviance, John N., Reed, Andrew, Runk, Russell, Simpson, Struthers, Turrell, Wherry White, David N., White, Harry and Wright—44.

NAYS.

Messrs. Achenbach, Addicks, Alricks, Bailey, (Huntingdon,) Bannan, Biddle, Bigler, Black, Charles A., Black, J. S., Boyd, Buckalew, Campbell, Carey, Cassi-

dy, Church, Corbett, Cronmiller, Curtin, Cuyler, Dallas, Davis, Dodd, Edwards, Ellis, Ewing, Fell, Gilpin, Guthrie, Hanna, Hay, Hemphill, Heverin, Howard, Hunsicker, Lilly, MacVeagh, M'Clean, M'Culloch, Mott, Newlin, Patterson, D. W., Pughe, Purman, Read, John R., Reynolds, Rooke, Ross, Smith, H. G., Smith, Henry W., Smith, Wm. H., Stanton, Temple, Van Reed, Walker, Wetherill, Jno. Price, Wetherill, J. M., White, J. W. F., Woodward, Worrell and Meredith, *President*—60.

So the section was rejected.

ABSENT.—Messrs. Ainey, Armstrong, Barclay, Bardsley, Bartholomew, Beebe, Brohead, Calvin, Collins, Corson, Elliott, Gibson, Green, Hall, Harvey, Kaine, Knight, Littleton, Long, M'Camant, Mann, Metzger, Mitchell, Niles, Parsons, Purviance, Samuel A., Sharpe and Stewart—28.

The CLERK read the next section as follows:

SECTION 37. The Legislature shall, by law, empower the Secretary of Internal Affairs to prepare a system of weights and measures and gauges for solid or liquid merchandise, and also the requisite implements, tests and instructions; and complements of these shall be furnished to each county and municipality, which may, each for itself, appoint officers for the inspection of merchandise, manufactures, or live stock; but no State office shall be continued or created for such purposes.

Mr. CURTIN. I offer the following as a new section, by way of amendment, here:

"The Legislature may make appropriations of money to institutions where the widows of soldiers are supported or assisted, or where the orphans of soldiers are maintained and educated."

The PRESIDENT. The question is on the amendment.

Mr. HARRY WHITE. There is no difficulty whatever about that being done at present. I apprehend that this is an attempt to get up the same question that was settled yesterday, and an attempt to appeal to the patriotism of members of this Convention. I think there are as good friends of the soldier on this floor as any delegate who offers an amendment of the character just read, who are in favor of the policy which was settled after a protracted contest yesterday; and I submit that the Legislature has the power now, with the assent of two-thirds, to ap-

propriate to any institution at which soldiers' orphans are kept. I submit furthermore that if a contract is made between the State authorities and any institution of this Commonwealth to maintain soldiers' orphans at the same rates and upon the same terms that other institutions which are under the control of the State do, that is a legal claim upon the Commonwealth, and after adjudication of course it is settled and paid under the appropriation. It may not be known to all the delegates here, but delegates will understand that the annual appropriations that are made to the institutions in which soldiers' orphans are educated and maintained are under the control of the State. The gentlemen who conduct those institutions are under the direction of the Superintendent of Soldiers' Orphans of the Commonwealth; and I submit in the sections which we adopted yesterday there was no effort, there was no desire by direction or indirection, to interfere with the policy which has hitherto obtained in the Commonwealth in this regard, and I trust that the Convention will not interfere with the policy which was inaugurated yesterday.

Mr. CURTIN. This amendment is intended to reach institutions where the orphans of soldiers are maintained and educated, which are not under the direction of the State and the supervision of the superintendent of soldiers' orphans. There are such institutions in the State, and two of them are entirely sectarian in their organization. One of them is one of the very best, if not the best, regulated institutions of that kind in the State; and there are such institutions where aid has been afforded to the widows of soldiers.

This amendment of mine does not dislocate the section of the article which was proposed by the chairman of the committee and passed by this Convention yesterday. It only permits the Legislature to continue appropriations to these most meritorious wards of the State; and it must be remembered that in less than six years from this time there will be no orphan of a soldier to maintain, or nurture or care for.

I trust, therefore, that the Convention will pause before they continue in this article a provision which, unless modified by some such amendment as this, will, as I allege, positively and in terms prohibit such appropriations. I trust we shall not compel the Legislature to withdraw these appropriations, and thereby

destroy one or two, if not more, of the most beneficent charities of the State.

I have submitted the amendment in good faith. As the section of the article to which I have referred has passed and received the approbation of a majority of this Convention, I do not desire to torture their patience by attempting its reconsideration, but I offer this amendment in good faith for the protection of a class of our people, who deserve the protection and the security and the money of the people taken from the public treasury.

MR. BROOMALL. Mr. President: I am very sorry that this question has been opened again, because it is the very question that was settled yesterday; but it is a matter which probably the gentleman who offers the amendment does not see in the same light in which I see it. He is proposing to do away with the whole section which we carried yesterday by so large a vote, in favor of any institution that will take within its walls two soldiers' orphans or two soldiers' widows. He does not propose that the Legislature may pay for the education of soldiers' orphans and the maintenance of their widows in these institutions; but he proposes that an institution established for any sectarian purpose, by simply getting within its walls two of the individuals that he favors, may be entirely exempt from the prohibition inserted in this Constitution by the section which we adopted yesterday after full debate.

The gentleman may amend his amendment so as to avoid that difficulty; but he cannot get over the difficulty that it is spoiling and perverting the noble sectarian charities of the State by allowing them to dip their hands into the public treasury. I hope this proposition will be voted down. I want to see those institutions kept pure as they are now, and the only way to keep them pure is to keep them distinct charities as they are now, without connection with the State.

MR. CURTIN. I will modify the amendment so as to relieve it of the objection stated by the gentleman from Delaware, by making it read: "Existing institutions where the widows of soldiers are supported," &c.

MR. BROOMALL. That does not do away with the difficulty.

THE PRESIDENT. The gentleman from Centre modifies his amendment, and it will be read as now modified.

THE CLERK. The amendment as modified is to insert the following, as a new section:

"The Legislature may make appropriations of money to the existing institutions where the widows of soldiers are supported or assisted, or where the orphans of soldiers are maintained or educated."

MR. BUCKALEW. I would suggest that the proper place to raise this question would have been in the nineteenth section, where there is an exception, "except pensions or gratuities for military service," and there it would have been proper to add, "or for the support of soldiers' widows and orphans." There, by a single clause, the member from Centre could have raised the question, and his proposition would have been put in the proper classification.

I do not understand that the chairman of the committee gives a satisfactory answer to this proposition when he says that by a two-thirds vote these appropriations can be made. I do not understand that under the eighteenth and nineteenth sections the State will be at liberty to appropriate a dollar, except to an institution under exclusive State management. That is my understanding of those sections. Heretofore the State, by contract, has had its soldiers' orphans supported by literary institutions not under exclusive State management, though subject to State visitation; and I would like to vote, if the question can be properly raised, to continue that power. I do not know whether or not it will be exercised hereafter.

MR. CURTIN. If there were any parliamentary way of raising the question in that form, I would do it.

MR. BUCKALEW. I suggest to the gentleman that the proper mode would be, as soon as the pending section is voted upon, to move to reconsider the nineteenth section, and then to insert in the exception to that section "the support of soldiers' widows and orphans," and in that form I will vote with the gentleman because I understand that as to these meritorious classes of our people, they would then be left on the same footing that we have now placed the question of pensions and gratuities.

MR. CURTIN. All I want to do is to put them on the same footing with soldiers who receive pensions.

MR. BUCKALEW and others. Then let this amendment be withdrawn.

MR. CURTIN. Very well, I withdraw my amendment for the present.

Mr. BROOMALL. I desire to offer an amendment as a new section.

Mr. CURTIN. I think on reflection I shall not withdraw my amendment, but ask for a vote upon it. I do not want to give it up.

The PRESIDENT. The question is on the amendment of the delegate from Centre (Mr. Curtin.)

Mr. EWING. As I understand the proposition offered by the gentleman from Centre, it is simply opening a wide door again by which the Legislature may make appropriations to sectarian institutions or to a certain one, two or three institutions which are sectarian. I do not understand the gentleman from Centre to claim that, as the sections already adopted stand, the Legislature may not continue to support the widows and orphans of soldiers; but he claims that as they stand the State cannot appropriate money to sectarian institutions, and he says that one or two of those institutions where these widows and orphans have been supported are strictly sectarian. I know nothing about the institutions to which he refers, but if such be the case I, for one, say it has been a gross abuse of legislative power or of executive power whereby such arrangements have been made. I hope that the door will not be opened in the Constitution for such abuses, and especially if, as the gentleman says, the necessity will only continue for six years longer. That being the case, we certainly do not want this provision in the body of the Constitution. If there are any contracts or arrangements which should be kept up for a few years which justice or good faith on the part of the State requires should be maintained for a short time, let provision for them be put in the schedule and not in the body of the Constitution.

Mr. W. H. SMITH. I shall insist on keeping the section already adopted as it is. I do not believe there is in it any prohibition on the Legislature as to providing for the maintenance of soldiers' orphans at all. The section says that "no appropriation * * * shall be made for charitable, educational or benevolent purposes to any person or community, nor to any denominational or sectarian institution. It seems to me that to vote money for the support of soldiers' orphans and widows is not to vote money to "charitable, educational or benevolent purposes to any person or community," or "to any denominational or sectarian institution." The course will be as it

has been heretofore, I think, to vote a certain sum for the maintenance of these persons wherever they may be. They may be boarding at different institutions; and paying their board on proper vouchers is not voting money to those institutions, but it is voting money to support those orphans and widows. When that board money is paid to the institutions for the support of the widows or paid for the education of the orphans, it is not an appropriation for the institutions, but an appropriation for the soldiers' orphans and widows. I think the Legislature is abundantly able under the powers already given them by the sections we have adopted to make such an appropriation.

The PRESIDENT. The question is on the amendment of the delegate from Centre.

Mr. CURTIN. I call for the yeas and nays.

The PRESIDENT. It requires ten members to second the call.

Messrs. Curry, Cuyler, MacVeagh, Worrell, J. M. Wetherill, Runk, Newlin, Dallas, Hay, J. N. Purviance, Baer, H. W. Palmer and Russell rose.

The PRESIDENT. The call for the yeas and nays is seconded.

The question being taken by yeas and nays, the result was as follows, viz.:

YEAS.

Messrs. Baer, Bailey, (Huntingdon,) Baker, Biddle, Bigler, Black, Charles A., Bowman, Brown, Buckalew, Campbell, Carey, Cassidy, Cochran, Curtin, Cuyler, Dallas, Dodd, Funck, Guthrie, Hay, Hazard, Hunsicker, Lamberton, Landis, Lawrence, Lear, MacVeagh, M'Clean, M'Culloch, Newlin, Palmer, G. W., Palmer, H. W., Patterson, D. W., Porter, Purman, Purviance, John N., Read, John R., Reynolds, Runk, Russell, Smith, Henry W., Stanton, Wetherill, J. M., Wetherill, Jno. Price, Wherry, White, J. W. F., Woodward, Worrell and Meredith, *President*—49.

NAYS.

Messrs. Achenbach, Baily, (Perry,) Ban-
nan, Black, J. S., Boyd, Broomall, Church,
Corbett, Craig, Cronmiller, Curry, Dar-
lington, Davis, Dunning, Ellis, Ewing,
Finney, Fulton, Hanna, Hemphill, Hor-
ton, Howard, Lilly, MacConnell, Mantor,
Minor, Mott, Patterson, T. H. B., Patton,
Simpson, Smith, Wm. H., Struthers, Tur-
rell, Walker, White, David N. and White,
Harry—36.

So the amendment was agreed to.

ABSENT.—Messrs. Addicks, Ainey, Alricks, Andrews, Armstrong, Barclay, Bardsley, Bartholomew, Beebe, Brodhead, Calvin, Carter, Clark, Collins, Corson, De France, Edwards, Elliott, Fell, Gibson, Gilpin, Green, Hall, Harvey, Heverin, Kaine, Knight, Littleton, Long, M'Camant, M'Murray, Mann, Metzger, Mitchell, Niles, Parsons, Pughe, Purviance, Sam'l A., Reed, Andrew, Rooke, Ross, Sharpe, Smith, H. G., Stewart, Temple, Van Reed and Wright—47.

The PRESIDENT. The question is on the thirty-seventh section as amended.

The section as amended was agreed to.

Mr. BROOMALL. I offer the following amendment, to come in as a new section :

"SECTION —. The Legislature shall once in every five years submit to a vote of the electors of the State the question whether or not the sale of intoxicating liquors, or any admixture thereof, to be used as a beverage, shall be prohibited in the State, and shall carry into effect the result of such vote by appropriate laws."

The amendment was rejected.

Mr. NEWLIN. I offer the following as a new section.

"The Legislature shall enact liberal exemption laws, and no waiver of the benefit thereof shall be valid."

I do not desire, Mr. President, to detain the Convention for any length of time on this proposition. I simply wish to call attention to the fact that in most of the States of the Union there are now liberal exemption provisions contained in the organic law, and in a number of them the phraseology is such that no waiver can be permitted. In this State, however, we know that it is otherwise.

My proposition, I submit, is not liable to the objection that it is of a legislative character, because it leaves the amount of exemption entirely to be fixed from time to time by the law-making power; but it prevents the benefit of the exemption being waived. It seems to me the only logical reason upon which an exemption law can be based is that the enactment is required for the protection of the persons who are to be benefited by it; and if they are allowed to waive that protection, the provision becomes nugatory. Those who are able to make binding contracts in such manner as to protect themselves, do not require any such provision, and those who do require an exemption should not be allowed to waive it. We frequently have cases where a dissolute

and drunken husband waives the benefit of the exemption law either in giving a judgment under it, or in signing a lease or other instrument, and his family are brought to utter destitution. I do not think that any sound policy of law requires that, and hence I propose to cut it off absolutely.

Mr. LILLY. The gentleman from Columbia (Mr. Buckalew) desires me to suggest the word "reasonable" instead of "liberal."

Mr. NEWLIN. I will accept the modification.

The PRESIDENT. The amendment will be so modified.

Mr. LILLY. I am in favor of this proposition of the gentleman from Philadelphia. There has been an immense amount of harm done all over this Commonwealth by the waiver of exemptions. In the first place the exemption laws are entirely for the benefit of the wife and the children of different parties; but a man comes along and induces the head of a household to buy a sewing machine, or a clock or something else and takes his note. He does not ask him to pay any money, but he takes his note; and when he comes to read that note, on the bottom is a printed form waiving the exemption of everything. Then the time comes along in a few months when the note is due and everything is swept away from that man. Now, this provision is necessary to protect the wife and the children. I believe that it ought to be adopted.

Mr. BAER. I move to amend by striking out the whole amendment and inserting the following in lieu of it:

"The privilege of a debtor, being a householder or head of a family, to enjoy the necessary comforts of life shall be recognized by wholesome laws exempting a reasonable amount of property, not exceeding in value \$1,000, from seizure and sale for the payment of any debt or liability contracted after the adoption of this Constitution: *Provided*, That such exemption may be waived by the debtor at the time of making the contract, and not otherwise. In addition to the exemption above authorized, the tools of a mechanic, the sewing machine of a wife, widow, or maiden, and the household furniture of a householder or head of a family, not exceeding in value \$300, shall be absolutely exempt from all liability whatever, and shall not be sold or assigned without the consent of husband and wife, where that relation

exists, signified in such manner as may be prescribed by law. And all contracts waiving this absolute exemption are hereby declared void."

I wish to call the attention of the members of the Convention to the fact that the proposition of the gentleman from Philadelphia authorizing the Legislature to pass liberal exemption laws does not fix the amount. I propose to make \$1,000 the limitation, and to provide that that limitation may be waived at the time the contract is made, but not otherwise. But my amendment goes further and provides that three hundred dollars shall be absolutely exempt from all liability whatever, so that three hundred dollars worth of property, including the household furniture, the bed and bedding, and something of that kind, shall be forever exempted, and that this exemption may not be waived by the debtor at any time, nor shall that portion be sold or assigned without the consent of the husband and wife, where that relation exists, which, although legislative in its character, is, I think, highly proper for this Convention to do.

I admit it is legislative in character, but I also assert that the Legislature has failed up to this time to guarantee to poor men their rights in this respect. At the very last session of the Legislature they asked for protection in this regard, but it was refused, and it always will be as long as the legislative body is composed of politicians. They will look at the chances of re-election. This body is organized differently, composed of men who have no regard to the political future, and who can afford to make provisions to protect the poor man against the ravages of traders who sometimes take advantage of his necessities.

As the matters now stand the exemption law of this State amounts to nothing at all. A sharp dealer procures a waiver note, a note that is called a cut-throat in common parlance, which simply takes away every farthing that the family have, and the law may be waived by any man. He may go and contract a debt for whiskey, and after the contract is made, sign a note of this kind which takes away every dollar that the family have.

If you look at pages 601, 602 and 603 of the volume of American Constitutions you will find that eighteen of the States of this Union have provided liberal exemption laws, and Pennsylvania, the great Keystone of the arch, has nothing that is worthy of her great name. It is high

time that something should be put in the fundamental law that shall protect the poor man in these days of extravagance and high prices. The \$300 of exemption to-day does not amount to as much as the four beds and cow did under the former laws.

If you want to win the heart and the sympathies of the poor man to our work here, do one act at least in his favor. All that we have done up to this time is for the rich; not a single thing do I see yet that is in favor of the poor man. Let us do this, and we will merit and receive the prayers of hundreds and thousands of poor women of this Commonwealth who are to-day in distress because of an exemption law on the statute book that amounts literally to nothing, and it is a disgrace to the State. I hope that the provision I have offered will pass, and that by a unanimous vote.

Mr. WORRELL. I offer an amendment, to strike out the word "maiden" and insert the words "single women."

The PRESIDENT. That amendment is not in order, as there is an amendment to an amendment pending.

Mr. HARRY WHITE. I must protest against the observations of the delegate at large from Somerset (Mr. Baer) when he says that everything that has hitherto been done by this Convention is in the interest of the rich against the poor. I protest that that delegate has not done justice to his integrity when he makes that statement. Every restriction which we are throwing around the Legislature is in the interest of all the citizens of this Commonwealth, the poor more than the rich; the restrictions we are throwing around corporations, the prohibition against special privileges, is in the interest of the individual citizen and against the aggregation of capital. Enough for that, Mr. President.

I am opposed in this place to the incorporation of this section. It is not the right place for it to be put. We are now considering the article on legislation. I submit that the proposition of the delegate from Philadelphia (Mr. Newlin) is so vague and indefinite that it practically amounts to nothing. If this Convention is going to assume the privilege of doing something in this regard, let it create a homestead law under the proper head, and place it in the article entitled "the Declaration of Rights." That is where it belongs. Any instruction to the Legislature to pass an exemption law is like a

proclamation to the idle winds; you have no assurance whatever, that that which the delegate from Somerset so earnestly advocates will be secured. I am, myself, in favor of a specific homestead exemption law. I am in favor of designating that which shall be exempt from the clutch of the creditor. I am in favor of exempting the homestead of every man in this Commonwealth to the value of a thousand dollars and such personal property, indicating it, as shall be deemed equivalent in value. When the proper time comes, when the article on the Declaration of Rights is under consideration and the delegate from Somerset or any other delegate offers that proposition, I shall cheerfully vote for it; but I submit that under the head of the article on legislation it is improper, and I hope it will not pass at this time.

MR. NEWLIN. I trust the Convention will not adopt the amendment proposed by the gentleman from Somerset, because it is liable to the objection that it legislates and goes into detail.

I desire, also, to call the attention of the Convention to the particular objection urged to my amendment by the chairman of the Committee on Legislation. It occurs to me that it is a very favorite method here of defeating a proposition that cannot be defeated in any other way, to suggest that it is a very proper thing, but that it belongs somewhere else. Men may differ as to where this provision should go, but it seems to me that this is as good a place as any, and is the proper place, for we are here considering the article on legislation, and we are here making a mandate to the legislative body, and I can conceive of no other and better place to put this provision.

MR. D. W. PATTERSON. I merely wish to observe briefly that I am opposed to the amendment and to the amendment to the amendment, and I feel that I should oppose both because I am a friend of the poor man. I am opposed to such action because it is mere legislation in the first place, and it is manifest to every member that our Constitution will be very voluminous and we should not increase it more than we can possibly avoid. In the second place, I maintain that the proposition would work a hardship to the poor man. Gentlemen say that the existing exemption laws work a hardship. I say that my experience and observation has been very different. Take away the restraint of

waiving the exemption and you do an injury to the poor man and the man of limited means. I have seen that provision alone afford to a man an opportunity to get a start in business, to get a responsible endorser starting him with a small sum that enabled him to succeed in business in after life. I have seen hundreds of times that provision permitting the waiver of the exemption to enable a poor man to get a house and roof over his head and his family, when without that provision he would have been utterly deprived of the comforts of a roof over his head to protect him and his wife and children from the storms. Hence I maintain that the principle of allowing the waiving of the exemption is a great advantage to the poor man, and I should be sorry, with my present convictions, to see it taken away.

I hope that the amendments will be voted down by this Convention because truly they are legislation, and I maintain that the Legislature at any time are willing to do all that they can to advance the interests of the poor man.

MR. DARLINGTON. I wish to add a single word only. It strikes me that all this effort is in the wrong direction. While I agree with every gentleman here—I presume there is no difference of opinion among us—that a poor debtor should be allowed the privilege of having a certain amount of his property exempt from execution, so that his wife and family should not be turned out of doors, yet it is a privilege which he may waive if he sees fit and which he does waive if he does not claim. I know that this has caused a family sometimes distress. You cannot make any law or any provision of your Constitution that will not at some time or other have that effect in some individual application of it. You must make a law for all alike. Now, why should not I, supposing myself a single man, with no family dependent upon me, be allowed to say to another, “you lend me such an amount of money, and, if I do not pay it, obtain your judgment and execution and sell all I have?” Why restrict the power of the borrower to contract with his creditor that in the event of his inability to pay in cash the creditor may take everything the debtor has, in execution in the case supposed? Nobody is dependent on me; nobody has a better right to it than my creditor. If the Legislature can devise a scheme whereby a poor man's family shall be protected from

the ravages of his creditors, very well; but you must first protect the poor man's wife from his own bad conduct, stop his drinking, take away from him the power to get in debt, and say that his wife shall own the property in the house, if you choose, and that it shall not be taken away for his debts; secure the wife, provide for the family; but allow a man, if he chooses, to give away every dollar of his property to his creditors. That is for the Legislature to do, not for us, and I do not see how we can accomplish anything like justice by attempting to meddle with it at all.

The PRESIDING OFFICER. [Mr. Guthrie in the chair.] The question is on the amendment of the delegate from Somerset (Mr. Baer) to the amendment of the delegate from Philadelphia (Mr. Newlin.)

The amendment to the amendment was rejected.

Mr. BAER. I call for the yeas and nays. ["No." "No."]

The PRESIDING OFFICER. Who seconds the call?

Mr. Boyd, Mr. Van Reed, Mr. Campbell and Mr. Patton rose to second the call.

The PRESIDING OFFICER. There are not ten gentlemen up seconding the call for the yeas and nays. The question recurs on the amendment of the gentleman from Philadelphia (Mr. Newlin.)

Mr. NEWLIN. I call for the yeas and nays.

The PRESIDENT. Is the call seconded?

Mr. Campbell, Mr. Boyd, Mr. MacVeagh, Mr. Buckalew, Mr. Mott, Mr. Davis, Mr. Baker, Mr. Russell, Mr. Simpson, Mr. Corson, Mr. Broomall, Mr. D. N. White and Mr. Van Reed rose to second the call.

The PRESIDENT. The yeas and nays are ordered.

Mr. WOODWARD. If I understand this amendment it deprives a poor man of the opportunity of waiving the exemption laws by agreement. ["Yes."] I do trust that such a proposition as that is not to be inserted in the Constitution of Pennsylvania. It will operate with tremendous severity upon the debtor class.

The PRESIDENT. The yeas and nays will be taken on the amendment.

The yeas and nays were taken and were as follow, viz:

YEAS.

Messrs. Achenbach, Baer, Baker, Bidle, Boyd, Broomall, Buckalew, Campbell, Cochran, Corson, Craig, Davis, De France, Gibson, Guthrie, Hazzard, Landis, Lilly, MacConnell, M'Clellan, Mott, Newlin, Patton, Purviance, John N., Russell, Simpson, Smith, Henry W., Smith, Wm. H., Stanton, Turrell, Van Reed, White, David N., White, J. W. F. and Wright—34.

NAYS.

Messrs. Baily, (Perry,) Bailey, (Huntingdon,) Bigler, Black, Charles A., Black, J. S., Bowman, Brown, Cassidy, Church, Corbett, Cronmiller, Cuyler, Darlington, Dunning, Edwards, Ewing, Finney, Fulton, Gilpin, Hemphill, Horton, Howard, Hunsicker, Lawrence, Lear, Littleton, MacVeagh, M'Culloch, Mantor, Minor, Palmer, G. W., Palmer, H. W., Patterson, D. W., Patterson, T. H. B., Pughe, Purman, Read, John R., Reed, Andrew, Reynolds, Runk, Struthers, Walker, Wetherill, J. M., Wetherill, Jno. Price, Wherry, White, Harry, Woodward, Worrell and Meredith, *President*—49.

So the amendment was rejected.

ABSENT.—Messrs. Addicks, Ainey, Alricks, Andrews, Armstrong, Bannan, Barclay, Bardsley, Bartholomew, Beebe, Brodhead, Calvin, Carey, Carter, Clark, Collins, Curry, Curtin, Dallas, Dodd, Elliott, Ellis, Fell, Funck, Green, Hall, Hanna, Harvey, Hay, Heverin, Kaine, Knight, Lamberton, Long, M'Camant, M'Murray, Mann, Metzger, Mitchell, Niles, Parsons, Porter, Purviance, Sam'l A., Rooke, Ross, Sharpe, Smith, H. G., Stewart and Temple—49.

Mr. BOYD. I offer the following additional section:

"The Legislature shall not ratify any amendment, or proposed amendment, to the Constitution of the United States without first submitting such amendment to the vote of the people, and the Legislature shall obey and carry out the will of the majority as expressed in such vote."

Mr. President, I do not propose to discuss the section, but merely to state the object of it, which the delegates, if they have heard the amendment distinctly, will understand to be that hereafter, when Congress shall propose an amendment to the Constitution of the United States, to be submitted to the Legisla-

tures of all the States for ratification, before the Legislature of Pennsylvania shall vote upon the proposed amendment they shall submit the proposition to a vote of the people; and when the people have voted upon it, the Legislature shall obey the popular voice by recording their votes for or against that amendment, just as the people have voted upon it.

That is the whole proposition, and I think it is sufficiently explained to bring it within the understanding and comprehension of every gentleman here. I know the reluctance of the Convention to hear debate at this advanced hour, and I simply, therefore, without further remark, submit the proposition and call for the yeas and nays upon it, so that we can dispose of it.

The PRESIDENT. Is the call sustained?

Messrs. Worrell, Bigler, J. R. Read, Hunsicker, J. M. Wetherill, Woodward, Biddle, W. H. Smith, J. S. Black, Patton, Wherry, Gibson, Gilpin, Hemphill, C. A. Black and Landis rose to second the call for the yeas and nays.

The PRESIDENT. The call is sustained.

Mr. MACVEAGH. Before the vote is taken is it not well for us to consider whether or not this matter is not entirely under the control of the National Congress. This is the language of the National Constitution upon the subject:

"Congress, whenever two-thirds of both Houses shall deem it necessary, shall propose amendments to this Constitution, or on the application of the Legislatures of two-thirds of the several States, shall call a Convention for proposing amendments, which, in either case, shall be valid, to all intents and purposes, as part of this Constitution, when ratified by the Legislatures of three-fourth of the several States, or by Conventions in three-fourths thereof, as the one or the other mode of ratification may be proposed by Congress."

This retains the entire control of it, as it seems to me, in the National Congress.

Mr. BIGLER. There is certainly no difficulty about this amendment whatever. The Constitution of the United States proposes two plans of amendment. One of the means of ratification is by a Convention. That would come directly from the people. This proposed section brings the people again directly into the issue by requiring the submission of any proposed amendment to popular vote.

Mr. EWING. I would like to ask the gentleman a question. Suppose the Leg-

islature should ratify an amendment in spite of the people, what then?

Mr. BOYD. I understand that the Legislature—

The PRESIDENT. The gentleman cannot be interrupted, and conversation on the floor cannot be allowed.

Mr. BOYD. The gentleman desires to be interrupted and has addressed me a question. I only proposed to reply.

The PRESIDENT. The gentleman on the floor cannot be interrupted.

Mr. BOYD. I did not interrupt him; I rose to respond to his inquiry.

Mr. DARLINGTON. I think it would be well for us to reflect for a moment. Can this Convention deny the Legislature the power to ratify an amendment proposed by Congress to the Constitution of the United States? Is it within the power of this Convention to say to the Legislature, "you never shall agree to an amendment to the Constitution of the United States?" I take it, it is not. It is above and beyond our control. If we cannot, then the people of the State cannot say to the Legislature, "you shall not ratify an amendment to the Constitution of the United States;" and if they cannot say that, they cannot fix bounds or limits to the action of the Legislature. The Legislature is a body that, when elected, has this duty to discharge, not under this Constitution, but under the Constitution of the United States, and it is beyond our power and beyond the power of the people of the State to deny them what is their solemn duty.

The PRESIDENT. The question is upon the amendment of the delegate from Montgomery, (Mr. Boyd,) upon which the yeas and nays have been ordered.

The yeas and nays were taken, and were as follow, viz:

Y E A S.

Messrs. Achenbach, Baer, Bailey, (Huntingdon,) Biddle, Bigler, Black, J. S., Boyd, Buckalew, Campbell, Cassidy, Church, Dallas, Gibson, Gilpin, Guthrie, Hemphill, Hunsicker, Landis, M'Clellan, M'Murray, Mott, Patton, Purman, Read, John R., Reed, Andrew, Smith, Wm. H., Wetherill, J. M., Wherry, Woodward and Worrell—30.

N A Y S.

Messrs. Andrews, Baily, (Perry,) Baker, Black, Charles A., Bowman, Broomall, Brown, Cochran, Corbett, Craig, Dar-

lington, De France, Dunning, Edwards, Ewing, Finney, Fulton, Hazzard, Horton, Howard, Knight, Lawrence, Lear, Lilly, Littleton, MacConnell, MacVeagh, McCulloch, Mantor, Minor, Newlin, Palmer, G. W., Palmer, H. W., Patterson, D. W., Patterson, T. H. B., Pughe, Purviance, John N., Reynolds, Runk, Russell, Simpson, Stanton, Struthers, Turrell, Van Reed, Walker, Wetherill, Jno. Price, White, David N., White, Harry, White, J. W. F., Wright and Meredith, *President*—52.

So the amendment was rejected.

ABSENT.—Messrs. Addicks, Ainey, Alricks, Armstrong, Bannan, Barclay, Bardsley, Bartholomew, Beebe, Brodhead, Calvin, Carey, Carter, Clark, Collins, Corson, Cronmiller, Curry, Curtin, Cuyler, Davis, Dodd, Elliott, Ellis, Fell, Fancik, Green, Hall, Hanna, Harvey, Hay, Heverin, Kaine, Lambertson, Long, McCamant, Mann, Metzger, Mitchell, Niles, Parsons, Porter, Purviance, Samuel A., Rooke, Ross, Sharpe, Smith, H. G., Smith, Henry W., Stewart and Temple—50.

MR. W. H. SMITH. I offer as an amendment the following additional section:

"No law shall be passed giving to contractors, builders, landlords, or any other class of creditors, preference or priority of lien against the real or personal property of any debtor."

The amendment was rejected.

MR. BUCKALEW. I hope the chairman of the Committee on Legislation will not insist upon the adoption of this last section. It is clearly unnecessary, simply providing details in regard to weights and measures that they should be regulated by the Secretary of Internal Affairs. We have legislation now upon this subject, and when the Secretary of Internal Affairs is elected, that legislation will be transferred to his office.

MR. MACVEAGH. I join in that respect with the gentleman from Columbia most heartily, and trust that the last section will be voted down.

MR. WM. H. SMITH. I have had some experience in this matter, and know how much such a section as this thirty-seventh section is needed. It is very important to make uniform weights and measures throughout the State. There is now no uniform system by which they can be ascertained, no way in which they can be tested, and merchants and men of business understand this difficulty well. In regard to the State inspections, they are by business men universally considered

nuisances. People in the different sections of the State, where various articles are to be inspected and passed upon, are the proper persons who should appoint an inspecting officer.

I do hope that this section will pass because I know it is very much desired by all men in business that have occasion to use weights and measures to have some certain standard for them.

MR. HARRY WHITE. Mr. President: I merely remark that the thirty-seventh section came into the report without any recommendation on the part of the committee, and the committee will approve the action of the Convention heartily and help in it if they vote it down.

MR. J. PRICE WETHERILL. I desire to correct the chairman of the committee. I do not think this came into the report at all in the way he suggests. It came into the report on the motion of the gentleman from Allegheny.

THE PRESIDENT. The gentleman cannot refer to proceedings of committees.

MR. J. PRICE WETHERILL. A similar section had been rejected by this committee, and it was amended so as to suit the views of all, and in that way it was passed on second reading.

Now, I submit to this Convention that the merchants of the State, and the business men of the city of Philadelphia have really troubled this Convention with very little, and have asked at their hands but very little. Now, this is one thing that they do need. They desire to have the privilege of saying whether they may have inspectors over merchandise or not. They do not desire State inspectors. They ask for the privilege in each municipality of saying whether we shall have inspectors or not. I say, as a Philadelphian, that our State inspectors have been miserable failures, aye, worse than failures. They have led to deception and expense. I need not allude to the debate last winter in regard to the fish inspector who desired to charge a certain amount upon every shallop load of oysters and every basket load of clams. I need not allude to the fact that men knowing nothing about flour have been flour inspectors, and men knowing nothing about lumber have been lumber measurers, and men knowing nothing about grain have been grain measurers. They have been nothing in the world but a parcel of politicians, "tight barnacles" on the Commonwealth, who have fastened themselves to the injury of the trade and the

commercial interests of the city and the State.

There is a great deal in this. I do hope that when the business men of the State ask so little, the lawyers of the State will grant them the little they do ask.

The PRESIDENT. The question has already been taken on the thirty-seventh section; but the Chair will put the question again, as there seems to be a difference of opinion.

The thirty-seventh section was agreed to, there being, on a division, ayes forty-two, noes thirty-two.

The PRESIDENT. The article is gone through. The question is, shall this article be transcribed for a third reading.

Mr. HARRY WHITE. I ask unanimous consent of the Convention to strike out one clause in the tenth section, because it is provided for elsewhere. I ask the Clerk to read the clause about fees and allowances of officers.

The CLERK read as follows:

"Creating, increasing or decreasing the salaries, perquisites or allowances of public officers during the term for which they were elected."

Mr. HARRY WHITE. By inadvertence that clause was placed in the tenth section, whereas we have provided for it in the fifteenth section, in this way:

"No law shall extend the term of any public officer or increase or diminish his salary or emoluments after his election or appointment."

I ask unanimous consent to strike it out. ["No." "No."] Then I move to reconsider for the reason just stated.

Mr. HUNSICKER. I second the motion to reconsider. I voted with the majority.

The PRESIDENT. It is moved to reconsider the vote on the tenth section.

The motion was agreed to.

The PRESIDENT. The section is again before the House.

Mr. HARRY WHITE. I move to amend the section by striking out the line which I have indicated, reading as follows:

"Creating, increasing, or decreasing the salaries, perquisites, or allowances of public officers during the term for which they were elected."

That is a manuscript line which was inserted in committee and reported originally here, and it was stricken out afterwards by direction of the committee because it is provided for in the fifteenth section. I merely want to strike it out here as to prevent repetition.

The PRESIDENT. The question is on the amendment to strike out.

The amendment was agreed to.

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

The section as amended was agreed to.

Mr. HARRY WHITE. I now move that the article be referred to the Committee on Revision and Adjustment.

The motion was agreed to.

LEAVES OF ABSENCE.

Mr. WHERRY. I move that the Convention do now adjourn.

Mr. C. A. BLACK. I desire to make a motion at this time.

Mr. WHERRY. I withdraw the motion to adjourn for the present.

The PRESIDENT. Shall the gentleman from Greene have leave to make a motion at this time? ["Yes."]

Mr. C. A. BLACK. I ask leave of absence for a few days from Monday to attend court.

Leave was granted.

Mr. BIDDLE. I ask that Mr. John M. Bailey be granted leave of absence for Monday next.

Leave was granted.

Mr. HARRY WHITE. I ask leave of absence for Monday, because I am going home and I cannot possibly get back on Monday without traveling on Sunday.

Leave was granted.

THE MILITIA.

Mr. LILLY. I move to proceed to the second reading and consideration of the article reported from the Committee on the Militia.

The motion was agreed to.

The PRESIDENT. The article is before the House on second reading and will be read.

The CLERK read as follows:

ARTICLE X.

MILITIA.

SECTION 1. The freemen of this Commonwealth shall be armed, organized and disciplined in such manner as may be directed by law, and the Legislature shall provide for maintaining the militia by appropriation from the Treasury of the Commonwealth; but the Legislature may exempt from military service those persons having conscientious scruples against bearing arms.

Mr. DARLINGTON. I shall be very glad if the Convention will consent so to change this article as to exempt those persons having conscientious scruples

against bearing arms from military service without leaving it to the Legislature to do it. ("No.") I will not insist upon it if our friends think we had better not.

The PRESIDENT. The question is on the section.

The section was agreed to, there being on a division, ayes sixty-one, noes seven.

The PRESIDENT. Shall this article be transcribed for a third reading?

Mr. DARLINGTON. I move that it be referred to the Committee on Revision and Adjustment.

The motion was agreed to.

THE LEGISLATURE.

Mr. MACVEAGH. I move now that we proceed to the consideration on second reading—

SEVERAL DELEGATES. Let us adjourn.

Mr. MACVEAGH. I am willing to make a motion to adjourn immediately on taking up the article on the Legislature. It ought to come up on Monday. I move that we proceed to the second reading of the report from the committee of the

whole of the article on the Legislature, and then we can adjourn.

The PRESIDENT. The first question in order is the consideration of the article reported by the Committee on the Legislature. Is it the pleasure of the House to proceed with it?

Mr. MACVEAGH. I move that the House do proceed to its consideration.

The PRESIDENT. Is it the pleasure of the House to proceed to the consideration of this article? ("Aye. Aye.") It is agreed to. The first section of the article will be read.

The CLERK read as follows:

"The legislative power of this Commonwealth shall be vested in a General Assembly, which shall consist of a Senate and House of Representatives."

Mr. MACVEAGH. Now, I move that the House adjourn.

The motion was agreed to, and (at two o'clock and forty-two minutes, P. M.) the Convention adjourned until Monday next, at half-past nine o'clock A. M.

ONE HUNDRED AND FIFTEENTH DAY.

MONDAY, June 9, 1873.

The Convention met at half-past nine o'clock A. M., Hon. W. M. Meredith, President, in the chair.

The Journal of the proceedings of Friday last was read and approved.

MEMORIAL.

The PRESIDENT laid before the Convention resolutions passed at the Sixth Annual Sunday School Convention of the Churches of God, held in Philadelphia May 13, 14 and 15, 1873, in favor of the insertion of a clause in the Constitution prohibiting the manufacture and sale of intoxicating liquors, except for medicinal and mechanical purposes; which were laid on the table.

LEAVES OF ABSENCE.

Mr. M'CLEAN. Mr. Atricks being absent for the purpose of attending the funeral of a relative, I ask leave of absence for him to-day.

Leave was granted.

Mr. HEMPHILL. I desire to ask leave of absence for my colleague (Mr. Darlington) for to-day.

Leave was granted.

Mr. BRODHEAD. I ask leave of absence for myself to-morrow.

Leave was granted.

TERMS OF COMMISSIONERS AND AUDITORS.

Mr. BUCKALEW. I ask leave at this time to introduce a proposition for reference.

Leave was granted.

Mr. BUCKALEW. I offer the following proposition for reference to the Committee on Schedule:

SECTION —. All terms for county commissioners and county auditors then pending shall expire in the year 1875, at the general election of which year commissioners and auditors shall be chosen under the amended provisions of this Constitution; and after the said year the office of jury commissioner shall be abolished, and the duty of selecting names for

jury lists be vested in the county commissioners.

The proposition was referred to the Committee on Schedule.

THE LEGISLATURE.

The PRESIDENT. The next business in order is the second reading and consideration of the article on Legislature. Is it the pleasure of the House to proceed to the second reading of that article?

Mr. LILLY. Mr. President: The chairman of the Committee on the Legislature is not in his seat this morning.

The PRESIDENT. The question is not debatable. Does the gentleman from Carbon desire to make a motion?

Mr. LILLY. I move that the Convention proceed to the second reading and consideration of the article on cities and city charters.

The motion was not agreed to.

The PRESIDENT. Will the House proceed to the second reading and consideration of the article on Legislature? ["Aye." "Aye."] The article is before the House on second reading.

The CLERK read the first section as follows:

First. The legislative power of this Commonwealth shall be vested in a General Assembly, which shall consist of a Senate and House of Representatives.

The section was agreed to.

The PRESIDENT. The second section will be read.

The CLERK read as follows:

Second. An election for members of the General Assembly shall be held on the day fixed for the general election next succeeding the adoption of this Constitution, and at the general election held two years thereafter. Their term of office shall begin on the first day of December next succeeding their election; when any vacancy occurs in either House, the Governor shall issue a writ of election to fill such vacancy for the remainder of the term in which vacancy shall have occurred.

Mr. BUCKALEW. I am afraid that by the wording of this section we still fix all our legislative elections in the even years. The first being held at the next election after the adoption of this Constitution, which will probably be in 1874, consequently the elections would be held every second even year thereafter for all future time. I understand that it is the idea of the Convention, if it can be done, to fix our elections in the odd years for members of the Legislature, so as to separate them from Federal elections, and thus more equally and properly distribute our elections over different years. Therefore I am in favor of leaving this question of the time of holding the first election to the schedule. After we get through our work, we can determine what time our amendment will be voted upon, and consequently go into effect.

I therefore move to amend by striking out the first sentence and inserting: "An election for members of the General Assembly shall be held on the day fixed for the general election in every second year."

The PRESIDENT. The question is on the amendment striking out in the second, third, and fourth lines the words "next succeeding the adoption of this Constitution and at the general election held two years thereafter," and inserting "every second year."

Mr. KAINE. I move, as a substitute for the section and the amendment, to strike out and insert—

The PRESIDENT. That amendment is not now in order.

Mr. KAINE. I offer it as an amendment to the amendment.

The PRESIDENT. It is not in order at this time, not being relevant to the amendment now pending.

Mr. D. N. WHITE. I move to amend the amendment to make it every year.

The PRESIDENT. The question is on the amendment to the amendment, striking out "every second year" and inserting "every year."

Mr. D. N. WHITE. Mr. President: I hope this Convention will reconsider their action previously had in regard to having biennial sessions. I think it must be evident to every gentleman who has given it due reflection that we in this State cannot do with biennial legislative sessions. In Illinois, where biennial sessions are established, after the Legislature was in session eleven weeks they had passed but two bills and after being in

session some four months they have adjourned over to meet again this summer or next year, and in every State of any extent, varied in its interests as Pennsylvania is, biennial sessions will prove a failure.

I hope this Convention will not proceed to adopt so dangerous a plan as only holding sessions of the Legislature once every two years. It must be evident to every man in this Convention how difficult it is for a large body to pass a general bill. Here we have one body, and yet we have been in session seven or eight months to adopt a Constitution. Now, suppose we had two bodies, as a Senate and House of Representatives; a bill has to pass each of those bodies, and if the laws, as will be the case under our new Constitution, be general laws, you will find that the two bodies will move very slowly. They will have to move slowly to do good work; and if you have only biennial sessions the State will suffer in its material interests.

I can see nothing to be gained by it. I suppose that the gentlemen who go for biennial sessions do it as a measure of reform. I think by the article on legislation which we have just adopted we have laid down principles of reform which will meet all the difficulties that now exist in the Legislature in a great measure, and the necessity of calling the body together only once in every two years as a reform measure is done away with. Besides that, I cannot see how a body sitting every two years can be any more honest than one sitting every year. Then there is the appropriation bill. If you have biennial sessions you have got to appropriate money for two years ahead; you have got to put vast powers in the hands of your executive officers, and I think that the evil that you create in that way is a great deal beyond any benefit that you can make at present.

I hope, therefore, that we shall go back to annual sessions. I am not so much opposed to biennial elections, though I prefer always to have the representatives very near the people and to elect them the same year they sit. Still, I am not so much opposed to biennial elections as I am to biennial sessions. I think in Pennsylvania we need the Legislature to meet every year, that the great interests of the State require it, and that we shall commit a grave blunder if we pass biennial sessions.

Mr. KAINE. I am opposed to this section. I am opposed both to biennial elec-

tions and biennial sessions. I am in favor of the old Constitution so far as that point is concerned; and the amendment which I got up a few minutes ago to offer, and which I will now read as a part of my remarks, is in these words:

"Representatives shall be chosen annually at the general election, and their term of office shall begin on the first day of December next succeeding their elections."

That is the provision of the old Constitution adding thereto a part of the amendment now proposed, that is, fixing the time at which the Legislature shall convene.

The PRESIDENT. The Chair will state that the question is on the amendment to the amendment, striking out of the amendment offered by the gentleman from Columbia, the word "biennial," and inserting "annual," and remarks at present must be confined to that question. The question to which the delegate refers will arise on the amendment.

Mr. KAINE. I am confining my remarks as near as I can to the amendment offered by the gentleman from Allegheny (Mr. D. N. White.) His amendment I believe is to strike out "biennial" and insert "annual." I am in favor of that, but I am in favor of more than his proposition contains. Therefore, I have read the amendment that I rose to offer a few moments ago.

Mr. EWING. I do not desire at present to discuss the question of annual or biennial sessions. I am in favor of the amendment to the amendment, whether we have annual sessions or biennial sessions, and I wish briefly to give my reasons for it. If we have annual sessions, then I think all will say that we should have annual elections; but even if we have biennial sessions and elect our Representatives for two years and our Senators for four years, which may be done and still have annual sessions, I think there would be a decided advantage in holding elections for Senators and Representatives each year. We can then elect one-half of the Representatives each year and one-fourth of the Senators. The result would be that instead of having, as we now have, an entirely new House each year, we would have at least one-half of the members with experience, and I think there would be a great advantage in that. We would have some change corresponding with the changes that might occur in the popular sentiment, and it would not be so rapid as where all

are elected together. If I had the fixing of the matter I would elect one-half of the House of Representatives each year and one-fourth of the Senate. Therefore I am in favor of the amendment to the amendment, to make our elections annual, striking out the "two years" and inserting "each year."

The PRESIDENT. The question is on the amendment to the amendment.

Mr. D. N. WHITE. I wish to modify my amendment. I have handed the modification to the Clerk.

The PRESIDENT. The amendment to the amendment as modified will be read.

The CLERK. The amendment to the amendment is to strike out the words, "at the general election held every two years," and insert "every year," so as to read:

"An election for members of the General Assembly shall be held on the day fixed for the general election next succeeding the adoption of this Constitution, and every year thereafter."

The amendment to the amendment was rejected; the ayes being thirty-one, less than a majority of a quorum.

The PRESIDENT. The question recurs on the amendment of the gentleman from Columbia (Mr. Buckalew.)

Mr. BUCKALEW. I desire to explain the absolute necessity of this amendment in a word. By this clause, as it stands, all the members of the General Assembly will be elected at the election next after the adoption of the Constitution, even Senators for existing terms. Another objection to the clause as it stands is that it makes on the face of the Constitution this temporary arrangement, which belongs to the schedule. So that on every ground we ought to omit the clause fixing the time of the election as it is in this section now and leave it for arrangement, as we leave all other temporary provisions for arrangement, in the schedule.

The amendment was agreed to; there being on a division ayes forty-three, noes twenty-nine.

Mr. KAINE. I now offer the following amendment: Strike out all after the word "second" and insert:

"Representatives shall be chosen annually at the general election, and their term of office shall begin on the first day of December next succeeding their election."

Mr. President, the old Constitution provided, "representatives shall be chosen

annually by the citizens on the second Tuesday of October." The proposition now before the Convention is:

"An election for members of the General Assembly shall be held on the day fixed for the general election next succeeding the adoption of this Constitution."

With the amendment adopted just now, offered by the gentleman from Columbia, it is:

"At the general election every second year. Their term of office shall begin on the first day of December next succeeding their election. When any vacancy occurs in either House the Governor shall issue a writ of election to fill such vacancy for the remainder of the term in which the vacancy shall have occurred."

The adoption of this section as it stands will not do at all. It is: "An election for members of the General Assembly shall be held on the day fixed for the general election next succeeding the adoption of this Constitution."

The term "members of the General Assembly" includes Senators as well as Representatives. This clause should provide for the election of Representatives only and not of Senators. Further on in this article which we are considering, it provides that "Senators shall be elected for the term of four years." They are members of the General Assembly as well as Representatives. Therefore the language here, "members of the General Assembly," is not appropriate nor proper in this place. I am perfectly satisfied with the last clause of this section, that vacancies in either House shall be filled upon a writ issued by the Governor; but that is not in the right place here, because that should come in after both the House of Representatives and the Senate are provided for, and should come in appropriately at the close of this article. If this amendment is adopted, I have prepared another amendment to provide for that difficulty, to come in at the close of the article.

I hope, Mr. President, that we shall not adopt the provision for electing members of the Legislature every two years, because it will result in just exactly what we have now—a session every year. In some of the States, particularly in the State of Ohio, where they have a provision of this kind in their Constitution, adopted in 1850, I am reliably informed (and I know the information is true) that they have had an annual session of

the Legislature in the State from the time of the adoption of that Constitution, up to the present time, with the exception of one solitary year. I will give as my authority on that subject Mr. Thurman, a member of the United States Senate from the State of Ohio. In a correspondence had with him on that subject, he said that a Convention was then about being called in Ohio for the very purpose of amending their Constitution and that this was one of the provisions which would undoubtedly be stricken out, and that they would return to the old plan of annual elections and annual sessions.

I hope that Pennsylvania will not at this day go back, because I consider it would be going back instead of advancing in the line of legislative improvements, to adopt this provision. I hope, therefore, that the amendment which I have offered will prevail, and that we shall stick to the old Constitution of 1838 as nearly as we can.

Mr. NILES. Mr. President: I desire to say but one word upon this subject. Having been kindly placed by the Chair upon the Committee on the Legislature, and having made a minority report, with one or two others, against biennial sessions, I deem it a duty that I owe myself to simply make clear my opposition against this section of the report of the Committee on the Legislature.

I cannot but believe that the delegates in this Convention are committing a grave error in departing from the old time policy of the State, by adopting biennial elections and biennial sessions. I believe, sir, from the vote which we have had here this morning, that we shall adopt the article now before us; but I cannot permit action to be taken upon this subject without expressing my views of the question, and making my own record right.

First, we are departing from the old policy that has existed in this State since its organization. There are various reasons why we should retain annual sessions, if the people adopt the work of this Convention. In the past the objection of the people has not been against the annual meeting of the Legislature; but to the power of evil that existed in the General Assembly, by way of local and special legislation. That it was that the people feared; and I undertake to say that if the work of the Convention during the last week is ratified, the power of legislative evil will be removed, have vanished, and

the objection to the annual sessions will have been removed. When the Legislature is prohibited in the organic law from passing any local or special laws, which have, in some measure, brought suspicion, founded or unfounded, upon the law-making power in this State, this great objection which has existed heretofore will have been removed.

Again, sir, in the wisdom of this Convention we are to have no more local or special laws. The people in the past have received by local grant or local gift what they are now to receive by general law, and there is no lawyer on this floor who will say, for a moment, that there are any local laws in this State that are adequate to supply the wants of this people.

I believe there are not forty-six thousand square miles on the face of this green earth that have as great varieties of interests as have the people of Pennsylvania. Sir, we are an empire of ourselves. You might put a Chinese wall around our lines to-day, and we have the elements of growth and prosperity. We have our coal, and oil, and iron, and wheat, and lumber; and all of these interests are to be fostered and protected by general laws. In the future the people are not to go to the Legislature and receive private franchises and private grants of power from the hands of our law-makers. All these great wants of our people, diverse and great as they are, are to be supplied by general laws that shall apply over the whole forty-six thousand square miles of our State area. If that is true; if what the people in the past have received by local and special grants is to be given by general law hereafter, I undertake to say that the necessity for annual meetings is greatly enhanced.

It is said that in Ohio, just across the line, they have biennial sessions. When the report of the committee was made I took occasion to address a letter to General Thomas L. Young, a prominent member of the Senate of Ohio, upon that subject, and I have his letter here, which is short and to the point, and an entire answer to that suggestion and to all the arguments that have been made here, based upon the policy of Ohio. He says:

"Your letter of the 23d ult., addressed to me, at Cincinnati, reached me on the 1st inst., and hence my delay in answering it.

"Section twenty-five of article second of our Constitution provides for biennial sessions. Our Constitution was adopted

in 1851 and went into operation in 1852, and since that time our Legislature has met every winter but one since. We do it by adjourning over to the following winter, thus making in every term one regular and one adjourned session.

"In a State as large as Ohio we have found it necessary to meet annually. The people and their varied wants and interests demand it, and if your Convention should adopt our plan you will make a grave mistake.

* * * * *

"Should you adopt the biennial plan you will find it absolutely necessary in Pennsylvania to have an adjourned session in the alternate years.

"With kind regards, I am, dear sir,

"Very truly yours,

"THOMAS L. YOUNG."

Mr. President, if Ohio, which is mainly an agricultural State, with an almost different variety of interests from ourselves, requires it, and if the practice of the last twenty years has shown the absolute necessity of annual sessions there, I repeat, in conclusion of what I have to say, that the reason is infinitely stronger for our State than theirs.

Again, I take it to be a conceded fact that in Pennsylvania, for the next fifteen or twenty years, if every want of the people of this great State is to be subserved only through general laws, we shall have these adjourned sessions. Hence, if you get a scoundrel in the Legislature for one year you have got to keep him two; he is beyond the power of the people, and one of the chief lobbyists of Pennsylvania said, when the report of this committee was made, "If I had the power, instead of electing them for two years, I should elect them for five, and then if I got a good thing I should be sure of it for five years at least." I believe in keeping the representatives of the people close to the people, where they can keep their hands upon them. Elect the member for one year, and if he has served the people honestly he will be endorsed; if he proves false to the trust they have imposed on him he will be repudiated.

For these reasons it seems to me we make a great mistake in departing from the policy of our fathers.

MR. ANDREW REED. Mr. President: Before the vote is taken on this question, I desire to say one word in opposition to biennial elections and biennial sessions. In addition to the numerous arguments that have been made here in favor of

annual elections and annual sessions, there is another which I desire to present to the delegates on this floor.

The great bulk of special legislation which has burdened our pamphlet laws for the last five or six years shows the extent and the importance of the interests which desire legislation in this State. We have now abolished special legislation if our present action is sustained, and those interests are to be subserved hereafter by the passage of general laws. The same interests which caused the passage of these special laws will go to our Legislature, and they will pass general laws for the purpose of meeting some specific end. While a general law may subserve the ends of the particular person who gets it passed, it will perhaps cripple nine-tenths of the other interests or of the rest of that class throughout the whole State; and we shall be burdened with that law for two years without the hope of repeal.

That I consider a question of considerable interest and importance to this State, because the same class of legislation which may be beneficial in a particular part of the State may be obnoxious to the interests of all the rest of the State; and yet the zeal with which that interest may be pressed in the Legislature may cause the passage of a general law to subserve its ends while the rest of the State will be injuriously affected thereby. Again, (which has been spoken of by the gentleman from Allegheny,) the appropriation bill will be an immense appropriation for two years. That money will be in the hands and under the control of our executive officers for that term, which should not be. Besides, I conceive that one House should be as near the people as possible; they should have the right every year to pass upon the representatives, and if they are unfaithful to the interests entrusted to them the people will, if they have the power, turn them out, and they should have that right. Then let the other House be elected for a longer term, and we have their experience to check any sudden impulse which may carry away the more numerous body of the representatives.

For these reasons and the reasons which have already been stated on this floor, I hope that we shall preserve annual sessions and annual elections.

Mr. SIMPSON. Mr. President: As one in favor of biennial elections, I cannot permit the vote to be taken without saying a word or two in answer to some of the

arguments of the gentleman who has just taken his seat.

While I concede that it is as well to have the election of representatives as near the people as possible, it does not follow that the election should take place every year, every six months, every month or every day. There is a point of time that may be called a medium that would be reasonable, and yet reasonably near the vote of the people to secure their wishes being reflected in the body which should be the representative of the people.

In the Federal government the members of the House of Representatives of Congress are elected but every second year. Practically it has worked well. Although they have held annual sessions, and occasionally extra sessions, yet we have never heard complaint that they were not reasonably near enough to the people. I have never heard a word of objection against biennial elections for members of Congress; and if it works well in the national Legislature, with all the varied interests of this great country, not only all that Pennsylvania includes, but all others as well, why should it not work well in Pennsylvania?

If we have the reform proposed in limiting the powers of the Legislature in special matters, there will not be the necessity of their meeting every year; but then if it should be found necessary that they should meet every year, I would prefer that the election of members of the lower House should be every other year rather than every year. I think it would be better, because we should have more experience, at least, in one session of our Legislature than we possibly can have under the annual system. I have seen Legislatures gathered together in the lower House, of which comparatively few members had ever held seats there before. They were inexperienced men, knowing nothing of the forms of legislation, and the people of this State were cursed by bad legislation, simply because, although many of the members may have desired to do well, they did not know how to reach the end. But if we have annual sessions, give us biennial elections, and then we will have some little experience in one of the two sessions of the Legislature. For that reason I shall vote for biennial elections.

Mr. BIGLER. I do not understand that the immediate question involved here is biennial sessions, but rather biennial

elections. Now, sir, I can think of no step which this Convention has so far taken which is better calculated to accomplish the great end for which we have assembled here than biennial elections, and I speak specially to that point. I hope that may become the settled policy of this Convention and of the people.

In the first place, there are men who ought to go to the Legislature who dislike exceedingly to dabble in elections, and they will not do so at all if you require them to be candidates every year and endure the harrassing perplexities attending elections. In that regard we should make some decided improvement, in my opinion. Then again, as has been said by the gentleman who has just taken his seat, we should have a greater degree of experience in the lower House of the Legislature, and that would be a valuable attainment.

Now, sir, altogether I think this is one of the very best reforms we can make. I noticed, with great pleasure, the discussion that occurred heretofore in this Convention. I have not risen for the purpose of repeating anything that was then said. I only desire to express the decided opinion at which I have arrived.

I shall therefore vote against the amendment of the delegate from Fayette. As I said before, I hope the policy of the Convention may be to adopt biennial elections. Biennial sessions will be considered in another place. It may be that for several years after the adoption of this Constitution there will be special reason for annual sessions because there will be special duties to perform; but I think that when the reforms which are contemplated by this Convention shall have been carried out, there will be no difficulty whatever in transacting the business of the State in biennial sessions. But, however that may be, I hope we shall adhere to the policy of biennial elections.

The PRESIDENT. The question is on the amendment.

Mr. KATNE. I call for the yeas and nays on that question.

Messrs. Edwards, Hunsicker, Bigler, Horton, Niles, D. N. White, Biddle, MacVeagh, MacConnell, J. W. F. White, Bowman, Turrell, Andrew Reed, and Hay rose to second the call.

The PRESIDENT. The call is sustained.

Mr. ADDICKS. I ask for the reading of the amendment.

The PRESIDENT. It will be read for information.

The CLERK read the words proposed to be inserted as follows:

"Representatives shall be chosen annually at the general election, and their term of office shall begin on the first day of December next succeeding their election."

The question being taken by yeas and nays, resulted, yeas thirty-four, nays fifty-four, as follow:

YEAS.

Messrs. Addicks, Baily, (Perry,) Baker, Biddle, Bowman, Campbell, Collins, Cronmiller, Curtin, Edwards, Ewing, Finney, Hall, Hanna, Hemphill, Horton, Howard, Kaine, Lilly, MacConnell, M'Murray, Metzger, Newlin, Niles, Purviance, John N., Purviance, Samuel A., Reed, Andrew, Stanton, Stewart, Turrell, Walker, White, David N., White, J. W. F. and Meredith, *President*—34.

NAYS.

Messrs. Achenbach, Andrews, Baer, Barclay, Bardsley, Beebe, Bigler, Boyd, Brodhead, Broomall, Buckalew, Carter, Church, Cochran, Corbett, Corson, Craig, Dallas, De France, Dodd, Dunning, Fulton, Gilpin, Guthrie, Harvey, Hay, Hazard, Hunsicker, Landis, Lawrence, Long, MacVeagh, M'Clean, M'Culloch, Mantor, Minor, Mott, Palmer, G. W., Patton, Porter, Pughe, Reynolds, Runk, Russell, Simpson, Smith, H. G., Smith, William H., Struthers, Temple, Wetherill, Jno. Price, Wherry, Woodward, Worrell and Wright—54.

So the amendment was rejected.

ABSENT.—Messrs. Ainey, Alricks, Armstrong, Bailey, (Huntingdon,) Bannan, Bartholomew, Black, Chas. A., Black, J. S., Brown, Calvin, Carey, Cassidy, Clark, Curry, Cuyler, Darlington, Davis, Elliott, Ellis, Fell, Funck, Gibson, Green, Heverin, Knight, Lamberton, Lear, Littleton, M'Camant, Mann, Mitchell, Palmer, H. W., Parsons, Patterson, D. W., Patterson, T. H. B., Purman, Read, John R., Rooke, Ross, Sharpe, Smith, Henry W., Van Reed, Wetherill, J. M. and White, Harry—44.

Mr. STANTON. I move to amend in the sixth line by striking out "issue or a writ of election to" and strike out the entire seventh line, and insert: "Until the next general election from the same district and the same party to which the member

whose vacancy has occurred belonged," so as to read:

"The Governor shall fill such vacancy until the next general election, from the same district and the same party to which the member whose vacancy has occurred belonged."

Mr. President, my only object in offering this amendment is to save expense to the city and to the State. It is well known to every member of this Convention that to have a new election in this city—and a contest frequently follows—costs not less than \$50,000. To avoid that, I have offered this amendment; and if politics is to enter into it, I have provided, to prevent anything like political feeling, that the vacancy shall be filled from the party who elected the member that filled the vacant seat. I would call attention to the last contested election we had in this city to fill a vacancy in the Fourth senatorial district. That cost the State not less than \$50,000, and perhaps a great deal more; and if the vacancy could have been filled by the Governor for the time being, until the next general election, and then have an election by the people, we could have saved all that money, all that time, and a great deal of hard feeling. I do not see any objection to the Convention adopting this measure.

Mr. J. N. PURVIANCE. I hope the amendment will not prevail. It would be a most singular state of things that the representatives of the people should be appointed by the Governor. Under no circumstances should the Governor appoint the members of either branch of the Legislature, and, therefore, I hope the amendment will not prevail.

Mr. BIGLER. I was about to remark that if we were to adopt any short-hand mode of getting clear of filling vacancies, it would be better to follow the plan adopted in this Convention. It would be very much better than to allow the Governor to appoint, that we should provide that the same party in the Legislature from which the vacancy had occurred in the respective Houses should fill the vacancy. It would be better that each House should fill its own vacancies than that they should be filled by the Governor; but I agree with the gentleman from Butler that this proposition ought to be voted down.

The PRESIDENT. The question is on the amendment of the gentleman from Philadelphia (Mr. Stanton.)

The amendment was rejected.

Mr. MACVEAGH. I beg leave to move to strike out the last six words in the section. I move to strike out all after the word "term" in the seventh line. It seems to me they are entirely superfluous. They are "in which vacancy shall have occurred."

The amendment was agreed to.

Mr. KAINE. Mr. President: I move to amend in the first line by striking out the words "members of the General Assembly," and inserting in lieu thereof the word "Representatives," so as to read:

"An election for Representatives shall be held on the day fixed for the general election."

The words "members of the General Assembly" include both Senators and Representatives, and as the section is intended to apply to Representatives only it is necessary that this amendment should be made.

Mr. SIMPSON. The gentleman is certainly mistaken. If he will read the first section, he will see that it reads:

"The legislative power of this Commonwealth shall be vested in a General Assembly, which shall consist of a Senate and House of Representatives."

Now we want to provide for the election of both Senators and Representatives, and instead of using both of these words we use the words "General Assembly." Then follows the third section:

"Senators shall be elected for the term of four years."

Of course, if we were to elect Representatives also for that time, we would use the words "General Assembly."

The amendment was rejected.

Mr. BROOMALL. I move to amend, by striking out in the last sentence the word "Governor," and insert the words, "presiding officer thereof," so as to read: "When any vacancy occurs in either House, the presiding officer thereof shall issue a writ of election to fill such vacancy for the remainder of the term."

I only desire to say that the present Constitution contains that provision in section twenty, and I know no reason for the change. It may be said, however, that there is always a Governor and there may be times when one of the two Houses of the Legislature may not have a Speaker. Well, that may occasionally be the case, but I would rather run the risk of having a vacancy in either of those Houses occasionally—because it would be very rarely that that would happen—than create a co-ordinate department in the

business. There is not quite as much irregularity in allowing the Governor to call an election to fill a vacancy as in filling the vacancy himself, according to the proposition made and voted down a little while ago; but it is of the same character, differing only in degree.

I trust we shall not change the old Constitution except upon necessity, and I hope that this amendment will be adopted.

Mr. MACVEAGH. The gentleman will remember that the last time this matter was under consideration it was shown very clearly that practical inconveniences had resulted in the past and were very likely to result frequently in the future, from putting this power into the hands of the presiding officer of either House. That inconvenience is increased from the fact that you have made your Lieutenant Governor the presiding officer of the Senate, so that in the case of any vacancy in the office of Governor your Senate is left without a presiding officer.

That may also happen in the House of Representatives where there is a tie. It has happened in the Senate, within a year or two, where they failed to elect a Speaker at all; and when the House of Representatives adjourns at its regular session, there is no Speaker of that House. The Governor issues the writs for the election of members of Congress when vacancies occur; and certainly there can be no possible objection to the performance by him of a ministerial duty, the method of whose performance will be regulated by the Legislature by a general law. Therefore, to avoid practical inconvenience, I hope the Convention will not adopt this amendment.

Mr. BARTHOLOMEW. I shall favor the amendment offered by the gentleman from Delaware. I hope that it will be adopted. I have considered this proposition and I am satisfied that it is in accordance with the principles of our government. The power of issuing writs of election to fill vacancies in the Legislature is a power that should not be confided to the Executive. It is putting control over the legislative branch of the government into the hands of the Executive, and that power may be exercised very injuriously. There may rise occasions in which the Governor may set at defiance the will and the wishes of the people, and in fact defeat the organization of the Legislature, *in toto*. If we confer this power upon him, he may destroy, for the time being, the working of the en-

tire legislative department of the State. In the case of a tie, if the matter is left to him, he may, or he may not, issue his writ of election as he pleases. The Senate is not organized. No impeachment can be had, and therefore he will with perfect impunity hold the legislative branch of the government under his control, and he may defy the will of the people.

This question is one not of first impressions. This is an old question, a question that arose many years ago. We had this same contest between the executive department of the government of England and the legislative department of that country as early as the reign of James I. In 1603 the celebrated case of Fortescue & Goodwin, 1 vol. Parl. Hist., which gave rise to a struggle between Parliament and the King as to whom should have the right to issue writs of election, is one of the most famous of that important era, and in that case Parliament held, after a struggle lasting weeks, that the privilege was theirs. They held it of right, that it was an ancient custom, and in that day they conquered. At least that particular struggle ended in a compromise, but the principle was conceded that Parliament had the power and the right of issuing writs of election to fill vacancies occurring therein. They held that it was a power that had been vested in them from time immemorial, and they fixed and established there their right in that contest.

The danger of it can readily be understood. If the Governor has the right of issuing these writs of election, the time may come when it would be used or might be used for a bad purpose. It legitimately belongs to the presiding officer of the House where the vacancy occurs and we should not depart from the established principle that was fixed by the struggle in the British Parliament and which conferred upon them the right to control the elections for vacancies for their own members, a principle similar to the one upon which our own institutions are founded. We should not depart from that system unless we have very good and grave reasons for so doing, and therefore I hope that the amendment offered by the gentleman from Delaware upon this subject will prevail.

The PRESIDENT. The question is upon the amendment of the delegate from Delaware (Mr. Broomall.)

Mr. BARTHOLOMEW. On that question I call for the yeas and nays.

The PRESIDENT. Is the call sustained?

Messrs. Corbett, Cochran, D. W. Patterson, Broomall, MacConnell, J. M. Wetherill, Cuyler, Rooke, Jos. Bailey, Corson, J. W. F. White, D. N. White, Lilly, Beebe, Biddle, Horton, Worrell, Hemphill, Simpson, Baker and Newlin rose.

The PRESIDENT. The call is sustained.

The yeas and nays were taken, and were as follow, viz :

Y E A S.

Messrs. Addicks, Andrews, Baily, (Perry,) Baker, Bartholomew, Beebe, Biddle, Broomall, Buckalew, Campbell, Carter, Cassidy, Church, Cochran, Corbett, Craig, Cronmiller, Curtin, Cuyler, Dunning, Ewing, Finney, Hall, Hanna, Hemphill, Horton, Howard, Lilly, MacConnell, M'Clean, M'Culloch, Mott, Newlin, Patterson, D. W., Patterson, T. H. B., Patton, Pughe, Purviance, John N., Purviance, Samuel A., Reynolds, Simpson, Smith, H. G., Stewart, Struthers, Temple, Turrell, Wetherill, J. M., White, David N., White, J. W. F., Wright and Meredith, *President*—51.

N A Y S.

Messrs. Achenbach, Baer, Barclay, Bardsley, Bigler, Bowman, Boyd, Brodhead, Carey, Collins, Corson, Dallas, De France, Edwards, Fulton, Gilpin, Guthrie, Harvey, Hay, Hazzard, Hunsicker, Landis, Lawrence, Long, MacVeagh, M'Murray, Mantor, Minor, Niles, Palmer, G. W., Porter, Reed, Andrew, Runk, Russell, Smith, Wm. H., Walker, Wetherill, John Price, Wherry, Woodward and Worrell—40.

So the amendment was agreed to.

ABSENT.—Messrs. Ainey, Alricks, Armstrong, Bailey, (Huntingdon,) Bannan, Black, Charles A., Black, J. S., Brown, Calvin, Clark, Curry, Darlington, Davis, Dodd, Elliott, Ellis, Fell, Funck, Gibson, Green, Heverin, Kaine, Knight, Lamberton, Lear, Littleton, M'Camant, Mann, Metzger, Mitchell, Palmer, H. W., Parsons, Purman, Read, John R., Rooke, Ross, Sharpe, Smith, Henry W., Stanton, Van Reed and White, Harry—42.

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

Mr. MACVEAGH. Perhaps the words in the second line had better be transposed, and I move that the amendment of Mr. Buckalew, "every second year," go in after the word "held," in the second line, instead of after the word "election."

Mr. BUCKALEW. That is right.

The PRESIDENT. Shall that transposition be made by unanimous consent? ["Aye." "Aye."] The Chair hears no objection, and it will be made. The question is on the section as amended.

Mr. D. W. PATTERSON. In the fourth and fifth lines I move to strike out the words "first" and "of December," leaving the term to commence "on the day next succeeding their election."

I merely wish to state on that amendment that the question was discussed fully. First, the term was to commence on the first of January. It was then changed to the first of December, leaving a month intervene after the day of the election. For the past forty years it has been the acknowledged practice in law that the term should commence immediately on the day succeeding the election. I think there was nothing definite in the old Constitution, but that has been the practice. I have heard no argument here to satisfy me that it is just to let the old members who are voted out retain their office and powers as a Legislature a whole month after the day of the election.

I therefore hope the committee will adopt the amendment and make the term commence as they have done in acknowledged legal practice for the last forty years.

Mr. LILLY. I do not think it is necessary to discuss this question. I was in favor before, and I am in favor now, of the shortest time that can be named after the election. I shall vote for the amendment, but it was voted down before and I presume will be again.

The PRESIDENT. The question is on the amendment.

Mr. D. W. PATTERSON. I call for the yeas and nays.

The yeas and nays were not ordered, less than ten members rising to second the call.

The amendment was rejected.

The PRESIDENT. The question now is on the section as amended.

The section was agreed to.

The CLERK read the next section, as follows:

Third. Senators shall be elected for the term of four years.

The section was agreed to.

The CLERK read the next section, as follows:

Fourth. Representative shall be elected for the term of two years.

The section was agreed to.

The CLERK read the next section as follows:

Fifth. The General Assembly shall meet at twelve o'clock, noon, on the first Tuesday of January succeeding the adoption of this Constitution, and the same hour on the first Tuesday of January every two years thereafter, unless sooner convened by the Governor in special session.

Mr. WHERRY. I move to amend the section in the third and fourth lines by striking out the words "every two years," and inserting the word "annually."

Mr. D. N. WHITE. I ask for the yeas and nays on that amendment.

Messrs. Wherry, Cochran, MacConnell, S. A. Purviance, Hall, J. W. F. White, Hay, Ewing, Beebe, J. N. Purviance, Niles and Stewart rose to second the call.

The PRESIDENT. The call is sustained.

The CLERK proceeded to call the roll.

Mr. BRODHEAD when his name was called said: On this question I am paired with my neighbor (Mr. Addicks.)

The PRESIDENT. The Chair does not understand what a pair means. [Laughter.] The call will proceed.

The call of the roll having been concluded,

The PRESIDENT. The delegate from Northampton (Mr. Brodhead) asks to be excused from voting. Shall he be excused? ["Yes."] It appears to be agreed to. It is agreed to, and he is excused.

The result of the vote was announced, yeas thirty-four, nays fifty-five, as follow:

Y E A S .

Messrs. Baily, (Perry,) Baker, Bardsley, Bartholomew, Beebe, Bowman, Buckalew, Campbell, Craig, Curtin, Cuyler, Dodd, Edwards, Ewing, Finney, Hall, Hanna, Heverin, Kaine, Lilly, MacConnell, Mott, Newlin, Niles, Palmer, G. W., Purviance, John N., Purviance, Sam'l A., Stewart, Walker, Wetherill, J. M., Wherry, White, David N., White, J. W. F. and Meredith, *President*—34.

N A Y S .

Messrs. Achenbach, Andrews, Baer, Barclay, Biddle, Bigler, Boyd, Broomall, Carey, Carter, Cassidy, Church, Cochran, Collins, Corbett, Corson, Cronmiller, De France, Fulton, Gilpin, Guthrie, Harvey, Hay, Hazzard, Horton, Howard, Hunsicker, Landis, Lawrence, Long, MacVeagh, M'CLean, M'Culloch, M'Murray, Mantor, Minor, Patterson, D. W., Patter-

son, T. H. B., Patton, Porter, Read, John R., Reed, Andrew, Reynolds, Runk, Russell, Simpson, Smith, H. G., Smith, Wm. H., Struthers, Temple, Turrell, Wetherill, Jno. Price, Woodward, Worrell and Wright—55.

So the amendment was rejected.

ABSENT.—Messrs. Addicks, Ainey, Alricks, Armstrong, Bailey, (Huntingdon,) Bannan, Black, Charles A., Black, J. S., Brodhead, Brown, Calvin, Clark, Curry, Dallas, Darlington, Davis, Dunning, Elliott, Ellis, Fell, Funck, Gibson, Green, Hemphill, Knight, Lamberton, Lear, Littleton, M'Camant, Mann, Metzger, Mitchell, Palmer, H. W., Parsons, Pughe, Purman, Rooke, Ross, Sharpe, Smith, Henry W., Stanton, Van Reed, and White, Harry—43.

Mr. COCHRAN. Mr. President: I move to amend by adding at the end of the section:

"And shall after the year 1878 hold no special or adjourned session unless specially convened by the Governor."

Mr. President, one of the objections which have been raised here to the biennial sessions of the Legislature has been that there will be nothing to prevent it from meeting annually even though the members were elected biennially, if the time for which the meeting was fixed was on the first Tuesday of January succeeding their election.

The object of my amendment is to meet that difficulty. It is said that they could adjourn from year to year and still hold two sessions under the provisions of the amended Constitution. My purpose is to prevent the holding of more than one session during the term unless it be under the call of a special session of the Legislature by a Governor, as provided by the article on legislation which has been adopted. But recognizing as I do, that if this Constitution should be adopted by the people there will be for some few years to come a necessity for more than the ordinary amount of legislation, I propose to leave it in the power of the Legislature up to 1878, say about five years, to hold adjourned sessions if they think proper; but after that time that the sessions shall be biennial, as this Constitution proposes, and that they shall not meet except in special session on the proclamation of the Governor, in which paper shall be set forth fully and at length the objects to which their attention is to be directed during such session.

The PRESIDENT. The question is on the amendment of the gentleman from York (Mr. Cochran.)

The question being put, there were yeas twenty-five, not a majority of a quorum.

Mr. COCHRAN. I call for the yeas and nays.

The PRESIDENT. Members who second the call for the yeas and nays will rise.

Messrs. H. G. Smith, Woodward, J. Price Wetherill, D. W. Patterson, Porter, MacVeagh, Struthers, Newlin, Collins, Russell, Hay, Wherry, Kaine, De France, Bigler, Curtin, Corbett and Church rose to second the call.

The PRESIDENT. The call is sustained.

The question being taken by yeas and nays, resulted—yeas fifty-three, nays thirty-seven, as follows:

YEAS.

Messrs. Andrews, Baer, Bally, (Perry,) Barclay, Bardsley, Bartholomew, Bigler, Boyd, Brodhead, Broomall, Campbell, Carey, Carter, Church, Cochran, Collins, Cronmiller, Curtin, Davis, De France, Dodd, Dunning, Edwards, Finney, Fulton, Guthrie, Hall, Hanna, Hay, Hazzard, Kaine, Landis, Lawrence, Long, M'Culloch, M'Murray, Niles, Palmer, G. W., Patterson, T. H. B., Patton, Porter, Reed, Andrew, Reynolds, Russell, Simpson, Smith, H. G., Stanton, Stewart, Struthers, Wherry, White, J. W. F., Worrell and Wright—53.

NAYS.

Messrs. Beebe, Biddle, Bowman, Buckalew, Cassidy, Corbett, Corson, Craig, Cuyler, Dallas, Ewing, Fell, Gilpin, Harvey, Heverin, Horton, Howard, Hunsicker, Lilly, MacConnell, MacVeagh, M'Clean, Mantor, Minor, Mott, Newlin, Patterson, D. W., Purviance, John N., Purviance, Sam'l A., Runk, Smith, Wm. H., Turrell, Walker, Wetherill, White, David N., Woodward and Meredith, *President*—37.

ABSENT.—Messrs. Achenbach, Addicks, Ainey, Alricks, Armstrong, Bailey, (Huntingdon) Baker, Bannan, Black, Charles A., Black, J. S., Brown, Calvin, Clark, Curry, Darlington, Elliott, Ellis, Funck, Gibson, Green, Hemphill, Knight, Lamberton, Lear, Littleton, M'Camant, Mann, Metzger, Mitchell, Palmer, H. W., Parsons, Pughe, Purman, Read, John R., Rooke, Ross, Sharpe, Smith, Henry W., Temple, Van Reed, Wetherill, John Price and White, Harry—37.

Mr. BUCKALEW. I move further to amend by inserting the word "annual" before the word "session," in the amendment just adopted.

I beg leave to say that the amendment as we have it now would prevent the Legislature from adjourning over for a week or month. I suppose the gentleman from York, who moved the amendment, meant that they should not hold an adjourned annual session; that is, from the spring of one year to the spring of the next. If you do not adopt this amendment you may have trouble enough, whenever it may be necessary that the Legislature may adjourn for a brief period.

Mr. MACVEAGH. Will the Clerk please read the section as amended.

The CLERK. If amended as now proposed, the section will read:

"The General Assembly shall meet at twelve o'clock, noon, on the first Tuesday of January succeeding the adoption of this Constitution, and the same hour on the first Tuesday of January every two years thereafter, unless sooner convened by the Governor in special session, and shall after the year 1878 hold no special or adjourned annual session unless convened by the Governor."

Mr. MACVEAGH. I voted against the amendment on the ground suggested by the gentleman from Columbia, (Mr. Buckalew,) and I am afraid that the addition of his amendment to the amendment does not still give sufficient definiteness to make this a working section. It would be better, it seems to me, to limit the time that the Legislature may adjourn; to say that they shall only hold one session in each year, or something of that kind, if you please; or that they may adjourn for ten days, or two weeks, or thirty days; but to say that they shall hold no adjourned session, I submit, is a dangerous section for us to incorporate into this Constitution. I would be glad if the gentleman from Columbia or the mover of the amendment (Mr. Cochran) would still further amend it by making it more definite.

Mr. WOODWARD. If there is any virtue in biennial sessions, this amendment is proper, for I am told that in the State of Ohio, where they have biennial sessions under their Constitution, the Legislature avoid the law and make their sessions virtually annual by adjournments. I suppose the amendment of the gentleman from York is meant to preclude that pos-

sibility. It is desirable then to adopt the amendment to the amendment, because if we mean to have biennial sessions, they ought to be biennial except when an emergency shall call the Legislature together. As a principle we ought to maintain biennial sessions, if we provide for them at all.

On the question of agreeing to the amendment proposed by Mr. Buckalew, a division was called, for which resulted forty-three in the affirmative and eighteen in the negative. So the amendment was agreed to.

MR. BUCKALEW. I desire to offer a further amendment, to come in after the word "session" where it first occurs:

"In case of a casual vacancy in the office of United States Senator from this State, in a recess between sessions, he shall convene the two Houses by proclamation, on notice not exceeding sixty days, to fill the same."

The Constitution of the United States provides for the election of United States Senators by the Legislature. Under the provision of biennial sessions it may happen that a Governor may have to appoint a United States Senator for nearly two years. It was never the intention of the provision in the Constitution of the United States that he should have the appointment of Senator for a long period of time, but that simply in the case of an emergency he might fill a vacancy in the United States Senate by appointment until the Legislature should meet. It has been the usual habit in the Legislatures of the different States to meet every year; but as we have ordered biennial sessions, I think it would be proper to provide an amendment by which, in case of a vacancy in the United States Senate, the Governor should convene in session the Legislature for the purpose of electing a Senator to fill that vacancy. Meanwhile, he would fill it by appointment under the Constitution. I think, sir, that this amendment will relieve one of the principal objections to biennial sessions of the Legislature, as we have now voted that our Legislature shall meet only biennially.

There is another objection which my amendment will correct besides the question of filling seats in the Senate, which is this: The election by the Legislature itself may be held one whole year before the seat is to be filled, on the expiration of a regular term. It is a great inconvenience that the Legislature shall be

called a whole year beforehand to fill a seat in the Senate. This is one of the difficulties which we have in establishing constitutional provisions providing for sessions of the Legislature. I know that in many of the States of this Union this has constituted a serious objection in practice to biennial sessions, and, of course, we shall be obliged to incur that inconvenience. A seat in the United States Senate ought to be filled by the Legislature near the time when the vacancy occurs.

I beg leave to say that I understand we have another provision in the Constitution that the Legislature, when convened by the Governor in special session, shall be confined to the subjects upon which he calls them together, so that when the two Houses are called together to elect a United States Senator, under the provisions of this amendment, it will be a short session, and held at very considerable expense.

On the question of agreeing to the amendment proposed by Mr. Buckalew, a division was called for, which resulted forty-two in the affirmative, and twenty-two in the negative. So the amendment was agreed to.

THE PRESIDENT. The question is on the section as amended.

The section as amended was agreed to.

THE PRESIDENT. The next section will be read.

THE CLERK read as follows:

SECTION 6. No person shall be a Senator who shall not have attained the age of twenty-five years, and have been a citizen and inhabitant of the State four years next before his election, and the last year thereof an inhabitant of the district for which he shall be chosen, unless he shall have been absent on the public business of the United States or of this State; and no person shall hold said office after he shall have removed from said district.

MR. T. H. B. PATTERSON. I move to amend by inserting after the word "years," where it first occurs, the words "and no person shall be a Representative who shall not have attained the age of twenty-one years;" and also after the word "and" where it first occurs, the words "no person shall be either who shall not"—

If the Clerk will read the section as it would be amended, I will explain my object.

THE CLERK. It will then read: "No person shall be a Senator who shall not

have attained the age of twenty-five years, and no person shall be a Representative who shall not have attained the age of twenty-one years; and no person shall be either who shall not have been a citizen and inhabitant of the State four years next before his election," &c.

The PRESIDENT. The question is on the amendment.

MR. T. H. B. PATTERSON. Mr. President: I will just say to the delegates that the only object of this amendment is simply to consolidate sections six and seven. It consolidates them and saves a whole section with the addition of about one line; and the only change that is made, as gentlemen will see on looking at it, is that it increases the term of eligibility for a Representative to four years instead of three, that is, it requires him to be a resident of the State four years, the same as a Senator, before he can be elected. I think that this is an immaterial change and rather in the right direction; and by so consolidating the sections, as you will see on reading the amendment, we shall save a whole section and at the same time return the exact legal language as it is now in the sections as reported by the committee, not changing a single phrase of that instrument.

MR. BROOMALL. I would suggest to the gentleman to change his phraseology a little. I was about doing the same thing. I will read what I had proposed, and if he prefers my phraseology he is welcome to it:

"No person shall be a Senator until he shall have attained the age of twenty-five years nor a Representative until he shall have attained the age of twenty-one years, nor unless he has been a citizen and inhabitant of the State four years next preceding his election, and the last year thereof an inhabitant of the district for which he shall be chosen, or absent therefrom on the public business of the United States or of this State; and no person shall hold the said office after he shall have removed from said district."

MR. T. H. B. PATTERSON. I would say that the language of the delegate meets exactly the same object as my amendment, but it is open to this objection: The language of the two sections reported and the language of the section as I propose to amend it follows exactly the expression of the old Constitution; it does not change the form or a single word. Therefore I would prefer to retain the language of the old Constitution.

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The PRESIDENT. The question is on the amendment of the gentleman from Allegheny (Mr. T. H. B. Patterson.)

The amendment was agreed to.

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

MR. CUYLER. I move to strike out the words "and an inhabitant" where they occur. If they convey any different meaning from the word "citizen," they are, of course, unnecessary. If they have a different meaning, it must be that even temporary absence from habitations would defeat the right to representation. If a citizen should hold a cottage at Cape May and be absent for three months, during any one of those months he would be ineligible on any such meaning of the word "inhabitant."

The PRESIDENT. The question is on the amendment of the gentleman from Philadelphia (Mr. Cuyler.)

The amendment was agreed to, there being on a division, ayes forty-seven, noes fifteen.

MR. TEMPLE. I ask the delegate from Philadelphia if he meant to strike out the word "inhabitant" in the fourth line.

MR. CUYLER. Yes, I said wherever it occurred.

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

MR. BROOMALL. It seems to me that by the change we have made the last sentence has become unnecessary. With the word "inhabitant" in, the words "unless he shall be absent on public business of the United States or of the State," &c., have a function. If we strike out the word "inhabitant," and let it rest upon the word "citizen" alone, I submit that those words are useless, because a man does not lose his citizenship by being absent on business of the United States or of the State. I was about to move to strike out the phrase, but perhaps the gentleman from Dauphin has some reason why it should not be done.

MR. MACVEAGH. I supposed the Convention saw the scope of the amendment just adopted. It is that you need not elect your representatives in districts. It is one, perhaps, of the dangers in districts—

MR. CUYLER. No; because the word "citizen" requires that he must be a citizen of the district.

MR. MACVEAGH. Yes, he shall be a citizen, but not an inhabitant of it.

MR. CUYLER. Yes.

Mr. BROOMALL. His domicile must be there. I move to strike out the last clause from and including the word "unless" in line four to the word "and" in the sixth line, so as to leave in the last idea that no person shall hold the office after he shall have removed from the district.

The PRESIDENT. It is moved to amend the section by striking out the words "unless he shall be absent on the public business of the United States or of this State."

Mr. TEMPLE. Mr. President: I submit that in the fourth line the word "inhabitant" should not be stricken out unless the Convention means that a person can be elected to the Legislature—

The PRESIDENT. That question is not now before the House. The question is on the amendment of the gentleman from Delaware (Mr. Broomall.)

Mr. MACVEAGH. I trust this will not be done. We are getting considerably mixed up by the multiplicity of amendments and the references to the language of the old Constitution. After striking out the word "inhabitant" wherever it occurs, I think the section cannot read sensibly, cannot read intelligibly and that the Convention has adopted just what I stated, the proposition that a man need not be an inhabitant of the district for which he is elected. I do not say that is a bad principle to adopt; but I do say it ought not to be adopted in the form of verbal amendments that have unsettled the language of the old Constitution under which we have been living since 1839, and that it is exceedingly dangerous for gentlemen, off-hand, as it were, to propose to write the language of these sections, and especially in view of the fact that this language has had the benefit of the experience of forty years nearly. If the word "inhabitant," in the language of the gentleman's amendment, is stricken out all through the section, it leaves it insensible and it leaves it unwise.

The PRESIDENT. The amendment striking out the word "inhabitant" is not before the House.

Mr. MACVEAGH. And therefore I was going to say that the present amendment, I trust, will be voted down, and then that the amendment we have adopted will be reconsidered, so that the section can be written, I care not how, so as to meet the views of gentlemen. I trust that the House will now vote down the amendment of the gentleman from Delaware, and that then somebody who voted

for the amendment of the gentleman from Philadelphia will move to reconsider it, in order that the mover may put it in proper shape for us.

Mr. CUYLER. I understand it to be a general principle of law, that absence from the country on public business, either of the United States or of the State, does not disturb the citizenship of the citizen. Accepting that as the true rule of law, I suppose it to be unnecessary to leave these words in this section, because the general principle of law already provides for it, and therefore this amendment is correct. The section then would read:

"No person shall be a Senator," &c., "who shall not have been a citizen of the State four years next before his election, and of the district for which he shall be chosen one year."

I think that is right. That is what I intended by the amendment I proposed, and it seems to me to leave the section perfectly intelligible, perfectly harmonious, and, as I suppose, in accordance with the views of the Convention. I think, therefore, this amendment ought to prevail, and then I think the section is right.

The PRESIDENT. The question is on the amendment of the gentleman from Delaware (Mr. Broomall.)

The amendment was rejected, there being on a division ayes eighteen—less than a majority of a quorum.

Mr. HAY. I move to reconsider the vote by which the amendment offered by the gentleman from Philadelphia (Mr. Cuyler) was adopted.

Mr. LILLY. I second that motion.

The PRESIDENT. Did both gentlemen vote in the majority?

Mr. HAY. I did.

Mr. LILLY. I did.

The PRESIDENT. It is moved to reconsider the vote striking out the words "and an inhabitant," being the amendment moved by the gentleman from Philadelphia (Mr. Cuyler.)

The motion was agreed to, there being on a division ayes forty-nine, noes not counted.

The PRESIDENT. The amendment is again before the House.

Mr. TEMPLE. I submit that the words "an inhabitant," in the fourth line, should not be stricken out. If it be, certainly the word "citizen" should be inserted in its place. There is no reason why we should strike out the word "inhabitant"

there. The word "citizen" is not coupled with the word "inhabitant" there as it is in the other line.

Mr. CUYLER. The only reason is that if you leave in the words "citizen" and "inhabitant," then it must mean that he must not only be one having a residence there but actually resident there, an inhabitant. Now, if one has a cottage at Cape May, or if one journeys abroad, he is not an inhabitant for the time being; he is a citizen, but he ceases to be an inhabitant. Suppose one goes to Europe for six months, does he thereby become ineligible? He would under such language. ["No." "No."]

Mr. MACVEAGH. Mr. President: I do submit that the lawyers of this House will listen with great deference to the legal views of the gentleman on all other occasions; precedent to this we have done so; subsequent to this we will do so; but we must not take such law as this even from such an authority. If the authority was less distinguished I would assert that it is preposterous to say that a gentleman going away to a watering place for the summer, or making a trip to Europe, loses his domicile in any sense whatever within the meaning of this section or ceases to be an inhabitant of the district in which his home and lot is cast. The words have been here for forty years and nobody ever imagined that such a construction was possible. I trust the amendment will be voted down.

Mr. HAY. If in order, I ask for a division of the amendment, so that the word "inhabitant" in the third line may be stricken out and not in the fourth line. ["No." "No."]

The amendment of Mr. Cuyler was rejected.

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

The section as amended was agreed to.

The CLERK read the next section as follows:

Seventh. No person shall be a Representative who shall not have attained the age of twenty-one years, and have been a citizen and inhabitant of the State three years next before his election, and the last year thereof an inhabitant of the district for which he shall be chosen, unless he shall have been absent on the public business of the United States, or of this State, and no person shall hold said office after he shall have removed from said district.

The section was rejected.

The CLERK read the next section as follows:

Eighth. No Senator or Representative shall, during the time for which he shall have been elected, be appointed to any civil office under this Commonwealth which shall have created or the emoluments of which shall have been increased during such time, and no member of Congress or other person holding any office (except of attorney-at-law and in the militia) under the United States or this Commonwealth shall be a member of either House during his continuance in Congress or in office.

Mr. TEMPLE. I move to amend the section in the third and fourth lines by striking out the words "which shall have been created or the emoluments of which shall have been increased during such time."

The amendment was rejected.

The PRESIDENT. The question recurs on the section.

The section was agreed to.

The CLERK read the next section as follows:

Ninth. No person who has been, or hereafter shall be, convicted of bribery, perjury, or other infamous crime, or who has been or may be a collector or holder of public moneys who shall not have accounted for and paid over according to law all such moneys due from him shall be eligible to the General Assembly, or to any office of profit or trust in this State.

Mr. BOWMAN. I move to amend the section by striking out in the first line the words "has been or," and also by striking out the same words in the second line.

Mr. President, I am in favor of the spirit and meaning of this section, but I am not in favor of passing the section with the retention of the words proposed to be stricken out. I think it is retrospective in its operation, if it does not come under the prohibition of the Constitution of the United States, which provides that no *ex post facto* law or law impairing contracts shall be passed by any State. I am not here for the purpose of saying that it may not be in the power of this Convention to pass this section as it is or that when it is passed it may not be valid; but it looks to me very much as though it was creating a penalty after the commission of the offense, after the conviction and sentence of the offender, after he had been pardoned by the Executive or remained in prison during his term. I do not sup-

pose that it will be pretended that it is morally right, to say the least of it. I take it for granted that the object of all human punishment is or ought to be to reform the offender, to better his condition, to improve his moral character, and deter others from committing like offenses. There may have been men who have collected public taxes, have been holders of public money, who have not paid over the money according to law, and will not have done so at the time of the adoption of this Constitution. That class of persons, it strikes me, ought not to be included in this wholesale proscription from being eligible to office. It is not very likely that the people of this Commonwealth will elect to offices of honor, trust or profit men directly from the walls of the penitentiary; but men may have been convicted innocently, and wherever that has occurred, I say those individuals ought not to be proscribed, as they would be, by this sweeping section.

Why, sir, I have in mind now one instance which I will briefly relate for the consideration of the gentlemen present. Some twenty years ago, in one of the counties of this State, bordering upon the State of New York, a young man about fifteen years of age was persuaded by another young man living in the neighborhood, to accompany him to a certain party to be given in the State of New York that evening. The older of the two had been at work for a neighbor of his. He induced this boy to go with him to the barn and take out his employer's horses and ride over into the State of New York and attend the party, telling him that they would return and put the horses back in the stable again before daylight the next morning. This boy, thinking that that would not be anything very wrong, finally consented. So they started with the horses, went to the party, and stayed until after daylight, when the older lad of the two, who was then about nineteen or twenty years of age, said he had purchased the horses of his employer, had taken them to compensate him for his work, and offered to sell them or trade them. They did not return until the man went out to the barn and found his horses gone. He obtained a warrant, followed these parties up, arrested them in the State of New York, brought them back, convicted them both for stealing these horses and sent them to the penitentiary. The older of the two, and really the guilty one, if either was guilty, was sent there for a

period of some four years, and the other for about two. In a short time the boy was pardoned. He returned home, but not in time to see his mother alive. She had died in consequence of the severe affliction of her son being tried and convicted for horse stealing, and had passed away. That young man, at the breaking out of the war, went into the army, served there for about four years, returned back to his native town, and having the confidence of the people, was elected, in 1865, to the office of justice of the peace; was re-elected in 1870 to the same position, and holds that position to-day. No blot or stain has ever been brought upon his character except this act of indiscretion on his part at a time when he was about fifteen years of age.

Now, I submit that by the passage of this section as it is that young man, who was not really guilty, but still was convicted, would be excluded from holding any office of honor, trust or profit in this Commonwealth. I do not believe that it is the sense of the gentlemen here that a section of this kind should go into the Constitution. I believe there should be some inducement, some motive held out to the young man, at least, who may have been convicted of crime, to repent of the errors of his ways. When you destroy all motive for him to become a useful citizen in society, then you make that young man a fiend incarnate. You prepare him for the commission of additional and more heinous offences. You destroy his manhood. You take away from him that which is dear to him, and when he discovers that he is proscribed and that this proscription is to have its effect, instead of his obeying the laws he will violate them.

As I said, Mr. President, I am in favor of the spirit of this section. Put it into the Constitution that the man who is hereafter guilty of these offenses shall be punished, that this penalty shall be inflicted upon him, that he shall not hereafter hold any office of honor, trust, or profit; but I hope this Convention will not take a step backward. I trust, therefore, that these words may be stricken out. The section will then read in this way:

"No person who hereafter shall be convicted of bribery, perjury or other infamous crime, or who may be a collector or holder of public moneys who shall not have accounted for and paid over according to law all such moneys due from him, shall be eligible to the General Assembly

or to any office of profit or trust in this State."

This is all that I care to say on this subject. I hope the gentlemen present will take it into serious consideration and dispose of it as they think they should for the advancement of the condition of our race, to make them better instead of worse.

Mr. T. H. B. PATTERSON. I had intended to propose a further amendment to the amendment of the gentleman from Erie, but I will withhold it until the vote is taken on the amendment.

The PRESIDENT. The question is on the amendment of the delegate from Erie (Mr. Bowman.)

Mr. BUCKALEW. I suggest to the gentleman to make his amendment a little larger. I desire the first line to read, "No person convicted of bribery," etc., striking out the words, "who has been or hereafter shall be." The language of the Constitution ought always to speak in the present tense. The division of time into now and hereafter, as to this moment and future years, is a blemish in such an instrument. Then in the next line I would strike out the words, "has been or," so that it will read, "or who may be a collector or holder of public moneys," &c.

Mr. BOWMAN. I am willing to accept any modification that may be made to carry out the views I have expressed in this matter, but I do not see how that modification is going to change it particularly.

Mr. MACVEAGH. If the gentleman would for the present withdraw his amendment, in order to put the language of this section (which was submitted by an independent member, I believe, to the committee and reported as he wrote it) in proper shape, I should like to offer an amendment as to the language simply that will make it very distinct and very clear, and then he can renew his amendment.

Mr. BOWMAN. I will withdraw it for that purpose.

The PRESIDENT. The Chair will observe that notice has been given of another amendment as an amendment to that, and the gentleman cannot withdraw his amendment.

Mr. T. H. B. PATTERSON. I withdraw in favor of the chairman of the committee.

The PRESIDENT. The amendment is withdrawn.

Mr. MACVEAGH. Then I move to strike out in the first line the words "who has been or hereafter shall be."

Mr. T. H. B. PATTERSON. That is precisely the amendment I intend to offer.

Mr. MACVEAGH. Then I move in the second line to insert the words "embezzlement of public moneys" before the word "bribery," and then to strike out all after the word "crime" in the second line to the word "shall" in the fourth line. The section will then read:

"No person convicted of embezzlement of public moneys, bribery, perjury, or other infamous crime shall be eligible to the General Assembly or to any office of profit or trust in this State."

I hope the Convention will accept the section in that form, and then the gentleman from Erie may make any amendment that he wishes.

Mr. CASSIDY. Mr. President: I wish to suggest to the gentleman from Dauphin the propriety of striking out the words "to the General Assembly or," and the words "of profit or trust," so that the conclusion of the sentence will read "shall be eligible to any office in this State."

SEVERAL MEMBERS. The Assembly is not an office.

Mr. CASSIDY. Is the idea to include the words "General Assembly," simply because that is not covered by the word "office?"

Mr. MACVEAGH. Yes, sir.

The PRESIDENT. The question is on the amendment of the gentleman from Dauphin (Mr. MacVeagh.)

The amendment was agreed to.

Mr. BOWMAN. I move now to further amend by inserting after the word "person" the word "hereafter" in the first line, so as to read, "no person hereafter convicted," &c.

The amendment was agreed to; there being on a division—ayes, fifty; noes, nineteen.

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

Mr. TEMPLE. I ask to have the section read as it now stands.

The PRESIDENT. The section will be read.

The CLERK read as follows:

"No person hereafter convicted of embezzlement of public moneys, bribery, perjury or other infamous crime, shall be eligible to the General Assembly or to any office of profit or trust in this State."

Mr. TEMPLE. I move to strike out all after the word "Assembly" in the fifth line. The words I propose to strike out are, "or to any office of profit or trust in this State."

I will simply state to delegates that my only reason for moving this amendment is this: We are now describing the qualifications of members of the Assembly, and it strikes me that it is highly improper to insert in this clause the qualifications of other officers of the Commonwealth, because if we go to look hereafter for things that will disqualify persons from holding other offices we shall be obliged to resort to the article in the Constitution on the subject of the Legislature. That can be provided for in another section, and I believe another section is the proper place for it.

The PRESIDENT. The question is on the amendment of the delegate from Philadelphia (Mr. Temple.)

The amendment was rejected.

The section as amended was agreed to.

The PRESIDENT. The next section will be read.

The CLERK read as follows:

Tenth. Every member of the General Assembly, before he enters on 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 this Commonwealth, and will honestly and 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 corruptly 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 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."

Mr. T. H. B. PATTERSON. I call the attention of the Convention to the fact that this oath was passed to second reading, with the understanding that an oath was to be reported by the Committee on Oaths of Office; and, therefore, we ought now to vote this section down, because

the ground is already covered by the general oath.

Mr. KAINE. The gentleman from Allegheny is mistaken. The report was made by the Committee on Oaths, and an oath something like this was incorporated in the report; but when that came to be voted on, it was not agreed to. Therefore this oath, as it stands, should be adopted. The gentleman was not here at the time.

Mr. MACCONNELL. Gentlemen will find in report number twenty, on the files, as reported from the committee of the whole:

"Members of the General Assembly and all judicial, State and county officers shall, before entering upon the duties of their respective offices, take and subscribe the following oath or affirmation."

Then follows the form of oath.

Mr. T. H. B. PATTERSON. I insist upon it, Mr. President, that I was right in the statement I made, and I am sustained by the files.

The PRESIDENT. The question is on agreeing to the section.

Mr. MACVEAGH. I call for the yeas and nays.

The PRESIDENT. Is the call seconded?

Mr. TEMPLE. I second it.

The question being taken by yeas and nays, resulted: Yeas, fifty-six; nays, thirty-one; as follow:

Y E A S.

Messrs. Achenbach, Baer, Barclay, Beebe, Bigler, Bowman, Boyd, Brodhead, Buckalew, Carey, Carter, Cassidy, Church, Clark, Corbett, Cronmiller, Curtin, Cuyler, Davis, Dodd, Finney, Fulton, Guthrie, Hanna, Harvey, Hazzard, Heverin, Horton, Hunsicker, Kaine, Landis, Lawrence, Littleton, Long, MacVeagh, McCulloch, Metzger, Niles, Palmer, G. W., Palmer, H. W., Patton, Purviance, John N., Purviance, Sam'l A., Read, John R., Reynolds, Russell, Simpson, Smith, H. G., Smith, Wm. H., Stewart, Turrell, Wherry, White, J. W. F., Woodward, Worrell and Wright—56.

N A Y S.

Messrs. Baily, (Perry,) Bartholomew, Biddle, Broomall, Campbell, Corson, Craig, De France, Edwards, Ellis, Ewing, Fell, Hall, Hay, Howard, Lilly, MacConnell, M'Clean, Mantor, Minor, Newlin, Patterson, D. W., Patterson, T. H. B., Porter, Reed, Andrew, Runk, Struthers,

Walker, Wetherill, J. M., White, David N. and Meredith, *President*—31.

No the section was agreed to.

ABSENT.—Messrs. Addicks, Ainey, Alricks, Andrews, Armstrong,, Bailey, (Huntingdon,) Baker, Bannan, Bardsley, Black, Charles A., Black, J. S., Brown, Calvin, Cochran, Collins, Curry, Dallas, Darlington, Dunning, Elliott, Funck, Gibson, Gilpin, Green, Hemphill, Knight, Lamberton, Lear, M'Camant, M'Murray, Mann, Mitchell, Mott, Parsons, Pughe, Purman, Rooke, Ross, Sharpe, Smith, Henry W., Stanton, Temple, Van Reed, Wetherill, Jno. Price and White, Harry—45.

THE PRESIDENT. The eleventh section will be read.

The CLERK read as follows;

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.

Mr. HANNA. I move to amend this section by striking out the words "one of the judges of the Supreme Court" and inserting the words "Secretary of State." Gentlemen will notice that the words following in the section are "Secretary of State," and this amendment will make the section harmonious.

On the question of agreeing to the amendment, a division was called for, which resulted thirty-eight in the affirmative and sixteen in the negative.

So the amendment was agreed to.

Mr. BUCKALEW. I trust that this amendment will not be adopted. Suppose a political quarrel, such as there was in Harrisburg in 1839, should occur, will you put into the hands of the Secretary of the Commonwealth the power to fix the political complexion of either House? Just think of the condition of things.

THE PRESIDENT. The Chair will beg leave to state that the amendment has already been adopted.

Mr. BUCKALEW. My remarks are perfectly legitimate to the section as amended. It seems to me that the idea upon which we proceed in not authorizing the Governor to issue writs of election to fill

vacancies in either House, applies with ten-fold force to this section; that nobody in the Executive Department should have anything to do with the Legislature. Gentlemen say that it may sometimes be inconvenient for a judge of the Supreme Court to be present at the sessions of the Legislature. There would be no inconvenience at the opening of the session for a Judge of the Supreme Court to attend the Legislature and swear in the members present. After the session is commenced it might be inconvenient to attend, at any special time, and swear in members who do not present themselves when the Legislature is called to order. Or it might be inconvenient in the case of swearing in a member whose seat was decided under a contest, to call a judge of the Supreme Court from Pittsburg or from Philadelphia to Harrisburg to perform that duty. I would desire to amend by stating that the members of the respective Houses shall be sworn in by one of the judges of the Supreme Court or by a president judge of the common pleas, as there would always be a president judge of that court in Harrisburg. By amending the section in that way the oath so administered would have the sanction of being administered by a law judge; and if some gentleman who voted in the affirmative on the question of agreeing to this amendment will move a reconsideration, I will offer an amendment such as I have indicated.

Mr. Kaine. I move to reconsider the vote.

THE PRESIDENT. Did the gentleman vote in the affirmative.

Mr. Kaine. I did.

THE PRESIDENT. Is the motion seconded by a gentleman who voted in the affirmative.

Mr. M'CLEAN. I second it.

THE PRESIDENT. How did the gentleman vote?

Mr. M'CLEAN. In the affirmative.

The motion to reconsider was agreed to.

THE PRESIDENT. The amendment is again before the House.

Mr. HANNA. I withdraw it.

THE PRESIDENT. It is not in the gentleman's power to withdraw it after the House has acted on it.

Mr. BUCKALEW. I now move to amend, by inserting after the words "Supreme Court" the words "or a president judge of the court of common pleas."

THE PRESIDENT. That is not now in order. The question is upon the amend-

ment of the gentleman from Philadelphia (Mr. Hanna.)

Mr. BUCKALEW. I understood that to be withdrawn.

The PRESIDENT. It cannot be withdrawn after the House has voted on it.

The amendment was rejected.

Mr. BUCKALEW. I now offer my amendment.

The PRESIDENT. The amendment will be read.

Mr. MACVEAGH. Read it as amended.

The CLERK. The section as proposed to be amended reads:

"The foregoing oath shall be administered by one of the judges of the Supreme Court or a president judge of the court of common pleas 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."

Mr. EWING. I would be obliged to the gentleman from Columbia, (Mr. Buckalew,) or to the chairman of the Committee on Legislature, (Mr. MacVeagh,) if either of them will inform us what necessity there is for this designating here who is to administer that oath and how it is to be done, what advantage there is in having all this form?

Mr. CORSON. Of what use is the section at all?

Mr. EWING. Yes, sir; of what use is the section?

Mr. BUCKALEW. An unorganized House cannot act. The Senate is always organized because its Speaker is elected at the end of the session. The House of Representatives is unorganized and the members must be sworn in before it can be organized. The attendance of some judicial officer to swear in the members in accordance with law will preserve order and give dignity to the proceedings.

The amendment was agreed to.

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

The section as amended was agreed to.

The PRESIDENT. The twelfth section will be read.

The CLERK read as follows:

Twelfth. The members of the General Assembly shall receive such salary and mileage for regular and special sessions as shall be fixed by law, and no other compensation or payment whatever, whether for services as a member of any committee or otherwise; but no member of either House shall, during the term for

which he may have been elected, receive any increase of salary, compensation or mileage, under any law passed during such period."

Mr. WHERRY. I move to amend, by adding to the end of the section:

"Nor in case of a contested election shall compensation or mileage be paid to any but the person entitled to his seat."

Mr. SIMPSON. I trust the House will not adopt this amendment, for the reason that if a person receives a certificate of election and attends the session, and then discovers afterwards that he was not properly elected, he certainly is not in fault, and he should be paid. If the gentleman will confine his amendment to contestants failing to get their seats, I will vote for it.

Mr. WHERRY. That is just what it is, sir.

Mr. SIMPSON. I do not so understand it.

Mr. WHERRY. I ask that it be again read.

The CLERK read as follows:

Add to the end of the section:

"Nor in case of a contested election shall compensation or mileage be paid to any but the person entitled to his seat."

Mr. SIMPSON. That expressly excludes a man who may be ousted on a contest. He would not be entitled to compensation although he came to the Legislature with proper credentials and it was his duty to go there.

Mr. MACVEAGH. I trust it will be voted down.

Mr. WHERRY. Very well.

The amendment was rejected.

The PRESIDENT. The question is on the section.

The section was agreed to.

The PRESIDENT. The next section will be read.

The CLERK read as follows:

Thirteenth. The Lieutenant Governor shall preside over the Senate, and in case of a vacancy in the office of Lieutenant Governor the Senate shall elect one of its members as Speaker. The House of Representatives shall elect one of its members as Speaker. Each House shall choose its other officers and shall judge of the election and qualifications of its members.

The section was agreed to.

The PRESIDENT. The next section will be read.

The CLERK read as follows:

Fourteenth. A majority of each House shall constitute a quorum, but a smaller

number may adjourn from day to day, and may be authorized by law to compel the attendance of absent members in such manner and under such penalties as may be prescribed.

Mr. BRODHEAD. I offer the following additional section to come in here, to be numbered fourteen :

"The Secretary of the Commonwealth, Attorney General, Auditor General, State Treasurer, Secretary of Internal Affairs and Superintendent of Public Instruction 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."

I offer this in view of the beneficial result which this will effect in the character of our public officers, and the facilities it will give for the transaction of business. That it will do this ought to strike the attention of every member of this Convention. I think it is a point that does not require any argument, if the members of this body will reflect upon the result of the introduction of a section like this.

The amendment was rejected.

The PRESIDENT. The question is on the fourteenth section.

Mr. CORSON. I move to amend by striking out the words "may be authorized by law to," and all after the word "members," so as to make the section read :

"A majority of each House shall constitute a quorum, but a smaller number may adjourn from day to day and compel the attendance of absent members."

Mr. MACVEAGH. I trust that will not be adopted.

Mr. CORSON. I want to say just one word. We are in danger of running into too many words. We are likely to make our Constitution too long, and I am afraid it will fall to pieces. We can abbreviate this section very properly by just striking out these words, and then that constitutional law for the Legislature will be like the law which we have laid down for this body. There is no reason why we should say in this Constitution that the members of the House of Representatives should be authorized by some other House to compel the attendance of absent members, when we can say it directly. We can say here directly, and to the point, that a majority of each House shall constitute a quorum, and that they may

adjourn from day to day and compel the attendance of absent members. Of course they will do that by rule, and a rule is a law.

Mr. MACVEAGH. This language is working very well, and has worked very well ever since this State was organized, I think; certainly ever since the last Constitution was adopted. I trust it will be retained.

Mr. CORSON. So has the old Constitution worked well, but we are here amending it.

Mr. MACVEAGH. It has not worked well in all particulars.

On the question of agreeing to the amendment proposed by Mr. Corson, a division was called for, which resulted thirty-four in the affirmative, and thirty in the negative. So the amendment was rejected.

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

The section as amended was agreed to.

The PRESIDENT. The next section will be read.

Mr. TEMPLE. I rise to a question of privilege for the purpose of moving to reconsider the vote on the adoption of the thirteenth section. There is one word in that section that I am satisfied the members of the Convention do not desire to have there. If I am allowed I will state what it is. It is the word "election," in the last line. The Convention decided a few days ago that the courts of common pleas should decide contested election cases, and certainly the word "election" should not be in the section.

Mr. MACVEAGH. I will say to the gentleman that that is true; and it occurs also in one matter in the report on the executive department. The general clause covered it; and yet the House passed the report to second reading. Whether it was with the notion that the Committee on Revision and Adjustment would correct it, I do not know. This is a question which was debated and on which the House voted; and if gentlemen will turn to the second reading of the report of the Committee on the Executive Department they will find that exactly the something occurred there, that a provision in conflict with an article adopted previously was adopted in that article and referred to the Committee on Revision and Adjustment. As this whole question is sure to come up from that committee, it seems to me hardly worth while to take up time by going over it now. We shall have to take the

yeas and nays at some time on it, and I suppose we may as well go through and let it be referred to the Committee on Revision and Adjustment.

Mr. TEMPLE. If it can be reached in that way, I withdraw the motion to reconsider.

The PRESIDENT. The motion to reconsider is withdrawn. The next section will be read.

The CLERK read as follows:

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

Mr. DODD. I move to strike out all after the word "proceedings" in the first line to the word "cause," inclusive, in the third line, for the reason that it is but a repetition of the words already inserted in section three of the article on legislation. The words to be stricken out are, "punish its members for disorderly behavior, and with the concurrence of two-thirds expel a member, but not a second time for the same cause."

The amendment was rejected, the ayes being twenty-seven; not a majority of a quorum.

The section was agreed to.

The CLERK read the next section as follows:

Sixteenth. The doors of each House and of committees of the whole shall be open, unless when the business is such as ought to be kept secret.

The section was agreed to.

The CLERK read the next section as follows:

Seventeenth. Neither House shall, without the consent of the other, adjourn for more than three days, nor to any other place than that in which the two Houses shall be sitting.

Mr. SIMPSON. I move to amend by inserting after the word "days," in the second line, the words "exclusive of Sundays or public holidays."

During the past year or two this question has been somewhat mooted throughout the State, and different views have been taken upon it, and I think it would be better to settle it here in the language of the Constitution to avoid any question anywhere. For that reason I make the motion.

The PRESIDENT. The question is on the amendment of the delegate from Philadelphia (Mr. Simpson.)

The amendment was agreed to, there being on a division ayes thirty-seven, noes twenty-nine.

Mr. D. N. WHITE. I move to change the word "three" to "two," before days. After the adoption of the last amendment, either House may adjourn half the time. Anyone who has been there knows how difficult it is to keep the Houses together when they may adjourn three working days of every week.

Mr. MACVEAGH. I think it is quite clear that since the adoption of the amendment, this time may be reduced. It now excludes Sunday, which adds one day more, and makes it now four days really, so that, as the gentleman says, it really gives to one House the power of adjourning the other for that length of time. It is not a question now of how you limit the Legislature, but it is a question of the power of a majority of one House to control the action of the other House. The Convention has seen fit to adopt the amendment; I think the gentleman from Philadelphia did not fully foresee its effect. It was perhaps desirable to remove the difficulty to which he alluded, but I think it has been removed by judicial decision, if any real difficulty ever existed.

Now, you certainly allow a majority of one body to have control over the other more than half the time, because three days and Sunday added make the major part of the week. There are but seven days in the week, and if they may adjourn for four days at a time, and especially if a stated holiday comes in, they may adjourn for five days, where are we? I think it was right exactly as it was reported without the amendment, but if the amendment has gone in certainly one House ought not to have the power, more than three or four days at the outside, to control the other.

Mr. LILLY. It appears to me that there is no necessity for this provision at all. I cannot see where it comes in. I believe the same provision is in the old Constitution, and the Legislature adjourns from week to week without any hindrance whatever. There was a very important law passed two years ago which was contested on that point. How it was judicially decided, I do not exactly know; but the result was I believe that it did not make any difference whether they

did adjourn, there was no penalty attached, and it did not vitiate any act passed afterwards. It seems to me to be a useless burden in this Constitution. I think we may leave it out and let the Legislature adjourn as they please. If I could see any utility in it or any benefit to arise from it, I should be willing to vote for it.

Mr. BEEBE. If the gentleman from Allegheny will withdraw his amendment, I will move to reconsider the action of the House on the amendment of the gentleman from Philadelphia, (Mr. Simpson,) as I voted in the affirmative.

Mr. D. N. WHITE. I will withdraw the amendment for the present.

Mr. BEEBE. Then I move to reconsider the vote on the amendment of the gentlemen from Philadelphia (Mr. Simpson.)

The PRESIDENT. Did the gentleman vote with the majority?

Mr. BEEBE. I did, sir.

The PRESIDENT. Is the motion seconded by a member who voted in the majority?

Mr. STRUTHERS. I second the motion. I voted in the majority.

The PRESIDENT. It is moved and seconded to reconsider the vote on the amendment offered by the gentleman from Philadelphia (Mr. Simpson.)

The motion to reconsider was agreed to.

The PRESIDENT. The question recurs on the amendment.

Mr. BIGLER. I should be glad to have the amendment read.

The PRESIDENT. The amendment will be read for information.

The CLERK. The amendment is to insert after the word "days," in the second line, the words, "exclusive of Sundays or public holidays."

Mr. NILES. The report of the committee is just the language of the old Constitution precisely. It does not change it, and I think there has never been any complaint at Harrisburg that the Legislature had not power enough of adjournment.

The PRESIDENT. The question is on the amendment.

The amendment was rejected.

The PRESIDENT. The question is on the section.

Mr. CUYLER. This section as it stands has been drawn into discussion in our courts in a case that arose in the city of Philadelphia. What, after all, does it prac-

tically amount to? Suppose that either House does actually adjourn more than three days, what remedy is there? What is the consequence that flows from it? When the Senate, if that be the House that has adjourned, meets again and entertains business coming from the other House, if there be any offense, it is all purged away, and the section practically amounts to nothing; it does not seem to achieve any result whatever.

The section was agreed to.

The CLERK read the next section as follows:

Eighteenth. The members of the General Assembly shall in all cases, except treason, felony, violation of their oath of office, and breach or surety of the peace, be privileged from arrest during their attendance at the sessions of their respective Houses and in going to and returning from the same. And for any speech or debate in either House they shall not be questioned in any other place.

The section was agreed to.

Mr. MACVEAGH. There is one section that was omitted either in the reprint or in some manner—a portion of a section in the present Constitution. I want to ask the House to consider it as an independent section. It is in the amendments, providing that the Governor shall not have power to appoint any member of either House to office during his term. It is certainly very desirable to have it appended, and it seems to have been omitted. I move to reconsider the vote by which section eight was adopted.

The PRESIDENT. Did the gentleman vote with the majority?

Mr. MACVEAGH. Yes, sir.

Mr. J. R. READ. I second the motion.

The motion to reconsider was agreed to.

The PRESIDENT. The question now is on the eighth section.

Mr. MACVEAGH. I now move to amend the section by adding to it:

"And no member of the Senate or House of Representatives shall be appointed by the Governor to any office during the term for which he shall have been elected."

The amendment was agreed to.

The section as amended was agreed to.

The CLERK read the nineteenth section, as follows:

Nineteenth. The Senate shall consist of fifty members and the House of Representatives shall consist of one hundred and fifty members.

Mr. S. A. PURVIANCE. I offer the following, to take the place of section nineteen:

"The Legislature shall, at its first session after the adoption of this Constitution, divide the State into forty-nine senatorial districts, of which the city of Philadelphia shall have seven, each of which districts shall be entitled to elect one Senator in such way and at such times as may be provided for by law. Each county in the Stateshall be entitled to a Representative in the lower House of the General Assembly, and for every forty thousand inhabitants to an additional member of said body. The Legislature shall provide by law for a return once in every three years in the several counties of this Commonwealth of the inhabitants thereof, and the commissioners of said counties shall certify to the office of the Secretary of the Commonwealth within thirty days the number of the inhabitants of each county, after said return; and whenever it shall appear that any county has attained the requisite number of inhabitants 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."

Mr. LILLY. I move to amend by striking out the amendment and the section and inserting the following.

"The Senate shall consist of fifty-two members, who shall be voted for and elected by the electors of this Commonwealth at large in the manner and form hereinafter"—

The PRESIDENT. That is not an amendment to the amendment, and it will not be in order until after the amendment of the gentleman from Allegheny is disposed of. The question is on that amendment. Is the House ready for the question?

Mr. S. A. PURVIANCE. I desire to make a few remarks before the amendment is voted on; and for the purpose of getting the question fairly before the House, as I understand the remaining sections of this article have never been considered in committee of the whole, I move that the Convention now resolve itself into committee of the whole for the consideration of the nineteenth and following sections of this article.

The motion was agreed to, and the Convention resolved itself into committee of the whole, Mr. Stanton in the chair.

The CHAIRMAN. The committee of the whole have had referred to them the nineteenth, twentieth and twenty-first sections of the article on the Legislature. The nineteenth section will be read by the Clerk.

The CLERK read as follows:

Nineteenth. The Senate shall consist of fifty members and the House of Representatives shall consist of one hundred and fifty members.

Mr. MACVEAGH. Mr. Chairman: The committee will observe that the number of Senators has been raised from the former report and what was supposed to be the judgment of the committee fifty per cent., and the same change has been made in the number of Representatives. It was supposed that those numbers were likely to reach the views of this committee of the whole. It is to be expected that the fullest diversity of opinion will be developed on this subject, and I simply desire now to call the attention of members in the discussion of it to some of the difficulties which certainly weigh with those of us in the Convention who are unable to anticipate any benefits whatever from an increase of the number of the respective Houses of the Legislature.

In the first place, we have adopted the article on legislation, and we have limited the subjects for the future consideration of the legislative department almost exclusively to matters of general and State interest. Heretofore, when local measures were to be passed and each member of a locality was considered sufficient authority for the passage of any bill affecting his locality, the dangers from a great increase of numbers would not have been so considerable. But now when we are asking that our legislators shall confine their attention to general subjects, to general laws, surely you will not gain increased intelligence by increasing the number; you will not gain increased capacity for the place by lessening the responsibility and lessening the power that you give to the individual legislator. And I cannot believe that the experience of this body has satisfied the members of the Convention that a large body is more capable of deliberation, more likely to reach a just conclusion from the arguments addressed to it, than a small body.

The only answer I have yet heard to the arguments in favor of restricting the number, is that a large body is more difficult to be corrupted than a small body. To that assertion I venture a direct nega-

tive—it is not true. It is the universal history of legislative bodies in America that the larger body is always the more easily to be corrupted, and precisely in the proportion of its numbers, other things being equal. Gentlemen will argue here that the State of Massachusetts has a Legislature that has generally preserved a fair name; but the State of Massachusetts is a political community under peculiar circumstances, and it is not at all clear that with a smaller legislative body her Legislature would not be better than it has been and than it is. Gentlemen argue, too, from the example of Connecticut and the other New England States. I venture to say that the office of a legislator in Connecticut and in the New England States generally, is to-day an office of the utmost insignificance, of no importance, and that therefore the character which you need as the bulwark against corruption cannot be found in such a body.

Since this matter was before the committee of the whole heretofore, I have given such attention to it and such further consideration as the large divergence of opinion here would warrant and justify; but I have been utterly unable to see any rational ground in the character of man, in the history of representative government, in the functions of legislative bodies, to be urged in favor of this change. It is a change, and, therefore, many gentlemen are in favor of it; it works well in Massachusetts, and, therefore, other gentlemen are in favor of it; but I submit that any man who will stop to consider will find that no community on the downward path of its political history ever gained any advantage from beckoning a lower order of men into its places of public trust and of public profit. Just as you give responsibility—just as you give a larger and fuller measure of political power, so you summon to your places a better class of men; and as you divide it and reduce it and diminish it, so, in my judgment, you reduce and diminish the character of your representative body. I believe to-day that, after the adoption of your article upon legislation, the wisest step you could possibly take would be to restrict yourselves to seventeen Senators and to fifty Representatives, so that when an iniquitous bill is passed the people may know to whom to look, so that a man may be tempted, by a worthy political ambition, to strive to fill this office to the satisfaction of his fel-

low-citizens. But when you put together a herd of several hundred men, what do they amount to? As a deliberative body, what does this Convention amount to? This Convention has never been a deliberative body. It is impossible that it should discharge the function of a deliberative body; and your House of Representatives at Washington has notoriously discarded those functions altogether; it remits them to committee rooms and committees, and occasionally to a leader, but it does not, as a body, discharge these functions; and you will not in any large body get the proper consideration for grave questions affecting the general welfare.

As I say, it did not much matter heretofore, when the legislative business was to pass laws to prevent pigs running at large in a certain township of a certain county. It was not very important whether deliberation was given to that measure or not; but now, when almost every word of every law will bear upon the shoulders of every citizen from Erie to the Delaware, it is important that instead of diminishing the ambition of your public life you should increase its character, and summon not worse men, not weaker men, but summon stronger and better men to your places of legislative trust and of legislative honor.

Mr. BARTHOLOMEW. Mr. Chairman:

Mr. S. A. PURVIANCE. Will the gentleman from Schuylkill give way until I can get my amendment before the committee?

Mr. BARTHOLOMEW. Very well.

Mr. S. A. PURVIANCE. I offer, Mr. Chairman, the amendment which I offered in Convention.

The CHAIRMAN. The amendment will be read.

The CLERK. It is proposed to strike out the nineteenth section and insert in lieu thereof:

“The Legislature shall at its first session after the adoption of this Constitution, divide the State into forty-nine senatorial districts, of which the city of Philadelphia shall have seven, each of which districts shall be entitled to elect one Senator in such way and at such time as may be provided for by law. Each county in the State shall be entitled to a Representative in the lower House of the General Assembly, and for every forty thousand inhabitants to an additional member of said body. The Legislature shall provide

by law for a return once in every three years in the several counties of this Commonwealth of the inhabitants thereof; and the commissioners of said counties shall certify to the office of the Secretary of the Commonwealth, within thirty days, the number of the inhabitants of each county after said return; and whenever it shall appear that any county has attained the requisite number of inhabitants 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."

Mr. LILLY. I move my amendment to the amendment.

The CHAIRMAN. The amendment to the amendment will be read.

Mr. LITTLETON. I think that was decided by the President to be out of order.

The CHAIRMAN. That was in Convention, not in committee of the whole. The Clerk will read the amendment to the amendment.

The CLERK. The amendment to the amendment is to substitute the following:

"The Senate shall consist of fifty-two members, who shall be voted for and elected by the electors of this Commonwealth at large, in the manner and form hereinafter provided for.

"1st. In the year 1875 the whole number of Senators shall be divided into two classes of twenty-six each; class designated number one to serve for the first ensuing two years; class designated number two to serve for the first ensuing four years.

"In the year 1877, and every four years thereafter, there shall be elected twenty-six Senators to serve for the ensuing four years.

"2nd. At the general election in the year 1875, each elector of this Commonwealth may vote for — persons, and no more, for each class of Senators provided for above, to be elected in 1875. The twenty-six highest in vote for each class shall be declared elected, and shall serve for the term for which they were severally elected.

"In the year 1877, at the general election, and every two years thereafter, each qualified elector of this Commonwealth may vote for — persons, and no more, for Senators to serve for the next ensuing four years. The twenty-six highest in vote shall be declared duly elected.

"3rd. The Legislature shall by law provide for the filling of vacancies that may

occur by death or resignation or otherwise.

"SECTION —. The House of Representatives shall be constituted as follows: The whole population of the Commonwealth, as ascertained by the last census taken by the authority of the United States, shall be divided by one hundred and fifty; the quotient shall be the ratio of membership in the House of Representatives of this Commonwealth; each county shall elect at least one member, except the counties of Bedford and Fulton, which shall vote together and elect two members; the counties of Wayne and Pike shall vote together and elect two members; the counties of Forest, Elk and Cameron shall vote together and elect one member; the counties of Potter and McKean shall vote together and elect one member; and the counties of Wyoming and Sullivan shall vote together and elect one member. Every county or district that has a full ratio and a fraction of three-fifths of a ratio shall be entitled to and elect an additional member, and for each additional ratio of population in any county or district, the said district or county shall elect an additional member. The Secretary of the Commonwealth, the Secretary of Internal Affairs, and the Attorney General of the Commonwealth shall in the year 1881, and every ten years thereafter, divide the whole population of the Commonwealth, as ascertained by the most recent census taken by the authority of the United States, by one hundred and fifty, and the quotient shall be the ratio for members of the House of Representatives of this Commonwealth for the next succeeding ten years, and upon that basis and in accordance with the first foregoing section of this article, shall apportion and proclaim the number of members each district and county is entitled to. Said districts shall vote in accordance therewith and in accordance with the further provisions of this article.

"Whenever any county or city and county shall have a quotient entitling it to more than nine members of the House of Representatives, then all of the law judges of all the courts of record constituted exclusively for the said county or city and county shall meet and by unanimous vote appoint five reputable citizens, being electors of the said county or city and county, who shall divide the said county or city and county into representative districts, said districts not to contain or be entitled to more than six nor less

than three Representatives in any one district. The districts shall be of adjoining and compact territory. The ratio of Representatives for the House of Representatives in the State shall be adhered to as nearly as may be. Due regard shall be paid to the political complexion of the said districts so as to secure as near as practicable a fair representation of sentiment as shown by the returns of the general elections of the past two years: *Provided*, That no ward or township shall be divided in the formation of such districts."

Mr. BROOMALL. I desire to ask a question of the Chair, whether an amendment to the section has not priority to the vote upon a substitute.

The CHAIRMAN. The Chair would decide that the gentleman's point is well taken. The Chair, for the present, will rule the amendment to the amendment out of order and consider the only matter now before the committee the proposition made by the gentleman from Allegheny (Mr. S. A. Purviance.)

Mr. BROOMALL. The question is not just that, but whether an amendment to the section as it stands has not priority to a vote on a substitute?

The CHAIRMAN. Certainly; that has priority.

Mr. BROOMALL. Then I move to strike out the word "fifty," in the first line, and insert the word "thirty-three," as the number of the Senate, and strike out "one hundred and fifty" and insert "one hundred" as the number of members of the House of Representatives.

Mr. McCLEAN. I submit that that is not an amendment to the amendment.

The CHAIRMAN. The Chair decides that this is not an amendment to the amendment.

Mr. BROOMALL. My question, however, was whether an amendment to the text would not be acted upon before the vote on the substitute.

The CHAIRMAN. The Chair will decide not. The only matter now pending before the committee is the amendment moved by the delegate from Allegheny (Mr. S. A. Purviance.)

Mr. BARTHOLOMEW. Mr. Chairman: I am satisfied that every member of this committee is conscious that the primary cause of our assembling here was the universal complaints made against the legislation of the Commonwealth. There is a prevailing opinion broadcast that the legislation of the Commonwealth is not

what it should be; that it is inspired by motives unworthy of the members of the Legislature in many instances. I have no doubt that my distinguished friend, the gentleman from Dauphin, is anxious to meet this evil, anxious to do anything to eradicate it, and to make the Legislature of this State better, purer, and of a more exalted character. I assume that this is the most important question, and I have from the beginning deemed it the most important question that could come before this Convention. I have thought of the curative propositions that have been proposed and adopted, many of them, in the Convention. I have given them that consideration which they were, as I thought, entitled to, and I have voted conscientiously upon them; but after all I have deemed that this was the great overshadowing proposition whereby we were to reach the shores of safety, if at all, in this Commonwealth.

You may talk about oaths; you can make them as common as huckleberries; you can make them so common that no man shall take notice when he takes them; you may make them so that they make no impression on the conscience of the individual; you may restrict legislation; you may confine the action of the Legislature, as you suppose, within a narrow and restricted circle, but I affirm that oaths shall not be regarded, that those who are interested will find a way through and around your restrictions upon special legislation. They will say to you, "Pass your general laws;" and I say to this body, "Pass your general laws." Take it in relation to corporations, to whom will it apply under the system of special legislation which for year after year has been building and growing, increasing in this Commonwealth? No general law will apply to more than one or two corporations. Then it becomes in fact, in practical operation, special legislation, nothing else, nothing less, nothing more; and I say, so far as these curative propositions already considered are concerned, they are but drops upon the water.

—"Drops upon the river,
A moment white, then gone forever."

But when you come to a question like this, the gentleman's argument is against that which has been taught to me by the text-writers of this age, that the more narrow and restricted the body is, the more pure it is. I was taught, and drew the inspiration from the text-books, that

there were three forms of government: First, a monarchy; second, an aristocracy; and third a democracy; that one had power, that the second had wisdom, and that the third had purity. This has been the teaching of the masters in governmental science and in legislation; and the principle applies directly in this case, and therefore I hold it to be true that the experience of the past is the light to guide us now in the present, and I take it the larger you make the body which shall pass upon the acts which shall be a law to this people, the more pure will be their acts. They may be crude; they may be imperfect; but, so far as their purity is concerned, they will far exceed in that respect those which shall be the work of a mere handful of men who shall have become by long usage skilled as artists in legislation and open to seduction by reason of the magnitude of the power vested in them and the extent of temptation that can be readily offered, their number being small.

Now, sir, some man—I do not say that he could have been a good man; he may have been a wise man—has said that “every man has his price.” This has become a political axiom; and I take it, there are many men who for the price that will seem to them commensurate with the sacrifice of their conscience will violate it; but when the price is too small, they will not violate their conscience. Therefore I take it to be a fact that if you increase the Legislature of the Commonwealth, you thereby necessarily increase the cost of legislation. I speak now of corrupt legislation, of such legislation as has stained the statute books of our Commonwealth. Let us accept that as a proposition that is true, and I ask you, Mr. Chairman, if it be a truth, and if it be a political axiom that every man has his price, is it not the true road to purity that we should make the bribe so small by reason of the numbers that it is not commensurate with the sacrifice of conscience, and thus the goal of iniquity cannot be reached. Legislation we have heard of, elections we have heard of, that have been claimed to be carried by corrupt means. Now, I take it that if they were carried corruptly, the price bidden under the hammer at the sale was the value of the conscience of those bought, and if the number necessary to be bought had been increased by reason of the large number of the body itself, the price must necessarily have increased or it would not perhaps meet the

consciences of those who, under the circumstances, would have sacrificed themselves. Therefore I say that upon such a proposition as that the common mind can see that the increase of numbers begets purity in a legislative body.

Mr. EWING. Will the gentleman allow me to ask one question?

Mr. BARTHOLOMEW. Certainly.

Mr. EWING. How much more will it cost to buy one ten thousand dollar man than ten one thousand dollar men?

Mr. BARTHOLOMEW. That is a simple question of calculation. The gentleman can figure it out for himself.

Now, sir, a word upon the next proposition. My friend from Dauphin says that if you restrict the number, you improve the character of your legislators. Is that true? Why is it that we have the class of men at Harrisburg to-day that we have? Is it because of the importance of the office and the dignity of the position? Is it because they are proud of being legislators in this great Commonwealth of Pennsylvania? No; it is because it is an office not of honor, but of profit. Take away the profit from the office and you add to it honor. I undertake to say that the annals and the history of the Commonwealth of Pennsylvania will show that when the members of the Legislature received three dollars a day, and before corporations with their power were in existence, the character of the members of the Legislature of Pennsylvania far excelled those of the present day. Then men went there from a laudable ambition; they went to serve the State; they went there to make a reputation; they went there for that ambition which is commendable; but to-day they sink that and go for profit and for lucre. Therefore I say that the moment you destroy the profitable part of legislation, that moment you make the body more exalted and elevate it, as you should do.

Experience has taught us that in those States that have pursued this policy there is more purity. They have stood by this principle held by the fathers and masters, which has been unshaken by anything and everything brought against it. Age has left it unstained, and it stands to-day as pure and fresh as when it emanated, new-born, from their minds. Look at New England, with her little Commonwealths, with her large representation in her legislative bodies, and where I ask do you find the scandal and the shame

that have been put upon the great Empire State and the Keystone of the Union? No man can point to it; no man dare put his finger upon it. We have seen its practical operation. It is consistent with the principles that we have been taught were right and correct. Therefore I stand here as I do, pleading that it is the great purifying measure, the grandest and the best that can be proposed. I am in favor, first, last and all the time, of an increase of the legislative body. I am in favor not of the numbers that have been proposed by either of the amendments that have been offered, but a larger number, believing that diluting the number of the body will purify it by elevating it and destroying the inducement that takes bad men there, mere profit and mere dollars.

MR. S. A. PURVIANCE. Mr. Chairman: I have felt disposed to give way to other gentlemen who might feel inclined to speak upon this question, and to make the few remarks that I intend to make at the close of the debate.

I admit that this is, of all the questions that have been brought before us, one of the most important—the construction of our Legislature. The amendment which I have offered relates both to the Senate and to the lower House. Here allow me to say that so far as regards the construction of the Senate, I am not very particular. I have not thought of that in the same way that I have of the construction of the lower House.

My proposition, so far as regards the lower House, is this: That we give to each and every county of the Commonwealth a Representative irrespective of population, and that we give for every forty thousand inhabitants an additional Representative. Now, sir, look at this plan for a moment and see whether it possesses merit beyond that of any other. I think it does. In the first place, it creates single districts in the State. In the second place, it creates equalization of representation. In the third place, it is self-adjusting in its nature; and in the fourth place, it is entirely above and beyond the power of gerrymandering.

As I said when this subject was before the committee some time ago, here are four principles, four essentials in the construction of your Legislature that you cannot bring into any other system that may be devised. I say the single districts stand clear of the danger of gerrymandering. They stand clear of any attempt at corruption, because the people within

the limits of the single county are concerned, as it is to be presumed, in a collective manner in whatever interests themselves; but when you connect together three or four counties, or bring together half a dozen counties, as in some instances, of diverse interests, having none but the most remote connection, what is the consequence? The Representative goes to Harrisburg, and what does he do? He feels bound to represent the particular county from which he comes, and there is a total neglect of the interests of all the other counties.

I know that my friend from Carbon (Mr. Lilly) is somewhat opposed to the idea of giving to each county, in the Commonwealth a member; but, sir, the plan possesses this merit: That a county has been dignified as such by your Legislature under the provisions of your Constitution, and having been once dignified with the character of a county it is entitled to all the incidents of a county, one of which is that of representation. I instance the county of Forest before and I instance it now. It is a large county; it is a rich county. It has no Representative, and yet lumber and oil and other interests are of vast importance, and belong not merely to the few inhabitants of that county, but to the inhabitants of other counties and to the citizens of Philadelphia. Why should it not have a Representative? What harm is done to other counties?

When my friend from Carbon objects to it because his county is below the population of 40,000, I answer that I rob Carbon county of nothing. Carbon county gets her conceded member. She is entitled to it, and if her fraction is only a small one, below 40,000, she will soon come in and have two members; but until she has, on the principle, not of population but of her being a county, she has conceded to her just what is conceded to the county of Forest. And so, sir, of the county of Potter, of the county of Elk and other similar counties. Although falling below the number of population, that some gentlemen say ought to be required to give a member, they are yet counties, dignified as such, and counties having very great interests.

Now, sir, give us this arrangement and what will be the effect of it? All over the Commonwealth you will have a response that it is right; that you have given full representation to the people and the interests of the people of every

locality. Why, sir, what are the interests of this great people—a people now comprising about four millions, and destined, considering the mining and manufacturing interests of our State, to be double that amount in not many years to come, a little nation within itself? My doctrine is that every county of this great Commonwealth or nation should have a representative at Harrisburg. You have now just established a system of destroying or ignoring special laws. You are now to give to the people of this Commonwealth, through general laws, the legislation which belongs to them, and I ask you whether it is fair, when that general law is before the Legislature, that general law bearing heavily upon the interests of a county like Forest or Elk or Potter or Pike or Wayne, to pass that law without those counties being heard through their special Representatives?

Sir, I am arguing this case, not upon the principle claimed by the gentleman from Schuylkill (Mr. Bartholomew.) It may have the effect by enlarging the Legislature to purify it. If that is the case, I shall say amen to it. But it is not upon that ground alone that I urge it; it is upon the ground of right and justice and merit that each and every one of these counties is entitled to a representative. By this system, taking the population of Pennsylvania, which is about three million six hundred thousand, and dividing it by forty thousand, you make, together with the sixty-six members which you concede to the counties without regard to the population, one hundred and fifty-three members. In the first place, you make about one hundred and twenty-eight members, because there are fractions standing out that are not represented; but when the whole representation comes in, it will make one hundred and fifty-three members.

Then I further provide, so that the people of the Commonwealth shall be heard, so that their voice shall not be repressed upon any matter of great legislation, that every three years the assessors of the counties and townships in making the assessment shall make an enumeration of the inhabitants, which can easily be done, return that to the commissioners' office, and the commissioners shall certify every three years to the Secretary of the Commonwealth the population of the counties, and whenever it appears that a county has a population of 40,000 the

Governor is to make his proclamation accordingly, and at the next regular election the member or members on that population shall be elected. So that it will be seen, Mr. Chairman, that this system is a single county system, an independent system, a self-adjusting system, which I think is a matter of very great importance.

Heretofore, when this subject was before the committee, I spoke of the effect of gerrymandering. All of us in this body complain of that. If there is any one reform more desirable than another, it is to strike down this infamous system of gerrymandering, done, as I admit, by both parties, because neither party seems to be pure enough to throw it aside.

Now, sir, this is all that I intend to say in regard to the formation and construction of the lower House of the Legislature. What plan has the committee proposed? Nothing but the old and simple and stale plan of giving fifty members to the Senate and one hundred and fifty to the House. How do they give them? They do not specify, and therefore leave it to the Legislature to gerrymander the State just as heretofore. Sir, if you want to make your Constitution acceptable to the people, if you want to steer clear of its being obnoxious to the people, give them representation in the lower House, which is the reflex of the popular will, and they will be satisfied.

A word with regard to my proposition in reference to the Senate. I have said that I am not so particular about that. You may make that as conservative as you please. But I have proposed that the State be divided into forty-nine senatorial districts. I fixed the number at forty-nine because it is an odd number and it will at all times give a majority in that body one way or the other and upon every question. I have said that of those forty-nine districts Philadelphia shall have seven. It may be asked by gentlemen representing Philadelphia, why I say this? My answer is that in making an enumeration of the inhabitants of a State for the purpose of representation, when you come to a city like Philadelphia, which is compact, in making the enumeration there is not a single person lost but all are enumerated, and you may make your districts so completely up to forty thousand for each district as not to lose a single person; but it is not so in reference to the rural districts. In the other forty-two districts where you are prohibited, as

by the last section of this article, very properly, from making any division of a county, from cutting up counties, you must necessarily leave large fractions in a senatorial district unrepresented in taking in certain counties and leaving out others. Therefore, sir, the seven Senators from Philadelphia, being the seventh part of the senatorial representation in the State—seven sevens being forty-nine—it would give them just about what they have now under the present Constitution. I do not want to deprive the city of Philadelphia of a single Senator or of a Representative of any kind.

Mr. D. N. WHITE. She only has four now.

Mr. S. A. PURVIANCE. If she has but four now, so much the greater is the liberality proposed in this proposition of mine that she may have seven; but while she gets the seven, if she be apportioned according to the entire representation, she might be entitled to one or two more. I suppose her population is now about seven hundred thousand; that would be one Senator to every one hundred thousand; whilst in the rural districts, the remaining forty-two districts, it would be one Senator to about eighty thousand or eighty-five thousand, and that I say would be about fair and equal, because it would be fairly adjusting the representation of the city of Philadelphia, and compensating the rural districts for the loss they sustain by fractions.

Now, sir, I have submitted my plan, and I do not feel disposed to trespass further on this committee. I have submitted this plan, and I believe that so far as regards the lower House, it is certainly the plan which will meet with the greatest favor among the people.

Mr. LILLY. Mr. Chairman: I have listened with attention to the gentleman from Allegheny and have been very much instructed. He is honest in his intention and believes his proposition to be right, no doubt; but it seems to me that his plan is entirely wrong, that there is no equality about it as far as the House of Representatives is concerned, and that it will work a very great wrong. He proposes to give each county in this Commonwealth a representative, to start on. Now, we have seven counties in the Commonwealth aggregating only 49,000 inhabitants. Those seven counties would be represented seven times as much as a county of 40,000 people. Is it right, is it just that that should be? I hold that one of the

principles we should adhere to and keep before our minds constantly in making the apportionment of the Legislature, is that for one House at least we should have the population fairly represented according to numbers. His plan does not do this at all. He proposes to give the county of Cameron, with 4,273 inhabitants according to the last census, Forest with 4,010, Elk with 8,488, Fulton with 9,360, M'Kean with 8,825, Pike with 8,436, and Sullivan with 6,191, each a Representative, and in populous counties of this Commonwealth there are many townships that have more inhabitants than either one of these counties. Because speculators have gone to Harrisburg from time to time, and by one means or another have induced the Legislature to give county organizations, is that any reason why they should be represented in the Legislature as a county with 4,000 people as fully as one with 40,000? I cannot see any justice whatever in this. The effect of it would be, further, in a close contest throughout the Commonwealth that the fight would turn on these small counties, money would be spent there, and the result would be that there would be an abuse equal to the rottenest kind of rotten boroughs in England; the population would be bought up *en masse* if they were purchasable at all, and the election would be carried by money entirely. That is an objection outside of the justice of the case.

Now, the rest of his plan, leaving out the provision as to separate county representation, I do not know that I have any objection to; but I desire to say that the proposition which I have submitted is not mine alone. I picked it up piece by piece all winter, one idea from one member and another from another. I have put it in this shape, believing that as far as the House of Representatives is concerned it is the most successful working scheme that can be devised. It does more than the gentleman from Allegheny claims for his scheme, it takes away the apportionment out of the hands of the Legislature; it is self-adjusting and does everything in that direction that his does; and it does more; it represents the people more justly, more equally, than his does.

Now, what harm do we do to the small counties? In the plan which I have had the honor of submitting, we give Forest, Elk and Cameron a member, with only 16,771 inhabitants. The ratio is 23,000, so that they have just about three-fifths of the ratio. Having that fraction, it gives

them a member; and so it is with the other districts of more than one county. I was obliged to put Bedford and Fulton together with two members, because Fulton lies outside and cannot be attached to any other small county, and hence I attach it to Bedford. If you figure it up, you will find it gives these counties a member for one ratio and three-fifths, according to the general provision. So with Pike and Wayne.

This does nobody any harm; it does nobody any wrong; it gives a fair and full representation all the way through; and I think it should commend itself to this House and should be adopted.

I desire my remarks only to apply at this time to that part of the plan of the gentleman from Allegheny which proposes to give every county, because it happens to be a county, a separate Representative, which I think is altogether wrong.

Mr. LANDIS. Mr. Chairman: I do not propose to inflict a speech upon the committee of the whole. I merely desire at this time to present a few of the arguments that would make it seem fit for this Convention to adopt some of the changes which have been suggested. They are something like these:

1. The population of Pennsylvania in 1838 was, say two million; now it is three million five hundred and twenty-one thousand; and a proportionate increase of representation is demanded by the interests of population.

2. An increase to fifty or say sixty in the Senate and one hundred and fifty or one hundred and eighty in the House, is such an increase as could easily be accommodated by the present buildings at Harrisburg.

3. The increased industry and wealth of the State demand increased representation.

4. Increased representation affords a better opportunity to secure pure men to represent the people.

5. With pure men and increased numbers neither the inducement nor ability to corrupt them exists to so great a degree.

6. The plan has worked well in other States.

7. The people of this State desire the increase.

I do not propose to elaborate a single one of these arguments. I propose to leave it to the intelligence of this committee, and I have no doubt that the

minds of nearly all have been made up on this subject. I do not think it necessary to have any very protracted debate. I have made up my mind that I shall vote for an increase of the Legislature to fifty in the Senate and something like one hundred and fifty or one hundred and eighty in the House; and I believe that when we have done that we have perhaps gone quite as far as it is safe, and when we have done that we have done that which is best for the Commonwealth of Pennsylvania.

Mr. J. PRICE WETHERILL. Mr. Chairman: I shall be very brief in what I have to say on this subject and confine my remarks in answer to the arguments of the gentleman from Allegheny (Mr. S. A. Purviance.) I think he is in error in calling his lower House, according to his scheme, a House of Representatives. I think he ought to call it "a House of Counties." It has but little of the true principle of representation in it. The House in his plan would consist of about one hundred and twenty-four members, as I understand it, and in that increase so fair would his representation be that the county of Philadelphia, which has now nineteen members in a House of one hundred, by his arrangement in a House of one hundred and twenty-four that city would lose two of her members! I cannot see any justice in such an arrangement. Neither can I see how in a Senate based on a ratio of eighty thousand, when by it Philadelphia would be entitled to nine Senators, he by his liberality gives that city but seven Senators. The only fair way, according to my view of the subject, is to fix the ratio of representation upon population. You cannot satisfactorily settle this difficult matter in any other way; you cannot satisfy the sections unless a fair representation is secured. By his plan a population of forty thousand is the ratio fixed for a Representative. Why this number is named does not appear, yet a county of four thousand is entitled to a Representative. Thus a small county has one Representative, and perhaps an adjoining county, with nine times its population, has but one Representative, the voter in the small county thus possessing a voting power for its Representatives of nine times the power of the larger county. Is this fair? Is this just? If I make my calculation correctly, the plan would place in this unfair position not less than ten or twelve counties instead of seven or eight, as represented by

the gentleman from Carbon (Mr. Lilly.) If you district the State in this way without respect to population it seems to me that we shall bring upon us a great deal of trouble; it would cause a great deal of opposition; and as far as I know my own section, I know that a very large majority of the people of Philadelphia, perfectly well satisfied with what is fair, perfectly satisfied with what is equal, want nothing but what is just, but they will not submit to any injustice; they will not submit to any inequality; and they will vote down a Constitution that declares that they are not entitled to a full consideration in this important matter.

Sir, I have rarely made a threat upon this floor, because I do not conceive it to be in good taste to do so; but when I see clear injustice, as indicated by the amendment of the gentleman from Allegheny, done to the larger counties and to the cities, when I see a total disregard of all fairness in reference to representation based on population, it seems to me that we are opening a dangerous door; we are courting opposition; we are opening a door which will let in such a flood of opposition that I doubt very much whether the people stand ready to endorse such action.

Now, why can we not arrive at the desired result on a better plan and in another way? Illinois has set us a good example in this regard, and I think we would be wise to follow it. The point is to use up the fractions, and I understand Illinois uses up her fractions by giving in the House and in the Senate a member on three-fifths of the ratio, and two members on one and three-fifths of the ratio, and thus the fractions which give so much trouble—these fractions which never can be arranged by county lines, these fractions which never can give any satisfaction whatever unless they are arranged upon a fair, honest, and straightforward and manly way—can be got clear of. If we adopt the Illinois plan, and district the State as I have suggested, the unconsumed fractions will not, in the whole population of the State reaching three million six hundred thousand, amount to more than about one hundred and sixty thousand; but if you take the plan indicated by the gentleman from Allegheny, he loses in his own district in the Senate forty-eight thousand; he allows forty-eight thousand people to go unrepresented in the Senate in his own county; and follow it out and the amount

of unused fractions and the amount of unrepresented people would count up to such a number as would astonish him, I am satisfied, if he made the calculation. In the State there would be a loss of not less than eight hundred thousand. When this question is well understood it will be found there is no panacea for the evil as suggested. I will admit that it is a very pleasant thing for the county of Forest, with its four thousand population, to be represented in the House. I will admit that the surrounding counties with small populations may feel an honest sort of county pride in having their own Representative for their own little county. But, sir, we should not sacrifice principle, we should not sacrifice justice, for such a consideration; we should deal honestly and fairly, and to do this we must never forget the principle that the only true method of representation is based upon population.

A great deal has been said upon the advantage of general laws, and a good deal has been said as to why the county of Forest should have a special Representative to care for its own interests. The lumber interest, we are told, in that county must be looked after. Is the lumber interest confined to Forest county? Unless we give Forest county a Representative, unless we say to her that she must have one man to take care of her four thousand people, do you suppose the lumber interest of this great State of Pennsylvania would suffer? If you care for the lumber interest of the State, will not Forest county be included in that interest? Certainly it would; and the same remark would apply to coal and oil, &c. When you take care of one interest by general law in one section, you take care of the interest in every section. You cannot separate them; their interests are identical; and let me tell the gentleman from Allegheny that if he would have the coal interest prosper, if he would have the oil interest prosper, if he would have the mining interest prosper, if he would have the lumber interest prosper, let a general law be passed based upon broad, comprehensive and well considered principles, and when once satisfactorily secured let all future legislation thereon be avoided. It is the want of stability that is to be dreaded. I think that Forest county, as well as every other county in the State, would suffer if a Representative would attempt to tinker at a general manufacturing law after it

has been well understood and has worked well throughout the State, and it would be not only dangerous but would check the manufacturing prosperity of this State if this want of stability should ever exist.

I say to the gentleman from Allegheny that his proposition, as proposed, is unfair and unjust to many thousands of people in the State of Pennsylvania whom he will allow to go unrepresented. I say to him that if he gives Forest county one Representative for four thousand and gives an adjoining county one Representative for thirty-nine thousand five hundred people he is dealing clear injustice to that community containing a population of thirty-nine thousand five hundred, and I honestly believe that the people of this State will not stand it.

Mr. S. A. PURVIANCE. Would not the county in the case put by the gentleman, of thirty-nine thousand people, in a short time be entitled to two members? As soon as she has one thousand more population she would then have double the representation of Forest county.

Mr. J. PRICE WETHERILL. The same remark applies if you make it twenty-five thousand or twenty-eight thousand. I simply run close up to the line to show how hard the grievance would be and how unfair this would be if carried throughout the State. I ask the gentleman from Allegheny whether there would be any trouble or confusion if we adhere to the old principle of giving generally, as far as we can, a fair share of representation to every voter and using up all the fractions. If we do this, we can and will save a great deal of trouble in the matter.

For these reasons I hope that the amendment offered by the gentleman from Allegheny will not prevail.

Mr. STEWART. Mr. Chairman: The attention of the members of the Convention individually having never been called to these various propositions until to-day, I am free to say that I am not prepared to vote upon them intelligently; and I suppose many members of the committee of the whole, if they were equally frank, would say as much for themselves. Therefore, for the purpose of having these propositions printed and submitted to the individual consideration of the members of the Convention, I move that the committee of the whole do now rise, report progress, and ask leave to sit again.

Mr. CURTIN. Allow me to suggest that all of the propositions be printed.

Mr. STEWART. Certainly; I mean to include all of them.

Mr. CURTIN. Some of them may not have been presented. Why not include all that are to be offered?

Mr. STEWART. I mean to include all the propositions on the subject, whether they have been offered or have not been offered.

Mr. CUYLER. I would like it extended to propositions not yet offered. I have a proposition which I have not yet offered.

The CHAIRMAN. Does the gentleman from Franklin withdraw his motion?

Mr. STEWART. I see no necessity for withdrawing it, because the motion to print amendments must be made after the committee of the whole rises.

Mr. CORSON. Before the vote is taken, I would like to submit an amendment, and I suppose the gentleman from Philadelphia (Mr. Cuyler) would like to submit his.

Mr. CUYLER. If they are to be submitted here, I am ready to offer mine, but I suppose they should be submitted in Convention.

The CHAIRMAN. The propositions must be submitted in Convention. The question is on the motion that the committee of the whole rise, report progress, and ask leave to sit again.

The motion was agreed to.

The committee rose; and the President having resumed the chair, the Chairman (Mr. Stanton) reported that the committee of the whole had had under consideration the nineteenth section of the article reported by the Committee on Legislature, and had instructed him to report progress and ask leave to sit again.

Leave was granted the committee of the whole to sit again to-morrow.

Mr. CUYLER. Mr. President: Is it in order to make a motion?

The PRESIDENT. Only by obtaining leave.

Mr. CUYLER. Then I ask leave to make a motion.

The PRESIDENT. The gentleman from Philadelphia asks leave to make a motion. Shall he have leave? ["Aye."]

Mr. CUYLER. I move that the following proposition be printed for the use of the House:

"The number of Senators shall be fifty-one and of Representatives one hundred and fifty.

"Each county shall be entitled to one Representative, and the remaining number of Representatives shall be apportioned to districts made up of contiguous territory and as nearly equal in population as practicable. It shall be the duty of the Legislature to adjust such districts at their first session after the adoption of this Constitution, and every ten years thereafter, according to population, as ascertained by the last preceding United States census. Senators shall be elected on general ticket by all the lawful voters of the Commonwealth. At the first election held after the adoption of this Constitution, one-third of the Senators chosen shall be for a term of two years; one-third for three years, and one-third for four years; and thereafter they shall be chosen for a term of four years.

"When more than three Senators are to be elected, each voter shall cast his ballot for not more than two-thirds of the number required to be chosen."

The PRESIDENT. It will save time to move an order of the House that the different propositions on this subject be all printed, and include them under one motion. Will some gentleman be good enough to make a motion to that effect?

Mr. LILLY. I move that all propositions on this subject be printed for the use of the members.

The motion was agreed to.

IMPEACHMENT AND REMOVAL.

Mr. BROOMALL. I move that the Convention proceed to the second reading and consideration of the article on impeachment and removal from office. It is a short article and can be finished this afternoon.

The motion was agreed to.

The PRESIDENT. The first section will be read.

The CLERK read as follows:

SECTION 1. The House of Representatives shall have the sole power of impeachment.

The section was agreed to.

The PRESIDENT. The second section will be read.

The CLERK read as follows:

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.

The section was agreed to.

The PRESIDENT. The third section will be read.

The CLERK read as follows:

SECTION 3. The Governor and 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.

The section was agreed to.

The PRESIDENT. The fourth section will be read by paragraphs.

The CLERK read the first paragraph as follows:

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.

The paragraph was agreed to.

The PRESIDENT. The next paragraph will be read.

The CLERK read as follows:

"Appointed officers, other than judges of the courts of record, may be removed at the pleasure of the power by which they are appointed. All officers elected by the people, except Governor, Lieutenant Governor, members of the General Assembly and judges of the courts of record, shall be removed by the Governor for reasonable cause, after due notice and full hearing, on the address of two-thirds of the Senate."

Mr. BIDDLE. I want to say one word. I do not feel well, but I am not disposed to let the section pass as it is. I move to amend by striking out the words "full hearing."

I think it is a mistake to leave these words in the paragraph. There is no objection to giving notice; but it seems to me that every time the Senate or two-thirds of the Senate make an address to remove an incompetent officer, to provide that he shall have a full hearing is to make this section entirely useless. Let him have notice; let him have such a hearing as may be necessary; but if a "full hearing" is to be the equivalent of a trial, it will just re-introduce what we are trying to get rid of. We are trying to provide a speedy remedy for the removal of incompetent men, and you might just

as well try to impeach these incompetent officers as to give them a full hearing. Give them a fair chance, but do not require them to have a hearing.

MR. H. W. PALMER. I must object to this amendment. I suppose the time never will come, I sincerely hope it never will, in the Commonwealth of Pennsylvania, when a man shall be removed from any office of honor, trust or profit without an opportunity to be heard in his own defense. This amendment seems to be altogether in violation of the principles of our institutions—to try and convict and sentence a man without giving him a chance to be heard. Therefore I hope this amendment will not be adopted.

On the question of agreeing to the amendment, a division was called for, which resulted thirty in the affirmative. Not being a majority of a quorum, the amendment was rejected.

The second division was agreed to.

MR. DALLAS. I desire to inquire of the chairman of the Committee on Impeachment and Removal from Office whether it is necessary to retain, under present circumstances, in the first line of the last paragraph, the words, "other than judges of courts of record." I assume that, as the only article we have reported on the subject of the judiciary provides exclusively for the election of judges, this clause, which relates to their appointment, should be stricken from the section.

MR. BIDDLE. It is necessary to retain it, because even under the existing Constitution it has been always retained to apply to vacancies which are filled by appointments until the next general election.

MR. LILLY. I move to refer the article to the Committee on Revision and Adjustment.

MR. CORSON. I move to amend the motion by directing the Committee on Revision and Adjustment to consolidate sections one and two so as to make one section of them. My idea is that they are really one section, and the people will be scared by having such a multiplicity of sections, such a great number of propositions. I heard a gentleman say this morning that the old Constitution contains so many sections, and the present Constitution, so far as we have proceeded on second reading, contains so many sections. This will save one section, and as consolidated, it will read:

"The House of Representatives shall have the sole power of impeachment. 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."

MR. BUCKALEW. I have been unfortunate in not getting an opportunity to make a suggestion which I believe is of importance on this subject, and I will move to amend the motion by providing that the Committee on Revision and Adjustment be directed also to omit the first clause of the second division of section four. That clause says that "appointed officers other than judges of the courts of record" may be removed at the pleasure of the appointing power. I desire to understand whether it is the intention of the Convention to put such a dangerous provision as that into this article, without reflection. The Governor, for instance, appoints a notary public in Philadelphia for five years, and then wants him to do something which in his judgment is an improper measure. Shall the Governor turn this notary public out of office without any cause or hearing? So, too, with hundreds of other appointed officers in this State, appointed by the courts, appointed by the mayors of cities, and appointed by other officers. I think that appointed officers ought to hold their offices independently of the appointing power, unless for cause shown. Before removal can occur, there should be some form of hearing, there should be some fault found in the discharge of their duties, and the fault should be established. I think it is an entirely new principle in American Constitutions, and I doubt whether you can find this principle in any one of our State Constitutions from one end of the country to the other. It seems to me that the Convention acted without reflection on this subject. I tried at the time to call attention to it, but as I was so unfortunate as not to attract the eye of the Chair, I now see no remedy except to instruct the Committee on Revision and Adjustment to omit this clause. Then when their report comes up for consideration, we can determine whether we will amend, accept, or reject it.

MR. BIDDLE. This is no new principle. My learned friend from Columbia is under an entire misapprehension. Does he think that when the Governor appoints an Attorney General he cannot remove him, or when he appoints a Secre-

ry of the Commonwealth, he cannot remove him now? Why, all practice and all precedent is the other way. It has been decided by the Supreme Court of this State that the power of appointment involves the power of removal wherever offices are held for pleasure. There is nothing new in this principle at all. You have in a court, for instance, this power of appointing its prothonotary. How is it to control the prothonotary if it cannot remove him? What is the use of conferring the appointing power without the power to remove accompany it?

I thought this thing was settled. I am not very well, and I am not prepared to-day to discuss this question by reason of a very bad sore throat; but if this matter is to be discussed, I would like it to lie over. I supposed that the article was adopted and that this part of that section could not be stricken out.

Mr. EWING. I would like to ask the gentleman from Columbia and the Convention to let this lie over. I should like exceedingly to hear the gentleman from Philadelphia, the learned chairman of the Committee on Impeachment, in regard to this matter. I voted against the section, and should like exceedingly to hear any reason that could be urged in favor of the proposition.

Mr. BUCKALEW. Mr. President: A word answers these suggestions. Where an appointment is made at the pleasure of the Governor, whether by constitutional provision or statute, the power of removal exists; but where an appointment is made for a fixed term or upon condition, the power of removal is to be for cause. The trouble with this section is that it is indiscriminate as to all appointments. Of course, where the Constitution provides that the Governor may appoint the Attorney General and the Secretary of the Commonwealth at pleasure, he can remove them. I am not speaking of those classes of officers for which special provision is made; but here is a general provision which applies to all officers for fixed terms, or officers appointed on condition of good behavior. Therefore it is exceedingly dangerous.

Mr. BIDDLE. Mr. President: By the Constitution, as we have already passed it, the Attorney General and the Secretary of the Commonwealth, if I mistake not, are to hold their offices for definite terms.

Mr. BUCKALEW. At the pleasure of the Governor.

The PRESIDENT. The question is on the amendment moved by the gentleman from Columbia, (Mr. Buckalew,) to the motion of the gentleman from Montgomery (Mr. Corson.)

The amendment was agreed to, there being on a division: Ayes thirty-four; noes thirty-one.

The PRESIDENT. Is the House ready for the questions on the reference of the article to the Committee on Revision and Adjustment?

Mr. COCHRAN. Mr. President: In regard to this resolution, it seems to me that it is impossible that it can be right. The Convention, by a distinct vote, voted this matter into the article of the Constitution.

The PRESIDENT. Will the gentleman be kind enough to state on what question he is addressing the Chair?

Mr. COCHRAN. The question in regard to the submission of these matters to the Committee on Revision and Adjustment, especially the last one, the amendment which has just been adopted.

The Convention, by a distinct vote, adopted that section, and it is part of the Constitution by direct vote. Now, the proposition is not to reconsider that section and to take a vote upon it whether it shall remain in the Constitution or not, but the proposition is by a side-blow to strike out by instructing the Committee on Revision to omit the very thing which the Convention has distinctly done. I submit that that is not parliamentary in itself, and is not the way to cure this if there is a defect, and that the only way to cure it is to reconsider the section and bring it up before the Convention on a distinct vote.

The PRESIDENT. Does the gentleman from York raise a question of order?

Mr. COCHRAN. Yes, sir; I raise that question.

The PRESIDENT. The Chair is of opinion that a motion to commit with instructions is strictly in order, but at the same time if the gentleman thinks it proper to do so, he can take an appeal. The question is on referring with instructions.

The motion was not agreed to, ayes twenty-six, not a majority of a quorum.

The PRESIDENT. Shall the article be transcribed for a third reading?

The question was determined in the negative, there being on the division, ayes twenty-eight, not a majority of a quorum.

The PRESIDENT. The article is gone through. The next business in order is

NEW COUNTIES.

Mr. STANTON. I move that the Convention take up on second reading article No. 14, reported from the Committee on Counties, Townships and Boroughs. It is very short, and we can get through with it by three o'clock.

The motion was agreed to, and the Convention accordingly proceeded to consider on second reading the article reported as article No. 13.

The CLERK read the first section as follows:

SECTION 1. No new county shall be formed or established by the General Assembly which shall reduce the county or counties, or either of them, from which it shall be taken, to less contents than four hundred square miles; nor shall any county be formed of less contents; nor shall any county be formed or established containing a less population than twenty thousand inhabitants; nor shall any line thereof pass within less than ten miles of any county seat of the county or counties proposed to be divided.

The section was agreed to.

The CLERK read the next section as follows:

SECTION 2. No county shall be divided or have any part stricken therefrom, without submitting the question to a vote of the people of the county, nor unless a majority of the legal voters of the county voting on the question shall vote for the same.

Mr. BRODHEAD. I offer the following substitute, to strike out all of section two after the word "section" and insert:

"No new county shall be established."

I offer that section because it is a great deal shorter than the present one. It will save us some three lines at least in the Constitution, and I venture to say that no new county can be established under the second section if it passes as reported.

The amendment was rejected.

Mr. LAWRENCE. I offer the following amendment as a new section, striking out section two as it stands in the article:

"No new county shall be erected until the same shall be approved by three-fifths of the votes cast by the electors embraced within each of the sections of the counties taken to form the new counties."

Mr. President, I have no disposition nor do I intend to spend any time in discuss-

ing this question. I suppose every man here will agree that no new county can be formed in the next fifty years, under the last section. Therefore I propose to strike it out. I offer the amendment, which is part of the original report of the committee, to come in after the first section, which requires a vote of three-fifths in each of the parts proposed to be taken from any county and not a majority of the county. Every man will understand, I think, very well, that if we propose to make a new county by taking parts of any two counties, and submit it to a vote of the whole people of the old county, it will be voted down surely, because you only propose to take a fraction of any county generally, and of course the majority of the citizens about the county seat and in other parts of the county will be against it. Hence I think it fair to require a majority of three-fifths of each of the sections to be taken to form the new county, and I offer that amendment and would be glad to have a vote on it without discussion.

The PRESIDENT. The question is on the amendment of the gentleman from Washington (Mr. Lawrence.)

Mr. BRODHEAD. I call for the yeas and nays.

The PRESIDENT. Gentlemen who second the call for the yeas and nays will rise.

Messrs. Hunsicker, Bannan, McClean, Ewing, Corson, Corbett, Russell, Runk, Lilly, Finney, Porter, Clark, MacConnell, Cochran, D. W. Patterson and H. W. Palmer rose to second the call.

The PRESIDENT. The call is sustained.

Mr. KELLY. The amendment is not perfectly understood in this direction, I think. Some of us here believe it only means three-fifths of both sections of the county affected, but others say that this is a mistake. Some of us believe that it only means three-fifths of the sections which go to make the new county. I should like to know what it means before we vote.

Mr. LAWRENCE. The amendment is very definite, as will be seen if it is read. It proposes to require three-fifths of the people within the territory to be taken from any county.

The PRESIDENT. The amendment will be read for information.

The CLERK read as follows:

"No new county shall be erected until the same shall be approved by three-fifths of the votes cast by the electors embraced

within each of the sections taken to form the new county."

Mr. LILLY. Suppose you take only a part of one county and add it to another, how is that to be effected? The language here is "each of the sections." If it means that there shall be a three-fifths vote of the part taken to make a new county or to add to another county, then I am willing to vote for it.

Mr. H. W. PALMER. As I understand this amendment, if several small sections of adjacent counties desire to erect themselves into a new county, it requires a three-fifths vote of each one of the sections to make the new county, and the people in the old parts of the county have not anything to say about it. That occurs to me to be a very novel proposition. I think that the people of the county who have an interest in their county government and an interest in their improvements and offices should have something to say before their territory is stripped away from them. It seems to me that the fairest proposition on this subject that can be submitted is that a county shall be divided when a majority of the people of the county desire it. That is in accordance with the theory of our institutions; that is in harmony with the methods by which we control and manage this government; and why any new plan should be adopted in the case of new counties, I cannot understand. I hope that the section as reported by the committee and now before the Convention will be adopted, because it is manifest that this proposition would work great injustice.

Mr. LAWRENCE. Of course the gentleman from Luzerne is opposed to any new counties. He is opposed to the division of Luzerne where they have a population of one hundred and sixty thousand, and where, perhaps, a majority of the people have been petitioning for a new county for years. We understand that he lives at the county seat, as most members here do in their respective counties, and hence they are opposed to any division.

I do not propose to enter into any discussion on this subject. When it was up before I found a decided majority here, headed by the gentleman from Philadelphia, (Mr. Woodward,) decidedly opposed, as I supposed, to making any new counties or allowing the Legislature at any future period to make them, and hence the committee of the whole adopted the section which I propose to strike out, and which would utterly de-

stroy and annihilate the prospect of making any new county for the next hundred years. My friend from Luzerne knows very well that if this question were left to the people of his own county, they would vote it down for the next fifty years to come. That might not be justice to that portion of the county that wants to be separated from it. So it would be if you were to propose to divide Chester, to take a few townships from Chester and add them to Delaware county. If you were to leave it to Chester, of course they would vote it down. They would not look at the interests of the people in the district seeking to be separated from them.

Now we propose to require that three-fifths of all the people in these sub-divisions to be taken into a new county shall vote in favor of the new county, and we think that fair. We do not think that the people outside of those districts, not suffering from the inconveniences that they do, should vote upon the question at all. Suppose, for instance, you propose to make a new county as was proposed at one time, on the Monongahela river, including two townships from Allegheny, and you leave it to a vote of the people of Allegheny county; when would you get your new county? Never, of course, because the people of the city of Pittsburgh and of most of Allegheny county would vote against it. We propose to leave it to the people who are directly interested in the division.

I am not much in favor of the division of counties; I am not much in favor of small counties myself; but yet I want to make it possible at some future day, when population increases in different parts of the State, to have new counties if they become necessary. You will not have many under this proposition, I assure you, because you cannot find many places where they have four hundred square miles, and you cannot find many places where you can get three-fifths of the people in favor of a division; but if they do that, and if population increases, as it may, to twenty, thirty, forty, or fifty thousand in some localities, why not let them have a division? This amendment makes it possible for them to have it; the section under consideration makes it impossible.

Mr. H. W. PALMER. I do not see that it is impossible to divide a county under the proposition as reported. Whenever the majority of the people in a county want their county divided, they can have

it divided. The gentleman has referred to the county of Luzerne. It is very true that a new county has been urged there from time to time, and about every six or seven years for the last twenty years we have voted on the question of a new county, and the people have decided over and over again that they do not want a new county.

I supposed that we were sent here to make amendments to the Constitution in matters wherein the Constitution needed amendment. I have not heard of any complaint except from one or two localities of the present Constitution in this regard, and the section as reported is substantially what the old Constitution is. Now, let us stand by that which is good in the old Constitution. The old Constitution provides that the Legislature may take off portions of counties containing a small fraction, it is true, without a vote; but in respect to the division of counties, it requires a majority of all the people of the county to approve of it. Why ought it not to be so?

MR. HAZZARD. About fifteen years ago I believe the present constitutional provision was put into the Constitution, and since that time there have been no new counties. The gentleman from Luzerne knows very well that if this section remains as it was reported here and adopted in committee of the whole, it is impossible to have a new county. He says the people of Luzerne have voted upon the question over and over again, and they have voted it down. So they will continue to vote it down forever and a day.

If new counties are formed, they are taken off one corner or one side of the old counties. The people who are interested in that are mostly those living there. Those living at the county seat of course will vote against it. Those beyond the county seat on the other side will vote against it. They always have voted against, and always will vote against it.

If this Convention is ready to say that there shall be no other new counties from this time forth, they will support the section as it stands, for that will be the effect of it. But, sir, in the changing circumstances of the future, in the influx of inhabitants coming to a certain place, as they are coming now along our valley, when there appears to be a necessity for such a division, shall there not be a provision which shall render it possible?

The old Constitution was simpler. It left the question to a vote of the counties

from which the new county was formed, where it cut off more than one-tenth of their population, and it is very probable that no new county could be formed without taking off more than a tenth of the old one. If it is the determination of the Convention never to have a new county, they will vote for the section as it is here; if not, they will allow those who propose to set up a new county to vote upon it, and the majority that is required by this amendment—three-fifths—seems to me to be fair.

The gentleman from Luzerne talks as if the people in these districts desiring to set up a new county belonged to the old county. He says it is a novelty to propose to give them the right to vote on this question. Why, sir, it is not proposed to make a new county for the benefit of the old county particularly. It is to benefit the people of the new county, and if they are willing to bear the expense, erect the necessary public buildings and all that, why not give them a chance, especially when we require a three-fifths vote of the inhabitants interested in and affected by the change? It is true there would be but very few new counties made. I think this proposition allowing three-fifths of the people interested to have such a division is fair and just; but the section as it stands is virtually saying that there never shall be any new counties in the State. The people of the old counties will say that as long as they have a vote on the subject.

This question was fully discussed before; the reasons why counties should be divided were stated to this Convention, and it is unnecessary to repeat them. There is no reason why counties should not be divided when aggregated communities shall settle in them so as to make it inconvenient, expensive and a hardship for the people to travel over vast sections of the country in order to reach the county seat.

MR. LILLY. So far as my knowledge extends there is but one county east of the Susquehanna to-day that ought to be divided, and that is that Commonwealth within the Commonwealth, the wheel within the wheel, that we heard of the other day, the county of Luzerne. That county has got to be so large, so cumbrous and so corrupt that it ought to be divided.

MR. H. W. PALMER. You want some of it in Carbon.

MR. LILLY. Yes, sir, we do want some of it in Carbon to purify it. The gentle-

man from Luzerne says that the people of that county have rejected such a proposition by vote after vote. That portion of the county that desires to be attached to Carbon have asked over and over again to obtain a vote upon it; but the gentleman from Luzerne and his friends always go to Harrisburg and use such means as defeat it every time. Now, I am in favor of this amendment, because I believe it is fair and right. I do not believe that that portion of a county that desires to get away belongs to the old county. Its soil belongs to those who live on it, and they have a right to seek their happiness and to seek their business convenience, and I believe that three-fifths of them should be allowed to say whether they want a new county or not.

Mr. PUGHE. I rise to correct a statement made by my colleague (Mr. H. W. Palmer) to this Convention which is liable to mislead them. I think it is wrong for any delegate to get up here and misrepresent facts. He stated that in the county of Luzerne this question had been voted upon about every seven years. I deny that it ever was voted upon but once, and that was in the year 1863, and I appeal to the gentleman from Susquehanna, (Mr. Turrell,) who was then in the Legislature, and knows the fact. If that vote had been taken under the amendment now proposed, which is right and just,

we should have had a new county then, for five-sixths of the residents of the proposed territory, which now contains nearly sixty thousand people, declared for a new county; but you all know it is a very large county and they were outvoted. There is in this new territory the city of Scranton, the third city in the State. Of course it is the interest of my colleague, who lives at Wilkesbarre and is a practicing lawyer there, to bring everything there. I say that we have in that territory sufficient population to make a new county, and a county equal to the majority of the counties in this State. I therefore support this proposition, which is a fair, reasonable, and just one, and I hope delegates will adopt it. I never trouble this Convention much with speaking, but I say upon my honor that the facts are as I state them.

Mr. BROOMALL. I rise to a question of privilege. I move to reconsider the vote by which the Convention refused to transcribe the last article under consideration.

The PRESIDENT. There is a question pending, and the motion is not in order at this time.

Mr. BOYD. I move that the Convention adjourn.

The motion was agreed to, and (at three o'clock P. M.) the Convention adjourned.

ONE HUNDRED AND SIXTEENTH DAY.

TUESDAY, June 10, 1873.

The Convention met at half past nine o'clock A. M.

Mr. WALKER took the chair as President *pro tem.*, and submitted the following communication, which was read by the Clerk:

"Being disabled from present attendance at the Convention, I appoint the Hon. John H. Walker to act as President *pro tem.* until the adjournment of Friday next, the thirteenth inst.

W. M. MEREDITH,
President.

June 10, 1873.

Prayer by Rev. Jas. W. Curry.

The Journal of yesterday was read and approved.

LEAVE OF ABSENCE.

Mr. CORSON asked and obtained leave of absence for Mr. Andrew Reed for to-day.

HOURS OF MEETING.

Mr. CORSON. I offer the following resolution:

Resolved. That during the week commencing Monday the sixteenth instant, the sessions of the Convention shall be from half-past nine A. M. to half-past twelve P. M., and from two P. M. to seven P. M., daily excepting Saturday.

On the question of proceeding to the second reading and consideration of the resolution, a division was called for, which resulted thirty-five in the affirmative and forty-three in the negative. So the Convention refused to order the resolution to a second reading.

Mr. BAER. I offer the following resolution:

Resolved. That after to-day this Convention will hold two sessions daily from nine o'clock A. M. to one o'clock P. M., and from three P. M. to six P. M., Saturdays and Sundays excepted.

On the question of proceeding to the second reading and consideration of the resolution, a division was called for, which resulted forty-eight in the affirmative and thirty-two in the negative. So the resolu-

tion was ordered to be read the second time, and it was read the second time.

Mr. BEEBE. I move to strike out "Saturdays."

The PRESIDENT *pro tem.* The question is on the amendment of the gentleman from Venango.

The amendment was rejected, there being on a division ayes thirty-one, noes fifty.

Mr. DARLINGTON. I move to strike out the word "three" and insert "two" as the time for the beginning of the afternoon session.

Mr. CURRY. I move to postpone the resolution for the present.

The PRESIDENT *pro tem.* The question is on the motion to postpone the further consideration of the resolution for the present.

The question being put the ayes were forty-four, the noes thirty-five.

SEVERAL DELEGATES called for the yeas and nays.

The PRESIDENT *pro tem.* The resolution is postponed.

Mr. BROOMALL. There is no question, I believe, before the House.

The PRESIDENT *pro tem.* There is not.

Mr. BROOMALL. I move to reconsider the vote by which the Convention refused to transcribe the article finished yesterday.

Mr. KAINE. Mr. President: I rise to a question of order.

The PRESIDENT *pro tem.* What is the question?

Mr. KAINE. A number of gentlemen rose and called for the yeas and nays before the decision was announced upon the postponement of the resolution just before the Convention.

The PRESIDENT *pro tem.* The Chair will withdraw his decision if the call for the yeas and nays is insisted upon.

Mr. KAINE. I insist upon it.

Mr. EDWARDS and others. I second the call.

The yeas and nays were taken and resulted as follows, viz:

YEAS.

Messrs. Ainey, Alricks, Armstrong, Baker, Bannan, Bartholomew, Bigler, Boyd, Broomall, Buckalew, Corson, Curry, Curtin, Dallas, Darlington, Dunning, Ellis, Funck, Gibson, Guthrie, Hall, Harvey, Hay, Knight, Lilly, MacVeagh, M'Clean, Metzger, Palmer, G. W., Palmer, H. W., Parsons, Reynolds, Ross, Runk, Simpson, Smith, Henry W., Stanton, Stewart, Van Reed, Wetherill, J. M. and Woodward—41.

NAYS.

Messrs. Achenbach, Andrews, Baer, Baily, (Perry,) Beebe, Bowman, Calvin, Carter, Church, Clark, Collins, Craig, Cronmiller, Davis, De France, Dodd, Edwards, Ewing, Fulton, Gilpin, Hazzard, Horton, Hunsicker, Kaine, Landis, Lawrence, MacConnell, M'Culloch, M'Murray, Mantor, Minor, Mott, Niles, Patterson, T. H. B., Porter, Pughe, Purviance, John N., Purviance, Samuel A., Rooke, Russell, Smith, Wm. H., Struthers, Walker, Wetherill, Jno. Price, White, David N. and Wright—46.

So the question was determined in the negative.

ABSENT.—Messrs. Addicks, Bailey, (Huntingdon,) Barclay, Bardsley, Biddle, Black, Charles A., Black, J. S., Brodhead, Brown, Campbell, Carey, Cassidy, Cochran, Corbett, Cuyler, Elliott, Fell, Finney, Green, Hanna, Hemphill, Heverin, Howard, Lamberton, Lear, Littleton, Long, M'Camant, Mann, Mitchell, Newlin, Patterson, D. W., Patton, Purman, Read, John R., Reed, Andrew, Sharpe, Smith, H. G., Temple, Turrell, Wherry, White, Harry, White, J. W. F., Worrell and Meredith, *President*—45.

Mr. HAY. Mr. President: I move to amend the resolution by striking out and inserting—

Mr. DARLINGTON. Mr. President: There is an amendment already pending to strike out "three" and insert "two."

The PRESIDENT *pro tem*. There is an amendment pending at present.

Mr. HAY. My amendment is in order as an amendment to the amendment.

The PRESIDENT *pro tem*. It is not in order at present as an amendment to that amendment. The question is on striking out "three" and inserting "two."

The amendment was rejected, the ayes being twenty-one; less than a majority of a quorum.

Mr. HAY. I now renew my amendment to strike out all after the word "Resolved" in the resolution and insert the following:

"That, in addition to the daily sessions as now held, the Convention will hereafter hold evening sessions, commencing at half-past seven o'clock.

Mr. BUCKALEW. I move to amend by making it after this day.

Mr. HAY. The resolution is so worded already.

Mr. CORBETT. I move to postpone the whole subject indefinitely.

Mr. BROOMALL. I second that motion.

Mr. COLLINS. I call for the yeas and nays on that motion.

Mr. CARTER. I second the call.

The yeas and nays were taken, and were as follow, viz:

YEAS.

Messrs. Achenbach, Ainey, Alricks, Armstrong, Baker, Bannan, Barclay Bardsley, Bartholomew, Beebe, Bigler, Boyd, Broomall, Buckalew, Cochran, Corbett, Corson, Craig, Curry, Curtin, Darlington, Ellis, Finney, Funck, Gibson, Guthrie, Hall, Harvey, Hay, Howard, Hunsicker, Knight, Lilly, MacVeagh, Metzger, Newlin, Palmer, G. W., Palmer, H. W., Parsons, Reynolds, Ross, Runk, Simpson, Smith, Henry W., Stanton, Stewart, Van Reed, Wetherill, J. M., White, David N., White, J. W. F., Woodward and Worrell—52.

NAYS.

Messrs. Andrews, Baer, Baily, (Perry,) Bowman, Calvin, Carter, Church, Clark, Collins, Cronmiller, Dallas, Davis, De France, Dodd, Dunning, Edwards, Ewing, Fulton, Gilpin, Green, Hazzard, Horton, Kaine, Landis, Lawrence, Long, MacConnell, M'Clean, M'Culloch, M'Murray, Mantor, Minor, Mott, Niles, Patterson, T. H. B., Porter, Pughe, Purviance, John N., Purviance, Samuel A., Rooke, Russell, Smith, Wm. H., Struthers, Walker, Wetherill, John Price and Wright—46.

So the further consideration of the subject was indefinitely postponed.

ABSENT.—Messrs. Addicks, Bailey, (Huntingdon,) Biddle, Black, Charles A., Black, J. S., Brodhead, Brown, Campbell, Carey, Cassidy, Cuyler, Elliott, Fell, Hanna, Hemphill, Heverin, Lamberton, Lear, Littleton, M'Camant, Mann, Mitchell, Patterson, D. W., Patton,

Purman, Read, John R., Reed, Andrew, Sharpe, Smith, H. G., Temple, Turrell, Wherry, White, Harry and Meredith, *President*—34.

NEW COUNTIES.

The *PRESIDENT pro tem.* The first business in order is article No. 13, reported from the Committee on Counties, Townships and Boroughs, which is before the House on second reading, the pending question being upon the amendment offered by the delegate from Washington (Mr. Lawrence) to the second section of the article.

The *CLERK* read the amendment, which was to strike out all of the second section and insert:

"No new county shall be erected until the same shall be approved by three-fifths of the votes cast by the electors embraced within each of the sections of the counties taken to form the new county."

Mr. NILES. Mr. President: I suppose that every delegate on this floor, as a matter of course, understands the full import of the proposed amendment. I do not suppose that I can say anything in addition to what I did say when this subject was before the committee of the whole. This amendment is the precise proposition that was reported from the Committee on Counties, Townships and Boroughs, and which was at one time repudiated by this Convention by an overwhelming majority. It has come back to us again, and the respectable chairman of the Committee on Counties, Townships and Boroughs asks us this morning to endorse, upon second reading, in substance the proposition that was repudiated by this Convention in committee of the whole.

Now, *Mr. President*, what is this proposition? It simply allows people living upon any four hundred square miles in this Commonwealth, and containing twenty thousand inhabitants, to cut themselves aloof from their old county associations and erect a new county of their own. Sir, if this proposition is adopted by the Convention, it is saying practically that every county in the State in time is to be reduced to four hundred square miles. It will be done in this way: Everybody knows that there are anxious communities all over this State to-day, prominent boroughs that believe they ought to be county seats and be the centre of a new county organization. Suppose that a county contains to-day one thousand square miles; I aver that is not too

large a number. Three fifths of the people of six hundred square miles in that county may create a new organization, leaving the people of the remaining four hundred square miles out in the cold.

Now, sir, is this right? Are we prepared by a vote of this Convention to say that new counties shall be created without the consent of the people outside of the proposed new county lines? I had supposed that this was a government of the people, by the people and for the people. I had supposed that that was one of the political axioms of this government. We established that principle in 1861. When a respectable portion of these United States attempted to secede, we of the north said they had no right to go without consulting us. But, sir, the proposition that has been submitted to us this morning by the distinguished delegate from Washington is, in substance and in fact, peaceable secession. Wherever three-fifths of any community in this State, numbering twenty thousand souls, see fit to go, by a vote, they can go; they can sunder their old political relations; they may divide, distract and destroy the relations that have existed for a century, and they can go without a why or a wherefore, and no man living outside of the infected district has a right to say a word against it. Are we prepared for that this morning, I submit to you, delegates? Are we prepared to go before the people of this State and say, by our votes here this morning, that men can go to the Legislature, in opposition to the will of the people of the county to be affected by the change, and create new political associations and conditions without consulting the people of the whole county?

I have no particular feeling on this question. I have no more interest in it than any delegate on this floor. But, sir, we have been legislating here, or trying to do so, during the entire winter in behalf of the people. We have said in our article upon legislation and upon various questions, that the people shall be consulted, that their representatives shall not outrage public sentiment and the rights of the people. I undertake to say there is no question to-day that the people consider of more vital importance than the organization of their counties in this State.

It may be said that if this proposition is sustained by us in substance and ratified by the people, no more new counties will be created. Sir, that is begging the ques-

tion. It is saying that upon this question we will not trust the people as we trust them upon every other question. You might as well say that the people should not control any other question as that they should not control this. Did not the people during the war control the existence of this nation? Did we not then say that this was a government of the people, by the people, and for the people? And, sir, when it comes down to the question whether an individual or a set of individuals shall go to the Legislature and by fair means or foul obtain a mere legislative rescript to destroy their old political associations and carve out new ones of their own, is it wrong to say that upon a question so vital to the interests of the people, every man living within the counties that are proposed to be destroyed shall be consulted upon that question?

Now, Mr. President, that is all I have to say on this subject. The proposition submitted to us by my friend from Washington county simply says that the people of the counties shall not be consulted; we will not inquire of them whether they are in favor of this scheme or not; we will ask no odds of them, but where three-fifths of the people desire to go and say they will go, they can go without consulting any one else. The proposition adopted by the committee of the whole, and which was adopted, I undertake to say, by one of the largest majorities that any proposition ever received during our whole session, says that on this question, being vital in its importance to the people, the people of every one of the counties proposed to be dismembered shall be consulted. That is the fair, plain proposition. There is no mystery about it. I hope the Convention this morning will repudiate this scheme and adopt the report of the committee of the whole.

Mr. LILLY. Mr. President: I desire to call the attention of the Convention to the action already had in committee of the whole on this subject in the article on legislation, article ten, line sixteen, already adopted; and if we adhere to that it settles this question and avoids all this debate. That section reads:

"The Legislature shall not pass any local or special law locating or changing county seats, erecting new counties, or changing county lines."

That has been already adopted on second reading. Now, how can this be done unless it is done by special act? It appears

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to me that it cannot be done as long as that paragraph in that section stands there.

Mr. MACVEAGH. Mr. President: That section does not meet the difficulty at all. The difficulty will be avoided by passing a general act to meet the special case and subsequently repealing it. But more than that, anybody who has had any experience in the efforts to divide a county knows perfectly well that the advocates of such a measure sink every other possible consideration and elect men to the Legislature simply to cut up a county, and if enough of the little towns and sections over the State want to make county seats of themselves they will send enough men to the Legislature to pass a general law on the subject, because other people will not take interest in it. It is not that they are in the majority, but it is that they abandon all other considerations and combine together in order to cut up the county. I am sure the delegates from Montgomery county and the delegates from Chester will remember that when Pottstown wanted to make a county called Madison, men of all political parties sank all political considerations and insisted upon having members in the Legislature, no matter what their politics were, who would vote to carve up those two great counties. The Lord knows we have got little counties enough in this State, and are getting little enough in many ways; and, without reducing the area of counties to a very small territory and to a very small population, it seems to me that unless we desire to do so we ought to adhere to the section as reported from the committee of the whole. Of course, if a gentleman who has a watering place wants to make a county seat of it, he will have a general law passed.

Mr. LILLY. I should like to ask the gentleman a question. I should like to know how a general law could possibly be framed that would effect that object and cover such a case. I should like to see the gentleman make a general law that would cover it.

Mr. MACVEAGH. All I have to say is that if the gentleman wants such a bill drawn and will pay for it, I will venture to find a hundred lawyers besides myself in this Convention that will draft it in an hour. Give the conditions, and anybody here will put it in the form of a general law for one hundred dollars, and draw a repealing bill the next winter.

Mr. LILLY. I would like to see the gentleman from Dauphin exercise his

genius in drawing a general law to cut a township or two from Luzerne that would not be so preposterous in its provisions that there would be the remotest possibility of its ever becoming a law. I look upon the whole matter of new counties settled by the tenth section of the article on legislation, and county lines, if that should become the constitutional law, will remain as long as the Constitution shall remain in force.

Mr. LAWRENCE. Mr. President: I want it distinctly understood that I have no personal feeling on this subject. I do not care whether the amendment passes or not, so far as I am concerned personally. But I was not satisfied with the condition in which the case was left by the amendment of the gentleman from Tioga, (Mr. Niles,) because I knew he had a personal interest in this question, and he had offered the very amendment which passed, and which he seems now to object to. The gentleman from Tioga does not mean to misrepresent the committee or any member of the same; but he has done so. He states that this is a proposition coming from the Committee on Counties, Boroughs and Townships.

Mr. NILES. I desire to explain. I said that it embraced one of the substantial propositions of the committee in so far as it allowed three-fifths of the people of the infected district to say whether they would have a new county or not.

Mr. LAWRENCE. I say that the first proposition in that report was that three-hundred square miles should be required. We thought it was fair, but we submitted and were willing to make it four-hundred, just what it is in the present Constitution. Then, again, we reported in favor of 18,000 population; the gentlemen proposed 20,000, and it was carried.

Mr. President, in the old Constitution there was nothing said about new counties. Our fathers were willing at that time to leave it to the discretion of the Legislature, believing that new counties were necessary and would be formed as the population increased and as the necessities were manifest. Nothing was said on the subject until Montour county was erected wrongfully. The taking of that small county off Columbia created a feeling in that part of the State; and then my friend from Columbia (Mr. Buckalew) offered the amendment which we find now in the Constitution, which is equal to a prohibition. I have nothing to say, and certainly no elaborate argument

to make in favor of new counties. I do not want to go into that general subject; but I tell the gentleman from Tioga that under the provisions of this very section his county could not have been formed, because when Tioga county was taken into the family of counties in the State she had but eleven thousand population, and a large majority of the counties of the State had less than twenty-thousand population when they were taken in, and most of them less than ten thousand. We require in the first place here four hundred square miles. Is not that enough? You have eleven counties in the State to-day that do not reach that maximum. We require then twenty-thousand population in every district where you propose to make a new county. What have you to-day? You have fifteen counties in the State that have considerably less than twenty-thousand, some of them less than eight thousand, some of them less than five thousand.

I want the gentleman from Dauphin to answer me a question. If you find within a territory of four hundred square miles a population of twenty thousand people twenty miles from the county seat, some of them living under disadvantages, why should they not have a separate organization?

Mr. MACVEAGH. Because no population of twenty thousand in this State is capable of sustaining a county life, is capable of sustaining and paying proper men for proper work, and the profession of the law, as one instance, degenerates into the merest pettifoggery under such circumstances, and must do so.

Mr. LAWRENCE. If the gentleman had listened to me a moment ago, he would have heard, and I repeat for his benefit, that there are to-day fifteen counties in the State that have less than twenty-thousand population, some of them less than eight thousand and some less than five thousand, and there are eleven counties with less than four hundred square miles of territory, some of them less than two hundred. They are organizations. There is not a more prosperous county in the State than the county of Lawrence. Some of these counties I say frankly ought not to have been made, and they never could be made under this amendment of mine. All I argue on this question is that we ought not to make it utterly impossible to erect a new county. I say again our fathers left the question open to the Legislature, and new counties

were formed as the population increased. When a population is found of twenty-thousand within an area of four hundred square miles and they can be taken off without going within ten miles of the county seat, if three-fifths of the people in that area say that they want a new county, they should have it; but I repeat that under this very amendment you will not have a new county formed in this State for the next twenty years. I do not know a single place in the State where you can get territory enough and population enough just now, unless you divide Luzerne county, and you cannot do that under the first section of this article, and go within ten miles of Wilkesbarre to divide the county as you ought to do. Hence I am opposed to this section as it stands.

But I repeat I have no feeling on this subject and I have no disposition to waste the time of the Convention. If any member of the Convention believes that there ought to be in all the long future, during which our children and our children's children are to live in this great State, no more county organizations to accommodate a vast population growing in the valleys, let him say so by passing this section as proposed by the gentleman from Tioga, and you will not get a new county in the State in one hundred years, and there is not a man on this floor who can show otherwise. I prefer the amendment of my friend from Columbia to the old Constitution; I do not think it is necessary to say anything about it; but if we put anything in, we ought to put in something reasonable, something that will reach the wants that I have referred to.

Mr. HALL. It seems to me that the amendment proposed by the gentleman from Washington (Mr. Lawrence) is justly the subject of the criticism made by the gentleman from Tioga (Mr. Niles.) The old Constitution prohibits injustice in that respect by providing that where one-tenth of the population shall be taken the question shall be submitted and assented to by a majority of the electors of the county from which it is taken. In order to retain that provision I move to amend the amendment of the gentleman from Washington, by adding to it, as follows:

"Nor shall any county be divided by a line cutting off over one-tenth of its population, either to form a new county or otherwise, without the express assent

of such county by a vote of the electors thereof."

Mr. BOWMAN. The discussion upon this question has taken a very wide range, certainly a very wide range, this morning between the gentleman from Tioga (Mr. Niles) and the gentleman from Washington (Mr. Lawrence.) I had not designed to say anything upon this subject, but I must say that I am in favor, if I can get nothing better, of the proposition of the gentleman from Washington.

Let us look at this matter calmly and dispassionately, and judge upon it and judge of it as we would judge of any other question of business that enters into the affairs of men.

What is the amendment of the gentleman from Washington? It is susceptible of three divisions:

First. It requires that the territory to be erected into a new county must contain twenty thousand inhabitants. It is objected to this by the gentleman from Dauphin (Mr. MacVeagh) that twenty thousand inhabitants is too limited a restriction, that this number is too small to support themselves and keep up the organization of the county. Why, we have fifteen counties in this State containing less than twenty thousand inhabitants.

The county of Warren, in this State, which I, in part, represent on this floor, only contains about twenty-three thousand inhabitants, and will the gentleman tell me that that county is unable to keep up its organization, to pay its taxes and discharge its duties as one of the counties of this Commonwealth? The gentleman cannot be very familiar with the history of that county. It stands to-day as one of the most wealthy counties in the Commonwealth. I venture to say that its exchequer is as full and complete as any other county in the State. It is entirely out of debt, and has a large surplus fund on hand.

Then there is the county of McKean, which does not to-day contain one-half of that number, and it has preserved its municipal organization for years and years past.

There is the county of Cameron; there is the county of Elk, and there is the county of Forest, which is the last among the new counties just established. The first division of the amendment of the gentleman from Washington is that a county must contain twenty thousand inhabitants. Let us look at the next proposition.

The second proposition is that no new county can be formed containing less than four hundred square miles. Now, that is a pretty large county. It seems to be large enough for all practical purposes.

The third proposition is that it shall take three-fifths of all the voters in the territory comprised in the proposed new county to say whether a separate organization shall or shall not be established.

These are the three propositions presented for our consideration. On the heels of these and immediately behind them is the other that the gentleman from Tioga (Mr. Niles) finds so much fault about, and that is the taking from some of the older counties a portion of their territory. But we must remember that in order to form a new county under this amendment, we must leave four hundred square miles in the old county and that you cannot divide any county to form a new one unless the old county will contain four hundred square miles. What does the gentleman fear? Why, his county contains twice that number of square miles to-day, and he says that his county is not large. I do not know that it is, but I think that if it had been the fortune of the gentleman to reside in the extreme corner of that county either east or west, north or south, and be compelled to travel to its county seat year after year, he would think it contained a little too much territory for his convenience and benefit.

Now, Mr. President, the opposition to the amendment as offered by the gentleman from Washington comes mainly from the members of the bar. I regret to say it, but it is nevertheless true. We have here a number of gentlemen to whom I cannot impute any dishonest or dishonorable motives—they have a right to discuss this question and dispose of it as they have of all other questions—but the large number of delegates on this floor are members of the legal profession, and they reside at their respective county seats. Men do not want to come here and provide means for dividing counties because, like the gentleman from Tioga, although his county is susceptible of division and fulfils the constitutional requirement under our present organic law, to wit, containing four hundred square miles—like many others, he desires all the legal business of that county to be done at the county seat where he resides. He wants to control all the legal business of that great county containing over eight

hundred square miles. I am not here to say that this may not be right and proper, but let us do justice. Let us pass the amendment as offered by the gentleman from Washington, containing these three propositions, which I will reiterate, for I deem them of importance.

First. The territory must contain twenty thousand inhabitants.

Second. The new county when formed must contain four hundred square miles.

Third. That no old county shall be reduced to less than four hundred square miles.

These are the propositions. Now, it seems to me that there can be nothing fairer than this. I take our own locality; and I have no particular feeling upon this question. I am willing to submit this question to a vote, and will vote in the end for the amendment offered by the gentleman from Elk, which is substantially as is now provided in the present Constitution. It is that not more than one-tenth of the territory shall be taken without the question being submitted to the people of the old county, and a majority deciding that question. So far as I have any particular interest in this controversy, I am willing to accept that, for I believe the people of our part of the State, Warren, Erie, Crawford and Venango, it may be, will also consent to that proposition. But when I am told upon this floor that men oppose this simply because they are well located at the county seats, and wish to retain the business of all the people in the territory of the old counties, it seems to me that it is a very sordid view of this question, and I am sorry to see a disposition of that kind manifested upon this floor. I hope gentlemen will meet this question fairly and decide it as they think it should be decided.

It has been said here this morning, and very truly, by the gentleman from Washington that if you pass this section, as reported by the committee of the whole, hereafter no new county can be formed in this Commonwealth. Certainly that is true if what the gentleman from Tioga says is the fact. If the whole thing is to be submitted to the people of the old counties to vote on the question, they will vote to retain all the territory they have got, and to get as much more as they can. As a matter of course they will do that. Then it precludes the possibility of the future formation of a new county in this State. We are increasing rapidly in this Commonwealth now—3,500,000 inhabi-

tants from the Delaware river to the lakes. You find cities and towns springing up all through the country. Why, by the opening of the Philadelphia and Erie railroad, as you, Mr. President, very well know, lands were brought into market that to-day command a high price which, before the construction of that road, were not worth more than so many acres of northern lights; and so it is throughout the broad Commonwealth. Are the people to be put to the labor and expense of traveling forty, in some instances fifty, and even as far as sixty miles, to the county seat? It is unjust; it is unfair. Leave it to the people of the district to say whether they will assume and take upon themselves a separate political organization or not, and when they have done that the question should be regarded as fairly and justly settled.

Mr. MINOR. Mr. President: I propose to detain the Convention but a very few moments and I will do it by way of some statistics that will aid us I think in deciding this question. We first had in this State but three counties, that was in 1692. Up to 1800 we had thirty-five counties; in the next twenty years fifteen more; in the next twenty years five more; in the next twenty years, bringing it to 1860, eleven more; and since then none.

The next fact to put with this is that since 1850 our population has increased thirty-three per cent. and our new counties only twelve per cent. The next is that had this rule of twenty thousand inhabitants and four hundred square miles which is now proposed in the first section, or even as affected by the amendment of the gentleman from Washington, prevailed and been adopted in 1815, almost sixty years ago, of all the new counties actually formed there could have been but five counties since that time, and, even up to this day, four of the counties that were thus formed could not have been formed as they lacked either sufficient population or territory to comply with the rule. I desire to call the attention of members to this proposition because it is protection that members claim they desire, and I am showing that that there is protection and all that is needed in that rule; I say had that rule been adopted in 1815, instead of sixteen additional counties which we now have, we should have had of those but five up to this time.

Now, if we adopt that rule and apply the same reasoning to the future which is sustained by the past we should have in

the next sixty years an increase not exceeding five counties. Few enough for that number of years. Consider also in this connection, that we are increasing at the rate of over a million in every twenty years, which would give over three million inhabitants in sixty years and we find that it would give but a little over one additional county to a million of increase of population—few enough for that number of people.

Surely that is restraint enough—protection enough. A more stringent rule would be absolute prohibition.

I will not enlarge upon this, but I give these figures from our actual history, and they ought to be sufficient to convince the most skeptical.

Mr. MANTOR. Mr. President: I desire to say but one word on this question, and it is not that I have any selfish interest in this matter. It is quite a common thing, and has been while the question has been under discussion, for gentlemen to rise in their place and say they have no interest in the matter whatever. Now, this is either true or it is not true. I will say in the start that I live in a borough which is not a county seat, and allow me to say, right here, it will never be a county seat, and we do not want it to be. I have lived there for thirty-five years, and should I be fortunate enough to live there for thirty-five years longer, I do not want it to be a county seat. Thus, sir, I define my position; and if any other gentleman's position in relation to county seats is as clear as that, let him get up on the floor and tell the truth, the whole truth, and nothing but the truth.

But, sir, I do live in a county which is affected by this question, and I might as well be honest about it here, equally as my colleague, (Mr. Minor,) who sits before me, is honest and frank in his statements, but he lives in a town that desires a county seat. The gentleman from Erie who addressed us this morning (Mr. Bowman) has an unqualified interest in this matter. He lives in Corry, and the people there want Corry to be a county seat. That is the truth, the whole truth, and that you know. You, Mr. President, (Mr. Walker in the chair,) have lived in the county of Erie from your early boyhood. You have seen the forests of your county cleared away. You have lived there and witnessed the toil, the care and the hardship that pertain to the building of a county. You have traveled miles and miles over that county

when its taxable inhabitants were very few. Now, sir, you live at a county seat. I take it for granted that you, in concert with those of us who live in large counties, do not desire to see those counties decimated without having some voice in the matter. That is the position in which I stand, living as I do in Crawford county. The large mass of the people living in that county, a county containing fifty-five large townships, with a population of perhaps seventy thousand, do not desire to see their county decimated with no other expression than a mere minority. This question has been before them once or twice and they have always voted no.

I am willing to be fair on this question, and where a large mass of people come together or are thrown together by business relations, I would be willing to give them every facility for transacting their county business with dispatch. The people living in the eastern part of my county who desire a county seat are at no greater distance from the present county seat than many of the people in the western part of the county. Now, sir, I say, and I desire to have it recorded here, that I would be willing personally to yield all my rights in giving to that portion of the county all the rights which they might demand; but I am not here to-day acting as an individual, I am here acting as one of the representatives of a district which makes a demand upon me. While it may possibly be that 3,000 voters in the county in which I live may make a demand that that county, containing a population of 65,000 or 70,000, shall be divided, nevertheless I stand on this floor to-day to represent the interests of more than 13,000 voters on the other side.

Now, sir, I take the matter in the shape that I find it. I take it right square home, for I think gentlemen should debate this question in all honesty and fairness. I hope they will stand up here as our good old Methodist friends do in class meetings, and tell their sins square out. I hope they will stand here and be truthful to themselves and to their constituency and not say that they are *not interested where they are*. But, sir, representing that class of people, I am not willing that any portion of the territory of the county in which I live shall be taken from it unless the voice of the whole people of that county shall be heard, and that I consider but fair.

Now, Mr. President, one other remark. There has not been before this body any

other proposition which took from the citizen of a county or any portion of a county the right to vote upon any question affecting their interest. I appeal to delegates on this floor to-day to answer, are we, for mere selfish ends, for the purpose of self aggrandizement, for the purpose of building up some selfish interest, to waive that grand principle on which we have heretofore acted, of doing justice to the masses and having that justice done by the voice of the whole people. This is the only proposition we have had before us to violate that principle. Look over these long files, look back for the past seven months in which we have been in session and point me to one single instance where three-fifths of the population of a few districts were to control all the rest of the county. Take a county like your own, sir, and if two townships vote for a decimation of your county, am I to be told that all the rest of your fifty townships in Erie county are to have no voice in the matter? Is it fair? Is there any other proposition before this body which looks like this? No, sir. In my humble opinion, it is a matter of sordid, downright selfishness. I cannot regard it in any other light. It seems to me to be savoring of that idea of selfishness that always lies behind a scheme for grand speculation.

MR. BOWMAN. I rise to explain.

THE PRESIDENT *pro tem*. The gentleman from Crawford has the floor.

MR. MANTOR. I yield for the question.

MR. BOWMAN. I rise to an explanation. The gentleman has stated that I am interested on this question for the purpose of establishing a county seat at the city where I reside. I wish to say to the gentleman that that is not so. If he will look over the map of his State, he will discover that no considerable portion can be taken from the county of Erie and still leave four hundred square miles. I am not so stupid as not to know that.

MR. MANTOR. "Oh, what a pleasant sight it is for brethren to agree!" I do not know that the *gentleman does want a county seat there*. I said the people there wanted a county seat. The gentleman who offered this amendment does not desire a county seat. Oh, no; he has not the least idea that we should cut up the county in which he lives. I am told, however, by individuals who live within the precincts of that county that there are down in the region where the gentleman lives, *certain persons desirous of having a new county there*. They have been trying

(I am informed) for the last thirty years to have a new county set off in that section of the State. What a harmless proposition this is, Mr. President! It looks smooth on the surface, but my word for it, at the bottom of it all lays the drift and debris of sordid speculation.

I hope gentlemen who are interested in this matter will regard this proposition in its most favorable light. I hope that gentlemen who are living in counties, however large they may be, will turn their attention to this one grand proposition; and that is, that if you live in a big county, under this proposition some speculative ideas may arise in the imagination of some men who may, perhaps, like to deal in town lots, and they may divide your county. Sir, I have had some experience in building up a county seat; it was not in this State however; and I know what men's anxieties are in this matter, but, sir, I never proposed to destroy county lines to reach my objects, or to only allow one portion of the citizens to have a vote and the others not, when all were more or less interested.

The PRESIDENT. The gentleman from Crawford has consumed his time. The question is on the amendment to the amendment.

Mr. BUCKALEW. Mr. President: I desire to say a word in favor of this amendment, which is copied from the existing Constitution, and has received, as far as I understand, common approval and assent throughout the State now for many years past. It is a necessary amendment of this section, and without it our work will be liable to just criticism. It is that no county shall be divided by a line cutting off more than one-tenth of its population, without the consent of its voters. That does not exclude the correction of a county line, which may be eminently necessary and proper in many cases. It does not prevent the erection of a new county where the counties from which most of its territory is taken shall assent to it, although a county with a single corner of two or three townships shall object. In these matters the greater must be preferred to the less. Where it is proposed to erect a new county out of parts of three counties, if, say four-fifths or nine-tenths of the territory of the new county is to be taken with the assent of all the people of the old county, the third county ought not to have a right to veto the new. Where so minute and small a part as less than one-tenth is to be taken from it,

without this amendment this provision will look unreasonable. It will be inconvenient in practice for making new counties, because new counties are taken from at least two or three, and not entirely from one, and there is no danger that counties will be created where they ought not to be created with this provision in the Constitution, nor any danger that county lines will be shifted where they ought not to be. Take the case of a little edge of Lycoming that laps over the Allegheny mountains and drops down into the valley of the North Branch. Suppose some little coal or metal may be found at the base of that mountain on the edge of the county; suppose settlements grow up to a small extent, ought not those people to be permitted to attach themselves to the other people of the valley in which they are located, without going beyond the mountain sixty miles to ask the consent of the people associated with them in the old county when the people of the old county would not be injured materially? Do not make your instrument so stringent that it will not be workable. To restrain the Legislature where restraint is not necessary, will be obnoxious to men in the State who hold reasonable sentiments on subjects of this kind.

Mr. LAWRENCE. I would like to ask the gentleman a question. He has supposed a very just and strong case, but I ask if the people running over the mountain down into the valley want to connect themselves with the adjoining county, why should they not be permitted to do it? His amendment forbids that because it is left to the people of Lycoming county. I want to know how they would ever get it under that.

Mr. BUCKALEW. The gentleman is mistaken. I am speaking about the one-tenth provision, about less than one-tenth being cut off from a county without the vote of the county from which it is taken. That is the very point. Therefore the gentleman's interrogatory is misconceived.

Mr. MACCONNELL. I ask the gentleman whether he means one-tenth of the territory or one-tenth of the inhabitants?

Mr. BUCKALEW. It says "not exceeding one-tenth in population." The limitation as to the amount of territory is in the first section, which declares that no new county shall contain less than four hundred square miles nor any county be reduced below four hundred square miles.

The *PRESIDENT pro tem.* The question is on the amendment to the amendment. SEVERAL MEMBERS. Let it be read.

The *CLERK.* The amendment offered by Mr. Lawrence is to strike out the second section and insert :

"No new county shall be erected until the same shall be approved by three-fifths of the votes cast by all the electors embraced within each of the sections of the counties taken to form the new county."

The amendment to the amendment, offered by Mr. Hall, is to add :

"Nor shall any county be divided by a line cutting off one-tenth of its population, either to form a new county or otherwise, without the express assent of such party by a vote of the electors thereof."

The *PRESIDENT pro tempore.* The question is on the amendment to the amendment.

The amendment to the amendment was rejected, there being, on a division : Ayes, thirty-eight ; noes, forty-one.

The *PRESIDENT pro tempore.* The question recurs on the amendment of the gentleman from Washington.

Mr. CLARK. I offer the following amendment to the amendment. To strike it out and insert :

"No county shall be divided or have any territory taken therefrom without first submitting the question to a vote of the people of the county ; nor unless one-third of the legal voters of the county voting on the question shall vote for the same ; nor shall any new county be formed unless the same shall be approved by the vote of two-thirds of the electors embraced within each of the sections of the counties taken to form the new county."

The objection which I have to the amendment offered by the gentleman from Washington is this : That it provides for no submission to the people of the county. I apprehend that the people of the whole county, as well as of that portion proposed to be stricken off, have some interest in the proposed division of a county ; and whilst I regard it as unfair to require a full majority of the whole county favorable to such a division, I think that one-third of the people of the county should favor the division before any division should be made. I think, too, that those embraced within the lines of the proposed new county ought to be so interested in its formation that two-thirds of them should be in favor of the formation of such county. I think, therefore, that this amendment proposes, not only a suf-

ficient proportion of the people of the old county, but a sufficient proportion of the district from which the new county is to be made.

Mr. DUNNING. Do I understand the proposition to be that it will require two-thirds in each, in the old and in the new county ?

Mr. CLARK. The Clerk will please read the amendment again.

The *CLERK* read the amendment.

Mr. CLARK. It will be observed that I predicate the first election upon the voters of the whole county, embracing the section proposed to be stricken off ; and if one-third of the whole voters of the county voting at such election favor a division of the county, then such a division may be made, and the new county may be formed, provided two-thirds of the voters embraced within the limits of the proposed new county shall favor the erection of the proposed new county.

The *PRESIDENT pro tem.* The question is upon the amendment of the gentleman from Indiana to the amendment.

The amendment to the amendment was agreed to, there being on a division—ayes, forty-five ; noes, forty-three.

The *PRESIDENT pro tem.* The question recurs on the amendment as amended.

Mr. NILES. The question, as I understand it, recurs on the section as amended.

The *PRESIDENT pro tem.* The Chair has stated that it is on the amendment as amended.

Mr. NILES. Very well. The amendment of the gentleman from Indiana being adopted, I desire to simply make one observation. A number of gentlemen have come in who were not here when this question first came up, and there is some misapprehension in reference to the amendment that is now pending.

The *PRESIDENT pro tem.* The Chair desires to again state that the question is on the amendment as amended.

Mr. NILES. I only desire to add another word. Within the last few years fifteen States of the Union have passed amendments to their Constitutions, prescribing the legislative power over the organization of new counties ; and the section now before the Convention is a mere transcript of the Constitution of Illinois and Maryland. We are not treading in a new way at all.

Mr. LANDIS. I had intended to call the attention of the Convention to what strikes me as peculiar about the amend-

ment submitted by the gentleman from Indiana; but I concluded that it would be unnecessary to do so because I supposed the Convention would vote it down. Therefore I now feel constrained to call the attention of the Convention to what I conceive to be the danger of this amendment. If you adopt the amendment of the gentleman from Indiana, it virtually makes one-third of the electors of any county divide the county. I think that should not be. Again, when you come to take the two-thirds vote of the county you count in it the votes of that part of the county which is to be cut off. Perhaps the vote of that entire section may be unanimous and you may take off the most populous and the richest portion of the county and leave not sufficient of either population or means to carry on the business of the old county. I think, sir, that this Convention has gone too far in voting to embody that proposition into the first amendment and therefore I hope, when the vote is now taken, that we will take care not to embody such a proposition in the section, the tendency of which will be to endanger, in its present shape, the integrity of the counties.

Mr. BARTHOLOMEW. I desire to make a motion to reconsider the vote just taken on the amendment of the gentleman from Indiana. I voted in the the majority.

The PRESIDENT *pro tem.* Is the motion seconded?

Mr. JOS. BAILY. I will second it, if nobody else does.

The PRESIDENT *pro tem.* How did the gentleman vote?

Mr. JOS. BAILY. In the affirmative.

On the motion to reconsider a division was called for, which resulted sixty in the affirmative. Before the negative vote was taken—

Mr. DUNNING called for the yeas and nays.

The PRESIDENT *pro tem.* The yeas and nays are called for.

Mr. NILES. The call is not seconded.

The PRESIDENT *pro tem.* Is the call seconded?

Mr. STRUTHERS. I second it.

Mr. LAWRENCE. I understand the main question to be before the Convention, that is, the amendment of the gentleman from Indiana, and on that I want the yeas and nays called.

Mr. MACVEAGH. Let it be read.

The CLERK read the words proposed to be inserted by Mr. Clark's amendment as follows:

"No county shall be divided or have any territory taken therefrom without first submitting the question to a vote of the people of the county; nor unless one-third of the legal voters of the county voting on the question shall vote for the same; nor shall any new county be formed unless the same shall be approved by the vote of two-thirds of the electors embraced within each of the sections of the counties taken to form the new county.

Mr. CLARK. Mr. President: The section reported by the committee of the whole provides that a majority of the voters of the counties to be divided shall assent to the formation of a new county. That is conceded throughout the whole Convention to be equivalent to a denial of a division. It is believed that in no case would the majority of the people of the whole county assent to having any portion of the county taken off and added to an adjoining, or new county, and consequently that the section reported by the committee of the whole is equivalent to a denial of any division. That I understand was the intention and the purpose of the committee. In this amendment which I have offered, I have provided that one-third of the voters of a county may authorize a portion of the county to be stricken off and be attached to another, or used in the formation of a new county. But I provide further than that, that such vote shall not be conclusive unless all the sections so stricken from the different counties shall unite in an approving vote of two-thirds of their numbers to make that division complete. I know that the instances are very rare indeed in which one-half or a majority of all the electors of any county will assent to the division or dismemberment of their county in order that the fragments may be joined to a new county. Therefore, to diminish that difficulty and to make it possible that a county may be divided at all, I have moved the amendment of a one-third vote of the respective counties proposed to be divided, instead of a majority.

The section reported by the committee of the whole if adopted by the Convention is equivalent to a total prohibition against the formation of new counties in the future, and is therefore unjust in that particular. We might as well modify the section to a distinctive and unequivocal

declaration to that effect and say "no new counties shall hereafter be formed"—practically this is what the section amounts to—and I will not support it.

On the other hand, the amendment offered by the gentleman from Washington (Mr. Lawrence) allows the formation of new counties, without in any way consulting the wants or wishes of the inhabitants of the counties out of which the new counties are proposed to be formed.

Both of these plans are therefore objectionable. Now, the plan suggested in my amendment is equitable and just. The voice of one-third of the citizens and voters of a county ought to be respected, and whenever that amount of the voters of any county, by their votes, indicate to the Legislature that a division of the county is desirable, then the Legislature may in its discretion act on the premises. It is unfair that districts suitable for new counties should be forever debarred from the right of having a new county formed, and it is equally undesirable that projects for new counties should at all times be pressed forward, to harass the people, and delay the action of the Legislature on other subjects. I think therefore that the plan I propose is a fair compromise of the difficulty and that it ought to be accepted by the Convention.

Mr. MACVEAGH. I trust the Convention will at least seriously consider this proposition. I confess I did not see the full scope of it when it was offered. It certainly enables one-third of the voters of any county to set up a new county for themselves. There is no question whatever about that. That is the whole effect of it. I trust therefore the Convention will vote intelligently on it. I shall vote against it.

The PRESIDENT *pro tem.* The question is on the reconsideration, upon which the yeas and nays have been ordered.

Mr. MACCONNELL. I thought that it had been reconsidered and that we were voting now on the amendment.

The PRESIDENT *pro tem.* Before the negative vote was taken the yeas and nays were ordered, and now the call for the yeas and nays is withdrawn, as the Chair understands. ["Yes."]

Mr. LAWRENCE. I suggest that we agree to reconsider and vote directly on the main question.

The PRESIDENT *pro tem.* The Chair will put the question on the motion to reconsider.

The motion to reconsider was agreed to.

The PRESIDENT *pro tem.* The question now is on the amendment of the delegate from Indiana (Mr. Clark) to the amendment of the delegate from Washington (Mr. Lawrence.)

The amendment to the amendment was rejected.

The PRESIDENT *pro tem.* The question now recurs on the amendment of the delegate from Washington (Mr. Lawrence.)

Mr. BOWMAN. On that I call for the yeas and nays.

Mr. NILES. I second the call.

Mr. S. A. PURVIANCE. I offer the following amendment to the amendment, to come in at the end of it:

"And of the one-fifth of the votes of each of the counties from which the new county is proposed to be taken."

The amendment to the amendment was rejected.

The PRESIDENT *pro tem.* The question recurs on the amendment of the delegate from Washington (Mr. Lawrence.)

Mr. MACVEAGH. And on that the yeas and nays are called for.

The PRESIDENT *pro tem.* The yeas and nays are called for. Gentlemen who second the call will rise.

Messrs. Clark, MacConnell, Porter, Curtin, Calvin, Hay, H. W. Palmer, Hunsicker, Minor, W. H. Smith and H. W. Smith rose to second the call.

The PRESIDENT *pro tem.* The yeas and nays are ordered.

Mr. DUNNING. I have been a little surprised at the reasons which have been rendered by gentlemen who have discussed this question. It is treated by many gentlemen as one of the most trivial character and one that ought not to receive serious consideration at the hands of this Convention. I believe that there is no more important question to the citizens of the several portions of this Commonwealth before this Convention than the one on which it is now called to act.

I can easily discover why it is that so large a number of gentlemen in this Convention are opposed to any measure that would eventually lead to the division of any county in this Commonwealth. It is because a large number of delegates, perhaps a majority of the delegates composing this Constitutional Convention, are lawyers, and live at county seats, and, therefore, they are opposed to any division of counties; they are opposed to a di-

vision of the interests that always gather and concentrate at county seats all over the State; but that they always reflect the interests of other portions of the county is very doubtful.

It seemed to startle gentlemen when the proposition was made that one-third of the voters of a county might make a successful application for the division of the county. Why, sir, how have all the counties of this Commonwealth been created? Reference has been made to the constitutional amendment of 1837. That amendment was made for the express purpose of defeating the division of one or two counties in the Commonwealth, and it has been successful, not only in defeating the division of those specially had in view, but it has prevented the making of a new county from that day down to this, and it will prohibit the making of any additional county in this Commonwealth for all time. That same proposition would prohibit it, no difference what the necessities of the people. We may talk of bringing justice to the doors of the people as near as practicable, but with such a provision in the fundamental law it is a farce.

I hope this Convention is not going to place itself in any such position. There are many citizens in counties of this Commonwealth laboring under great inconvenience and difficulties by reason of the distance from their county seat and by reason of the business multiplying on their hands so that it is impossible to be accomplished with any degree of dispatch. Now, sir, when we look out over the history of the Commonwealth in the making of counties in the past, step by step, every proposition for the division of a county has met with opposition from the gentlemen clustering about the county seat. But, sir, what would have been the condition of affairs if those gentlemen had had their way in this respect? We should have large and cumbrous counties in which it would be impossible to transact the business properly. The best argument in favor of additional divisions of counties where the territory and population will warrant it, is in the fact that gentlemen who are sitting in their seats to-day representing counties that have been created in the past sit here unconcerned comparatively. But think you, sir, they would consent that the lines making them new counties should be obliterated and that they should be placed back again in their former *status*? Not

one. Not a county in this Commonwealth has been made where the people would accept a proposition of that kind. Not a county but would scorn a proposition of that kind; they would reject it overwhelmingly.

Now, sir, I do not think it fair that a question of this kind should be submitted to a vote of those most interested in its defeat. It has been said that the proposition to take but one-tenth of the population has worked well. It has worked well, perhaps, in preventing additional counties; but how few have been affected by it?

Only two or three counties in the Commonwealth have been affected by it; and as the great mass of the people of the State have required no division, of course they have cared nothing about its effect. Why, sir, as has been well said here, four hundred square miles is a fair, respectable territory. I know a county where a much larger territory than that could be taken and then not go within ten miles of the county seat and would embrace a population of over seventy-five thousand and would leave an equal number of population and twice the amount of territory. Now, will gentlemen say that counties over seventy miles in length and over fifty miles in width, with a population of between one hundred and sixty thousand and one hundred and seventy thousand, with multiplied business interests and with multiplied legal business have no claims for a division? Gentlemen occupying seats on this floor from counties that need no division ought at least to be fair, ought at least to be willing to concede something to sections of the State where those divisions are required. They ought to be fair enough to put them in a condition to acquire what they themselves have asked for and received years before.

I appeal to the gentlemen from this city, particularly, who can have no possible personal interest in the division of counties, who do not stand in dread of this terrible evil which has been depicted here, to give to sections of the Commonwealth a chance where division is necessary. I appeal to the gentlemen from Philadelphia to do that, and to do but simple-handed justice. They certainly are not in danger from the division of counties.

I hope, Mr. President, that the proposition will be adopted.

MR. H. W. PALMER. Mr. President: This proposition appears to be fair on the face of it, but under the surface is concealed a fraud. The proposition of the

gentleman from Indiana (Mr. Clark) was voted down because under that it was possible for one-third of the citizens of a county to make a division. Under this proposition of the gentleman from Washington less than one-third of the people of a county may divide it. Take the case of a county with one hundred and sixty thousands inhabitants. The district proposed to be cut off may contain sixty thousand, and according to this proposition three-fifths of the people in that district may divide it from the county. Three-fifths of sixty thousand is thirty-six thousand, so that in a county containing one hundred and sixty thousand inhabitants a division might be effected by thirty-six thousand people, a little over one-fourth of the whole number. So gentlemen will observe that this proposition is not so fair as that of the gentleman from Indiana, which was voted down because of its unfairness.

Now, before this debate closes, I suppose I must rise to explain. I said yesterday that the new county question had been voted on by the citizens of Luzerne over and over again, and I was called to account somewhat sharply by the gentleman from Scranton, (Mr. Pughe,) and accused of misrepresenting facts, but I have nothing to add to that statement this morning and nothing to take from it. It is exactly and literally true. Once this proposition was submitted directly to the vote of the people. Upon other occasions they voted upon it in the election of members of the Legislature, and through their members they voted upon it in the Legislature, *qui facit per alium facit per se*. Ever since I can remember, at recurring intervals of six or seven years, this question has been agitated and voted upon by the people directly or indirectly, by themselves or through their members; and therefore I say that the statement was exactly and literally true.

He brings the further accusation against me that I am a lawyer, living at Wilkesbarre, and therefore I have a personal interest in the decision of this question, which will influence my vote. Mr. President, it had not occurred to me that such a course of argumentation was either parliamentary or decent. If it had, I might have said that perhaps the flourishing manufacturing interest with which the gentleman is connected in the city of Scranton, and his prospective speculations in town lots there, might affect his vote; but I did not think so meanly of

him, and I am sorry to find that he thinks so meanly of me.

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

Mr. H. W. PALMER. No, sir. Not because I am a practising lawyer at Wilkesbarre am I against this proposition. Personally, I do not care a baubee whether there is a new county or not; it will not add to, or detract from, my happiness or business; but because a majority of the people of my county do not desire it, and because it is for their interest not to have a new county, I am against it. Why, sir, we have abundant court facilities. In the northern end of the county, at Carbondale, there is a court with jurisdiction over that city and over several adjacent townships, concurrent with the common pleas. That court affords abundant accommodation to all the people there. At Scranton, eighteen miles distant, the city in which the gentleman resides, there is a similar court with jurisdiction over the territory of that city, and of several surrounding townships, affording abundant facilities for all the people there. Eighteen miles further down, at Wilkesbarre, we have another court—the regular county court—presided over by two judges, affording abundant court facilities for all the balance of the people of the county, and, therefore, no division of the county is at all needed for the purpose of adding to the court facilities of the people.

If this section passes, a new county could be erected in the north to be called Lackawana, and a new county cut from the west, to be called Shawnee. Columbia county will turn covetous eyes on Fairmount, Salem and Nescopeck, some of our lower townships, and the greedy gentleman from Carbon (Mr. Lilly) and his friends will grab a few other townships at the other corner, and so this grand old historic county, famed in song and story, will be shorn of her fair proportions to gratify the sordid ambition of a few peddling politicians or town lot speculators.

Now, Mr. President, it has seemed to me that, in determining this question, other considerations ought to have weight beside the squabbles of this or that section. It has seemed to me that before we engraft a new principle on our Constitution, and take a new departure in the science of government which is at variance with anything that has been done before in this country, we ought, at least, to pause and consider it well as an abstraction,

apart from local or personal considerations. Since the Revolution, this has been a government of majorities and not of minorities. Since the day when, with-in rifle shot of this Hall, the Declaration of Independence was proclaimed, the majority has governed, and I believe it is on that basis only that the liberties of this people can be perpetuated. I say it is apart from this controversy and ought not to enter into it whether the people of Scranton or of any other locality desire or do not desire a new county. We ought to regard the question with something like a broad and statesmanlike vision before engrafting a new principle on our government which is at variance with those upon which it was founded, and which, applied to other branches, might work utter subversion and ruin.

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

Mr. H. W. PALMER. I am done. The gentleman can have the floor.

Mr. LAWRENCE. I wish to ask the gentleman this question: Whether three-fourths of all our counties have not been formed without the question being submitted to the people at all?

Mr. PUGHE. Mr. President: It is not often that I trouble this Convention to make any explanation or speak upon any question; but I am glad that I have the opportunity to make a statement in explanation of the words spoken yesterday, and I appeal to the intelligence and memories of delegates as to what took place. The question was whether this subject had ever been directly voted upon—not indirectly—by the people of Luzerne county. The gentleman from Luzerne (Mr. H. W. Palmer) stated that for twenty-five or thirty years this question had agitated that county and that about every seven years a vote was taken upon it. I say emphatically no, whether the gentleman takes it back or not.

The gentleman has made another statement this morning which is wrong. He said that I alluded to him as a lawyer and that he resided in Wilkesbarre. I deny that also. I never mentioned either, and why this misrepresentation? If I live in Scranton, if I am a cracker manufacturer, if I am in a business different from his, why these mean slings such as he made when he left this Hall yesterday. Sir, I stand here as his peer, and I am here to defend myself.

I desire to speak on this question not from the stand-point of speculation in

town lots, not from the stand-point of your petty politicians. I believe those brood over and overshadow the court house in Wilkesbarre, not in Scranton.

Mr. President, look at the dimensions of our county at the present time. It contains over one thousand four hundred square miles, is seventy-two miles in length and fifty miles in width. Let us compare Luzerne with other counties. It had a population in 1870, according to the census, of one hundred and sixty thousand seven hundred and fifty-five, and it is one hundred and seventy thousand, and more, to-day. Take Berks and Lehigh counties, and Luzerne is larger in population than both together. Take six counties of this State, Monroe, Pike, Wayne, Susquehanna, Bradford and Wyoming, and they only foot up a population of one hundred and sixty-five thousand two hundred and ninety-eight. Luzerne is equal in population with them all. Take eight other counties in this State, Columbia, Montour, Union, Snyder, Juniata, Mifflin, Perry and Clinton, and Luzerne outnumbered all those counties in population by ten thousand. Do we plead for anything but justice?

Then, sir, I will take *your* county, Erie, and Crawford, Warren, McKean and Elk, and their population is only equal to that of Luzerne. Take Mercer, Lawrence, Beaver and Washington, and their united population does not come up to that of Luzerne. Then take the counties of Green, Fayette, Somerset, Bedford, and Fulton, and they have a less population than Luzerne. Is it not right that we should have the privilege of dividing such a county?

I am in favor of the amendment proposed by the honorable gentleman from Washington, (Mr. Lawrence,) the chairman of this committee. In my judgment, it is one that ought to commend itself to the honest, candid mind of every delegate. The section as originally reported by the committee was changed and remodelled into its present form, but I know that the section as remodelled and passed to second reading was unfair and extremely unjust; and this amendment is designed to remedy that gross injustice. I hope therefore that it will receive the sanction of the majority of this Convention.

The new county question has been agitated in Luzerne for the past thirty years, and it would have been divided twenty-

four years ago, had it not been for the vote and influence of the distinguished gentleman from Columbia, (Mr. Buckalew,) who happened to be in the Legislature, and who was the author of the section in the old Constitution on the subject of the formation of new counties. To relieve the citizens of the northern part of our county from traveling by stage and otherwise at that time over thirty-two miles to Wilkesbarre, to transact their legal business, which was burdensome, onerous and expensive upon them, there was a compromise made, but it was very difficult to get from the gentlemen in Wilkesbarre even that mean compromise. It was to give a court to the citizens of Carbondale, then a small village in the northern part of Luzerne, and two or three small townships around there, with a population of about seven thousand. A charter was granted for the city of Carbondale, giving it corporate privileges and also a court with a jurisdiction over civil actions limited to one thousand dollars. That in a great measure quelled the excitement on the new county question for several years.

Mr. President, I dislike to take up the time of the Convention. I am thankful to gentlemen for the attention they have given me, but I desire delegates from the interior, from the western and extreme northeastern part of the State to understand our position. If you have never been to Luzerne county, you cannot realize the vastness of its territory, its large population, and its immense mining and manufacturing interests. If you would go with me upon the Lehigh Valley railroad, as you enter the lower portion of the county, about which my friend in front of me (Mr. Lilly) probably knows more than I do, there is Hazleton, which has been developed by Pardee, Fell, Markley, and others to a wonderfully prosperous condition. As we come over the mountain we reach Wilkesbarre, one of the handsomest cities, I think, in this State. It lies right in the centre of the classic valley, set in like a beautiful gem, with the peaceful Susquehanna meandering by it, and all around are developments of the coal operations, huge coal-breakers that stand up there like pyramids as monuments of the industry and the wealth of that section. Wilkesbarre has a population I believe of between thirty thousand and forty thousand, and I believe in the next fifteen years she will have a population of at least seventy-five thousand.

Go a little further, and you reach Pittston, a flourishing borough, with four banks having a capital of one million dollars. It is the head-centre of the operations of the Pennsylvania coal company, which sends to market every year a million of tons of coal to the sea-board.

Go a little further, and you come to the city of Scranton that my friend sneers at, the rising young giant of Luzerne. It was but a poor hamlet with only two or three hundred inhabitants when Wilkesbarre was an old borough and was known through the length and breadth of this broad State, but she went to sleep like Rip Van Winkle, and never woke up until Scranton gave her a lesson in enterprise and power, and taught her to develop her resources. I am stating facts. If it had not been for the genius of Charles Parish, Swoyer, and others, she would have been in a Rip Van Winkle sleep yet. Pardee, Parish, Dickson, Scranton, and other honorable names I could mention; such men do more to elevate, to refine, and to develop the resources of a country and are of more benefit to it than all other people put together, for the reason that they bring capital, they develop resources, they build up cities, build up villages; and school houses and churches deck every hill. It is all owing in part to the enterprise of these men.

As I said, we go to Scranton and what do we find there? It is the centre of operations of the Delaware, Lackawanna and Western railroad company, a company that sends over three millions of tons annually to the sea-board and to the West. Go around that city for miles and you see huge coal breakers and the shafts and slopes that bring out the black diamonds, more valuable than the gold of California. Go down into the hollow that used to be called "Slocum Hollow" before the name of Scranton was known, and there you find one of the largest iron manufactories in the State, I believe second to none, belonging to the Lackawanna iron and coal company, which has manufactured the last year over 52,000 tons of pig iron and over 125,000 tons of finished manufactured iron, and which pays out every month about \$150,000 to their workmen, and the Delaware, Lackawanna and Western pay out half a million of dollars every month. This is the kind of county that I want to tell you about.

But this is not all. We have in that city the Dickson manufacturing company engaged in the manufacture of

mining machinery, and who employ over one thousand men and turn out two locomotives every month. That is not bad for a young city, is it? And then we go a little further, and we go up to Blakely, the flourishing village of Olyphant appears in view, and what do we see but the same enterprise springs up there—a vast working population all resulting from this development of the coal interest under the auspices of the Delaware and Hudson canal company. We go further up to Carbondale. We pass Archbald, where the extensive mines of Eaton & Co. are located, mining over one hundred and fifty thousand tons of coal every year—besides the large coal operations of the Delaware and Hudson canal company on the opposite side of the hill. We come then to Gibsonburg, a new thriving village that was only established a few years ago, under the superintending genius of John Jermyrn, the lessee. There are two large breakers, turning out near two hundred thousand tons of coal annually, and they have now a population of three thousand. Carbondale was the original seat of the Delaware and Hudson canal company coal operations in the Lackawanna Valley, and to the honor of Philadelphia, it was two Philadelphians that started it, Maurice and John Wurts, about forty years ago, names that are honored and held in veneration by the coal interests of this State. About twenty-five years ago there were only about two hundred thousand tons a year taken by that company over the gravity planes to Honesdale, in Wayne, and what are they taking now out of this new county territory and out of other parts of Luzerne—I mean the noble and honorable company over which Thomas Dickson so ably presides—their railroads extending over five hundred miles, away down even to the granite hills of Vermont. This company are taking, and will take this year, upwards of four million tons of coal. Gentlemen, can you realize the capital, the wealth, and the industry and the population there? It is a grand old county, a little empire in itself. And all we want is that there shall be a division of that county. Why? I will tell you why.

We heard mentioned by the gentleman from Wilkesbarre something about the mayor's court in the city of Carbondale. I want the gentlemen of the Judiciary Committee to pay attention to what I am going to say, because I believe they are doing us great injustice, and it would

have been as well for the gentleman, when he mentioned about that mayor's court in the city of Carbondale, to tell us that in the report of the Judiciary Committee they wiped out that court, and they wiped out the mayor's court of the city of Scranton? What for? What is the result? So that we can all go on and pay homage to the lawyers' shrine at Wilkesbarre. That is what it is for. It places us back worse than we were twenty-five years ago. There is no remedy proposed. These courts are wiped out, and we have in the city of Scranton over forty lawyers, and in that mayor's court, in one term, there have been upwards of eight hundred cases numbered on the docket for the term. Think of it, gentlemen! Even in the little city of Carbondale there is as much legal business as in the whole county of Wyoming. I have the authority of him who was president judge some years ago, and with whom I had the honor to sit on the bench—Judge Conyngham—who said this repeatedly to me at the time. I do not know what amount it is now. I have told you that—

The PRESIDENT *pro tem*. The delegate has occupied his time. ["Go on." "Go on."]

Mr. BIDDLE. I move that the gentleman's time be extended.

The PRESIDENT *pro tempore*. Shall the delegate have leave to proceed further? The Chair hears no objection, and the delegate from Luzerne will proceed.

Mr. PUGHE. I was perfectly astonished when on that committee, mark you, there was a distinguished ex-chief justice of this State, a man who for thirty years I have revered and honored for his great legal attainments, a man who stands high for integrity, honor and probity, and who yet consented that these two courts should be wiped out, thus disfranchising the upper portion of Luzerne county from doing their legal business in these mayors' courts that we had to wrench from the Wilkesbarre giants. There never yet was a movement made in this new county matter that was not opposed by them. Do gentlemen talk about "indirectly?" I will tell you how it was indirectly. Repeatedly candidates have been put up there on this new county issue and every time we have elected them, though the greatest efforts were made by the Wilkesbarre "ring" to defeat us; and when the people of Carbon county and the lower townships of Luzerne, which geographically are united,

thought they ought to be joined. When I was in the Legislature there was a little band of patriots from that end of the county who wanted to be cut off from Luzerne and join Carbon. That band was led on by Major Klutz. He worked well for it, but Wilkesbarre was there, of course, and with money which they put in the hands of the Fagin of the lobby, and you know, as my friend from Delaware (Mr. Broomall) says, they know how to manage men, and the bill was killed. That is the way we have had to fight this question, and if my friend (Mr. H. W. Palmer) lived in Scranton, or if he lived in Carbondale, he would not say a word to-day upon that question. He is a rising lawyer there, and he is going to become, probably, one of our eminent lawyers. He has industry and talent, and I am glad he has success. I admire talent wherever it is, and I thank God whenever I see a young man succeed, especially in an honorable profession.

Now, what are we to do? As I was remarking about my friend, the gentleman from Philadelphia, I did not expect such treatment from him. I was not at all surprised at the other gentleman, (Mr. Wright,) who occasionally shakes his silver locks when he delivers his vehement oratory on woman, truth or justice, because he lives in Wilkesbarre and has his property there.

Mr. WOODWARD. Will the gentleman allow me to ask him what portion of the judiciary report he refers to.

Mr. PUGHE. I have repeatedly inquired from lawyers, and they say the report as reported by the committee redistricting the State says nothing about mayors' courts and consequently they are left out. I appeal to the chairman of the committee if that is not so.

Mr. ARMSTRONG. In reply I would state that the report of the Judiciary Committee proposes to give to Luzerne county three judges of the court of common pleas, and in order that the entire judicial system of the State might be harmonious, we proposed that there should be no judges except judges of the court of common pleas. In giving three law judges to the county of Luzerne and making them all judges of the courts of common pleas, we do not diminish, but increase, their judicial force; nor did we intend to diminish the judicial force.

Mr. PUGHE. We have four now.

Mr. ARMSTRONG. It was not so represented to the committee.

Mr. PUGHE. We have four now: The

recorder of the mayor's court of the city of Carbondale, the recorder of the mayor's court of the city of Scranton, the president judge and the assistant law judge. These make four, and now you are cutting it down one and wiping out these courts.

Mr. ARMSTRONG. I would state, in further explanation, that those recorders are mere municipal officers, and their jurisdiction would not be affected by anything in the report of the Judiciary Committee. The report, as it was made, proposes only that in the schedule, which was postponed and has not been acted on, but will come up on the report of the Committee on Schedule.

Mr. PUGHE. I have been more liberal than some others. I have allowed gentlemen to interrupt me besides asking questions.

I believe that the county of Luzerne to-day has business enough for six judges. The president judge and the assistant law judge, although relieved by the mayor's courts at Scranton and Carbondale, complain that they are over-worked, and now you want to cut off one law judge and make the people of this whole county, with such an immense territory and with a population of one hundred and seventy thousand souls, go to Wilkesbarre to do their legal business. Is this just? Is it right? Is it honorable? I would be ashamed if I was from that part of the county to stand up here and oppose such an honest, fair proposition as this. I have no town lots to speculate in; I care not where the county seat shall be; and I will tell you why. I have always been opposed to a new county until within the last three or four years, and when the vote was taken in 1863 I voted against the new county and used my influence against it, and that in a great measure succeeded in defeating it. But, remember we have grown, we have grown rapidly and wonderfully, and I believe if we had half a million of population to-day, five hundred thousand people, these same gentlemen would have the cheek to get up here and say "we will not let you divide!"

The population of Scranton is about forty-eight thousand, or probably more than that now. The census was taken in 1870, and I think we have increased at least at the rate of about two or three thousand a year. At the gubernatorial election last fall the total vote of the county was twenty-six thousand seven

hundred and eighty-four. Ten miles north of Wilkesbarre, on the line usually designated as the line of division, is the Lackawanna bridge. That is the great dividing line which has always been taken of whenever a new county has been suggested, and even the Wilkesbarre people have said that if we ever had a new county we ought to have its line run there, but they never wanted us to have it. The vote on Governor above that bridge, including Carbondale and the northern tier of the county, was eleven thousand three hundred and forty-seven out of twenty-six thousand seven hundred and eighty-four. That will give you an idea of the population ten miles from this county seat. It is not one of those little picayune counties that the gentleman from Dauphin talks about, but I think we should stand up fair and square with the majority of counties even if we had that new county with that population which we have of over seventy-five thousand.

I hope, gentlemen of the Convention, and I plead with you that you will adopt this amendment. It is a fair and honorable proposition. Dispel your prejudices; do not think of your county seats; but look at justice, look at honesty, look at fairness, and I have no doubt that your consciences will approve of the act if you vote for it, and you will receive the thanks of from sixty to seventy thousand of my constituents.

Mr. BAER. Mr. President: I rise to call the attention of the Convention to the section that is about to be stricken out in case the proposition of the gentleman from Washington is adopted; and unless I am greatly befogged, that section is vital to section one which we have already passed; and if we reject section two, and adopt this amendment, if I read section one correctly, then we shall be in a condition which will make it possible, at least, to have very many new and weak counties throughout this State. Section one provides "that no new county shall be formed or established which shall reduce the county or counties, or either of them, from which it is taken, to less than four hundred square miles."

That, so far as it provides for territory, is right enough.

"Nor shall any new county be formed or established containing a less population than twenty thousand inhabitants."

Now, suppose a county has twenty-five thousand inhabitants and embodies in it

a very large town that has eighteen thousand people, you might cut off enough territory to give them twenty thousand, to make a new county, and leave but five thousand in the old county. I do not see that section one compels you to leave twenty thousand in the old county, for it says the new county shall have twenty thousand. Now, if it is right and proper that the new county should have twenty thousand why should we not say that its creation should not reduce the old county to less than twenty thousand? As I read this, you do so say and you reduce them down to a mere nothing without the consent of the people in the old portion of the county. For that reason I shall be compelled to vote against the amendment offered by the gentleman from Washington.

Mr. LILLY. I do not desire to take up much of the time of the Convention. The gentleman on my right, from Luzerne, (Mr. H. W. Palmer,) alluded to me as the greedy gentleman from Carbon county. Now, sir, it has been fashionable for the Wilkesbarre ring to call us people from Carbon county robbers. For what? Attempting to rob Luzerne county of part of her territory! Now I say here that that has never been the case. We have merely stood at the door with arms open to take these people into Carbon county who want to get away from the Wilkesbarre gentlemen that were in the habit of robbing them, they say, when they went there to court.

Now, there is a section of Luzerne county composed of Hazleton and Foster and part of the township of Dunmore, which lies south of Brick mountain, and nine-tenths of the people of that district are obliged to-day, in order to get to Wilkesbarre by the quickest route, to come within six miles of Mauch Chunk, the county seat of Carbon county, and then go around back forty-eight miles to reach the town of Wilkesbarre, whereas they can come to Mauch Chunk and do their business and go back home in convenient season on the same day. The fact is that the natural place for the people of Luzerne in the district adjacent to Carbon is in Carbon county and not in Luzerne. They have repeatedly tried to get attached to us and have come to us and asked us to reach out a helping hand to them to enable them to get rid of this "monster" as they call it. We have never sought to add them to our own territory. The petition comes always from them.

Probably all the business of the populations of these lower towns except their judicial business is with the county of Carbon. They go to Wilkesbarre to transact their judicial and political business, but all their other business is with our county.

Now, to help people so situated who may desire to change their county associations, the amendment of the gentleman from Washington opens a way for them to more conveniently arrange their county boundaries. It simply provides that when three-fifths of all the people from a district want to go into another county they shall have the right to go. That is only justice and that is all that we ask. The allusion made to the county of Luzerne and the town of Wilkesbarre should not be allowed to influence the question. I do not believe that the town of Wilkesbarre is in the least degree interested in the question whether the portion of Luzerne county that borders on Carbon county should be retained in Luzerne or added to Carbon unless it be that that section occasionally pays tribute to Wilkesbarre while attending court. But that should not be allowed to influence our action here. We should meet this amendment fairly, and I will vote for it because it is just and will work relief to the oppressed. Wilkesbarre and Luzerne county people are just like the rest of the people of this Commonwealth, all after the dollar. There are many high-minded, honorable gentlemen in that county, amongst whom I am gratified to number the delegates in this Convention, and especially do I appreciate the youngest gentleman in the delegation, for whom I predict a brilliant future.

Mr. DODD. I hope we shall not treat this question simply on the policy of erecting one county in the State, because every county in the State is deeply affected by it. I do not intend to make a speech on the subject, but simply desire to say that I voted for the amendment of the gentleman from Elk (Mr. Hall) as a compromise on this question. That amendment was voted down; and now, if we adopt the amendment of the gentleman from Washington, I venture to predict that within ten years there will not be two counties in this State containing over four hundred square miles. And why? Because any portion of their territory desiring to form a new county have the right to do so, provided they do

not reduce the old counties to less than that number of square miles. It will only be a question of time how soon this will be done. There will not be a county in the State of Pennsylvania containing over four hundred square miles that will not, sooner or later, be affected by this provision. I have contended before, and I contend again, for the right of the people to be heard upon this subject. It affects their interests, it affects their sympathies, and they have a right to be heard at the polls. But if it be thought that to allow the majority of the people of each county to decide this question will work injustice in certain particular cases, we had better vote down the amendment, and then vote down the section, and leave the whole matter to the Legislature. That would be far better than to make such a rule as this in the Constitution.

I hope that the amendment will be voted down; and when that is done, I, for one, am willing to offer an amendment to the section something like this:

"No new county shall be divided without submitting the question to a vote of the people of the county, nor unless two-thirds of the legal voters of that portion of the territory proposing to separate shall vote in favor of it, and one-third of the remaining portion of the territory of the county."

It strikes me that this would be fair; and if we vote down the pending proposition I shall offer such an amendment and vote for it.

Mr. BEEBE. Mr. President: I have no personal interest to subserve. Neither do I reside at a county seat; nor do I desire the creation of a new county for personal ends. I am not aware that I am representing any personal interest. I wish to God it was the case that we could wholly divest ourselves of all personal interest and prejudice and put into the organic law that for which we are here, which would subserve best the interests of the people whom we represent.

I heartily second the motion of the gentleman from Venango, (Mr. Dood,) for while he says that under the amendment of the gentleman from Washington (Mr. Lawrence) Pennsylvania will be subdivided into small counties containing twenty thousand inhabitants each; and while the gentleman from Luzerne (Mr. H. W. Palmer) says that the amendment of the gentleman from Washington conceals a *fraud*, I aver that no such charge

can be made against section two of the report of the Committee on Counties, Townships and Boroughs. It carries out and declares what I believe has been the governing motive of the men that presented it, that no other county shall ever be made in the State of Pennsylvania; while the present condition of this report is merely an emanation of the circumlocution office. Instead of all this, why not adopt the clear and concise language proposed by the gentleman from Northampton (Mr. Brodhead) a day or two since, which simply goes to the naked truth, and asserts the naked fact as to the intent and purpose of this Convention according to my belief, that is: "That no new county shall hereafter be established in this Commonwealth."

And why do I say so? In watching the peculiar features of the various arguments that I have heard from members here, has any one thought that the gentlemen who are advocating this section as it now stands have attempted to show by any form of argument that there was a possibility, under any circumstances, of a new county ever being formed under its operation? They have accepted the fact, as I take it, that it was their intent and purpose to put into the organic law a provision that would prevent the formation of any new counties, and in accepting this fact in their own breasts they have thereby conceded this position without any attempt to show that a new county could be established.

Considering the ordinary weaknesses of human nature, let us inquire why the case stands in that position? It has been alleged by those in favor of a new county upon this floor, that the one hundred and one lawyers of this body had something to do with it in their personal practice; but it has never been admitted or alluded to in the discussion of this question except by the gentleman from Dauphin, (Mr. MacVeagh,) who has conceded it. That seems to be the only point heretofore put, and the consequence is that upon the principle that what we have we will keep and besides get all we can, the gentleman from Tioga (Mr. Niles) says: "Any twenty thousand people can have a new county at the sacrifice of these two principles, to wit: the welfare of the attorneys and the welfare of the old county"—"Any twenty thousand inhabitants!" And he says that with great gusto and as if it were a new proposition! I ask what of it, if any twenty thousand people united in a com-

mon interest by locality, or by business, shall ask for a new county for those resources, those conveniences of government and municipal organization for which counties are designed, what is there astonishing about the proposition?

But I did not rise to make a speech. I merely desired to call the attention of the Convention to the fact that it is believed and understood by those who desire that hereafter when the people shall require it new counties may be formed, that the present position of this report is such as is designed to utterly preclude it from ever being done. I therefore hope that if the amendment of the gentleman from Washington be voted down, as I have no doubt it will be, something like that suggested by the gentleman from Venango will be proposed and something done to put into the organic law the principle that the representation of the people as it has heretofore been recognized in the creation of new counties will be preserved.

I will make but one more allusion to the remarks of the gentleman from Luzerne. While he was speaking my friend from Chester (Mr. Darlington) came near to where I sat, and said that he would allow Luzerne county to be divided into four counties if it would wipe out the enormous frauds in elections that are there practised. I think it would be well for the gentleman from Luzerne who so strenuously opposes this amendment to ask himself, and for the whole Convention to ask themselves, whether there is not value in that suggestion? Is it not the vast interests, the large territory, and the accumulation of voters in counties like Luzerne and Philadelphia, that cause election frauds? Certain it is that the smaller counties of the State are troubled with no such frauds.

MR. DALLAS. I move to amend the amendment by striking out all after the word "the" and inserting the following:

The PRESIDENT *pro tem*. The yeas and nays have been ordered and only the calling of the roll is in order.

MR. DARLINGTON. Before that is done allow me one word. I am not entirely satisfied with either of the propositions before the Convention, and I propose when these shall be disposed of to offer the following, which I think will be satisfactory to all:

"No new county shall be formed of territory taken from one or more of our coun-

ties without the consent of two-thirds of the legal voters embraced within the proposed new county, and of one-third of the legal voters embraced in the remaining part of the county or counties from which the proposed new county shall be taken."

That requires the assent of two-thirds of those who are to go and the assent of one-third of those who remain. When in order I propose to submit it.

The *PRESIDENT pro tem.* The yeas and nays will be called.

Mr. MACVEAGH. On what?

The *PRESIDENT pro tem.* On the amendment of the gentleman from Washington (Mr. Lawrence.)

Mr. CUYLER. Please have it read.

The *CLERK.* The amendment is to strike out the section and insert:

"No new county shall be erected until the same shall be approved by three-fifths of the votes cast by the electors embraced within each of the sections taken to form the new county."

The yeas and nays were taken with the following result:

Y E A S.

Messrs. Achenbach, Andrews, Bowman, Campbell, Cassidy, Cochran, Corson, Curry, Davis, De France, Dunning, Edwards, Ewing, Funck, Gibson, Hay, Hazzard, Heverin, Howard, Lawrence, Lilly, Long, M'Murray, Minor, Mott, Palmer, G. W., Patterson, T. H. B., Porter, Pughe, Rooke, Runk, Russell, Simpson and Stanton—34.

N A Y S.

Messrs. Ainey, Alricks, Armstrong, Baer, Bailly, (Perry,) Bannan, Barclay, Bartholomew, Beebe, Biddle, Bigler, Boyd, Broomall, Buckalew, Calvin, Carey, Carter, Church, Clark, Collins, Corbett, Craig, Cronmiller, Curtin, Cuyler, Dallas, Darlington, Dodd, Ellis, Finney, Fulton, Gilpin, Guthrie, Hall, Hanna, Harvey, Horton, Hunsicker, Kaine, Landis, MacConnell, MacVeagh, M'Clean, M'Culloch, Mantor, Metzger, Newlin, Niles, Palmer, H. W., Parsons, Patterson, D. W., Patton, Purviance, John N., Purviance, Samuel A., Reynolds, Ross, Smith, H. G., Smith, Henry W., Smith, Wm. H., Struthers, Turrell, Van Reed, Walker, Wetherill, J. M., Wetherill, Jno. Price, Wherry, White, David N., Woodward, Worrell and Wright—70.

So the amendment was rejected.

ABSENT.—Messrs. Addicks, Bailey, (Hunt, son,) Baker, Bardsley, Black,

Charles A., Black, J. S., Brodhead, Brown, Elliott, Fell, Green, Hemphill, Knight, Lamberton, Lear, Littleton, M'Camant, Mann, Mitchell, Purman, Read, John R., Reed, Andrew, Sharpe, Stewart, Temple, White, Harry, White, J. W. F. and Meredith, *President*—28.

The *PRESIDENT pro tem.* The question recurs on the section.

Mr. DARLINGTON. I move to strike out all after the words "section two," and insert:

"No new county shall be formed of territory taken from one or more other counties without the consent of two-thirds of the legal voters embraced within the proposed new county, and of one-third of the legal voters embraced in the remaining part of the county or counties from which the proposed new county shall be taken."

I have but one word to say, Mr. President. It will be perceived that my proposition is to require the votes of two-thirds of the legal voters in the proposed new county, and one-third of the voters of the remaining county or counties from which it shall be taken. That is all there is of it.

The *PRESIDENT pro tem.* The question is on the amendment of the gentleman from Chester.

Mr. MACVEAGH. I rise to a point of order. I think that is the same proposition which has been already voted down, ["No."]

The *PRESIDENT pro tem.* It seems to be substantially the amendment of the delegate from Indiana (Mr. Clark.)

Mr. BARTHOLOMEW. There is a distinction. The amendment of the gentleman from Indiana was that there should be a vote of one-third of the whole county; that is, of the old county. This is a one-third vote of that which remains, and two-thirds of that which goes out into the new county, and is not counted in the vote of the one-third.

The *PRESIDENT pro tem.* The question is on the amendment.

Mr. CORBETT. I should like to say one word. If the new territory of which a county is formed is taken from one county alone, this provides for a vote of one-third of the territory remaining, but in case there be several counties, it provides for a joint vote of the remaining territory. Consequently two or three counties might vote one way, and if they were overpowered by a one-third vote of another county the proposition would fail. To this I

am entirely opposed. I hope this Convention will not adopt anything of the kind.

Mr. PUGHE. I call for the yeas and nays on this amendment.

The *PRESIDENT pro tem.* Gentlemen seconding the call will rise.

Messrs. Corson, Dunning, Pughe, Carter, Cochran, Porter, MacConnell, Finney, MacVeagh, Barclay, Mott, Dallas, Campbell, J. N. Purviance, Edwards and De France rose to second the call, and the yeas and nays were ordered.

Mr. WHERRY. I am opposed to this proposition. It is outrageous, on the very face of it, that two-thirds of an aggregated vote of different sections of different counties should overwhelm the inferior vote of a certain section. For instance, it is outrageous to my mind that the county of Luzerne should be divided, and that the heavy vote of that county should swallow up that of one of the most important towns or villages of a neighboring county. Is there any justice in that?

Now, sir, I move to amend that proposition for fear it may pass, by saying that it shall be upon the two-thirds vote of each district of the separate counties.

Mr. DARLINGTON. Of each county.

Mr. WHERRY. Well, each county.

Mr. DARLINGTON. I accept that modification.

The *PRESIDENT pro tem.* The amendment will be so modified. The amendment as modified will be read.

The *CLERK* read as follows:

"No new county shall be formed of territory taken from one or more other counties, without the consent of two-thirds of the legal voters embraced within each of the sections of the proposed new county, and of one-third of the legal voters embraced in the remaining part of each of the counties from which the proposed new county shall be taken."

The question being taken by yeas and nays, resulted: Yeas fifty-seven, nays forty-five, as follows:

Y E A S.

Messrs. Achenbach, Ainey, Andrews, Baily, (Perry,) Baker, Beebe, Bigler, Bowman, Broomall, Calvin, Campbell, Carter, Cassidy, Clark, Cochran, Collins, Corson, Craig, Curry, Curtin, Dallas, Darlington, Davis, De France, Dodd, Dunning, Edwards, Ewing, Finney, Fulton, Funck, Gibson, Hanna, Hay, Heverin, Howard, Kaine, Landis, Lawrence, Lilly,

Long, M'Murray, Minor, Mott, Newlin, Palmer, G. W., Patterson, T. H. B., Pughe, Purviance, John N., Purviance, Samuel A., Read, John R., Simpson, Stanton, Stewart, Walker, White, David N. and White, J. W. F.—57.

N A Y S.

Messrs. Alricks, Armstrong, Baer, Bannan, Barclay, Bartholomew, Biddle, Boyd, Buckalew, Carey, Church, Corbett, Cronmiller, Cuyler, Ellis, Gilpin, Guthrie, Hall, Hazzard, Hunsicker, MacConnell, MacVeagh, M'CLean, M'Culloch, Mantor, Metzger, Niles, Palmer, H. W., Parsons, Patterson, D. W., Patton, Porter, Reynolds, Rooke, Runk, Russell, Smith, H. G., Smith, Henry W., Smith, Wm. H., Struthers, Turrell, Wetherill, J. M., Wherry, Woodward and Wright—45.

So the amendment was agreed to.

ABSENT. — Messrs. Addicks, Bailey, (Huntingdon,) Bardsley, Black, Charles A., Black, J. S., Brodhead, Brown, Elliott, Fell, Green, Harvey, Hemphill, Horton, Knight, Lambertón, Lear, Littleton, M'Camant, Mann, Mitchell, Purman, Reed, Andrew, Ross, Sharpe, Temple, Van Reed, Wetherill, Jno. Price, White, Harry, Worrell and Meredith, *President*—30.

The *PRESIDENT pro tem.* The question is now on the section as amended.

Mr. BUCKALEW. I ask the Chair whether the question is not on the amendment as amended.

SEVERAL DELEGATES. On the section as amended.

Mr. BUCKALEW. Then the question is a final one on the section.

The *PRESIDENT pro tem.* It is a final vote on the section.

Mr. BUCKALEW. This requirement of a two-thirds vote within the limits of a proposed new county is a matter of form; it has no substance in it. An affirmative vote within the limits of the new county such as is required by this and the other amendments can always be secured. I consider it therefore a vain and idle thing to put such provision into the Constitution.

If gentlemen will look back to the various new county projects which have been urged upon the Legislature they will remember, if cognizant of the facts, that not a single one, at least no conspicuous and well pressed one, has ever been presented where this requirement could not have been complied with. Therefore all that is material (if, indeed, it be ma-

terial) is the requirement that one-third of the voters of an old county shall assent to the division.

The manner in which this provision will work practically will be this: Within the limits of the new county prior to some interesting election the gentlemen concerned in the management of politics and who desire to carry their new county, will interview the political leaders in the old county; they will say to them: "Manage somehow to give us a third of the vote of your county, and we will vote and carry your ticket, put all your people in office;" and this bargain will be made over and over again from one end of the State to the other. I undertake to say, also, that this scheme of voting in the new county and in the old county, under these conditions, will make new county agitations from this time one of the ordinary employments of the people of this State.

But, while I am opposed to this amendment, as now constituting the section to be voted upon, I beg to say that I am opposed also to any such proposition as the original section itself, which was almost a prohibition against the formation of any new county whatever.

In fact, I think the best thing this Convention can do will be to vote down this second section either in its original form or now as amended, and let the first section, which we have agreed to, stand as the only provision which we put in the Constitution on this subject, to wit: that the new county shall contain twenty thousand inhabitants, that it shall comprise four hundred square miles, and that its erection shall not reduce the county from which it is taken below four hundred square miles, and then let us rely upon that important provision in the article on legislation which gentlemen seem to forget, but which we have already agreed to on second reading, which prohibits the Legislature from passing any special act "locating or changing county seats, erecting new counties, or changing county lines."

Now, sir, no general statute, applicable to the whole State, can ever pass the Legislature which will not contain all the provisions necessary in the case of the creation of new counties. The power to influence the Legislature in any special case of any county division is utterly taken away, and no abuse in the creation of new counties can exist hereafter in the legislation of the State. Therefore I say

that with the provisions in the first section of this article, requiring twenty thousand inhabitants in the new county, limiting the amount of territory to be taken from an old one, and requiring more than four hundred square miles in the new one, we have every guarantee that is necessary to guard against the agitation of this subject of new counties in the Legislature, and every provision which gentlemen need desire against the unreasonable division of counties; whereas, on the other hand, you do not send your Constitution out with a prohibition upon its face against new counties, to insult and offend every new county interest from one end of the State to the other, inducing them, perhaps, to vote against your whole work.

I beg the Convention, therefore, to agree in opinion with me, to drop this second section. Let the first section, which is a very stringent one against the creation of new counties, stand, and let the section in the legislative article, which prohibits all special legislation whatever on this subject, have its necessary, proper and inevitable effect to discourage and prevent the creation of new counties in this State, except where, under general law, the necessity for them shall be so evident that they will be established by the general assent of the people interested in their creation.

MR. LAWRENCE. I rise merely to say that I concur fully with the gentleman from Columbia. I hope the section will be voted down as unnecessary.

MR. DARLINGTON. I do not think that this section, as now presented, is obnoxious to the objections made by the gentleman from Columbia. It simply contemplates that in the formation of a new county you shall have the assent of two-thirds of all the voters embraced within its limits, and of one-third of each county from which it is proposed to be taken before consent shall be given to its formation. It is said that this practically will set people to electioneering; that they will carry this question into the elections and they will make a great deal of mischief out of it. How is that to be brought about? I do not see the difficulty. Gentlemen proposing the erection of a new county necessarily fix the limits of the proposed county. They go to the Legislature and they ask the Legislature to grant them a new county. The Legislature say: "Yes; those are reasonable limits; we will pass a law erecting a new

county according to those limits, but you must take it subject to the vote of the people to be embraced within it, to be taken in such manner as the Legislature shall prescribe, and you must have the assent of two-thirds of all the votes contained within the limits of your new county; nay, more; you must also have a vote taken on this subject, in such manner as the Legislature shall prescribe, in the remaining county or counties from which the new one is to be taken, and you must obtain the vote of one-third of each of those counties, and then it shall be erected into a new county." There is no difficulty in this kind of legislation. It may depend upon such contingencies as these, and the formation of a new county may be made to depend upon the votes just as I have stated. I do not see that that is an unreasonable restriction to place upon the formation of new counties.

It is said you may do it by general law. So you may; but this is a restraint upon the general legislation that a new county shall not be formed, even under general law, unless it conform to this provision of the Constitution, and have the votes as I have indicated. I hope it will be adopted.

The PRESIDENT *pro tem*. The question is on the section as amended.

The section was rejected, the ayes being twenty-nine—less than a majority of a quorum.

The CLERK read the next section as follows:

SECTION 3. That section of the new county taken from another county shall pay its equitable proportion of the existing indebtedness of the county from which it is taken, and if in the formation of a new county any township be divided, the indebtedness of such township shall be equitably apportioned upon the respective divisions thereof."

Mr. MACVEAGH. I submit that we do not need this section. Having adopted, as the Convention seems to have done, the view of the delegate from Columbia, (Mr. Buckalew,) to remit this matter to the general law that will have to be passed on the subject, I do not see that we want such a section as this in the Constitution.

The section was rejected, the ayes being thirty—less than a majority of a quorum.

The CLERK read the next section as follows:

SECTION 4. The Legislature shall by general law prescribe the powers of boroughs and townships, and confer upon

the courts the authority to erect boroughs and townships, to change their boundaries, and divide boroughs into wards.

Mr. MACVEAGH. That is covered by the article on legislation.

The section was rejected.

Mr. BUCKALEW. I move to reconsider the first section, and I will state my reasons for it.

The PRESIDENT *pro tem*. Did the gentlemen vote in the affirmative?

Mr. BUCKALEW. Yes, sir. It passed unanimously. My desire is simply that the gentleman from Lycoming (Mr. Armstrong) who has drawn a section containing just one-half the language, may have an opportunity to offer it as an amendment.

Mr. WHEERY. I second the motion.

The PRESIDENT *pro tem*. The question is on the motion to reconsider the vote by which the first section was adopted.

The motion was agreed to, there being on a division, ayes fifty-one, noes fifteen.

The PRESIDENT *pro tem*. The question now is on the section, which will be read.

The CLERK read as follows:

SECTION 1. No new county shall be formed or established by the General Assembly, which shall reduce the county or counties, or either of them, from which it shall be taken, to less contents than four hundred square miles, nor shall any county be formed of less contents, nor shall any county be formed or established containing a less population than twenty thousand inhabitants, nor shall any line thereof pass within less than ten miles of any county seat of the county or counties proposed to be divided.

Mr. ARMSTRONG. I desire to propose an amendment to this section for the purpose of making it, as I believe, read better, more concise, and yet express all that is contained in the section. If gentlemen will turn to the article, I will indicate the amendment. It is in line one, to strike out the words "formed or," and also to strike out the words "by the General Assembly;" in line two to change the word "the," before "county," to "any," and also to strike out the words "or counties, or either of them, from which it shall be taken;" in line three to strike out the word "contents;" in line four to change the word "contents" to "area;" in line four and five to strike out the words "shall any county be formed or established;" in line five to strike out the word "a" before "less," and also the word "population;" and in line

seven to strike out the word "the" before "county," and insert "any," and also to strike out the words "or counties;" so that the section as proposed to be amended will read thus:

"No new county shall be established which shall reduce any county to less than four hundred square miles, nor shall any county be formed of less area, nor containing less than twenty thousand inhabitants, nor shall any line thereof pass within ten miles of the county seat of any county proposed to be divided."

I believe that contains every idea that is contained in the original section.

Mr. TURRELL. The Convention will notice that as the amendment now stands, it will allow you to reduce an old county to a less number of population than the new county is required to have. I therefore move to amend the amendment, by inserting after the words "four hundred square miles" the words "nor less than twenty thousand inhabitants," because it seems to me to be an absurdity to erect a new county without any limitation as to the number it shall leave in the old.

Mr. ARMSTRONG. I suggest to the gentleman that what he proposes is already fully embraced in the section as proposed to be amended. It reads as follows:

"No new county shall be established which shall reduce any county to less than four hundred square miles, nor shall any county be formed of less area, nor containing less than twenty thousand inhabitants, nor shall any line thereof pass within less than ten miles of any county seat of any county proposed to be divided."

Mr. TURRELL. I am still right. It is not included. If the gentleman will look at the phraseology carefully, he will see that the old county might be reduced to less than twenty thousand inhabitants. He has a provision there that it shall not be reduced to less than four hundred square miles, but he has not a prohibition that the old county shall not be left with a population of less than twenty thousand. As I said before, if you will insert the words, "nor less than twenty thousand inhabitants," after the words, "four hundred square miles," then you will have it right.

Mr. ARMSTRONG. I accept the amendment. I believe it ought to come in after the word "miles," in the fourth line.

The PRESIDENT *pro tem*. The amendment will be so modified.

Mr. DE FRANCE. Let it be read as it now stands.

The CLERK read as follows:

"No new county shall be established which shall reduce any county to less than four hundred square miles, nor less than twenty thousand inhabitants; nor shall any county be formed of less area, nor containing less population, nor shall any line thereof pass within ten miles of the county seat of any county proposed to be divided."

Mr. LAWRENCE. I merely desire to say that I approve of this amendment. The section proposed to be amended was offered originally by my friend from Tioga, (Mr. Niles,) not reported by the committee. I want to relieve the committee from the responsibility of it.

Mr. NILES. I desire to relieve the committee and myself. That proposition is just exactly as it was prepared by Mr. Medill, of Chicago, and to-day is a part of the Constitution of Illinois *verbatim et literatim*; and I undertake to say that it expresses just exactly what this Convention want fully as well as the amendment of the distinguished gentleman from Lycoming.

The PRESIDENT *pro tem*. The question is on the amendment as amended.

The amendment was agreed to.

The PRESIDENT *pro tem*. The question now is on the section as amended.

The section as amended was agreed to.

Mr. LAWRENCE. I now move that this article be referred to the Committee on Revision and Adjustment.

The motion was agreed to.

IMPEACHMENT AND REMOVAL FROM OFFICE.

Mr. BROOMALL. I now renew my motion to reconsider the vote by which the Convention refused to transcribe article twelve, on impeachment and removal from office, yesterday. I want to get it before the Committee on Revision and Adjustment.

Mr. CORBETT. I second the motion.

The PRESIDENT *pro tem*. It is moved to reconsider the vote by which the Convention refused to order article twelve to be transcribed.

Mr. CORBETT. No, sir; it was transcribed. The motion passed to transcribe it for a third reading.

Mr. BROOMALL. No; it was refused to be transcribed. That was the trouble.

The PRESIDENT *pro tem.* The first question is, will the House agree to reconsider that vote.

The motion was agreed to.

Mr. BROOMALL. Now, I move to reconsider the vote by which the Convention refused to refer that article to the Committee on Revision and Adjustment.

The motion was agreed to.

Mr. BROOMALL. I presume the question now is upon the reference.

The PRESIDENT *pro tem.* That is the question.

Mr. BROOMALL. I hope it will be referred.

The PRESIDENT *pro tem.* Will the Convention agree to refer this article to the Committee on Revision and Adjustment?

The motion was agreed to.

THE LEGISLATURE.

Mr. MACVEAGH. I now move that the Convention resolve itself into committee of the whole for the further consideration of the article reported by the Committee on Legislature.

The motion was agreed to, and the Convention accordingly resolved itself into committee of the whole, Mr. Stanton in the chair.

The CHAIRMAN. The committee of the whole have had referred to them the nineteenth and subsequent sections of the article on the Legislature. An amendment was offered yesterday by the gentleman from Allegheny, (Mr. S. A. Purviance,) which the Clerk will read.

The CLERK. The amendment is to strike out all after the words "section nineteen," and insert the following in lieu :

"The Legislature shall, at its first session after the adoption of this Constitution, divide the State into forty-nine senatorial districts, of which the city of Philadelphia shall have seven, each of which districts shall be entitled to elect one Senator in such way and at such times as may be provided for by law.

"Each county in the State shall be entitled to a Representative in the lower House of the General Assembly, and for every forty thousand inhabitants to an additional member of said body.

"The Legislature shall provide by law for a return once in every three years to the several counties of this Commonwealth of the inhabitants thereof, and the commissioners of said counties shall certify to the office of the Secretary of the

Commonwealth within thirty days after said return, the number of inhabitants of each county; and whenever it shall appear that any county has attained the requisite number of inhabitants 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."

Mr. D. N. WHITE. Would it be in order to offer an amendment to take the place of the amendment and the section?

The CHAIRMAN. That would not now be in order. The question is on the amendment of the gentleman from Allegheny (Mr. S. A. Purviance.)

The amendment was rejected.

Mr. BROOMALL. I move to strike out the word "fifty," in the first line, and insert "thirty-three;" and in the second line, to strike out "one hundred and fifty," and insert "one hundred," so that the section will read :

"The Senate shall consist of thirty-three members, and the House of Representatives shall consist of one hundred members."

Mr. Chairman, I have offered this amendment with a view of testing the sense of the body on the question of whether or not we shall increase the number of Senators and Representatives. I am not in favor of making any change in the present Constitution that does not seem to be demanded by the people or by the circumstances in which we find ourselves placed. I would make no change without a good reason. It is something to me that any change will be attended with considerable expense; but a change as large as that which is proposed by the committee will be attended with the expense of erecting new buildings, which we ought not to put upon the people without some good reason.

Now, I ask why should we increase the number in either body? We know from our own experience that large bodies not only move slower than small ones, but are much less effective. Every one of us must be satisfied that one-third of the members here, chosen by lot, would make a better Constitution and in a shorter time than we shall succeed in doing. Large bodies move slowly. They also move irregularly, and the responsibility is so divided up and frittered away that nobody feels any of it.

It is said that the object of increasing the number is to make the body more pure, but will any experience of the past justify the assumption that it will do so? Do we find the Senate of the State less pure than the House? I imagine not. The complaints, it seems to me have been more as to the House than as to the Senate. Do the people elect worse men to the House? I do not believe it. They look like the same kind of men; in every other set of circumstances they behave like the same kind of men; and yet, to say the least of it, the larger body is not purer than the smaller one.

The same thing may be said of the House of Representatives and Senate at Washington. Nobody pretends that there is any difference in purity between the two bodies. Neither can claim to be any better than the other.

I do not believe that increasing the body makes it more pure. I believe it will have no such effect. If anything, it will tend to divide up the responsibility, to make each member feel it less, and hence to make it less pure than it is now. We have done, it seems to me, in our article on legislation, about all we can do to purify the Legislature and about all that the people seem to require of us. We have abolished the great source of corruption in abolishing special legislation. We have tied down the corporations so that the chances are that Harrisburg will be the last place any emissary of theirs will be seen at, for fear they will be held to come under the restrictions of the new Constitution which we are making; so that the sources of corruption have been abolished. Certainly, everyone must admit that by enlarging the body we shall get not quite so good a class of men because we shall take them from a smaller constituency where of course the number of good men out of whom to select is smaller. I do not see any necessity for increasing the numbers, and I desire to test the question whether the Convention is of that opinion, upon this motion that I have made at this time.

THE CHAIRMAN. The question is on the amendment of the gentleman from Delaware (Mr. Broomall.)

The amendment was rejected, the ayes, on a division, being twenty-four—less than a majority of a quorum.

MR. CUYLER. I move to amend, by striking out and inserting the proposition which I submitted yesterday, which I send to the Chair to be read.

The Clerk read the words to be inserted in lieu of the section as follow:

"The number of Senators shall be fifty-one, and of Representatives one hundred and fifty.

"Each county shall be entitled to one Representative, and the remaining number of Representatives shall be apportioned to districts made up of contiguous territory, and as nearly equal in population as practicable.

"It shall be the duty of the Legislature to adjust such districts at their first session after the adoption of this Constitution, and every ten years thereafter, according to population as ascertained by the last preceding United States census.

Senators shall be elected on general ticket by all the lawful voters of the Commonwealth. At the first election held after the adoption of this Constitution one-third of the Senators chosen shall be for a term of two years, one-third for three years, and one-third for four years, and thereafter they shall be chosen for a term of four years.

"When more than three Senators are to be elected, each voter shall cast his ballot for not more than two-thirds of the number required to be chosen."

MR. CUYLER. Mr. Chairman: I do not rise for the purpose of discussing this amendment. It would be useless to do so because there is no gentleman in the Convention who has not thoroughly considered this question, and besides when this subject was before under consideration in committee of the whole, I had then an opportunity to express and did express my views fully.

I do not agree with the gentleman from Delaware who has just spoken, that a large body is as likely to be corrupted as a smaller body is. Natural reason teaches us that it must be easier to influence a small than it would a large body of men, by corrupt motives. Nor do I agree with him that we have applied a thorough remedy in that which he thinks we have done with reference to corporations. After all is said and done, when gentlemen come to review the legislation of this State, they will find that corporations have not attained unreasonable or improper power by corrupt motives. They will find that there are very few corporations in Pennsylvania to whom the Legislature has conceded that which it should not have conceded upon fair and reasonable motives. But they will find the real difficulty in the case to be this: That the

people have sent corrupt men to Harrisburg and that fair and legitimate legislation had to be bought at a price from those corrupt men; that the difficulty is not so much that that which has been conceded was unfair or unreasonable, or that which should not have been conceded, as that men who have gone there from base, impure motives have compelled the purchase of that which ought to have been granted without paying a price for it.

Now, Mr. Chairman, it must be conceded that our amended Constitution of 1837, and the amendments that have been made to it, have not secured to us a pure Legislature. We all agree in that. There has been the most remarkable unanimity on this floor on that particular point. That the Legislatures of the last few years have been corrupt, very few have ventured to doubt, and many have asserted. We are, then, to seek an improvement by a change, not by a blind adherence to a system that has worked out unhappy results, but by a change. If the change from the old system, under the Constitution of 1790, has worked out under the amendments of 1837 and the subsequent amendments to those amendments, has worked out an unhappy result, we are to benefit ourselves by a change. What has been the difficulty? That was placed before us long ago in words of singular clearness, and eloquence, and power by the President of this Convention. The very moment we cut our State up into small representative districts, the very moment we made our representatives represent not merely communities but small representative districts, we introduced in the Commonwealth of Pennsylvania the source of all the trouble under which we have labored since. The very moment you make small representative districts that may be manipulated by small and dishonest politicians, you make it the interest and policy of the representative to look to them as the source of power, and you have introduced into the system of the State precisely the troublesome condition of things under which we are now laboring.

We want, therefore, to enlarge the representative districts; we want to make them communities: we want that these communities themselves, as such, should be of large size, and should be directly represented in the Legislature. There will then be a tangible and responsible body to whom the people of the State may look, select and send pure represen-

tatives. There will be influences and powers brought to bear that will be adverse to the dishonest tricks and designs of these small politicians who, though they may be able to manipulate a ward, cannot manipulate a county.

Therefore, Mr. Chairman, the amendment that I have proposed provides that there shall be a Representative for each county of the State in the lower branch of the Legislature, and then it provides that as to the remainder of the number of Representatives, the whole number being one hundred and fifty, they shall be divided into convenient representative districts made up of contiguous territory, based upon the census of population at the last preceding period of time when the Legislature act on the subject, which period is placed at every ten years.

Thus shall we get rid of the difficulties of which I have been speaking. Thus will the counties of the Commonwealth, as such communities, by themselves, be distinctly represented upon the floor of the Legislature.

As to the Senate, instead of being divided into small senatorial districts as we are now, the Senate will be selected from the whole body of the Commonwealth by the voters of the Commonwealth, by general ticket, throughout the State. I need not enter into the train of reasoning which is familiar to the mind of every gentleman upon this floor, how it is and why it is that that holds out the promise of a better selection to the State than the method of cutting up the Commonwealth into small senatorial districts. We shall have a far more dignified body. We shall entice into our Senate men of a higher grade, or more men of a high grade. We shall induce higher character to enter into the duties of the Senate, and in many ways not necessary for me to particularize here, improve the representation of the State so far as the Senate is concerned.

We shall get rid of another difficulty which has been a bone of contention and of much feeling upon this floor—all those devices which have sought to cut down the city of Philadelphia, contrary to the true republican doctrine and principle, to less than her fair share of representation in the Senate of the State. All that is avoided by this proposition, while at the same time men who represent the whole Commonwealth, in all the length and breadth of the vast interests of

the Commonwealth, would necessarily be fairly selected by the political parties which make the nominations, because in no other way could those parties hope that they would secure the favorable vote of all portions of the State; and thus in this manner should we secure a fair representation of every part of the State.

As I said, I did not rise to discuss the question at length. The reasons which seem to me to commend this amendment to the favorable consideration of the committee are reasons that are patent and have been often discussed on this floor and that every gentleman's mind can readily suggest to himself.

MR. D. W. PATTERSON. Mr. Chairman: I move to amend the first clause of the amendment now before the committee, by striking out "fifty-one" and inserting "one hundred" as the number of the Senate, and striking out "one hundred and fifty" and inserting "three hundred" as the number of the House of Representatives.

I will state briefly that I concur in the reasoning of the gentleman from Philadelphia who has just taken his seat in regard to the greater difficulty of corrupting a larger body than a smaller one. That principle, I think, must be conclusive to the minds of gentlemen who have studied the question; and besides it must be self-evident to the mind of every one that it is more difficult to corrupt a small body than a large one. We shall have the same proportion of good men in a large body that we have now in the more limited one. On the other hand, it may be said that we shall have the same proportion of bad men; but the proportion of good men in such a body is always very much greater than of those of a different character. It seems to me that if we adopt fifty-one and one hundred and fifty as the numbers of the two Houses, the argument of the gentleman will not apply because the increase is too little. When you divide the additional eighteen Senators and fifty Representatives among the large population of this Commonwealth, it will hardly be felt. Some of the districts as now formed will not receive any addition; some may, but very few, comparatively speaking, because it will depend altogether on which side the fractions lie as to whether particular districts receive an additional member in the popular House or not; and certainly, as regards the increased number of Senators, the addition is too small in number to apply safely the

argument based upon the principle involved in large bodies, namely, that you should make the body large in order to prevent corruption and bribery. If the gentleman's argument is worth anything (and I think it is a good and fair one) it must be applied to the larger number, or else it cannot operate to any extent to effect reform.

We are to consider, of course, the question of economy or expense on the other hand resulting from this increase. If we increase the number of both Houses, as proposed by the gentleman from Philadelphia, it is manifest that the existing State House is not sufficiently commodious to accommodate the additional number; we shall have to build a new Capitol building. My friend from Philadelphia (Mr. Fell) suggests that we remove the Capitol to Philadelphia. I hope not. I know the gentlemen from Philadelphia are very anxious that that should be done, and it is not astonishing that they should be; but I hope such a result will never be accomplished. If we have to build a new Capitol by increasing the number of Senators to fifty-one, and of members of the lower House to one hundred and fifty, it is evident that it will require very little additional expense to make that building sufficient to accommodate one hundred in the upper House and three hundred in the lower. If the expense of a new building is to be incurred by the Commonwealth, it seems to me there would be very little additional or increased expense by increasing the number as I propose, especially as it will be recollected in regard to the legislative expenses that we have, by a large vote, decided upon biennial meetings of the Legislature.

We have also prevented special legislation. The consequence will be that after the first two or three years succeeding the adoption of this Constitution, should it be ratified by the people, and after the Legislature have passed general laws as here provided for, the Legislature will not sit more than half the length of time they have been sitting during late years. They will not sit probably necessarily more than thirty days in a session, or forty or forty-five days at most; and I say that the Legislature under these circumstances will not feel it incumbent on them, yea they will not feel at liberty to even take the compensation which they now are getting for legislating for the State. It will be reduced, so that the increased ex-

pense even of three hundred members in the lower House, an increase of two-thirds, meeting only biennially, will not be greater; I question whether the expense will be even as great as the expenses now are with the Houses composed of thirty-three and one hundred respectively. While the expense will be incurred of building a new Capitol necessarily if we increase even to the number proposed by the gentleman from Philadelphia, or if we take the larger number, yet our biennial expenses of the Legislature will not be more than they are now. Then the question of expense is a very small consideration; and, as has been said, if we can secure a pure body, if we can secure sound, safe and honest legislation in this way, we should not consider the question of expense as very material; we should consider it a small thing, particularly as our Commonwealth now is in a great measure relieved from the burden of debt which pressed upon her for so many years with such great severity.

For this reason, and that we may exist under a sound and healthy principle which will be brought to bear by constituting the Houses of large numbers, according to the argument of the gentleman from Philadelphia, I propose to increase the number as I have moved, from one hundred and fifty to three hundred in the lower House and the Senate from fifty-one to one hundred, and I do it for the purpose of ascertaining the sentiment of the committee in regard to this matter. If we go to that extent, then we shall know what we are to do in regard to districts. If not, we shall have to take some other course in regard to districts.

Mr. MACVEAGH. I should have been very glad if the gentleman from Lancaster had withheld his amendment for the present. The amendment of the gentleman from Philadelphia presents a very grave question to the Convention, and one which the committee of the whole would certainly do well seriously to consider; and that is the expediency of electing the Senate, at least, on a general ticket throughout the State. I may be utterly mistaken in this matter, but it has always seemed to me that if we could elect the Senate on a general ticket, we should take a longer step possibly toward the extirpation of the evils under which we suffer than in any other single one method. As I say here from day to day, I say again, your great hope of a pure government lies in the character of the men who are in office;

and it does seem quite clear to my mind that upon a general ticket you would be much more likely to get men of the highest character, of recognized ability, and of eminent fitness and integrity in these positions. You could make a place upon that ticket an object of a good man's ambition; you could create a rivalry between the two great political parties of the State in the nominations for that office that would induce them to put their best men forward to fill places upon it. And as now our laws are to be general and have universal application everywhere, so upon this general ticket every section of the State would necessarily be represented, but they would be represented by men as Senators of Pennsylvania, representing the State in its entirety from one border to the other and capable of taking a generous view of all its vast interests. I should be glad to have the committee come to a square vote upon that question, unembarrassed by any other; will they or will they not elect the Senator upon a general ticket? Is that method more or less likely to secure a better class of men and a class more likely to give us not only efficiency but integrity in our legislation? It seems to me that it is, for manifold reasons, and I shall be very glad to have the opportunity to vote for it unencumbered by any other consideration.

Mr. D. W. PATTERSON. I do not wish the gentleman to understand me as being in favor of electing Senators by general ticket. I merely spoke to the first paragraph of the amendment of the gentleman from Philadelphia.

Mr. S. A. PURVIANCE. I wish to point out to the honorable gentleman from Philadelphia what probably did not occur to him in drawing up this proposition, and involves, I think, a very serious difficulty. It provides that each county shall be entitled to a Representative—which is all right enough—and the remaining number (and as he makes the total one hundred and fifty, the remainder will be about eighty or eighty-five) shall be apportioned in districts made up of contiguous territory, and as nearly equal in population as practicable. The gentleman will observe that that would give every county a member, who would be considered a member for the county; and then there would be several counties connected probably with that county, thereby electing another member. How would they stand in the House of Representatives? Would one simply be the

Representative from a county, and the other from a district? That, I think, would be entirely wrong.

Mr. CUYLER. Why?

Mr. S. A. PURVIANCE. Because in the House of Representatives they should all be equal; they should all stand upon an equal platform. You should not dwarf the one and make a giant of the other.

Mr. CUYLER. Neither is dwarfed and neither is made a giant. They are on a perfect equality. They are simply Representatives in the House of Representatives of Pennsylvania.

Mr. S. A. PURVIANCE. But they are there with limited representation; one man can speak only for the county from which he comes, whilst another is authorized to speak for two or three counties. I think that inequality ought not to exist in the framing of a Constitution.

Another thing in answer to what is said by the gentleman from Dauphin and the gentleman from Philadelphia. It seems to me there are very serious objections to electing Senators by general ticket. What do you establish by that? Why, sir, you make your nominating conventions political conventions of apportionment, and nothing more than that. They go to Harrisburg or wherever they meet in general convention, and there the subject matter for consideration is as to what section of the State shall certain Senators come from. Does this not make matter for bargain and sale, greater perhaps than ever was heard of before; and does it not exclusively confine the whole matter to the politicians of the whole State? And, sir, again, if you select your Senators by general ticket, you may elect them one hundred or two hundred miles away from you so as to remove the right of representation through your Senator a distance of one hundred or two miles from you, as might be the case in the Susquehanna region, to all of which I am opposed.

Mr. CUYLER. It is in the interest that each elector has in the Commonwealth that he votes for the Senator. The Senator represents the whole Commonwealth.

Mr. S. A. PURVIANCE. Yes; but still, in the first place, that is dependent on the selection that may be made of the twenty-six Senators who are to be selected by general ticket.

Mr. CUYLER. Precisely; and the same thing occurs with reference to the judges of the Supreme Court.

Mr. S. A. PURVIANCE. So far as regards that part of this proposition, when

the time comes to vote I think I shall ask for a division.

Mr. SIMPSON. Mr. Chairman: I trust the Convention will take the proposition presented by the gentleman from Lancaster as an amendment to that of the gentleman from Philadelphia, and determine first, and before any other branch of this question is disposed of, what number the two Houses shall consist of. I think the foundation lies right at that point, and that that is to be determined before any other part of the scheme has been examined or passed upon. We should determine first how many each House shall consist of; and after we have agreed upon that, then we shall have a starting point for the various propositions before the Convention—I suppose I might say there are a dozen and still be within the number—whether they shall be elected in single districts or in districts choosing three or four or five members, or in larger districts dividing the State into five or six divisions; whether each county shall have a Representative, or whether the counties are to be grouped together and form representative districts. All these questions are subsidiary to the first question of how many the two Houses shall consist of. If this committee can agree upon that, determine first the number of Senators, second, the number of Representatives, or a scheme of representation—either will answer the purpose—then we shall have a starting point, and from that we can determine what will be the next best step. I trust, therefore, that we shall determine the question of numbers, first, as to the Senate.

Mr. CUYLER. Will the gentleman pardon an interruption?

Mr. SIMPSON. Certainly.

Mr. CUYLER. The proposition, as offered by me, is divided into separate paragraphs. The first paragraph provides for the number. By separating the question on the paragraphs and amending each paragraph as we proceed, the result the gentleman speaks of will be attained.

Mr. SIMPSON. As intimated by the gentleman from Allegheny, (Mr. S. A. Purviance,) I should have called for a division of the question at any rate for the purpose of taking up the different branches separately. But the amendment of the gentleman from Lancaster (Mr. D. W. Patterson) brings up the question squarely, and I trust the committee will pass upon the question as to

numbers before taking up any other branch of the proposition.

I need hardly say that this is one of the most important things we have before this Convention, not only as to the numbers composing the two houses of the Legislature, but the mode of their election, so as to secure to the people representation in either branch as near to them as it is possible to do consistent with fair working and with purity, and at the same time to secure the largest representation consistent with the dignity of the State, and not mould the Legislature to the size of our Capitol, but let the Capitol be moulded to the size of the Legislature. I do not agree with the gentleman from Delaware (Mr. Broomall) on that score, that we should determine the number of our members by the four brick walls now existing, but I say that we should determine what brick walls should enclose the number we may determine upon as the best number to represent the people of this vast Commonwealth.

We have interests in this Commonwealth that are very diverse, and yet every one of those interests ought to have its representation in both branches of the Legislature, if it be practicable so to have them; and I am convinced from reflection and from examination that the larger the number of which the two Houses are composed, the better it will be for the purity of legislation, the better for the State itself, and I am, therefore, prepared to vote for the motion of the gentleman from Lancaster to let the Senate consist of at least one hundred members and the House of at least three hundred. If that fails, I will vote for the next largest proposition, and so on, but will not at any time vote for less than seventy Senators and from one hundred and fifty to one hundred and seventy members of the House of Representatives.

When that branch of the question comes up, I have a proposition to make in lieu of the second clause of the amendment of the gentleman from Philadelphia (Mr. Cuyler) which I think will be more just, that will of itself regulate for all future time, without putting it into the hands of the Legislature to gerrymander the State and to say that thirty-five men in one place shall be equal to seventy-five in another, or that one man in one locality shall be twice as good as one man in another; a regulation that will regulate itself not only to secure to the whole numbers but the fractions their propor-

tionate representation, and in that way secure the greatest amount of representation—and yet it will regulate itself and readjust itself and go on with increasing numbers in the lower House as the population and business of the State get larger and larger from decade to decade.

I will therefore vote for, and I hope the committee of the whole will adopt, the amendment of the gentleman from Lancaster as far as the Senatorial representation is concerned, making the Senate consist of one hundred members.

Mr. LILLY. I agree with the gentleman who has just taken his seat as to the plan of fixing the number of members of the Legislature, independent entirely of the plan of the gentleman from Philadelphia (Mr. Cuyler.) I have read his suggestion carefully, but I cannot see any merit in it, and I think if you will fix the number first and have that settled by this body it will then be an easy matter to arrange for the details. I am in favor of the largest number, but in voting for the proposition of the gentleman from Lancaster, (Mr. D. W. Patterson,) I will only assent to that point. I do not intend to commit myself at all to his argument. I think the best systems of providing for the Legislature are not now before the committee of the whole. Other plans have been suggested and are in print in your Journals and in blanks, and some of them are better than any that is now before us.

I would prefer that the Senate should consist of one hundred members and the House of Representatives of three hundred. If that be done, then every county in the State would be represented with the exception of Forest, Elk and Cameron, which conjointly would elect two members. I do not believe that counties should be entirely unrepresented, but I do not believe that county representation should be the only basis. There are hundreds of townships in this State of Pennsylvania that contain more population than many counties, and I cannot, for the life of me, see the use of arguing in favor of giving county representation, that is, separate representation, and gentlemen who are in favor of this proposition industriously cover up the idea that when a county is represented its most populous and wealthy sections are often without representation at all. Then speculators who have their own ends to serve, carve out new county and county seats and go to Harrisburg and induce the Legislature

to create a new county and thereby give them more representation.

I hope—for I intend with this remark to close the little I have to say on this subject at this time—that the plan suggested by my friend from Philadelphia (Mr. Simpson) will be pursued. Just let us decide the number of the members of the Legislature; and afterward we can arrange all other matters relating to their organization.

MR. MACCONNELL. Mr. Chairman: The section before us, as I understand it, is the nineteenth section of the article reported by the Committee on the Legislature, and if I correctly understand the question, nothing else is before this committee of the whole except that section and the amendment of the gentleman from Lancaster (Mr. D. W. Patterson.) That section refers exclusively to the numbers which shall constitute the two Houses of the Legislature. I think that is the only question before us and I think we ought to confine ourselves to it, take the matter up step by step as it presents itself, and then we shall do our work quicker and we shall certainly do it much better. I think that we ought to conduct our proceedings in that manner and then we shall save time by it and do our work to much more advantage.

In regard to the numbers, I am rather disposed to think that the number proposed by the gentleman from Lancaster is very large. Still when we come to think upon it, the House of Commons in England consists of over six hundred members, and they get along very well. I do not know that there is much trouble on the score of having too large a representation. They do business with great regularity and great decorum and great advantage. The Massachusetts Legislature is large, and I believe that that State is one of the best governed of any in the country.

On the score of expense it is to be recollected that we are going to have but one session in two years, so that we shall have to pay our representatives only for one session in two years instead of a session each year as we have now, and as a consequence we shall save as much in that way as we shall lose in the increase of members.

I would not be willing to vote for less than fifty Senators and one hundred and fifty Representatives. I would prefer something larger. I do not know that I can be persuaded to vote for the amend-

ment of the gentleman from Lancaster, but I think that we ought to dispose of this question of the number that is to constitute the two Houses before we go into anything else, and then take up the other questions when we dispose of that.

MR. DARLINGTON. I am opposed to the motion of the gentleman from Lancaster, not because I am opposed to its principle, but because I think it is improperly introduced in this shape. I think that for this Convention to fix any arbitrary number for the composition of the Legislature would be a mistake. We ought to say that the House of Representatives shall consist of not less than a certain number or more than a certain other number and that the Senate should be, in like manner, a certain proportion of the House of Representatives. I think so because—and this answers one of the objections of my colleague from Delaware (Mr. Broomall)—as the Capitol building now stands it would be inexpedient for us to say that the Legislature shall consist of three hundred Representatives and one hundred Senators when there is no accommodation for them. We might safely say that there should not be less than one hundred and fifty Representatives and fifty Senators, because that number can, with a trifling increase of accommodation at Harrisburg, be accommodated, and the further increase of members should be left to the Legislature to be carried out whenever they have the necessary buildings for that purpose.

My idea, therefore, is to carry out what was in the Constitution of 1790. The number of Representatives by that Constitution was not to be less than sixty nor greater than one hundred, and the Senators should not be less in number than one-fourth nor greater than one-third of the numbers of the House. At that time there were but sixty members of the House of Representatives and a corresponding number of Senators. It was increased at a subsequent period to one hundred, and it has remained at that number down to the present time. Now, the time has come for another increase. One hundred and fifty would not be out of proportion to the increase of the population of the State since 1890. It would not be too great if we increased the number to three hundred for that would not be an improper representation for three millions and a half or four millions of people. But what I wish to suggest is that we should leave that subject to the Legislature and only

say in the Constitution, as I suggested on a former occasion, and as I intend to propose now when this proposition is disposed of, that the number of members of the House of Representatives should never be less than one hundred and fifty, nor greater than three hundred, and the number of Senators should never be less than one-fourth nor greater than one-third of the members of the House, thus leaving the Legislature, from time to time, to fix what should be the proper number. In the future, ten or twenty years hence, it may well be that a larger number may be necessary and can be accommodated.

Therefore, I hope that the amendment of the gentleman from Lancaster will at this time be voted down, so that we shall put in the Constitution, when we come to it in its regular order, this flexible principle of not less than nor greater than a certain number.

MR. COBSON. Mr. President: I do not see why we should leave it to the Legislature to introduce a sliding scale when we can do it ourselves. If the gentleman from Chester will be kind enough to read the amendment which I have submitted, he will find that all the evils he describes will be overcome by the adoption of that simple proposition as the fundamental law upon this question. It avoids all these difficulties, it preserves the community system, and it elevates the character of the Senate. It gives to every county a Senator; it prescribes equality of representation according to population, and then distributes the Representatives among the people in the proportion of one to every twenty thousand. If you think that twenty thousand will make it too large, then say that it shall be twenty-five thousand, or only one for every thirty thousand, but preserve the general system. It does justice to city and country alike. Complaint has been made by the gentlemen from Philadelphia that we limit them in number to which they are entitled. If they will read the amendment which I have proposed, they will find that it does them ample justice. It gives them the exact representation in the Senate which the country has. Therefore I am unwilling, like the gentleman from Chester, (Mr. Darlington,) to keep at any fixed stand-point or stand-still point in this matter, leaving it so that it can be graduated by the addition of time and the increase of population.

What more does the section I have submitted do? It breaks up one of the most

accursed and rotten systems which may be found to prevail in any portion of the country, that is the conferee system which now prevails throughout Pennsylvania. The smallest county in Pennsylvania to-day has a vote equal to the largest county in the Commonwealth. And how? Take your senatorial districts composed of three counties, one small, one larger and one largest of all. The largest has but three conferees or four. The next in population has the same and so has the smallest. They come together with an equal number of conferees and they ballot sometimes, day after day, until a choice is made, and either county, large or small, has exactly the same potential voice in that conference. If it be said why give the small county the same power as the larger, the answer is because it is unavoidable. Unless you give a small county like Lehigh the same voice as a large county like Montgomery, the voice of Lehigh is silenced by the greater county, and she is without representation. You must make them equal, and therefore my proposition to do so carries out what is practically been carried out by the old system. It makes every county equal in the Senate and House or Representatives. In that respect it resembles the Congress of the United States. Rhode Island has two Senators; New York has no more. New Jersey has two Senators; Pennsylvania has no more; but we keep up the equilibrium by making the popular branch of the Legislature the representative of the people. Now let me read my proposition as a portion of my speech:

"Every county 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; and representation shall be in the proportion of one Representative to every twenty thousand inhabitants."

There it is in four lines, and it covers the whole question, and we may argue here until we are deaf and dumb and blind and you cannot do justice to the people of country, of county and of city alike, by any other proposition which I have been able to find upon my table.

I therefore hope that this pending proposition will be voted down—except some portions of it which may come in very well if we should adopt my theory—and that the section which I will then propose will be adopted. As a consequence we

shall increase the Senate, and at the same time make it the representative house of the several counties in their corporate capacity, thereby preventing corruption by augmentation of numbers, and elevating the standard of statesmen selected for Senators. My proposition accomplishes these seven grand results: First, it preserves the community system; second, it increases the number of Senators and Representatives, and thereby insures greater purity; third, it avoids the necessity of conferees between counties; fourth, it does justice to city and country alike; fifth, it increases representation with the increase of population; sixth, it holds cities in comparative check by the increase of counties; and seventh, it provides a full representation for every city, county and all the people.

The CHAIRMAN. The question is on the amendment of the gentleman from Lancaster (Mr. D. W. Patterson) to the amendment of the gentleman from Philadelphia (Mr. Cuyler.)

Mr. SIMPSON. I call for a division of the question so as to determine the number of members of the Senate first.

The CHAIRMAN. The gentleman from Philadelphia calls for a division of the question. The first question will be then on striking out "fifty-one," and inserting "one hundred," as the number of Senators.

The first division of the amendment to the amendment was rejected, the ayes being twenty-seven, not a majority of a quorum.

The CHAIRMAN. The question now is on the remaining branch of the amendment to the amendment, striking out "one hundred and fifty" and inserting three hundred as the number of members of the House of Representatives.

Mr. SIMPSON. I ask the gentleman from Lancaster to withdraw the second division.

The CHAIRMAN. The question is on this division of the amendment to the amendment.

The second division was rejected: ayes thirty-one; not a majority of a quorum.

The CHAIRMAN. The question recurs on the amendment of the gentleman from Philadelphia (Mr. Cuyler.)

Mr. DARLINGTON. I now move to amend by striking out all after the word "the," in the first line, and inserting the following—

Mr. CUYLER. I understand that my amendment will be voted upon by sepa-

rate divisions or paragraphs, and the paragraph now before the committee is the first, declaring that the Senate shall consist of fifty-one and the House of one hundred and fifty members.

Mr. DARLINGTON. My motion is to strike out all after the word "the," in the first line—

Mr. CUYLER. On my amendment a division of the question is called for so that the first vote will be taken on the first proposition, namely, that the Senate shall consist of fifty-one and the House of one hundred and fifty members. That I understand to be the proposition now before the committee.

The CHAIRMAN. The proposition of the gentleman from Philadelphia is the question before the committee; and a division of the question has not yet been called for.

Mr. CUYLER. Then I call for a division of the question.

The CHAIRMAN. The gentleman from Philadelphia calls for a division of the question, and the first branch of his amendment is before the committee.

Mr. DARLINGTON. What division?

The CHAIRMAN. The first line.

Mr. DARLINGTON. I move to amend by striking out all after the word "the," the first word, and inserting:

"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, it 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. LAWRENCE. I should like that proposition very much if the gentleman would amend it by striking out "three hundred" and inserting "two hundred" or "two hundred and fifty" as the maximum for the lower House.

Mr. DARLINGTON. Mr. Chairman: I thus bring to the notice of the Convention my proposition, if I may be so bold as to call it such. It is not mine; it is substantially the proposition of the present Constitution with some variations, and the variations are somewhat material. This proposition was offered at a former stage of the proceedings, in committee of the whole, and was printed and laid upon the desk of every member. Whether members will find it there now or not, I am unable to say.

It presents the question whether this Convention is in favor, first, of a number of not less than one hundred and fifty nor more than three hundred members for the lower House, and a Senate of one-fourth to one-third of the number of the House, precisely the proportion, one to the other, that is borne by the present members of the two Houses, only increasing the number, and, as I stated but a moment ago, affording to the Legislature the opportunity of increasing the number as they think the interests of the State and the exigencies of their wants may require. That is one proposition.

Another proposition is, that they shall be elected in single districts throughout the State, both members of the Senate and members of the House, in single districts of contiguous and compact territory, and as nearly of equal population as it is practicable to make them. Thus every Senator, under this plan, will be elected in his own district, upon a fair competition between the best man of each party that they choose to put up; and, in like manner, the members of the House will be elected by single districts, each man being put up by his party, and the best they choose to place in the field.

Mr. KNIGHT. May I ask the gentleman a question?

Mr. DARLINGTON. Certainly.

Mr. KNIGHT. If I understand the gentleman's proposition it is that no county shall have more than six Senators?

Mr. DARLINGTON. I have not come to that. I will answer that presently. The number of Senators to which the State is entitled will be fixed by the Legislature, and will never be less than fifty nor greater than one hundred. The members of the House will, in like manner, be fixed by the Legislature, never less than one hundred and fifty nor greater than three hundred. How they shall be distributed throughout the State will be determined by the Legislature. One Senator will be elected in each district; the members of the House, in like manner, each one elected in his separate district; and thus far alone have I proceeded in my statement of the case.

Now, as to the members of the House nobody has any question in his mind as to how they should be distributed. It is according to population; and Philadelphia, having a large population, would have the same number of members according to population as any other county or any portion of the State. That principle no one disputes and every one is ready to carry out.

With regard to the Senate, which is the conservative body, a difference of opinion exists; and the debate that was had here upon a former occasion clearly evinced a great diversity of sentiment amongst the gentlemen from different parts of the State upon this important question. Whilst it was natural to expect that the gentlemen who represent the city of Philadelphia should be desirous of having the same mode of representation according to population in the Senate as in the House, it was very clear that the members from other parts of the State were not then prepared to adopt that principle. But inasmuch as the Senate of the United States is the representative of State sovereignty and not of population, and most of the Constitutions of the various States have been formed upon somewhat the same principle—not entirely population, but partly population and partly property; in other words, that dense population should not have the same amount of representation as sparse in the upper House, for such is the rule of some twenty States—I say such seemed to be the notion of a very considerable majority of this body, and they determined by their votes upon that occasion that Philadelphia should be restricted to a smaller number than her population, if spread out over a rural territory, would entitle her to. Whether that resolution should be ad-

hered to by this body is a question for them to determine and about which I do not know that I can enlighten them. It was fully discussed by other gentlemen on a former occasion and I suppose will be again.

Mr. KNIGHT. If I understand the gentleman, Philadelphia is by his scheme entitled to only six Senators.

Mr. DARLINGTON. I am coming to that. I have framed this proposition precisely in conformity with the present Constitution, and inasmuch as there are now one hundred members of the House and one-third of that number of Senators, and Philadelphia has four Senators, being limited by the Constitution of 1790 to four, as I propose to increase the number fifty per cent. at least, I propose that she shall have six members of the Senate.

Mr. KNIGHT. All I want to ask is this: Under your article we should be entitled to six Senators. We have now a population of about one-fifth of the State. If the Legislature should increase the number of Senators to one hundred I do not see that you have made any provision for increasing the number of Senators from this county.

Mr. DARLINGTON. No, sir; but that can be easily regulated.

Mr. KNIGHT. Then we should only have six members of the Senate out of one hundred, with a population of one-fifth of the State!

Mr. DARLINGTON. I admit, of course, that if we make the number of Senators one hundred, you should have twelve instead of six. There is no difficulty about that. We are speaking now of the proportion and whether the whole number should be regulated by population. Upon this question I have myself a very decided opinion. I do not suppose that I can change the mind of any gentleman on this floor upon that subject. I know my colleague (Mr. Broomall) and I differ somewhat in opinion. I am for some restriction upon cities. I think the Senate never was intended by the framers of our Constitution or by the people of Pennsylvania to be based entirely on population, that a dense population, as in the city of Philadelphia, were never intended to have the same number of Senators as the people in the country. I adhere to that opinion. I do not affect to be wise above what is written. I do not affect to be wiser than my ancestors, the glorious men who formed this present Constitution in 1790, because it was only slightly amended in

1838. I do not propose to be wiser than they; I do not suppose that I am. I am willing to follow the light that they shed upon our paths. As we have grown and prospered and been happy under it, why should we change it? The proportion is good. It suits us well in the country; we have no kind of objection to it; and I do not think our friends of the city will have any objection to it by the time we get through.

Of course, it will require to be changed, and instead of saying that Philadelphia shall have only six Senators, I shall change it before we get through with it so as to provide that no city shall have more than say one-seventh of the whole number of Senators or something in that proportion. By so doing we come at pretty near exact justice; and that is what I want to come at—exact justice to everybody.

I was about saying that while I adhere to this notion, I believe my colleague (Mr. Broomall) entertains a slightly different opinion; so that we are not united on this subject. It is not to be expected that any two gentlemen will think exactly alike on every subject that is presented.

The main point, after all, that is presented by my proposition, is that the members of the Senate and House shall be elected in single districts of contiguous and compact territory and as nearly as practicable of equal population, bounded by township and ward lines. Why should they not be elected in single districts? I know you cannot have perfect equality in the distribution of representation in that way, but you will not have very great discrepancy. I do not think it at all important whether one district has one, two or three thousand more than another. It is substantially a district as nearly as it is practicable to be formed, and the people embraced within it should vote for a single member or a single Senator. I think no gentleman within the sound of my voice will say that this is not a perfectly fair way of electing the members of the Legislature. What is the objection to it? Surely the people of every district know best, and are nearest to the Representative, and the Representative nearest to them. They know him far better than if he was from a distant place, far better than they could know a gentleman upon a State ticket, or a ticket representing several counties. Your Representative is brought home to the people, and the constituents

know him. Parties exist in the district. What then? Each one selects its best man and puts him before the people asking their suffrages. There is fair competition between the voters with two to choose from. That is the very perfection of the choice of Representatives. No man can desire any purer mode than that, not even my friend from Columbia, (Mr. Buckalew,) although he may wish to have a few Democrats here and there scattered through the Legislature, or a few Republicans. Still, the truth of the matter is—

The CHAIRMAN. The gentleman's time has expired.

Mr. HUNSICKER. I move that it be extended five minutes.

Mr. DALLAS. Let it be extended indefinitely.

Mr. BIDDLE. I move that the gentleman's time be extended.

The CHAIRMAN. Five gentlemen not having risen to object, the gentleman from Chester will proceed.

Mr. DARLINGTON. I am much indebted to the committee for their indulgence. I shall not trespass on their time much longer; but I desire to say all that I have to say on this subject now.

I was about saying, Mr. Chairman, that in my judgment the purity of election and the freedom of choice is certain to be assured when you have but one candidate to elect. You have two or more candidates in the field and but one to elect, and your vote is cast for the best man. Why should that system be changed? Because the argument is, we know very well that by electing three in a district, and allowing each man to vote for only two, you may in that way secure a third man of the opposite party, two of one party and one of another out of that district in the House or the Senate, as the case may be; in other words, you are securing a representation for the minority. True, you are. What then? Do you not have the minority represented when you divide the State into single districts of one hundred, or one hundred and fifty, or three hundred, whatever the number may be? It is a matter of utter impossibility to form the districts of contiguous and compact territory and of equal population as near as practicable, so that there shall not be a part of them, a full proportion of them, of the minority. You could not have it otherwise than to have minority representation. Now, is not that the best minority representation you can

have? One district in the county of Chester elects a Republican; another district in the same county elects a Democrat, and a third district, if there should be one more, elects one or the other, as it may happen to be formed; but you cannot have districts there that shall elect all three Republicans, and I do not apprehend you could so form them in any other county. Even in Berks, the bulwark of democracy in this land, you could not form districts there so that there should not be one Republican or more elected in that county; and in every county of the State you would find the same thing. You could not in Philadelphia elect all Republicans or all Democrats.

Mr. BARTHOLOMEW. The gentleman is mistaken about Berks. There is only one township there that gives a Republican majority.

Mr. DARLINGTON. The city of Reading is Republican to the back-bone.

Mr. BARTHOLOMEW. No, sir; it is "cut and come."

Mr. DARLINGTON. Very well; then Berks is further gone than I thought it was. [Laughter.] I do not profess to be very closely booked up, I admit, as to how the majorities in the different counties stand. But, sir, the principle is right, and you cannot organize separate districts for this purpose throughout the State without having a large number of them of the minority party. It follows inevitably. Even under the present system of electing by counties and not by single districts, you have always a large minority in the Legislature, a respectable minority, to say everything that is to be said, to urge every argument that can be urged, to warn the people against every encroachment of the majority, to do everything that it was proper for a minority to do, leaving, as every person admits you must leave, the power in the hands of the majority.

This project is not new, as I had occasion to suggest to this committee before. It has been adopted by Congress and extended over the entire Union. No member of Congress is elected except by a single district, save only those two or three exceptional cases where the State did not get the apportionment made in time, and elected temporarily by general ticket; but they are not sufficient to affect the general result. That has been so for a number of years; and yet nobody doubts that both parties have always been, and always will be, represented in Congress

according to the predominance of the parties in the different sections. Thus you see it works well over the Union.

Again, this system has been in operation in the State of New York since 1846. By their Constitution in 1846 they required their members of the Legislature to be elected by single districts. They were so elected, and it was said by a gentleman who told me about it who then resided in New York State that the first Assembly elected under that system was the strongest body of men that had ever come together in that State in that capacity. How it has been since I am not informed. But that system has been continued there ever since; members of the Assembly have been elected by single districts for the last twenty-five years, and they are still so elected in that State. You may answer me that there is corruption in New York, but it does not flow from this source.

MR. CUYLER. They are so elected with the most unhappy results.

MR. DARLINGTON. From the single districts?

MR. CUYLER. Yes, sir.

MR. DARLINGTON. How unhappy? Do their members of the Legislature steal?

MR. CUYLER. If the gentleman has read the New York papers, as I presume he has, I need not answer the question. He has the answer there.

MR. DARLINGTON. To what does the gentleman refer?

MR. CUYLER. To the character of the New York Legislature compared with former years, according to the comments of the press of their own State.

MR. DARLINGTON. I do not attach very much importance to the comments of the press, because they are very much colored by the hue of the press itself. I never would expect a Democratic paper to give a fair and candid account of a Republican Legislature, and I hardly expect a Republican paper to give a fair and candid account of a Democratic Legislature. I rather think they would not.

MR. CUYLER. I only refer the gentleman to the press of New York in harmony with the political views of the Assembly.

MR. DARLINGTON. I know I have read those papers sometimes, and I see just as much partisan feeling there as elsewhere. I would not trust the press here, nor the press there as truthfully reflecting the public sentiment when they speak on party questions. I do not believe them.

I do not believe they are capable of speaking the truth on such matters. [Laughter.]

But, sir, the people of the Empire State have for twenty-five years had this system in operation and have not sought to change it, and that is pretty good evidence to me that they are satisfied with it; and they are not all rogues. There are a few Tweeds there and a few Garveys and the like, I know, and we have got a few unfortunate George Evanses in this State. We are not much behind them in those things; only we do them in a smaller way; and that corruption is in both parties everybody admits. There is not quite as much honesty in the world as I should like to see, although I am of opinion that the vast body of mankind are honest, and that the rascals are the exceptions, and there is but a very small body of them. But, sir, the people of the State of New York having revised their Constitution by a convention three or four years ago, whose work was submitted to the people, and failed because of other matters in it, and having submitted their Constitution again to the revision of a commission of thirty-two of the best men of the State of both parties, chosen to revise the Constitution and submit amendments to the Legislature—I have their report in my desk—they have offered no change in this respect from the existing Constitution, and hence I say that the people of New York must be considered as satisfied with it.

MR. LILLY. I think the commission in New York has made a very considerable change.

MR. DARLINGTON. In what way?

MR. LILLY. In dividing the State into eight large districts.

MR. DARLINGTON. Not in that particular at all. I acknowledge perfectly well what the gentleman has reference to. He has got the wrong pig by the tail. They have only done this—they have said that the Senate should be divided in a different way; that the Senate districts, instead of being thirty-two, should be eight, and each one should elect four members—one to go out every year; but they have not touched the single district question in the Assembly. They have that still as they have had it for the last twenty-five years and more, and there is no evidence and no suggestion that they mean to change it in any way whatever. So much for the example of our sister State, and so much for the example of the

general government. There is nothing, I apprehend, in either of these two examples that should make us hesitate to adopt this system. It is the same thing that we are obliged to adopt in the election of our Governor, Lieutenant Governor, judges of the Supreme Court and other State officers, electing one at a time. Does anybody pretend to say that we have not had upright, intelligent and honest men elected judges? Surely not. With pride I say, as a Pennsylvanian, that the election of our judges of the Supreme Court has not been a failure, for I do not admit that a failure of one is a failure of the whole.

Mr. CUYLER. I would ask the gentleman whether they are not elected by the whole State?

Mr. DARLINGTON. Yes, by the whole State, and not by minority districts at all.

Mr. CUYLER. The principle of districts is not applied to them.

Mr. DARLINGTON. What I am arguing for is, that when the whole people come to vote for a single individual, there is no minority about it; they elect the one who happens to be the best, or whoever happens to belong to the strongest party. Now, without naming individuals, we may admit that there have been one or more judges of the Supreme Court whose equals might have been found if they had been sought. Nevertheless, we have had honest and upright men there, and they have been elected not by your minority principle, but by the majority of the people; and whether they were elected as Democrats or as Republicans, they were elected because of their fitness for the office. When they ascended the bench, they left behind all party feeling. ["Question."] Who calls for "question?"

Mr. H. W. PALMER. Mr. Chairman: I rise to a question of order. I believe it is a standing rule of this House that no delegate shall call for the question when a member is addressing the Chair. I ask the Chair to enforce that rule.

The CHAIRMAN. The Chair would state to the gentleman that he has no control of members. They can call for the question if they think proper.

Mr. DARLINGTON. Mr. Chairman: I do not mean to fatigue this committee. That is not my purpose and I do not suppose that I can add much to what I have already said, in view of the lateness of the hour and the fatigue that we necessarily have undergone this hot day. But what

I wish to bring to the attention of the committee is that the single district system is liable to no objection inasmuch as it brings the constituent and the representative face to face at home. He is answerable to them there; they know him when they elect him, and if they do not elect the right man, it is their own fault.

On the other side, the minority system as proposed contemplates that the Legislature shall in the first instance form districts of three—

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

Mr. DARLINGTON. Yes, sir.

Mr. WHERRY. I ask the gentleman if it is conceivable that a single district can do else than divide the political body into two parties?

Mr. DARLINGTON. Of course.

Mr. WHERRY. Will the gentleman be kind enough to explain how a single district can provide for a constituency of more than two political divisions?

Mr. DARLINGTON. It ought not to be divided into more than two unless a third party is got up.

Mr. WHERRY. Then I ask whether the gentleman holds that all the interests of the community must find their expression necessarily through a political party?

Mr. DARLINGTON. Well, it generally does.

Mr. WHERRY. I ask whether it should?

Mr. DARLINGTON. Whether it should or not is another question. I have belonged to minority parties sometimes, and sometimes to majority parties. When I was an old-fashioned anti-Mason I was in the minority. After a while I was in the majority. When I became a Republican I was in the minority for a time in the State, and then we became the majority. So that I have been in both the majority and minority, and I never cared about any office in any of them. Hence I have been free always to express such opinions as I happened to hold.

I was about to say, and with that I propose to leave the subject, that to put in operation the system proposed by the gentleman from Philadelphia, you must necessarily divide the State into districts electing three members each; I believe that is the idea; or at all events in such a way that no man shall vote for more than two out of three. Everyone understands what the Illinois proposition is: To divide the State into districts of three, and then the Republicans and Democrats each vote

for two. My objection to that is that it leads to the gerrymandering of the State. If there is any one thing more open to censure and reprobation by all parties in this State than another, it is the operation of this system of gerrymandering. No matter which party happens to be in power, when the apportionment comes to be made, they will use that power to make the districts so as to benefit their own party. The Democrats will do it; the Republicans will do it; they always will. They will form the districts so as to suit themselves and return most members hereafter to the Legislature to retain the most power. That is highly objectionable. That same thing will be done in the formation of these districts all over the State. You avoid all that by adopting the single district system. You put it out of their power to gerrymander. You cannot form single districts in any other way than that the people of each district shall have their sway and not be controlled by the people of adjoining counties.

If you put three counties together, two Republican and one Democrat, the majorities are known and the majority in two counties can overcome the third; and so if the other party is in power they do the same thing elsewhere and put three or more counties together so that the voice of one of the counties will be entirely suppressed. It is not possible to do that under the system I propose of single districts. You bring the matter home, as I say, to the people; you give them a district right amongst them. In Philadelphia you have had the single district system for a number of years. Should you return to the general ticket system for Philadelphia, what would be the result? You would either send all Democrats into the State Senate or you would send all Republicans. Do you want the delegation of the city of Philadelphia solid at Harrisburg to carry any measure they may choose, unchecked and uncontrolled and unwatched; or would you not rather have your Senators elected in single districts as they are now, where both parties are there, the one to watch the other, and if they are not all rogues together, there will be some chance for honest men. I do not mean to say that there is any more dishonesty in one party than another. I do not say there is any at all at Harrisburg. Other gentlemen here who have been in the Legislature have insisted that there was, and I can hardly refuse to believe what

gentlemen speak of from their own knowledge. What I wish is to guard against it in the future.

Inasmuch, therefore, as in the Government of the United States, in the State of New York, and in the great and growing city of Philadelphia, this single district system is adopted and has been in use for years, we run no risk in applying it to the whole State in the formation of our districts for the Senate and House of Representatives.

MR. HUNSICKER. Mr. Chairman: I move that the committee of the whole now rise, report progress, and ask leave to sit again.

The motion was agreed to.

The Committee rose; and the President *pro tempore* having resumed the chair, the Chairman (Mr. Stanton) reported that the committee of the whole had had under consideration the nineteenth section of the article reported by the Committee on the Legislature, and had instructed him to report progress and ask leave to sit again.

Leave was granted the committee of the whole to sit again to-morrow.

USE OF HALL FOR A LECTURE.

MR. KNIGHT. I have received a letter from Mr. George L. Harrison, President of the Board of Public Charities, which I would like the Clerk to read.

The PRESIDENT *pro tem*. The paper will be read.

The CLERK read as follows:

COMMONWEALTH OF PENN'A.,
BOARD OF PUBLIC CHARITIES,
Office of Executive Committee,
737 Walnut Street.
PHILADELPHIA, June 10th, 1873.)

Hon. E. C. Knight:

DEAR SIR:—I have the satisfaction of informing you, and through you, the members of the Constitutional Convention, that Miss Mary Carpenter, the eminent advocate of penitentiary and reformatory discipline, widely known and distinguished not only in England but in other countries, has consented, by request of this Board, to address the citizens of Philadelphia on her favorite theme, on Thursday, the 19th inst. It would serve as a great convenience, as well, also, as give significance to the occasion, if the Hall in which you meet could be granted for the occasion, and I respectfully ask you to obtain its use, if entirely agreeable to the Convention. Yours, respectfully,

GEO. L. HARRISON,
President.

Mr. KNIGHT. I move that the request be granted.

The motion was agreed to.

PRINTING OF ARTICLES.

Mr. H. W. PALMER. I ask leave at this time to offer a resolution in respect to printing articles which have passed second reading.

The PRESIDENT *pro tem*. Shall the gentleman have leave? The Chair hears no objection and leave is granted.

The resolution was read as follows :

Resolved, That the articles passed second reading be printed for the use of members of the Committee on Revision and Adjustment.

Mr. EWING. I ask the gentleman to modify his resolution to include members of the Convention.

Mr. H. W. PALMER. I meant to include the members of the Convention and members of the Committee on Revision and Adjustment. I will say the usual number, so as to read :

Resolved, That the usual number of the articles passed second reading be printed.

The resolution was agreed to.

Mr. SIMPSON. I have prepared a scheme for the election of members of the House of Representatives, and I ask that it may be printed for the use of the Convention while the article on the Legislature is under discussion.

Leave to print was granted.

Mr. ADDICKS. I move an adjournment.

The motion was agreed to ; and (at two o'clock and fifty-nine minutes, P.M.) the Convention adjourned.

ONE HUNDRED AND SEVENTEENTH DAY.

WEDNESDAY, June 11, 1873.

The Convention met at half-past nine o'clock A. M., the *PRESIDENT pro tempore* (Hon. John H. Walker) in the chair.

Prayer by Rev. Samuel W. Thomas, D. D., presiding elder of the Philadelphia district.

JOURNAL.

Mr. LAWRENCE. Mr. President: Every morning we waste ten or fifteen minutes in reading the Journal, and nobody pays any attention to it. I move that its reading be dispensed with.

The *PRESIDENT pro tempore*. Is there objection?

Mr. HUNSICKER and others. I object.

The *PRESIDENT pro tempore*. Objection is made and the Journal will be read.

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

LEAVES OF ABSENCE.

Mr. PARSONS asked and obtained leave of absence for Mr. Church for a few days from to-day.

Mr. DARLINGTON asked and obtained leave of absence for Mr. Hemphill for to-day.

RESOLUTIONS AS TO HOURS OF MEETING.

Mr. STANTON submitted the following resolution, which was read and laid over under the rules:

Resolved, That hereafter it shall not be in order to offer a resolution changing or altering the hours of daily sessions, without previous notice of one day, and without leave of two thirds of the house, and the question of granting such leave shall be decided without debate.

SALARIES OF OFFICERS.

Mr. CURRY, from the select committee on the salaries of members and officers of the Convention, submitted a report declaring that the salaries of the officers heretofore fixed when it was supposed the session would not exceed three months are inadequate, and therefore presenting the following resolution for adoption:

Resolved, That in lieu of the salaries heretofore fixed for the officers of this

Convention, the compensation for services of said officers be and are hereby fixed as follows: The Chief Clerk, \$2,750; Assistant Clerks, each, \$2,750; Transcribing Clerks, each, \$2,500; Sergeant-at-Arms, \$1,800; Assistant Sergeant-at-Arms, \$1,400; Door-keeper, \$1,300; Assistant Door-keeper, \$1,300; Postmaster, \$1,500; Assistant Postmaster, \$1,400.

The resolution was read twice and considered.

Mr. BARTHOLOMEW. I desire to inquire of the chairman of this committee why the salary of the Door-keeper is fixed at \$1,300 and that of other officers of the same class at \$1,800? I cannot understand that.

Mr. CURRY. The only reply I feel inclined to make is that a majority of the committee fixed the salaries at what they thought right in view of the duties of the respective officers.

Mr. BARTHOLOMEW. Then I move to amend the resolution so as to provide that the salary of the Door-keeper, Assistant Door-keeper, and Assistant Sergeant-at-Arms, respectively, shall be \$1,800.

Mr. JOS. BAILY. I second that motion.

Mr. LILLY. This report looks very proper and right as far as I can understand it. It has, however, been suggested by several gentlemen around me that the subject has been called up rather unexpectedly and they with myself would like to have it postponed until to-morrow morning. I move to so postpone it.

The motion to postpone was agreed to.

PETITIONS AND MEMORIALS.

Mr. FUNCK presented a petition from the compositors engaged in setting type on the Debates and proceedings of the Convention, asking that a bound copy of each volume of Debates be furnished to each compositor, which was referred to the Committee on Printing and Binding.

THE LEGISLATURE.

Mr. EWING. I move that the Convention resolve itself into committee of the whole upon the article on the Legislature.

The motion was agreed to, and the Convention accordingly resolved itself into committee of the whole, Mr. Stanton in the chair.

The CHAIRMAN. When the committee of the whole rose yesterday, the nineteenth section of the article on the Legislature was before it. The question is upon the amendment of the gentleman from Chester (Mr. Darlington) to the amendment of the gentleman from Philadelphia (Mr. Cuyler.) The amendment to the amendment will be read.

The CLERK read as follows:

"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, it 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. DARLINGTON. I propose to modify the amendment by striking out the word "six," before "Senators," and inserting the words, "one-seventh of the whole number of," so as to read:

"No city or county shall be entitled to more than one seventh of the whole number of Senators."

The CHAIRMAN. Will the committee agree to the modification? The Chair hears no objection, and the modification is agreed to. The amendment of the gentleman from Chester as modified is be-

fore the committee, as an amendment to the amendment of the gentleman from Philadelphia.

Mr. COCHRAN. Mr. Chairman: I had no thought of speaking to-day on this or any other question connected with the present report; but as there may be a moment or two probably profitably spent in considering this amendment before it is voted upon, I will occupy the time by making a few remarks on the subject.

I am one of those who have been and am opposed to any increase over the present number of Senators or Representatives, and as far as I see at the present, I believe that there is no alternative left to me except to vote in the negative on every proposition that can be offered on the subject. That is the position which, I presume, I shall be compelled to take from the opinions which I entertain on this whole subject.

There are several considerations which it seems to me should operate against the adoption of the present or any other similar amendment, while I am free to confess, at the same time, that the amendment now pending seem to me to be less objectionable than others which have been proposed. The amendment now offered provides, among other things, for single districts, as I understand it, for the election both of Senators and Representatives. That raises at once the question that is to be determined by the committee, and it may as well be determined on this as any other vote, whether or not they prefer the adoption of the single district system. Has that system worked so well in practice where it has been applied that it should be made a permanent rule of the Constitution?

If we can believe what has been said here of the city of Philadelphia, so far as that is concerned the single district system has been an absolute and total failure and productive of nothing but injury. I confess that years ago I was decidedly of the opinion that the single district system ought to be universally established. I believe I was impressed with that idea from reading the *New York Tribune* several years ago and the expressed opinions of Mr. Greeley at that time. They seemed to me to be correct.

But, sir, what has been the experience in the State of New York, where the system has been reduced to practical application? I inquire of gentlemen here whether they believe it has been satisfactory there, and met the ends which were

expected to be accomplished by its adoption? It does appear to me, from all the observation I have been able to give to it, that the experiment, in its practical application, has not resulted satisfactorily nor beneficially, and therefore I cannot see why we should now adopt it into the system of elections in Pennsylvania.

Farthest possible opposed to that is the proposition which has been made here and is urged by many, as I understand, that you shall elect your Senators by a general ticket throughout the State; that is to say, that you shall commit to State conventions of political parties the selection of your Senators; for, when it is boiled down, that is the substance of the proposition. Is it the opinion of the members of this body that it is wise to submit to a State convention of parties organized and made up, as we know those conventions are, the selection of State Senators.

The PRESIDENT. The delegate from York will discontinue his remarks until delegates of the Convention cease talking. When they get through, the delegate will proceed.

Mr. COCHRAN. Well, sir, I take it that loud talking is evidence that I am not saying anything worth listening to, and therefore I shall not talk long.

Are our State Conventions, constituted in the manner I have stated, the proper bodies to nominate complete Senatorial tickets throughout the State, and should Senators be elected in that way? The argument in favor of the single district system is that you bring the representative and the constituent so close together that the constituent knows the man, and he is better able to determine whether he is a fit man to be a Representative. The argument in favor of a general system, as I understand it, is, that by carrying it the farthest possible from the direct operation of the constituent, through an intermediate body, you necessarily bring into the State Senate only those men who have already acquired an established reputation, and that in that way you get such men nominated for State Senators.

Both arguments, the argument in favor of the single district system and the argument in favor of the State system, run to extremes, and I do not think it is advisable for us to adopt either of those systems. In my opinion the proper plan is to have districts which are conveniently large in territory and conveniently near to the

people, and let the candidates be nominated in the manner which has heretofore been usual in this State. I do not believe, after all that has been said, that the Legislature of Pennsylvania has been any greater failure, though I admit it has been largely a failure, than the Legislatures of certain other States in this country; and although my friend from Mercer read some very favorable letters from the Executives of other States in regard to the effect of large numbers in their Legislatures, yet I take those with considerable allowance. I believe that the Governors of those States were not willing to wash their dirty clothes before the public, and probably that may explain to some extent the reason why they have spoken so favorably of their own systems at home.

Mr. Chairman, I am opposed to any increase in the number of our present Senators and Representatives. I am opposed to it for the reason that I think we have done work as laborious as Sisyphus of old according to the fable, in order to tie the hands of our Legislature and to restrict their powers; but I think if that work has been effectual to any great extent, it has answered all the purposes which it is necessary for us to attempt to attain by the adoption of any system with regard to our Legislature. I believe myself that the proposed provisions contained in the article adopted on the subject of legislation are wholesome and are calculated to impose such restrictions as will relieve the Legislature from the liability of wrong-doing to which it has been hitherto exposed; and believing that, I am opposed to increasing their number. I know that it is a saying which is worthy of respect that "in the multitude of counsellors there is safety," yet it does not always follow that you get a counsellor. You get very often some person who has no faculty for counsel at all; and when you turn your Legislature from something like a deliberate body into something much more like a mob, then you have no counsel the counsel is entirely gone, and it becomes no longer a deliberative body.

Mr. Chairman, I am opposed to this on another point, a practical point. I know that the consideration of dollars and cents is regarded by many as one that is scarcely to be taken into view in a matter of this character; but the consideration of dollars and cents here is a very important one. Your legislative sessions already, according to the last Audi-

tor General's report, cost you four hundred thousand dollars every year, and if you add the public printing they cost you half a million dollars every year. It is at least half a million according to the figures that I have taken from the Auditor General's report. Now, you are adding what? You are adding seventeen members to the Senate by the smallest proposition, as I understand it, and you are adding fifty members to the House. According to the practice observed of late years in legislative bodies, I believe it has generally occurred that every member of either House must have at least one henchman, and as you increase the number of members you increase in the same proportion the number of officers of one order and another down to the noble order of pasters and folders! Now, think of the increased expense! Add fifty members and you increase your expenses for every session of the Legislature to three-quarters of a million of dollars, and if you add fifty more you will increase it to a million of dollars. Where is that million of dollars to come from? Who is to pay the expense? And how is this Constitution to stand before the eyes of the people of this State, (who are an economical people if their representatives are not economical;) when a question of this kind is raised before them by those who for other and sinister reasons object to the Constitution which you present.

But, sir, there is another point to be considered on this question of economy, and that is the fact that if you increase the number of your representative bodies you necessarily incur the expense of building a new Capitol. I do not believe that the present Capitol is competent to accommodate the lowest increase which is here mentioned. The halls of the House and of the Senate are as fully occupied now as they can be with convenience and comfort. You build a new Capitol, and what is that to cost? How many millions? Five, more or less. I do not pretend to say; but according to my observation of the manner of putting up public buildings of late years, I do not suppose that \$5,000,000 would be a large estimate to make for putting up the new Capitol building to meet the views and the extravagance and the architectural notions which prevail in our day. And that is another consideration which will weigh strongly in the minds of the people of this State when you come to submit your Constitution to their approval or rejection.

I shall vote against all propositions, however framed, to increase the number of Senators and Representatives. That is the only thing that is left to me with the views that I entertain on this subject and I have presented these considerations merely for the purpose of inducing gentlemen to bring them under the views of their own minds to determine whether or not it is wise to adopt the propositions which are now pending before this body.

Mr. CARTER. Mr. Chairman: I suppose there will have to be some talking before this matter is settled and I might as well occupy a few minutes as any one else. I rise with but faint, if any, expectation of convincing or converting rather any gentleman who may have already made up his mind in regard to this matter; but it may chance be so that some may not have entirely made up their minds and to them I would address a word of caution, chiefly in regard to the idea that now seems to be prevalent to some extent favorable to the election of Senators by general ticket.

This is so objectionable to me that I shall principally confine my remarks to this branch of the general subject, and, perhaps, something may drop from me which may cause some gentlemen to pause before they make this radical change in our manner of electing Senators. In regard to the assertion made by the advocates of this new system that we shall thereby secure a body of more weight, higher qualifications and dignity. I dissent in toto from that proposition, and I do not, cannot believe that we are to look in that direction for greater purity or greater intelligence in our legislators.

I do not believe that a State convention, constituted as it is of professed politicians, meeting together less for the public good than for the advancement of their individual ends, forming, as it were, a sort of guild or political association of political aspirants, and mainly actuated by political aspirations, are the men to select that class or kind of Senators which the people desire. It is looking in a wrong direction. Gentlemen have said that when Congressmen were formerly elected on general ticket, they were superior as a body to those that have been elected under the single district system. I know not whether that be so or not, but I incline to disbelieve it. Even if it has a portion of truth in it, this case does not rest on the same conditions, for those bodies that formerly nominated Congressional

delegations to be voted for on general tickets had the matter of good nominations at heart. They wished to nominate such a ticket as would command the support of the whole people, and be equal to, and, if possible, superior to the nominations made by their political opponents.

But, sir, if we nominate Senators in that way and elect them under the limited system of voting which is proposed, that check does not exist, because their nomination is equivalent to an election. Here is a point that I wish gentlemen seriously to consider, whether we are ready to entrust to a body of professed politicians, assembled as they are for the enhancement in a general way of their private ends and the interests of their party, to select our law-makers. I may be wrong in my estimate of the general character of the political State conventions. I never was a member of but one, and I can speak only in reference to that and what I know by reading and observation of those that have met since.

And this is the point that I make: That it will be exceedingly dangerous and hazardous; nay, sir, do we not beforehand know that disastrous results must follow, if we select our Senators by a body thus constituted and elected as they will be under the limited system, where a nomination will be equivalent to an election? Far better had we retain the present or some other system which will give to the people of their respective localities the selection of men whom we know to be good and worthy, and who have their confidence.

I think there is some force in these views, Mr. Chairman. I cannot conceive it possible for the result to be otherwise than I have indicated. I only say to gentlemen, before they vote to adopt this proposition, to seriously weigh this matter. It looks to me as if this body was looking for relief from extended discussion of this subject, for we want to get out of the difficulties in some way that seem to surround this whole subject. But I am afraid, Mr. Chairman, there is danger of seeking relief by the adoption of some measure which would seem to afford present relief from the difficulty in which we are placed, and without proper reflection or consideration of the dangers that may accompany that change.

One word in regard to the size of the legislative body. I am in favor of an increase of at least fifty per cent. If it be, as has been alleged over and again, that

corruption will, to some extent, be checked or prevented by the increase of the legislative body, I can see but little force in the view of my friend from York, (Mr. Cochran,) when he speaks of the expense of the erection of new and more extensive buildings. I apprehend that what would be saved from the stealings and waste of public money in one or two sessions would be sufficient to put up the buildings. And who can estimate the bad moral effect, the moral wear and tear, the bad moral effect on the people? And if this is to be corrected by an increase of number, I think the sentiment of this body will be for an increase looking to the end to secure greater purity. There is no danger of the body becoming too unwieldy, nor do I think the increase of expense should be considered. We may attach too much weight entirely to that view, if it is likely to prove a remedy for corrupt legislation. The British Parliament consists of six hundred and sixty or six hundred and seventy members, but it is wielded with perfect facility. We never hear of corruption entering into that body. The French Legislative Assembly consists of something like seven hundred members. I do not think there is anything unwieldy or indifferent in the management of these large bodies, and I am strongly inclined to believe that it would be a great reform to increase both branches of our Legislature something like to the extent of at least fifty per cent., though I have no objection to a somewhat larger increase than that.

MR. KNIGHT. MR. CHAIRMAN: I shall favor an increase of the number of Representatives, and I shall vote for the largest number named. I believe that a large number would be more likely to give us pure legislation than the number that we have at present. I think further that by increasing the number we shall be more likely to have a better class of men in the Legislature. I would go so far as to have the members, if possible, paid by the districts that send them. Then I have no doubt many gentlemen would volunteer to go to the Legislature to serve their immediate district and constituents for the knowledge that they would gain and the service they would consider was due to the people.

The question of expense I think is of very small importance. The probability is that before we have another Constitution in the State we shall have a population of eight millions of people. Then, ac-

according to the number of Representatives we have at present, we shall be entitled to twice the number. But the great reason why I shall vote for a larger number is that I think if there was any parties or corporations who had an idea of going to the Legislature to secure what was improper, they would consider the matter well and find that the numbers were so great that it would be impossible to obtain their object and therefore the improper application would not be made.

Mr. HARRY WHITE. I desire to make an observation or two in explanation of my vote. I understand the immediate question before the committee now is the amendment proposed by the delegate from Chester, (Mr. Darlington,) which contemplates the formation of single districts out of contiguous territory; also fixing the minimum number of the members of the Senate at fifty and of the lower House at one hundred and fifty, and furthermore providing that at no time shall the number of members of the House of Representatives exceed three hundred.

Mr. Chairman, at this moment I shall not enter into any extended argument. There are some principles of that proposition which I earnestly favor. I shall vote against the proposition, however, because of one feature it contains. It allows the increase of the members of the Legislature to three hundred. Although that is fixed as the maximum amount, yet practically it settles the question that hereafter the number of members of the Legislature shall be three hundred. The provision in our present Constitution limits the number of members of the lower House to the maximum amount of one hundred and that in no event shall the Senate exceed one-third thereof. Our experience teaches us that ever since the adoption of the Constitution of 1837 the number of members of either House has equalled the maximum amount. So I assume then that the practical effect of this amendment will be to give us three hundred members in the House and fifty members in the Senate all the time. To this I am earnestly opposed, and in raising my voice against this amendment at this time I know I represent faithfully and properly the constituency I immediately represent and also the large majority of the voters in the western part of the Commonwealth.

Mr. Chairman, I shall vote against any amendment which seeks to change the present method of electing either our Sen-

ators or our members of the House of Representatives. I do not wonder that a delegate from Philadelphia or a delegate representing a large constituency like the city of Philadelphia should favor the largest number, because of course it directly increases the power of his constituency in the representative branch of the government. While I have no reflections to make upon the character of the Representatives Philadelphia has sent to the Legislature, it is sufficient to say that from no part of the Commonwealth has more urgent and bitter complaint been made against the local Representatives than in the city of Philadelphia by her own citizens. I am not surprised, however, that the delegates from the city should favor the largest number because it proportionably increases their power not only in our State Legislature, but in our State conventions.

I shall vote against any system of changing our manner of electing Representatives. The majority of the people of this Commonwealth are opposed to any change in the manner of election. I shall favor here and before the people, if I am allowed to do so, that system which has become familiar to our people in electing their Representatives. I shall also oppose the system and method which has been proposed here of electing Senators by the State at large. I know that meets the earnest condemnation of a majority of the people of the part of the State which I represent. It is not in harmony with our Pennsylvania system; it is not in harmony with the principles of a representative body, which both our Senate and House of Representatives are; and any change, any departure from that principle, I am satisfied, will receive the condemnation of the people of this Commonwealth as it should.

Complaint is made against the corruptions of the Legislature. Mr. Chairman, we have labored in this body earnestly and I hope successfully in throwing such restrictions upon the exercise of the legislative power, in taking from the Legislature those subjects which have hitherto been articles of merchandise, which have been so fruitful of political corruption. I hope hereafter we will be relieved to a great extent from that complaint of corruption which has offended the ear of the Commonwealth.

Since, then, the only vigorous argument for an increase of the members of the Legislature is that it will make political

corruption less possible!—Let us not forget we have made great advance in that direction when we adopted the restrictions contained in the report of the Committee on Legislation—this was substantial reform and will do more to purify our legislation than any mere increase of the body. Then again, sir, we have provided for biennial sessions of the Legislature hereafter, thus making the opportunity for the indulgence of that corruption of which we complain less frequent than heretofore. Inasmuch, then, as the only argument in behalf of an increase of Representatives to the Legislature is to prevent corruption, I submit that the reform we have made in other regards will furnish sufficient relief.

Then again, as to the manner of apportioning Representatives, I have no plan, I have no specialty. Complaint has been made against the manner in which the Legislature has performed this duty heretofore. It has been my privilege in the exercise of my duties as a Senator, heretofore, on more than one occasion, at least to vote against an apportionment bill which was made with the sanction of my party, but I confess, when you approach this question and seek to administer relief, any body which is entrusted with the power of making an apportionment other than the Legislature is equally obnoxious to the same objections which were hitherto made to the legislative body. Hence, while my mind is open, while I am free to vote for and support any fair method of apportionment hereafter, I confess I am unable to see any that has already been suggested which will be an improvement upon the former plan.

I simply rose to make these discursive remarks, briefly indicating my position and saying that I shall vote against the amendment offered by the gentleman from Chester, because it allows an increase of the legislative body beyond what the people of the Commonwealth desire and the interests of reform absolutely demand.

Mr. BROOMALL. I am opposed, Mr. Chairman, to the amendment of my colleague for the reasons stated by the gentleman who has just taken his seat, because it increases the number of Senators and Representatives; but I do not rise for the purpose of saying that so much as for the purpose of asking the committee whether we cannot trust the business of apportioning the Representatives and

Senators in the State to the Legislature under some proper guards which we can contrive. I do not believe that we can district the State for all time to come without doing very great injustice. I think all attempts that have been made at it here show the folly of our trying to do it. Let me suggest what might probably develop itself into some mode by which the Legislature can be prevented from unfairly districting the State. I would suggest, first, that the districts shall be all single districts; second, (and I want the attention of the committee here because this idea is new, but I do not intend to get it patented, though I intend to claim it as my own,) that no district, unless composed of a single county, shall exceed in length twice its breadth; third, that no district shall contain less than nine-tenths, nor more than eleven-tenths of the ratio; fourth, that no township or ward shall be divided in making a district.

Under these guards or something of the same sort, cannot districting be entrusted to the Legislature? Can any damage be done under guards similar to these? It looks to me as if we shall have to go back to the old fashioned system of letting the Legislature district the State and contrive some mode to prevent it being done unfairly. Of one thing I am very certain. It was deliberately proposed yesterday to give Forest county, with four thousand population, a Representative, and Delaware, with thirty-nine thousand five hundred, a Representative. If any Legislature anywhere could contrive anything more unequal than that, it would do me good to look at it.

Mr. LILLY. Mr. Chairman: I take it that one of the objects we want to arrive at in fixing this matter is to take the apportionment away from the Legislature. It has been known for years past, and not only in Pennsylvania, but all over the United States, that this apportionment business is a source of great corruption and fraud. Now, we want to get rid of that. The gentleman from Delaware (Mr. Broomall) says that he wants to trust the Legislature with this. I am credibly informed that the last apportionment of Senators and Representatives in this State cost this Commonwealth \$75,000 in money, besides corrupting the whole Legislature and setting the whole population of the Commonwealth into excitement. We want to get over that, and I think there is a plan on the floor of

the Convention that aims at that and will do it properly and correctly and fairly.

The gentleman from Delaware who has just taken his seat does not attack the amendment of the gentleman from Chester before the Convention, but attacks the amendment of the gentleman from Allegheny (Mr. S. A. Purviance.) The proposition of the gentleman from Cheeter is exactly the same as that of the gentleman from Allegheny that was voted down yesterday. He proposes to give the county of Forest a single Representative as well as does the gentleman from Allegheny. I am opposed to his single district system and for this reason:

I desire to say here that I came to this Convention fully imbued with the idea that the State should be divided into single representative districts. I thought that I could not be moved from that position, but after listening to debate on this floor and the address of our honorable President, and after listening to the arguments of gentlemen outside of this Convention, resident in this city, I have come to the conclusion that this single district system is one of the most nefarious things that could be adopted by the Convention. It will work well, probably, everywhere except in the large counties like Luzerne, Allegheny and in the city of Philadelphia. Here it has proved to be a total failure if we are to accept the evidence of Mr. Meredith and others. It perpetuates in power the smallest kind of small politicians and of the corruptest possible stripe. Certainly there ought to be objection made to that, and I do object to it.

When the time comes to increase the number of the Legislature, I think it is a very small thing for members of this Convention and for the people of the great State of Pennsylvania to object to the small expense that it would require to alter the Capitol buildings, at Harrisburg, to accommodate a larger number of Representatives. If the necessities of the Commonwealth require that we should tear down the old building and erect a new Capitol—I am not advocating that and do not desire to urge any such thing now—the State is rich enough, and its people are liberal enough, to build such a Capitol building as will accommodate any Legislature that the Constitution we will adopt shall provide for.

I am opposed to the amendment of the gentleman from Chester and I am opposed to the whole proposition of the gentleman from Philadelphia to which it is

an amendment, I am in favor of something that will take all the apportionment out of the hands of the Legislature at Harrisburg. I think that a plan can be devised which will do this. There is a plan now before the Convention which will district the State into representative districts and there are several plans to change the apportionment, either of which I like very much better than the present one proposed by the gentleman from Chester.

I undoubtedly am in favor of electing the Senators of the State by the voters at large. I believe that you will thereby get a far better Senate than you can get in any other possible way. Each party then in State Convention will aim to put forward their best men to cope with the men on the other side, and, as I have heard it remarked on this floor in private, the Senate of Pennsylvania in ten years will be equal to the Senate of the United States under this system in its palmy days if this arrangement be carried into effect.

Therefore I will vote against the proposition of the gentleman from Chester and also against the proposition of the gentleman from Philadelphia.

Mr. BARR. I believe that the principle which the Convention desires to reach is the principle of reform. In order to reach that, it is necessary that we should counsel together. Now, one portion of the delegates here are advocating an increase of numbers in the Legislature to one hundred in the Senate and three hundred in the House. Others are advocating no change in the basis that now exists, and others again desire to have fifty members in the Senate and one hundred and fifty in the House. For myself, I most heartily and entirely concur in what was so ably said by the gentleman from York, (Mr. Cochran,) and for nearly the same reasons.

I am entirely opposed to any increase in the number of Representatives, and I desire to say that before any increase in that regard is made, I prefer that some gentleman who is in favor of such a change will give a convincing reason for it. If the number is to be increased from thirty-three Senators to fifty, and from one hundred Representatives to one hundred and fifty, what reason can be assigned for the change? If the great virtue consists in great numbers, why not take the largest number proposed and provide that one hundred shall constitute

the number of the Senate and three hundred the number of the House? If there be virtue in numbers, I can see that there would be some reason for that. If the present number is too small, there might be some reason for increasing it to one hundred and to three hundred, but what virtue or advantage could be gained in a State like this by simply making the small increase of giving the Senate fifty members and the House one hundred and fifty, if the purpose is to save the State from the corruption and plunder that have existed in the past? The difference is too small. If thirty-three members of the Senate cannot secure honest legislation, fifty is not likely to do it any better. If it is less likely to corrupt a large number than a smaller one, the difference between thirty-three and fifty is not large enough to secure any practical purpose, because the corporation, or the power that is able to corrupt thirty-three men, will be able to corrupt fifty men. They might not possibly be able to corrupt one hundred so easily.

I would be in favor of adopting either the present number of thirty-three members of the Senate and one hundred in the House, or of going to the other extreme and having one hundred in the Senate and three hundred in the House, but if I vote for the latter it will be because some stronger reason than I have yet heard is submitted. I believe that we should not increase our representation at Harrisburg, because I believe that the efforts of this Convention in the direction of reform will be available for good. I believe that after the new Constitution shall have been adopted, the people of this Commonwealth will be able to select a new Legislature that will not only do honor to the State, but to the nation; and I will be in favor of having that Legislature composed of the present membership, of thirty-three in the Senate and one hundred in the House. I believe that our future Legislature, under our reformed Constitution, will be composed of men whom the Commonwealth can trust. Why should it not be trusted? We have taken away from the Legislature all powers of special legislation; we have taken away from it all the bones of contention around which, in the past, corruption has centered; we have taken away from the Legislature all local legislation, and thereby have taken away the necessity of increasing the numbers. There might be some reason that the number of Representatives should be

increased because of the local interests of the people, as it would bring the Legislature nearer home to them. It can justly be said that we should have Representatives at Harrisburg from the smallest counties under our present system of local legislation, but that cannot apply after we have removed from the Legislature all this power of special legislation, and thereby rendered it unnecessary for small communities to be represented to the same extent that they should be if these local affairs were to continue to be brought into the Legislature as they are now.

Having removed special legislation, and taken away all the temptations that have heretofore disgraced the legislation of the State, there is no necessity for increasing the number of Representatives which will compose the Legislatures of the future; and while we are discussing the general principle of reform let us consider how much will be gained by so largely increasing the number of Representatives at the expense of the State. As has been so well stated by the gentleman from York, when you increase the members of the Legislature you increase all the supernumeraries and all the appendages and all the pay that generally attach to the Legislature. You will make legislation a burden on the people and that is not what we are called upon to perform. Nevertheless, if any gentleman can convince me that it is for the good of the State that the numbers of the General Assembly should be increased to one hundred in the Senate and three hundred in the House, then no matter what the expense is, I shall vote for it because I regard money as nothing when compared with the great interests of the people. But before I vote for the increase I must have some good reason for it.

I am in favor also of the people designating the persons who shall represent them in the House of Representatives as well as in the Senate, and I cannot therefore vote for a proposition which in effect says that the cliques and party managers of the two great political parties shall call State conventions and that the delegates so gathered together shall nominate candidates for the Senate who shall be voted for by each party, and so limit the number that each elector may vote for only one-half of the number to be elected. That is but another way of saying that the nomination is equivalent to an election.

I admit that I am here on the principle of minority representation, on the princi-

ple that I could not have been beaten because I was nominated and the electors could only vote for a certain number, and certainly could not have been elected on the general ticket but for this principle, and therefore I have a delicacy in too strongly opposing the principle under which I hold my seat. But I am here for the purpose of reforming this Constitution and subserving the best interests of all the people. And while this principle has worked well here, I do not know that there is any necessity for applying it to the Legislature, nor that it will prove satisfactory if so applied.

There are different motives at work always to procure nominations for the Legislature—motives which did not apply here, and it does not follow that members of the Legislature should be elected in the same way. Nay; from what we all know it does follow that nominations are not always made by the best men in the community, but often by those who manage parties, who often present mere politicians as nominees for the suffrage of the people, and not always all of them the best men; yet the mere nomination and presentation of these men will be equivalent to their election.

I shall not vote for that proposition, though in not voting for it I am compelled to differ with some of the gentlemen in this Convention with whom I would like to agree on that question. If it can be amended in any way so as to still leave the right of choice, so that instead of voting for one-half of them we shall vote for two-thirds, I might vote for it; but I believe in the principle enunciated by the gentleman from Delaware (Mr. Broomall) if put in proper shape or attached to the principle which is now before the committee of the whole—I believe that it would cover all that would be needed and accomplish all the reform that the people ask for or hope to get, and if we attempt more than that we may try some experiment that we may be very sorry for in the future.

Mr. BUCKALEW. Mr. Chairman: The direction given to the debate by the gentleman from Indiana (Mr. Harry White) this morning is encouraging. He called our attention to the principal question we ought to consider in this legislative article, the principal point where we can certainly introduce reform. He discussed the question, by what authority shall the State be districted for Senators and Representatives in the General Assembly?

At present that authority is the Legislature itself. The question comes to us, confronts us, and demands a solution. Can there be any better, any more acceptable authority provided by this Convention for making apportionments? If indeed the existing evil of gerrymandering is incurable, let us understand that and submit to our fate. If indeed we are to be furnished with no better palliatives than those suggested by the gentleman from Delaware, let us understand that and make up our minds to the inevitable; but if a remedy be very conveniently accessible to us and in our judgments it be one suitable to the disease with which we are afflicted, our duty is plain; it is to accept it.

The State may be districted for Senators and Representatives, in my judgment, in either one of several ways, much better than it can be by the Legislature, as the present Constitution provides. The Committee on Suffrage, Election and Representation, I think, about two months ago, authorized the gentleman from Carbon, (Mr. Lilly,) one of its members, to propose to the Convention a plan for apportionment. That amendment was proposed by him and was printed, and is accessible to members; and I will speak of that first. It provides that every tenth year, immediately after the decennial census of the United States has been taken, commissioners of apportionment shall be elected by the voters of the State at large. The idea of the committee was to make the number twelve; that this board of commissioners shall meet and make these districts, nine of the twelve concurring, so that we shall be secured against unfairness.

That amendment further provided that the districts should be so made and representatives assigned to them in such manner as to secure the proportionate and just representation of each division of the electors of the State at large and in the several sections thereof, the principle upon which it is pretended that all apportionments are made, but it is utterly disregarded because it is not enjoined in the Constitution, and nobody is sworn to observe it. The whole matter is now left to the discretion of the Legislature.

That amendment also carefully provided that none of these commissioners of apportionment should be eligible to election to either House of the Legislature under the apportionment made by them for the period of five years, so that there

would be no motive operating upon either one of them to form a district for himself or to suit his personal ambition.

That was one plan, and a very good one; and I say to you, Mr. Chairman, that under that plan not only would you get apportionments fairly and justly made in this State, but you would get them made at the saving of a large amount of expense. The last State apportionment, as I stated on a former occasion, cost the Commonwealth upwards of \$75,000—that one apportionment alone. Now, sir, apportionments for the next century may be made by this Board of Apportionment for a less total expense than that one apportionment of 1871.

MR. D. N. WHITE. May I ask the gentleman a question?

MR. BUCKALEW. Certainly.

MR. D. N. WHITE. I suppose the gentleman refers to the time when he was a Senator.

MR. BUCKALEW. Yes; when the two Houses were at a dead lock.

MR. D. N. WHITE. That was not about the apportionment, I think, but about something else.

MR. BUCKALEW. I can only speak from my own belief and knowledge, having been at the time a member of one branch. My belief and information are that the extension of the session for a month and a half was caused by the apportionment, and by the apportionment alone. Of course other measures became connected with it afterwards.

But, sir, we are not shut down to that particular plan, excellent as it is, in my judgment. The gentleman from Philadelphia over the way (Mr. Simpson) has prepared an amendment following the same general idea, but dispensing with the election of these commissioners of apportionment by the people of the State. His amendment provides that the two Houses of the Legislature, after each census, shall meet in joint convention and elect twelve commissioners of apportionment, each member of the convention voting for half the number, and that the apportionment shall be made by the board so constituted, nine of the twelve agreeing in their report.

Now, sir, under either of these plans—the former is much the better in my judgment, but I am willing to take the second plan if others prefer that—the apportionment of the State becomes a very simple matter. Men are put under oath, and they have prescribed for them in

these amendments the rules upon which their apportionment shall be made, and they are severed from all personal interest themselves in its preparation. By the selecting of them in either one of the modes which I have described, they would be gentlemen of leading position in the State, of capacity and intelligence, fit for the duty with which they were charged, and when they met together they would know perfectly that neither of the two political interests represented in the board could get any advantage of the other, the inevitable result of which would be that these principles on which the apportionment should be made as announced in the Constitution would be executed, and executed without difficulty, and thoroughly.

A third plan for a partial apportionment of the State has been proposed and is advocated by some gentlemen, and that is, that the counties of Philadelphia and Allegheny shall be divided by commissioners appointed by the court of common pleas of each of those counties, all the judges concurring in their appointment. If we can do nothing better, I would accept even that, although I know the reluctance with which gentlemen charge the courts with any duties of appointment; and I agree that in consequence of a sentiment of that sort, and also the peculiar constitution of the courts of common pleas in these cities, almost unanimously of one political party, that particular plan is open to some question, though, for my part, I would trust those gentlemen, members of an opposing political organization as they are, in the appointment of these commissioners a thousand times sooner than the Houses of the Legislature.

I trust, however, that the Convention will select one of the two plans which I first mentioned, which have the sanction of one of the regular committees of this body, to whom was committed, in part, this subject of the representation of the people in the Legislature as well as in other branches of the government. The constitution of such an authority as that which I have described, and along with it the imposition upon them of the rules which I have mentioned, in my judgment, is the main question of reform to be considered in this legislative article.

As to this question of the numbers of the two Houses, I confess my mind is at a pause, and I shall be prepared to assent, without much of complaint, to any judg-

ment which the Convention may render upon it. But upon one point my mind is made up. I will not vote to increase either House one member under any pressure of circumstances, and allow those Houses themselves to apportion. I do not see any good in casting fifty per cent. more of membership for apportionment into that boiling cauldron of injustice—the two Houses of the Legislature. I see no propriety in authorizing the fifty-eight per cent. of the voters of Pennsylvania, who now choose the members of the two Houses of the Legislature, to choose fifty per cent. more, unless you have some guarantee that an apportionment will be justly made by which the Republican minorities in Democratic sections and Democratic minorities in Republican sections shall receive justice and a fair share of representation in the Legislature. Therefore my vote for increasing the number of members of the Senate and House will be conditioned upon the establishment of some plan of reform in the manner in which they shall be apportioned to the several parts of the State and selected by the people.

For the present I shall vote against the present amendment, because it is in conflict with the views which I have already stated, and because, also, it contains the worst possible suggestion which can be made from any quarter—to wit, a division of all the counties of the State entitled to more than one member into single districts.

The CHAIRMAN. The question is on the amendment to the amendment.

The amendment to the amendment was rejected.

Mr. D. N. WHITE. I move to amend the amendment, by striking out all after the word "the," in the first line, and inserting:

"State shall be divided into fifty Senatorial districts of compact and contiguous territory, as equal in population 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 county or city shall be entitled to more than one-sixth of the whole number of members.

"The House of Representatives shall consist of not less than one hundred and fifty members, to be apportioned and distributed to the different counties in proportion to the population, on a ratio of

twenty-five thousand inhabitants to each member, except that no county shall have less than one member, and the city of Philadelphia, or any county having an excess of three-fifths of said ratio over one or more ratios, shall be entitled to an additional member. In case the number of one hundred and fifty members is not reached by the above apportionment, counties having the largest surplus over one or more ratios shall be entitled to one additional member, until the number of one hundred and fifty members is arrived at.

"As soon as this Constitution is adopted the Legislature shall apportion the State in accordance with the provisions of the two preceding sections; counties and the city of Philadelphia, entitled to more than one member, shall be divided into single districts of compact and contiguous territory, as nearly equal in population as possible, but no township or ward, except in the city of Philadelphia, shall be divided in the formation of a district: *Provided*, That in making said apportionment for the House of Representatives in the year eighteen hundred and eighty-one, and every ten years thereafter, there shall be added to the ratio five hundred for each increase of seventy-five thousand inhabitants."

The CHAIRMAN. The question is on the amendment to the amendment.

Mr. D. N. WHITE. Mr. Chairman: I will take up no further time of the House than is necessary simply to explain my amendment so that everybody can understand it. I have not attempted by any ratio to apportion the State for members of the Senate. I believe it to be absolutely impossible for us to make any arrangement of that kind except such an arrangement as is offered by the gentleman from Carbon, (Mr. Lilly,) and the gentleman from Columbia, (Mr. Buckalew,) who supports it, to elect on a general ticket. And here let me say in one word that I am invincibly opposed to any system which will deprive the people of the right of the choice of their own representatives directly. I consider the system of selecting Senators at large by a Convention of the State, as a manifest departure from republican-democratic principles, going back from the principles and doctrines of our fathers, raising up a one man power, establishing a governing class, depriving the people of just representation and placing the selection of your Senators in the hands of a few designing men. Your Senators would be selected in

some room by a set of scheming politicians and the word would go out to send men to the State convention to elect these men. Now, for any system so anti-democratic, so removed from the people, I have the utmost abhorrence, and I should be sorry if any large number of this Convention should vote for such a system as that.

MR. CUYLER. Will the gentleman pardon a question?

MR. D. N. WHITE. Yes, sir.

MR. CUYLER. I ask whether under the district system which the gentleman proposes, the selection will not be made in precisely the same way, but the class of men selected will be those who will be simply for the district and not for the residue of the State?

MR. D. N. WHITE. If I understand it, a convention is to sit in Harrisburg who are to select this ticket.

MR. CUYLER. That is not the idea. They will be nominated, I suppose, by party conventions, and precisely the same thing would occur under the district system. The difference would be that a little district can be manipulated by petty politicians while the whole State cannot. While it may be equally true of both plans, you get a higher order of men on the broader system of selection.

MR. D. N. WHITE. In reply to the gentleman, I have to say that if in a compact district where every man knows the man to be selected, where the people know the men they are voting for—if they cannot thus select the best men to govern them, then you may set down your republican system as a failure.

MR. CUYLER. Will the gentleman pardon another inquiry?

MR. D. N. WHITE. Yes, sir.

MR. CUYLER. I ask whether precisely that system has not been long pursued in Pennsylvania and has not proved a failure?

MR. D. N. WHITE. That depends on the way in which you choose to look at it. I do not consider republican institutions a failure in Pennsylvania. I admit some corruptions have grown up, especially in this city, and that I believe is the fault of the leading inhabitants of this city—the fault of gentlemen who are not willing to go into primary meetings and exert the influence they should in selecting the candidates. They have permitted men without character probably to manipulate all these arrangements for them. They cannot descend to this kind of work! We hear

continually that we found our institutions on the people, and that we level the people up. We have our common schools, our newspapers, and all our arrangements for elevating the people; and shall we say, after a hundred years of instruction, that we are not fit to choose our rulers, that we must go to a convention manipulated by a few politicians to select them for us? I scorn the imputation. I say the people of this State are able to select their own representatives and elect them too. On the principle enunciated by the gentleman from Philadelphia, (Mr. Cuyler,) who has questioned me, the people would have nothing to do but to ratify what has been done; they could not defeat the ticket nominated for them. Only one-half of them vote for one-half the Senate and the other half of the people for the other half. The whole thing is done to their hand. What are the people to do? They are the lower class; and the ruling class will select the representatives, and the people must ratify whatever they say. So much for the Senate. If there is any plan by which it could be apportioned without going to the Legislature, I should be in favor of it, but I cannot discover any with all the ingenuity that I can bring to bear upon the subject.

Now, with regard to the House of Representatives, the plan which I propose does district the State, does apportion the Representatives without any act of the Legislature except in the division of the counties themselves. It fixes the number at one hundred and fifty, or it may run over that. It does not say it shall not be more, but it puts it at one hundred and fifty as the minimum—that is, it cannot be less—but simply apportions them on population, on a ratio of twenty-five thousand. That ratio may be changed. You may make it twenty thousand or twenty-eight thousand or thirty thousand, and it will work just as well; it will only change the number of members you shall send.

I give every county a member, and I do it for this reason, that if you do not give every county a member you have got to put two or three counties together in different parts of the State, and there you commence the very gerrymandering that we are trying to avoid. The moment you begin to put counties together, then political differences arise and the same trouble will occur again that you have now. If you give every county a member, any person can sit down with his

pencil when he gets the census and figure out how many members each county shall have. Then I provide that as soon as this Constitution is adopted, the Legislature shall apportion the State in accordance with this plan. They will figure it out simply, and then divide the different counties where they have more than one member.

The plan spoken of by the gentleman from Columbia (Mr. Buckalew) is to have the judges of the courts appoint commissioners of apportionment or to have the city councils do it. Various such plans were suggested to my mind, but I saw difficulties in every step I took. The judges in some counties all belong to one political party; in other counties to another political party. They do not want to have this duty to perform. There would be reflections upon them if they did perform it, and I like to keep the ermine clear from any suspicion of political favoritism. Again, if you have the commissioners of the county to appoint, there will be the same trouble; if the councils of the cities, there will be the same trouble; and as the Legislature will have to apportion the State for the Senate, there seems to be but little difficulty in dividing the counties for Representatives.

Then I provide that the ratio shall be increased at every decennial census, so as to keep the number about equal. I have figured out what the number of members would be, and what every county would have under this arrangement of a twenty-five thousand ratio. The county of Adams would have one member and a very small surplus over; the county of Allegheny would have eleven members; Armstrong two members, and so on. The city of Philadelphia would have twenty-seven members; and if you go over it and compare it with the population of the State, you will find that justice, by this plan, is done to all the population of the State, and the plan is perfectly practicable, easy to carry out, avoids all gerrymanderings of the House, and fixes the number of members.

Now, as to the number of members, I confess I am in favor of the old number; but I have yielded in this respect to what seems to be the apparent opinion of this body. Some want three hundred members; some want one hundred and fifty, and I have taken the mean which I thought would be adopted at last. I do not think that we shall increase the vir-

tue of the House by increasing the number of members.

Mr. S. A. PURVIANCE. What number do you make by twenty-five thousand as a divisor?

Mr. D. N. WHITE. The twenty-five thousand makes one hundred and forty-one members. Then I take the largest surplus in nine counties to make up the one hundred and fifty.

Mr. S. A. PURVIANCE. You are mistaken in your calculation. I think the ratio of thirty thousand would make one hundred and eighty odd members.

Mr. D. N. WHITE. I have worked it out, and it is correct.

Mr. LAWRENCE. I should like to ask the gentleman from Allegheny a question.

Mr. D. N. WHITE. Very well.

Mr. LAWRENCE. He makes the ratio of twenty-five thousand as I understand?

Mr. D. N. WHITE. Yes, sir.

Mr. LAWRENCE. Is it in the power of the Legislature to change the ratio hereafter as the population increases?

Mr. D. N. WHITE. Yes, sir. The last clause of the amendment reads:

“Provided. That in making said apportionment for the House of Representatives in the year 1881, and every ten years thereafter, there shall be added to the ratio five hundred for each increase of seventy-five thousand inhabitants.”

If the population of the State amounts to five millions, all you have to do is to add to the ratio and you keep the same number of members. There is nothing in this which prevents the number going over one hundred and fifty, but it provides that there shall be five hundred added to the ratio for every seventy-five thousand increase of inhabitants, and that will keep it just about the same all the time.

Mr. Chairman, I think that in this amendment which I have offered everything is provided for that can be provided for reform. I am opposed to the system of large districts. There is a proposition that requires you to divide the State into four or five or six senatorial districts, and each party to vote for a certain number. For all this cumulative and limited voting system I have a profound repugnance. We must have political parties. Some people want to do away with politics in the State. We must have parties. Parties are purifying in their nature, and I should be very sorry if we should ever be all of one party in the State. I am afraid we

should go to the devil very quickly. [Laughter.] We need parties; and the party having a majority in the State should be the governing power and should be responsible to the people. Some party must be responsible, and the party that has the majority should be responsible to the people for the government, and at the same time should have the power to carry out their principles. There can be no safe government without that.

I may have occasion again to speak on this subject. I will leave it now.

Mr. BIGLER. Mr. Chairman: We are so far progressing in this work that it has become necessary to make a selection amongst the various plans that are proposed. I notice first, for a moment, that submitted by the delegate from the city, (Mr. Cuyler,) which provides for the election of Senators at large; or, in other words, to elect all the Senators on a State ticket. I concede to that proposition some merit. I consider it probable that inasmuch as a Senator would represent the entire State there are those who are unwilling to go into the Legislature under the present plan who would consider it very honorable to go into the Senate and would aspire to the position under this amendment. So far as that goes the influence would be good; but there is a difficulty in the way of gratifying that ambition, and that is the State nomination. I take it for granted that the gentleman himself does not propose that either one party or the other shall have the whole delegation in the Senate in any one of these elections. I perceive that he provides for that, and there we encounter another trouble. An objection in which there is a great deal of force is that the nominating conventions would, in truth, designate the Senate, not only for one party, but for both. I do not intend to discuss that point at length. I do not think there is any great difficulty in making good nominations, as some gentlemen seem to imagine, in the State conventions. There is undoubtedly a great risk, and especially where a large number are to be selected.

Then, again, it occurs to me that this proposition is taking the elections too far from the people. The Senate of Pennsylvania has no assimilation to the Senate of the United States, for there the Senators represent sovereign States. The counties of this Commonwealth, or any number of them, do not amount to sovereignities. There is not that distinction between a Representative in the Senate

and a Representative in the House at Harrisburg that there is between a Senator and a member of the House of Representatives at Washington. That plea, therefore, does not come to the rescue of the plan of the delegate from the city.

Now, we have offered as a substitute for that the proposition which has been presented by the delegate from Allegheny, (Mr. D. N. White,) and which brings the Convention in a position, as I said before, to make a selection. If something in the nature of the old plan of apportionment is to be adopted, my impression is that that submitted by the gentleman from Allegheny is about the best you will get. If on the other hand the districts are to be shaped in order that the limited vote may be applied; or if we are to adopt the plan advocated by my distinguished friend from Columbia, (Mr. Buckalew,) the cumulative vote, and are to consider an entirely different system from any that has been in existence heretofore in the State, we can take our position with reference to it now. Those who are against the proposition of the gentleman from the city and incline to the old plan of apportioning according to population will look more favorably upon the last proposition submitted. As I understand this proposition it has what will be a special merit in the eyes of my friend from Columbia. It dispenses with the apportioning or gerrymandering the State hereafter, if it has the effect which the gentleman says it has. As I understand it, the increase of population at the end of each decade would be added to the ratio, and the apportionment would be adjusted by the Legislature simply to that extent, that the Legislature would not have the right at the end of ten years to re-form the several districts and gerrymander the State in accordance with what might then be the political or partisan sentiment. It would simply adjust the apportionment by applying the increase of population to the ratio, and it is based, as I understand it, upon a count of about one hundred and fifty members, allowing some increase for the fractions in the several counties.

That is the whole proposition as I understand it, and now, sir, it becomes necessary for me to conclude whether I will go with the gentleman from Columbia in his plan of what he terms minority representation, or I will select one of the other plans before me. I am not inclined to the first proposition, for the reason that I have stated. I think there are insurmount-

able difficulties in the way of electing Senators for the State at large. I am not willing to say that I would in no measure accept the plan of the gentleman from Columbia as the whole is applicable to both branches of the Legislature, but as applied to political offices of such large discretion I am quite disinclined to it. I am not inclined as to representative office to apply a system of voting that fixes the result in advance of the election. Indeed my whole mind inclines in the other direction. Our experience has indicated the necessity for political firmness and purity. In other words, the time has come when good men of all parties must stand up and rebel against the bad consequences of mere partisan organization. I am one prepared to do that. I shall at this time, as far as in me lies, seek to restore this Commonwealth and this whole country, back to its original purity in the elective franchise and in the representative principle against anything else that can be brought up. I think in those departments are just now the diseases of our whole system, and I shall therefore go for those measures which I think are best calculated to purify the elective and representative features of our government, regardless of minor considerations.

I therefore would prefer some mode, if there be one, which will give to those who are not politicians, who are very independent in thought and purpose, the opportunity of overthrowing what politicians may do in their conventions, than one which will make the work of these conventions conclusive. These are the ideas which constrain me against the plan of the limited vote, as applicable to the election of members of the Legislature and it at the same time inclines me against the amendment of my friend from the city.

I will not close these remarks without alluding to the labors of the distinguished member from Columbia, and whilst I differ with him with reference to this principle as applicable to a political office. When there is large discretion, I have gone and I will go with him to apply this principle to a ministerial office, where it is entirely proper that a minority should be certainly represented. I will favor its application to the election of judges of the courts; but for all I can learn of it, I am not inclined to apply it further. I say with great deference, for I only express exactly what I feel when I say that I know no man whose clear judg-

ment commands more of my respect and confidence than do the views of the gentleman from Columbia. But on the question of the cumulative vote, I have differed with him ever since he has introduced it, and yet in some measure I have been willing to apply the principle.

With these remarks, as between these propositions, I shall vote for that offered by the gentleman from Allegheny.

MR. CURTIN. I will trouble the Convention but a very few moments upon this question. It was my impression Mr. Chairman, that this Convention was called for the purpose of giving to the people of Pennsylvania, as the most important consideration, a larger representation at least in the popular branch of the Government of the State; and nothing that has occurred in the proceedings of this Convention, or in any response made to its action from the people at large, has changed my view of the reason for our presence here. But as gentlemen are inclined to express what their opinions may be, in anticipation of the vote in this Convention on this very important subject, it is, perhaps, my privilege, and I will fully avail myself of it, to declare that I am in favor of a large increase in the number of members of the House of Representatives. Early in the sessions of this Convention, when we assembled in Philadelphia, on some occasion which arose incidentally, I declared that I was not in favor of any increase in the Senate. The delegate from Philadelphia (Mr. Cuyler) has introduced an amendment of this section of the article, providing for the election of the Senate by a general ticket. Whether that proposition receives the approbation of the majority of this Convention or not, I shall vote for it most heartily. I only regret that in that amendment he enlarges the number of Senators. We have given enlarged powers to the Senate of the State. We have made that body a part of the executive power, as they confirm all nominations made by the Executive of the State; and to give them further dignity and elevate the character of their office still higher, let us make the Senate the representative body of the whole of the people of this Commonwealth. Then let us enlarge the number of Representatives in the popular branch so as to give every community a Representative and every interest in the State, if you please, representation.

One hundred men representing the four millions of people of Pennsylvania with

their diversified interests, pursuits and property, with our unprecedented growth in wealth, and power, and population, is not a republican representative government; we are no longer a representative democracy practically; and why one-third or one-fourth the number of Representatives in the popular branch should be made the number of the Senate, I cannot understand; that is political arithmetic. The Senate might consist of 50, or 40, or 30, or 20. It is an intermediate conservative body between the Representatives of the people and the Executive and performs part of the executive functions of the Government; but when you come to a representation of the body of the people you must get your Representatives down to the great body of the people and represent every interest and every community in the Commonwealth.

I should be sorry indeed as a citizen of my State to put the increase of the Legislature, or its decrease, on the footing that men are venal and may be bought, and that it is easier to buy one hundred men than three hundred, or that as you increase the number of Representatives you increase the venality of the men because you lessen the standard of the Representative. I put the increase of the Legislature on other grounds than that, and my impression is that we have said quite enough of the venality of our Representatives and the corruptions of our government in this body; and while men may have their opinions on that painful subject and full knowledge, it is better perhaps that we should not publish it to the world, for we have said so much on the subject in Pennsylvania that we are a by-word, and it has grown into a proverb all over this country that the Legislatures of the other sister States are becoming quite as corrupt as the Legislature of Pennsylvania.

Now, we are just about as good as other States, and our people quite as honest as the average people of the country; but whether the Legislature be corrupt or not, let us put it upon the principle that we have increased in population, our interests are more diversified, our wealth larger, and that one hundred men are not enough to represent four millions of people employed in all the arts that produce, and that we are no longer a representative democracy with so small a number as one hundred in the popular branch of our government.

Mr. Chairman, if we are in danger of radical change, if not indeed the loss of

our government in form and substance, we are to look for such a calamity, not so much from the corruption of public officials and of Legislatures, which in sorrow we are forced to confess, as we are from too much centralization of power. It is the highway of history that democratic representative governments fall by reason of power stealing from the many to the few; and if the principle asserted by my friend, the eloquent delegate from Dauphin, (Mr. MacVeagh,) be correct, and you make your Legislature forty-seven instead of one hundred, you might make it thirty-seven or twenty-seven or ten or five or one—an oligarchy, an aristocracy, or a despotism. And it will not do to say that that may lead us to an extreme on the other side, because if you are represented by one hundred and you increase it to two hundred you get near the people; if you increase it to three hundred you are still nearer the people; or make it a thousand, or if it were possible collect the whole body of the people together to make laws for themselves, you would have a pure democracy. The point to ascertain is exactly where you can have the body of the people represented and continue your government a representative democracy and yet not make the number unwieldy or inconvenient; and if one hundred men were required to represent Pennsylvania in the infancy of the State, in our progress three hundred men would not be out of proportion to represent this people now, in its existing and positive enlargement.

The representatives in the Legislature should come not from single districts. Surely, as was said by the delegate from Indiana, that experiment has been tried in Philadelphia, and if there be any part of what is said true of that experiment, it is an absolute and most signal failure. Members of the Legislature should represent communities—cities, counties, distinct organizations; and in representing cities or counties, communities, they represent the body of the people and all their interests; and the more you enlarge the number of your representatives, so as not to make the body inconveniently large, the nearer you get to the body of the people. While it may be true that there is corruption on the part of officials, it is a high and consolatory satisfaction to know that in this State at least the great mass of the people retain their integrity, and are as yet untainted by modern degeneracy. If that proposition is not true,

then our form of government is a failure and all the arts and appliances we throw around to hedge in our members of the Legislature and all we do to protect us from the improper execution of duty on the part of public officials becomes as a rope of sand, and the end may be soon approaching.

The proposition is not to be controverted that the body of the people think and act honestly; and if that be true, the more you can have that body represented in your Legislature and the nearer you get to their instincts and feelings, the nearer you are to a representative democracy and the more hopes you may have of the perpetuity of our form of government.

Mr. Chairman, five hundred years before the christian era there was a nation governed as a pure democracy, and while a democracy they filled the world with their eloquence, their arts, their logic, and their philosophy, and I need not speak in the intelligent presence in which I now stand of the gradual withdrawal of power from the people of Athens until the Thirty Tyrants robbed the people of their liberties; and their history is found in the broken monuments of wonderful art, science, literature, and philosophy. Nor need I speak of a nation that succeeded them, who filled the earth with their laws and their institutions, and their glory and their power; and when the pro-consuls of Rome carried the laws of that great country to the farthest part of the earth, where they were administered to the people conquered and civilized; it is history how great the power and the growth of the Roman people, and how power contracted narrower and less from the people to the imperial city until finally it found its representative in the imperial purple!

Mr. J. S. BLACK. By means of legislative corruption, was it not?

Mr. CURTIN. By means of taking from the people their power and centralizing it.

Mr. J. S. BLACK. How did it happen? By means of legislative corruption, did it not, that the powers were stolen from the many to the few?

Mr. CURTIN. No, sir; my reading of the history of the events to which I referred and the gentleman's is not the same. At any rate, there was progress, and glory, and liberty; and when the power of the people was broken, there was slavery and degradation, and the pall of the dark ages fell upon the world for years after the dissolution of the empire,

when it was concentrated in the throne, and a debased people became slaves of tyrants. And how is the record of history as to the free cities of Europe, where they enjoyed the blessings of freedom when the people were represented and held the control of their own government? It is the highway of history. Where you have a democratic form of government, you must give it to the people, spread it out over the masses, and let them be represented; for, when you concentrate power and centralize it, you take it directly from the people, and that is the history of the breaking up and the downfall of republican governments; and if the people be honest, as the body of them certainly are, then let us have them in Pennsylvania represented.

I have deplored the centralization of power in the general government of this country. I know quite well that during that terrible struggle, which ended in the re-establishment of our form of government, there were vast powers necessary to the central government—vast concessions unknown before, and which could not have been yielded from the people but for the public necessity; and I know equally well that what was secured for popular government was worth all the precious blood shed and the treasure expended in the re-establishment of our government, the enhancement of its power and its glory and the happiness of the people, and in raising to the common level all humanity that stands upon this continent. But, Mr. Chairman, it will not do to concentrate that power too far; and while it is true that before the war the pendulum swung far to State rights, and caused the unhappy differences which lead to the fraternal strife, it may be that it swings too far the other way now, and that we may forget the sovereignty of the States and their true independence, which makes and marks the beauty and symmetry of our theory of government.

I would not sink the State, for it is from that government we receive all the blessings of liberty. For all our means of communication and intercommunication, all our rights of property and person, all our charities, our schools, and our public improvements, we look to the government of the State and not to the national government. We are part of a great compact which gives nationality and power to the central government, but I would have my State stand up always for her true guaranteed rights of sovereignty, and not

yield them to the growing central power. I would have my State go on in its glorious career of progress, of its development, of the increase of population and wealth, of the happiness and prosperity of the people. I would have men in Pennsylvania look to the State for honor and emolument and place and position, stay at home to gratify their ambition. This looking continually to the central government was not designed by the wise men who formed it; it is a perversion of the whole system; it will degrade the States in the end, and give us this centralization which has caused the downfall of so many governments before. I hope Pennsylvania will always maintain her integrity, her honor and her place as the great conservative State of the Union; and if when she has grown old, with all her branching honors about her head, with the trade of her mines and her woods and her fields; if this great old Commonwealth forgets herself in her integrity and as a mendicant in rags offers her toothless gums to the Federal breast for all honor and place, some antiquary will search in the records of this Convention and find that one man at least of the body uttered a word of sorrow in anticipation.

MR. EWING. Mr. Chairman: There are several questions contained in the propositions now before the House, one or two of which I wish to discuss, and others simply to express an opinion upon.

The first proposition of the gentleman from Philadelphia (Mr. Cuyler) fixes the number of Senators at fifty-one and the number of Representatives at one hundred and fifty. For one, I do not deem the number very material. My vote on that question will depend on the manner in which they are chosen. The Senate cannot be made so large as to bring home each member to the personal knowledge and acquaintance of his constituents. I would prefer seeing that remain about as it now is; but the number of fifty or fifty-one is not seriously objectionable. The number named for the House meets my approbation provided we can have them elected by single districts. If not, then the more we have in the House, the worse it will be. I prefer to lessen rather than increase the number unless we have single districts.

The second proposition of the gentleman from Philadelphia strikes me as very singular, coming from the source it does.

THE CHAIRMAN. The Chair will re-

mind the delegate from Allegheny that the question now is on the amendment to the amendment, offered by the delegate from Allegheny (Mr. D. N. White.)

MR. EWING. Yes, sir; but if the Chair please, I think it is strictly germane to the subject to discuss the original amendment to show why I am in favor of the amendment to the amendment.

The second part of the amendment I say is very singular, considering the source from which it comes (Mr. Cuyler.) That gentleman a few weeks ago was very ardent in his denunciation of those who would reduce or limit the representation of the city of Philadelphia in the Senate, and yet he presents us here, a proposition which would cut down the representation of his city more than one-third. He would give to each county a Representative without charging it to population and then divide the balance among the different counties in proportion to population. It would leave Philadelphia with less representation in a House of one hundred and fifty members than it has at present in a House of one hundred members; and so of Allegheny and other large counties.

Now, in regard to this subject of "cumulative voting," "minority representation," "proportional voting," and I do not know what other names it goes under, I do not intend to discuss that, but merely once for all express my opinion in regard to it. I am opposed to it in all its forms, not as a party measure, not from any partisan view, but because I believe it to be fundamentally wrong, a political heresy and a dangerous one. I believe that instead of *parties* being entitled to be represented in the government, as is intended by those propositions, it is the *people* that should be represented and not parties. I believe that minorities have rights. They have the right of being protected under constitutional forms, under equal laws, and the right to get into the majority just as fast as they can; and those are all the rights they have in regard to voting. This plan seems to me to be exceedingly well suited for the political millenium when it comes, but I think exceedingly illly suited to bring about that political millenium.

Now, in regard to the proposition of my colleague from Allegheny (Mr. D. N. White,) while it does not precisely suit my views, it comes much nearer them than any of the others, and it has this advantage, that it is easily susceptible of

amendment. For instance, in regard to the number of the Senate and of the House and several other matters, it can be very easily amended to suit the views of the majority; and I shall vote for it, hoping that some amendments will be made to it if it is adopted.

But, sir, the matter on which I wish to speak especially is the subject of representation in the House of Representatives by single districts. I believe it to be a great advantage and one of the principal merits of this provision. I do not believe, as some gentlemen have said on the floor, that it is a signal failure. I do not think they have the facts to justify that conclusion, nor have they given any sufficient reasons for the conclusion. I have said that I was in favor of a larger House of Representatives provided we had single districts, and for this reason especially: I wish the Representatives to have so small a constituency that each voter will know individually and personally his Representative and that that Representative will know personally his constituents.

A great deal has been said here in regard to Massachusetts and some other States, and their Legislature have been praised as being entirely free from corruption, as being perfect models. How is the Legislature of Massachusetts constituted? I think it a fair example of this matter of single districts. You will find, Mr. Chairman, if you go to any of the counties of Massachusetts and have occasion to mix among the people, that each town as they call it, corresponding to our large townships, has its representative, and you will find that every voter in that town knows his representative personally. You will find further, on inquiry among them, speaking about their general matters, that each man can tell you what sort of a representative they have had, and he will tell you what "Mr. Smith," the Representative from Stockbridge or North Adams, or whatever it may be, in the House last year has done—how he had voted on important subjects. They watch their men; they are careful in regard to them; and if their Representative commits any offense; if he casts a wrong vote, they know it; they watch him; he is responsible to the men at home; and they are much more careful in the election of their Representatives than they would be if they did not know them personally. Those Representatives have something at stake at home. They

have a responsibility that they have got to meet before their immediate constituents, who know them and talk to them and watch them.

I believe *that is the principal reason* why the House of Representatives of Massachusetts is better than that of other States, and not because they have a large House. I do not believe it is any harder to corrupt a House of five hundred members than it is a House of one hundred. I do not believe it is any harder to corrupt the Senate of the State of Pennsylvania than it is to corrupt the House. In fact, I have been informed by some gentlemen who profess to know in regard to that matter, that if parties take \$25,000 down to Harrisburg to buy legislation, they will appropriate \$15,000 of it to the Senate, and about \$10,000 to the House.

Now, in our own State in regard to this matter of single districts we have had some experience in the county that I have the honor to represent. We have a large county and are entitled to a large representation. We have seven Representatives from Allegheny county. Now, Mr. Chairman, I have at different times mixed a little in politics, and if ever I did anything that was entirely disinterested and public spirited in politics it was in going into a county convention with the honest endeavor to get a better class of men to represent the county at Harrisburg. I found this difficulty: If you go into a convention in a large county where you have five, six, seven or eight members to elect, you will find perhaps twenty or thirty candidates; you will find that there has been an immense amount of log-rolling and slate-making done prior to the meeting of the Convention, and done by men who pay attention to setting up delegates in the different districts and making prior arrangements with each other, and it is impossible to upset those arrangements; they are made regardless of the character of the men who are candidates, and you are just as likely, and a little more likely, to get in a scheming, sharp ward politician than to get in a man of ability. I undertake to say that any half dozen of the best men in this Convention representing the city of Philadelphia in a convention formed in that way in this city could not get a nomination for the lower House of Representatives.

Then again when you have made those nominations in a large county, say six members, the result is that there is not a

man among them who is known all over the county, who is known personally to the voters, and he is carried through by his party majority regardless of his character, regardless of his qualifications. It may happen, and it has occurred very frequently with us, that some man who is nominated and who is totally unfit for the position, is cut down one or two or even three thousand votes in his own immediate district where he is known; but the party majority is so large in the county that we could carry the devil if he was on the ticket. But, sir, if that same man had been nominated in his own separate district, he would have been defeated.

Then again for the last three years under a constitutional provision, we have had the city of Pittsburgh separated from the county of Allegheny, and it elects two Representatives in single districts, thus reducing the number to be elected in the county. I think every man who has paid any attention to the subject will say that the result has been very beneficial both on the members from the city and the members from the balance of the county. There being fewer members to elect from the county, there is less log-rolling; and in the city, although there is a fair party majority in each district yet they have felt bound to nominate better men than they nominated before; otherwise, they would be defeated; and they came very near being defeated on two or three occasions. This I believe will be the general result.

Gentlemen say that the system in Philadelphia is a failure. Have they given us the facts on which we can determine that? They say that the character of the Representatives from Philadelphia has constantly deteriorated. Possibly that may be the case. It seems to have become chronic to abuse every man who occupies an official position in Philadelphia. Some of my earliest recollections (and I am not a very young man) are of changes made in regard to the character of the representation of Philadelphia at Harrisburg. I recollect when a very small boy of hearing it said over and over that they usually sent one or two decent men from Philadelphia and the balance were of no account. That may or may not have been true; I do not know; but I know it was the common report in our end of the State. Whether they are any worse now or not, I am unable to say. A gentleman alongside of me says they omit now the "one or

two good men." But would they send the one or two good men if it was the whole city that had to be manipulated? I do not believe it. I believe, on the contrary, they would send much worse men than they now do. They have larger districts for the Senate. The city is divided into four Senatorial districts, and I understand them to make the same complaints in regard to their Senators. I do not believe they will improve their representation by having larger districts. On the contrary, it will be a disadvantage. If the people will turn out, if the good men of the city will refuse to vote for bad nominations that their parties make, there will not be much difficulty in defeating a bad man in a single district; but let them nominate any man and vote for him by general ticket throughout the city and they cannot defeat him; the bolting of a few thousand men does not amount to anything there, but the bolting of any considerable portion in the single district where he is known does amount to a great deal and will compel the nomination and election of better men.

That there has been some deterioration in our representation, I believe. It occurs, however, not from the single districts that they have in Philadelphia. It occurs largely, I take it, from two causes, first, we are suffering the general demoralization which inevitably follows all great wars. It always has followed them. I believe it always will follow them. Again, we are suffering that general demoralization throughout the country that usually follows an inflated currency and times of great speculation. Men become absorbed in the pursuit of wealth and they pay no attention whatever to anything but that mad pursuit; they ignore politics, ignore all matters of public welfare, and they only wake up when they find some great evil staring them in the face and find their property in danger.

The CHAIRMAN. The Chair will inform the gentleman that his time has expired.

Mr. STEWART. I move that the gentleman's time be extended.

Mr. EWING. I merely wish to say that I shall vote for the amendment offered by my colleague, (Mr. D. N. White,) believing it to be the best one offered, though capable of amendment in various particulars.

Mr. J. S. BLACK. Mr. Chairman: I desire to say a single word at this place. I wish it to be known that I heard the re-

markable speech made by the gentleman from Centre (Mr. Curtin) and that I dissent from all that part of it which may be called the political morals of it. He thinks it does not make any difference at all whether the Legislature is corrupt or honest; that although it may be true—and that is a fact which he does not undertake to deny—that the Legislature of this State is utterly corrupt, we ought not to say anything about it. He is even disposed to rebuke men who do speak of it.

We have become, says he, a by-word all over the country. No doubt, he is right about that. We are a by-word and a hissing and a scorn, not only all over this country, but over all the world. But, instead of looking that fact fairly in the face and trying to get some kind of remedy for it, he desires to ignore it altogether. It is the cancer at the heart of the Commonwealth; it is a fretting leprosy; it is destroying the life of the people; it is consuming their life's life, their good name and their liberty; but he thinks it wrong to oppose it or prevent it from having its free course—we should court the ruin which it is sure to bring upon us.

In my opinion, Mr. Chairman, we were sent here mainly for the purpose of furnishing, if we can, some peaceable remedy for that great evil. The people had no other object in calling this Convention except that and one other; the other was to purify the elections. If we fail to do these two things, then we, the members of this Convention, will become a hissing and a by-word and a scorn. But that is what the gentleman proposes to do. He would not notice, even by a word, the corruptions he came here to eradicate. He believes that legislative corruption is no injury to a Republic. The destruction of the ancient Republics was not, in his opinion, produced in any degree by the corruption of their legislators. Why, sir, it is absolutely impossible that a free people can ever lose their liberty, or part with their power, in a peaceable way so long as they have a faithful Legislature unawed by influence and unbribed by gain. They may be crushed by physical force; hostile millions may press them to the dust; but there is no way by which a government can ruin itself other than through its Legislature. If the Roman Senate had been as pure, independent and fearless in the days of Julius Caesar as it was in the time of Numa Pompilius, Rome (reasoning ac-

ording to human probabilities) would have been in the plenitude of her power to-day. But she rotted to pieces just as we are rotting now; the last hope, as well as in every other Republic, we have, is in something that will arrest that downward tendency and save us, if not forever, at least for some time to come.

Mr. Chairman, I dislike to die and leave such a legacy as this to my children. It is the dearest wish of my heart—there is not anything, if I know myself, that I would not be perfectly willing to sacrifice for the sake of obtaining from this Convention some proposition to be submitted to the people which would, without doing injury to anybody, simply eradicate this awful disease of the body politic and save the State from political degradation and demoralization.

Mr. Chairman, I make no imputations upon the integrity of any man who is a member of this Convention—least of all upon that of the distinguished gentleman from Centre who has held and still holds so high a place in the public confidence. He has my best wishes for his political prosperity. Nobody rejoices more than I do in the public honors that have been showered on his head. But it is shocking to hear him defend legislative corruption. I do not say he defends it as a thing he approves of, but as an evil that he would tolerate. He defends it against the attacks of those who would destroy it. Why, sir, if we refuse to furnish a remedy for the crimes committed at Harisburg, or if we do not suppress the criminals, we make ourselves accessories to them.

Mr. CARTER. Will the gentleman permit me to ask him a question?

Mr. J. S. BLACK. Yes, sir.

Mr. CARTER. I should like to ask the gentleman what practical remedy he can suggest to meet the evil we are considering?

Mr. J. S. BLACK. Does the gentleman mean what practical remedy can be suggested in connection with the question now before the House?

Mr. CARTER. In connection with the question before us.

Mr. J. S. BLACK. My remarks were intended as an answer to the gentleman from Centre and are not any further away from the subject before the committee than his were. [Laughter.] But with reference to the question directly before the committee, I would say that I do not care whether the Legislature in either

branch of it shall be larger or smaller than it is now. I do not believe that there is much difference between the honesty of a small body and a more numerous one. What I desire is, that there shall be some mode of organizing the Legislature which will supersede the necessity of apportionment bills. That is the cause of a very great deal of the corruption and demoralization. I should think that that would have been effectually prevented if the amendment offered by the gentleman from Allegheny (Mr. S. A. Purviance) had been adopted. It was not adopted; but I think that something will probably be offered before the committee disposes of this article finally which will have the same effect; that is, to fix the representation within certain territorial limits. Say that every county shall have a Representative and one more Representative for every certain number of inhabitants, and let it be ascertained how many each county is entitled to by a proclamation of the Governor within a certain period before the election, and then the Legislature will have nothing to do with changing their own districts afterward for the purpose of re-electing themselves. If you think that it would be too much to give one Representative to every county, then say that every county shall have one Representative which contains the necessary number of inhabitants, and that two counties shall be united together or that one shall be joined on to another one until it has that number. It can be so arranged as not to make either House unwieldy and at the same time make it unnecessary that there should be any apportionment made by the Legislature. In that way, the thing can be done in the Constitution with more justice and more propriety than it is ever likely to be done when you leave the matter to be attended to by the members of the Legislature themselves.

Let me say one word with reference to the proposition now before the committee. I understand it to be a proposition that Senators shall be elected by general ticket. ["No." "No."] That is the one that seemed to have the favor of the gentleman from Centre. I cannot imagine anything more demoralizing than that would be. One House of the Legislature is then elected entirely by a political oligarchy. The gentleman talks about the power of the people. Where would the power of the people be, suppose you put the power into the hands of the politicians to nomi-

nate the whole body of the Senate at once, for four years, or any number of years? During that time the men who nominate themselves may do great mischief, for there is no use of talking about that being a nomination of the people or a representation of the people. We know it is not. We know that the people have nothing to do with such an election as that, except simply to register the decrees made by the politicians, who would assemble at Harrisburg or Reading or Philadelphia or wherever else they might choose to go, and we know that the nominees of the State Convention would not be chosen as such on account of any merit they possessed, but simply for the running qualities, and not their running qualities before the people, but their running qualities before the Convention. [Laughter.] One would run well because he was willing to carry the other on his back.

Mr. BOYD. Would the gentleman think it wise to give a Senator to each county?

Mr. J. S. BLACK. No, I think that would be too numerous.

Mr. BOYD. Would not that be better than electing them at large.

Mr. J. S. BLACK. I would divide the State into senatorial districts as nearly equal as may be.

Mr. DARLINGTON. This Convention divide them?

Mr. BLACK. Yes, here now divide them into a certain number, say five, or six, or ten.

Mr. DARLINGTON. Or thirty-three.

Mr. J. S. BLACK. Thirty-three if you like; I do not care how many; and then give to each of these senatorial districts its proper representation in proportion to its population present and anticipated, and then make no change at all hereafter or if any change—

Mr. LILLY. I should like to ask the gentleman how he would make those districts without the intervention of the Legislature or somebody else?

Mr. J. S. BLACK. Do it here now. We do not want the Legislature to interfere.

Mr. LILLY. At the end of ten years those districts may alter very materially. How then? You would not call another Convention?

Mr. J. S. BLACK. The proportion of population in these senatorial districts may alter very materially even in the seven years for which they now stand.

Mr. LILLY. At the end of seven years the Legislature intervenes and changes them.

Mr. J. S. BLACK. But always for the worse by making the disproportion greater, but if you please you may add to that provision about senatorial districts just what you put in as to the Assembly districts, that if one district has outgrown the others very much its proper proportion of representatives may be ascertained by the census or by the count of the taxables, whichever way you please, and let the Governor when he issues his proclamation say how many representatives each senatorial district is entitled to. But so far as regards the territory that is to be represented together, let it be ascertained now and fixed as my friend from Dauphin (Mr. MacVeagh) would say, within the fast and rigid rules of the Constitution.

Mr. LANDIS. Would you prefer a board of apportionment?

Mr. J. S. BLACK. No, sir. I would be afraid of them. Who would appoint the board of apportionment?

The CHAIRMAN. The Chair must remind the gentleman from York that his time has expired.

Mr. DARLINGTON. I move that his time be extended.

Mr. J. S. BLACK. I am done.

Mr. LAWRENCE. Mr. Chairman: We have heard discussed this important subject of the composition of the Legislature by the able representative from York, (Mr. J. S. Black,) and we have discovered from his remarks how difficult this question is to deal with. If he, with all his experience and acknowledged ability, is not able to point us to some safe and practical plan for adjusting this question, we may expect that we ourselves shall fail in the effort. The gentleman from York has no definite plan himself. He has general ideas on the subject, as most of us have, but he suggests no plain and practical settlement of the matter.

There was much force in the remarks made this morning by the gentleman from Columbia, (Mr. Buckalew,) as there always is, in his views on a practical question, especially with reference to the apportionment of the State. This is one of the most important subjects that can be here considered. If we can adopt some plan by which the State can be apportioned without being subject to the objections which naturally arise, and which are presented by him with so much force, I think we shall have accomplished a very great work. Some of us have had some experience in the matter of apportioning the State under polit-

ical influences. I recollect very well when my friend on my right, (Mr. Armstrong)—I do not know whether he recollects it, or not—with a very prominent reformer who now lives in the eastern part of the State, and myself, sat up one night until one o'clock apportioning this State—some would say gerrymandering the State. We were making congressional districts; and I recollect how anxious I was to make one to let my friend go to Congress, and he was just as anxious to serve me, and did it. [Laughter.] I mention that simply to show the personal feeling that operated. We performed the duty according to our own ideas, and I think made a very good apportionment.

Mr. KAINÉ. Will the gentleman from Washington allow me to ask him a question.

Mr. LAWRENCE. Certainly.

Mr. KAINÉ. I want the gentleman to state here and now whether he thinks that apportionment was not most infamous?

Mr. LAWRENCE. Certainly not, because it sent some good men to Congress. It sent my friend from Lycoming, (Mr. Armstrong,) and defeated my friend from Fayette. [Laughter.]

Mr. KAINÉ. No, sir.

Mr. LAWRENCE. Perhaps it did not defeat him, as his district is Democratic; but I only refer to this to show that these things will always be managed by the party in power. The apportionment we made was a fair one, although there were one or two districts that looked badly on the map, I confess—I refer to the Erie district, and one or two others.

Mr. KAINÉ. The gentleman's own district.

Mr. LAWRENCE. No; my district was a compact district—Greene, Washington, Beaver and Lawrence, lying together along the line of West Virginia and Ohio, and united in business interests.

The CHAIRMAN. The Chair must remind the gentleman from Washington that his county is not part of the amendment.

Mr. LAWRENCE. I believe I am strictly in order. The propositions that have been discussed here this morning have been the formation of legislative districts, and the idea has been advanced that we ought to provide some better plan for districting the State. That was the idea discussed by the gentleman from Columbia with so much force, and he proposes that you have a commission of ten or

twelve men to apportion the State. I say that there are objections to that plan, and great objections. We will see much abuse from it if adopted, and I want to prevent a repetition of the abuse, and, therefore, I will vote for the amendment of my friend from Allegheny (Mr. D. N. White.)

I object to the plan of the gentleman from Columbia for several reasons. It is liable to the same objections that are now urged against a legislative apportionment. If you elect twelve members of a board to apportion a State, you will nominate them in State convention, and they will be nominated just as your Senators will be, under the influence of the railroads and other corporations. It will be just as impossible to get a fair re-districting of the State under this commission as it will be under the Legislature. The one will not be a tithe better than the other. They will, as soon as elected, fix up districts in their personal interests, and gerrymander just as effectually as any committee of the Legislature. They will make districts to suit majorities, and that constitutes my objection to this plan. I do not see how it can possibly be better than to allow the Legislature to do it.

One of the great evils that we wish to remedy and get clear of, is the division of the State into districts merely for political purposes, so that this party or that party shall have a majority in the House of Representatives or in the Senate. That is the reason counties are joined together, as are now the counties of Beaver, Butler and Washington in order that it may be a Republican district and elect four members to the Legislature. I only refer to this district as a sample. So it is all over the State. It will be done by the party in power whether Republican or Democratic. It has always been so and it will always be so, and it will be no better under the plan proposed by friend from Columbia.

I know that both of these plans are open to objection; but the great objection that I have to the amendment of my friend from the city (Mr. Cuyler) is that which has been partially referred to by the able gentleman from York. I am unchangeably opposed to the system of electing Senators at large, and I cannot conceive of a better way of consolidating the opinions of the Senate than that proposition. You take fifty Senators from any part of the State—not to place them all over the State, because there is nothing in the amendment which provides for that;

suppose you nominate fifty senators, if you choose, twenty-five by each party, in a State Convention, to be elected on a general ticket. Have you any assurance that this city of Philadelphia will get her proportion, have you any assurance that any other part of the State will get her proper proportion of the representation? How do we know in Greene, or Fayette, or Washington, or Beaver, or Butler, or Lawrence, that we shall get the men we want to represent us? That would depend very much upon the character of the State Convention, and our past knowledge of those bodies is not calculated to give us much encouragement of a beneficial result from such a quarter. There are other gentlemen here who have had as much experience in State Conventions, probably as I have, and I have been in them since I was very young. At times I have seen them fairly and honorably conducted, and I have seen them again and again under the opposite management. I have seen the best men set aside by the action of those "conventions"—not by the people, probably, but by what are termed "rings" and "cliques." I have seen men sit in a room quietly in Harrisburg and telegraph to this city whether it would do to nominate a certain gentleman for a State office.

So I say, if you desire to make the Senate of Pennsylvania subservient to the interests of the great corporations, and not of the people, let these State conventions nominate the Senators, then elect them, and you will have a class of men subservient to a power which the people cannot reach. What assurance could I have, could any man in my district have, that we could reach our Senator so nominated and so elected, by any proper influences we might bring to bear? Let the State conventions nominate our Senators, and I give you my word for it, they will nominate such men as will answer the purposes of the very men to whom I refer. There will then be no consonance between the Senate and the House of Representatives coming, as the latter will, directly from the people as *they should come*, as my friend from Centre (Mr. Curtin) says; and on that point I agree entirely with him. I do not care whether you take the single district system or not; I prefer that on the whole; and I do not care whether you increase the number or not; but let the Representative come from the body of the people and he will represent their sentiments. And let the Senators come from the districts rep-

resenting special and great interests; let there be Senators representing the oil regions and the lumber regions; let the Senator from Luzerne and that region come representing the great mining interest, and let the Senator from my district come representing the agricultural, and, if you please, the woolen or the manufacturing interests of the State; but let all portions of the State be represented, and do not let it be in the power of some cabal to meet at Harrisburg and nominate your Senators and elect them for their own purposes.

These are some of the objections I have to the plan of my friend from the city, and I shall never vote for it. I do not care whether you increase the number of Representatives to one hundred and fifty or leave it at its present limit. I am just as well satisfied with one hundred as I would be with one hundred and fifty, and I will be satisfied with the present number of Senators or any other number if you will only let the people elect them. Trust the people. You may corrupt a few politicians; you may corrupt a State convention; but you cannot corrupt the body of the people. That is my faith in republican government. You may corrupt an individual here and there in a district; but when you come to corrupt the mass of the people, somewhere you will find honesty and integrity and sternness of character, and you will be exposed. So it is in my district at least. I have the right to speak for that people, and I say that no man in the counties of Greene, Washington, Butler, or Beaver or Lawrence ever tried to corrupt the honest yeomanry of that district with money and with success. I never heard of but one district in all these counties where any corruption was charged, and that was among some coal miners, where irregularities were alleged. Our elections are as fairly held there to-day as they were forty years ago; nobody pretends to poll an illegal vote; and there the people know their Representatives and are willing to trust them.

For myself, I have no hesitation on this question. I know how difficult it is, after hearing all the various propositions, to decide which is the best. In the proposition of my friend from Chester (Mr. Darlington) there is much merit. There is good sense in every proposition he presents, although he talks too much on them. [Laughter.] There is a great deal of plain, practical worth in this propo-

sition he has presented on this subject, although he used a multiplicity of words to explain it. But out of all these propositions, I select that of my friend from Allegheny (Mr. D. N. White.) It brings the representative right home to the people. In the country, when nominations are made, the best man is almost always brought out, and every man in the district knows him. And when the representative is elected he knows what the people want, and he procures it. He knows the people and they know him, and from their knowledge confide in him. Therefore, I say let us have the single district system. I think this the fairest in all respects that has been presented. I have no time to give an analysis of it, but it takes it out of the power of the Legislature to gerrymander the State, at least to an extent.

MR. LILLY. How so, I would like to know?

MR. LAWRENCE. It leaves it to be regulated on the basis of population, and is much better than the proposition of my friend from Carbon, to which he is, of course, wedded.

MR. LILLY. Is not my proposition founded on the basis of population?

MR. LAWRENCE. Yes; but this contains certain restrictions which were never found in the Constitution before. The Constitution never said anything about apportionment before, but the whole subject was left to the Legislature. I shall vote for the proposition of the gentleman from Allegheny. I do not say that if anything better is offered I will not vote for that, but for the present I will support it in order to defeat something which I think is much worse.

MR. STEWART. Mr. Chairman: The proper subjects for discussion under this present amendment seems to be manifold. I desire only to refer to so much of the amendment as proposes an increase in representation.

In determining how many shall constitute the several branches of our Legislature, we can be governed by no fixed rules or principles. What I mean by that is, that it is impossible for any man to affirm that a Legislature composed of a certain number is the best possible Legislature numerically, and to demonstrate that fact to the satisfaction of anybody but himself. Within certain limits, the determination of the number that shall compose either branch of the Legislature is the subject of arbitrary regulation and

nothing else. For instance, we can safely say that the Legislature must not be so small as to be a practical denial to the people of representation; it must be essentially a representative body—I refer now to the lower House—while, on the other hand, we can safely say that it must not be so large as to prevent or interfere with the convenient dispatch of business; but within these limits it is a matter of arbitrary regulation, governed by no rule. I care not at what number we fix it, so long as we remain within these limits we cannot go very far wrong or make any serious mistake. But in arriving at that number every man must be governed by his own notions and adopt that number which, within the limit I have defined, he thinks best.

My own conviction is that we cannot improve on the present arrangement. We have now one hundred members and thirty-three Senators. Neither body is too large for deliberate action, nor yet too small to allow a fair and reasonable representation. The gentleman from Centre (Mr. Curtin) shot very wide of the mark when he said that the Legislature of Pennsylvania was not a representative body, that to construct the General Assembly for this State of one hundred and thirty three members, all told, was practically to deny representation to the people. Can it be said that our Legislature is not a representative body when we consider the fact that the popular branch of the National Congress, representing nearly forty millions of people, is composed of less than two hundred and twenty? Our Legislature represents less than four millions of people and yet it has nearly half as many members as that body, which represents a constituency nearly ten times as great.

All I contend for is, that under the present arrangement the representation is not unfair or unreasonable. Other gentlemen may prefer a larger representation within the limits I have referred to. I have no controversy with them. It is, as I said before, a subject for arbitrary regulation, and we can arrive at something definite only by a compromise of individual views and not by argument or discussion. I favor the present arrangement; some desire a small and others a large increase. All I insist upon is that if we determine to make any increase it shall not be so extravagantly large as to make the body unwieldy or prevent a decent and proper dispatch of business.

Even at the risk of impairing the efficiency of the Legislature for wise and deliberate action with reasonable promptitude, a number of delegates urge an increase of the membership to several hundred. They argue that by so doing we secure a better body, in point of intelligence and honesty. This would be "a consummation most devoutly to be wished," and if it could be demonstrated to this body that such would be the necessary result, or even that it would be the probable result, I imagine that the action of this committee upon the question would be characterized by entire unanimity.

But where is the logical sequence? How is the one fact related to the other? Is there any virtue in numbers? None of these gentlemen have as yet told us how a change like this could accomplish so great a result. True, it has been said that it would be more difficult to corrupt a large than a small body. But this is no sufficient answer or explanation. Why more difficult? Would it be so for the reason that it would require a larger fund with which to accomplish it? Might it not be that its only effect would be to reduce the marketable value of the votes of the venal and corrupt, so that instead of buying legislation with pounds as now, it could then be purchased for shillings and pence? That certainly would be no improvement, and yet it seems to me more likely to result from a large increase than the great advantages provided us by the friends of the scheme. We cannot afford to make such a venture on such even chances.

Reference has been made to the New England States. There, it is said, they have larger legislative bodies and purer legislation. I confess I have not much knowledge in regard to the Legislatures of these States, and but little more in regard to the Legislature of my own. Although I have spent my life within fifty miles of the Capitol I never sat for more than ten minutes within the legislative hall except as a delegate to this Convention, nor have I even hung about its gates. I accept it as a fact upon the admission of gentlemen here and common reputation, that our Legislature is corrupt. I cannot accept it as a fact upon their representation that the Legislatures of the New England States are free from this vice. I have heard them assailed elsewhere as guilty of corrupt practices similar to those which have brought reproach upon our Assem-

bly. The people of these States themselves bring the complaint, and I should require something stronger than a mere denial of some gentleman here, whose opportunities of knowing are no better than my own, to convince me that their complaint is not well founded.

That the Legislatures of several of the New England States are so large as to be unwieldy, and consequently incapable, oftentimes, of prompt and decided action when dispatch is needed, we have on the best authority. A prominent citizen of Massachusetts has said, referring to the Legislature of that State, that it moves along like a wounded anaconda, and that the business of the Commonwealth progresses to the music of the dead march in Saul. We can all understand how this would be the inevitable result; but that greater honesty and purity would follow requires a demonstration we have not had.

But, sir, even though it could be demonstrated to my satisfaction that we could increase the membership of our Legislature with entire safety and without impairing its efficiency or the convenient dispatch of business, I would oppose it for another reason, which of itself is enough to control my action on this question.

Sir, I attribute not a little of the public and political demoralization of the country to-day to the too general and increasing desire for political position. We are rapidly becoming a nation of office-holders and office-seekers. It would be interesting to know exactly how many people in our State are in public office to-day. I am safe in saying that there are at least one-third more than we have occasion for, for a public official worked to his reasonable capacity is a specimen rarely met with. It would be still more interesting to know just how many men there are in the State who live in the hope that they will yet be rewarded for their political service with a political office. The figures would be startling; but if we could go a little further, and ascertain just how much all these gentlemen of both classes have contributed by their political conduct and practices, in this regard, to lower the standard of political morality, to debase the civil service of the country and corrupt the very fountain of power, the exhibit would incline us to reduce rather than increase the number of our public servants.

Men desert honest and honorable and profitable employments for the uncertain chances of political strife for easy positions and doubtful honors. The ranks of this grand army of office-holders and seekers are constantly increasing. The enlistments are so numerous that unless we have a civil service as severe and rigid in its regulations as military law, it will be impossible to prevent that army from disgracing itself and despoiling the people it proposes to serve.

It will be unfortunate indeed if, instead of doing what we may to curb and check this inclination, we make it more general by offering to the public more offices and higher bounties. I, for one, shall not assist in any such work, and I trust that a majority of the members of this committee will refuse their aid.

Mr. ALRICKS. I wish to say a word on the proposition now before the Chair. I am inclined to vote for the amendment to the amendment, and against the amendment that was offered by the gentleman from Philadelphia (Mr. Cuyler.) The evil that he purposes curing by his amendment I think would be much enlarged if that amendment should be adopted.

It has been proposed here that our Senators should be elected on a general ticket, and it is said that the objection to electing Senators from the districts is that it *belittles* men. There may be a great deal of truth in the charge. It may be very true that the ward politician is a small man, but he is near the people. But if you undertake to have a State convention, it must be composed of delegates from districts; that is the only way you can get them there. Then every ward politician who is a representative in your State convention sets himself up as an autocrat, and he says "You must nominate the man that we need in our district," and instead of heading off this evil which we have dreaded you only increase it. You give him more power in the State convention than he had at home, and you put him further from his constituents.

Therefore I certainly think it would be a great mistake if we were to elect our members of the Senate by a general ticket. It would be taking power from the people, because if the representatives at home nominate their Senators, those who constitute the district Convention move among their constituents and are immediately responsible to them; but if you send them to a different point to attend a State convention, where the nomination

is made, then they are so far from their constituents that they lose sight of their responsibility and you have all the evils of the ward-politician introduced and prevailing in the State convention.

Then, Mr. Chairman, I have listened with great pleasure to the argument of the gentleman from Franklin, (Mr. Stewart,) and although it may have shaken my confidence and my disposition to favor the increase of Senators and members of the House of Representatives, I am not disposed still to abandon that point. I think that the amendment offered by the gentleman from Allegheny (Mr. D. N. White) fixes the right number that we should have—fifty Senators and one hundred and fifty members of the House of Representatives. It is but an experiment, I grant you. Although it be an experiment, I think we can safely adopt it.

I have looked with great care to the amendment which has been proposed by the gentleman from Carbon, (Mr. Lilly,) but it is entirely too elaborate; there is too much frame work in it. It requires—I say it with great respect—a Philadelphia lawyer to comprehend it in its length and breadth. Therefore I trust that amendment will not be entertained by the Convention.

The distinguished gentleman from Centre (Mr. Curtin) has given us a very elaborate, a very eloquent, but in my humble opinion a very erratic discourse with regard to what would be our duty in this matter. That gentleman has formed the opinion that former republican governments have fallen because of centralization. That is very true, but we have no reason to fear that in our State anything like centralization will be brought to bear upon us to rob us of our liberties. But that gentleman overlooked the fact, which was noticed by the gentleman from York, that in all those ancient Republics the Legislatures became corrupt, and that the legislators, after they became corrupt, stole all the public funds, and the people were demoralized, and then they were prepared for a monarchy. Such was the case in ancient Greece; such was the case in ancient Rome; such was the case in France; and such will be again the case in France; and such will be the case in the United States unless there is some mode of preventing it.

We all agree upon one fact, that if we want to preserve the liberties of this people we must get rid of the corruption that

is in the Legislature and corruption that is out of the Legislature.

Now, Mr. Chairman, I do see one mode by which we can get rid of it. I perceive a mode by which we could extirpate the speculators, the corruptionists, the bribers, the ballot-box stuffers; but perhaps the remedy would be worse than the disease. Declare them outlawed; take away from them that protection which the law gives to them; let it be understood that if any man prefers an indictment against another for an assault and battery, that party defendant can give in evidence that the prosecutor is a speculator, that he is a ballot-box stuffer, that he has been guilty of bribery, and the very boys in your streets will drive out of your State every corruptionist in it. They would drive them out; there would be no difficulty in getting rid of them. The trouble is that the remedy approaches to lynch law, and we could not agree to vindicate or sanction anything of the kind.

We come back then to take a considerable view of this matter. A great number of propositions have been offered; but one now is offered by the gentleman from Allegheny (Mr. D. N. White) which with a very few amendments I think will entirely meet, so far as it is in our power to adopt anything, the present wants of our people. It is true it will be but an experiment, but if we adopt that amendment we shall get rid of gerrymandering in a measure in the Legislature.

Mr. CORBETT. Will the delegate allow himself to be interrupted.

Mr. ALRICKS. Yes, sir.

Mr. CORBETT. Does this prevent gerrymandering at all?

Mr. ALRICKS. In a slight measure it does.

Mr. CORBETT. Not at all. It provides that each county shall have a representative; but representation is to be apportioned and distributed on a ratio of twenty-five thousand. I ask if the Legislature cannot apportion the whole State under this, put a dozen counties together, provided it gives each district the same number of Representatives as counties?

Mr. ALRICKS. I apprehend that there may be some little difficulty in some of the provisions of this amendment, but that when those provisions are properly corrected we shall get as near to what is right as is possible, and that after the first apportionment of the State we shall have no difficulty. The difficulty we have encountered heretofore has been this: That

whenever an apportionment was to be adopted, the first object was to secure power to a particular party. Now, I apprehend that when we shall have had this amendment adopted we shall in a measure cure that evil that has arisen at every apportionment. For my part I have heard and seen of no proposition here that comes as near to what I think is right as the proposition of the gentleman from Allegheny, and therefore I shall give it my support.

Mr. J. W. F. WHITE. Mr. Chairman: I know there is an earnest desire on the part of many members of the Convention to finish our work, to get through as soon as possible and go home. I have had my fears that in our anxiety to hurry through our work we shall do it imperfectly and perhaps do some things that we shall regret afterwards. I regard the question now before the committee as the most important one that has arisen or will arise in the Convention, and I hope the committee will pardon me while I detain them a few minutes to express my own views on the subject now before us.

I have never said anything in the Convention for any other purpose than simply to express my own views on the question before the Convention or the committee, and I rise on this occasion not for the purpose of making a regular speech, but simply for the purpose of giving my own views on the pending propositions. This, in my judgment, is the only way in which we can come to a satisfactory conclusion. Let the members of the committee express their individual views upon the whole question; and if we patiently hear each other and patiently bear with each other while we do this, I believe we shall advance in our work more rapidly, and perform it far more satisfactorily in the end.

Mr. Chairman, there are several questions before us. One is as to the constitution of the two Houses of the Legislature; a second as to the number there shall be in each House; a third, how shall the districts be formed; and perhaps a fourth, how shall the members be elected?

The true theory of two branches of a legislative body is that they shall be differently constituted, either based upon a different constituency or elected in a different manner. The Parliament of Great Britain, as everybody knows, is composed of the House of Lords and the House of Commons, the latter body elected by popular vote and representing

the common people, the former representing the nobility of England. The Congress of the United States is composed of a Senate and House of Representatives; the Senate elected by States and representing States; the House of Representatives elected by popular vote as the immediate Representatives of the people. Now, in our State Legislature, if we could get the same plan, or one somewhat similar, perhaps we should have all the checks and advantages of two branches of the legislative body. Daniel Webster, in the Constitutional Convention of Massachusetts, contended that the Senators ought to be the representatives of property; that while the House of Representatives should come from the people and represent the people, the Senate ought to be based upon property, and that no person except a property holder should vote for Senators, so as to have the two Houses differently constituted.

I apprehend nobody asserts such a principle here. Still, sir, if we can adopt some plan by which the two Houses will be differently constituted, I am satisfied we shall have greater advantages from the two bodies. When both are elected on the basis of numbers, and the only difference is that the ratio of representation for a Senator is greater than for a member of the House of Representatives, there will be no substantial distinction between the two bodies.

Now, sir, I suggest that we may in this State, very properly, have these two Houses differently constituted. I would base the Senate entirely upon population. Let the ratio of a Senator be, if we have fifty Senators, the one-fiftieth of the population of the State; and I say here, that on theory and on the principles of common justice, I cannot see how we are to deny to Philadelphia its proper representation in the Senate. Let us constitute the Senate then solely on the basis of population, and elect them by single senatorial districts.

As to the other branch, I would have the members of the House of Representatives of communities. The other would be the better plan if we could have the Senate the representative of communities, but we cannot do that in this State in consequence of the great diversity in the population of our various cities and counties.

Mr. Chairman, my plan would be this: I would divide the State into fifty senatorial districts on the basis of population, and have the Senators elected in single

senatorial districts, simply because it would not do for Philadelphia to elect on general ticket as many Senators as she would be entitled to, for that would always, or nearly always, give her the control of the Senate. But electing them by single districts, I apprehend every class of the population of the city would be represented, and both parties would always have representatives in the Senate.

Then I would divide the entire population of the State according to the last preceding census of the United States by one hundred and fifty to obtain the ratio for a member of the House of Representatives. Then let them be apportioned among the cities and counties of the State, and that can be done without any action of the Legislature at all, by the officers of the State. Philadelphia city would be entitled to so many members; Allegheny county to so many; Lancaster, Berks and Schuylkill, and all the different counties of the State, would have their member allotted by an arithmetical calculation alone.

Further than that, I would give to every city that has sufficient population, representation distinct from the county. Where it has a ratio of three-fifths, or whatever fraction you choose to name, give it one representative, and one additional member for every full ratio thereafter, and then give the remainder of the county the balance of the whole number allotted to the county.

Take Allegheny county for example. Suppose that under the apportionment Allegheny county would be entitled to twelve members, and say Pittsburg would be entitled to five members, the county then would be entitled to seven members; or if Pittsburg and Allegheny City continue separate, as they now are, Pittsburg probably would have three or four members, Allegheny City two members, and the county the balance of the twelve. So with Scranton. It would be entitled to one or two members. The city of Erie would be entitled to one member; Reading would be entitled to two members; Harrisburg would be entitled to a member; and Lancaster to a member, separate from the county.

That plan could be carried out without any legislative action in forming districts, except in the city of Philadelphia. Philadelphia probably would have twenty-eight members on that ratio. It would not do to elect them by general ticket, because whichever party prevailed would

elect the whole number and have the entire control of the Legislature. But we might safely adopt the plan for the balance of the State, because no county probably would have more than five or six members, and no city would have that number. Then in the city of Philadelphia, in place of cutting it up into single representative districts, I would have it divided into districts, electing say from five to seven members each. I doubt very much the propriety of electing the members of the House by single districts in a city like Philadelphia or anywhere else; but if we divide it into five or six representative districts, each one of those districts electing from five to seven members, I believe the city would be properly divided between the two parties; and then we would have municipal or community representation in the House of Representatives, the popular branch of the Legislature, the only place where we can have it in this State.

By this plan you greatly lessen, if you do not wholly avoid, the temptation to gerrymandering, because there would be no districting for members of the House of Representatives in the whole State, except in the city of Philadelphia. Give to each county its quota in the first place, and if it has one or two cities in it entitled to a member, give those cities separate representation, and then, as I say, you have no portion of the State to be districted for the House except simply the city of Philadelphia. The plan I suggest I think would be the most reasonable, and carry out more fully than any other suggested, the true theory of two branches of the Legislature.

As to the Senate, of course we should have to trust the Legislature to apportion the State for Senators. Sir, we must trust some body of men to apportion the State. Who shall it be? It has been suggested that we entrust it to the courts or to a commission appointed by the courts, or to some body elected especially for the purpose. In some mode or some form every plan suggested provides for a representative body to apportion the State. By no other plan can it possibly be done. Why then should it not be done by the legitimate and proper representatives of the people? Is it possible that the people can elect a proper body to district the State and not elect a proper Legislature? I think with the checks we have in the Legislature, the Senate elected at different times, the Governor to approve, the mem-

bers of the House coming up fresh from the people every year—or every term if they are elected for two years—you could not possibly devise any body of men to whom the duty can be entrusted with greater reason or propriety.

A great deal has been said in this Convention at different times about the corruption of the Legislature. I said on a former occasion, and I repeat it again to-day, I do not believe that our government has become so corrupt. I do not believe that we are a stench in the nostrils of the world, a by-word and a reproach. I should be very much ashamed of my native State if I believed anything of that kind. I should be ashamed to be a member of this Convention if I believed the people of my State were as rotten and as corrupt as has been represented here. I believe the people of Pennsylvania are just as good to-day as the people of any State in this Union, or of any country under the shining heavens. I do not believe that our Legislature is any worse than it has been in the days and years of the past.

It has been said that former governments fell because of the corruption of their legislative bodies. Sir, if I read the history of the past rightly, they fell because the people became corrupt; and I assert it here as a truth that the representatives elected by any people are just as good as the people themselves, and it will always be the case. There may be occasional exceptions. Now and then the people may be imposed upon or a man may betray their trust and their interests; but as a general rule, the representatives of anybody of people, elected by them, are just as good as the constituents themselves. Rome lost her liberties because the people became utterly demoralized and corrupt by their wealth and prosperity. As a matter of course their representatives were corrupt, and as a natural consequence, both together fell and perished.

Sir, I believe the people of Pennsylvania to-day are as intelligent, as pure, and as patriotic as they ever were, and I predict a brighter history yet for us in the future. We are not retrograding; we are not going backwards. We are advancing. Some bad men may occasionally get into the Legislature; but as a general rule our representatives will ever be as good as the people who elect them.

I cannot conceive of any body of men that can be elected or appointed in any form better fitted to district the State

than the members of the Legislature, especially if we take from that body the districting for members of the House. If we provide a mode by which the members of the House can be elected without a districting by the Legislature, except, perhaps, in the case of Philadelphia, we remove nearly all the temptations to a gerrymandering of the State. The Legislature would have to district for the Senate, and for members of the House in Philadelphia only, and that would have to be passed by both Houses, and then approved by the Governor.

As a matter of course, whatever political party may be in the ascendancy would like to have a majority of the Representatives of the State. I do not know that that is necessarily corrupt. Whatever political party exists in the State, if it has a majority of the people, ought to have a majority of the Representatives, although there may have been gerrymandering in the past, and, no doubt, there has been; yet both parties have been guilty of it, and will be guilty of it, to a greater or less extent, until the millennium comes, and I do not believe that our Constitution, whatever we may do, will have much influence in bringing about a millennium, political or otherwise.

I, therefore, shall vote for the amendment proposed by the delegate from Allegheny, (Mr. D. N. White,) because it is in the right direction, and I hope, if it shall be carried, we will amend it. I shall then probably offer some amendments to carry out the suggestions I have made.

Mr. MANTOR. It seems to me, Mr. Chairman, that we are in considerable difficulty here this morning, and I think some one ought to come forward with some kind of a panacea and heal our difficulties. We have five or six propositions before us—all coming honestly from the parties who propose them. I have no doubt, in my own mind, that there is an honest sentiment existing in this body in favor of an increased representation in both branches of the Legislature of this Commonwealth.

Now, sir, I stand in this Convention this morning to favor the proposition suggested by the gentleman from Allegheny (Mr. D. N. White.) I made up my mind long ago that there ought to be an increase of the legislative body of the State; and as gentlemen have been pretty generally expressing their views on this subject, I will state mine. I have come

to the conclusion that each county of the State should have a Representative, or what you might term territorial representation. I would then give to every twenty-five thousand population one Representative. I would then give for a fraction of three-fifths of twenty-five thousand or fifteen thousand, one Representative. That is my view, and that is the proposition I would have suggested before I saw this proposition of the gentleman from Allegheny.

But, sir, I rose more especially to call the attention of the committee to one point. I ask if we cannot harmonize upon some one proposition first as to the number of Representatives before we go into matters of detail. Let us first determine what number of members in each House we desire. For instance, the gentleman from Columbia (Mr. Buckalew) and others may desire three hundred; other gentlemen may prefer two hundred; others one hundred and fifty; and others again may be like my friend from Erie, (Mr. Walker,) who, although he has not expressed any opinion, I think it not improper to say to this Convention is in favor of the old number, one hundred. I hope we shall come to some conclusion on that point. I have no doubt that the majority of this committee is in favor of an increased representation in the State. If we can settle upon what that number shall be, then we can go into matters of detail, and we shall expedite the action of the committee very much.

The CHAIRMAN. The question is on the amendment to the amendment offered by the delegate from Allegheny (Mr. D. N. White.)

Mr. WHERRY. I ask to have it read.

The CLERK read as follows:

"The State shall be divided into fifty Senatorial districts of compact and contiguous territory, as equal in population 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 county or city shall be entitled to more than one-sixth of the whole number of members.

"SECTION —. The House of Representatives shall consist of not less than one hundred and fifty members, to be apportioned and distributed to the different counties in proportion to the population, on a ratio of twenty-five thousand inhabitants to each member, except that no county shall have less than one member, and the city of Philadelphia, or any coun-

ty having an excess of three-fifths of said ratio over one or more ratios, shall be entitled to an additional member. In case the number of one hundred and fifty members is not reached by the above apportionment, counties having the largest surplus over one or more ratio shall be entitled to one additional member until the number of one hundred and fifty members is arrived at.

"SECTION —. As soon as this Constitution is adopted the Legislature shall apportion the State in accordance with the provisions of the two preceding sections; counties and the city of Philadelphia, entitled to more than one member, shall be divided into single districts of compact and contiguous territory, as nearly equal in population as possible, but no township or ward, except in the city of Philadelphia, shall be divided in the formation of a district: *Provided*, That in making said apportionment for the House of Representatives in the year eighteen hundred and eighty-one, and every ten years thereafter, there shall be added to the ratio five hundred for each increase of seventy-five thousand inhabitants."

Mr. BUCKALEW. I beg leave to state in explanation before the vote is taken that I have had lying on my table all the morning a report from the Committee on Suffrage on this whole question of representation, providing, among other things, for the representation of counties as such throughout the State, and providing the manner in which the application of that principal shall be made, and avoiding the breaking up of counties into single districts. I have not been able to present my report because the Convention has been in committee all the morning. When the committee rise I propose to offer it, and have it printed, and also the two amendments the committee favor in regard to the manner of making the apportionment, the one proposed by the gentleman from Carbon, (Mr. Lilly,) and the other prepared by the gentleman from Philadelphia (Mr. Simpson.) Taking it for granted that this amendment involving single districts would not be adopted by the Convention, when I addressed the committee this morning I did not speak on the subject. I think when we come to consider what the Committee on Suffrage have reported, gentlemen will see that at all events, with reference to county representation, it would be preferable to the plan contained in this amendment.

Mr. J. PRICE WETHERILL. I desire to inquire whether an amendment is in order?

The CHAIRMAN. Not at this time. The question is on the amendment to the amendment offered by the delegate from Allegheny (Mr. D. N. White.)

The amendment to the amendment was agreed to, there being on a division: Ayes forty-nine; noes forty.

The CHAIRMAN. The question now recurs on the amendment as amended.

Mr. HARRY WHITE. I move to strike out "fifty," in the first line of the first section, and insert "forty" as the number of the Senate.

Mr. BAER. I move further to amend that amendment, by making it "thirty-three."

The CHAIRMAN. The amendment of the delegate from Indiana is an amendment to an amendment.

Mr. HARRY WHITE. I will accept the proposition of the gentleman from Somerset.

The CHAIRMAN. Then the question is on the amendment to the amendment as modified, so as to provide for thirty-three Senatorial districts instead of fifty.

Mr. D. W. PATTERSON. That has been voted upon two or three times.

Mr. HARRY WHITE. I understand from the delegate from Lancaster on my left that that proposition has been voted upon.

Mr. D. W. PATTERSON. It was voted down yesterday.

Mr. BOYD. It was offered by the gentleman from Delaware (Mr. Broomall.)

Mr. HARRY WHITE. Then I will withdraw my acceptance of the proposition of the gentleman from Somerset and renew my original amendment, to strike out "fifty" and insert "forty."

Mr. DARLINGTON. Mr. Chairman: I arise to a question of order. As I understand it, this amendment of the gentleman from Allegheny (Mr. D. N. White) has just been adopted as an amendment to the original amendment, by a vote of the committee. Now, no part of it can be struck out by a motion of this kind, or else there is no end to the amendments that may be made to it. You may strike it all out by a motion if you can strike out a part.

The CHAIRMAN. The point of order is not well taken.

Mr. HARRY WHITE. The committee will understand that this qualifies the proposition offered by the delegate from Allegheny, in that it decreases the num-

ber of Senators that he proposes. If I had my way, allow me to say —

Mr. BIGLER. Mr. Chairman: I must rise to a question of order.

The CHAIRMAN. The delegate from Clearfield will state his point of order.

Mr. BIGLER. If this amendment is entertained, there can be no end to the amendments that may be offered. The gentleman from Indiana must be mistaken as to the position of this question. The amendment offered by the delegate from Allegheny was adopted, displacing the amendment of the delegate from the city. It has therefore received the sanction of the body as it stood, and it is not competent now to change it, and it is not liable to amendment, for if it were then you could go on inserting and striking out indefinitely. The opportunity of the gentleman from Indiana will be upon the second reading, or his opportunity now is to vote upon the whole proposition, because the next question is on adopting the amendment as amended.

Mr. HARRY WHITE. I apprehend that my amendment is in order. The House has merely modified the amendment offered originally by the delegate from Philadelphia, (Mr. Cuyler,) and of course the majority of this body can now perfect that amendment. I do not propose to strike out that which the House has already inserted. I merely propose to alter it by striking out and inserting.

The CHAIRMAN. The Chair regards the amendment to the amendment in order.

Mr. HARRY WHITE. Mr. Chairman: While my amendment is perfectly in order, I think the spirit of it is agreeable to a majority of the members of this committee. The proposition originally made to constitute the Senate of fifty and the House of one hundred and fifty members is predicated upon the desire to have one body a multiple of the other. I apprehend that there is no good reason for this. There seems to be a disposition to have some increase in the number, for no very good reason that I have yet heard. The only substantial reasons are that an increase which will give the city of Philadelphia and large communities some proportional addition to their representation and some increased representation in the Senate in proportion to the enlargement of their population, and the diversity and extension of the industries of the State, would seem to be proper. I presume that forty will answer the purpose of every

practically minded delegate in that respect. I will remind the committee, too, that when we select the number of forty, if it shall be selected by this committee, then there is but one other State in the Union which has a larger representation in its Senate than Pennsylvania will have. The great State of Illinois saw fit in her recent revision of the Constitution of that State to increase her Senate to fifty-one members. I believe that previous to that time the Senate of Illinois was composed of fifty, so that the increase was to the extent of but a single member. The great Commonwealth of Massachusetts, which is so often cited as a model Commonwealth, whence we should gain wisdom in this matter of regulating legislation, fixes the number of her Senators at forty.

In view of these facts, in view of the fact that the number forty will practically equal that which the experience of every other Commonwealth has demonstrated to be sufficient for the necessity of the case, inasmuch as we agree on all hands that the Senate is a conservative body, and that being not merely a branch of the Legislature, but being clothed with functions in connection with the Executive Department of the government, it is necessary to preserve that body in as conservative a character as possible, at the same time preserving, as far as we can, its representative character. I apprehend this can be done by fixing the number of its members at forty.

I will say to delegates from the city of Philadelphia that this, in connection with the provision that the representation of no county or city shall in any event exceed one sixth of the whole number, will give Philadelphia an increase upon her present representation. She is at present limited to four Senators. Under the principles of this amendment, fixing the number at forty, it will give her six, thus preserving that relative proportion and consideration which her industries and her political importance entitle her to.

In view of these considerations and others which could be suggested, I hope that we shall refuse to depart from the policy adopted in the early history of the Commonwealth, keeping our Senate as small a body as will enable us to have all interests represented, that we shall act like our great sister Commonwealth, New York, has acted in this regard. In the recent modification of her Constitution

she refused to increase her Senatorial representation. The aggregate number of her Senators is only thirty-two, and that small number for that great State was retained because her Senators are called upon to exercise important judicial functions. They sit as a court to try all cases of impeachment and other matters. These considerations moved the representatives of the people there to refuse to increase to an unwieldy amount the number of their Senators. I hope that similar considerations will influence us and that we shall be as conservative as possible in fixing the number of members of the Senate, and that if we desire to make any fundamental changes in this regard in the Legislature, we shall do it in the popular branch.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Indiana, to the amendment to strike out "fifty" and insert "forty," as the number composing the Senate.

The amendment to the amendment was rejected, there being, on a division, ayes thirty-nine, noes forty-six.

Mr. J. PRICE WETHERILL. I rise to inquire of the Chair if an amendment to the section is in order.

The CHAIRMAN. The proposition before the committee is an amendment, and the Chair regards it as amendable until it shall be adopted.

Mr. J. PRICE WETHERILL. I move then to strike out the latter part of the first section or clause in these words: "And no city or county shall be entitled to more than one-sixth of the whole number of members." Under this section, without these words, Philadelphia would be entitled to nine Senators, and with them she would be entitled to but eight. You therefore withdraw one Senator from Philadelphia, and sacrifice a principle which I consider to be important. For that reason I hope the amendment to the amendment which I have offered will prevail.

The CHAIRMAN. The question is on the amendment to the amendment.

The amendment to the amendment was rejected, the ayes being twenty-five; less than a majority of a quorum.

Mr. LILLY. I move to amend the amendment by striking out in the second section or clause the words "except that no county shall have less than one member," in the fourth line. I hope this committee will not agree to allow these words to remain. If you allow every

county to have one Representative, in the future divisions of counties the result will be to give many members to counties of less than twenty thousand inhabitants. I think there are very strong objections to that. The county of Cameron, if I recollect the figures aright, polled only about five hundred votes at the last election. To give such a county one member would be a source of great corruption, to say nothing of the wrong it would do to larger counties. Take, for instance, the county of Delaware, as suggested by the gentleman from Delaware this morning; that county has nearly forty thousand inhabitants and she will have only the same representation in the Legislature under this provision with the small county of Forest or Elk.

Mr. D. N. WHITE. I should like to correct the gentleman. Under this apportionment—

Mr. LILLY. I do not want to be interrupted by the gentleman putting a speech in the midst of my speech.

Mr. D. N. WHITE. I do not wish to do that, but to correct the gentleman. He is mistaken.

Mr. LILLY. I know that under this scheme three-fifths of a ratio gives another member; but that requires forty thousand population to get two members, and the county of Delaware has a little less than forty thousand. Its population is thirty-nine thousand and some odd hundred. This proposition gives some small counties ten times as much representation as to the county of Delaware. There are all sorts and shapes of wrong done by such a proposition, and I hope this committee will not inflict such a wrong upon the different counties of this Commonwealth. The gentleman from Columbia (Mr. Buckalew) suggested the other day, and very strongly, the instances in which corruption would obtain under this plan. It would come down to the corrupt borough system which formerly prevailed in England. A few dollars, or a few thousand dollars, expended to get the control of a county casting but five hundred votes, would turn the scale in many elections, especially where the Legislature was likely to be close and there was to be a United States Senator elected. Then these small counties would be the point of attack by the corruptionists. They would go to these small counties and attempt to buy them up. It has been stated on this floor that every man has his price. I do not pretend to say the peo-

ple of the small counties are not just as good people as we have in the Commonwealth, and their price may be just as high as that of people in any other part of the Commonwealth; but at the outside, all it would require in a county such as Cameron would be to influence three hundred votes one way or the other in order to carry a Representative. I think the sense of justice of this committee will certainly vote down such a proposition.

Mr. D. N. WHITE. Mr. Chairman: I merely wish to correct the figures of the gentleman from Carbon. Under this amendment, as passed by the House, Delaware county has two members. She gets one member as a county, and an additional member under the clause providing for a surplus over the ratio. I hope this provision as to the representation of each county will not be stricken out. There are but very few counties that will receive a member in this way, and it makes a more harmonious distribution of the members throughout the State. It gratifies those counties in giving them a member to represent them in the Legislature, and above all it prevents gerrymandering in the Legislature. If you do not provide for these counties in the Constitution, somebody will have to distribute them, and the moment you begin to join two or three counties together you have begun the very system that we wish to get clear of, by which the State has been gerrymandered. It was for that reason especially that I put it in this amendment, that there should be no joining of counties together, burying one county up by the political preponderance of another, but to give every constituency a fair chance to be represented.

Mr. J. PRICE WETHERILL. I desire, Mr. Chairman, to call the attention of members to one fact in regard to the proposition now before us, which, if not amended, may give some trouble in the future. I have before me the calculation of the author of this amendment, the gentleman from Pittsburg, and on his basis he makes the House to consist of one hundred and forty-one members, but at the same time leaving unused fractions to a very large amount; for example: an unused fraction in Delaware of fifteen thousand; in Crawford of thirteen thousand; in Cambria of eleven thousand; in Butler of eleven thousand; in Bucks of fifteen thousand; in Blair of thirteen thousand; in Beaver of eleven thousand; in Armstrong of twelve thousand; in Allegheny

of twelve thousand, and so on. Finding that it would be unjust, on the face of it, to allow Delaware county, with a population of nearly forty thousand, but one Representative, side by side with the county of Forest, with a population of four thousand, one Representative, thus giving every voter in Forest county a representative power in his vote of ten times the amount of the voter from Delaware county—a thing utterly unfair, so much so that I am sure it will not be recognized or endorsed by this body—and in order to use up these fractions the gentleman provides for a House of the number of one hundred and fifty. It is manifest that the simple working of the plan would do sheer injustice; and the number of one hundred and fifty is selected so as to use up the fractions, and the counties having the largest surplus over one or more ratios are by it entitled to an additional member for their fractions. That will do very well when you keep the House at this fixed number. The House on this basis will consist of one hundred and forty-one, and you have nine additional members to make up the required number, and these nine additional members use up these enormous fractions very handsomely just at this moment; but let the population of the State increase so that by this plan one hundred and fifty members will be reached on the ratio here fixed, what are you then to do with the enormous fractions which have been for the present covered up so skillfully and nicely and mathematically by the gentleman from Allegheny? I say the section will not work for all time; it will not work twenty or thirty years hence; and it is a provision filled with exceptions, and this is one of the exceptions which may suit for to-day, but in ten years hence it may not suit. Therefore it is not, in my opinion, a fit section for the organic law.

Mr. LILLY. I desire to modify my amendment to the amendment. I move now to strike out the words, "except that no county shall have less than one member," and insert in lieu thereof, "except that the counties of Forest, Elk and Cameron shall vote together and elect one member; and the counties of M'Kean and Potter shall vote together and elect one member, and the counties of Wyoming and Sullivan shall vote together and elect one member."

The CHAIRMAN. The question is on the amendment to the amendment as modified.

The amendment to the amendment was rejected.

Mr. BARTHOLOMEW. I desire to take the sense of the committee on the number fixed for the lower House of the Legislature, and therefore I move to strike out "one hundred and fifty," in the first and second lines, and insert "two hundred," and strike out "on a ratio of twenty-five thousand inhabitants to each member," in the third and fourth lines, so as to make the section read: "The House of Representatives shall consist of not less than two hundred members, to be apportioned and distributed throughout the State in proportion to the population."

Mr. MACVEAGH. I will merely say that that amendment would utterly destroy the section. It cannot work except upon the theory of one hundred and fifty members.

The CHAIRMAN. The question is on the amendment of the gentleman from Schuylkill to the amendment.

The amendment to the amendment was rejected, the yeas being thirty-one, less than a majority of a quorum.

Mr. DARLINGTON. Mr. Chairman: I move to amend by striking out the word "sixth," in the fifth line, and inserting the word "seventh," so as to give the city of Philadelphia one-seventh of the whole number of Senators. They now have four Senators out of thirty-three, which is one-eighth. I propose to give them one-seventh, which is better, and it is a compromise between the eighth and the sixth.

Mr. GUTHRIE. Mr. Chairman: It seems to me that there is some error in the calculation as to the number of members on a ratio of twenty-five thousand, and on the allowance of one member to each county. I have gone over the matter carefully—

The CHAIRMAN. The question before the committee is on the amendment of the gentleman from Chester to the amendment.

Mr. GUTHRIE. Then I will suspend my remarks for the present.

Mr. DALLAS. Mr. Chairman: Before the vote is taken on the amendment of the gentleman from Chester, I wish to say a word upon it.

In connection with the gentleman from Philadelphia (Mr. J. Price Wetherill) I had the honor to present a minority report from the Committee on the Legislature upon the subject of the apportionment of Senators so far as the city of Philadelphia is especially affected. At an earlier period in our proceedings in committee of the whole, I had just taken the floor for the purpose of discussing the question involved when the committee rose and the Convention adjourned. That entitled me to the floor upon the following morning, when I was detained from the Convention by sickness. I am not unmindful that I do not represent the city of Philadelphia alone, in which I happen to reside. I am a resident of this city, but I am also a citizen of this State, and I have the honor to be a delegate from the State at large, and I believe that in the view I take of this subject, the fact that I reside in the city of Philadelphia has not the slightest influence with me, and I would be as indisposed to see the wrong contemplated by the gentleman's amendment directed against any other section of that Commonwealth in which I was born as against this city, which has become my place of residence.

The proposition embodied in this amendment, and made still worse by the amendment to the amendment offered by the gentleman from Chester, (Mr. Darlington,) is based simply on the same view which controlled the Committee on Legislature in reporting the section limiting the Senatorial representation of the city of Philadelphia to six members.

It is a proposition to make Senatorial representation in the State of Pennsylvania unequal, and, in this matter of Senatorial representation, to declare that equality is *not* equity; that there is some special reason why, though we base Senatorial representation throughout the rest of the Commonwealth upon population, we should, when we come to the city of Philadelphia, make an exception to the rule in order to reduce the number of its Senators. In other words, sir, to say to a resident of any other section of this State that by moving into the city of Philadelphia, although becoming no less a citizen of the State, no less a freeman and a voter, still his vote shall count less than if he had remained at his old place of residence. It simply requires a removal from one section of this State to the other to de-

prive any of its citizens of a portion of his right to representation.

I am, therefore, opposed to and shall vote against this amendment, and I shall vote against the amendment to the amendment because no good reason can be assigned for either of them, if, indeed, good reason can ever be assigned for violation of principle.

Sir, we are told that the danger which excuses this unfairness, is that the city of Philadelphia may come to preponderate in the Senate unless especially restricted in her representation. If that be true, what does it mean? It means that a majority of the people of the State of Pennsylvania may come to preponderate. If a majority of the people of this State should find it to their interest to live in the city of Philadelphia why should they be told that they would be partially disfranchised by such removal? Suppose that, for some reason, the whole population of the State of Pennsylvania should remove into its eastern counties, would they be less entitled to representation in the Senate because of that fact? Sir, this argument of preponderance is idle. The delegation from the city of Philadelphia does not always unite, as witness its representatives upon this floor—they are far from always agreeing. But it is idle to say that one-fifth of the people of the State shall come to preponderate over the remaining four-fifths! The supposition is preposterous! The fear is idle! But, sir, if it were otherwise, still to fair and reasonable men I have a right to say that they should "be just and fear not."

One other objection has been made to doing justice upon this subject to those of the people of Pennsylvania who happen to live within the limits of the county of Philadelphia, and that is, that they are too vile to be worthy of full citizenship! That argument has been gravely made upon this floor, and it has been seriously urged that the people of this city are in some way so much less fit to enjoy the rights of freemen than the other voters of the State, that they should be so limited in the exercise of the franchise as to make their votes count less than those of any of their fellow-citizens residing in other sections of the Commonwealth. Sir, I deny that this is true. Give us a Constitution such as a great city like this needs, and is, I believe, successfully demanding from this Convention; let the mass of the people of Philadelphia have a fair chance to speak

through the ballot-box, and they will vote and act as purely and rightly as the people of any other section of the State. I am surprised to see the eloquent delegate from Dauphin (Mr. MacVeagh) shake his head in doubt of what I say. He who comes from Harrisburg.

But, sir, it is said that the Senate should not represent the people, that it should represent localities and territories; and that the small, compact piece of territory which comprises Philadelphia, should not have the same representation, notwithstanding its population, as other larger portions of the State; to put it tersely, that *acres* should be represented. Why, sir, what account then is to be taken of the material interests of a great city? Are acres the only property? Are our eleven thousand industrial establishments to be overlooked? Are our immense manufactories, our trade, our commerce, and our endless variety of business interests to go for nothing as against acres, and it may be barren acres, upon the question of representation in the Senate? The suggestion is preposterous; and when I mention, in the hearing of this committee, what is well known to you, Mr. Chairman, that among the valued interests of this city we own about five millions of school property; that the very building in which we now sit belongs to the city of Philadelphia, and has cost that city upwards of \$50,000 before any improvements were made in it, and is held as school property; that here our citizens are as thoroughly trained and educated in all which fits them for citizenship as in any part of the State of Pennsylvania—I say, sir, when this is admitted and understood, no delegate on this floor can rightfully ask to discriminate against this section of his State upon the ground of want of qualification in its citizens to exercise the franchise.

Now, sir, the fear of preponderance is idle, and is based upon false reasoning. It has no support, in fact; but if it had, still so long as you base your representation upon population, the majority of the people of the whole State must rule, and the preponderance of the majority is just what we should all be willing to submit to. As to the citizens of Philadelphia being less entitled than others to representation, because of their want of political virtue, I take it that you will not be willing to send this Constitution out to them (upwards of one hundred thousand voters,) telling them that you have, upon

such a ground, made this discrimination against them, and still ask them to endorse your work.

Mr. Chairman, I hope that this Convention may yet pause, not to discuss whether Philadelphia is to have a seventh or a sixth or any other proportion; or four, or six, or any other fixed number of all the Senators—but whether the city of Philadelphia is to be treated like the rest of the Commonwealth or not. This provision now touches only this city, but take the maximum number of Senators at six, if you please, and the time will come when the city of Pittsburgh will be entitled to that number, and then she will be unjustly dealt with, as Philadelphia now is; but Philadelphia's wrongs must always be greater than any other city of the State, for when any other, (take Pittsburgh again as the most likely,) comes to be entitled to six Senators, Philadelphia can have no more, though she may then have double the population; and so you may have, in the progress of time, three or four small cities, each entitled to precisely the same number of Senators which the greatest city of this Commonwealth, numbering, it may be, five times their population, would be entitled to.

Now, sir, in the name of fairness, in the name of reason and of justice, but with little hope of affecting anything in this body, because it is, I fear, on this question, controlled by—

“—the old rule, the simple plan,
That they shall take who have the power,
And they may keep who can.”

I enter my solemn protest against this discrimination against the residents of the city of Philadelphia, precisely as I would against any action discriminating against any other portion of the people of the State.

The CHAIRMAN. The question is on the amendment to the amendment to strike out “six” and insert “seven.”

On the question of agreeing to the amendment to the amendment, a division was called for, which resulted sixteen in the affirmative. This being less than a majority of a quorum, the amendment to the amendment was rejected.

Mr. BAER. I now move to further amend by striking out the word “fifty,” in the first sentence, and inserting the words “thirty-three.”

The CHAIRMAN. That has been voted on.

Mr. COLLINS. Not in this place.

Mr. BAER. It has not been voted on, sir.

The CHAIRMAN. The Chair will state that it was voted on yesterday in the original section, section nineteen.

Mr. BARTHOLOMEW. That does not prevent its being offered and voted on here.

The CHAIRMAN. It has been already voted upon.

Mr. BAER. I submit that my amendment is in order. It has not been voted on in connection with this section.

Mr. COLLINS. It has not been voted on in committee of the whole.

The CHAIRMAN. To gratify the gentleman I will recognize the amendment to the amendment.

On the question of agreeing to the amendment to the amendment, a division was called for, which resulted thirty in the affirmative. This being less than a majority of a quorum, the amendment to the amendment was rejected.

Mr. S. A. PURVIANCE. Mr. Chairman: I offer the following amendment to the amendment with reference to the lower House:

"Each county in the State shall be entitled to a Representative in the lower House of the General Assembly, and for every thirty-five thousand inhabitants to an additional member until the lower House is increased in number to two hundred. For every increase thereafter of seventy-five thousand inhabitants in a county it shall be entitled to one additional member.

"The Legislature shall provide by law for a return, once in every three years, to the several counties of this Commonwealth, of the inhabitants thereof; and the commissioners of said counties shall certify to the office of the Secretary of the Commonwealth, within thirty days after said return, the number of inhabitants of each county; and whenever it shall appear that any county has attained the requisite number of inhabitants 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."

One word, sir, before the vote is taken. It will be observed that this proposes a limitation upon the House, at a certain point, of two hundred members. It further provides that when that number of two hundred members has been attained

by the rule I fix, thereafter there shall be no increase of members in a county until they have an increase of population of seventy-five thousand. By this rule that I propose, the House will contain in the commencement, about one hundred and sixty-six members, provided that all fractions are represented. Under the rule that I have fixed, after the House contains two hundred members it would take seven hundred and fifty thousand increase of population to give an increase of ten members. It would take one million and a half of an increase in population to give an increase of twenty members and it would take three millions increase in population to give an increase of forty members. So that until we should have an increase of the population of three million beyond what we have now, the House could not exceed two hundred and forty in number; and I submit to the committee of the whole whether the House of Representatives of this State ought not be brought up to the maximum I mention, about two hundred and forty members, when our population reaches the figure of seven millions and a half.

On the question of agreeing to the amendment to the amendment, a division was called for, which resulted: Thirty-five in the affirmative and forty in the negative. So the amendment to the amendment was rejected.

Mr. HARRY WHITE. I move to amend the amendment by striking out "one hundred and fifty," in the first line of the section, and inserting "one hundred and seventy-seven," and striking out "twenty-five," in the third line, and insert "twenty."

Just a single word of explanation as to what that means. Of course, I am averse to a large increase, but if there is to be any increase, I would like it to be made, and I think a majority of the committee of the whole desire it to be made, on a fair basis; and you cannot make the maximum over one hundred and fifty and the ratio of representation twenty-five thousand and secure anything like a fair basis of representation in the House of Representatives. Now, the committee of the whole will understand that I propose to change one hundred and fifty as the number of members to one hundred and seventy-seven, and the twenty-five thousand of ratio to twenty thousand. The reason that controlled many delegates in voting for the amendment fixing one hundred and fifty as the number was

because they were in favor of county representation. This recognizes the principle of county representation. I do not propose to interfere with that principle; but while you are recognizing it, recognize the rights of population also. For instance, the county of Forest has a population of four thousand, the county of Pike has but a small population, the county of Wyoming has but a small population, the county of Sullivan has but a small population, yet all of these counties have representation. There are many counties in this Commonwealth, in fact a large majority of the counties of this Commonwealth, that will be upon the same basis under my amendment as they would be if the ratio remained unchanged. I simply propose to take the ratio of twenty-five thousand and make it twenty thousand in order to place those other counties, that have a large surplus over these smaller counties, on an equality. For instance, the county of Armstrong, with a population of forty thousand, only is entitled to one Representative. The county of Delaware, with a population of forty thousand, has but a single Representative.

Mr. MACVEAGH. They both get two.

Mr. HARRY WHITE. I beg pardon. The county of Butler, with a population of thirty-eight thousand, has but a single Representative. The county of Bedford and the county of Huntingdon have only one.

Mr. MACVEAGH. They all get two.

Mr. HARRY WHITE. Bedford and Franklin are on the same basis. They have a large surplus, and I submit that there ought to be some regard paid to this large surplus population. Recognize the right of the small counties to representation, but allow the large surpluses to be entitled to representation also.

Mr. BARTHOLOMEW. How about Indiana?

Mr. HARRY WHITE. Some gentleman asks about Indiana. It is entirely immaterial about that county. It has but one Representative. Cumberland and Blair have each but one Representative. The county of Tioga has but one. My amendment simply recognizes twenty thousand as the ratio of population, and does justice to all these counties while it recognizes the principle of community representation.

Mr. MACVEAGH. It is perfectly impossible, if we want to avoid the evils of gerrymandering, to undertake to make an

apportionment of this State that will be satisfactory to everybody. Every gentleman who will take the trouble, as the distinguished gentleman from Indiana has done, to cypher it out, will find that some other proportion will suit his district better than any proportion that has been submitted to us for our consideration. But the truth is that the gentleman from Allegheny (Mr. D. N. White) has most carefully and ably worked out this question, and has presented his proposition as the result of his labors, and that proposition is the best that has yet been submitted for our action. He has worked out his results with wonderful care and fidelity, and he has left a considerable number of vacancies and directed that they shall be given to the largest fractions. That is as near justice as it is humanly possible for us to give, and I trust that this Convention will not be carried away because somebody cyphers out that his county will be better suited by adding a few or by taking away a few from the ratio of the gentleman from Allegheny, or by any other method.

On the question of agreeing to the amendment to the amendment a division was called for, which resulted thirty-eight in the affirmative, and forty-four in the negative. So the amendment to the amendment was not agreed to.

Mr. MACVEAGH. I should like to submit to the vote of the Convention—I do not know what their judgment will be—an amendment to the last section, providing that, "No county shall be divided in the formation of a representative district."

I simply desire to call the attention of the Convention to the matter that it contemplates dividing every county that is entitled to more than one Representative into separate districts. That is what some members of the Convention want. There are others of them who do not think that a county is too large for the ability of one average man to represent. I am of the opinion certainly that a considerable portion of this Convention must be opposed to dividing up counties in order to make small legislative districts containing twenty-five thousand people. I do not propose to detain the Convention, however, by discussing this question and only ask for a vote.

Mr. D. N. WHITE. I hope that this amendment will not be adopted. It would leave Philadelphia with twenty-seven Representatives to be elected on a

general ticket, and whichever party succeeded in doing that would rule the Legislature.

Mr. MACVEAGH. The gentleman will see that the amendment does not contemplate that at all. It does not apply to cities, but only to counties:

"No county shall be divided in the formation of a representative district."

Mr. D. N. WHITE. I want Allegheny county divided. We do not want to elect twelve or thirteen members on a general ticket there. We want our people in different parts of the county to express their opinions on different tickets, and not the whole county vote in a general way for a number of Representatives.

The CHAIRMAN. The proposed amendment will be read.

The CLERK. It is proposed to insert at the end of the division, these words:

"But no county or ward shall be divided in the formation of a representative district."

Mr. BUCKALEW. I inquire of the gentleman from Dauphin if he intends to apply that to Philadelphia and Allegheny?

Mr. MACVEAGH. I do not.

Mr. BUCKALEW. It would apply to Philadelphia, because it is a county; and it would also apply to Allegheny, in which Pittsburg is located.

Mr. MACVEAGH. Then I would say, "except the counties of Philadelphia and Allegheny."

Mr. BUCKALEW. Very well.

Mr. MACVEAGH. I will modify it accordingly, by adding, "except the counties of Philadelphia and Allegheny."

The CHAIRMAN. The Secretary will now read the amendment as modified.

The CLERK read as follows:

"But no county or ward shall be divided in the formation of a representative district, except the counties of Philadelphia and Allegheny."

Mr. H. W. PALMER. I move to amend, by adding "and Luzerne."

Mr. BARTHOLOMEW. "And Schuylkill."

Mr. MACVEAGH. I rise to a point of order. I have offered an amendment to the amendment.

The CHAIRMAN. The Chair was going to ask the gentleman from Dauphin if he accepted this modification.

Mr. MACVEAGH. No, sir.

The CHAIRMAN. Then it is not in order. The question is on the amendment

of the delegate from Dauphin to the amendment.

The amendment to the amendment was rejected.

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

Mr. BUCKALEW. Before the vote is taken I desire to mention that there are several points of objection to this section as amended that have not been touched upon and which must be debated before it assumes any final form. Of course the committee is now fatigued. ["No." "No." "Go on."]

Mr. LAWRENCE. The gentleman intimated a while ago that he had a report from the Committee on Suffrage. We do not know what that is. It may be preferable to this. I should like the gentleman to indicate the main points of that report.

Mr. MACVEAGH. It is here; it can be read.

Mr. BIGLER. Will the gentleman allow me to ask him a question? I desire to suggest to the gentleman from Columbia that inasmuch as he has a report to submit from a committee, and inasmuch as we ought to have that report as promptly as possible, instead of proceeding further he permit the committee to rise, report progress, and ask leave to sit again, in order that the report may be printed.

Mr. BUCKALEW. I will soon conclude what I have to say.

Mr. HARRY WHITE. If the delegate from Columbia will allow me, I should like to have the sense of the committee taken on the question that it has not been taken on yet. I do not think a formal vote has been taken fixing definitely the number of members of the House. ("Yes.") And in order to do that, if the delegate will allow me, I will move—

Mr. BUCKALEW. The member from Indiana can make his motion after I am through.

Mr. HARRY WHITE. I was only going to do it now to save time.

Mr. BUCKALEW. I referred to the fatigue of the committee of the whole, because some gentlemen told me they voted for this amendment because they wanted to get on, and if it was not right it could be corrected afterwards. I submit that that that is not exactly the way to do business. We may find that we have adopted something that we shall desire to get rid of hereafter. Viewing the subject in that light, I shall steadily vote against everything that I do not, in the

first place, understand and, in the second place, thoroughly approve.

Now, the arrangement in regard to fractional representation in this proposed section is incurably vicious. Not an apportionment is made in the Legislature where this is not an important question for consideration, and every new man in the Legislature that comes to this subject is obliged to modify and change altogether his first impressions concerning it. It will not do to make apportionments upon the principle of taking the largest fractions without regard to anything else, and giving to them the surplus Representatives that are to be distributed. Take the case of the city of Philadelphia, with thirty Representatives under this proposed amendment, which makes the whole number one hundred and fifty. The city can never lose more than one fraction from her whole thirty Representatives; she is secure against the loss of any greater number of fractions. Then take districts in the interior where they elect one, two or three Representatives, as most of them do. You may take a series of them, choosing thirty Representatives, and they lose fractions, perhaps amounting to ten whole members, so that Philadelphia, in the case I have supposed—and I merely mention her by way of illustration; the same argument applies to all large counties—Philadelphia, with her thirty, is always secure against the peril of losing more than one by a fraction, whereas several counties with thirty members, might lose ten whole members for ten years. Therefore it will not do without discrimination to give the surplus Representatives to the largest fractions. The question is upon the percentage of disfranchisement which will result to any county. The percentage of disfranchisement for a Representative divided among thirty may be less than five per cent., whereas the percentage upon the county with one or two members may be more than fifty per cent.

This section is drawn (and it constitutes a considerable part of it) upon the idea of not taking into account this important consideration. The gentleman gives his additional Representatives, without regard to the number that may be chosen by a county, to the largest fraction. Therefore it is manifestly wrong.

As to this matter of separate representation, or single districts, that, of course, can be treated hereafter. I think, before we are done with it, a large majority of

the Convention will be against cutting up the counties of the interior. We must divide the counties of Philadelphia and Allegheny, of course, but the idea that one hundred men in the House at Harrisburg and thirty-three men in the Senate shall be permitted to carve up all the counties of the State, and fix districts to send themselves back again, is utterly intolerable. The gentleman does not provide any other mode of making these single districts than by the Legislature. They are to be cut up at the pleasure of private interests in the Legislature, which may combine together and pass bills the like of which were never heard of before in this State. Why, in New York, which is the example to captivate us on this question, they do not do any such thing. They do not allow their Legislature to touch the apportionment of members, but the different counties are apportioned by the local authorities. They have a county system arranged for the purpose of getting a county board, a board of supervisors, elected in separate districts of the county. These divide their counties for the purpose of carrying out the plan of separate representative districts, and so, in the city of New York, in former times, the board of supervisors of the city divided the city into districts; and now, under the proposed amendment reported by the constitutional commission, the city of New York is to be divided into single districts by the board of aldermen of the city. They do not think of allowing their Legislature to touch this subject. The scandal, and the outrage, and the iniquity of it, they know well enough would induce general indignation throughout the State; and yet we are stumbling upon it here because gentlemen say they are tired of the subject and want to make progress.

Now, sir, these two subjects, the subject of the representation of fractions and the subject of single district representations, constitute, perhaps, the two leading features of this proposition which the committee seem to be about to agree to. For my part, I would prefer that we should vote down this amendment as amended. Take a simple clause making the numbers fifty and one hundred and fifty for the Senate and House, and if on second reading any gentleman has anything else to propose, we can consider it.

As to the point to which my attention was called, the report of the Committee on Suffrage, that report covers this very

subject of county representation. It takes into account this question of fractions, and all the others proper for examination. They have all been fully considered, not by an individual member, but by the committee from time to time through months. All I can say is that when the time comes we shall present the argument in favor of our arrangement. We can have our report printed by to-morrow. I do not propose a motion to adjourn, but if anyone else desires an adjournment he can move it.

The CHAIRMAN. The question is on the amendment to the amendment.

Mr. KAINR. I move that the committee rise, report progress, and ask leave for the committee of the whole to sit again.

The motion was agreed to, there being on a division: Ayes fifty-one; noes forty-four.

The committee accordingly rose, and the Chairman (Mr. Stanton) reported that the committee of the whole had had under consideration the nineteenth section of the article on the Legislature, and had instructed him to report progress and ask leave to sit again.

Leave was granted the committee of the whole to sit again to-morrow.

MR. GOWEN'S RESIGNATION.

Mr. WOODWARD. Mr. President: I rise to a question of privilege. The House is aware that the delegates to whom the subject was referred reported some days ago the appointment of Mr. Cowan in the place of Mr. Gowen. Judge Black was delegated to correspond with Mr. Cowan on the subject of his appointment, which he did by telegraph. It was understood that Judge Black was this morning informed by a telegram from Mr. Cowan that he declines the appointment on the ground of professional engagements, and that Judge Black, with that punctuality and fidelity to his duties in this body, which characterizes him [laughter] would explain this subject more fully if he had an opportunity [laughter]; but I am doing the best I can. I have not seen the telegram myself, but Mr. Dallas and others have seen it. There is no doubt about the fact; but we have at present nothing else to offer to the Convention than a statement of these facts. In view of this state of facts I offer for the consideration of the Convention the following resolution:

"It being understood that Edgar Cowan, Esq., has declined to accept the seat

vacated by the resignation of F. B. Gowen, Esq., the said vacancy is hereby decided to still exist, and it is referred to the delegates at large who were elected by the same electors who voted for Mr. Gowen to fill said vacancy by another appointment."

The resolution was ordered to a second reading and was read the second time.

Mr. HOWARD. Mr. Cowan, as I understand, has been regularly appointed to fill this place, and the question is whether we have any right to take a proceeding of this kind without his formal resignation, which should be placed on the files of the Convention. Our own proceedings should appear to be regular. He is not dead; he is in full life; and we ought to have his resignation to be placed upon our files.

Mr. HARRY WHITE. Mr. President: I am just from the western part of the State. Mr. Cowan lives in my district. I was very reliably informed that he was going to accept and was coming on. I received that information from very reliable authority.

Mr. DALLAS. I only wish to say, as Judge Woodward was unable to say, that I have seen the dispatch, and I am therefore very reliably informed that Mr. Cowan will not accept.

Mr. CORBETT. Judge Black telegraphed to Mr. Cowan last evening, and this morning I read the dispatch in reply. He declines to come on account of professional engagements. I am very loth that any application whatever has to be made in this case. Judge Black and myself are warm personal friends of Mr. Cowan; but that he declines to come and declines on account of professional engagements, there is no doubt.

The resolution was adopted.

REPRESENTATION.

Mr. BRODHEAD. I move an adjournment.

Mr. BUCKALEW. I hope the gentleman will allow me to present a report.

Mr. BRODHEAD. I will withdraw the motion for that purpose.

Mr. BUCKALEW. I ask leave of the Convention to make a report from a standing committee.

Leave was granted.

Mr. BUCKALEW. I desire to say that the particular part of this report which the committee desire to consider is that which relates to representation.

The *PRESIDENT pro tem.* The report will be read.

Mr. BUCKALEW. To save time I will move to dispense with the reading and that it be printed.

SEVERAL DELEGATES. No; no; let us hear it.

Mr. BUCKALEW. Very well.

The *CLERK* read the report, as follows:

ARTICLE—.

OF REPRESENTATION IN THE LEGISLATURE.

SECTION 1. The Senate shall consist of fifty members, one-half thereof to be chosen every second year by a vote of the electors of the State at large, and in their election no elector shall vote for more than thirteen.

SECTION 2. Any vacancy in the Senate pending a term of service shall be filled by an appointment, to be made by the remaining Senators who shall have been voted for by a majority of the same electors who shall have chosen the Senator whose seat is to be filled.

SECTION 3. The House of Representatives shall be constituted as follows:

1. The population of the State as ascertained at each decennial census of the United States, shall be divided by the number one hundred and fifty, and the resulting quotient shall be the Representative ratio.

2. Each county now organized shall be entitled to at least one representative, except that the counties of Cameron, Elk and Forest shall elect one, the counties of McKean and Potter one, and the counties of Sullivan and Wyoming one, but no county hereafter erected shall be entitled to separate representation unless its population shall exceed one-half a representative ratio. Either one of the representative districts hereby established, composed of more counties than one, shall be entitled to a second Representative whenever the number of its population would entitle a separate county to two Representatives.

3. Counties containing a representative ratio and three-fifths of a second ratio, shall be entitled to two representatives; those containing two ratios and four-fifths of a third ratio, shall be entitled to three Representatives; and each county containing three or more ratios shall be entitled to one Representative for each ratio of its population.

4. The Representatives assigned to the counties of Philadelphia and Alle-

gheny shall be chosen by districts. The said representative districts shall be so formed as to secure the full proportionate and just representation of each division of the electors of the county as the same shall be exhibited in the returns of popular elections; each thereof shall be entitled to choose not less than three nor more than six Representatives, shall have a census population proportioned as nearly as may be to the number of Representatives assigned to it, and shall be composed of connected territory but no ward, township or election district shall be divided in the formation of said representative districts. In choosing Representatives therefrom each elector shall vote for no more than a majority number of Representatives next above one-half the whole representative number for his district.

SECTION 4. As soon as may be after each decennial enumeration of the inhabitants of this State by authority of the United States shall be made and the result thereof published, the Secretary of the Commonwealth, the Secretary of Internal Affairs and the Attorney General shall meet together and proceed to ascertain and determine the number of Representatives to which each county and district composed of counties shall be entitled under this Constitution and shall apportion the same thereto and certify their apportionment to the Governor of the Commonwealth, who shall forthwith announce the same by proclamation to the people.

Mr. LILLY. I have been requested by the committee to make an alternative report in case this one is rejected. I offer it now so that it may be printed and placed on the desks in the morning. It relates to the apportionment of the State for Senators and Representatives, and provides for a commission to make the apportionment. I have also been requested by the gentleman from Philadelphia (Mr. Simpson) to present a substitute for the same. The object is to have them printed without reading.

The *PRESIDENT pro tem.* The alternate report will be read.

Mr. LILLY. Let them be laid on the table and printed for the use of members.

The *PRESIDENT pro tem.* The order to print will be made if there be no objection.

COMMITTEE VACANCY.

Mr. H. W. PALMER. As the resignation of Mr. Gowen has occasioned a vacancy

n the Committee on Revision and Adjustment, I move that that vacancy be filled by appointment by the Chair.

Mr. MACVEAGH. I submit that that motion is not necessary. The standing rule gives the Chair power to appoint committees, and that includes the power to fill vacancies, as has been decided over and over again by parliamentary law.

The PRESIDENT *pro tem*. Under the rule of the House the Chair already has that power. There is, therefore, no occasion for the motion.

Mr. J. N. PURVIANCE. I move that the Convention adjourn.

Mr. S. A. PURVIANCE. We should like to have the report made by the gentleman from Carbon, (Mr. Lilly,) read first.

Mr. J. N. PURVIANCE. I withdraw the motion for that purpose.

The PRESIDENT *pro tem*. The report is substantially the same proposition which has already been printed and laid on the desks of members.

Mr. MACVEAGH. I renew the motion to adjourn.

The motion was agreed to; and (at two o'clock and forty minutes P. M.,) the Convention adjourned.

ONE HUNDRED AND EIGHTEENTH DAY.

THURSDAY, June 12, 1873.

The Convention met at half-past nine o'clock, Hon. John H. Walker, President *pro tem.*, in the chair.

Prayer by Rev. Jas. W. Curry.

The Journal of yesterday was read and approved.

COMMITTEE VACANCY.

The CHAIRMAN *pro tem.* The Chair begs leave to announce that he has appointed Mr. Clark, of Indiana, to fill the vacancy on the Committee of Revision and Adjustment, occasioned by the resignation of Mr. Gowen.

FILLING OF MR. GOWEN'S VACANCY.

Mr. WOODWARD. I rise to a privileged question. I offer the following report of the committee appointed to fill the vacancy occasioned by the resignation of Mr. Gowen:

The delegates at large, to whom the subject was referred, respectfully report that they have elected and appointed John C. Bullitt, of the city of Philadelphia, to fill the vacancy occasioned by the resignation of F. B. Gowen.

GEO. W. WOODWARD,
WM. T. BAER,
WM. BIGLER,
A. G. CURTIN,
GEO. M. DALLAS,
WM. H. SMITH,
JAS. ELLIS,
JNO. H. CAMPBELL.

PHILADELPHIA, June 12, 1873.

Mr. WOODWARD. I announce that Mr. Bullitt is at hand and ready to take the oath.

Mr. BULLITT advanced to the desk and the oath to support the Constitution of the United States and perform his duties with fidelity having been administered to him by the President *pro tem.*, he took his seat in the Convention.

LEAVES OF ABSENCE.

Mr. LAWRENCE asked and obtained leave of absence for himself for two days from Monday.

Mr. BAER asked and obtained leave of absence for himself for a few days from tomorrow.

PROPOSED RECESS.

Mr. BOWMAN. I offer the following resolution:

WHEREAS, It is now evident that the work of the Convention cannot be completed before the fifteenth day of July next, therefore,

Resolved, That when this Convention adjourns on Friday, the 20th inst., it will be to meet in the Hall of the House of Representatives at Harrisburg, on Tuesday, the 14th day of October next, at two o'clock P. M. of that day.

CAPITAL AND LABOR.

Mr. CAREY. Mr. President: I have a report to make from the Committee on Industrial Interests and Labor.

The CLERK proceeded to read the report.

Mr. PUGHE. I desire to interrupt the reading by making a suggestion. I am a member of this committee. This report has been prepared by the chairman of the committee with great care, and the committee consented that he should present it. It will take nearly an hour to read it. It is elaborate, able and comprehensive. I move that its reading be dispensed with and that it be entered in the Journal.

Mr. CURTIN. I trust not. As the report is an able one we had better hear it.

The PRESIDENT *pro tem.* The question is on the motion of the delegate from Luzerne (Mr. Pughe.)

The motion was agreed to.

The report is as follows:

CAPITAL AND LABOR.

Two of the proposition referred to the Committee on Industrial Interests and Labor present for consideration the question of a constitutional determination of the number of hours that shall constitute a legal day's work, with legal regulation of the wages to be paid for labor so limited as to time. By one of these the day's work is fixed and determined at eight hours, with penalties for the discharge of any employee who refuses to work longer time; requiring further that "laborers and mechanics employed by the

State, or by any county, city, township or borough, on contract or otherwise, shall conform to those hours, and shall receive the same compensation therefor as for ten hours of labor." By the other, the Convention is invited to "insertion of a clause in the Constitution prohibiting legislation from interfering with the right of the employer to regulate the hours of labor and prices to be paid for the same, by mutual agreement."

The question that lies at the root of the difference thus indicated—the legal philosophy of the proposed interference by statute with contracts of employer and laborer—would perhaps more properly fall within the province of one or the other of the law committees of the Convention. An enlightened judgment, based upon the principles of jurisprudence, would, we think, dispose of the question so far as legislation is concerned therewith. Those principles have, indeed, been a thousand times violated by parliamentary enactments; these latter, in their turn, having been as often annulled by those society forces which govern communities that grow in freedom. Sumptuary laws have never yet been able to secure their own execution nor are they likely ever so to do.

The "Statutes of Laborers," so frequently presenting themselves during centuries of English history, have shared a similar fate, the policy, as well as the principles involved therein, having fallen into the double disrepute of falseness and failure. Made in the interest or supposed interest of capital, employers were by them expressly forbidden to pay the laborer more than a certain sum for a day's work—less in the winter and more in the summer months; this, too, under penalties deemed quite sufficient to compel obedience. Of the folly of such legislation we need say nothing. It is enough that the necessity during centuries for its repetition furnished proof conclusive that its aim and end were in their very nature entirely impracticable.

Statute law may, and should, protect children from being worked in factories to the loss of health and life; it may and should require employers to provide ventilation and all practicable securities of life for miners; doing these things for the same reason that it establishes steamboat inspection, abates public nuisances, feeds its paupers, and educates its children. The State stands in *loco parentis* to the helpless and the incapable of its people,

and exercise of its parental sovereignty within such limits contravenes none of the principles of society order.

The proposition which would by legal enactment limit the freedom of contracts generally, goes, however, so far beyond the bounds of principle and policy, that it can neither be stated logically nor developed in coherent practical details. It asks just such interference with the liberty of both capital and labor as marked, and marred, and paralyzed the English statutes above referred to; differing in nothing but in changing the defendant of the old absurdity into the plaintiff of the new one. When the public law is asked to make eight hours a day's work with ten hours' wages, and when the demand has been complied with, nothing has been yet accomplished unless the wages of the ten hours shall have simultaneously been prescribed. In what manner, however, shall this be done? How shall the schedule of prices for the thousand different avocations be arranged? Shall the average rates of last year, or of the present one, be taken; and shall the wages of next year, or of others that are to follow, be kept up or held down to those figures? That this cannot be is clearly obvious. Equally so is it that something else, something very different from statute law, must determine the market price of labor. An act of Congress some time since limited the day's work of mechanics and laborers in the employment of the government to eight hours, and the President afterwards ordered the pay which they had previously received for ten hours' work to be given them. With the reasons, or the results, of this act of government we are not here concerned. It is not a precedent for the general interference with private contracts now pressed upon us. In this case the government is one of the parties and the employees are the other, and as such they are free to fix the terms of the contract. Even were the case taken for an example, which it cannot be, still it is merely a legislative act having no claim to place in the federal Constitution, or in that of a State. Open at any moment to amendment or repeal, it retains some of the required flexibility; but planted in the fundamental law it would lose all the necessary accommodation to changes of time and consequent changes of conditions. The provision relating to hours and wages of employees of counties, cities, and boroughs in the proposition we have been now consider-

ing, belongs precisely to the category of this act of Congress and demands at our hands no further discussion. Legislators may do as they will with their own, but they must not dispose of private rights with the like freedom.

The second resolution above referred to asks as its obvious aim a clause prohibiting that legislative interference which the first so imperatively demands. We could not recommend such a barrier to free discussion and freedom of action as is now suggested on either hand. It is but right to allow the antagonistic parties to stand on even ground, profiting, so far as they may, of the respective merits and forces which, in the progress of events they can bring to bear upon this great question. Your committee, therefore, recommends that both these propositions be rejected by the Convention.

Their whole duty, however, has not been done in simply refusing, because of their inexpediency, the demanded measures of relief. The eight hour law, and the regulation of wages by governmental authority, are, however faulty in themselves, but indicative of an erroneous movement of the times of great importance. Of all the unsettled questions of the day there is none of higher moment; none deserving of more serious and earnest consideration. For many years it has, more and more, taken the form, as it now bears the name, of a war between capital and labor. The parties to the contest seem themselves so to understand it; and it behooves all who are in authority, either as leaders of public opinion or as makers of public law, to take thought in time and look for the means of establishing peace through justice, for only righteousness and peace can travel hand in hand, just as wrong and war are ever joined together.

Labor, at wages, goes daily to the auction block, its forces to be there knocked down to the lowest bidder. In our system of industrial disorder the laborer's lowest reward is the employer's highest profit. He has no capital on which to rely for effectual resistance. His necessities are continuous; his employment and its remuneration fluctuate with all the changes in the markets of the time, whether that in which the interest of money is determined, or that in which corn or cotton, hats or shoes, are sold. His own market is therefore but a troubled sea, subject to high and low tides, to storms and calms, and to it he cannot say, "thus far shalt

thou come and no further, and here shall thy wild waves be stayed." He cannot command the public movements by which his fortunes are to be governed. Seeing the unequal distribution of the world's goods, and regarding them all as the product of that labor which receives so small a share, he looks for means or measures by which to compel an equitable distribution. He is clear as to the end to be obtained; clear as to its necessity; clear as to its justice. From the purpose to the end, however, in all societary, social, moral, or even divine purposes, the distance is great; and under the laws that rule in the lives of men, results, however desirable and just, are to be brought about by a system that may not be forced. This, however, he does not see. Perhaps we might say that he will not see it. To recognize the steady and necessary operative *law* in that condition of things which so sorely oppresses him he is most unwilling, for this would command his submission. Seeing only wrong in the order of human affairs, he shuts his eyes and falls back upon his strength in assault on one hand, and resistance on the other. He calls upon the State to interpose, not in reference to causes, but to their effects, thus demanding the end, not the means by which that end might be attained. Legal pains and penalties are his chosen remedies, and in keeping with this impulse he enters into association with his fellow-toiler, surrendering his own liberties as largely as he would invade those of others of his fellow-men on whom he looks as his oppressors. Further even than this, he forbids the opportunities of labor to his brother, his son, his daughter, that he may thus, as he imagines, be enabled to secure himself against evils resulting from competition for the sale of labor.

Such measures are as useless as, to all the parties concerned, they are unjust. They are not remedies for the evils suffered and apprehended, for the reason that they are based upon radically erroneous notions of causes and effects. In the first place, it is assumed that labor and capital are naturally hostile to each other. This is not true. Laborers and capitalists may go to war, but labor and capital are joined in indissoluble partnership, with interests essentially identical and, with the progress of the industrial arts, ever becoming more closely interdependent. The remedy for the subsisting hostility of the parties and its evils is, therefore, not to be found in legal com-

pulsion on the one hand or on the other. They must not fall out by the way, but in harmony search for the causes of existing evil, and by combined effort seek to perfect their connection. The society system is governed by laws as absolute and persistent in operation as those of any other part of the creation. War among its elements constitutes no part of its system. Kindred to this primary mistake is the dreadful severity of the measures adopted by labor associations for limiting the number of apprentices in the productive arts. Beginning with a fear of the very capital by which they are aided, they fall now upon another fundamental error, to wit, fear of competition in their own class for the employment which they would monopolize, because, as they think, the market for labor may be over-crowded.

In the nature of things, however, there is no possibility that labor shall ever fall of its opportunities if its market be kept free and fairly balanced. There has never yet been a day in the world's history when the productive industries were at all adequate to the wants of consumers. In a true order of business not all the possible labor of muscle and mind, with all the appliances of machinery and natural agencies, can overpass the wants of the world. There is possibly a limit to the consumption of food, as there is to the area and fertility of the earth; but their respective limits are providentially adjusted to each other step by step through all the stages of their growth; whereas, with respect to all other industries, supply creates demand. Their market can, therefore, never be gorged, and the fear of competition in production is as baseless as the measures taken to repress it are both cruel and unjust. To mechanics and manufacturers no measure applies, nor are there any limits needing to be feared. Fifty years ago stage coaches were seldom crowded. Since then the canal boat, the steamboat and the railroad car have been produced with thousands of times the capacity of former vehicles of transportation; yet are they constantly taxed to their utmost capacity for work. Fifty years ago weekly newspapers printed a few hundreds for their lean lists of subscribers; now tens of millions are being daily issued. Fifty years ago four or five yards of muslin per head was the meagre average annual consumption of our people; now they consume as much as would make a tent cover for the whole of the inhabited continent. Then, the women of the house-

hold, at their simple wheels and hand-loom, in the leisure hours of their daily work, supplied the woollens that the country wore; now power-loom, yielding thousands of times more cloth and hosiery, are tasked to meet the demand. As well might education be restricted in the fear that men might become too intelligent, as to place restraints upon skilled industry for fear of glutting the market with its products.

In the present order of things, however, markets are glutted; hands compete with hands for work; wages are inadequate; and actual suffering and apprehended destitution are experienced, to the disgrace of Christendom, and to the bewilderment of its philosophers. Society is diseased; its life-blood flows unevenly; some of its members are gorged even into the fever of congestion, others meantime being chilled and paralyzed for the lack of proper food and raiment. It is to these disordered conditions, traced to their causes, that, alone, remedial measures can be applied with hope of mitigation and of ultimate cure; and all interference not directed by knowledge of the laws which rule the case can but add to its own turbulence to the prevailing discord.

If these reflections, at first sight, wear the appearance of mere abstractions, there may yet be found some practical force in their direct application to the solution of the difficult subject under discussion; and the indulgence of the Convention is asked while the task is here attempted. Disease of the human body is defined to consist essentially in a broken balance of the circulation and of the nervous functions. Disease of the aggregate man, or society, is as well, and as usefully, defined by analogous derangements of equilibrium in the functional relations of the members of particular communities, and of entire communities among themselves. When one organ of the human body seizes upon an undue supply of blood, and of nervous power, the remainder of the structure is in that proportion deprived, failing of its proper force, and suffering in its active powers, in the direct ratio that the monopolized organ overpasses its proper allotment; with the further inevitable mischief of violated law, that the whole body, thus at war among its parts, shall suffer equally in every organ, different as may be forms in which disease presents itself. If the brain and the heart seize upon the share of vital energy that belongs to the muscles and the digestive

organs, the latter suffer from inanition; fever and convulsions meanwhile, exhibiting themselves in the former. These things premised, we may now look to their application, and to the parallelism presented in the social disorder now so obviously existent.

The leading nations of Western Europe, for a century past, have been the vital centres of the industrial world, and have been untiring in their endeavors to concentrate within themselves all the elements and agents of industrial and commercial activity, thus gorging themselves at the expense of a proportional deprivation to the whole outside world; Spain, Portugal, Ireland, Turkey, China, the East Indies, the West Indies, and all the States of this Western Continent, having suffered each in the degree that they have exposed themselves to a foreign usurpation of their industrial liberties and rights, and now witnessing, by their sad histories, to the disastrous effects of intrusion and domination in their labor markets.

The system of international trade which has now for several generations held sway among the civilized peoples of the world, is marked by results as regards the labor interest at large which condemn it as a system of industrial tyranny on one hand, and dependence on the other, mischievous alike to the oppressor and to his victims. The trading and manufacturing policy of the monopolistic nations is for themselves a system of pauperism, famine, despair and emigration; their own laborers and those of the victim nations being thus everywhere forced into revolt against that capital to which, under other circumstances, they would look as to their chiefest friend. Tested by its fruits, what has this monopolistic system done for the welfare of the masses of the peoples compelled to its support and maintenance? Let the history of the past, during which it has had full sway in Western Europe, answer! The toilers have fled in multitudes from their native lands. Nearly the whole population of Australia, and fully one-seventh of the people of the United States, are foreigners by birth. The commercial and industrial regime of those parts of Western Europe which have waged war upon foreign laborers by means of oppression of their own, is thus shown to be one of expatriation for those of their poor who have been able to escape therefrom; hundreds of thousands, meantime, being thrown upon the public charity, while tens of thou-

sands of its victims have perished of want, and of the diseases which follow in the wake of insufficient supplies of food. That laborers have much to complain of in reference to their condition in the old world is very certain. Whence, however, come effects so fearful as these—so damaging to its boasted civilization—so reproachful to its Christianity?

The explanation is this: To absorb the industrial functions of all other nations, especially in their highest forms of production, they have been obliged to underwork the labor of countries whose markets they have invaded. Wages to their own workmen lower than the lowest of the home wages of foreign labor so employed, constitute the one terrible condition of success. Beggary, starvation, banishment, are thus the necessary fruits of that ruthless policy which so long has employed the native laborer in a struggle with that foreign one whose real interests are to utilize in harmony with his own the opportunities and the means of self-supporting employment. Such is the reflex mischief that falls naturally upon the culprit community that assumes to make itself the workshop and the centralized commercial emporium of the world. The blood sucked from the rest of the body, while it gorges, paralyzes the congested organ.

How this atrocious policy must affect the victim nations becomes now clearly obvious. Its aim, and its actual effects, are the compulsion of their industries into the coarsest and least remunerative forms of production, with the attendant effect of cheapening all raw materials, and, by destroying the domestic demand, compelling their transportation to the markets of manufacturing monopolists abroad. In general terms, the usurpation of the home market by the products of skilled labor from abroad, prevents that diversification of industries which, among themselves, would balance their wants and their supplies; thereby securing to them a constant and reliable home exchange for all the varied products of the duly self-supporting and self-supplying productiveness. Thus, following the illustrative analogy above adopted, the extremities are deprived of their healthful functions by the central usurpation of those life-giving forces and resources to which alone can they look for power to perform the varied offices to them assigned.

Fortunately for us, the due distribution of the industries of civilization, the fair and equitable security of its rewards to capital and labor, and the wholesome development of business interests and enterprises, do not depend upon the consent of communities which, as has been shown, have constituted themselves disturbers of the industrial harmonies of the world at large. The United States have people enough, resources enough, and skill and energy enough, to restore order for themselves by their own action, and in despite of outside resistance; and also, to compel a greater degree of conformity among those who habitually dominate the markets of the world. During the greater part of our last census decade, and in the two years which have since elapsed, under a policy of foreign commerce which has tended largely to reserve American labor for American hands, an unparalleled prosperity has resulted to us, an immense benefit having simultaneously fallen to the share of the laborers of Europe.

Immigration, incited by the high wages attending our enlarged demand for labor, has been increasing with such rapidity that employers abroad have found themselves compelled to earnest efforts, in the form of increased wages, to detain at home their workmen skilled in the arts. But recently the German Minister of the Interior, in reply to an inquiry on this subject, told the House of Deputies "that it was impossible to restrict emigration after granting the right of change of domicile. What," he continued, "was wanted was enlightened and judicious legislation, which would make those who now thought of emigrating value their country above all others. Emigration could best be checked by elevating and improving the condition of the people at home. This was what the government was aiming at, and by this means it hoped to check the tide of emigration." In every possible manner the operation of our protective system is thus working for the advantage alike of those who come to us, and of those who remain abroad. The rewards of labor, so far as our existing policy conforms to the principle underlying it, are distributed in fair proportion throughout the manufacturing nations of Europe; and if the details of our Customs tariff were wisely and universally adjusted so as to hold for ourselves all the productive enterprise and industry that is possible to our climate, and to our other natural advantages, we should, in the next dozen

years, settle conclusively the labor question for ourselves, for France, for Germany, for Belgium, for Britain, and for Ireland. This, and this alone, presents the means of the desired rectification. It is the struggle for our market, more than for any or all others, that has hitherto held down the wages of Europe to the starvation point. Let us put an end to that struggle by resolutely defending our home production against injurious competition from abroad as a first duty which we owe to ourselves; and, as a secondary duty inseparable from the first, that of conferring the benefits of right-doing upon laborers abroad. The best national is the best international policy. All experience proves this proposition in the degree that the principle has been allowed to operate. We need not detain the Convention with an exhibit of all the benefits derived, and all the mischief escaped, in our recent experience under the operation of that policy which looks to aiding laborers everywhere in their war against monopolies whose existence is wholly dependent on the power to prevent outside nations from obtaining that control over the great forces of nature which they themselves possess, and by which labor is so greatly aided.

Closing their eyes to the important facts which have been thus presented, very many of our working men look with jealous eyes at every measure tending toward bringing those of other countries to take a place side by side with them, believing, as they do, that the more the supply of labor the lower must certainly become its price. Nevertheless, could they but be persuaded to study carefully the facts of even the last twenty years, they could not fail to become impressed with the fact, that growth of wages has always kept even pace with growth of immigration; the reward of labor, on the contrary, declining as immigration has been arrested or destroyed. At no previous period had the demand for labor, or its reward, grown so rapidly as in the early years of the great California one, say from 1850 to 1854, when immigration grew to four hundred thousand. At none, has labor been more in excess of the demand than in the years that followed the great free trade crisis of 1857, when immigration declined to a figure scarcely greater than had been attained twenty years before; and when, as in 1830-61, not one out of five of the skilled workmen of the country was steadily employed. Here, in

Philadelphia, when it was desired to build a street railroad they advertised for two hundred and fifty hands at but sixty cents a day, and had more than five thousand offered, a majority of whom were skilled artisans who were wholly out of work. In the neighborhood of one great establishment, a rolling mill, the number of unemployed men was so great that the county authorities, to save its skilled workmen from open pauperism, determined to build a turnpike, employing experienced hands at breaking stone, for fifty cents a day, rather than supporting them as paupers. At no period of our history has the reward of labor grown so rapidly as in the last ten years, when the exodus of European workingmen has so rapidly increased that the states of Central and Western Europe now find themselves forced to consideration of the measures required for retaining their countrymen at home; and when the highest German authorities admit that the pecuniary loss resulting from training and educating men for export to this country has now already more than counter-balanced the French indemnity of \$1,200,000,000. To all appearance the immigration of the present year will closely approach to half a million; and yet it is at this moment, in face of so wonderful an addition to our stock of working men and women, that we have a determined agitation for bringing about a reduction of time and increase of wages. In the years prior to the rebellion, when immigration so largely declined, the agitation was for employment at almost any price. Why is this? Why is it that, contrary to the rule elsewhere observed, demand for labor goes ahead of supply when this latter is great, and falls behind it when the supply is small? To this the answer is, that the power to compel nature to labor in man's service increases almost geometrically as numbers increase arithmetically; as employment becomes diversified, and as men are more enabled to combine their efforts for attainment of that object. The policy of the country from 1850 to 1890 looked to dispersion of our people, with steadily diminishing power of production, as a consequence of which the consumption of iron, of foreign and domestic production, in the closing year, but little exceeded a single million of tons; having but very slightly grown in the dozen years that just then had passed. Nevertheless, the increase of population had been little less than

forty per cent. Since then, at the close of another dozen years, many of which have been years of war and waste, we find that with a growth of numbers that has not exceeded thirty per cent., the consumption of iron—the surest test of growing or declining civilization—has attained the enormous figure of four million tons, or more than thrice that of 1860. Of this vast quantity nine-tenths have been given to the construction of machinery to be used in aid of human force, from the needle to the sewing machine, from the spade to the reaper, and from the wagon to the locomotive and the railroad bar.

As a consequence of the great increase in the power of combination that has thus been brought about, we find the manufacturing product of the country to have grown in the period 1860 to 1872, from eighteen hundred to five thousand millions, the mere increase having been almost twice the total amount to which the country had attained in the centuries that had preceded the war of the rebellion. Adding to these figures the foreign manufactures consumed, we obtain for the first—a free trade period when immigration was rapidly passing away—a total consumption of about \$65 per head; whereas in the period which since has passed, and in which immigration has so greatly grown, it has risen to more than \$130 per head. So far, therefore, is the working man from having occasion to dread the competition of the immigrant that he needs, night and morning, to pray for maintenance of that policy which is now making demand on Europe for so much of its half fed and half clothed population, thereby compelling both landed and manufacturing capitalists to the adoption of measures tending so to improve the condition of them who are left behind as to induce them to forego the idea of abandoning their native land. Never in the world's history has there been furnished such conclusive evidence of the fact that measures tending to benefit the working man anywhere tend toward raising his condition everywhere; and that, therefore, there is perfect harmony in the real and permanent interests of mankind at large.

The narration in capable hands would take the form of a heroic poem, and would carry with it the charm without the fiction of a fairy tale. Under that policy the enormous growth of our aggregate wealth, the extension of our internal improve-

ments, the firm establishment of our national credit, the excellent service of our currency, and the confidence infused as preparation for future and still greater enterprises are its complete vindication.

Were further evidence of this required, it would be found on studying what has happened among ourselves as consequent upon emancipation of the colored race. Less than a dozen years since, our working men looked jealously upon the negro, believing that any measure tending toward his emancipation would certainly be followed by such an influx of cheap labor as must seriously affect themselves. Directly the reverse, the negro migrates to Texas and there becomes a customer for manufactured products of a class greatly higher than that of those which his master had been accustomed to purchase for his slave. The southern freedman now aids his northern brother by making a market for his products; whereas, before emancipation his powers had been taxed to make demand for the worthless products of factories owned by foreign millionaires engaged in a "warfare against the competing capital of other countries," having for its essential object, that of preventing any and everywhere that diversification of employment to which alone can we look for elevation of the laborer, and for establishment of that harmony in the relations of labor and capital which is now so much to be desired.

Protected in some degree against the "warfare" above described, the west, the south, and the southwest, are now actively engaged in developing the wonderful mineral resources of the country, bringing consumers of food to the side of farmers engage in its production. With every step in that direction there arises new competition for the purchase of that skilled labor whose market has hitherto been confined to eastern and northern States; and with each the working man finds himself more and more enabled to determine for himself who shall be his employer and what shall be his reward; employers, on the other hand, finding themselves daily more and more compelled to offer new inducements to really useful men to remain at home.

Labor and capital, under the benign influence of a policy looking to promotion of the habit of association and to the production of competition for the purchase of human service, tend therefore daily more and more toward that equally

whose effects, exhibit themselves in a daily growing self-respect on the part of those who labor, and on that of those by whom the laborer is employed.

The more perfect the power of association for all lawful purposes the greater is the power of production, the larger is the proportion of the product that falls to the laborer's share, and the greater is the tendency toward harmony in the relations of the various portions of the society body. Asked for proof of this we need but to invite the Convention to look around and see this city with its 120,000 houses, sheltering the best fed, best clothed, best housed, and most orderly population of any great city of the world. The simple fact that of that vast number of houses almost a third pay water tax for private baths, would seem to furnish all that could be needed. When to this we add, that, notwithstanding a winter of such severity as has been rarely known, there has been but little serious crime of any description whatsoever, we thus furnish proof of the assertion, that for the promotion of that self-respect which leads to carrying into practical effect the great lesson which constitutes the basis of our religion, we need to remove all restrictions upon the exercise of that power of associations to which man is now, and ever has been, alone indebted for power to control and direct the great forces of nature to his use and service. The more perfect the removal, and the more absolute the recognition of a right to associate for all lawful purposes, the more rapid must be the society circulation and the greater the society health and force.

Less than a century since it was held in France that the right to labor was to be regarded as a privilege which the sovereign might rightfully sell to his subjects, and which they must purchase if they would give their faculties to the effort at securing supplies of food and raiment for their families and themselves. Less than half a century since the right of the British people to combine together for dealing in coal, for effecting insurances of any description, for banking, or for trading in any manner except in subjection to the antiquated law of partnership, was utterly denied; and the mere attempt at raising, in any case, a transferable stock was held to be a criminal offence, punishable by the courts.

The exercise of rights thus forbidden to the people at large had long before been secured to the few who had obtained

grants of monopoly power, and were then trading as the Bank of England, the Royal Exchange Assurance, the East India, the Levant, and other companies, all of which had been organized under charters by which the parties interested were authorized to trade with others who were willing to trade with them on the understanding that the joint funds alone were liable for the performance of their engagements.

The outside capitalist was thus denied the right of investing his means in such way as he deemed likely to prove most advantageous. He might purchase land; he might become a manufacturer; he was permitted to become member of a banking house, provided the partners did not exceed six in number; he might lend his money out on mortgage attended with the inconvenience of probable delay in the return; he might lend it to the government at a low rate of interest; or to a private banker with the risk of total loss; but he was not at liberty to unite with a dozen or more friends and neighbors in establishing an office, under the control of an agent selected by themselves, at which they should lend to such as might wish to borrow upon personal security, or on that of merchandise.

How great is the change that has since been brought about is shown by an abstract of the act of 1856 here given, as follows:

“Any seven or more persons associated for any lawful purpose may, by subscribing their names to a memorandum of association and complying with the provisions in respect of registration, form themselves into an incorporated company with or without limited liability. The memorandum to contain the name of the proposed company, the place where registered, whether limited or unlimited; and in the case of a company formed with limited liability, the word “Limited” to be the last word in the name of the company.”—*Cabinet Lawyer, London, 1868, p. 154.*

The right to associate together for all lawful purposes, that for creating banks with power to issue circulating notes alone excepted, is here fully recognized, the security of those trading with the companies which may be formed being provided for as follows:

“Its name is to be painted, or affixed, in a conspicuous position in letters easily legible on the outside of every office of its place of business. Its name shall be en-

graved on its seal, and legibly mentioned in all notices, advertisements, &c., made by it, and in all bills of exchange, promissory notes, checks, orders for money, bills of parcels, invoices, receipts, letters, and other writings used in its business.

“The penalty for not printing the name on the office is £5 for each member; and if any director, or other officer shall issue any notice, &c., bill of exchange, &c. whereon the name is not mentioned in the manner aforesaid, he shall be liable to a penalty of £50, and be personally liable for such bill of exchange, &c., if the same be not made good by the company.”

In thus recognizing the right of each and all freely to associate for any and every lawful purpose, and to determine for themselves the terms on which to invite others to trade with them, Old England was but following on the road in which New England had always walked; the right of association having there, and most especially in Rhode Island and Massachusetts, been exercised with a freedom known to no other part of the world whatsoever. At the date of the passage of this British law the soil of those States had long been covered with chartered companies for almost every conceivable purpose. Every town was a corporation for the management of its roads, bridges and schools. Academies and churches, lyceums and libraries, saving fund societies and trust companies, everywhere existed in numbers proportioned to the people's needs; and all were corporations. Each and every little district had its bank of a size to suit its wants, the stock being owned by the small capitalists of the neighborhood; and, as a consequence, they were economically managed. Local action furnished thus a system of banking more perfect, and less liable to vibration in the amount of loans, than the world before had ever known. In those two States alone such little moneyed corporations counted almost by hundreds. Massachusetts then presented to view no less than fifty-three insurance offices of various forms, scattered throughout the State, and all incorporated. Factories were incorporated, and were owned in shares; every one that had any part in the management of their concerns, from purchase of the raw material to sale of the manufactured article, being a part owner. Charitable associations existed in large numbers and were all incorporated. Fishing vessels were owned in shares by those who navigated them; and

the sailors of a whaling ship depended in a great degree, if not even altogether, upon the success of the voyage for their compensation. Every master of a vessel trading in the Southern ocean was a part owner, and the interest he possessed furnished strong inducement to that exertion and economy by aid of which New England men were then rapidly obtaining control over that distant trade. The system was the most perfectly democratic of any the world had ever known. It afforded to every laborer, every sailor, every operative, male or female, the prospect of advancement, and its results have been precisely such as might have been anticipated. In no part of the world had talent, industry, and prudence been so certain to command liberal reward.

That Massachusetts has not since gone backward is shown by a general law enacted three years since, whose first section reads as follows:

"Any such number of persons as is hereinafter provided who shall have associated themselves together by an agreement in writing such as hereinafter described, with the intention to constitute a corporation for any of the purposes hereinafter specified, shall become a corporation upon complying with the provisions of the eleventh section of this act, and shall remain a corporation with all the powers, rights, privileges, and subject to all the duties, limitations, and restrictions conferred by general laws upon corporations except as is herein otherwise provided."

By the section therein referred to it is provided, that in the formation of any company under this act the president, treasurer, and a majority of the directors, shall furnish to the commissioner certain evidence, whereupon the latter is required to grant a certificate that the parties have become organized into a corporation in accordance with the statute. Thenceforth, with the single exception of "money due to operatives for services rendered within six months before demand made upon the corporation, and its neglect or refusal to make payment," all personal liability ceases except in cases where any special stock is created by means of action of the stockholders themselves.

Traveling westward the people of New England carry with them into New York that love of freedom by which they had been always so much distinguished, and which exhibits itself so fully in the provisions of "an act relative to a corporation for manufacturing purposes" passed in

1822, closely corresponding with that of Massachusetts.

The capital stock having been paid in, all personal liability ceases except so far as is indicated in the section which here is given:

"The stockholders of any company organized under the provisions of this act shall be jointly and severally individually liable for all debts that may be due and owing to all their laborers, servants, and apprentices for services performed for such corporation."

Travelling further west, the influence of that great portion of the people of Ohio which occupies the Connecticut Reserve exhibits itself in the first section of an act to create and regulate manufacturing companies passed in 1858, by which it is provided that on complying with certain simple conditions all personal liability ceases except so far as regards laborers employed in carrying out the interests of said company."

In each and all of the cases above described the tendency has been in the direction of removing previously existing obstacles to that combination of labor and capital to which alone can we look for an increase of productive force. Of all, however, the English system is the most simple and the most advanced, and hence it is, that the limited liability principle is there already more extensively applied than in any of the American States whose position in this respect has been above described.

Turning our eyes now homeward, we find that in our own State the right of association, for any purposes of trade or profit, has never been admitted. Men might come together for the purpose of forming literary, religious, or charitable associations; for building bridges; for making turnpike roads; but when they desired to associate in any manner for rendering labor more productive they were met at once by the assertion that they were in search of privileges which might be granted to the favored few, but were not to be allowed to the many who sought exemption from the absurd restrictions of the law of partnership. Mammoth banks obtained charters from legislators who denied to the people of a country town the right to create a little shop at which the money exchanges of the neighborhood might be performed. To the owners of mineral lands anxious to bring to their aid the capital of distant cities all power of combination was de-

nied; railroad companies being meanwhile authorized to buy and sell the coal for whose transportation alone they had been at the first intended.

The absurdity of all this becoming at length clearly obvious, public opinion, in 1849, forced upon the Legislature the passage of a general law for promoting the institution of manufacturing associations, soon, however, to be so amended as to require that every associate should be liable in his individual capacity for every dollar of indebtedness that might be incurred; and for exercise of the privilege of so becoming he was required to pay a bonus to the State of one-half per cent.; this, too, in addition to the fact, that in his capacity of corporator he was liable to a special taxation while compelled annually to exhibit the state of his affairs to the gaze of the world at large. As a consequence of this, the general law has remained almost, if not absolutely, a dead letter; few, if indeed any, having shown themselves willing to subject themselves to its absurd provisions. Since then, charters have been granted by almost thousands, and to the necessity that had been thus established for obtaining, by means of special laws, exemption from injurious and antiquated restrictions, we stand to-day mainly indebted for the legislative corruption of which we now so much complain.

How utterly inconsistent has been our whole course of action in reference to this great question of association is shown in this—that as early as 1836 an act was passed for enabling individuals to create that bastard, and most imperfect, form of corporation by means of which special partners are enabled to do business under the name of a general partner, with limitation of liability to the amount at first invested. How greatly inferior is this form of association, whether as regards the security of capitalists or that of those with whom they deal, will be obvious to those who reflect upon the fact, that in the perfect form of association each and every individual is entitled to exercise some control over the action of the body of which he is a part; whereas, in the imperfect one all power is surrendered to the general partner, who may, or may not, prove to possess the capacity and the honesty required. Deficient therein as he may prove to be, he cannot in any manner be ousted; and his partners may see their property gradually wasting away while precluded by the law, on pain of making

themselves responsible for any and every liability that has been or may be created, from interfering in any manner in the conduct of the business in which they are engaged. The system was, however, an approach toward freedom of action, and it is satisfactory to state that as a rule it has worked so well as fairly to warrant such further movement in the direction of emancipation as has but now occurred.

At the session of the Legislature which recently has closed, there were enacted no less than five laws having for their object that of enabling associated men to do and perform certain acts from which they had been before debarred, and for facilitating associations for various operations of manufacture and of trade. Most of all important of these is that one which is entitled "an act to provide for the incorporation of iron and steel manufacturing companies," supplemented as it since has been by another act extending its provision to many other branches of manufacture. By it, stockholders are made "individually liable for debts due for labor or services, and in that case for no period exceeding six months;" but outside thereof, they are at liberty to provide, by their articles of association, for limited or unlimited liability, as they may prefer, the penalty for adopting the former being, that all such companies are to pay to the State a bonus of one-half of one per cent.; whereas, those adopting the latter are to pay but one-quarter of one per cent. The idea of privilege is thus still retained, the legislators to whom we stand indebted for this advance toward freedom not having been yet quite prepared for that recognition of right so fully exhibited in the laws of both Old and New England above referred to.

Liberal as this appears to be, it is really less so than a law of the previous year, by which priority of wages was limited to claim on the joint property of the associates, to the exclusion of individual liability for any purpose whatsoever. In the opinion of your committee it is much to be desired that the principle thus established be now recognized as the fixed policy of the State. Labor and land need to invite capital to come to their aid, and the imposition of liabilities, such as have heretofore existed, is far more injurious to the laborer and the land holder, both of whom need to stay at home, than to the moneyed capitalist, who may seek

abroad the profitable investments that at home are not permitted to him.

What now is needed to be done is little more than the adoption of a constitutional provision recognizing the right of all men to associate together, for every lawful purpose, upon terms closely correspondent with those which have been now established in relation to certain departments of manufacture—modified, as even they will be, by the constitutional provision in virtue of which corporate bodies are in the future to be put upon the same precise footing, so far as regards taxation, with individual men.

By one law it is now provided that men may associate for purposes of trade on the footing of limited liability, and those who so associate are subject to no taxation or supervision in excess of that to which they would be subject were they trading singly. By another law, other men may associate for the construction of roads and bridges, on a footing of perfect freedom from liability for any obligations beyond that required for protecting the workmen in their employment. By a third, all this may be done by men engaged in smelting or rolling iron, making paper, and in various other branches of manufacture. Why should we not now make one great step forward, adopting a constitutional provision such as is above recited, limiting the power of the Legislature to the enactment of laws providing for regulating internal organization, and for securing to the world at large that full knowledge of the character of the associations with which they deal, which characterizes the British law whose provisions have above been given? Of all the laws on record, there is none which has so much tended toward enabling capital and labor to work together. Of all, there is none whose adoption here would so much tend toward diminution of the power of that lobby to which we now stand so much indebted for all that is discreditable in our legislation.

Most of all important, however, it would enable thousands of intelligent working men, miners, mechanics, inventors and others to obtain the aid required for enabling them to pass from working in the pay of others to working on their own account. In this city alone there are hundreds, if not even thousands, who would be enabled to accomplish this could they but assure the neighboring great or little capitalist that he might grant aid to a certain limited amount, freed from all

danger of further liability. Again, the wealthy owner of mills or furnaces would find himself enabled to co-operate with his employees in ways that would be profitable to them and him, but which are now by law forbidden. Further, our working men would be enabled to participate in the great co-operative movement which was inaugurated some thirty years since in England, but made little progress until Parliament, in 1851, recognized the limited liability of the parties so engaged. Since then, the course of things has been so rapid that Britain now presents to view no less than one thousand five hundred associations having for their object the purchase and sale of commodities required by their members; others, meanwhile, being engaged in various branches of manufacture which previously had been wholly in the hands of individual capitalists. Look where we may, we are struck with the fact that what most is needed is that perfect freedom of association which so recently, despite all previous prejudices, has found its place in Britain. Believing that the time has come for this, your committee recommend the adoption of the following, as the closing section of the chapter on Corporations:

The right of the people of the State to associate together for all lawful purposes, and for trading on principles of limited or unlimited liability, shall not be questioned; but it shall be the duty of the Legislature to provide by law for the organization of associations, and for securing a publicity so complete as to enable all who trade with those which adopt the limited form to become familiar with the fact that no liability exists beyond that of the joint capital which may have been subscribed.

HENRY C. CAREY.

Chairman.

BOUND JOURNALS AND DEBATES.

Mr. NEWLIN, from the Committee on Printing and Binding, submitted the following resolution:

Resolved, That the State Printer furnish bound copies of the Journal and Debates of the Convention to the officers thereof, as follows:

<i>Journal.</i>		<i>Debates.</i>
Chief Clerk.....	3	10
First Assistant Clerk.....	3	10
Second Assistant Clerk.....	2	8
Transcribing Clerks, each,	2	8
Sergeant-at-Arms.....	1	5
Asst. Sergeant-at-Arms.....	1	2
Doorkeeper.....	1	3

Journal. Debates.

Assistant doorkeeper.....	1	2
Postmaster.....	1	3
Assistant postmaster.....	1	2
Official Reporter.....	5	10

The resolution was read twice and considered.

Mr. NEWLIN. The Convention ordered originally an edition of four thousand five hundred bound copies of the Debates in addition to the daily distribution to newspapers and to members. After giving each member thirty-one bound copies and giving to the members who resigned or the families of those who are deceased their full compliment, and after also allowing to the officers of the House the number here provided for, there will be three hundred full sets of the Debates left. I think this is a fair provision and should be adopted.

Mr. DALLAS. Mr. President: I observe that for the *corps* of reporters, of whom we have five in this body actively engaged, the resolution would provide but five copies of the Journal and ten of the Debates. Now, the reporters very reasonably take an interest in the Debates, as they are based upon their labors, and I think ten copies to divide among the five, in view of the distribution proposed among the other officers of the Convention, is too few in number. I move to amend, by making it five copies of the Journal and twenty copies of the Debate for the Official Reporter and his assistants.

Mr. NEWLIN. I have no objection to that.

The PRESIDENT. The question is on the amendment, to strike out "ten" and insert "twenty" copies of the Debates for the Official Reporter.

The amendment was agreed to.

Mr. DARLINGTON. I move to amend, by striking out the necessary number and inserting one copy of the Journal for each of the three clerks and ten copies of the Debates. I do this because I see a discrimination is made between the clerks; and as they are all equally faithful, I think they should each have the same number of copies of Debates, that is, ten copies of Debates for each one.

Mr. NEWLIN. I ask that the amendment be read.

The CLERK. The amendment is to provide that each officer of the Convention have one copy of the Journal and that the Second Assistant Clerk have ten copies of the Debates instead of eight, the same as the other two clerks.

Mr. NEWLIN. I have do objection to that.

Mr. MACVEAGH. Will there be any penalty imposed in case they do not take these Debates from us? [Laughter.] I trust there will be a penalty attached to the resolution.

Mr. H. W. PALMER. I move to further amend by providing that the number thus furnished to the officers be deducted from the number ordered to be printed.

Mr. NEWLIN. I trust that amendment will not be adopted. I do not see the object of it, or the force of it. There is a certain edition that has been ordered; it has been partially distributed; and after passing the order now before the House there will be nearly three hundred full sets for libraries and other public institutions. I do not see any propriety in the amendment just offered by the gentleman from Luzerne.

The PRESIDENT *pro tem*. The question is on the amendment of the delegate from Luzerne (Mr. H. W. Palmer.)

The amendment was rejected, there being eighteen ayes; less than a majority of a quorum.

The PRESIDENT *pro tem*. The question now recurs on the amendment of the delegate from Chester (Mr. Darlington) providing for one copy of the Journal to each officer and clerk of the Convention, and ten copies of the Debates to the second assistant clerk.

The amendment was agreed to.

The PRESIDENT *pro tem*. The question is on the resolution as amended.

The resolution as amended was agreed to.

PRINTING OF PROPOSITIONS.

Mr. BIGLER. I rise to ask a courtesy of the Convention. Not being on any committee, I have prepared certain propositions with regard to railroads, and I desire to introduce them in order to have them printed preparatory to the consideration of that article.

The PRESIDENT *pro tem*. The delegate from Clearfield asks leave to present a series of propositions. Shall he have leave?

Leave was granted.

The PRESIDENT *pro tem*. They will be read.

Mr. BIGLER. I simply desire them printed for the use of members, not read now.

The PRESIDENT *pro tem*. The reading will be dispensed with. They will be laid

on the table and printed for the use of members.

SALARIES OF OFFICERS.

Mr. CURRY. If it is in order, I now desire to call up the report that I submitted yesterday morning in relation to the compensation of the officers of this House.

The PRESIDENT *pro tem*. That is the next business in order, and the resolution reported by the committee will be read.

The CLERK read as follows:

Resolved, That in lieu of the salaries heretofore fixed for the officers of this Convention, the compensation for the services of said officers be and is hereby fixed as follows: Chief Clerk, \$2,750; Assistant Clerks, each, \$2,750; Transcribing Clerks, each, \$2,500; Sergeant-at-Arms, \$1,800; Assistant Sergeant-at-Arms, \$1,500; Doorkeeper, \$1,300; Assistant Doorkeeper, \$1,300; Postmaster, \$1,500; Assistant Postmaster, \$1,400.

The PRESIDENT *pro tem*. The resolution is before the Convention; and the question is on the amendment offered yesterday by the delegate from Schuylkill (Mr. Bartholomew.)

Mr. BARTHOLOMEW. I desire, with the leave of the Convention to withdraw that amendment and to substitute another in its place.

The PRESIDENT *pro tem*. It cannot be withdrawn. It has laid over one day.

Mr. CURRY. What is the amendment?

The PRESIDENT *pro tem*. The pending amendment is to strike out "\$1,300" after "Assistant Doorkeeper" and insert "\$1,500."

The amendment was rejected.

Mr. BARTHOLOMEW. Now I move to amend the report by fixing the salaries of all the officers below the Chief Clerk and his assistants, at the same figure, \$1,750.

Mr. MACVEAGH. That reduces some.

Mr. BARTHOLOMEW. All except the Chief Clerk and the assistant clerks.

Mr. MACVEAGH. I do not think that right.

Mr. HAZZRAD. I move that the report be recommitted to the committee.

The PRESIDENT *pro tem*. It is moved that the report be referred back to the committee.

Mr. EWING. What for?

Mr. HAZZARD. For further consideration. There was not entire unanimity in regard to it, and several of the committee were absent, and it would be better to re-

fer it back. I think all these matters may be arranged before the committee.

Mr. MACVEAGH. I think it had better be referred back. It is just one of those questions on which the Convention ought to accept the conclusions of a committee, if it is possible to do so, rather than get into a wrangle here.

Mr. CURRY. It just seems to me to be one of those questions that will centre upon one or two men. I am willing to meet my share of the responsibility and fix these salaries at the very highest figure, if necessary, and I do not propose to shrink for a moment. If the Convention propose to refer the report back to the committee, I am willing to do the best I can, but now it has gone so far that I prefer to have it disposed of.

Mr. DARLINGTON. I move to add "with instructions to reduce the pay so that none shall be greater than the pay of the members."

The PRESIDENT *pro tem*. The question is on the instructions.

Mr. BOYD. Mr. President: I trust that the Convention will not refer this report back to the committee. It is to be presumed that they have investigated this matter and that their report is based upon their best information and upon their best judgment. Now, this question has to be met, and it is just as well to meet it and dispose of it now as at any other time. I have never known a report referred back to a committee unless there was some object in the re-commitment defined when the motion was made. It is to be referred back now with a vague and indefinite instruction which amounts to nothing; and after what the chairman has said, we are bound to believe and certainly do believe his statement that they have considered the subject, and that this is the result of their best wisdom and ability upon this matter. Now, it seems to me there is very little to do upon this subject. For one, I shall vote for the report as it is, with one solitary exception, and that is that I will offer at the proper time an amendment to allow Mr. Rogers, as the reading clerk, five hundred dollars for that special service. With that exception I shall vote for the report as it is, but at any rate I trust the Convention will act upon it now one way or the other.

Mr. NEWLIN. I trust that the motion to refer back to the committee will not prevail. This matter has now been partially considered here, and it might as well be met and decided at this time. I think that

the laborer is worthy of his hire. I think that all these men should be paid a liberal compensation. I shall vote for the amendment of the gentleman from Schuylkill (Mr. Bartholomew) when it comes up as modified, so as not to reduce the pay fixed in the report for the Sergeant-at-Arms.

Mr. BARTHOLOMEW. I have modified my amendment so as to except the case of that officer.

Mr. HALL. What was the motion of the gentleman from Chester (Mr. Darlington?)

The PRESIDENT *pro tem*. To refer the report of the committee back with instructions that no officer shall receive a compensation greater than that of the members. That motion is before the Convention.

Mr. NILES. I really hope that the motion of the delegate from Chester will not prevail. When this Convention first met at Harrisburg, and under the old law which fixed the compensation of the members, agreed upon the salary of the chief and assistant clerks, their compensation was placed at a higher sum than that of the members of the Convention. It is apparent to every delegate upon this floor that the clerks of this Convention have been daily and hourly in their seats and have performed their duty well, and it is also apparent that very many of us have had our seats vacant here for a very great length of time. I hope the good sense of this Convention will not allow the motion of the delegate from Chester to prevail.

Mr. DARLINGTON. One single word in answer to that. I take it that it is no excuse for us to say that because we have taken \$2,500 for our own compensation, therefore we ought to pay other people \$2,750. If it were in my power, I would propose and carry a reduction of our own pay so that there should be more inequality still. I would be glad if the gentleman from Tioga would assist me in declaring that the pay of the members shall be reduced \$500, and that the pay of the clerks shall be \$250 more than that.

Mr. BOWMAN. I desire to make a single remark. If the gentleman from Chester thinks or if any member thinks that \$2,000 is enough to compensate him for his services in this Convention, it may be well to understand that the clerks have earned more than have any members on this floor.

One further idea and then I am done with this question. As stated by the gen-

tleman from Tioga it is apparent to every gentleman present that the clerks, the Chief Clerk and his assistants, have been in their seats from the commencement of this Convention down to the present hour. How many delegates can say the same? While it is true that there are some delegates here—a very few of them—who have attended the sessions of this Convention uninterruptedly, it is also true that three-fourths of them have not done so.

Mr. M'CAMANT. That is it.

Mr. BOWMAN. The clerks have performed the labor of this Convention and of this Commonwealth, and worked in their seats and in their rooms when members of the Convention were away from here, a great many more hours each week and each day than any gentlemen in this Convention have spent in their duties and in their positions; and to say that those three men should not receive a greater compensation than the members of the Convention, I think would be decidedly wrong. I think the good sense of the gentleman from Chester, when he comes to examine this matter in the light of honesty and fair dealing between man and man, will come to the same conclusion.

Mr. MACVEAGH. I understood the motion was to refer back without instruction.

Mr. DARLINGTON. No.

Mr. MACVEAGH. My own judgment was that a committee of this House could consider this question with better advantage than the House as a whole; but I am perfectly willing to go on and hear it now and decide it. Certainly I would very much prefer that to referring it with any such instruction as is coupled with the motion of the gentleman from Chester.

Mr. HAZZARD. I desire to withdraw my motion.

Mr. DARLINGTON. I renew it.

Mr. MACVEAGH. Mr. President: I desire to call the attention of the House to what seems to me the desirableness of referring it back to the committee, especially if the chairman himself does not desire another mode of disposing of it. Some gentleman stated, I think the gentleman from Washington, (Mr. Hazzard,) that all the members of the committee had not considered this subject, and I am obliged to say that I concur so far with the gentleman from Montgomery (Mr. Boyd) that it does seem to me that some difference ought to have been

made in reference to the Chief Clerk, but I am perfectly willing, if the House prefers, to go on and decide it here, though I do not think a large body is a good place to decide it.

The PRESIDENT *pro tem*. The Chair decides that the delegate from Washington cannot withdraw his motion unless the delegate from Chester withdraws his.

Mr. LAWRENCE. I hope then that the delegate from Chester will withdraw his amendment.

Mr. DARLINGTON. No, sir.

Mr. TEMPLE. Mr. President: I think the answer to the remarks of the delegate from Dauphin in regard to referring this matter back to the committee is this: That the Convention now have the subject under charge, and I think the delegates here this morning are perfectly competent and willing to settle it without referring it back to any committee. The members of this committee who are absent may be absent to-morrow or a week from to-day. The committee have not asked to have this matter referred back to them. The chairman has indicated that if it is referred back to them, there will be no difference made in this report, and I cannot see any advantage whatever in having the subject referred back to the committee. Let the Convention meet it this morning, meet it fairly, meet it promptly, and settle it here. I, for one, am in favor of this report, and I will go further when the proper time comes and endorse the suggestion thrown out by the delegate from Montgomery.

Mr. DARLINGTON. Mr. President: I have only a word to say now in answer to this suggestion. I have no word of censure or complaint.

Mr. TEMPLE. I rise to a question of order. The delegate from Chester has spoken once already on this subject.

Mr. DARLINGTON. Not on this particular question.

The PRESIDENT *pro tem*. The Chair sustains the point of order.

Mr. BIDDLE. Mr. President: I did not intend to speak at all this week, because the state of my health did not permit it; but I feel an interest in this question and therefore must deliver myself of my views. I am opposed to referring this question back. We are perfectly competent to decide it now; we have got as much light as we shall ever get. I am opposed also to the proposition involved in the amendment of the gentleman from

Chester. I see no propriety in mixing up the question of our compensation with that of the clerks or other officers. They stand on a different footing entirely. They have been here day and night, through summer and winter, good weather and bad weather; and so far as I know none of them have ever been away; and what I say of them, I say of all the officers. I am for the largest compensation that can be given. I am for \$2,750 for the Chief Clerk and his assistants. I am for the \$1,800 or \$1,900 for the Sergeant-at-Arms. I am for making no distinction between the other officers. I want to know why the door-keepers should be put down at \$1,300. I know that those men have been faithful and attentive throughout. I have seen it and felt it in my own experience. I have no idea of putting them down to \$1,300 and some of the others to \$1,500. I shall go heartily and strongly for the amendment of the gentleman from Schuylkill provided there is a difference made with respect to the Sergeant-at-Arms, who is our chief executive officer.

Mr. BARTHOLOMEW. I have so changed the proposition.

Mr. BIDDLE. I trust the Convention will settle this question now.

Mr. AINEY. I hope the Convention will not refer this matter back to the committee, and I also hope that the Convention will modify the report of the committee. I reluctantly differ with gentlemen who have stated here that there is a propriety in giving the clerks more than the members of the Convention have been voted. I think the usage which has prevailed in parliamentary bodies has established the custom of giving the clerks no more compensation than is paid the members, rather less than more.

Mr. NILES. Oh, no; that is a mistake; the clerks of our State Legislature are paid more than the members.

Mr. AINEY. If I am wrong in that, the rule which prevails there should not necessarily apply here. The members of the Convention have generally attended punctually. Some members have necessarily been absent for a time; but the attendance has been good as a general rule. I earnestly hope this Convention will be careful to so act as not to give it a reputation for extravagance. With earnest regret I state my fears that there is danger of this. We are a *reform* Convention—sent here for the purpose of reforming abuses which have grown up in the legislative and other branches of our gov-

ernment. Prominent among these is the practice of voting extravagant sums for subordinate officers of the Legislature. I earnestly trust the Convention in disposing of this question will not exhibit too much recklessness with the moneys of the State. I am willing to vote a full and fair compensation for the services rendered by the subordinate officers and employees of the House and to the chief and assistant clerks, but I am not in favor of going beyond \$2,500. I think that sum ample compensation for the services rendered and to be rendered hereafter by the clerk and his assistants. I hope their pay will not be fixed at a higher figure. Let the salaries of the others be correspondingly increased and leave it at that. I hope the Convention will meet the question fairly and with the consciousness that our acts here are scrutinized by the public.

I may say in reply to the reasons stated for giving the clerks more than the members, that the clerks have had less expense to bear than members of the Convention. We have had to pay our own postage and stationery, while the clerks have had theirs furnished for them, at the cost of this State.

MR. DARLINGTON. I withdraw my motion.

MR. HAZZARD. I desire also to withdraw my motion.

MR. COCHRAN. I desire to say one word in regard to this amendment: I shall vote against this resolution at this time, and largely for the same reason that I voted against another resolution of the same character some time ago. I confess myself to be incapable of determining what the value of the services in this body is until I know when the body is going to adjourn and complete its work, and not knowing that, no time for adjournment being fixed, I cannot vote in the affirmative on this resolution.

MR. BAER. As I understand the proposition now pending, it would reduce the compensation of the transcribing clerks from the amount reported by the committee to \$1,750. I wish to call the attention of the Convention to the fact that the report was based somewhat upon the salaries as originally fixed by this Convention. The original amounts fixed were \$1,500 for the Chief Clerk and \$1,200 each for the assistant clerks and \$1,000 for the transcribing clerks. I will also state that the committee reported a less compensation for the doorkeepers because the Con-

vention originally established the distinction by fixing the compensation for doorkeepers at a less amount than the others. Personally, however, in that committee, I was in favor of giving the doorkeepers the same as the rest. The conclusion arrived at by the committee was based on the action of the Convention heretofore. I hope the gentleman from Schuylkill will amend his proposition so as not to include the transcribing clerks. Their pay should be raised in proportion according to the basis upon which we have raised other salaries. Their pay originally stood higher than the pay of the other officers except the clerks at the desk, and yet this amendment puts them on the same footing.

MR. BARTHOLOMEW. I suggest to the gentleman to offer an amendment to that effect himself.

MR. BAER. The report of the committee fixing \$2,750 for the Chief Clerk and assistant clerks is less than the amount allowed by the Senate of Pennsylvania for a three months' service to their clerks, and for less labor. These clerks had double the amount of labor to perform that the clerks of the Pennsylvania Legislature have; and yet when you look at the report furnished from Harrisburg, you will find that even the \$2,750 is a less sum than that paid to the clerks of the Senate. I hope it will not be reduced.

MR. KAINE. I was a member of the committee that, at the time of the organization of this Convention, fixed the compensation to be allowed to the officers for their services. At that time we had no idea that the session of this Convention would be continued so long as it has been. The compensation then fixed, I thought, was ample for any reasonable services and for any reasonable time that might be occupied by the clerks in this Convention. But now it seems otherwise, and I am in favor of increasing that amount; but not to the extent named in this report. I was opposed and voted against fixing the salary of the members of this Convention at \$2,500. I was opposed to it at that time and I am opposed to it now; but the salaries of the members being fixed at \$2,500 is no criterion whatever by which the salaries of the clerks should be fixed. I do not propose to make any motion upon the subject, but simply desire to express my views in regard to the amount that it is too much for every officer either as contained in the report or as contained in the amendment

of the gentleman from Schuylkill, which I do not exactly understand. I shall content myself with voting against the amendment and against the report.

Mr. D. W. PATTERSON. I merely wish to say a word in regard to the report. The postmaster is away down below the others and I think it is probably without consideration. The amendment proposes to make it equal. I am in favor of the amendment of the gentleman from Schuylkill; but the postmaster and his assistant, it will be recollected, are here every day, whether the Convention is in session or not, attending to the correspondence and letters and sending them to the different members, when we had the long vacation as well as at other times, and they are here every day and every night until nine or ten o'clock. I wish that to be distinctly understood. Therefore I think they should be made equal to others.

Mr. LAWRENCE. I only desire to say a word, and that is that I was strongly opposed to the report of this committee as it was made. I thought it unjust to some of the officers of the Convention, and I am very glad that my friend from Schuylkill has made this motion to strike out. Although if I could fix the salaries of one and another, I might not agree to the modification in all respects, yet as a whole I shall vote for it. I shall vote very freely to make the salary of the clerks more than the salary of the members, and I have never known an instance in any deliberative body where the clerks have not been paid more than the members of the body in the aggregate. They come here when we come and they stay here hours after we are gone away, making up the Journal for us, preparing it for reading the next morning. Their expenses are about the same as ours. They are not allowed anything for postage or stationery as we are. Hence I am glad that they are paid something more than we are. I voted, as my friend from Fayette did, against the present salary of the members, \$2,500; and yet I am not prepared to say here that it is too much; but I can see no reason why the several officers of this Convention from the clerk down should not be made about equal. They have all performed their duties well, as was said by my friend from Philadelphia, (Mr. Biddle,) and I hope we shall settle the whole question by adopting the amendment of the gentleman from Schuylkill.

Mr. TURRELL. Mr. President: I have no feeling particularly in relation to this report, but we may just as well try to act understandingly as a Convention and not stultify ourselves by any hasty course of action nor by being misled by the interested feelings of particular members for men whom they have placed here.

Now, sir, I submit that this report is framed upon legislative precedents and upon the action of this Convention fixing the salaries originally, and no man here knows it better than the gentleman who has just resumed his seat, for he has had experience, and when he attacks this report as unjust, I say he reckons without the record. Now, sir, let us refer to the items as fixed by this Convention at the outset, and I ask the attention of members and desire that they consider this matter. All legislative bodies since time began have fixed the salaries of their officers according to the position and the responsibility and ability it requires for each position, and that is right. Our legislative bodies have all done it. This body did it when it fixed the salaries of its officers at the outset. Now, what are they? I call the attention of members to it. The salary of the Chief Clerk was fixed at \$1,500; the two assistants at \$1,200. For reasons which seemed just and proper to a majority of the committee the three were fixed in this report of our committee on an equal basis. The members of the Convention will appreciate whether it is right or not, and they will do as they please with it and change it if they please. I simply wish to justify the action of the committee according to the circumstances and, as I stated, the legislative precedent and the prior action of this Convention. The transcribing clerks were fixed originally at \$1,000; Sergeant-at-Arms at \$850; the assistant sergeant-at-arms, \$650; the doorkeeper, \$600; the assistant doorkeeper, \$500; the postmaster, \$800; and his assistant \$600. It was right for this Convention, in fixing these salaries at the outset, to discriminate according to position and responsibility; then it was proper for the committee to frame their report upon that basis, taking into account the increased time which has been referred to.

That is all I desired to say. I simply wished to call the attention of the Convention to these points and to repel any accusation of injustice because of a difference in the graduation of these salaries when it

is based upon the action of this Convention and all legislative precedents.

Mr. LAWRENCE. Allow me to ask the gentleman a question. I do not know that the gentleman favored this idea, but I want to know on what principle of justice and equity it is proposed to give one officer at this door \$1,800 and another \$1,300, a difference of \$500 between two men who are sitting in juxtaposition.

Mr. TURRELL. The gentleman shows that he does not understand the report. There is no such discrimination.

Mr. LAWRENCE. Yes, there is.

Mr. TURRELL. There is not.

Mr. LAWRENCE. I understand it so. I respect the Sergeant-at-Arms as much as any man in the House does; but I understand the report gives him \$1,800 and the doorkeeper \$1,300.

Mr. TURRELL. The doorkeeper attends to the door. The Sergeant-at-Arms is the chief executive officer of this body, and the distinction which I have referred to is recognized throughout all legislative bodies. If the gentleman will look at the original resolution he will see that the proportionate difference as fixed by this Convention in the outset is no more than the difference made by this report. The gentleman who has just resumed his seat says that there is not that difference in the original fixing of these salaries.

Mr. LAWRENCE. I say that in fixing the difference between the salary of the Sergeant-at-Arms and doorkeeper at Harrisburg in the Senate and in the House, there was never a difference of more than \$100.

Mr. TURRELL. The gentleman is mistaken there. His recollection is at fault as to this point. The salary fixed for the Sergeant-at-Arms here in the outset was \$850, and the doorkeeper \$600. There is a difference of \$250. Now, the difference between them is no more in proportion; it is not as much indeed as that is.

Mr. BAER. I move to amend the amendment by adding to it "except the transcribing clerks."

Mr. BARCLAY. Mr. President: It seems to me that this Convention has been going on very loosely in its appropriations, seemingly without that consideration which these different questions require. A short time since we voted into our own pockets nearly \$350,000. We have large bills to pay; the large bills of reporters, the large bills of printers, the large bills—we cannot tell how many in number nor how great in extent—that have

already been made. The question then should present itself to our consideration before we make any other appropriations, have we the means to foot these bills? The Legislature has appropriated the sum of \$500,000 for the expenses of this Convention. Is it enough at the rate at which we are proceeding? It has been intimated to me by a gentleman very accurate in his calculations, that after the payment of the bills we have already contracted, there will not be enough to meet the expenses to which we have subjected ourselves.

To obviate that difficulty, and in order that no question on that subject may arise hereafter, but that the \$500,000 may be fully adequate for the payment of the employees—all of whom are entitled to and should receive the compensation which the committee on this subject have recommended—I would move the following amendment as an addition to the resolution that has been suggested—

The PRESIDENT *pro tempore*. The gentleman from Berks will retain his amendment for the present. There is already an amendment to the amendment pending.

Mr. BARCLAY. Then I will read my addition, and when the time comes to offer it, I believe there is sufficient patriotism in the Convention to pass it. I know that over forty gentlemen in this Convention have placed themselves upon record as opposed to a proper and adequate compensation on the part of the members of the Convention. They are willing to serve the Commonwealth; let them serve for honor. Therefore, in order that the \$500,000 appropriated by the Legislature to meet the expenses of this Convention may not be insufficient, I will offer the following amendment:

"The members of this Convention shall receive no pecuniary compensation for their services. All they ask is the approval of their fellow citizens."

The PRESIDENT *pro tem*. The question is on the amendment to the amendment, which is to except the transcribing clerks.

The amendment to the amendment was rejected.

The PRESIDENT *pro tem*. The question recurs on the amendment of the delegate from Schuylkill (Mr. Bartholomew.)

Mr. AINEY. I offer the following amendment to the amendment:

Strike out all after the word "resolved" and insert as follows:

"That the compensation of the clerks and other employees of the House be increased seventy per cent over the amount heretofore fixed by the Convention."

The PRESIDENT *pro tempore*. That is hardly an amendment to the amendment. It might come in when the motion now pending is voted upon, as an amendment to the original report, but it is not in order at present. The question now is upon the amendment of the gentleman from Schuylkill.

Mr. DUNNING. I want to say a word or two on this subject. As a member of the committee making the report which is now before this Convention, I was very glad to hear my friend from Susquehanna (Mr. Turrell) state so clearly the reasons that led the committee to their conclusions. I sustained the report in committee, although I did not feel that some of the officers were receiving as large compensation as they should receive. I was willing to vote for more for some of the officers than the committee reported.

The PRESIDENT *pro tem*. The Chair must remind the gentleman from Luzerne that it is clearly out of order in discussions on this floor, to state what occurred in committee.

Mr. DUNNING. I will not say anything in particular about what took place there.

The gentleman from Schuylkill has offered a proposition which I think does greater injustice to some of the officers of this body than can possibly be charged upon the report under consideration, in any individual case. I am sorry that he did not consent to accept the amendment which was proposed to him. I shall feel constrained to vote for the report of the committee. Inasmuch as many members of the Convention thought it was not enough in some particulars, I did hope that some proposition would be offered which would harmonize the feelings of all individuals, and I think if it be necessary to increase it in some particulars, no member of the committee would find any special fault with that.

One thing I desire this Convention distinctly to understand. The action of this committee in reporting the increase which they did, was fixed previously by this Convention for the action of that committee. The action of the Convention itself was the light that led the committee to that conclusion, emanating originally from this Convention. I hope that inasmuch as the amendment to the amendment has been voted down, the remaining

amendment will be voted down and the report of the committee sustained.

Mr. BARTHOLOMEW. Mr. President: I understand the question to be upon my amendment.

The PRESIDENT *pro tem*. Yes, sir.

Mr. BARTHOLOMEW. Then upon that question I call the yeas and nays.

Mr. HARRY WHITE. I second the call.

Mr. NEWLIN. Is it too late to amend the amendment?

Mr. BARTHOLOMEW. Oh, yes! The yeas and nays are called for.

The PRESIDENT *pro tem*. The yeas and nays have been called for, and the Clerk will call the names of the delegates.

Mr. KAINE. I understand the vote now is upon the amendment of the member from Schuylkill.

The PRESIDENT *pro tem*. That is the question before the House.

Mr. DAVIS. I ask that it be read.

The CLERK. The amendment is to make the compensation of the officers of the body, except the Chief Clerk and the two assistant clerks, \$1,750, except the Sergeant-at-Arms, whose salary is left at \$1,800.

Mr. MACVEAGH. I desire to say a single word before the vote is taken. If gentlemen desire to see the basis of the report of the committee upon this subject, they will find it upon pages 21 and 22 of the first volume of Debates. When the salaries of the officers of this Convention were first fixed, their compensations were graded, and that gradation met the views of the Convention at that time. For one, I am unable to see why a percentage of increase is not the true method of reaching this question of compensating these people. They all accepted office subject to these subordinations, and they should be preserved.

The yeas and nays were required by Mr. Bartholomew and Mr. Bailly, (Perry,) and were as follow, viz:

YEAS.

Messrs. Addicks, Bailly, (Perry,) Bailey, (Huntingdon,) Bannan, Barclay, Bardsley, Bartholomew, Biddle, Bowman, Broomall, Bullitt, Calvin, Campbell, Carter, Collins, Corson, Craig, Davis, Elliot, Ellis, Finney, Gibson, Green, Guthrie, Hanna, Hazzard, Lawrence, MacConnell, M'Camant, M'Clean, M'Culloch, Newlin, Palmer, H. W., Patterson, D. W., Reed, Andrew, Reynolds, Rooke, Runk, Russell, Sharpe, Smith, William H., Stewart, Temple, Weitherill, J. M., Wherry, White,

David N., White, J. W. F. and Woodward—48.

N A Y S.

Messrs. Achenbach, Ainey, Alricks, Andrews, Armstrong, Baer, Baker, Bigler, Boyd, Brodhead, Buckalew, Carey, Cochran, Corbett, Cronmiller, Curry, Dallas, Darlington, De France, Dunning, Edwards, Ewing, Fulton, Funck, Gilpin, Harvey, Hemphill, Horton, Howard, Hunsicker, Kaine, Knight, Landis, Lear, Lilly, Littleton, MacVeagh, M'Murray, Mantor, Metzger, Minor, Mott, Niles, Palmer, G. W., Parsons, Patterson, T. H. B., Patton, Porter, Pughe, Purviance, John N., Purviance, Samuel A., Read, John R., Ross, Simpson, Smith, Henry W., Stanton, Struthers, Turrell, Walker, Wetherill, John Price, White, Harry, Worrell and Wright—63.

ABSENT. — Messrs. Beebe, Black, Charles A., Black, J. S., Brown, Cassidy, Church, Clark, Curtin, Cuyler, Dodd, Fell, Hall, Hay, Heverin, Lamberton, Long, Mann, Mitchell, Purman, Smith, H. G., Van Reed and Meredith, *President*—22.

Mr. HUNSICKER. I ask for a division of this question so as to take up each salary by itself.

The *PRESIDENT pro tem.* A division of the question is asked. Where is the first division to be?

Mr. HUNSICKER. The Chief Clerk and his two assistants.

Mr. BARCLAY. I offer my amendment as an addition to the resolution now before the House.

Mr. CURRY. If I am in order I think I can make a suggestion that will meet the approbation of the committee.

Mr. BARCLAY. I ask to have my amendment read.

The *PRESIDENT pro tem.* The amendment will be read.

The CLERK. The amendment is to add at the end of the resolution these words:

"And that the members of this Convention will receive no pecuniary compensation for their services. All they ask is the approval of their fellow citizens."

Mr. BROOMALL. I rise to a question of order. Is the amendment germane to the subject?

The *PRESIDENT pro tem.* The point of order made by the delegate from Delaware (Mr. Broomall) is sustained. The amendment is not in order.

Mr. CURRY. Mr. President: I move further to amend the report before this Convention so as to make the compensa-

tion of the doorkeeper and assistant doorkeeper \$1,500 in lieu of \$1,300 as reported by the committee.

Mr. HUNSICKER. I asked for a division of the question and the Chair entertained it. Now, the gentleman from Blair offers an amendment. I desire to raise a point of order, whether there can be an amendment now when the Chair has entertained the motion to divide the question and has already stated the first division. The amendment will be in order hereafter.

Mr. DARLINGTON. The amendment of the gentleman from Blair will be in order when we reach that branch of the resolution.

The *PRESIDENT pro tem.* A division of the question is called by the delegate from Montgomery and entertained. That division was to take a vote on each clause separately, and the question now is on the clause fixing the compensation of the Chief Clerk and his assistants.

Mr. HARRY WHITE. I desire to offer an amendment, to come in at the end of the resolution. ["No. No."]

The *PRESIDENT pro tem.* The yeas and nays have been called for on this question, and the Clerk will call the roll.

Mr. HARRY WHITE. I merely ask my privilege as a member of this body to offer an amendment relating to another officer. There is an effort here to discriminate.

The *PRESIDENT pro tem.* The amendment will be in order when we reach that particular officer. A division of the question has been called, and the yeas and nays have been ordered on the first division, which is in relation to the salary of the Chief Clerk and the assistant clerks, making it \$2,750.

Mr. BARTHOLOMEW. I did not call for the yeas and nays on that question. I called for them on the amendment offered by the gentleman from Berks (Mr. Barclay).

Mr. MACVEAGH. That was ruled out of order.

The *PRESIDENT pro tem.* Then the question is on the first division of the resolution.

The division was agreed to.

The CLERK read the second division, as follows: "Transcribing clerks, each, \$2,500."

Mr. AINEY. I move to amend by increasing the compensation heretofore fixed by the Convention seventy per cent.

Mr. H. W. PALMER. How much is that?

Mr. AINEY. That would make the compensation \$1,700. It was originally fixed at \$1,000.

The PRESIDENT *pro tem.* The question is on the amendment to strike out "\$2,500" and insert "seventy per cent. above the amount fixed by the Convention."

Mr. AINEY. Making it \$1,700.

Mr. CAMPBELL. On that I ask for the yeas and nays.

Mr. COLLINS. I second the call.

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

The PRESIDENT *pro tem.* Certainly.

Mr. KNIGHT. Then I move to amend so as to make it eighty per cent.

Mr. LAWRENCE. I suggest that that is so indefinite that no member here can understand what he is voting for. I do not know what the original compensation was.

Mr. COLLINS. This proposition makes it \$1,800.

Mr. LAWRENCE. Then I will vote for it.

Mr. HARRY WHITE. Do I understand the amendment is to the clause fixing the compensation of the transcribing clerks alone?

The PRESIDENT *pro tem.* Yes, sir.

Mr. HARRY WHITE. Very well. Then I understand the compensation of the transcribing clerks originally was fixed at \$1,000, and seventy per cent. increase will make it \$1,700.

Mr. STANTON. There is an amendment to that amendment offered by the gentleman from Philadelphia (Mr. Knight) proposing to increase it eighty per cent.

Mr. AINEY. I accept the amendment of eighty per cent., which will make the compensation \$1,800.

The PRESIDENT *pro tem.* The Clerk will call the roll on the amendment as amended.

Mr. W. H. SMITH. The call for the yeas and nays was not seconded by ten persons.

Mr. MACVEAGH. It requires ten seconds to call the yeas and nays.

Mr. AINEY. I hope the call for the yeas and nays will be seconded.

Mr. HARRY WHITE. I submit that it does not require ten to second the call for the yeas and nays on a question of this kind. That refers to amendments to sections.

Mr. DARLINGTON. Can anybody tell me what these transcribing clerks have had to do or what they will have to do? Nothing at all.

The PRESIDENT *pro tem.* The question is on the amendment of the gentleman from Lehigh (Mr. Ainey) as modified.

The yeas and nays were required by Mr. Campbell and Mr. Ainey, and were as follow, viz :

YEAS.

Messrs. Ainey, Alricks, Bailly, (Perry,) Bardsley, Biddle, Brodhead, Broomall, Buckalew, Bullitt, Calvin, Campbell, Carey, Carter, Clark, Cochran, Collins, Corbett, Cronmiller, Cuyler, Dallas, Darlington, Ewing, Finney, Funck, Hall, Harvey, Howard, Kaine, Knight, Lawrence, Littleton, M'Culloch, Minor, Palmer, H. W., Patterson, T. H. B., Patton, Purviance, John N., Reed, Andrew, Russell, Smith, H. G., Smith, Wm. H., Stewart, Van Reed, Wherry, White, David N., White, Harry, Woodward, Worrell and Wright—49.

NAYS.

Messrs. Achenbach, Addicks, Andrews, Armstrong, Baer, Bailey, (Huntingdon,) Baker, Bannan, Barclay, Bartholomew, Bowman, Boyd, Corson, Curry, Curtin, Davis, De France, Dunning, Edwards, Elliott, Ellis, Fulton, Gibson, Gilpin, Green, Guthrie, Hanna, Hazzard, Hemphill, Horton, Hunsicker, Landis, Lear, Lilly, MacConnell, MacVeagh, M'Camant, M'Clean, M'Murray, Mantor, Metzger, Mott, Newlin, Niles, Palmer, G. W., Parsons, Patterson, D. W., Porter, Pughe, Read, John R., Reynolds, Rooke, Ross, Runk, Sharpe, Simpson Smith, Henry W., Stanton, Struthers, Temple, Turrell, Walker, Wetherill, J. M., Wetherill, Jno. Price and White, J. W. F.—65.

So the amendment was agreed to.

ABSENT.—Messrs. Beebe, Bigler, Black, Charles A., Black, J. S., Brown, Cassidy, Church, Craig, Dodd, Fell, Hay, Heverin, Lamberton, Long, Mann, Mitchell, Purman, Purviance, Samuel A. and Meredith, President—19.

The PRESIDENT *pro tem.* The question is on the second division.

Mr. LITTLETON. Mr. President: I move to strike out "\$2,500" and insert "\$2,000" for the transcribing clerks.

Mr. CORBETT. I ask for the yeas and nays.

Mr. WORRELL. I second the call.

The PRESIDENT *pro tem.* The yeas and nays are ordered, and the Clerk will call the roll.

The question being taken by yeas and nays, resulted: Yeas seventy-six; nays thirty-two, as follow:

YEAS.

Messrs. Ainey, Alricks, Armstrong, Baer, Baily, (Perry,) Bailey, (Huntingdon,) Bannan, Bardsley, Bartholomew, Biddle, Bigler, Bowman, Brodhead, Broomall, Buckalew, Bullitt, Calvin, Campbell, Carey, Carter, Clark, Cochran, Collins, Corbett, Corson, Cronmiller, Cuyler, Dallas, Darlington, Dodd, Edwards, Ewing, Finney, Fulton, Funck, Gibson, Green, Guthrie, Hall, Harvey, Hazzard, Howard, Kaine, Lawrence, Lilly, Littleton, MacConnell, MacVeagh, McClean, McCulloch, M'Murray, Minor, Newlin, Patterson, D. W., Patterson, T. H. B., Patton, Purviance, John N., Purviance, Sam'l A., Read, John R., Reed, Andrew, Reynolds, Rooke, Ross, Russell, Sharpe, Simpson, Smith, H. G., Smith, Henry W., Smith, Wm. H., Van Reed, Wherry, White, David N., White, Harry, White, J. W. F., Woodward and Wright—76.

NAYS.

Messrs. Achenbach, Addicks, Baker, Barclay, Boyd, Curry, Davis, De France, Dunning, Elliott, Gilpin, Hanna, Hemphill, Horton, Hunsicker, Mantor, Metzger, Mott, Niles, Palmer, G. W., Parsons, Porter, Pughe, Runk, Stanton, Struthers, Temple, Turrell, Walker, Wetherill, J. M., Wetherill, Jno. Price and Worrell—32.

So the amendment was agreed to.

ABSENT.—Messrs. Andrews, Beebe, Black, Charles A., Black, J. S., Brown, Cassidy, Church, Craig, Curtin, Ellis, Fell, Hay, Heverin, Knight, Lamberton, Landis, Lear, Long, M'Camant, Mann, Mitchell, Palmer, H. W., Purman, Stewart and Meredith, *President*—25.

The *PRESIDENT pro tem.* The question recurs on the second division as amended.

The division as amended was agreed to.

The third division was read as follows :

"Sergeant-at-Arms, \$1,800, and assistant-sergeant-at-arms, \$1,500."

MR. LITTLETON. I move to amend by striking out "1,800" and inserting "1,500," and striking out "1,500" and inserting "1,300." ["No." "No."]

MR. AINEY. That is an increase in the same proportion as the others.

The *PRESIDENT pro tem.* The question is on the amendment of the gentleman from Philadelphia.

MR. BOWMAN. I move to amend the amendment by striking out "1,500" and

inserting "2,000," and striking out "1,300" and inserting "1,700."

The *PRESIDENT pro tem.* The question is on the amendment to the amendment.

The question being put there were on a division—ayes, fifty-one; noes, forty-seven.

MR. BAER. I ask for a division, so that the vote be taken on the Sergeant-at-Arms separately.

MR. BOYD. I second that.

The *PRESIDENT pro tem.* It will be divided, and the Clerk will call the yeas and nays on the first branch.

The yeas and nays, which had been required by Mr. Boyd and Mr. Hunsicker, were as follow, viz :

YEAS.

Messrs. Achenbach, Addicks, Andrews, Armstrong, Baer, Baily, (Perry,) Bailey, (Huntingdon,) Baker, Bannan, Barclay, Bardsley, Bartholomew, Biddle, Bigler, Bowman, Calvin, Campbell, Carey, Carter, Clark, Corson, Curry, Curtin, Davis, De France, Dodd, Dunning, Edwards, Elliott, Ellis, Ewing, Fell, Finney, Gibson, Guthrie, Hanna, Hazzard, Horton, Howard, Landis, Lawrence, MacConnell, MacVeagh, McCulloch, M'Murray, Mantor, Metzger, Newlin, Niles, Palmer, G. W., Parsons, Patterson, D. W., Patterson, T. H. B., Porter, Purviance, John N., Purviance, Samuel A., Reynolds, Runk, Sharpe, Smith, Wm. H., Stanton, Stewart, Temple, Wetherill, J. M., Wherry, White, David N., White, J. W. F., Woodward and Wright—69.

NAYS.

Messrs. Ainey, Alricks, Boyd, Brodhead, Broomall, Buckalew, Bullitt, Cochran, Collins, Corbett, Cronmiller, Dallas, Darlington, Fulton, Funck, Gilpin, Harvey, Hemphill, Hunsicker, Kaine, Lilly, Littleton, McClean, Mott, Patton, Reed, Andrew, Ross, Russell, Simpson, Smith, H. G., Smith, Henry W., Turrell, Van Reed, Walker, Wetherill, Jno. Price and Worrell—36.

So the first division was agreed to.

ABSENT.—Messrs. Beebe, Black, Charles A., Black, J. S., Brown, Cassidy, Church, Craig, Cuyler, Green, Hall, Hay, Heverin, Knight, Lamberton, Lear, Long, M'Camant, Mann, Minor, Mitchell, Palmer, H. W., Pughe, Purman, Read, John R., Rooke, Struthers, White, Harry and Meredith, *President*—28.

The *PRESIDENT pro tempore.* The question now recurs on the second division,

the pay of the assistant sergeant-at-arms, which is placed at \$1,700.

Mr. CURRY. I move to amend so as to make it \$1,800.

The PRESIDENT *pro tempore*. The amendment to the amendment cannot be entertained. There is an amendment to the amendment pending.

Mr. MACVEAGH. I hope the mover of the amendment to the amendment, the gentleman from Erie, (Mr. Bowman,) will accept the modification.

Mr. BOWMAN. I will accept the modification of \$1,800.

The PRESIDENT *pro tempore*. The question is on the second branch of the amendment as amended to this division, making the salary of the assistant sergeant-at-arms \$1,800.

Mr. HUNSICKER. I desire to say but one word. The pay of the assistant sergeant-at-arms was fixed originally at \$600. The proposition now is to multiply that by three.

Mr. WM. H. SMITH. I hope the call for the yeas and nays will be withdrawn by the gentlemen who have made it. I hope we shall not take up all the morning by calling the yeas and nays on this business.

Mr. BOYD. The call is not withdrawn.

The yeas and nays having been required by Mr. Boyd and Mr. Worrell, were as follow, viz:

YEAS.

Messrs. Achenbach, Addicks, Andrews, Armstrong, Baily, (Perry,) Bailey, (Huntingdon,) Baker, Bannan, Barclay, Bardsley, Bartholomew, Beebe, Biddle, Bowman, Bullitt, Calvin, Campbell, Carey, Carter, Clark, Corbett, Corson, Curry, Curtin, Cuyler, Dallas, Davis, De France, Dodd, Edwards, Elliott, Ewing, Finney, Fulton, Gibson, Hanna, Hazzard, Horton, Howard, Lawrence, Lear, Lilly, MacConnell, MacVeagh, M'Camant, M'Murray, Mantor, Nowlin, Niles, Parsons, Patterson, D. W., Patterson, T. H. B., Porter, Purviance, John N., Purviance, Samuel A., Reynolds, Rooke, Runk, Sharpe, Simpson, Stanton, Stewart, Struthers, Temple, Wetherill, J. M., White, David N. and White, J. W. F.—67.

NAYS.

Messrs. Alricks, Baer, Bigler, Boyd, Brodhead, Broomall, Buckalew, Collins, Cronmiller, Darlington, Funck, Gilpin, Guthrie, Hall, Harvey, Hemphill, Hunsicker, Kaine, Landis, Littleton, M'Clean,

M'Culloch, Minor, Palmer, H. W., Patton, Read, John R., Reed, Andrew, Ross, Russell, Smith, H. G., Smith, Henry W., Smith, Wm. H., Turrell, Van Reed, Walker, Wetherill, Jno. Price, Woodward and Worrell—38.

So the amendment as amended was agreed to.

ABSENT.—Messrs. Ainey, Black, Charles A., Black, J. S., Brown, Cassidy, Church, Cochran, Craig, Dunning, Ellis, Fell, Green, Hay, Heverin, Knight, Lamberton, Long, Mann, Metzger, Mitchell, Mott, Palmer, G. W., Pughe, Purman, Wherry, White, Harry, Wright and Meredith, President—28.

The PRESIDENT *pro tem*. The question recurs on the second branch of the third division as amended.

The branch as amended was agreed to.

The PRESIDENT *pro tem*. The next division of the resolution will be read.

The CLERK read as follows:

“Doorkeeper, \$1,300, and assistant doorkeeper, \$1,300.”

Mr. JOSEPH BAILY. I now move to make the salary of the rest of the officers \$1,800 each.

Mr. MACVEAGH. The question is on the division which has just been read, and I insist upon a separate vote on that.

Mr. JOSEPH BAILY. Then I make the motion on this division, that the salaries of the doorkeeper and assistant doorkeeper be made \$1,800.

Mr. LITTLETON. I desire to suggest that we give them the balance of the half million appropriation! [Laughter.]

Mr. HUNSICKER and Mr. BAER called for the yeas and nays on the amendment of Mr. Joseph Baily.

Mr. BOYD. If it is in order, I move that the question be referred back to the committee. We have now got something for them to act upon, and I think before the thing becomes utterly ridiculous it should be done.

The PRESIDENT *pro tem*. That motion is not now in order. The question is on the amendment of the gentleman from Perry, (Mr. Joseph Baily,) striking out \$1,300 and inserting \$1,800 in the fourth division of the resolution.

The yeas and nays were taken, and were as follow, viz:

YEAS.

Messrs. Achenbach, Addicks, Andrews, Armstrong, Baily, (Perry,) Bailey, (Huntingdon,) Bannan, Barclay, Bartho-

Iomew, Beebe, Biddle, Bowman, Calvin, Carey, Carter, Clark, Collins, Corson, Craig, Curry, Curtin, Davis, De France, Dodd, Dunning, Elliott, Ellis, Finney, Gibson, Guthrie, Hanna, Hazzard, Horton, Lawrence, Lilly, MacConnell, M'Camant, M'Culloch, Mantor, Metzger, Mott, Newlin, Niles, Palmer, G. W., Parsons, Patterson, D. W., Porter, Pughe, Purviance, John N., Purviance, Sam'l A., Reynolds, Rooke, Runk, Sharpe, Simpson, Smith, Wm. H., Stanton, Stewart, Temple, Wetherill, J. M., Wetherill, John Price, White, David N. and White, J. W. F.—63.

N A Y S.

Messrs. Ainey, Alricks, Baer, Baker, Bardsley, Bigler, Boyd, Brodhead, Broomall, Buckalew, Campbell, Cochran, Corbett, Cronmiller, Cuyler, Dallas, Darlington, Edwards, Ewing, Funck, Gilpin, Harvey, Hemphill, Howard, Hunsicker, Kaine, Landis, Littleton, MacVeagh, M'Clean, M'Murray, Minor, Palmer, H. W., Patterson, T. H. B., Patton, Read, John R., Reed Andrew, Ross, Russell, Smith, H. G., Smith, Henry W., Struthers, Turrell, Van Reed, Walker, Woodward, Worrell and Wright—48.

So the amendment was agreed to.

ABSENT.—Messrs. Black, Charles A., Black, J. S., Brown, Bullitt, Cassidy, Church, Fell, Fulton, Green, Hall, Hay, Heverin, Knight, Lamberton, Lear, Long, Mann, Mitchell, Purman, Wherry, White, Harry and Meredith, *President*—22.

The PRESIDENT pro tem. The question now recurs on the fourth division as amended.

The division was agreed to.

The *CLERK* read the next division as follows :

"Postmaster \$1,500; assistant postmaster \$1,300."

Mr. NEWLIN. I move to amend by making the compensation of the postmaster and the assistant \$1,800 each.

Mr. BIDDLE. I second the motion.

The PRESIDENT pro tem. The question is on the amendment of the delegate from Philadelphia.

Mr. LITTLETON. I move to re-commit the whole subject to the committee. ["No!" "No!"]

Mr. H. G. SMITH. I move to amend the amendment by adopting the residue of the report as it comes from the committee.

The PRESIDENT pro tem. That cannot be done.

Mr. MACVEAGH. Is it necessary to take the vote on the compensation of these officers together? I voted "nay" on the call of the yeas and nays before, because the two officers named were put exactly on an equality, which had not been done up to the last vote. If it is the determination of the Convention to do so, of course they can do so; but still I think a difference of some kind, as we preserved it in the case of the Sergeant-at-Arms and his assistant, and in the case of the clerks, ought to be preserved here. I trust, therefore, that there will be a distinction made between these officers.

Mr. NEWLIN. I take it that there is no force in what has just been said by the gentleman from Dauphin. This House has by a vote just fixed the salary of the doorkeeper and his assistant at the same figure. The services performed are alike, and therefore there should be no discrimination. Now, as to the Postmaster and his assistant, they are here from eight o'clock in the morning until eight at night, and they are here on Sunday, and they perform arduous duties, and they should be well paid. The Convention has fixed \$1,800 as the compensation for the last few officers, and I see no propriety whatever in paying these gentlemen less than the rest. I therefore hope that the amendment will be adopted.

Mr. LITTLETON. I made a motion to recommit this whole subject to the committee, and I think that motion is in order.

The PRESIDENT pro tem. The Chair thinks it is not.

Mr. CURRY. I do hope the gentleman's motion will not prevail.

The PRESIDENT pro tem. There is no such motion pending. The question is on the amendment of the gentleman from Philadelphia to make the compensation of the Postmaster and his assistant \$1,800 each.

Mr. BARCLAY. I second the amendment which has been offered by my friend from Philadelphia (*Mr. Newlin*). I have been a close observer of the manner in which the different employes of this Convention have discharged their duties, and I can say, and every gentleman here can say, that with the exception of the two assistant clerks, no men have labored so hard, so faithfully, and so well as the two gentlemen who occupy the position of Postmaster and assistant Postmaster. From eight o'clock in the morning until nine o'clock at night, that postoffice

has been kept open with always some one, nearly always two, in attendance. During the vacation of two or three weeks, when the other employees were at home and while we were absent from our posts the postmasters were here attending to their official duties. Sir, we required them to be here on Sundays. By a resolution of this House they were compelled to be in attendance on Sundays, and I have known them to be here at nine o'clock on Sunday morning and at three o'clock in the afternoon. In requiring them to serve us, we have not even allowed them to serve their God. Now, sir, with what kind of consistency can we vote \$2,000 to the two transcribing clerks, who have not done half as much work as these two postmasters, with what kind of consistency can we vote the sums of money that we have voted to the doorkeeper and assistant doorkeeper and the other employees of this body, if we refuse the same, if not a larger compensation, to these worthy gentlemen?

Mr. DARLINGTON. I should like to ask the gentleman a question. I understand him to state that these officers have been here regularly day and night, that the post-office has always been open?

Mr. BARCLAY. Yes, sir.

Mr. DARLINGTON. We had a report in our neighborhood that prevailed pretty extensively that the post-office was broken open and nobody was found here at all.

Mr. BARCLAY. The post-office was broken open on a Sunday and not at night. What I state is well known to every man here, that our post-office is kept open late in the morning and until nine o'clock at night, sometimes later. Not only that; these men have called on some of us at our residences and delivered letters at our houses on Sunday. Now, I ask gentlemen with what consistency we can refuse to give these two officers at least \$1,800 when we have voted the same sum to others who have not rendered half the service. I hope the Convention will preserve its consistency and do what is right.

The PRESIDENT *pro tem*. The question is on the amendment of the delegate from Philadelphia (Mr. Newlin.)

The yeas and nays were required by Mr. Littleton and Mr. Russell, and were as follow, viz:

Y E A S.

Messrs. Achenbach, Addicks, Andrews, Armstrong, Baily, (Perry,) Bailey, (Hunt-

ington,) Baker, Bannan, Barclay, Bardsley, Bartholomew, Beebe, Biddle, Bowman, Calvin, Carey, Cassidy, Clark, Collins, Corson, Craig, Cronmiller, Curry, Davis, De France, Dodd, Dunning, Elliott, Fell, Finney, Fulton, Gibson, Guthrie, Hall, Hanna, Hazzard, Horton, Lawrence, Lear, Lilly, MacConnell, M'Camant, M'Murray, Mantor, Metzger, Mott, Newlin, Niles, Palmer, G. W., Parsons, Patterson, D. W., Patterson, T. H. B., Patton, Porter, Pughe, Purviance, John N., Purviance, Sam'l A., Reynolds, Rooke, Runk, Sharpe, Simpson, Smith, Wm. H., Stanton, Temple, Wetherill, J. M., White, David N., White, J. W. F. and Woodward—69.

N A Y S.

Messrs. Ainey, Alricks, Baer, Boyd, Brodhead, Broomall, Buckalew, Campbell, Cochran, Corbett, Dallas, Darlington, Edwards, Ewing, Funck, Gilpin, Harvey, Hemphill, Howard, Hunsicker, Kaine, Landis, Littleton, MacVeagh, M'CLean, M'Culloch, Minor, Palmer, H. W., Reed, Andrew, Ross, Russell, Smith, H. G., Smith, Henry W., Struthers, Turrell, Van Reed, Walker, Wetherill, John Price, White, Harry and Worrell—40.

So the amendment was agreed to.

ABSENT.—Messrs. Bigler, Black, Charles A., Black, J. S., Brown, Bullitt, Carter, Church, Curtin, Cuyler, Ellis, Green, Hay, Heverin, Knight, Lamberton, Long, Mann, Mitchell, Purman, Read, John R., Stewart, Wherry, Wright and Meredith, President—24.

The PRESIDENT *pro tem*. The question recurs on the division as amended.

The division was agreed to.

Mr. HARRY WHITE. I offer the following to be added to the resolution:

"And that the fireman shall be allowed \$4 50 per day, including all the days he was actually in attendance in the discharge of his duties."

Mr. LITTLETON. At this time—I think it is in order now—I renew the motion which I made, to refer the whole subject back to the committee.

The PRESIDENT *pro tem*. The Chair is of opinion that it is not now in order to refer. The question is on the amendment of the delegate from Indiana.

Mr. HARRY WHITE. I will just make the remark that as we have increased all the other salaries, there is no reason why the fireman, who was employed at \$3 50, should not also have an increase. You do not allow him for Saturdays and Sun-

days. The chairman of the Committee on Accounts is not here. The practical effect of this is to give him a small increase. This change will give him about \$850, a difference of \$180 or \$200. He has been here in the performance of his duty, and without this amendment would receive only about \$600. I submit that this man, having served us faithfully all the time, and in the summer has been turned off, should receive an increase. I trust the amendment will be adopted.

Mr. ANDREW REED. I move to refer the motion to the Committee on Accounts.

Mr. STANTON. I move that Mr. Bartlett, who was this fireman's associate, be added at the same compensation. Will the gentleman from Indiana accept it?

Mr. HARRY WHITE. I accept it.

Mr. LILLY. I move that that part of the amendment be referred to the Committee on Accounts. I have been informed, since this amendment was offered, that the assistant did no labor this winter at all; that the principal, of whom the gentleman from Indiana speaks, did all the work, and the assistant did nothing. I do not believe in that at all. If a man performs duty, I am willing to see him paid; but if he does not do anything, he should not be paid, and I am opposed to having any sinecures about this Convention.

Mr. HARRY WHITE. My friend from Carbon is a little in error. I do not want the fireman to be complicated with any person that did not do his duty. The gentleman understands that my amendment is not for the assistant fireman, Mr. Bartlett, who has been a watchman here night after night. If there is any question of that kind raised, I do not want it to embarrass my amendment. I merely remind the Convention that this is a trifling change but an exceedingly important matter to a poor man who served us faithfully, all the time doing his duties.

Mr. KATNE. I would inquire of the gentleman from Indiana if the persons named in the amendment were embraced in the original report of the committee as officers of this Convention?

Mr. HARRY WHITE. The original fireman was; the assistant fireman was not.

Mr. KATNE. I was going to suggest that the proceedings we have here now upon the report of this committee should be confined strictly to the officers originally reported by the committee appointed by the Convention for that purpose, and

that everything else in regard to employees and expenses should be referred to the Committee on Accounts, and I hope the amendment of the gentleman from Indiana will be referred to that committee.

Mr. STANTON. I will state to the Convention and to the gentleman from Fayette that the Convention employed the person that the gentleman from Indiana has reference to. He was elected by this Convention, and as the gentleman says his accounts have not been settled.

Mr. CLARK. I understand, Mr. President, that the force of the amendment of my colleague is simply to fix the amount *per diem* the fireman is entitled to receive. Of course how many days he was employed will be a question for the Committee on Accounts. But the import of the amendment is simply to fix the *per diem* allowance of that officer, and the Committee on Accounts may adjust the number of days. I have only to say in behalf of the fireman that he has performed his duty here as he does it everywhere, in the most acceptable manner. No more competent, honorable, or trusty man lives in the State than the fireman, and I hope he will receive a liberal compensation.

Mr. ANDREW REED. I made a motion, which was subsequently renewed by the delegate from Carbon, to refer the motion of the delegate from Indiana to the Committee on Accounts. If this person alluded to has done his duty, the Committee on Accounts can find it out full as well as this Convention, and much better, and without consuming the time of the Convention, and when they make the report the Convention can amend it. I therefore insist on the motion that it be referred to the Committee on Accounts.

Mr. ADDICKS. Mr. President: It may be proper for me as a member of the Committee on House to say that both the firemen, the principal and assistant, faithfully performed their duty during the time they were engaged in this Convention.

Mr. RUSSELL. I ask whether the persons embraced in the amendment were not discharged several weeks ago, and their accounts settled, and whether this is not an extra allowance.

Mr. HARRY WHITE. No, sir. I will inform my friend from Bedford that the accounts of the fireman, of course, when this amendment is passed, go to the Committee on Accounts and they settle them

on this basis of \$4 50 for every day he has been employed.

Mr. RUSSELL. Has it not been actually settled on the basis fixed when we met in Philadelphia?

Mr. HARRY WHITE. It has not. I state that on my responsibility as a delegate to this Convention.

Mr. COLLINS. Why not?

Mr. HARRY WHITE. I cannot tell you why; but I know it has not been done.

Mr. HUNSICKER. Mr. President: As I understand the position of the question the report as amended is now before the Convention. Now, then, the pay as fixed originally by this Convention puts the transcribing clerks, precisely on a par with the Sergeant-at-Arms, and puts the pay of the transcribing clerks at only \$200 more than that of all the other subordinate officers. I now move that the whole report be referred back to the committee with instructions to equalize those payments.

The PRESIDENT *pro tem*. The question now pending before the Convention is the amendment proposed by the delegate from Indiana (Mr. Harry White.) The first, second, third, fourth and fifth divisions of the resolution have been voted upon. The question now is, will the Convention amend the resolution by the pending amendment of the delegate from Indiana.

Mr. RUSSELL. Will the Clerk read the report of the committee on the subject?

The PRESIDENT *pro tem*. The Clerk will read the report for the information of members.

Mr. RUSSELL. I am told there is no report on that point.

Mr. HARRY WHITE. I am sorry to trouble the Convention. I will only remark that this amendment of mine merely fixes the basis upon which the Committee on accounts shall settle the accounts of the fireman.

Mr. RUSSELL. What has it to do with the report of this committee?

Mr. HARRY WHITE. It fixes the compensation—

Mr. RUSSELL. The committee had not that subject before them at all.

Mr. CORBETT. I wish to ask the gentleman from Indiana a question for information. I ask him if the *per diem* allowance of this employee was not fixed by the former committee who reported the sum of \$3 50 a day.

Mr. HARRY WHITE. It was fixed upon the same principle that the compen-

sation of the other employees was fixed. ["No." "No."]

Mr. CORBETT. If I understand the reason on which the pay of the other officers is equalized, it is because of the continued and long sessions; but I understand that this employee's pay was *per diem*, and there is no reason whatever for increasing it.

Mr. WORRELL. Before this vote is taken I should like to ask the gentleman from Indiana what figure is fixed for the pages. He says that this increase is to be made upon the same theory as the increase of the pay of other officers, although the pay of the fireman was a *per diem*. The pay of the pages is *per diem*, and I should like to ask him if he has any figure to suggest as an increase for those officers? I think while we are taking this action here, if we want to be just we ought to pay the pages for Saturdays and for the intermission of two weeks during which the Convention was not in session. I think that would be proper action for this Convention to take. I should like the gentleman to state the increase which he would suggest for these officers, because they are paid a *per diem* compensation too.

Mr. BOYD. I have understood all along that the House Committee and the Committee on Accounts and Expenditures had been adjusting the compensation of the fireman and the subordinates about the Hall.

Mr. TURRELL. That is right.

Mr. MACVEAGH. Not the fireman. That was fixed by resolution at Harrisburg.

Mr. BOYD. I beg your pardon. I know it was once and it was changed afterward I know that the House Committee have had this subject before them. They consulted with the Committee on Accounts and Expenditures and in joint committee the matter was fixed.

Mr. BIDDLE. It is by the day anyhow.

Mr. BOYD. It is by the day.

Mr. LILLY. I rise to a point of order Has the amendment of the gentleman from Indiana anything to do with the report before us?

The PRESIDENT *pro tem*. If the point of order be insisted upon, the Chair will decide that the amendment is not in order.

Mr. BIDDLE. Then I call for the question on the resolution.

Mr. HARRY WHITE. May I inquire what the Chair has decided?

The PRESIDENT *pro tem*. The Chair has decided that the amendment proposed

by the gentleman from Indiana is not in order.

Mr. HARRY WHITE. Why not?

Mr. KAINE. I call for the question on the report. We have wasted time enough now.

The PRESIDENT *pro tem*. The Chair has decided that the amendment of the gentleman from Indiana is not germane to the report under consideration.

Mr. HARRY WHITE. I ask then the privilege of withdrawing my proposition.

The PRESIDENT *pro tem*. Certainly.

Mr. LILLY. Let him withdraw it.

Mr. HARRY WHITE. Then I will offer it as a resolution.

Mr. LITTLETON. I understand the question is now on the resolution as amended?

The PRESIDENT *pro tem*. Yes, sir.

Mr. LITTLETON. At this time, therefore, I renew my motion to recommit the subject to the special committee, and on that motion I call the yeas and nays.

Mr. HUNSICKER. I second the call.

Mr. TEMPLE. I think the gentleman who makes this extraordinary motion should give the committee some good reason for so doing. We have now consumed nearly half a day in the discussion of this subject. Every delegate on this floor has had the opportunity of placing himself on the record half a dozen times when the yeas and nays have been called; and now, with the subject practically disposed of, my colleague from Philadelphia moves to refer the subject back to the committee. If that be agreed to the committee will make another report and the whole subject will be gone over again. I submit that it is the purest folly in the world to contemplate such a course. If the gentleman has not had an opportunity to place himself on the record let him do it, but do not let us have this whole question recalled.

Mr. MACVEAGH. Do not let us have the yeas and nays on this question. Let us get to work.

Mr. HUNSICKER. I have called for the yeas and nays and insist upon my call.

The yeas and nays having been required by Mr. Littleton and Mr. Hunsicker, were as follow, viz:

YEAS.

Messrs. Ainey, Alricks, Boyd, Brodhead, Corbett, Corson, Craig, Dallas, Gilpin, Harvey, Hemphill, Hunsicker, Kaine, Littleton, McClean, Reynolds, Ross, Russell, Smith, H. G., Van Reed,

Wetherill, John Price, Woodward and Worrell—23.

NAYS.

Messrs. Achenbach, Addicks, Andrews, Armstrong, Baer, Baily, (Perry,) Bailey, (Huntingdon,) Baker, Bannan, Barclay, Bardsley, Beebe, Biddle, Bowman, Buckalew, Calvin, Campbell, Carey, Carter, Cassidy, Clark, Cochran, Collins, Cronmiller, Curry, Curtin, Darlington, Davis, De France, Dodd, Dunning, Elliott, Ewing, Fell, Finney, Fulton, Funck, Guthrie, Hanna, Horton, Landis, Lawrence, Lilly, MacConnell, MacVeagh, M'Camant, M'Culloch, M'Murray, Mantor, Metzger, Minor, Mott, Newlin, Niles, Palmer, G. W., Palmer, H. W., Parsons, Patterson, D. W., Patterson, T. H. B., Patton, Porter, Purviance, John N., Purviance, Samuel A., Read, John R., Reed, Andrew, Rooke, Runk, Simpson, Smith, Henry W., Smith, Wm. H., Stanton, Stewart, Struthers, Temple, Turrell, Walker, Wetherill, J. M., White, David N., White, Harry and White, J. W. F.—80.

So the motion to recommit was rejected.

ABSENT.—Messrs. Bartholomew, Bigler, Black, Charles A., Black, J. S., Broomall, Brown, Bullitt, Church, Cuyler, Edwards, Ellis, Gibson, Green, Hall, Hay, Hazzard, Heverin, Howard, Knight, Lamberton, Lear, Long, Mann, Mitchell, Pughe, Purman, Sharpe, Wherry, Wright and Meredith, *President*—30.

The PRESIDENT *pro tem*. The question is on the resolution as amended.

Mr. JOS. BAILY. I would like to ask for information, has not the resolution been adopted? It has been adopted by divisions, and if so is it not adopted without further vote?

Mr. MACVEAGH. It is adopted in the form of an amendment.

Mr. JOS. BAILY. No, sir. Each division was amended, and then the question taken on the divisions as amended and they were adopted.

The PRESIDENT *pro tem*. The question is on the resolution as amended.

Mr. BARDSLEY. I offer the following amendment, to come in at the end of the resolution:

"Provided, That the sums just fixed shall be full compensation for services already performed or to be hereafter performed by any of said officers during the sessions of this Convention.

The amendment was agreed to.

The PRESIDENT *pro tem*. The question again recurs on the resolution as amended.

The resolution as amended was agreed to.

PAY OF FIREMEN.

Mr. HARRY WHITE. I ask leave to offer a resolution.

The PRESIDENT *pro tem*. Shall the delegate from Indiana have leave?

Mr. HARRY WHITE. I merely want to refer the resolution to a committee.

On the question of granting leave, a division was called for, resulting fifty-one in the affirmative, none not counted.

So leave was granted.

Mr. HUNSICKER. I rise to a point of order. The time for the introduction of resolutions has passed and it cannot be received without unanimous consent.

The PRESIDENT *pro tem*. The delegate from Indiana asks the leave of the Convention and it has been granted. The resolution will be read.

The CLERK read as follows :

Resolved, That the fireman shall be allowed four dollars and fifty cents per day, including all the days he was actually in attendance in the discharge of his duty.

Mr. HARRY WHITE. I move that that be referred to the special committee appointed to report on the salary and compensation of officers.

Mr. DALLAS. I move to amend—

The PRESIDENT *pro tem*. The resolution is not before the Convention. The question is on ordering the resolution to a second reading.

Mr. BARCLAY. I rise to a point of order. My resolution has not been acted on. With a view of being able to foot these bills of the various appropriations that have been made and are likely to be made hereafter, I offered a resolution which has not been acted on.

The PRESIDENT *pro tem*. At the time it was offered the Chair ruled that it was out of order. Not being renewed, it was not in the way of the delegate from Indiana asking leave of the House to present a resolution. The House granted leave, and now the question is on the second reading of the resolution offered by the gentleman from Indiana.

On the question of proceeding to the second reading and consideration of the resolution, a division was called for, which resulted thirty-nine in the affirmative, forty in the negative. So the resolution

was not ordered to be read the second time.

WARRANTS FOR PAY.

Mr. CURRY. I desire to ask leave of the Convention to offer a resolution. ["No." "No."] It is in relation to the compensation of officers and members.

Mr. DARLINGTON. It will do to-morrow.

The PRESIDENT *pro tem*. Shall the delegate from Blair have leave to offer a resolution at this time?

Leave was granted—ayes sixty-two, noes twenty-six.

The PRESIDENT *pro tem*. The resolution will be read.

The CLERK read as follows :

Resolved, That the President be and is hereby directed to draw his warrants in favor of the members and officers for four-fifths of the amount of salary payable to each.

On the question of proceeding to the second reading and consideration of the resolution, a division was called for, which resulted fifty in the affirmative, thirty in the negative. So the resolution was ordered to be read the second time.

The resolution was read the second time and considered.

Mr. CAMPBELL. I move to lay the resolution on the table.

The motion was not agreed to.

Mr. BARCLAY. I offer a substitute to take the place of that resolution. I move to strike out all after the word "resolved," and insert :

"That the members of this Convention will receive no pecuniary compensation for their services. All they ask is the approval of their fellow-citizens."

Mr. CORBETT. I ask for a division of that amendment.

The PRESIDENT *pro tem*. Where will the gentleman have a division?

Mr. CORBETT. On the approval by the people of the State. I wish the approval but not the other part.

The PRESIDENT *pro tem*. The question is on the amendment of the delegate from Berks (Mr. Barclay.)

The amendment was not agreed to.

The PRESIDENT *pro tem*. The question is on the original resolution.

Mr. COCHRAN. I move to strike out the words "members and."

The PRESIDENT *pro tem*. The question is on the amendment.

Mr. COCHRAN. I call for the yeas and nays.

Mr. HEMPHILL. I second the call.

Mr. COCHRAN. I ask that the resolution be read as it will stand if the amendment be agreed to.

The CLERK. The resolution if amended as proposed will read:

Resolved, That the President be and is hereby directed to draw his warrants in favor of the officers for four-fifths of the amount of salary payable to each.

Mr. MACVEAGH. I wish to amend, by saying "one-half" or "two-thirds." Four-fifths is certainly too much. Make it two-thirds; that is certainly enough.

Mr. CURRY. I accept the modification of "three-fourths."

Mr. MACVEAGH. Better say "two-thirds."

Mr. J. M. BAILEY. I suggest that we make it "three-fifths."

Mr. CURRY. The Convention can decide the question.

Mr. MACVEAGH. I move an amendment to make it "three-fourths."

Mr. COCHRAN. That is not an amendment to my amendment.

Mr. LILLY. I should like to ask the gentleman from York what is the effect of his amendment? I cannot see it.

Mr. COCHRAN. The effect of the amendment is simply this: There is no necessity for drawing warrants for the pay of the members until the close of the session, and the simple effect of the operation of the amendment is to leave the warrants to be drawn in favor of the officers for such proportion of their pay as the Convention may see proper to allow. There is no necessity for drawing warrants in favor of the members until the close of the session.

Mr. DARLINGTON. I move to refer this resolution, with its amendments, to the Committee on Accounts, and I do this because I believe by a standing rule of the Convention all these matters must be settled by the Committee on Accounts.

The PRESIDENT *pro tem*. It is moved to refer the resolution, with the amendments, to the Committee on Accounts. The question is on the motion to refer.

The motion was not agreed to, there being, on a division, ayes thirty-seven, noes thirty-eight.

The PRESIDENT *pro tem*. The question recurs on the amendment proposed by the delegate from York (Mr. Cochran.)

The amendment was rejected.

The PRESIDENT *pro tem*. The question recurs on the resolution.

Mr. MACVEAGH. I move to amend, by striking out "three-fourths" and inserting "one-half."

Mr. J. M. BAILEY. I move to amend the amendment, by making it "three-fifths."

The amendment to the amendment was agreed to, there being, on a division, ayes fifty-nine, noes thirty.

The PRESIDENT *pro tem*. The question recurs on the amendment as amended, to strike out "three-fourths" and insert "three-fifths."

The amendment as amended was agreed to.

The PRESIDENT *pro tem*. The question is on the resolution as amended.

Mr. Simpson and Mr. H. W. Smith called for the yeas and nays.

The question being taken by yeas and nays, resulted yeas, sixty-three, nays thirty-eight, as follow:

YEAS.

Messrs. Addicks, Armstrong, Baer, Bailey, (Huntingdon,) Baker, Beebe, Biddle, Bowman, Brodhead, Buckalew, Calvin, Carey, Cassidy, Clark, Collins, Corbett, Craig, Curry, Dallas, Davis, De France, Dodd, Dunning, Edwards, Elliott, Finney, Guthrie, Hall, Hanna, Hazard, Horton, Kaine, Lawrence, Lilly, MacConnell, M'Clean, M'Culloch, Metzger, Minor, Mott, Niles, Palmer G. W., Parsons, Patton, Porter, Pugh, Purviance, John N., Purviance, Samuel A., Read, John R., Ross, Runk, Simpson, Smith, Wm. H., Stanton, Stewart, Struthers, Temple, Turrell, Wetherill, J. M., White, David N., White, Harry, White, J. W. F. and Woodward—63.

NAYS.

Messrs. Alney, Alricks, Andrews, Bailly, (Perry,) Bannan, Bartholomew, Boyd Broomall, Campbell, Cochran, Corson Cronmiller, Curtin, Darlington, Ellis Ewing, Fulton, Funck, Harvey, Hemphill, Hunsicker, Knight, Landis, Littleton, MacVeagh, Mantor, Palmer, H. W., Patterson D. W., Patterson, T. H. B., Reed, Andrew, Reynolds, Rooke, Russell, Sharpe, Smith, H. G., Smith, Henry W., Van Reed and Walker—38.

So the resolution as amended was agreed to.

ABSENT.—Messrs. Achenbach, Barclay, Bardsley, Bigler, Black, Chas. A., Black, J. S., Brown, Bullitt, Carter, Church, Cuyler, Fell, Gibson, Gilpin, Green, Hay,

Heverin, Howard, Lamberton, Lear, Long, M'Camant, M'Murray, Mann, Mitchell, Newlin, Purman, Wetherill, Jno. Price., Wherry, Worrell, Wright and Meredith, *President*—32.

THE LEGISLATURE.

Mr. MACVEAGH. I move that the Convention resolve itself into committee of the whole for the further consideration of the article on the Legislature.

The motion was agreed to.

The Convention accordingly resolved itself into committee of the whole, Mr. Stanton in the chair.

The CHAIRMAN. When the committee rose yesterday, they had under consideration the nineteenth section of this article, and the question is on the amendment proposed by the gentleman from Allegheny, (Mr. D. N. White,) which will be read.

The CLERK read as follows: Strike out all after the words "section nineteen," and insert:

"The State shall be divided into fifty senatorial districts of compact and contiguous territory, as equal in population 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 county or city shall be entitled to more than one-sixth of the whole number of members.

"The House of Representatives shall consist of not less than one hundred and fifty members, to be apportioned and distributed to the counties of the State severally in proportion to the population, on a ratio of twenty-five thousand inhabitants to each member, except that no county shall have less than one member, and the city of Philadelphia, or any county having an excess of three-fifths of said ratio over one or more ratios, shall be entitled to an additional member. In case the number of one hundred and fifty members is not reached by the above apportionment, counties having the largest surplus over one or more ratios shall be entitled to one additional member until the number of one hundred and fifty members is arrived at.

"As soon as this Constitution is adopted the Legislature shall apportion the State in accordance with the provisions of the two preceding sections: counties and the city of Philadelphia, entitled to more than one member, shall be divided into single districts of compact and contiguous terri-

tory, as nearly equal in population as possible, but no township or ward, except in the city of Philadelphia, shall be divided in the formation of a district: *Provided*, That in making said apportionment for the House of Representatives in the year eighteen hundred and eighty-one, and every ten years thereafter, there shall be added to the ratio five hundred for each increase of seventy-five thousand inhabitants."

Mr. J. N. PURVIANCE. Mr. Chairman: This is one of the important questions that comes before us, and one difficult to adjust satisfactorily.

I would give to each county a member of the House of Representatives and an additional member for every thirty thousand of population. Thus you adopt the principle of representation on territory and population. And at each apportionment hereafter the ratio shall be increased so that the number of Representatives shall not exceed one hundred and sixty-two. By this rule territory, as well as population, is considered in fixing the number, and an increase of ratio prevents an increase of the number of members. By examination of the census of 1870, it will be found that equality is better maintained by this rule, more counties accommodated with two members, and the fractions less in numbers and counties than by any other ratio which can be fixed upon. By this mode you would have one hundred members on population less for loss on fractions, and sixty-six on territory, or nearly so, subject for losses by fractions. Then

Adams county would get one member on territory and one on population—two members with a fraction over of 315.

Allegheny, on same principle, would get nine members, with a fraction over, 22,204, and this fraction, under the three-fifths rule, would entitle to another member—in all ten members.

Armstrong, two members, and a fraction over of 13,382.

Beaver, two members, and a fraction over of 6,148.

Bedford, two members, and fraction over three-fifths, 13,635.

Berks, four members, and fraction over of 16,701.

Blair, two members, and fraction over of 8,051.

Bradford, three members, and fraction over three-fifths, 4,640.

Bucks, three members, 4,333.

Butler, two members, 6,510.

Cambria, two members, 6,569.
 Cameron, one member.
 Carbon, one member.
 Centre, two members, and fraction over
 of 4,418.
 Chester, three members and fraction,
 17,835.
 Clarion, one member.
 Clearfield, one member.
 Clinton, one member.
 Columbia, one member.
 Crawford, three members, 3,862.
 Cumberland, two members, 13,912.
 Dauphin, three members, 746.
 Delaware, two members, 9,408.
 Elk, one member.
 Erie, three members, 5,973.
 Fayette, two members, 13,284.
 Forest, one member.
 Franklin, two members, 15,365.
 Fulton, one member.
 Greene, one member.
 Huntingdon, two members, 1,251.
 Indiana, two members, 6,138.
 Jefferson, one member.
 Juniata, one member.
 Lancaster, five members, 1,340.
 Lawrence, one member.
 Lebanon, two members, 4,096.
 Lehigh, three members—one on terri-
 tory, one on population and one on three-
 fifths.
 Luzerne, six members, 10,755.
 Lycoming, two members, 17,626.
 M'Kean, one member.
 Mercer, three members—one on terri-
 tory, one on population, and one on three-
 fifths.
 Mifflin, one member.
 Monroe, one member.
 Montgomery, four members—one on
 territory, two on population, and one on
 three-fifths.
 Montour, one member.
 Northampton, three members, and frac-
 tion, 1,432.
 Northumberland, two members, 11,444.
 Perry, one member.
 Philadelphia, twenty-three members,
 14,022.
 Pike, one member.
 Potter, one member.
 Schuylkill, five members—three on
 population, one on territory, and one on
 three-fifths.
 Snyder, one member.
 Somerset, one member.
 Sullivan, one member.
 Susquehanna, two members, 7,523.
 Tioga, two members, 5,097.
 Union, one member.

Venango, two members, 17,925.
 Warren, one member.
 Washington, three members—one on
 territory, one on population, and one on
 three-fifths.
 Wayne, two members, 3,188.
 Westmoreland, three members—one on
 territory, one on population, and one on
 three-fifths.
 Wyoming, one member.
 York, three members, 16,134.
 In all 162 members.

I will not vouch for the entire accuracy
 of this calculation, having made it dur-
 ing the sitting of the Convention, and
 during occasional necessary interrup-
 tions, though I think in the main it is
 correct. If the principle be adopted, the
 calculation can be reviewed, and errors
 corrected, if any.

Now, Mr. Chairman, I wish to remark
 that the principle of this proposition is
 that each county upon its organization as
 a county gets one member, and then an
 additional member for every thirty thou-
 sand of population, and an additional
 member on population where the excess
 over thirty thousand is three-fifths of the
 ratio. Eighteen thousand, for instance,
 would entitle a county under that idea to
 an additional member. It makes the leg-
 islative body consist of one hundred and
 sixty-two members, and it preserves the
 principle that that number is not to be in-
 creased. The ratio of representation is to
 increase from time to time, but still it
 does not increase the number of members
 of the body. It remains at one hundred
 and sixty-two and cannot be increased be-
 yond that number. Now apply that prin-
 ciple, and if you find a county increasing
 in population and entitled to more mem-
 bers, it would not increase the body any;
 but you would take one from a county
 less populous or less prosperous and give
 it to the other; so that you always keep
 up an equality of representation upon
 population, starting out as I do on the
 basis of giving every county a member on
 territory, and then such addition as that
 county shall be entitled to on population.
 That is the principle of the proposition
 that I have now submitted.

Mr. MACVEAGH. I fear this propo-
 sition is open to the same objection that
 was made by the gentleman from Indiana
 to some propositions offered yesterday;
 and that is that it benefits some county in
 the gentleman's district, perhaps; but that
 is certainly not a reason for the Conven-
 tion generally departing from the amend-

ment offered by the gentleman from Allegheny, (Mr. D. N. White,) if that is acceptable to them. Of course, as I said yesterday, gentlemen can cypher this out so as to suit each man his own county. By changing the ratio, he can bring his fraction within it, give himself one member and leave somebody else outside. That is an easy sum in arithmetic. I hope we shall not pursue it much further.

Mr. LEAR. Is there an amendment pending to the amendment of the delegation from Allegheny (Mr. D. N. White?)

The CHAIRMAN. No, sir.

Mr. LEAR. Then I move to strike out the second and third paragraphs of that amendment and to insert in lieu thereof the following:

"Each county having a population not exceeding 20,000 inhabitants shall be entitled to one member of the House of Representatives, and each county having a population exceeding 20,000 shall be entitled to one member for every 20,000 and fractional part thereof, said fractional part not to be represented unless it shall exceed 10,000. And said Representatives shall be elected by a general ticket in each county, except in Philadelphia and Allegheny, which shall be divided into districts by the Legislature. Such districts shall be constituted of contiguous wards, townships and boroughs, in which no ward, township or borough shall be divided; but no district of said two counties shall have more than five Representatives based upon the ratio of population provided for in this section for the other counties of the State. The population shall be ascertained from the last preceding decennial census of the United States, and the Legislature shall designate by law the number of Representatives for each county as soon as practicable after each decennial census shall be ascertained, and shall at the same time district Philadelphia and Allegheny."

Mr. Chairman, I propose this amendment because it is, I think, more simple in its construction than that of the gentleman from Allegheny, and makes it practicable for any person to understand it without any difficulty. I am not particularly partial to the number of twenty thousand as the basis for a member of the House of Representatives, and do not object to making it twenty-five thousand, or fifty thousand, or any other number that may suit the views of the members of this Convention.

I am not partial to increasing the number of members of the House of Representatives, although in deference to the judgment of gentlemen in this Convention and out of it in whose superior experience and advantages of knowledge on this subject I have great confidence, I am inclined to accept an increase of membership in the House of Representatives. This proposed amendment will make, according to our present population, a membership in the House of Representatives of one hundred and seventy-six, and it will increase from time to time as the population shall increase, the number not to be increased except as ascertained by the decennial census taken by the United States. Whenever that is ascertained, the Legislature is to designate the number of members for each county. They do not fix the number of members, but I propose—and that is the term I use—that they shall designate by an act of the Legislature the number of members as ascertained from the census; so that if there is a close count it shall not give us the disadvantage of allowing each county to count for itself, and therefore probably making a mistake in its own favor.

By this apportionment, upon the basis of twenty thousand to a Representative, as I have said, it will make the number of members at this time one hundred and seventy-six. There will be thirty-one counties in the State that will have but a single member. There will then be an increase, many of them having two members. It will give two members to Butler; it will give two members to Beaver; it will give three members to Bucks, and a basis of twenty-five thousand would give just the same number to Bucks; so that we are really losing, in proportion to the other counties, by this proposition that I offer. But I make it for the purpose of having one of the greatest difficulties that I understand the members of this Convention fear disposed of, and that is, the difficulty of apportioning the State every seven or ten years for the purpose of determining the districts which shall send Representatives to our lower House.

That is a source of a great deal of trouble, a great deal of expense, and a great deal of injustice. It gives rise to the system of what is called gerrymandering the State for the purpose of getting counties together to give a majority to one party or another as the one or the other may have a majority in the Legislature; but here is a proposition that will forever district the

counties of the State, because every county is a representative district, and I except out of that the two counties of Philadelphia and Allegheny, for the reason that if they vote upon a general ticket the predominant party in those two counties would have the power to send so large a delegation of one party that, thrown into the scale, might give the State Legislature a majority one way while the real majority of the State was the other way. And therefore it is that I propose that with regard to these two counties they shall be divided by the Legislature into districts, no one of which shall have more than five members of the House, and these members shall be voted for upon general ticket. By this system of districting the State, the city of Philadelphia will have thirty-four members in the House, and limiting them to five in a district, they cannot have more than seven districts, and into those seven districts they can distribute the wards of contiguous territory, so as, I suppose, to do justice in representation to the city of Philadelphia. If those gentlemen who are acquainted with the wants and wishes of Philadelphia think that that limit of the number to five is not a good one, they may have single districts, if they think them better.

I am not partial to the one system or the other; but what I propose is to have a simple plan which can be understood by the most illiterate voter of the State, by which every county having a population not exceeding twenty thousand shall have a Representative in the House, and every county having a population exceeding twenty thousand shall have a Representative for every twenty thousand and for every fractional part of twenty thousand, provided that fractional part shall be at least ten thousand, so that a county which has thirty thousand and one population shall be entitled to two members, a county which has fifty thousand and one people shall be entitled to three members, and so on. This gives to some of the small counties an independent representation in the Legislature beyond what probably their real population would warrant, in order to make equality of representation, but exact equality of representation is impossible. There are some counties which do not reach a population of five thousand, some of eight thousand, some of ten thousand, and all of them will get a Representative in the House. Others which reach nineteen thousand five hundred will get no more

than one. Those that get up to twenty-nine thousand we may say will get no more, but when they get to thirty thousand and one they get their two members.

I recommend it because it takes away the opportunity for improper practices in the Legislature in districting the State, because it is simply and readily adjustable, and because it will forever while this Constitution is in existence provide for an increase of representation in the House in accordance with the increase of population, and while it will be one hundred and seventy-six at this time it will be more as the population increases, and that, it seems to me, is the fair way for the representation to be apportioned in a representative form of government.

MR. MACVEAUGH. I desire to remind the committee and the gentleman from Bucks that the exception of the city of Philadelphia and county of Allegheny was proposed by me yesterday, and was voted down by the committee, and the number of twenty thousand as the ratio, and the result of one hundred and seventy-six or one hundred and seventy-seven members of the House was proposed and elaborately argued by the gentleman from Indiana, (Mr. Harry White,) and voted down by the committee. Both parts of this proposition were voted down.

THE CHAIRMAN. The question is on the amendment of the gentleman from Bucks (Mr. Lear) to the amendment.

The amendment to the amendment was rejected.

MR. J. N. PURVIANCE. I wish now to offer, in the shape of an amendment, the proposition which I submitted to the committee when I was on the floor.

MR. HARRY WHITE. I understood that the delegate from Butler offered his amendment before, but that the delegate from Bucks interrupted him.

THE CHAIRMAN. The Chair did not understand him to offer any amendment.

MR. HARRY WHITE. I understood that he did.

THE CHAIRMAN. There is no amendment of his on the desk.

MR. SIMPSON. Then I move to amend the pending amendment by substituting for it what I send to the Chair.

THE CLERK read the words proposed to be inserted, as follows:

"The number of members for the House of Representatives shall be ascertained by dividing the population of the State according to the last preceding census by

the number twenty thousand, and the quotient shall be the ratio for a member. Each county containing one ratio or above three-fourths thereof shall be entitled to one member; counties containing less than three-fourths of a ratio may be formed into districts, or be severally allowed a member, as the case may require. Counties containing a fraction above one or more ratios, as the case may be, equal to one-fifth and less than two-fifths of a ratio, shall be entitled to elect in the fifth term of the decade an additional member for that term; if the fraction equals two-fifths and less than three-fifths of a ratio, an additional member for the fourth and fifth terms of the decade; if the fraction is equal to three-fifths and less than four-fifths of a ratio, an additional member in the first, second and third terms of the decade, and if the fraction shall equal four-fifths of a ratio an additional member in the first, second, third and fourth terms of the decade. Counties entitled to elect more than fifteen members shall be divided into districts of compact and contiguous territory, entitled to elect each not less than eight nor more than fifteen members; and in all cases where three or more members are to be elected, each elector may vote for not exceeding two-thirds of the whole number to be elected.

Mr. SIMPSON. Mr. Chairman: I have offered this amendment for the purpose of testing the sense of the Convention on the propriety, in the first place, of fixing the number of members of the House of Representatives in such mode as will prevent gerrymandering by the Legislature or by any constituted tribunal that may be appointed or selected for the purpose of making representative districts; and while doing that, it is also careful on the other hand to avoid the loss or waste of large fractions. All the amendments that have been offered before to this body are liable to the charge that where a fragment amounts to a considerable number it receives during the entire decennial period no representation and is not regarded at all and amounts to just that much waste.

This proposition provides for the Representatives increasing in number as the State grows in population, preserving the relative proportion of the Representatives to population as the State may increase from decade to decade. According to the schedule which I have made in going over it it will give at the first starting out, about one hundred and sixty-six or one hun-

dred and six-seven members and will not materially vary from that until the year 1881. What the number may be then, of course cannot be ascertained until we know what the population will be; but as the population increases in amount the numbers of the House of Representatives grow with it, keeping the relative proportion the same during each decade.

Under this amendment, I have gone over and prepared an article for the schedule to supply the interregnum between the present time and the year 1881, and I propose to submit this so that the members may understand exactly how it works, and so that they can see how the proportion runs for all the members and for all the counties in the Commonwealth, and what a small fragment of our entire population is lost in the making of the districts.

Under this scheme I propose that the seven small counties lying in the north-western portion of the State shall be grouped together into three districts; the first of them, Cameron, Elk and Forest, containing a population together of about twenty thousand; next, the counties of Potter and McKean, together containing a population of twenty thousand; third, the counties of Wyoming and Sullivan, together containing a population of between twenty thousand and twenty-one thousand; keeping the ratio as to these three districts as nearly as possible to the number herein determined. The only two other counties in the State falling short of three-fourths of the ratio, are Pike in the northeast and Fulton in the southern centre; and as all the counties surrounding these two exceed a single ratio, of necessity they will be compelled to fill out a member in their own right.

Under this arrangement the counties of Clinton, Fulton, Jefferson, Juniata, Mifflin, Monroe, Montour, Pike, Snyder, Union and Warren, will each have one member for the entire decade, electing one each term. The counties of Clarion, Clearfield, Greene, Lawrence and Perry, will be entitled to a member for the whole decade, and having a fraction exceeding one-fifth of a ratio and less than two-fifths, an additional member in the last term; that is, in the last two years of the decade they get each an additional member; and thus the fraction will be represented in the last term of the decade. The counties of Adams, Bedford, Carbon, Columbia, Huntingdon and Somerset, will have one member for the entire de-

cade, and an additional member for the fourth and fifth terms, or the last four years of the decade, in consequence of their fraction exceeding two-fifths and falling short of three-fifths of the ratio.

The counties of Centre, Lebanon Tioga and Wayne will each have one member during the entire decade, and for the next two elections, the present term being partially past, will get an additional member for their fraction. The counties of Beaver, Blair, Butler, Cambria, Delaware, Indiana and Susquehanna each will have one member for the entire decade, and an additional member for the next three succeeding terms, excluding the present, they having over three-fifths, but not up to four-fifths of the ratio. The counties of Armstrong, Cumberland, Fayette and Northumberland will each have two members for the decade without fractions. The counties of Franklin, Lycoming and Venango will each have two members for the decade and one member in the fifth term. The counties of Mercer and Washington will have two members for the decade, and an additional member for the fourth and fifth terms. The county of Bradford will have two members for the decade and for the next two elections an additional member, it having over three-fifths but less than four-fifths of the ratio. The counties of Lehigh and Westmoreland will have two members for the decade, and for the next three elections an additional member. The counties of Crawford, Dauphin and Northampton will each elect three members for the decade; the counties of Bucks and Erie each three members for the decade, and in the fifth term an additional member. The counties of Chester and York each three members, and at the next three elections an additional member. The county of Montgomery will have four members for the decade. The county of Berks will have five members for the decade, and in the fifth term an additional member. The county of Schuylkill will have five members for the decade, and in the next three elections for Representatives an additional member. The county of Lancaster will have six members; the county of Luzerne eight members; the county of Allegheny fifteen members.

Then, under the last clause of the proposition, as the city of Philadelphia exceeds fifteen members, it will of necessity have to be divided into districts, and those districts shall not contain, according to the amendment, less than eight nor more than

fifteen members, which will make of the city four districts. I propose to take the present senatorial districts in Philadelphia as the representative districts, giving to the first, second and third, the lesser in population, each eight members for the decade, and to the fourth district, the largest in territory and population, nine members for the decade, and in the fifth term an additional member. That provides for the fraction.

I submit, Mr. Chairman, that this plan takes the question out of the hands of the Legislature except as to the groups of counties that I referred to in the northwestern part of the State—those seven counties—and the large city of Philadelphia and also Allegheny county perhaps after the next census. These will be the only ones that will require to be apportioned by the Legislature, by the courts, or by any other scheme, that may be adopted by this Convention and confirmed by the people. And it removes entirely the question of gerrymandering from the Legislature. The people will be represented entirely throughout the State as communities, and each fraction of the citizens will have, during some period of each decade, its proportionate representation in the Legislature of the State.

I have made the arrangement so as to prevent all the extra members coming together, where it is but for a single term putting them in the last term of the decade; where it is for two terms, putting them in the two last; where it is for three putting them in the three first, and where it is for four taking the four first, so that they do not all come together, and very nearly equalizing where it runs throughout the entire decade.

Now, if the Convention approve of this idea they have an opportunity of adopting it, and it will remove away from us all question about the apportionment except in the provisions necessary for the seven very small counties and for the two large counties. I submit it and hope it will receive the approbation of the Convention.

MR. J. N. PURVIANCE. I wish to make a remark or two in reference to the proposition of the gentleman from Philadelphia (Mr. Simpson.) He excludes the counties of Forest, Elk, M'Kean and Potter, and several other counties, from any separate representation at all. They will be grouped with other counties and formed into districts. Now, one of the things this Convention has, I think, determined upon is to prevent the making

of districts of more than one county, and the giving to each county of at least one member. That was settled by a large vote in the committee of the whole when we had the subject under consideration before, and I hope it will not be departed from.

Before the gentleman rose to offer his amendment, I intended to submit an amendment which I shall now read, and I will offer it as soon as his is voted upon, and I trust the committee will vote down the proposition of the gentleman from Philadelphia for the reason that it rejects or ignores the principle settled by the committee heretofore, that each county is to have a member. That was fully discussed, fully understood, and as well settled as any other question that has come before the committee. It seemed to be the almost unanimous expression that each county should have a member. I remember very well referring to the fact that in the Constitutions of some twenty odd States, a provision was in them that each county should have at least one member, and I hope Pennsylvania will adopt the same principle now.

The amendment which I intend to offer as soon as it shall be in order to do so, is this:

"That each county shall have one member on territory, and for every thirty thousand of population an additional member, and shall have an additional member on a fraction of three-fifths."

That brings up the whole question as presented in the proposition before the committee.

The CHAIRMAN. The question is on the amendment of the gentleman from Philadelphia (Mr. Simpson) to the amendment.

The amendment to the amendment was rejected.

Mr. J. N. PURVIANCE. Now I offer my amendment to the amendment:

"That each county shall have at least one member, and for every thirty thousand of population an additional member, and shall have an additional member on a fraction of three-fifths."

Now I will remark, Mr. Chairman,—

Mr. EWING. I ask the Chair if that is in order. It is precisely the same proposition that has been voted down twice as an amendment.

The CHAIRMAN. The Chair holds it to be in order.

Mr. J. N. PURVIANCE. It is not the same proposition.

Mr. EWING. I should like to know wherein it differs.

Mr. J. N. PURVIANCE. It is a different proposition. There has been no proposition offered to this body yet that adopts the same principle of representation of territory, that each county is to have one member on territory, and then to increase on population, the ratio being fixed at thirty thousand. If this amendment be adopted, the members of the popular branch of the Legislature will be composed of one hundred and sixty-one, and that number cannot be increased for the reason that the ratio is to be increased every decade or so often as the apportionment shall be made, but not the number of members. For instance if the ratio starts with thirty thousand, if there are one hundred and sixty-one members, the increased population might require an increase of that ratio up to forty or forty-five thousand, and yet add no more to the number of members of the House; it would still remain the same. This proposition is one that I have thought much of, and I hope it will attract the attention of the committee at least sufficiently to give it their consideration.

On the question of agreeing to the amendment to the amendment, a division was called for, which resulted: Ayes eleven; less than a majority of a quorum. So the amendment was rejected.

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

Mr. ARMSTRONG. Mr. Chairman: I regard the question now before the Convention as one of the most important that we shall be called upon to consider. The amendment proposed by the gentleman from Allegheny (Mr. D. N. White) proposes the organization of the Legislature, both as to the Senate and the House. I do not concur in the view expressed by this proposed amendment so far as it relates to the organization of the Senate; and, for the purpose of bringing the question very clearly before the House, I shall move as an amendment the first section of the article reported by the Committee on Suffrage, Election and Representation, and which is as follows:

"The Senate shall consist of fifty members, one-half thereof to be chosen every second year by a vote of the electors of the State at large, and in their election no elector shall vote for more than "thirteen."

I offer this amendment, changing the word "thirteen" to "fourteen." My motion is to amend by striking out the first clause of the pending amendment of the gentleman from Allegheny, and inserting in lieu thereof as follows :

"The Senate shall consist of fifty members, one-half thereof to be chosen every second year by a vote of the electors of the State at large; and in their election no elector shall vote for more than fourteen."

Mr. Chairman, I have offered this amendment with the desire to bring the question fairly before the Convention that it may be disposed of on its merits. As the Senate is now constituted, I do not think it can be fairly said that the State as such has any representation in the Legislature at all. By the mode of electing by single districts, both the Senators and the members of the House represent merely local interests. The senatorial and representative districts are identical except in extent. The members are elected by substantially the same people and hold themselves responsible to the same constituency. The elections of both are subject to the same influences, and are controlled by the same local interests and by the same political powers. Sir, I think it is time that the Legislature of Pennsylvania should have a representation which should be within the spirit as well as the letter of the Constitution. The purpose of a Senate is to exercise a controlling and conservative influence in the Legislature; to guard the legislation of the State from the unreasonable demands of local legislators.

There must be a mode of designating the persons who are to represent the State, whether in the Senate or in the House. If it be said that it is not safe to trust the nominating conventions of the entire State, it is pertinent to inquire whether it is safer to trust the nominating conventions of fifty separate districts. Upon its merits there are many reasons to commend it—important reasons, why it would be a great advantage that the Senators should be representatives of the State and not representatives of districts. I do not attach importance to the idea that it would cast the election virtually into the hands of nominating conventions. In every strong county, where either party has a large predominance, this is equally true now. A nomination in Berks or in Lancaster or in Allegheny is just as much an election as it could possibly be under

the election by the State at large upon the limited vote. I believe there would be greater safety in submitting to the conventions representing the entire State the nomination of one-half of the Senators every two years than could be secured by their nominations in separate districts; every Senate except the first would necessarily be composed of members nominated by four distinct and separate conventions, two of each party.

Of course, it would have been a fatal objection if the whole Senate were to be elected, or one-half of it, every year, by a mere majority vote, for it would make the Senate unanimous in the interest of the dominant party. But I hold that, as regards the Legislature, the limited vote may be applied with safety and with great advantage.

I have before said that I am opposed to any system of cumulative voting, because it is an experiment, and one which I believe cannot be safely exercised. The limited vote is no longer an experiment. It has been tried in Pennsylvania for many years, and has been applied by this Convention both to the Supreme Court and to county officers. I believe every instance in which the limited vote has been applied has been with success and great satisfaction to the voters of all parties.

Upon the amendment as I propose it, if the Senate is to consist of fifty members, twenty-five would be elected every second year. I would allow each voter to vote for fourteen, and no more, the effect of which would be, if there were no changes of the party vote, that the Senate would stand upon such election fourteen to eleven, or in the entire Senate twenty-eight to twenty-two. But as there could be only twenty-five elected in the whole, there would be a reasonable opportunity to every voter to eliminate from his ticket as many as three objectionable candidates of either party.

Again, it would elevate, as I believe, the character of the Senate. It would invite into that body a class of men who would not subject themselves to the vote of a mere district, as party politics is now organized. Without entering into that question in detailed discussion, I submit to the judgment of this Convention that it would elevate the character of the Senate by bringing better men into it. There seems to be no sufficient reason, as I think, why the Senate should be elected by single districts. We do not send Sen-

ators there for the purpose of promoting the special and particular interests of a district. That we leave to the House; and I would make the body of the House at least one hundred and fifty members and give to every county its representation unless, indeed, the very small counties—and it is questionable whether it would not be wise to give it to them also. I would bring the body of the people close to the House of Representatives, make that the body which shall represent the local interests, the particular and special interests which they are chosen to represent; but the Senate should have a broader field, a broader purpose. Its aim should be, not to subserve local interests, but to keep its eye upon the general interest of the Commonwealth, and so to regulate and control legislation as a conservative power that local interests shall not predominate to the injury of the State at large.

Now, sir, I do not propose to follow this out in detail. I believe I have indicated sufficiently the reasons why I shall vote for the system of electing the Senate by the State at large. Briefly, to recapitulate, I believe it gives better men; it elevates the character of the Senate; it makes it a more conservative body, looking far more to the general interest of the State than any body will or can which is composed avowedly of representatives of particular interests of special districts. I think it is safer to entrust the nomination of the body, subject to the approval of the State at large, to a single nominating convention, than to entrust those nominations to fifty conventions or conferences in local sections. There is far more danger that inferior and corrupt men will fill the places of the Senate under such a system than if they are voted for by the State at large.

With these views I leave the question for the present. I desire not to detain the Convention now in the discussion of this question at any greater length. If I have distinctly indicated my views, it is all I desire; I have thought much upon this question; I have endeavored to express as simply and clearly as I can my decided conviction in respect to it, and I trust it may be found consistent with the views of the Convention to organize the Senate upon the basis I have indicated.

Mr. J. N. PURVIANCE. Mr. Chairman: I regard the proposition of the distinguished gentleman from Lycoming as one of the most dangerous propositions

that have ever been submitted in this body of any other that favored a republican form of government. His proposition is precisely, or as near as may be, the British House of Lords, and would be a body, if composed as he desires, of men entirely under the control of those who would nominate and make them. The whole proposition of cumulative or limited voting—this is the limited branch of it now presented—that has been before us so often, is a new invention, a political heresy that should nowhere find a place in the Constitution. It is a compromise of political rights—a distribution of political power—unknown in the Constitution of the United States, or any State of the Union except Illinois, and in principle, in my humble opinion, contravenes the great principle of American government. No principle is better settled as a leading and general principle than that this is a government where the majority rule, and this principle lies at the foundation of all our institutions. It is that principle that secures to the American citizen the sure guarantee that his liberty is safe, for the reason that he has an equal voice in the establishment of constitutions and laws. Deprive him of this and you shake his confidence in the stability of his guaranteed rights.

The Constitution of the federal government permits the people of the States to form their own Constitutions, provided that they shall be republican in form, and no State Constitution contravening this principle can be admitted as a State, and it follows that each State, after admission, must maintain a republican form of government. This is the requirement as well as guarantee of the United States Constitution. What, then, is meant by a republican form of government? Why, clearly that the majority shall decide and settle all political questions affecting the rights and interests of the people. Any other construction, or the application of any other principle, is a political heresy that should never find a place in any of our State Constitutions. And I submit if our distinguished friend from York (Judge Black) were sitting as a judge in any of the federal courts, and the question was submitted to him, whether that clause in the Constitution requiring the States to be republican in form admitted of the principle of cumulative or limited suffrage, or ignored the majority principle in all elec-

tions by the people was not unconstitutional and void. I am prepared to venture the prediction that His Honor would reject as heresy any such principle, and require that State Constitutions should affirm, without restriction or qualification, the principle of majority rule in elections of all elective officers, State and National. It is well known, and a part of American history, that this principle was settled, and supposed to be settled forever, over three-quarters of a century ago when the great leading statesmen of that day were discussing the principles upon which the government should be founded. Jefferson, the master-spirit that gave tone and direction to the democratic principle *that majorities shall rule*, backed and supported by Madison and Randolph, opposed the favorite doctrine of Hamilton and Jay and Knox, that the people were not a safe depository of political power, that a check should be placed on republican or democratic form of government by at least one branch of the government. The Senate of the United States should be composed of Senators whose tenure of office should be for life, similar to the British House of Lords. These great and good men were alike honest in their convictions, and alike patriotic and devoted to the interests and welfare of the people, only differing in the form of government that would best lay the foundation of permanent peace and national prosperity.

Jefferson, the great exponent of popular rights, and who had unlimited confidence in the honesty and intelligence of the people, early declared his conviction that they were capable of self-government, and that liberty and national honor and prosperity were to be safely trusted to them in all the departments of government. No such principle as cumulative or limited voting ever found a place in his great mind. Majorities with him were the solid foundation upon which he and his co-workers succeeded in having the declared and established fundamental law of this great, happy and prosperous country. General Hamilton, a man of transcendent talents, devoted patriotism and unbounded ambition, lived to see his theory and his party—the Federal party—defeated and overthrown, and the principles of Jefferson firmly established. It was then, and in that great issue, that the principle was settled, and from that day to this the majority principle has prevailed in the election of all officers of the government—national and

State. The new invention, or cumulative or limited voting, has its origin in a distrust of the ability and fidelity of the people, and is subversive of the fundamental principle of American institutions. Is it not clear that such a principle would gradually but surely transfer the whole power of the people to dangerous factions, and make such a divided responsibility of the administration of government that, like the Jacobin clubs of Paris, the people's voice would be wholly silenced in the wicked and wild schemes of miserable political factions? There the people had only the right to ratify the decrees of the clubs. Here it is proposed to give them only the right to ratify party nominations. Our government—the greatest and best on the face of the earth—is not prepared to sacrifice the great principle upon which it is founded for untried experiments that may lead to decay and ruin. No government prospers so well as where each and every man feels and realizes his manhood, in that he has a part, a voice, though individually it may be weak, in the affairs of government; it is that which is the pride and boast of an American citizen, and which makes him honored and respected wherever he goes.

The intelligent foreigner, too, when he is about to leave his native land, examines the Constitution of the United States, and he finds in it a guarantee of liberty, political, civil and religious, to himself and his posterity; and he sees there, too, that no State of the Confederacy can be other than republican in form of government. He understands that the majority make the laws, and that his rights are to be equal with others; that a system of suffrage exists, by which the majority rules, he at once determines this country—this great country of equality of rights—shall be his future home. No thought ever entered his mind that it was all a snare, a delusion; that another principle abridging the rights of the people, and founded upon a distrust of their capacity and fidelity for self-government, has been adopted.

To show the practical working of the system of limited voting, we will suppose a case: Two supreme judges are to be elected, and each of the qualified electors can only vote for one. The convention of the Democratic party nominates James Thompson, a worthy and well qualified gentleman for the place. The convention of the Republican party nominates

William Darlington, also a worthy and well qualified gentleman. Now, I would like to know, in such a case, what the people have to do with it. Just so sure as the election day comes, both the honorable gentlemen are elected, sure and certain; not because there was a free election, and the voters exercised any mind, will or judgment in the matter, but simply that the power of the people was wholly taken from them, and that their votes were mere form and useless. Whether either candidate had one thousand votes or three hundred thousand he would be elected beyond any power to prevent it in the present organized condition of parties. As well then might the voters be wooden men, for they have no choice, voice, power or control in the matter in any way whatever. Such a principle, I submit, should find no place in our State Constitution. It is anti-republican, a scheme by which the voice of the people in the choice of their public servants is wholly ignored and rendered wholly powerless against the action of corrupt, designing and combining factions, who by such a device would control the political power of the State. On the cumulative principle, if three are to be elected, and each voter may vote for all of them or any less number, say one, and may cast three votes for one candidate, the effect is apparent, that in a representative body the majority, instead of having three votes, would have but one, thus nearly neutralizing the power of the majority. Such a bad principle incorporated into our organic law would never meet with any favor when fully understood, and be a weight heavy enough to defeat the Constitution. Like a bad stone in the foundation of your building, to get rid of it you would have to pull down the whole superstructure.

The enemies of popular government could scarcely devise a more insidious scheme to overthrow the liberties of the people. First, gradually withdraw power from them, and ultimately concentrate it in political party factions, and thus a stunning blow is aimed at free government.

We believe that the Constitution of the Federal government, guaranteeing a republican form of government to the States, may fully protect the people in all such encroachments upon the free exercise of the elective franchise, and it is upon that solid foundation of national freedom that the people may ever confidently rely

for the benefits and blessings of free institutions.

A Republic or republican form of government means a State in which the sovereign power is exercised by representatives elected by the people, and elected in the sense here used means to choose, to select or make free choice among a number, to choose by an act of the will of the elector. The proposed system denies such right, for under it the elector can neither choose whom he would, nor refuse whom he dislikes. It is virtually a denial of the power of choice, and therefore cannot be called an election, because it is a denial of the independent use of the elective franchise. The term elector is well understood and has but one plain definition, simply the right to give his vote in favor of a candidate for office—not to be limited or enlarged in its effect, but equal and to count but one. Any other view of it is inconsistent with our system of government, which does not admit of a general application, of the principle of limited or cumulative voting, and its partial application would only create discord and confusion. Nothing can be more contradictory and unsound than to establish a principle in organic law that cannot be general in its application, and which would tend largely to consolidate all power in the Federal government, only restrained by factions in the State.

Let us stick to our original fundamental principles, and we may then hope that our work will receive the sanction of the people.

Governor Hoffman was right when, in his veto message, he said: "I believe the clear, complete and undivided responsibility of one or other of the political parties into which the people in all free communities divide themselves, is essential to good government."

Mr. BUCKALEW. Mr. Chairman: As this section was reported by the Committee on Suffrage, Election and Representation, it is perhaps proper that I should make some explanation of the action of that committee. We reported this section, because we were aware that a number of leading members of the Convention were in favor of this particular arrangement for the Senate of the State. We thought it expedient to have the proposition presented in its proper form to undergo consideration and deliberative decision by the Convention itself. The main matters in which the committee was interested were those of the constitution of

the House of Representatives, and the formation of the proper authority for the making of apportionments of the State. We have submitted this first section and the one which follows it rather for the open and free consideration of the Convention than to conclude the gentlemen upon the Committee on Suffrage, Election and Representation as to any final vote upon this subject. I make that statement in candor, as some of the gentlemen upon the committee were not present and other had not fully made up their minds with reference to it.

For my part, I am willing to vote for three principles in this legislative article, or in that portion of it which relates to the organization of the Legislature,

First. That the Senate of the State shall be based upon State representation. That is a simple and clear idea, and gentlemen with a moderate amount of reflection can make up their judgment upon its merits.

Second. That the House of Representatives shall be based upon county representation; in other words, upon the municipal divisions of our State, as such.

Next. That with regard to the manner in which membership shall be distributed if these two principles are departed from. Or, even in the case of the retention of the district system for Philadelphia and Allegheny, that apportionments shall be made by a newly organized authority, different from that of the Legislature itself, proceeding either from a popular election by the people or from an election of the two legislative bodies themselves.

This general scheme of legislative organization recommends itself to me upon several grounds involving considerations of the most important character.

In the first place it will be important, possibly beyond any other one question, that this great and influential State of ours shall strike, and strike firmly, a blow at the evil of gerrymandering in the United States; that we shall, here in this body, and the people afterward at the polls, set an example to all the States of the Union upon this subject, shall inaugurate a reform which may be carried from one end of the country to the other, and which will abate one of the greatest scandals in American politics as they are known among ourselves and known abroad. And that can be accomplished, can be fully accomplished, by the acceptance by this Convention of either one of the two plans which have been proposed

by members of the Committee on Suffrage, Election and Representation, to which I referred yesterday. Whatever may be done upon this legislative article, however you may determine that Senators or Representatives shall be chosen, I beg you to do at least that, abate the evil of gerrymandering in the formation of senatorial and representative districts in this State.

But the present amendment, Mr. Chairman, relates to the organization of the Senate alone, and for the present I shall confine myself to that. It is proposed by the gentleman from Lycoming, (Mr. Armstrong,) in accordance with the views of the Committee on Suffrage, that the members of the Senate shall be elected by the voters of the State at large; in other words, shall be chosen upon a State ticket. One advantage of this, to which he has referred, is evident. It will establish the Senate distinctly upon a different basis from the House, and it will confer upon the Senate a different character from the House. The same influences which reach, affect and control one branch will not necessarily reach, affect and control the other. General considerations and general views will have expression in the upper branch of the Legislature in distinction from local opinions and local views in the lower.

Now, this is the arrangement always sought after and strongly desired by reformers who have written upon the subject of constitutional amendment and constitutional organization. Certainly we will accomplish this purpose by the adoption of this plan of different bases for the two Houses, and I believe we may count confidently upon a good result if there be any truth in the reasonings which men in our own country and in foreign countries have given us upon this general subject of legislative organization.

In the next place, this plan of election by the State at large will distribute the membership of the Senate much better than it is now distributed. At present it is impossible that the two great parties who will always be represented in the Senate should distribute their own representation as they desire, and as it ought to be distributed for the purpose of a full representation of the people of the State. It is impossible for the Democratic party of the State to choose one of its members in the county of Allegheny, or in the county of Crawford, or in the county of Erie, or in the county of Lancaster. It is

shut out and excluded from great and powerful municipalities in this State. Although its voters may desire to select their Representatives from these sections, they are prevented and forbidden to do so by the fundamental law of the State; that is, they are forbidden in effect.

And, on the other hand, the Republican party of this State is forbidden by the fundamental law to select one of its members from the county of Northampton or from the county of Columbia or from the county of Luzerne, however much it may desire to call to its service the ability and integrity of strong and powerful men resident in those counties of the State. In short, what is the great and startling fact with regard to party representation at present in the State—and as we are represented by parties we may as well speak to that point—what is the great and startling fact? Why, sir, that numerous masses of men in our State have the doors of the Senate and the House absolutely shut against them, and that for a whole lifetime. It depends upon the particular place in the State where they happen to reside. If a Democrat shall happen to live in Lancaster, never, no matter how many of his fellow citizens in this State may desire to call him to the Senate or the House of Representatives, can they do so. And so in a county of the opposite political complexion; no Republican, young, ardent, thoughtful, studious, upright, full of just ambition, though he be, can look forward to a seat either in the Senate or House of Representatives, simply from the fact of the accident of his location in the State, of the place of his birth or the location of his business. This exclusion of ability and integrity and character from the Legislature of the State is a mischievous fact in our constitutional organization, and if possible we should remove it. I am not sure, Mr. Chairman, but I am trespassing upon my time.

The CHAIRMAN. The gentleman from Columbia has one minute more.

Mr. BIDDLE. I move that his time be extended.

The CHAIRMAN. There is no objection. It is unanimously agreed to, and the gentleman from Columbia will proceed.

Mr. BUCKALEW. Many years ago, when I commenced practising at the bar, I was for a series of years brought into professional relations with a distinguished member of the bar of my own county, now no longer alive, who held different

political opinions from my own. That daily and professional intercourse through a series of years produced, in my mind, the highest respect and confidence in his integrity and ability. He was on several occasions the candidate of his party for a seat in the Legislature of the State and for Congress, yet for his whole life he was excluded from election to any such position from the mere accident of the place in which he resided. The party with which I was associated held then and holds now about two-thirds of the votes in that county and that fact was an ostracism absolute and complete for every man of a different opinion in that section, and that gentleman was withheld from public service, and inferior men, men who were much less fitted for these situations, less adapted to serve the public, were sent in his stead.

Here if you elect Senators from the State at large, you allow each political party in making its selections to distribute them into any part of the State they please, and to call to the public service any ability which may exist in their ranks. You thus create and foster a just political ambition in the public men of the State in every section to qualify themselves for public place and to get the confidence of their fellow-citizens. I am not one of those who deery political ambition. You hear of that in lectures, in essays and sometimes in conversation. I say the best thing you can have in the breasts of public men is a keen though regulated ambition for place and influence. A just and legitimate ambition of this kind is a conservative and steadying power for men in public life. If they have not a just ambition, a keen desire to obtain popularity and the respect of their fellow-citizens, if they have not this motive power for their public conduct, they are open to illegitimate influences to an extent which will pervert their public conduct, and through the degradation of public life consequent thereon will injuriously affect the public interests.

It follows from what I have said and for other reasons that another advantage will follow. There would unquestionably from this change be an improvement in ability in the Senate of the State. If each party in making its nominations had the whole State before it, it would select men of great eminence for seats in the Senate. That result would be certain if this plan were established. A man who now is important in a single locality, from his

possession of wealth or from his possessing peculiar arts of political management, and can gain control in a single small county and in a district conference by a barter or arrangement, get a nomination to the Senate, would be utterly excluded from consideration in a general convention of the whole State; and instead of such men as him, men better known throughout the State, with wider reputation and ordinarily more capacity for public life, would be nominated.

There is another and a very important recommendation of this change, and that is that it disposes of a question of considerable difficulty and embarrassment pressing upon this Convention, and which will press upon the friends of reform outside in supporting the new Constitution. It disposes of the whole question of the representation of Philadelphia in the Senate—a question warmly contested here, and which possibly may produce results of some significance in the election upon our work. By making this change in regard to the Constitution of the Senate, we pass by that question entirely, and we leave Philadelphia to take her chances, as every other county in the State will take its chances, in the making of the nominations by conventions of the respective parties. I consider this, although it does not apply to the general argument upon the question, to be an important consideration, at least it ought to be with those whose judgment is pretty well balanced upon the general argument.

The manner of voting proposed here, which seems to be a perfect scare-crow to some gentlemen, is one of the most innocent of the features of the amendment. Why, sir, the very gentleman who makes an argument carefully prepared upon the sacred right of the majority to rule, and gives to us extracts from Mr. Jefferson and from Governor Hoffman upon the subject, himself has proposed minority representation quite as thorough as that proposed in the amendment submitted by the gentleman from Lycoming.

MR. J. N. PURVIANCE. Will the gentleman allow me to ask him a question?

MR. BUCKALEW. Yes, sir.

MR. J. N. PURVIANCE. Did I not, at the same time that I offered that proposition, remark that I was not committed to the principle, and furthermore that was a proposition to elect all the judges, and my amendment was to modify it by limiting the number?

MR. BUCKALEW. Mr. Chairman: I am referring not to the gentleman's proposition on the subject of judges, but to his proposition that instead of the majority of the voters of this State electing fifty Senators, the State should be broken up into minute districts to elect one Senator each; so that minorities in the State should get about or nearly one-half of the whole number. That is what I am speaking of.

What I mean to point out to the gentleman, and to other gentlemen, is that all their lives they have been supporting minority representation in one of its most effectual and thorough forms—the making of single districts. The plan proposed in this amendment, that the voters of the State, instead of voting in single districts, shall vote for a general ticket, each voting for a part only, is simply another form of accomplishing the same thing, of getting to the same result. It does not belong to a new *genera* of questions; it is simply another specific mode under a generic classification of reaching the same object. Of course neither the gentleman from Lycoming nor myself care a fig about the particular plan of voting contained in this amendment. That is nothing to us in itself. Our purpose is to have the people of the whole State represented in the Senate. We want to get the advantages of a system of election by the State at large; and only because it is necessary in the matter of detail do we provide that the respective classes of voters of the State shall vote for only a portion of the whole number. We propose, nothing more novel, nothing more open to objection or debate on the general principles which the gentleman has discussed, than if we proposed single districts with the same object of getting at our end in another way.

Now a word upon the remarks which we have just listened to from the gentleman from Butler. There have been I believe about some twenty or twenty-five speeches in general denunciation of particular forms of reformed voting, and with the exception of some remarks made by the late member from Centre (Mr. M'Allister,) there has been no speech on the other side. All that has been said on the other side up to this moment in this Convention has been in the discussion of particular details of propositions which have been pending, with reference to the effect of particular plans for electing judges of the Supreme Court, county commissioners and inspec-

tors of election; but we have heard by the hour most terrific denunciation of reform voting as anti-republican, as opposed to the organic ideas upon which our governments are founded. I say to those gentlemen that when the time comes to discuss that subject the affirmative will be heard; and I undertake to say that whatever may be the conclusion upon other points, this monstrous proposition, as it is supposed to be, that in ordinary cases nominations made by a convention shall be successful, will not be esteemed one of the objections to reform.

But I do not propose now to go into the argument of that subject. All that is necessary is to speak to the present proposition, which involves nothing novel, nothing extraordinary with reference to the limitation of the number of persons for whom each voter shall cast his vote, which is a question of detail. The Convention will properly determine this question on the general arguments which apply to it.

Mr. Chairman, I am obliged to the Convention for listening to me in the condition of fatigue in which they are, and I conclude by saying that whatever may be the decision of this most interesting subject, of the organization of the State Senate, upon the several grounds which I have mentioned, I am prepared to vote that the representation in the Senate shall be of the electors of the State voting at large and not by district divisions.

Mr. MACVEAGH. Mr. Chairman: The amendment now proposed by the gentleman from Lycoming (Mr. Armstrong) raises the question originally proposed by the amendment of the delegate from Philadelphia (Mr. Cuyler.) It had been my purpose, if that amendment had not been disposed of by the adoption of Mr. White's substitute, to move to amend that portion of it which relates to this subject of electing Senators by general ticket, so as to divide the State into ten or twelve districts and elect the Senators by general ticket. It seemed to me then, as it seems to me now, that a division of the State in that manner would certainly be preferable to the election of Senators by single districts for the reasons I then gave the Convention; but by a very decided vote this committee superceded the amendment of the gentleman from Philadelphia by the amendment of the gentleman from Allegheny, and now we are brought again face to face with that amendment of the gentleman from Philadelphia in this

form. To it in this form I confess I cannot see any ground upon which I can give my support. Other gentlemen may see it differently; but just exactly the opposite results from those pictured by the gentleman from Columbia seem to me as sure to flow as the sun to rise in the heavens, from the adoption of this principle.

Your Senate is not better than it should be now; but if there is any way of degrading it, if there is any way of making it less worthy the ambition of a pure man, it is to compel him to scramble for a seat in it amid the corruptions and pollutions of your State conventions. It is not too easy now to go among the honest people of the district in which you live to secure the support of the delegates of such a district as Chester and Delaware counties—for I speak naturally of the district in which most of my days have been passed—but at least when those delegates come together, while they may be narrower than they ought to be, while they may be influenced by questions of locality which ought not to influence them, while they may fall here and there, all men know that they will reach an honest decision. No man ever saw a convention of that district that was not as pure as purity itself and as honest to its best judgment as honest men could be.

If you could get the representatives of counties forming a sufficiently large district to elect several men on a general ticket, you would probably secure proper nominations. I do not mean to say that you will succeed in doing this everywhere; you may not in the city of Philadelphia; you may not in Allegheny; but in nine-tenths of the counties of the State you will have honest conventions and good nominations. And, on the other hand, what will you have when you say to the politicians of this State, of both political parties, "We hand over the Senate of this Commonwealth absolutely into your keeping." Gentleman, politics in Pennsylvania is sufficiently a profession to-day. There are enough of the men within the borders of this Commonwealth who make politics a pursuit of illicit gain. I have said from the beginning in this Convention, and I repeat, that we ought to get rid of the idea that there is anything necessarily degrading associated with public life. I echo to the fullest extent, and with an overflowing heart, every word that any gentleman can say here that will tend to make the service of the State, in the es-

timation of younger men, that which it ought to be, the noblest, purest, most honorable service, except that which administers the sacrament of Christ and His church. But that is totally different from the pursuit of gain by political methods—illicit and dishonest gain; and that is a profession to-day in Pennsylvania, especially in your great cities, from which come largely the managers of your politics—because here are the prizes of politics. You have offices here said to be worth \$100,000 a year. I trust it is a great exaggeration; I give only what I hear; but if you have many of them, then necessarily you breed a race of men who devote themselves to public life for the purpose of dishonest gain. And now you propose to put it out of the power of the people to say “nay” to the men who may buy their nominations at the hands of the men who will control your nominating conventions. Your conventions may be venal in Philadelphia; I know nothing of it; but it is not true of the country districts. The men are not for sale in the nominating conventions in the country; but can any man here believe that when you put the vast moneyed value of a great department of your government, your Senate, in the hands of the State Convention, seats in it will not be quoted on the political Bourse as your stocks and bonds are on Third street? Of course they will. With great corporate interests requiring the control of the Senate, and an absolute election given to an irresponsible political convention, I solemnly declare that I can hardly believe my ears when I hear gentlemen like the delegate from Columbia and the delegate from Lycoming rise here and tell us that this method will purify our politics. Have they attended State conventions? Have they been witnesses of the bargains, shameful and shameless, that have disgraced all their history? Are they ignorant of the corrupt and corrupting influences that flock around them from the moment they meet until they are dissolved? And the gentleman says that he wishes to give good news to the rising young politicians of the State. What news? “Come to the State convention and secure its nomination for an office, and the people shall not have the power to say ‘yea’ or ‘nay.’” Why, sir, if there would be any protection for public morality, for public honor, for the virtue of the State at all in this method, it would be only in the delegates from the

country districts, who would go there in obedience to their instructions from their neighbors and friends at home, and obey them. If you got an honest State convention at all, or a State convention worthy of this trust, it would be because the men obeyed the instructions of their nominating conventions at home. Tell a young man that he need not pass the ordeal of his neighbors; tell him that he need not secure the approval of the community in which he lives; tell him that it is only necessary to go to Harrisburg or to Wilkesbarre and to make himself acceptable to the leaders of his party! And you call that reform?

Day after day, hour after hour, we have heard here that already we are very low in the degradation of our public service, and now you propose to leave the control of your Senate to political conventions. You do not even give the people one man; you do not even say they shall elect a Senator; you say that your State conventions shall elect them every one. It is not difficult to see where that would lead. There are corporations in this State to-day, and there will be many more of them in the next decade, that can as easily afford to own a State convention as a New York merchant can afford to own his yacht, and will own them if you give them the power to make your laws by nominating and electing your Senators.

It may be necessary to pass some such measure on some other ground, but I beg gentlemen to believe that it is not in the interest of public morality, it is not in the interest of political virtue, that this matter can be rested. What is there in the nature of things that men from the country districts should not submit themselves to the ordeal of their neighbors and friends? Why should they not have their qualifications and their characters passed upon by those who know them? Why is it that a young, ambitious, rising politician anywhere should go three hundred miles from home to get a certificate of character, and to get it from whom? From the managers and owners of your State conventions. No, gentlemen, the benefits of reform cannot be had in the pursuit of any such tortuous methods as these.

To allow the people to divide the State into considerable senatorial districts, to allow a section of the State embracing several counties to meet together, where men are known and their virtues and their character can be discussed and de-

cided upon, and elect by general ticket—that, as I said the day before yesterday, I believe would tend to improve the character of your senate, because men would feel that an ampler field and a better opportunity was offered them; but instead of that, instead of keeping the control of it in the hands of the people of the rural districts to nominate their Senators, you propose now that it shall be taken absolutely from them, and both political parties shall have their ticket nominated by their respective State conventions, and the people shall have no power of disowning any of them. I do sincerely trust that whatever else is adopted by this Convention, we will not attempt to adopt this proposition in this form.

Mr. NILES. Mr. Chairman: I believe the proposition of the gentleman from Lycoming is to elect the entire Senate of the State by the limited vote. I do not intend to occupy any time of this Convention by any remarks of my own; but some time since there was placed upon my desk a work that I undertake to say is authority on this question. Upon the back it bears this title: "Buckalew on Proportional Representation,"—a gentleman to whom I always defer, and he has convinced me in this very excellent work that this new thing is a heresy in our political form of government. I desire briefly to call the attention of the Convention to Buckalew on limited voting. On page 74 he says:

"Imperfection will always attach to the limited vote as a general plan to be applied to popular elections. The law-maker cannot know that his arbitrary limitation will operate justly and secure his object at some future time. If he could know the exact relative strength of parties in future years, he might apply his limitation to a constituency with confidence. Adjusting it to the facts, he could obtain a proper result. As this cannot be, the limited vote can be but partially applied to elections, and must in most cases be unsatisfactory. It has rarely been applied to constituencies selecting more than three representatives, and can never be accepted as a plan for extensive use and application."

To all of that I most heartily agree. On page 80 of the same work he says:

"The limited vote (as will be hereafter shown) cannot have extensive application, and it is but a rude contrivance. Personal representation is a scheme of great theoretical merit; it has been tried

partially in Denmark, and it has received elaborate vindication from authors of distinction in England, in Switzerland, and in France. But it may be put aside from the present discussion, because it is comparatively intricate in plan and cumbrous in detail, because it assails party organization, and because some of its most important effects cannot be distinctly foreseen. It is so radical in character, so revolutionary in its probable effects, that prudence will dictate that it should be very deliberately considered, and be subjected to local experiment before it shall be proposed for adoption upon a grand scale by the government of the United States."

Mr. BUCKALEW. That is not the limited vote.

Mr. NILES. It is indexed under the head of "limited vote," and I found it there where the learned gentleman is discussing that very question.

Mr. BUCKALEW. I beg to explain to the gentleman. The reference there is to personal representation and has nothing to do with the limited vote.

Mr. NILES. I understand that the very words "limited vote" are used.

Mr. BUCKALEW. That is in a prior section.

Mr. NILES. "The limited vote cannot have extensive application and is but a rude contrivance." What is that? That is just what we have in this amendment. It proposes to put the whole power of election of the State Senate into the hands of politicians by the limited vote, and makes a man less than a man; and says that where twenty-eight men are to be elected he can cast but fourteen votes.

Mr. BUCKALEW. If the gentleman will allow me, as a matter of course I was not referring to the sentence he has just read, but to what he read afterwards in regard to personal representation.

Mr. NILES. But I was reading the whole paragraph so as to do full justice to the position of the author. I thought if I read but one sentence, it might be considered as unfair, because I agree entirely with what he says on THIS QUESTION. On page 155 he says, among other things:

"It must be acknowledged that the limited vote is an imperfect contrivance and not fitted for extensive use."

Now, Mr. Chairman, this is all I desire to say. I am a convert AGAINST limited voting for the very good reasons assigned by the delegate from Columbia in the

work just referred to. It destroys the right of election as it has been hitherto practised and understood in this country. It puts the whole power of electing this important body into the absolute control of the State political conventions. The people would be absolutely powerless to defeat a corrupt or improper candidate.

The elector has no choice. He cannot vote against a candidate if he so desires. *Twenty-six* are to be elected and he can only vote for fourteen. The elector has no election. He can vote *for* fourteen, but cannot vote *against any*. A person nominated must be elected. Besides, a half dozen men of each political party would have the absolute control of the senatorial nominations. The rural districts would have but little voice in the choice of Senators. The nominations would be controlled by the delegates from the great cities. The people would be ignored, and politicians would have supreme control. It is a bold and ingenious attempt to steal a great political power from the *people* and hand it over to professed *politicians*. To this I cannot

agree; I prefer to tread in the steps of our fathers, and to leave the choice of selecting our *rulers* to the people, who know the candidates who aspire to public position. If this Convention adopts the amendment of the gentleman from Lycoming our work will go down under an avalanche of one hundred thousand votes against it.

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

The motion was agreed to.

The committee accordingly rose, and the President *pro tem.* having resumed the chair, the Chairman (Mr. Stanton) reported that the committee of the whole had had under consideration the nineteenth section of the article reported by the Committee on the Legislature and had instructed him to report progress and ask leave to sit again to-morrow.

Leave was granted the committee of the whole to sit again.

Mr. LILLY. I move that the Convention adjourn.

The motion was agreed to, and (at two o'clock and fifty minutes P. M.) the Convention adjourned.

ONE HUNDRED AND NINETEENTH DAY.

FRIDAY, June 13, 1873.

The Convention met at half-past nine o'clock A. M., Hon. John H. Walker, President *pro tem.*, in the chair.

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

LEAVES OF ABSENCE.

Mr. COCHRAN asked and obtained leave of absence for himself for a part of today's session and Monday.

Mr. PORTER asked and obtained leave of absence for himself for a few days from Monday.

Mr. H. W. PALMER asked and obtained leave of absence for Mr. Davis for a few days from Monday.

Mr. RUSSELL asked and obtained leave of absence for Mr. M'Culloch for a few days from Monday.

Mr. DUNNING asked and obtained leave of absence for himself for a few days from Monday.

Mr. ALRICKS asked and obtained leave of absence for himself for Monday.

Mr. J. W. F. WHITE asked and obtained leave of absence for himself for a few days from Monday.

PAY OF FIREMEN.

Mr. HARRY WHITE submitted the following resolution, which was read twice and considered :

Resolved, That the committee appointed to report on the salaries of members and officers are hereby instructed to report the amount of compensation to be paid the fireman and assistant for their services.

Mr. EWING. I move to amend the resolution by striking out "the Committee on Salaries" and inserting "the Committee on Accounts."

Mr. HARRY WHITE. There is no intention of disrespect to any committee of the body. It is sufficient to say that a special committee was appointed to regulate the salaries of the members and the salaries of the officers, and I have named that committee thus specially appointed because of their familiarity with the question. Their minds have been turned to this matter.

They are familiar with what they have reported. They know the kind of services that have been rendered, and there is eminent propriety that they, and they alone, should have charge of this matter.

Now, I submit that we ought to do justice to an honest laborer. Yesterday the compensation of other officials was largely increased. The proposition here is merely to pay the fireman and the assistant fireman a fair compensation for their services. In no event will the increase exceed \$180 or \$200. I trust that this justice will be done to a meritorious official. Furthermore, I will state that by a resolution passed when I was not present, the fireman has been discharged, but his accounts have not been settled, and he is here to this day for that purpose. I trust the resolution will pass.

Mr. EWING. That is a very good reason for referring this matter to the Committee on Accounts, who have the contracts that have been made with these persons, who know all about their accounts, and are the proper parties to settle the matter. They have partly settled the fireman's accounts, and he has been paid a part on their report.

Mr. HAY. I simply desire to say that the compensation of these employees was fixed by the Convention upon the report of a special committee of nine who were appointed at the beginning of the sessions of the Convention at Harrisburg to report what employees the Convention should have and how much they should be paid. The fireman and assistant fireman were to be paid then \$3 50 a day, and of course they have been paid the \$3 50 which was fixed by the Convention. I cannot understand the propriety of an increase of that compensation. It seems to me enough for the service rendered, and I, for one, very much object to an increase of that amount.

Mr. COCHRAN. I simply wish to say that if this matter is referred to the Committee on Accounts, and they have to report upon it, they will report the amount allowed by the Convention. They are not going to change the compensation.

Let the Convention decide here and now whether they think it is right to reverse their action in this case in the first instance. If they think there ought to be an increase, if they are going into the work of increasing everybody's pay, of course the resolution should go to the Committee on Salaries. If the object is to increase the pay, do not send the resolution to the Committee on Accounts, for the Committee on Accounts will not increase the pay.

The PRESIDENT *pro tem.* The question is on the amendment offered by the delegate from Allegheny (Mr. Ewing.)

The amendment was agreed to.

The PRESIDENT *pro tem.* The question now recurs on the resolution as amended.

The resolution was adopted.

WARRANTS FOR PAY.

Mr. HAY. I offer the following resolution:

Resolved, That the resolution adopted by the Convention June twelfth, as follows, to wit: "*Resolved*, That the President be and is hereby directed to draw warrants in favor of members and officers for three-fifths of the amount of salary payable to each," be referred to the Committee on Accounts and Expenditures, with instructions to report for what particular amounts warrants should be drawn thereunder.

The resolution was twice read and considered.

Mr. HAY. Mr. President: I obtained a copy of the resolution adopted by the Convention yesterday when I was detained away from my seat, directing warrants to be drawn by the President of the Convention for a portion of the pay of members and officers; and I am informed, and the information is no doubt correctly given, that the President of the Convention will decline to sign warrants upon the treasury until a report has been made by the Committee on Accounts and Expenditures. In order, therefore, to carry out the will of the Convention, that the warrants should be drawn—although, in my opinion, no warrants for any portion of the salary of members of the Convention should be drawn until the time of its final adjournment is at hand—I have thought it proper that this resolution should be referred to that committee in order that they may have something to go upon and make their report accordingly.

The resolution was agreed to.

HOOR OF MEETING ON MONDAY.

Mr. EWING. I offer the following resolution:

Resolved, That when this Convention adjourns to-day, it will be to meet on Monday next, at half-past ten o'clock A. M.

The resolution was read twice and considered.

Mr. EWING. I merely wish to say that I offer the resolution in the interest of the Convention. I understood that some of the youthful members of the Convention, my friends from Allegheny (Mr. D. N. White) and Warren (Mr. Struthers) and others are going on a little expedition tomorrow, and probably they will not be back in time to meet with us at half-past nine o'clock on Monday morning.

Mr. MACVEAGH. Will the gentleman allow me to interrupt him? Is he perfectly sure that they will be ready for business when they get back? [Laughter.]

Mr. EWING. Certainly.

Mr. BRODHEAD. In order to accommodate all around, I move to insert twelve instead of half-past ten. ["No." "No."] The excursion I am going on does not return until twelve; the excursion that the others go on gets back at half-past ten. My excursion does not get here until twelve, and there are a number of others that will be in the same boat. I think we may as well postpone the meeting on Monday until twelve o'clock.

The PRESIDENT *pro tem.* The question is on the amendment.

The amendment was rejected.

Mr. TEMPLE. I move to strike out "half-past ten" and insert "eleven." ["No." "No."] I desire to state for the benefit of gentlemen who are not aware of the running of trains on the Cape May railroad that in all probability the Monday morning train will not reach Philadelphia until a quarter past ten.

SEVERAL MEMBERS. Let it run.

The PRESIDENT *pro tem.* The question is on the amendment.

The amendment was rejected, less than a majority of a quorum voting therefor.

The PRESIDENT *pro tem.* The question recurs on the resolution.

Mr. DARLINGTON. I move to postpone the further consideration of the subject.

The motion was not agreed to.

The PRESIDENT *pro tem.* The original resolution is before the House.

The resolution was agreed to.

THE LEGISLATURE.

Mr. MACVEAGH. I move that the Convention resolve itself into committee of the whole on the legislative article.

This was agreed to, and the Convention resolved itself into committee of the whole, Mr. Stanton in the chair.

The CHAIRMAN. When the committee of the whole rose yesterday, the question before it was the amendment of the gentleman from Lycoming (Mr. Armstrong) to the amendment of the gentleman from Allegheny (Mr. D. N. White) to the nineteenth section of the article on the Legislature. The amendment to the amendment will be read.

The CLERK read as follows:

"The Senate shall consist of fifty members, one-half thereof to be chosen every second year by a vote of the electors of the State at large, and in their election no voter shall vote for more than fourteen.

Mr. BIGLER. Mr. Chairman: I desire once more to express my views on this proposition. It was under the other day, and now it is on top, and must be considered again. I listened with great interest, as I always do, to the clear persuasive remarks of the delegate from Columbia (Mr. Buckalew) on this subject; but with all his force he did not move my judgment. I am still clear that the State ought not to be districted in this way, in the manner proposed. In the first place, I have to repeat a great deal that has been said heretofore. I am against this form of selecting State Senators by a State convention, for, with this limitation upon the right to vote, it amounts to a selection, and nothing else. As I remarked the other day, I am not so apprehensive of the evils of nominating by State conventions as some gentlemen on this floor seem to be; but I do say that in view of the large delegation to be nominated, and the great interests that will be involved, this will be a very dangerous experiment. There is enough at stake to call into active efforts all the genius and power of bad politicians on both sides. Twenty-five men will be nominated, and there will, therefore, be vigilant men from all parts of the State engaged in this work. But, sir, if I had the right to vote for the whole twenty-five, or vote against them under this plan, it would not be so entirely inadmissible to my mind as it is.

Only a single word or two on that thought. I hold that there is great significance in the elector having the right to

vote for or against any man who is to hold an important office, who is to deal with his interests, and with his welfare, and with the dignity and the growth and the prosperity of a great State. Now, sir, I should be denied that right by this proposition. I could only vote for eleven or fourteen according to this proposition, only a portion of those whom we are to elect and who are to represent me and serve me.

According to my teachings, it is of the very essence of our republican system of government, it is of the essence of self-government, that the elector has a right through his representative to impress his will upon the policy of the government, and it is because I have that opportunity that I am a self-governed man. It is the boast, it is the distinguishing, characteristic, it is the glory of our system, that the humblest man in community, equally with the most distinguished, and he of the largest possessions, has the right and the opportunity to impress his will upon the policy of the government. I say therefore there is great significance in this measure.

Beyond the influence of politicians in a State convention, let me suggest another thing. If it be true that there are great influences in this State, if it be true that there are corporations of great power, if it be true that the rights of the people and the welfare of the people demand remedial legislation, I ask you, sir, to consider how far you do give them the power to stop, and stop finally, your remedies. Why, sir, if I represented such a power and if I desired to prevent the Legislature from applying remedies to the evils that exist, I would be delighted with the opportunity of uniting with the other influences that would be present in such a body and shaping so that you get no further than the Senate with your remedies. Am I distinctly understood? I mean to say that so far as remedies would be concerned it would be the opportunity for all the bad influences to make common cause and stop you there, although they did not interfere with the House of Representatives.

Now, I wish to allude to a single view taken by my distinguished friend from Columbia, and I regret very much that he is not in his seat. Equally with him do I regret that it often happens that men of eminent fitness and eminent purity, living in a county where there is a large majority of one party or the other, are excluded as minority men from public life.

I do not choose to take the view he does, though. I regret it, I say, for the reason that their services would be valuable. As for the individuals themselves, I rather congratulate them. They are a fortunate class of men to be out of politics in these latter days. I have no sorrow on their account and no regrets on their account.

Mr. DARLINGTON. Mr. Chairman: I rise to a question of order. There is so much buzzing in the Hall that it is impossible to hear.

The CHAIRMAN. The Chair will insist on better order. It is certainly impossible for the reporters to hear.

Mr. BIGLER. Now, Mr. President, although that is a very plausible view, one that I doubt not has some influence here, yet I think it sinks entirely below that broad consideration which this subject ought to receive. It is a question which we are about to settle, probably, for many years, and it should be settled, not in reference to an individual residing here, or residing in Berks, or residing in Lancaster, but solely in reference to its effect upon the future welfare of the people of this great State. I have said enough to indicate my position on the subject. I am distinctly against this proposition of electing Senators at large on the plan under consideration.

My distinguished friend from Columbia did not say whether he would be willing to take the chance of allowing one party to have all the Senators or not. I take it for granted that he would not entertain that proposition, that either party should have the opportunity of electing the entire ticket; but unless we adopt the mode of a limited vote, which, as I have said before, amounts simply to the selection of Senators by a State convention, it must follow that one party or the other gets the entire delegation. Therefore, whatever we may think about the good influences of the election of delegates at large, and I conceded to it the other day some merit, it might incite men to think of the State Senate who would not under other circumstances entertain the idea. But as it stands, we must either select the Senators for this State on a general ticket, wherein there will be a State contest, and one party or the other will get all the Senators, or else we come down to the selection of State Senators by State conventions. I am against either the one or the other.

Mr. LILLY. I do not desire, Mr. Chairman, to enter into this discussion, because

I see it is useless to undertake to press this proposition. I think it is just about as useless as it would be for me to whistle against a northeast wind in this House. But, sir, notwithstanding that fact, I believe that the principle of the amendment of the gentleman from Lycoming is proper and right and should be carried out. I have no hope, however, of the adoption of the proposition by this Convention, and I shall not therefore take up much of the time of the Convention on the subject.

The gentleman from Clearfield who has just taken his seat, inveighs against State conventions. I aver that there are not six single districts in this Commonwealth where the nominations are not made by the politicians, and by the smallest politicians that there are in the Commonwealth. The very argument that he makes against State conventions will apply to the districts with four times the force, because it is the smallest kind of politicians that make the nominations there. A man nominated by a State convention of either party must have a State-wide reputation before he can get on the ticket, and under that system of nomination you will get the best men that the Commonwealth can produce, and you will get a Senate that the State can be proud of. Under this system of single districts, to which I see this House is entirely wedded and it is no use talking against it, you will have the Senate as we have had it for years and years past.

Sir, I say this with an intimate knowledge of the Senate for the past twenty-one years or more. I know that in the district in which I reside the nomination of Senator is made by three men every time. The party concedes the nomination to one county or the other—we have four counties in the district—and three small politicians make the nomination for that whole district every time. Would it not be far better to leave it to the assembled wisdom of the party in a State convention to pick out a man or set of men with State-wide reputations, than it is to allow three men, three small, trading politicians, if you please, from a small county, to say who shall be sent from that district?

But, sir, as I said when I rose, I do not desire to prolong this discussion. I see that it is useless to talk about this amendment, but I could not forbear saying this much.

Mr. BIDDLE. Mr. Chairman: I cannot permit myself to give a silent vote upon

this question. I consider it as important as any question that has been before the Convention. The slightest inspection of the particular section under consideration will show that there are two distinct propositions involved in it—propositions not only entirely distinct, but having no necessary interdependence. In fact, almost the whole of the remarks of the distinguished delegate from Columbia (Mr. Buckalew) would have been equally applicable to the section had it stopped at the word “large” in the third line.

The two propositions involved are these: First, what shall the character and composition of the Senate or upper branch of our Legislature be; and after you have ascertained that, secondly, in what way shall the elector be permitted to cast his vote? I propose to say a few words as to each question.

It is extremely difficult, in my apprehension, to answer what has been said in favor of the selection of the members of the Senate from a very wide territory—from the State at large, if you please. It can hardly be doubted that in that way, by giving a wide range of choice, you increase the chances of the selection of larger, broader men; the mere local partialities disappear and the desire becomes very strong to select the best men. By a very decisive vote in regard to the members of the highest judicial court of this Commonwealth, this Convention has applied the same principle of selection from the State at large. It hardly seems necessary, therefore, to descant at any great length on that question. We have two branches of the Legislature to supply. The lower House, I suppose all agree, with slight modifications of detail, should be upon the principle of popular representation; not, as I understand it, on the principle of county representation, because that is not representative government at all. There is no propriety, when you are confined to the lower branch, the popular branch of the Legislature, of saying arbitrarily in advance that each county shall have at least one Representative, because the basis of this representation is not political communities at all, but people, population, voters. Nor do I understand that this article, (although it received credit at the hands of its author, the gentleman from Columbia, on this very score,) points in the direction of the representation of these small political communities called counties; for if you turn to the second branch of the third section,

you will find that three sets of counties are joined together there with but a single Representative, and that there is a saving clause at the end of that branch, requiring a county to have at least a certain amount of population before it can receive a Representative. I do not, however, intend to dwell at all upon this portion of the article. I simply call attention to it that I may make my remark to the section now under consideration a little more complete.

Regarding, then, from my standpoint at least—which I trust is the standpoint of this House—that the lower branch of the Legislature should represent population—that is to say, the whole body of the community, the House to consist of as many as the particular divisor, whatever that may be, will give, without regard to political communities, the question recurs—what is the best mode of providing for the composition of the upper branch? Undoubtedly, if we could represent interests, I suppose it would be more acceptable. The body which holds the purse strings of the Commonwealth you have already provided for representation in. There is no fear, therefore, that the money of the Commonwealth will be improperly squandered, or squandered against the wishes of the people; and if you could have the large interests of the community represented in the Senate, it would be a great accession to our political system; for instance, the great manufacturing, the great agricultural, the great commercial, the great mining—aye, even the great transportation interests, the great corporations—provided they received no more than their fair quota. It seems impossible, however, to adjust that properly. As we are constituted at present, we can be hardly said to possess a machinery adequate to the attaining of this kind of representation in the upper House. We must, therefore, look to something else, to some other mode of achieving the end of the representation of something besides mere population. We want men in the Senate, then, with views so broad, with experience so wide, with character so high, that all the great interests to which I have just referred may be properly cared for and protected; and we want them so cared for that the legislation which they may receive may be satisfactory to the community at large.

Now, is there a better way of doing that than by nominating from the body of the whole Commonwealth forty or fifty of its most eminent citizens, men such as those

I see around me, who, I think, would show alacrity in serving, were the body so constituted—ex-judges of your Supreme Court, men who have filled already the Executive chair of the State; men who have served in its fiscal departments; men, in a word, who are familiar with the varied interests of the State? Agreeing thus far entirely with the gentleman from Columbia, and understanding the gentleman from Dauphin, (Mr. MacVeagh,) who spoke yesterday, not to differ from this view, because, as I said in the start, if you stop reading this section at the words “at large,” the gentleman from Dauphin would agree, since large districts mean substantially what I am saying, and the gentleman does not even commit himself against an election at large, provided it could be done as he thought it ought to be done. I come to the next proposition.

I am compelled to say that after the best consideration I have been able to give the subject, and I may say here—perhaps it is not one of those personal things which ought not to be said—that I have given reflection not only in connection with this section, but from the very first, to the subject of what is called free voting; I differ from the plea presented *in toto*, and I will briefly state my reasons.

If the Senate were to be appointed by the Governor, or by your judges, or by your ex-Governors, or by some board of appointment, I do not know that I should object greatly to that mode of selection, as its composition and character are not meant to be like that of popular bodies. But the moment you apply the principle of selection by voting, I have a fixed opposition, from study and reflection, to what is called the limited vote.

There are three kinds, as I understand it, of voting outside of our simple old-fashioned mode of voting. There is the cumulative, or free vote, as the gentleman from Columbia prefers to call it. There is the limited vote, which is that now before us. And then there is that which I think ought to commend itself to every one, the system of proportional voting, which gives precisely to every party in the community just that to which it is entitled. I will speak about the last mode directly; but I propose to say nothing about the cumulative or free vote, since it is not involved in the present discussion, though I, for one, do not believe where there are ten candidates to be elected, in giving each voter ten choices on one can-

didate. I think that altogether wrong. This is the cumulative vote, the “plumper” system which prevails, or which did prevail, in England.

Now, as to the limited vote, I think there are two great objections, and very great ones. I am sorry to be compelled to consider the section in this way, but there is no help for it. We find the words written here and we must discuss them. What does it mean? It means in effect, as this section is drawn, and as these sections are always drawn, to say arbitrarily in advance, without our knowing what the true proportions of the antagonistic parties of the State are, that each one shall have so many of the officers or Representatives to be chosen. To apply the formula to the present case, it says that out of twenty-five Senators to be chosen biennially, each party shall have respectively thirteen and twelve, and neither more nor less, no matter what the strength of the dominant party be.

MR. RUSSELL. The section provides for fourteen and eleven.

MR. BIDPLE. Well, fourteen and eleven then. The principle is the same. It formulates the same principle, but the difference is wider. I do not understand on what theory, if the Republican party—and I name that first because it is in the majority in the State—has a majority of three-fourths, it is to be deprived of that power in the public councils. I know what I should feel and say if the tables were reversed. I profess here to know no party, but so far as my humble efforts may go in framing this basis for legislation, I intend to give to all exactly that to which they are entitled. I scorn anything else than that. If the dominant party has three-fourths of the voters, I say by every fair principle of right and justice they ought to have three-fourths of the representatives in either branch of the Legislature, provided they are elected by the voters of the Commonwealth. Such a principle as that requires no explanation. But it is very plainly written, and any man that has given the slightest reflection to the subject must see that as this section is framed, it is purely arbitrary; and I do not care whether you take two-thirds or one-third, or any other proportion, it is arbitrary, because it prefixes that which never can be afterwards unfixed, no matter what the real difference may be. I will not consent, so far as my single voice can go, to such a system.

Now whether the distinguished author of the book on proportional representation condemns this limited vote or not, I do not care to inquire. He may condemn it, as has been said on this floor, or he may advocate it; but with the lights I have I think it wrong. I do not care whether it comes sanctioned by antiquity or is advanced here for the first time, it will meet equally with condemnation at my hands. And I wish to say, just in passing, that I have observed that when gentlemen are advocating a proposition for which they find a warrant in the existing Constitution, they are very apt to say, as my distinguished friend from Chester (Mr. Darlington) said the other day, that they delight to walk in the ancient paths, and not to be wiser than their forefathers, who have spoken and have written; but I find that when they come to agitate innovation, such as I think my distinguished friend from Chester has once or twice voted for here, then their respect for the teachings of the fathers altogether disappears. [Laughter.] If we are to stand upon the ancient ways let us place ourselves there and not go out of them, either to the right or to the left; but do not with one breath speak of your attachment to those ancient teachings, and of your desire not to be wiser than that which is written, when on two most vital matters, the extension of the suffrage to a whole class, a whole sex, and on the question of sumptuary laws you have departed from them absolutely. It is hardly right.

Now, passing from this digression, there is with me another more fatal objection to what is called the limited vote, and it was spoken of yesterday by the gentleman from Dauphin. I do believe that it does give no choice at all to the people. It places in the hands of two nominating conventions the selection, *aye*, and the election of the Senators. The conventions are to elect, and not the people. What is the use of talking about it; is not the nomination equivalent to an election when you have got to vote for twenty-five, and one party is only to vote for fourteen and the other for eleven, or twelve and thirteen, or eighteen and seven? Of course it is. We cannot be deceived by words; and while in the long run, if you please, you may say that they are the conventions of parties, still it is a delusion, it is a sham to place it before the people as giving them a say in the matter. You had better say this at once;

you had better nominate by your Governor and your judges of the Supreme Court at once, where you would at least have a guarantee in the character of the nominating parties, and not place in the hands of transient, fugitive, irresponsible bodies the whole of this power. I think it would be unmixed evil. I know the ability which can be brought to bear on the other side of the question, but I think it will be extremely difficult to answer this simple objection. I will try to answer the answerers a little in advance.

It has been said, and will be urged again, that this very Convention, so far as the delegates at large from the State are concerned, and so far as all or nearly all the local constituencies are concerned, has been brought together on this arbitrary principle. See what it has brought forth! I am not disposed to undervalue the character of this body; on the contrary, so far as I have been able to compare it with bodies formed in the past or now existing around me, I believe it stands as high as any similar collection of one hundred and thirty-three men that could be found in the United States. I have no doubt of it. But let gentlemen think of the enormous difference between the character of this body, and the character of a representative body. We are what we are, simply because we have nothing to give, nothing to vote away. Do we hold the purse-strings? Do we make appropriations? Have we any patronage? Can any one single human being, apart from the half dozen officers we have elected, derive any direct pecuniary advantage from us? Think of the scene of yesterday, even as to the voting away of a few hundred dollars! If it were otherwise, you would have seen a scramble in the nominating conventions, such as has been depicted as taking place in other similar bodies. You would never have got the present men. Now I am perfectly aware, and I anticipate the objection, that it may be said I, too, am here representing a minority in my district. I am very glad I am here, and I suppose I would not have been here if it had not been for this limited vote. I do not care for that. The interests of the people of the State at large are vastly superior to, not to be weighed against, the little selfish feelings or interests of any single man here. What are they in comparison, dear as they may be to him, with the rights and the interests of the people of this vast community? What right has any one

man, or any set of men, to stand up and talk of himself or themselves in opposition to the principle of free selection? It is not the way to look at the subject. I feel, and I think I know the truth of what I have said, as to what, if we had patronage and money to vote, would have taken place; but this is, after all, unimportant. We are on the question of whether the electors shall elect. That is this question; and I say he does not elect at all by this plan.

I do not intend to develop this view further. If the objection can be answered, let it be. Do not tell us that by nice prearrangement you will equipoise or nearly equipoise the ratio that political parties bear to each other. I say you cannot do it; I say you have no right to attempt to do it. That is for the people themselves. It will be a failure always to attempt it.

Shall, then, one side have all and the other side have none? Not at all. There is no necessity for this; but rather than have anything like the present system, I would prefer to elect twenty-five men every two years by the voters of the State at large. It would have been a great deal better to have elected thirteen every year. I was in favor of annual elections, but the House thought otherwise. That would have adjusted itself in a very few years. It is not so easy by electing biennially, but we must take things as they are. I would prefer, for one, electing twenty-five members every two years, with a chance of a change, than to elect or select by nominating conventions. But it is not necessary to do this at all.

There is still a third mode, and I am surprised that the distinguished member from Columbia did not suggest the plan, for it is the only fair plan. From the very start we saw the gross injustice of giving all the representation to a mere majority. This State might, on some occasions, be divided, just as the State of Massachusetts was when Marcus Morton was elected Governor by one majority. What has been, may be; and it would be a shocking spectacle to see all the Representatives—133—given to the party that preponderated by one, and the intellectual character of that one man we might say of the lowest, because we have a right to take the smallest intellect in such a majority. That would not be fair. It would be shocking.

Members of Congress were originally elected in that way in a great many States, and the difficulty and the evil

were foreseen, and by a sort of rude approximation to justice the district system was invented to remedy this evil, but it does not work well. Just let us look at it for a single moment. It is necessary for us to go back to principles in a discussion like this.

It may happen—the counties of Berks and Lancaster seem to be regarded, however, as standing exceptions—that every county in this State may, by a small majority, be politically in one way. In times of civil war, and of great public excitement, such a thing would not be unlikely to take place. It never has taken place, but it might.

And by the single district system, every district, by a small majority—if you please, by as small a majority as possible—could send members to the Legislature all of one political persuasion. Then what becomes of what was so well put by the gentleman from Chester (Mr. Darlington) some time ago, when he talked of the true function of a minority, which he told us was argument, persuasion, objection, resistance? There could be nothing of the kind: the majority would all be one way.

Now, this must be seen to be a radical objection. How do you meet it? In the simplest way in the world—by proportional representation. Give to each party a share of the representatives, exactly equal to its share of the votes. The Democratic party has two-fifths, if you please, or a closer proportion; I care not what; the Republican party has three-fifths. Give to the Republican party its just preponderance, which is a majority of one-fifth of the whole body—give the Democrats two-fifths of the Senators; the Republicans three-fifths.

You ask how this is to be done. It has been pointed out again and again. The machinery is of the simplest character. You have two tickets headed with the initial letter of the great parties, R. and D., and each man votes as he pleases for fifty candidates, if there are to be fifty, and when the whole vote is added up, we will say 600,000 in this State, there are found to be 400,000 R.'s and 200,000 D.'s—I take these figures because they are more easy to present—which is two to one; the R.'s get two-thirds, thirty-four, if you please, of the candidates highest in the vote, and the D.'s get the remaining sixteen. There is nothing fairer than this. This is the principle I should like to see applied. It is not now before the House, and it is un-

necessary to present it unless the House, by its vote, shows a recognition of the principle of electing from the State at large; but if it does show this, then this proposition will be submitted.

Mr. HUNSIKER. I should like to ask the gentleman how he would pick out those who had been elected under that plan.

Mr. BIDDLE. There are two ways of doing it, equally simple. One way is by giving it to the thirty-four highest on the "R." ticket and the sixteen highest on the "D." ticket. But if you suppose each man to get exactly four hundred thousand and two hundred thousand votes, that can be provided for by the elector putting in the order of his preference the names on the ticket, which is the simplest form. Either would do; both might be applied. There is no difficulty about it. It is as simple as possible, and has worked well practically for years in several counties. The details I do not go into.

For these reasons, Mr. Chairman, while I am strongly in favor of the election of the Senators from the State at large, I am opposed to their selection in the manner indicated by the last lines of this section, because I believe by selecting in this way the election is practically taken from the voter.

Mr. KNIGHT. Mr. Chairman: I still have confidence that the people are capable of self-government, and my vote shall be cast to keep the power as close in the hands of the people as possible. I have no idea of abandoning a certainty to try an experiment. We have had this certainty for nearly one hundred years, and practically it has worked well. The system of having a State convention to nominate the Senators, in my judgment, would work very badly. Any power or combination, political or otherwise, could very easily control that convention, much more so than it could control the people nominating in the usual, regular way.

Without going into any argument on this point I merely wish to state that these are my views, and entertaining them fully and decidedly, I shall oppose anything looking towards a limited vote or a nomination of the Senators of this State by any political convention.

Mr. WOODWARD obtained the floor.

The CHAIRMAN. The delegate from Philadelphia will not proceed until order is restored. Gentlemen must resume their seats and conversation cease.

Mr. WOODWARD. Mr. Chairman: If you had known for what purpose I rose, I do not think you would have taken so much pains to obtain order in the Hall. I rose for the purpose of saying that not having occupied one moment of the time of the committee by debate on this subject, I shall now yield the floor to any gentleman who will move that the question be taken. I think we are prepared to vote, and I want to vote, and if the Convention will agree to vote now, I will not say another word; but if they do not agree to vote now I have a speech to make. ["Go on!" "Go on!"] I prefer to vote. [Go on.]

The CHAIRMAN. The delegate will be kind enough to proceed.

Mr. WOODWARD. Then, gentlemen, I give you notice that whenever you are ready to vote I am ready to stop; but if every delegate must express his opinion on this question, I have no hesitation in expressing mine in a few words.

The gentleman from Philadelphia, (Mr. Biddle,) who addressed us in a very eloquent and excellent speech just now, analyzed this section and showed us that it contained two propositions. One of them I understood him to be in favor of, to wit, the election of Senators at large. The other of those propositions I understood him to be opposed to, to wit, the election of them by a limited mode of voting. Now, sir, all that has been said against this limited voting that has impressed me was first said by the gentleman from Dauphin (Mr. MacVeagh) and has been repeated by other members, and it is just this: If you adopt the principle of electing Senators by general ticket, which I hope and trust this body will do, then if you elect that general ticket by the limited mode of voting you take the power of electing Senators out of the hands of the people and you put it into the hands of those politicians who control State conventions.

That is the whole argument here, and I do believe every word of that argument is true. I think it is all true. But what then? Do gentlemen make themselves such optimists as to expect something perfect and angelic here in Pennsylvania in this day of our Lord? Is the system which gentlemen are afraid to displace, itself perfect, this delegate system? Does it exclude politicians and their influence and control? Why, sir, I have once or twice before suggested that it was a fair rule to judge a tree by its fruits. It is a

severe one, I agree, but very fair. Well, now, judging this tree by its fruits, what sort of fruit has the district system borne? When we had up the question of an elective judiciary, and I was maintaining, according to the best of my poor ability, that judges ought to be appointed by the Governor by and with the advice and consent of two-thirds of the Senate, I was informed most patronizingly by two very distinguished ex-Senators that it was evident that I had never been a Senator; I did not know how two-thirds of the Senate could be controlled by corporations and their agents, for, if I had, I would not have made so foolish a proposition as that, the ratification of the Executive appointments of judges should be submitted to two-thirds of the Senate. Why? The Senate, which these Senators told me could not be trusted, are elected upon the delegate district system. They are not elected by the pernicious plan which the gentleman from Dauphin condemns in such eloquent terms. They are elected by district conventions; and yet two of the highest authorities that can be vouched for the assertion, tell me that they cannot be trusted, that two-thirds of that body cannot be found to pass upon the question of executive appointment of judges uninfluenced and uncontrolled by corporations. Well, I am learning every day, sir. I want to believe what is demonstrated to be true; I have not great respect for habitual unbelievers. I receive this evidence; I believe it. Then I say the system that fills the Senate with such creatures is a bad one, and the argument of the gentleman from Dauphin goes for nothing against State conventions.

When judicious men bring forward a proposition of reform, and a gentleman arrays against it, with so much subtleness, so persuasive an objection as the gentleman from Dauphin did against this amendment, he ought to suggest something better. It is in vain for a doctor to tell me that the medicine I am taking is not fit for me if he does not suggest something better. It is in vain for a lawyer to tell me that the course my case has taken is the wrong one if he does not suggest a better course. Now, what is a better course? What is better than the State conventions? The district conventions? But the district convention has borne its fruit, and I have the testimony of Senators that the Senate selected by district conventions and sent to Harris-

burg cannot be trusted; I understand that the distinguished ex-Governor from Centre county (Mr. Curtin) argued yesterday, when I was not here, that this talk about legislative corruption was altogether a mistake, but I do not believe that it is altogether a mistake. Corporations control the Senate. How shall we prevent that? Whom do not corporations control? Why, sir, they control the district conventions; they control the Representatives and the Senators whom those conventions send to Harrisburg; they control the people; and when I proposed in this body, or rather when the Committee on Private Corporations proposed in this body, to raise up an officer whose duty it should be to watch the corporations and hold them to the very line of their legitimate duty, and keep them in the orbits which had been prescribed for them in order that the people might have an assurance that they had one representative to look after their interests, invaded and endangered from corporations—I say when that committee, a standing committee of this House, brought that proposition before this body, it was trampled under foot with a readiness and indignation that admonished that committee to make no more such propositions. "What! Propose to us to set somebody in Harrisburg to watch these corporations? Nay, we will not consider such a proposition as that in this Convention!" It was not considered. So that I fully believe what I was told in regard to the Senate in respect to corporations. I do not believe it is possible for this body to impose any valid, real, binding restraint upon the corporations of Pennsylvania any more than it is for the Senate of Pennsylvania; and I found myself on what has occurred when I make that assertion.

Well, then, what becomes of the political philosophy which teaches us the great danger of State conventions from corporations and politicians? I admit it. Undoubtedly the politicians will be there, and undoubtedly corporations will be there. And where are they not? They are like the frogs of Egypt—they are in our houses, in our dough-troughs and in our bridal-beds. They are aggressive, they are pervasive, and they permeate everything. I was in hopes they would be kept out of this Convention, but I sometimes feel that they are too near even this exalted body, for I agree with the gentleman from Philadelphia, (Mr. Biddle,) that this is the grandest body of modern times,

(laughter,) and yet it is not higher than the corporations, nor are we beyond their reach. When we come to second reading it is possible that some member of this Committee on Private Corporations may renew the proposition which was made in committee of the whole, and you will see how it will be treated if it ever is renewed.

Why, sir, that Committee on Private corporations adverted to the fact that many a farmer has had a barn burned by a locomotive, or his cattle killed, or has any other injuries done to his property. Well, he goes to the agent to seek reparation for his loss, and the agent tells him to go to the directors. And where are the directors? In Boston, New York or Baltimore; they are anywhere rather than in Pennsylvania. It is true, he has the alternative of going to court and, after a long and expensive litigation, recovering damages. Now, said this Committee on Private Corporations, these citizens of Pennsylvania ought to have the right to appeal to the directors of these corporations in this State, and therefore they put it into their report that these foreign corporations should have a majority of their directors in Pennsylvania. When it came into this body, it did not live long enough to breathe. The indignation with which my friend from Carbon (Mr. Lilly) mounted that proposition was refreshing. "What!" said he, "require corporations to maintain a majority of their directors in this State? It is monstrous"—and the Convention said it was monstrous. I do not think there was a man here that voted for it, and the farmers of Pennsylvania were not represented in that vote. And so almost all of the conservative provisions which that standing committee reported for the consideration of this body were voted down in the Convention. I tell gentlemen that this idea that they are going to exclude corporate influences and politicians from nominating bodies by keeping them in the rural districts is an utter delusion. It is shutting our eyes to all our experience. It is refusing to be taught by our own experience. We have had the district system indefinitely, and it has borne bitter fruits, and it will continue to bear them. Is there a remedy in this? I do not know that this is the true remedy, but I am willing to try it. Gentlemen conceive, and have demonstrated with great clearness and fullness, that the system of electing Senators by the State at large would bring in all probability a

better body of men into the Senate, men not quite so likely to be influenced by the low, sordid and selfish motives by which the politicians are supposed to be influenced now-a-days. I think so.

But they are not to be elected by the people on this plan! I agree with that. They are not elected by the people but by the nominating conventions, but who elects the nominating conventions? Why, the people. They may select their nominating conventions just as carefully as they please. They have the full opportunity, and I think it would be very wholesome for us in Pennsylvania if the people would attend to their primary elections and guard them and watch them and take care who they send into their conventions, county, State and national. It would be very wholesome, because these primary elections are the fountain and spring of all our political power, and it would be well if the people would watch them. There is the time when the people vote. It is when they elect their delegates to their State conventions. That is the time they exercise their sovereignty and if they choose to stay at home and allow the politicians to do that work for them, they have no right to complain.

I do not see therefore that this proposition is fairly subject to the objection that has been urged against it. I admit all that these gentlemen have said. I agree that the nomination would be equivalent to an election. The nomination is made by the nominating convention, and there is no reversal of that decree. I agree to that. But then I say it is nevertheless an election by the people in the selecting of the delegates to that convention, and there is the time when the people should look after their rights and then, when that convention meets, at Reading, or at Harrisburg, or at Wilkesbarre, or at Philadelphia, or somewhere else, it is in the broad daylight. It is under the supervision of the daily press. It is in the face of the world, and thus watched and thus conspicuous, is less likely to do mean things than your district conventions which steal off into some hidden corner and put into the Senate or the House some agent of corporations.

Now, sir, listening with all the ears I have got, and they are not very good ears, I believe that I have heard everything that has been said here. I have not heard an objection to this plan that is worthy discussion except the one to which I have alluded, to-wit: That the politicians,

through the State convention, will elect the Senate. That is the only objection I have heard. Well, now; I answer that by saying that the people will elect the delegates to that convention, and it is their fault if they do not elect them carefully and prudently, and thus the people vote for their Senators before they are nominated, are as effectually consulted in the formation of a senatorial ticket as they would be if a parcel of politicians get together in the districts and present nominations for the Senate and expect them to vote for this man or the other.

Mr. Chairman, we are a reform Convention. We are here for the purpose of trying to amend the Constitution in those respects in which it has been found to work badly. This is a proposition calculated to improve that which we have found to be pernicious, to be abused, and to bring into the Senate a different and a better body of men than those who have represented us there. Therefore I am in favor of it. The gentleman from Philadelphia, (Mr. Knight,) who addressed you immediately before me, wants things to remain as they are. He sees nothing to reform. No, and he did not when we had up the subject of the ballot. He saw nothing to reform here in Philadelphia. All was rosy and lovely in his eyes. Voting here in Philadelphia is exactly what it ought to be. I have heard gentlemen discourse upon the sacredness of the secret ballot, and the independent ballot, and other fine words of that sort. Why, sir, here in Philadelphia the ballot has ceased to be a ballot. It is neither secret nor independent, nor a ballot at all. There is no such thing as a ballot in Philadelphia. There has not been a fair election here for several years, an election that reflected fairly the popular opinion.

Well, now, what is the use of perpetually talking about the secret ballot and the independent ballot, when you have virtually no ballot at all? This is a valuable acquisition—you have got an adjective and lost the substantive, and in the estimation of some gentlemen that is all we want. Sir, it is not all we want! We want a thorough and a radical reform, to begin either at the bottom or top of society and either to work up or work down until the whole body shall have been purified, if indeed the whole body is capable of purification.

Why, look at our condition! Louisiana trodden under foot by a corrupt carpet-bagger, supported by Federal bayonets;

whom nobody either white or black ever elected Governor of that State! What has become of the "secret" ballot, the "independent" ballot, the inestimable ballot, in Louisiana? What is it worth there?

Mr. COLLINS. Let us act for Pennsylvania, not for Louisiana.

Mr. WOODWARD. Pennsylvania is not Louisiana? No, sir, not yet, but I sometimes fear it may share the fate of Louisiana.

Mr. Chairman, the whole head is sick and the whole heart is faint; from the sole of the foot to the crown of the head there is no soundness in this body politic; I know how to account for it. A great civil war; an enormous debt; universal banking, because the Federal government became the greatest banker in the world; greed of office; hurry to be rich—these are among the causes that have operated and are operating to debase, lower and lower, the standard of public morals.

Now, in the midst of this state of things this Convention is sent here by the people of Pennsylvania to do what? To arrest, if possible, this downward tendency, to inspire the people, ourselves and our fundamental law, with a nobler and a better life.

I have had as little to do with constitutional reforms and suggestions as any man on this floor perhaps; but when I see, come from what source they may, what seems to me to be a practical reform likely to help the people of Pennsylvania to a new departure and a new life, I feel like supporting it, and I want some better reason assigned than the reason so well assigned by the gentleman from Dauphin that the politicians and the corporations are going to get control of this system. I say politicians and corporations have got control now. That is no argument at all. They rule us now, they run us now, and they are running us to destruction, in my judgment, if we do not block the wheel. I do not know whether this amendment will do it, but it looks to me hopeful. If we can fill that Senate-house with a body of improved men, men of character, men of position, men who have a deep stake in the community, they by fair inference will not be quite as much exposed to corrupt influences as the body that we find there now. It looks to me like a step in the right direction; therefore I am disposed to take it.

And, Mr. Chairman, if this amendment be adopted, especially that part of it

which secures the election of Senators at large, I think we shall for the first time have a Senate in Pennsylvania. We read about a Senate in Rome and a Senate in France, but when have we had a Senate in Pennsylvania? We will have a Senate. It is not a representative of the people merely; it is a representative of the property, of the culture, of the intelligence, as well as of the numbers of the people. It is a Senate that overlooks the whole State, guards her interests, watches for the welfare of everybody in the State, composed of men carefully selected, if you please, by political conventions; but I maintain that the political State convention is just as worthy to select as the political district convention.

Mr. MACVEAGH. Will the gentleman allow me a question?

Mr. WOODWARD. Yes, sir.

Mr. MACVEAGH. Does the gentleman really suppose that the percentage of corrupt and professional politicians in the State conventions and in the district conventions of the counties are anything like the same?

Mr. WOODWARD. I am not good at arithmetic, and never was. I cannot answer the gentleman's arithmetical question, but I point him to the fruits which this tree has borne. That is my answer.

I say you have had the district system. You have elected Senate after Senate upon the district system, and two of the most reputable Senators in this Commonwealth told me that it would be nonsense to commit the confirmation of judges to two-thirds of that Senate because they would be controlled by the politicians.

Mr. MACVEAGH. I do not desire to be troublesome at all—

Mr. WOODWARD. What more?

Mr. MACVEAGH. I would simply like to say this, as the gentleman asked the question twice: I account for that because after the nomination of those men by district conventions they are corrupted by precisely the same influences that will control and corrupt far more easily your State conventions.

Mr. WOODWARD. Grant that. I am disposed to grant everything the gentleman says. Then, I say, we need a better sort of men.

Mr. MACVEAGH. I agree with you.

Mr. WOODWARD. Then we need men who cannot be bought. Then we need men whose price cannot be fixed, men whom corporations cannot buy, not even that powerful corporation which our

friend here represents; men whom even that corporation cannot scare. There can be such men found yet in Pennsylvania, thank God.

Mr. FELL. Where do those men live?

Mr. WOODWARD. I can find some of them. We have lost a couple of them from this body this winter.

Mr. CUYLER. Will the gentleman permit me a question? Certainly he has had much experience on the bench. I desire to ask him if he ever knew a judge in Pennsylvania that was ever bought or scared by the corporation he alludes to?

Mr. WOODWARD. That is not a fair question.

Mr. CUYLER. Why not?

Mr. WOODWARD. That is an appeal to personal experience, and the President of this Convention held that what a man learns in committee or away from this body is not to be spoken of here. [Laughter.] I stand upon the President's parliamentary law, in answer to the gentleman. [Laughter.]

Mr. Chairman, I said when I got up that I would rather vote than speak, and now, if this body is disposed to vote, I will stop. ["Go on."] No, I am not going on; I have said enough. I have said enough to indicate my disposition to support this amendment as a reform in the right direction, a reform of a system that has become pernicious. Now, observe the gentleman's answer to me just now—and I like this colloquial kind of discussion; it is the fairest way to bring out ideas. The gentleman's answer to me was, that the Senators selected by the district system were pure when selected, but corrupted when they got to Harrisburg.

Mr. MACVEAGH. True to a very great extent, in my judgment.

Mr. WOODWARD. Now, it is precisely that state of things that we ought to do something to remedy, because if the district Senators heretofore selected have been corrupted, the district Senators hereafter elected will be corrupted. There is no reason to suppose that in the future they will be any better than in the past. Then what does the doctor propose? He has pointed out the disease; we have got the diagnosis; and now what is the remedy proposed? Why, the gentleman proposes to sink down into the old rut, move right on just as we have been moving on. My friend on the left (Mr. Armstrong) proposes a reform, and the only objection that has been urged against it

worth a moment's consideration, is the objection that we have this brought down to this point, that Senators whom the districts have sent to Harrisburg get corrupted. Then, I say, as a matter of common sense, let us provide for a class of Senators whom they cannot corrupt.

Mr. MACVEAGH. Let the corrupters select the Senate themselves!

Mr. WOODWARD. No, sir.

Mr. MACVEAGH. Let the corrupter select the Senate?

Mr. WOODWARD. Adopt this amendment and you bring upon the stage of action a class of men whom they cannot corrupt. Does not the gentleman believe that there are men in Pennsylvania who cannot be bought by corporations?

Mr. MACVEAGH. Yes, but the corrupt professional politicians of the State conventions will not nominate them for the State Senate.

Mr. WOODWARD. Mr. Chairman, I am done.

Mr. J. S. BLACK. Mr. Chairman: The very able speeches of two distinguished gentlemen on this floor have placed me in the situation of a judge between them. They are most important witnesses upon a most material matter of fact, upon which my vote must depend.

I have a great desire, and I am sure there is not anybody in this Convention that has not the same desire, to elect Senators and members of the Legislature in the way which will be best for the moral, political and material prosperity of the Commonwealth; in other words, that the best men who can be got to serve in that capacity shall be chosen. The question is, whether the election by general ticket and limited vote will accomplish that end? If this mode be adopted, the tickets of each party will be nominated by a State convention, and the nomination will be an election.

It is clear that everything will depend upon the purity, patriotism and uprightness of the nominating convention. Whether such conventions are or are not honorable, honest and fit to be trusted is the point on which my two friends are diametrically opposed. The testimony of one flatly contradicts that of the other. My distinguished brother, the delegate at large from Walnut street, (Mr. Woodward,) thinks that the best kind of nominations would come from a body of that kind; while the gentleman from Dauphin (Mr. MacVeagh) is positive that State conventions are so venal and corrupt that

they can easily be packed for the basest purposes.

I am perfectly sure that the sincerity and truthfulness of my colleague at large is above reproach. But is he a competent witness? Knowing him well, I think it quite safe to say that political rascality is a subject which he knows nothing about. He is among the last men in the country who would be well informed concerning the wickedness that is going on?

A young gentleman of very high moral character was elected to the Legislature of California, pledged to a measure which he desired to carry because he thought it right. But it met with no favor until it began to be supported by a ring of rather questionable character. A caucus was called to concert the plans for pushing it through. When he proposed to attend, he was warned to stay away, and the reason given by the ring leader was just the one which would be given for excluding my friend (Mr. Woodward) from any place where men congregate to do improper things. "We don't want you there," said they; "You are one of those conscientious persons that we must have nothing to do with; you will give us trouble, and spoil our business by your scruples."

I heard a stump speech in 1863, made by an extremely bitter politician, not of the party that was then running my friend for Governor. He objected to our candidate on the ground that he was a perfectly sincere and honest man, and he thought him dangerous for that very reason. [Laughter.] He always has been a terror to evil-doers; and they trust him with none of their secrets. I find myself under the necessity of rejecting his testimony in favor of the honesty of State conventions, because it relates to a subject upon which his means of knowledge must necessarily be very defective.

On the other hand, I consider my friend from Dauphin (Mr. MacVeagh) an excellent witness. [Laughter.] He, too, is a man of veracity, and we can safely trust him. He knows whereof he affirms. The positiveness, energy and eloquence with which he delivered his evidence shows the confidence which a man feels who is sure of his ground. I believe him.

The consequence is that I am brought to the clear conclusion—I was inclined to it before—that a State convention composed of such men as get into those bodies by means of their own personal activity in politics, and who go there not as the

representatives of the people, but as the representatives of their own breeches' pockets, are not the men to whom we can trust the absolute power of naming the persons who shall govern us and perform so important a function for us as the legislation upon which the interests of ourselves and our posterity must depend. This defines my position and will explain my vote.

Mr. CURTIN. Mr. Chairman: I hesitate to attempt to entertain this Convention after the speeches of the very able and distinguished gentlemen who have preceded me; and yet I am placed in a position in which it would seem to be proper that I should say something on the great question now pending before this body.

I would correct my friend, the delegate from Philadelphia, (Mr. Woodward,) who referred to something that I believe I said and which he did not hear. I did not attempt to demonstrate the purity of the Legislature of Pennsylvania, nor did I assert that that body was free from corrupt influences which at times control its action. What I did say then, and repeat now, is that it is painful to hear it so often alluded to in this body. In a residence abroad of nearly four years I was often pained by the publications in American newspapers, always copied into foreign papers, of the corruptions of our legislative bodies in this country, of the controlling powers in our municipalities and the Congress of the United States. Part of these statements I thought might be true; some of them the developments in New York recently showed were true; but very much of them I did not believe and do not believe now. It was my duty as an American citizen, with the pride that every man should feel in the government of his country and the morality of the people of his country, to palliate these charges wherever I could; and perhaps while abroad, feeling what was just and right to my fellow-citizens at home, I may have learned a course of argument and lessons which may not be palatable in my own country, for I was taken to task the other day by the learned and distinguished delegate from York, (Mr. J. S. Black,) because I asserted on this floor that we should not be constantly repeating these charges of the fraud and corruption of our Legislatures, of our municipalities, and reflecting itself back as the logical sequence of what was said that the people of this country are corrupt; and I asserted at the same time that the mass of the people of

the United States were as pure now as they were in the days of the Revolution, and my whole argument was based on the assumption that it was the first duty of this Convention to spread the power as far as possible over the mass of the people. It was to insist that the House of Representatives, representing the people, the localities, and the communities, and all the interests of the State, should be made as large as it conveniently could, and I thought three hundred or five hundred would be a proper number, and to bring down our government to the people and make it of the people and give it that simplicity and popular will and force and power which it should have in this country if we be a representative democracy. If I had the power, I would put in the Constitution just what the delegate from Philadelphia said the other day; which was to let each locality send its members of the House of Representatives and pay them from the city or county treasury, and if the people sent a corrupt man they would pay for the corruption of the man of their choice, and it would be reflected on themselves. If a community would pay for their representation in the Legislature of the State, depend upon it they would send a man who would represent them properly. I think so still.

But my references to history did not seem to suit the learned gentleman. I will give him another. He is a lawyer, and a great lawyer; and as a Pennsylvanian I am proud to acknowledge and admit that the leader of the American Bar is a Pennsylvanian. No man in this country stands higher in his profession, and justly; but when a distinguished and learned lawyer has so much knowledge he is sometimes a little dangerous. There is too much in his head for the practical affairs of this life. [Laughter.] He grew up amid the frosty sons of thunder in Somerset county, and when he had grown to be a boy, a big boy, a great big boy, he was put on the bench too early in life. Ten years of experience in the practical affairs of humanity would have made him a stronger and a wiser man. He dealt with abstractions; he was separated from the body of the people, their business, their interests and their pursuits; and all the time the great storehouse above his shoulders was getting fuller and fuller of knowledge until he knew everything in the range of human knowledge except what is practical and useful, [Laughter.] I say this with great re-

spect to my learned friend; and I am sure if he were not present the one hundred and thirty-two colleagues who give him the homage of their respect in this hall, if they were all fair, would say that I have just drawn your portrait, my friend, [laughter,] and I do it with the kindest feeling, the greatest reverence and respect for you, for you have no warmer or more sincere admirer or friend in Pennsylvania than I am (addressing Mr. J. S. Black.) I will not compare myself with you in knowledge at all; but when you come down to Legislatures and conventions and practical politics, I am quite your equal. [Laughter.]

The gentleman was not satisfied with what I said in reference to the spread of power over the people as a relief from the oppressions under which we suffer from the corruptions of the day and the philosophy of history. I will give him an example of modern times. I think that learned gentleman has referred in this body—I know it has been referred to very often—for where there are ninety lawyers in a body of this kind sitting ten days they would refer to the great charter; and what was the great charter? It was in its essential essence that the people took the monarch by the throat and wrung from him the power they have and enjoy; and they made the monarch yield to them what they regarded as natural rights. My learned friend knows full well the result of that historical event and all the good that has followed it to humanity. I am in the presence of men who read and know the growing power and glory and liberty of England from that day to this. When they make reforms in England what are they? The spread of power over the people, the enlargement and freedom of the suffrage; the representation of classes and interests in their Commons. And who has governed England in all her history, except in very rare periods? It has been the Commons, and as the power of the country grew with their elastic Constitution the power of the Commons grew *pari passu* with it until the legislation and the government of that great country rests in the House of Commons and the House of Lords. The hereditary branch has become a mere form, an ornament; that is all it is and ought to be.

We certainly will object to that as reform in the true direction. We hail with satisfaction each extension of the power of the people in the older nations of the con-

tinents, and there has been no change of the government in the eastern world that has given relief from oppression, raised them to a common manhood, and brought to each citizen the sense of his individuality, but has spread power among the people, by limitations and restraints of monarchy in written constitutions, and having a body representing the people, to control, at least to hold within defined sovereign power. A monarchy is limited only where there is a body representing the people of the country, and the monarch and the representative body find their powers in written organic laws, and just as the popular authority is enlarged and the public will infused into their constitutions, the nearer they approach representative republicanism.

The ideas which originated here and were by us promulgated to the world, are liberalizing older governments, silently, steadily and constantly; and the failures of the attempts at republicanism in France can be referred to the fact that as soon as they establish a republican form of government there, power is concentrated and Paris becomes France as effectually under a republican form of government as it ever was under the form of a monarchy. And so with the free cities—with Venice, Pisa, Florence and Verona, and in the Hunseatic towns which were republics. Their history is found in their desolation when their free government was taken from them and masters ruled them.

I desire to spread the power over the people. Nay, Mr. Chairman, I would put three hundred, five hundred or one thousand men in your Legislature, and I would not suffer the expense of erecting buildings to stand in the way of a representation of the people of the State. I would not allow such a question to be decided by how many representatives you can put without inconvenience in any building. Let the body of the people be represented, and apply to the representation the reasoning of my friend from Philadelphia, and let each locality send its member, and thus you get power derived directly from the masses who are engaged in active producing industries. And if that power cannot be trusted, then your people cannot be trusted and your government is a failure, a sentiment that I am not ready to admit.

Four years ago men whispered in your hearing, with bated breath, that our government might be a failure. Now, that

horrid sentiment is too common and expressed openly. I have no such opinion. Our government can stand all the frauds of Legislatures and of localities, all that rings may do, for rings can be broken. The people rose in their majesty in California, and purified the government of the city of San Francisco. The people of the State of New York broke the Albany Regency, the most powerful combination of political talent and force that ever existed in this country. It is only recently that, rising in their majesty, the people of the great city of that State broke the ring in New York that had subsidized courts and had brought down the municipality into the gutter and slough of politics. And let rings in other cities read the history of the past and tremble before the indignation of the people aroused, and united in their purpose—when pilfered and provoked beyond endurance.

I am in favor of electing a Senate at large. Notwithstanding all that is said of State conventions, such conventions are precisely like district conventions and township conventions. I will not say that the judges in Pennsylvania are corrupt, and in this Convention the defence of the judiciary of Pennsylvania is entirely gratuitous as it has not been assailed. I do say, however, that judges get their nominations precisely as constables do, or as Senators or members of the House do, and under and by virtue of the same bargains, concessions and arrangements. The candidates for the bench get into the political rings, and results are produced in the manner of other political results. They are placed in nomination by the political conventions, and with all that, the judiciary of Pennsylvania is pure as far as I know and believe. God grant that it may continue so! I stood up with the gentleman from Philadelphia, (Mr. Woodward,) and voted in favor of appointing the judges, because if our present system of nominations continues down the judiciary of the State must inevitably go, lower and lower, until a convention may assemble twenty years from this time, and delegates may deplore the corruption of your judiciary in the same sonorous and sepulchral tones in which we hear proclaimed the corruption of your Legislature! As you nominate a constable or a member of the Legislature, so you nominate a judge. I was going to say that it is so with the Governor also, because no man will run for Governor or attempt to be nominated, who understands what he is about, unless

he first knows how the nominating convention will be constituted.

Mr. BIGLER. I had no opposition.

Mr. CURTIN. Well, you were more fortunate than I was if you had no opposition. I always had, and a candidate is better for opposition.

If my view does not prevail in favor of the election of the Senate by the State at large, I sincerely trust that the principle may prevail of making large districts, which I understood the delegate from Dauphin to have hinted at the other day; and if I understood him aright, he proposed to introduce an amendment looking to that end. I believe I am right in that?

Mr. BIDDLE. Oh, yes; he did say that.

Mr. VAGVEAGH. I proposed, if Mr. Cuyler's amendment had not been superceded by the amendment of the gentleman from Allegheny, (Mr. D. N. White,) to have offered an amendment to that effect.

Mr. CURTIN. I will vote for this principle, because it will elevate the Senate and dignify it, because it is out of the power of the district conventions to give us a Senate of proper character and dignity. The Senate is of a different nature from the House of Representatives. It is a conservative body standing between the Executive and the popular branch of the government; and my impression is that State conventions will nominate better men, men of greater ability and of more enlarged views than you will be likely to get from district nominations.

Many years ago they elected the Senate of New York from large districts; I think they elected four Senators from each district, and then the Senate of that State consisted of such men as Dickinson, Marvin, Nelson, Seward, Tallmadge, Wright, Root, Ruggles, and men of that type, who, under that system, were elected to the Senate of New York. At that time the Senate of that State would have compared favorably with a similar body in any of the States of the Union. Nay, it was vastly superior to the Senate of any of the States in this Union, remarkable for its ability and the distinction of the citizens of the State chosen to that body. Sir, no one of that class of men could go into the Senate of New York now from any single district. Then they represented the whole State, and men of that type could get into the Senate, and were only too

glad to receive such an honorable distinction.

Think of the Senate we used to have in Pennsylvania and compare it with that body as now constituted. I do not speak with disrespect of individuals in our Senate; I know there are some men now in that body quite distinguished for their integrity and their learning, who administer their office properly; but if we are to believe what has been so often repeated on this floor, it seems to me that it must be admitted that the Senate of Pennsylvania to-day bears no comparison to the body of men that used to represent us at Harrisburg. The Senate of New York in the time I mention would compare favorably with the Senate of the United States when that most enlightened and dignified body was in its palmy days and filled by men elected in their several States for their fitness and qualifications and eminent ability, and before the period of the purchase of seats in the highest branch of our national legislature had commenced to blur and disgrace the fair fame of the country; which system, Mr. Chairman, has tended more to the degradation of the Legislatures of the States than all the purchases made by your corporations or individuals or societies. When a corporation purchases a law through your Legislature, it relates to its interests alone, and in the execution of that law the public reap a benefit and have an interest. But when a man purchases a place in the Senate of the United States, a wound, a grievous wound, is inflicted on the body politic, which every man from the highest to the lowest throughout the length and breadth of this land feels as a wound to his own person. Aye, for that degradation the political pharmacy of the day affords no balm to relieve, no panacea to heal. Of all the results of the war, most to be deplored, it is that when we raised to the level of common humanity four millions and a half of people, designing and corrupt men debauched the Legislatures of the States represented by them, and purchase the poor untutored negro to give to them the exalted position of Senator of the United States, thus degrading him to the level of the carpet-bagger and the pot-house politician. That cannot exalt, it must degrade into the meanest venality, the manhood we created.

I am willing to admit that there is corruption, and have not denied it. I am sorry we all know so much of it,

and hope this Convention will devise some judicious plan to correct it. We would hail it as the political millenium if this Convention could adjourn with well devised measures to arrest the progress of corruption. The long consideration given to this article, the able manner in which it has been discussed, show that it finds in this body most serious consideration, and the people outside of this Hall are trembling with anxiety for some relief from the very debasement that gentlemen frequently expose in this body; and yet, with all that, it would be better to provide a remedy than be constantly reminded of it.

Mr. Chairman, I do not often trouble the Convention, and I think I shall trouble it less in the future, because when I come into the Convention and think something might be said, I always find that some other gentleman before I can get the floor says exactly all that I thought of, and generally a great deal more. Fearing that I may not offer to the Convention new things which are true or true things which are new, with very many obligations for the patient hearing they have hitherto given me, I do not think I will longer trouble the Convention.

Mr. WOODWARD. I rise to an explanation. I am told by friends around me that I ought to have answered the question of Mr. Cuyler, and that by failing to do so I left an impression upon the minds of some gentlemen that I certainly did not intend to do. I rise now for the purpose of answering that question. He asked me if I knew of any instance of corruption in the judiciary whilst I was serving on the bench. I say in the most emphatic manner, and with great pleasure, that neither during the time of my judicial service nor at any other did I know the decision of a judge to be influenced improperly. I never knew an instance in which corporations, or politicians or any other corrupt influences seemed to me to sway a judge. I did not intend to produce any such impression on the mind of anybody; and if Mr. Cuyler's question required this answer when I was speaking to some other subject, I now make it in order that a false impression may not be sustained.

Mr. BUCKALEW. Mr. Chairman: I desire to make a suggestion with reference to our further progress on this article, and not to re-enter into the debate. A number of members have spoken to-day, ex-

pressing their approval of the general idea of having Senators selected from larger sections than single districts, who are embarrassed with reference to the particular form in which the present amendment is embodied. I will therefore suggest to the gentleman from Lycoming, (Mr. Armstrong,) who has moved this amendment, that it is expedient in order that the Convention may be enabled to get on with its work, that he withdraw it. He can submit it on second reading, when gentlemen can go upon record. It is evident that a large number of members of the committee of the whole are not as yet prepared to vote on this question. The member from Dauphin (Mr. MacVeagh) indicates that he will support a modified proposition, some plan between that of electing Senators by the whole State and the other plan of electing them by single districts. I should be gratified to see him embody his ideas in some practical and working form, and doubtless many other members of the Convention will be gratified, along with me, to see them in shape.

In view of these considerations, I appeal to the gentleman from Lycoming to withdraw the amendment which he has proposed and allow the business of the Convention to go on without further debate at this time on this particular subject.

MR. ARMSTRONG. Mr. Chairman: I have listened to this debate with unusual interest and I have been struck forcibly with the fact that those who are opposing this proposed amendment, do it solely upon the ground that it proposes a mode of limited voting and that it proposes to allow, or it is assumed that it allows, the conventions of the State to nominate the Senators. This is a mere matter of detail about which personally I care nothing at all. The purpose I have in view is to elevate the character of the Senate by some mode of electing the Senators by the State at large. The mode of nomination is a matter which may be adjusted by an amendment; I care not what it shall be. The mode of election is equally unimportant. The plan suggested by the gentleman from Philadelphia (Mr. Biddle) is the Swiss plan of election; and it is substantially the same, if not identical with the plan proposed many years ago by Mr. Gilpin, of this city.

MR. BIDDLE. It is that.

MR. ARMSTRONG. It is a plan which has many merits. It is a plan which per-

haps would commend itself to the approbation of the Convention; but, as I repeat again, I care nothing for these matters of detail. I recognize fully that there is danger in a political convention assembled for the State, but I believe the danger is less than in the multiplied conventions which nominate in single districts.

With these views, I am entirely willing to withdraw my amendment for the purpose of allowing the Convention to consider the question more deliberately and for the purpose of adding a limitation upon the mode of nomination and the mode of election, if such be the pleasure of the Convention. I have much more to say upon this subject which I would be glad to say to this Convention in reference to what I regard as the important part of the proposition, namely, that the Senate shall be elected by the State at large. Beyond that I have no anxiety and no desire. The rest will regulate itself.

Now, if it be the pleasure of the Convention that the amendment shall be withdrawn for the purpose of allowing it to be considered in connection with a plan to be proposed of nomination and election, when this article shall come up upon second reading, I will so withdraw it. If not, I should be glad to say something further upon the merits of the question.

THE CHAIRMAN. The gentleman from Lycoming asks the privilege of withdrawing his amendment.

MR. ARMSTRONG. I have a right to withdraw it, but I do not desire to withdraw it if it be the expressed wish of the Convention to proceed with the consideration of the question now.

MR. J. W. F. WHITE. I rise to a point of order.

THE CHAIRMAN. The delegate from Allegheny will state his point of order.

MR. J. W. F. WHITE. This amendment was proposed yesterday. Can it be withdrawn to-day without the consent of the House?

THE CHAIRMAN. It is not strictly in order to withdraw it, but the Chair will allow the delegate to withdraw it by unanimous consent.

MR. HOWARD and others objected.

MR. DARLINGTON. I think we might as well have a vote on it.

THE CHAIRMAN. Objection is made.

MR. ARMSTRONG. Then I desire to say something upon the merits of this question.

THE CHAIRMAN. The Chair would state to the gentleman from Lycoming

that as he has once addressed the committee on this question, he will be out of order in again speaking without leave.

Mr. MACVEAGH. I move that he have leave to address the committee again.

The CHAIRMAN. Shall the gentleman from Lycoming have leave to address the committee? ["Yes."] Leave is granted, and the gentleman will proceed.

Mr. ARMSTRONG. Mr. Chairman: I certainly thank the Convention for their courtesy in according me this privilege.

This question lies at the foundation of Constitutional reform. It will be in vain that we impose restrictions upon the exercise of power if we fail to secure it in the hands of faithful men. The devices of dishonesty have ever kept on even footing with the restraints of law. Evasions are easy of invention, and with the utmost care which we can exercise, we will find at last that we have but partially remedied the evils which, if we could, we would gladly destroy. The task imposed upon this Convention is at all points difficult, but in none so much so as in that which now engages our attention.

When I had the honor to submit the amendment now under consideration, I was well aware that it must encounter the opposition of some among the ablest of our colleagues. When I first approached the consideration of this question I confess I was conscious of doubt and hesitation. It is in some respects novel in our experience, and the bent of my mind is to be conservative. But the more fully I have considered it the stronger are my convictions of its utility and safety. Pennsylvania is not now what she was in 1790, or in 1837. The Constitution then well adapted to her limited population, her infant industries, is not the rule by which we are to judge of her necessities when her population has reached four millions, and her industries have attained a development which makes our State an empire of itself. Local interests have everywhere become so predominant that the struggle in our Legislature every year is to adjust the rivalries of conflicting local interests. In the struggles of the sections, the interests of the State at large suffer. Taxation is not uniform. The rights of property are not uniform. Corporate powers are conferred upon one which another would not dare to seek. Each locality which can command a temporary power by combinations, corrupt or otherwise, secures special legislation in

the hope that it may derive advantage in the strife for gain by legislation more favorable to itself than others can obtain. Thus one section obtains to-day an advantage to be counterbalanced to-morrow by an equivalent favor to another, and both have unjust advantage over less favored but equally deserving sections of the State. Call it by what name you will, such log-rolling legislation is corrupt, and rotten at the root. I not only do not exaggerate—I do not half state the case. Gentlemen of the Convention, do you not know that this is true? Is it not true, that it is common enough to have become a scandal to the Senate that by the prevalence of a pernicious courtesy other Senators shall not interfere with bills which are supposed to affect local interests and which are claimed to be represented by the Senator from the district where such local interest may be. Under such a system the road laws, the tax laws, county laws, township laws, and even the school law, the lien laws, and many other laws which could be enumerated, have spotted our whole system of laws as if stricken with leprosy. Thus in a thousand ways this pernicious system of local legislation, which we have attempted, and I hope successfully, to partially remedy, has laid its hand under false pretenses upon the general interests of the State.

Non-resident owners, relying upon the law as it has stood for years, have found their property, improved and unimproved, subjected to new and onerous taxation, and by force of some merely local law swept away by a change in the time and manner of taxation, with new powers of sale and a change of the time and manner of redemption—without notice, and titles irrevocably gone.

At the root of this monstrous evil lies the pernicious system which organizes both branches of the Legislature upon a plan which makes them both practically identical, and subjects them equally to local prejudices and influences—and makes them equally dependent upon local favor for election, and by consequence responsible to a local constituency alone. Under such circumstances it is not surprising that our legislation has been so often perverted—nor will the restrictions which we have placed upon legislative power be, in my judgment, sufficient to correct the abuse unless we constitute the Senate upon a basis which will remove its responsibility to a merely local constituency.

I cannot detain the committee to detail instances, but I appeal to the experience of many here, whether the abuses which attend upon the present organization of the Legislature are not too grievous to be borne. Our action already, and the existence of this Convention, alike protest against the abuses of the existing legislative system. It cannot well be worse—an effort must be made to make it better.

But it will be said it is a novelty to elect the Senate by the State at large. Admit it. It is but recognizing the necessities of our condition. Shall it be said of Pennsylvania that she knows no path but that in which some other State has trod? Must we of all the States consent to be the laggard in the race of progress? Shall we take no step until Illinois shall show the way? When our work is done shall we not be able to point to anything that we have done which had not been done before? Why this shrinking timidity—why this fear to walk alone? Had other States thus sought examples to justify their work before they ventured to advance when striking out new safeguards to liberty, where now would stand constitutional reform? Had such ideas prevailed in other States and in years that are passed, the goodly tree our fathers planted would be now a withered and blasted trunk, smitten to its death by the vigor or material progress. Let us go forward. In the presence of great necessities, timidity betrays like treason.

But it has been argued by the gentleman from Dauphin (Mr. MacVeagh) and others who concur in his view, that the plan suggested by the amendment I have prepared casts the Senate virtually into the hands of nominating conventions. I admit the force of the suggestion as applied to all candidates for office, and possibly we are not very far from the time when it will be necessary to regulate by law the primary elections and the mode of nomination. But, sir, I deny that the system proposed is any more liable to abuse by nominating conventions than the present district system, and I believe it is less liable to corrupt influences. The danger of such influence is greatest when it can be the most readily concentrated. In single districts there is but one person to be nominated, and it is quite within the power of astute and experienced politicians to concentrate influence enough to secure such nomination by secret combinations. And such influence is quite as often exercised from without the

district as within it. To my mind it is plain that the facility of such control is increased just in proportion as it may concentrate upon particular persons. Suppose, for illustration, that it became a matter of sufficient consequence for a corporation or politician to control the Senate, would it not be easier to set on foot such secret movements as would nominate a single desirable candidate or defeat an objectionable one, than if there were two or more to be nominated, and would not the difficulty increase just in proportion to the number to be nominated? Thus it would be if the nomination were direct; but when it becomes indirect, and instead of securing a direct and single nomination, the utmost effort must expend itself upon first securing the right complexion in the primary convention, next to secure proper senatorial and representative delegates, and lastly to secure the unanimity in the State convention, it seems to me clear that the chances of honest nominations is largely increased.

But it is said that State Conventions are easily manipulated. If by this is meant that they are open to corrupt influences, I do not believe it. This is often charged when it suits the exigency of the argument, but I believe that experience is against it. Such Conventions witness very much of earnest and often indiscreet advocacy—much of high temper and ill feeling under the pressure of disappointment or the mortification of defeat. At every step in political life there is more or less of political combination, based sometimes upon local interests, sometimes upon personal ambitions, sometimes upon political rivalries, and sometimes, but I believe rarely, upon direct corruption. These are the incidents to the freedom we enjoy, but behind them all stands the omnipotence of the people, honest in their purpose, stern in their integrity, and to whose majestic power all interests must bow. Our confidence must be reposed somewhere. The necessities of our form of government require that we must trust much to the representatives of the people in their primary assemblies. I believe a consideration of the abilities and integrity of those who have been nominated by State conventions in this and other States will show that such conventions have uniformly put forth their best men. Each party feels that they will but discredit themselves by putting forth any men less than their best. The plan

would so enlarge the field of choice that the senatorship would become an object of ambition to many men whom no considerations could induce to accept it now. And in a Senate thus organized the preponderance of power, except upon questions purely political, would depend solely upon the personal ability of Senators. No party could long afford to nominate men other than those whom ability and integrity would commend them to public favor. It would become a matter of commendable pride not only to the political parties respectively, but to the people of the State, to point to the men whose conspicuous powers had done them credit. To a Senate thus organized, corrupting influences would be of most difficult access. It would inspire confidence, and drive out the thriving crowd of thieves which infest the public bodies. Legislation would be considered upon its merits. We suffer in common with all our sister States from the corruption of politics. No severer blow could be given to the demoralizing influences which now debase political life than to elevate the character of the Senate. It is intended to be the conservative power of the State.

The theory of our government is to bring the House of Representatives close to the people, and by more frequent elections of its members, to keep their ever-changing wants and wishes under the immediate eye of the Legislature. It is of highest purpose that the Senate is elected for a term twice the length of that of the House of Representatives, that it may be less subject to the local influences which, in the present vast development of our material resources, have become the masters of the State. But experience has shown that this safeguard—sufficient a half century ago—has become insufficient to meet the exigencies of the present.

The distinctive organization of the Senate contemplates that it shall stand between the people and the abuse of the legislative power. And yet it is conspicuously clear to the intelligence of every thoughtful man, that in all these regards it is a conspicuous failure. It is open to all the local influences which control the lower House; and its conservative power has become well nigh a delusion. It should be in fact, as it is intended to be, the representative of the State at large, and not as it is, the representative of the particular interests of local districts. Under its present organization, the inter-

ests of the State are often sacrificed to the pernicious courtesy which suffers what is called local legislation to be exclusively controlled by the member from such district. And these evils are on the increase. Just in proportion as local interests become locally important, these demands become importunate and unreasonable; and they are daily becoming more potential and more difficult of control. As now organized, it is as true of the Senate as it is of the House that its members hold themselves to be more the representatives of districts than of the State. Their accountability is to the constituents of a district, and they seek the reward which attaches to the accomplishment of local advantages, though it be attained at the expense of injustice to every other interest of the State.

Does such a Senate fulfil the purpose of its creation? I think not. I believe it to be possible to elevate it in the character of the men who shall be its members; to elevate it in the purposes which shall inspire its action; to elevate it in the estimation of the State, and to elevate it to a consciousness of much higher integrity.

Such are some of the advantages, feebly and briefly stated, which I believe would result from the proposed change. That they are desirable, all men must admit. That the Senate, in many of the best purposes which it was intended to subserve, has been a conspicuous failure, few will deny. To let it stand is not to let well enough alone, but to strengthen the foundations of abuses already dangerous, and which, upon a different organization, could be largely remedied.

Against all these manifest advantages we are told that there is danger in the mode of nomination. Sir, imperfection is incident to all human devices. We advance toward higher excellence just as we press onward, step by step, with slow and painful progress; but we gain nothing by standing still. The question is not whether the system is perfect, but whether it is a step in the right direction—whether it offers fair promise of improvement over a system which is well nigh overwhelmed with abuses.

It would obviate entirely the whole necessity for senatorial apportionment, and strike down at a blow this fruitful source of political corruption and irritation. It settles the question of the adjustment of representation. It gives to the dominant party, by the limited vote, its proper ascendancy and

power. I do not stop to discuss the merits of this plan of voting. Differing as I do from the gentleman from Columbia (Mr. Buckalew) upon the whole scheme of cumulative voting, I concur and have voted with the majority of the Convention in applying the limited vote to the election of judges and county officers. It is just in principle; it is expedient in practice, and stands approved by many years of experience. In applying it to the Senate, we accomplish the same purposes which the Convention intended in applying it to the offices I have named. If it makes the Senate conservative, it will be wisely done. But, as I have said, it is not an essential part of the plan, and ought not to prejudice the main question, which is, shall the Senate be elected by the State at large?

The rule of absolute majorities we all intend shall be applied to the House of Representatives. That is the popular branch of the Legislature, and should represent the popular sentiment as fully and as accurately as possible, and it is for this reason that I favor the increase of the House to one hundred and fifty members and county representation, and, for the additional reason, that it will effectually obviate the necessity for, and by consequence, the gerrymandering of the State by legislative apportionment.

I have detained the committee much longer than I had intended. I can only urge in extenuation of these extended remarks my deep interest in the question, and my earnest conviction that the plan proposed will be effectual to correct many evils which afflict the State, and is liable to no abuses which should deter its adoption.

We must repose our confidence somewhere, and I believe it will be less liable to abuse in the mode now suggested than in that which now exists.

I thank the Convention for permitting me the privilege of thus expressing the views that I entertain on this question. I repeat again, so that there may be no doubt and no misapprehension on the question, that the plan which I desire this Convention to adopt is a plan which shall make the Senate the representative of the State; which shall make it a State Senate in the best use of such a term. I am ready to join with any member of this Convention in any measure which will limit and restrain the mode of nominating and the mode of election; but I do hold

that that which will make the Senate lift itself from the influences of merely local and petty and often injurious and vicious politics, will be a vast advantage to the State; and in allowing the election of Senators over the State at large, we do give such character to the Senate as will increase its own sense of its importance and its integrity, as will invite into its seats men who would scorn to mingle in the debasing pools of political corruption.

I speak earnestly on this proposition because I feel deeply its necessity, and I press it upon this house on the single idea that whilst we have the House of Representatives so closely and nearly allied to the people, so representing the particular, private and local influences of the State, it is the highest wisdom that we should have another conservative body, whose experience will not be bounded or limited by considerations like these, but in the widest spirit of the public good will inquire what the interests of the State require, and thus preserve the best interests of every part; and in promoting the interests of the whole we best promote the interests of every citizen and of every interest in the Commonwealth.

Mr. WHEBRY. Mr. Chairman: The section under consideration admits of three distinct divisions. "The Senate shall consist of fifty members, one-half thereof to be chosen every second year," is a separate and distinct proposition. "By the vote of the electors of the State at large" raises the distinct question of districts, whether they shall be elected at large by the State as one district, or whether the State shall be divided into four or six or ten or twenty districts. The third distinct proposition is the method of their election: "And in their election no elector shall vote for more than fourteen," raising the distinct question of the method of election. It seems to me that the business of this body would progress if we were to take up those distinct propositions in their order and pass upon them: First, upon the number of which the Senate shall be constituted; second, the districts from which they shall be chosen; third, the method of their election. I desire, therefore, at this point to call for a division of the question so as to have a separate vote on the three points named, the first division ending at the word "year," in the second line; the second division ending at the word "large," in the third line; and the third division consisting of the remainder of the section.

The CHAIRMAN. Does the gentleman call for a division of the question on the amendment to the amendment, offered by the gentleman from Lycoming?

Mr. WHERRY. Yes, sir.

The CHAIRMAN. Where does the gentleman desire the division made?

Mr. WHERRY. At the suggestion of a gentleman behind me, I call for two divisions, the first division to end at the word "large," in the third line.

The CHAIRMAN. That division is before the committee.

Mr. ARMSTRONG. I rise to a question of order. I doubt whether any division of this kind can be made, for the reason that if the first division should be defeated, the second would have no connection and consequently no sense. I therefore ask leave to withdraw the second division.

SEVERAL DELEGATES. No; no.

The CHAIRMAN. The gentleman's point of order is well taken.

Mr. ARMSTRONG. I have the right to withdraw it, and I do withdraw it. I modify my amendment by striking out all after the word "large," in the third line.

Mr. HARRY WHITE. Let those words be read.

The CLERK. The modification is to strike out the words, "and in their election no elector shall vote for more than fourteen."

Mr. DALLAS. How will it read then?

The CLERK. The amendment as modified now reads:

"The Senate shall consist of fifty members, one-half thereof to be chosen every second year by a vote of the electors of the State at large."

The CHAIRMAN. The question is on the amendment of the delegate from Lycoming, as modified, to the amendment of the delegate from Allegheny.

The amendment to the amendment was rejected, there being thirty-one ayes; less than a majority of a quorum.

The CHAIRMAN. The question now recurs on the amendment of the delegate from Allegheny (Mr. D. N. White.)

Mr. BUCKALEW. I ask for a division of the amendment as amended, by paragraphs.

The CHAIRMAN. The first paragraph will be read.

The CLERK read as follows:

"The State shall be divided into fifty senatorial districts of compact and contiguous territory, as equal in population

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 county or city shall be entitled to more than one-sixth of the whole number of members."

Mr. BUCKALEW. I move to amend that division by inserting after the word "members," in the fourth line, the following words: "By possessing a population exceeding one senatorial ratio and three-fifths of a second ratio;" so that the division will read:

"The State shall be divided into fifty senatorial districts of compact and contiguous territory, as equal in population 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, by possessing a population exceeding one senatorial ratio and three-fifths of a second ratio; and no county or city shall be entitled to more than one-sixth of the whole number of members."

My amendment is simply to define what shall entitle a county to two Senators and bring it under the operation of the dividing power. This first division is deficient in not defining the case, the circumstances, the condition of facts under which a county shall be subject to a division and shall be entitled to a second member. This would be a very important question. It may happen in any apportionment with reference to Lancaster county; it may happen in any apportionment with reference to Luzerne county; it may happen with reference to the county of Schuylkill, and possibly Berks also, if that county should receive considerable development. In nearly all the constitutions of the other States, gentlemen who have examined them will have ascertained that the fraction which entitles to a second representation either in the Senate or House ordinarily is three-fifths; and so I have defined the number of the excess of population over the one ratio which shall entitle a county to a second Senator and require its division into two senatorial districts. Unless you insert the amendment I have offered, you leave it to the unlimited discretion of the Legislature to deprive a county of her second Senator, although she may have within one taxable of two full ratios, which would be unjust, and you leave it also in the power of the Legislature to give a

county a second Senator for a practical surplus of only one-half, which is unreasonable. Therefore you ought to prescribe the rule, and the rule accepted generally throughout the United States in the amended Constitution is the rule of three-fifths.

The CHAIRMAN. The question is on the amendment of the delegate from Columbia (Mr. Buckalew) to the first paragraph of the amendment of the delegate from Allegheny (Mr. D. N. White.)

The amendment to the amendment was agreed to, ayes, sixty; noes, not counted.

The CHAIRMAN. The question now is on the paragraph as amended.

The paragraph was agreed to, there being on a division, ayes, fifty-four; noes, twenty-two.

The CHAIRMAN. The second paragraph of the amendment will be read.

The CLERK read as follows:

"The House of Representatives shall consist of not less than one hundred and fifty members, to be apportioned and distributed to the counties of the State severally in proportion to the population, on a ratio of twenty-five thousand inhabitants to each member, except that no county shall have less than one member, and the city of Philadelphia, or any county having an excess of three-fifths of said ratio over one or more ratios shall be entitled to an additional member. In case the number of one hundred and fifty members is not reached by the above apportionment, counties having the largest surplus over one or more ratios shall be entitled to an additional member until the number of one hundred and fifty members is arrived at."

Mr. J. N. PURVIANCE. I move in the second line, after the word "fifty," to add "two," so as to make the House consist of one hundred and fifty-two members, and the same amendment in the seventh line. I make this motion because upon a calculation it would accommodate better the counties that fall below the ratio, and also one or two counties that would be thrown out of an additional Representative on a fraction falling short of the requisite number by less than one hundred.

The amendment to the amendment was agreed to, there being on a division, ayes, thirty-nine; noes, thirty-four.

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

Mr. BUCKALEW. I move to amend by striking out the paragraph and inserting the following:

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"The House of Representatives shall be constituted as follows:

"1. The population of the State as ascertained at each decennial census of the United States shall be divided by the number one hundred and fifty, and the resulting quotient shall be the representative ratio.

"2. Each county now organized shall be entitled to at least one Representative, except that the counties of Cameron, Elk, and Forest shall elect one; the counties of M'Kean and Potter one; and the counties of Sullivan and Wyoming one; but no county hereafter erected shall be entitled to separate representation unless its population shall exceed one-half a representative ratio. Either one of the representative districts hereby established, composed of more counties than one, shall be entitled to a second Representative whenever the number of its population would entitle a separate county to two Representatives.

"3. Counties containing a representative ratio and three-fifths of a second ratio, shall be entitled to two Representatives; those containing two ratios and four-fifths of a third ratio shall be entitled to three Representatives; and each county containing three or more ratios shall be entitled to one Representative for each ratio of its population.

"4. The Representatives assigned to the counties of Philadelphia and Allegheny shall be chosen by districts. The said representative districts shall be so formed as to secure the full proportionate and just representation of each division of the electors of the county, as the same shall be exhibited in the returns of popular elections. Each thereof shall be entitled to choose not less than three nor more than six Representatives, shall have a census population proportioned as nearly as may be to the number of Representatives assigned to it, and shall be composed of connected territory; but no ward, township, or election district shall be divided in the formation of said representative districts. In choosing Representatives therefrom, each elector shall vote for no more than a majority number of Representatives next above one-half the whole representative number for his district."

Mr. DARLINGTON. Is not that precisely the amendment of the gentleman from Philadelphia, (Mr. Simpson,) which was voted down yesterday?

The CHAIRMAN. The Chair does not understand it to be precisely the same. The question is on the amendment to the amendment.

Mr. BUCKALEW. It is nothing like that amendment.

Mr. SIMPSON. It is entirely different from the amendment I offered.

The CHAIRMAN. The amendment to the amendment is in order.

Mr. BUCKALEW. I ask that the vote be taken on this amendment by the division which have been made.

Mr. MACVEAGH. From my hearing of all but the two last paragraphs, it seems to me that the intention of the gentleman from Columbia was to embody exactly what is in the section, except in other language. If there is any difference in the first three paragraphs of his amendment, I wish he would point it out.

Mr. BUCKALEW. Certainly there are material differences. This is the report of the Committee on Suffrage, Election and Representation, in regard to the constitution of the House of Representatives, and it is the first plan and the only plan since the original report of the Committee on the Legislature, which has been presented to the Convention, and, therefore, is entitled to at least fair consideration.

The committee have adopted the general principle of the amendment of the member from Allegheny, (Mr. D. N. White,) the principle of the amendment of the gentleman from Allegheny on my right, (Mr. S. A. Purviance,) offered some time since, and the principle of other amendments which have been proposed to the Convention by different members. There is nothing original in the principle or general idea of it, which is that counties as such shall be represented in the House of Representatives. Therefore the only question that remains as between this report of the Committee on Election, Suffrage and Representation, and other propositions heretofore moved by individual members of the Convention, is one of detail, one of application, one of form; and I insist upon it that the form in which county representation is placed by this amendment is the only proper, judicious and rightful one, unless, possibly, upon one or two points which can be separately considered and acted upon.

Now, I beg the committee to follow me—and I shall be brief,—while I point out what is the plan of the Committee on Suffrage, Election and Representation.

This subject of the representation of the people in the Legislature of the State was an appropriate subject for the consideration of that committee, and, therefore, they have reported upon it without attempting to cover any other portion of the legislative article, which was exclusively for the consideration of the Committee on the Legislature.

The first proposition is for the ascertainment of the representative ratio after each decennial census of the United States shall be taken. The whole population of the State is to be divided by the number one hundred and fifty, and the resulting quotient is to constitute the representative ratio for the decennial period; and I beg to say that the proposition already moved and agreed to, to make the House one hundred and fifty-two for the present, with reference to the case of some two counties in the State, is one that is not connected with this amendment. This amendment will only apply to the apportionment to be made in the year 1881 and every tenth year afterwards. Of course we have hereafter, in the schedule or otherwise, to provide for the intervening period between this time and the taking of the next national census; and if the Convention think proper to make the number one hundred and fifty-two, during that interval of time, with reference to the existing numbers of counties, they can do so. The number one hundred and fifty conforms for the future to the general plan already apparently sanctioned by the Convention.

The next division of this amendment is that each county now organized shall be entitled to at least one Representative, except the six smallest, which shall be formed into districts, each containing much less than one Representative ratio; that is, the counties of Cameron, Elk and Forest shall elect a Representative; the counties of M'Kean and Potter shall elect one, and the counties of Sullivan and Wyoming shall also together select one. Now, as to this exception, which is not in the amendment of the gentleman from Allegheny, I desire to say a few words.

In the first place, it is not reasonable that a county polling five hundred and fifteen votes, as is the case with Forest county, shall be put on an equality with a county polling six thousand votes, as is the case with Columbia county and many others. The county of Clarion, lying alongside of Forest, polled six thousand votes, and Forest but five hundred and fif-

teen votes at the last Presidential election. Then there is the county of Sullivan, which gives but some nine hundred votes; the county of Cameron, I believe a still smaller number, and the counties of Potter and M'Kean each have less than one-half a representative ratio of population. I admit that for the purpose of concession and to make our arrangement more acceptable to those sections of the State which are affected by this clause, I would be willing to agree that the county of Potter should have a Representative by herself, because her population is over eleven thousand, and she is the largest in population of all these small counties which we have grouped together. If you permit her to elect by herself, then Cameron and M'Kean would necessarily be united, and Elk and Forest united, and Sullivan with Wyoming. I am willing to agree to that, although it is a concession. Practically it would secure to one of the political parties of the State one additional Representative. Of course the Republicans would always elect in the county of Potter; but I do not care about that. As Potter is much stronger than either one of the other counties, I am willing to agree to that modification, but I repeat it is unreasonable that these small counties, polling from five hundred to nine hundred votes, should be put upon an equality with counties polling six thousand votes; and if we make such an arrangement it will be received out of doors, throughout the State, with general disfavor and complaint. I am perfectly sure of that; and particularly will it be exclaimed upon by gentlemen in the city of Philadelphia, who are restive under the stringent limitations which we put upon their senatorial representation. Every paper in the city will be exclaiming upon the enormous over-representation of these little counties, while limitation is put upon this populous city—an over-representation of those counties in one branch and a limitation of the city in the other.

But I have a stronger objection than this to the inclusion of every little municipal division of the State in this principle of separate representation; and that is that these small counties may become like the rotten boroughs in English parliamentary history. I regard that as a probable result of the arrangement. Why, sir, on the eve of an important election of United States Senator, or when some question of first-class magnitude is to come in the Legislature and

great corporations desire to hold all the power they can in the Legislature, what will be the case? Agents will be sent to these small counties, and they will be manipulated in an interest opposed to the common interests of the State, and this will take place not because the people of these small counties are naturally more accessible to evil influences than the people of other counties, but because from the small number of persons there these illegitimate influences will be all-powerful to control the result. There are, I suppose, hundreds of townships in this State that now poll more votes than the county of Forest, and if the same amount of influence which would control one of these counties were anywhere exerted in a single township we may be sure what the result would be.

Without multiplying words on this subject—I am simply making the points, not elaborating them—I am convinced that upon the three grounds I have mentioned you ought to unite these smallest counties together and make them districts. In the Constitution you ought to do what the State of New York did. When they took a system of single districts for county representation they excluded Hamilton and Fulton counties, and they are excepted yet. They had not a group of these diminutive counties in that State, or doubtless they would have excluded them all from separate representation.

Upon the grounds, first, that it is unreasonable that these very small counties should have separate representation; secondly, that it will be complained of throughout the State, and complained of particularly in this city, and made one of the points of attack against our constitutional amendments; and third, that the assignment of separate representation to these counties will make them theatres, where evil and corrupt influences will go prior to every important election of members of the Legislature, I am for the amendment I have proposed. I do not imagine that there will be any complaint at this grouping of these counties, in those counties themselves. They will be much better off than they are now. They will get double the amount of representation they get now, grouped, as they are, with several adjoining counties. The county of Elk now is united, I believe, with Jefferson and with Cameron; and Sullivan is united with Lycoming and Clinton, whereas under the change it will

be united with Wyoming alone and get Representatives twice as often as it does now. And that will be the case with every one of these counties. They will all be a great deal better off with reference to the frequency with which they will be represented in the Legislature than they are now.

Then there is the provision that these districts composed of counties united shall have the same right that every separate county will have to increased representation. Any one of these districts so formed that shall hereafter have a representative ratio and three-fifths of a second ratio will get a second Representative.

I come next to the third division. If the committee of the whole desire it, I will wait and speak separately upon each of these divisions, although I suppose it will suit their convenience and save time to go through with what I have to say about all of these divisions now. ["Go on." "Go on."]

The principle of this third clause of the amendment I debated the day before yesterday. It relates to the representation of fractions, and it is absolutely necessary to the purposes of justice that an arrangement based upon this principle should be made in the Constitution. As I explained before, it is impossible that the city of Philadelphia, with a representation of twenty-nine or thirty members which it would have under this article, which provides that the House shall be composed of one hundred and fifty members, should ever lose upon its fractional representation over about two per cent. on population; and that would be assuming that population is five times as numerous as voters—about one-fourth of one per cent. of voters, as the utmost loss that this city would ever have to sustain. Yet in a county with one Representative the loss may be fifty-nine per cent. upon the fraction toward a second ratio. It requires three-fifths to obtain a second member under the scheme here proposed. Of course upon a hundred votes, three-fifths would be sixty, so that fifty-nine per cent. of a ratio in a county with one Representative might go unrepresented.

When you come to counties of two members, the percentage of loss drops down to about one-half of this. When you come to counties with ratios for three or more, the fraction becomes comparatively insignificant, so that it is necessary that you should make an arrangement by which fractions on single members shall

be liberally represented, fractions upon two members shall be to some extent represented, and fractions upon larger numbers shall be designated, and even then the large counties will obtain more than their due share.

I do not desire invidiously to take Philadelphia as an illustration. Let me remind the gentlemen from the city that we have changed the basis of representation for the future. We have provided that the basis is hereafter to be population; now it is taxables; and the result will be that the city of Philadelphia will obtain one or more members than she would upon a tax basis in the House of Representatives. Therefore the general arrangement made with regard to Philadelphia, so far as members in the House of Representatives are concerned, is a liberal one. The change is beneficial and it ought to be acceptable to this city. That is the present posture of that subject before the Convention.

Then I come to the fourth division, that Representatives shall be assigned to the counties of Philadelphia and Allegheny by districts; and the division proceeds to determine the manner or principle upon which those districts shall be made. In my judgment, the Committee on Suffrage, Election and Representation have here provided a most salutary and valuable improvement upon the present Constitution. At present the Legislature has no rule upon which to make apportionments. No member is under oath to make the apportionment upon correct principles, so as to do justice to the people of the State. We here provide a rule upon which apportionments shall be made hereafter:

"The said representative districts shall be so formed as to secure the full proportionate and just representation of each division of the electors of the county as the same shall be exhibited in the returns of popular elections."

What does that mean? It would mean at present that if this city should cast in any election a majority of twelve thousand to fifteen thousand for one of the political parties of the State, the apportionment tribunal—when it came to make a law districting this city—should make districts so that ten majority and eight minority members would be likely to be returned to the House, assuming that future elections should run as past elections have. Here you have a rule upon the subject, and you will have men acting under oath to execute it; and you will get a just re-

sult, whereas, at present you permit the two Houses of the Legislature to make an apportionment bill just as they please, according to the interest of members, and allow any party that has control of the Legislature to make just as many districts for itself as it pleases, and it has no obligation to make them otherwise. Here is a rule, a just and fair rule, for all future time, which will apply to all parties hereafter as the political scale may fluctuate from one side to the other.

It provides, also, that these districts shall choose not less than three nor more than six members. When we come to that point, the Convention can decide between the two plans of plural districts constituted as this section provides and the system of single districts.

Mr. COLLINS. May I ask the gentleman from Columbia just one question here?

Mr. BUCKALEW. Certainly.

Mr. COLLINS. Does that last provision apply to any other than the counties of Allegheny and Philadelphia?

Mr. BUCKALEW. No, sir.

Mr. COLLINS. Then I should like to ask the gentleman why he would not apply his cumulative plan of voting to large counties where several members are to be elected, for instance to the counties of Luzerne and Schuylkill?

Mr. BUCKALEW. I am heartily in favor of it, but it is not the report of the Committee on Suffrage, Election and Representation. I am not now advocating my individual ideas. I am simply explaining the report of that committee. But it would be a blessed thing if you would divide the delegations from Schuylkill and from Luzerne counties constantly, and both parties in those counties would accept such a rule if it were the judgment of this Convention. But that has not been proposed by the Committee on Suffrage, Election and Representation in their report, and therefore I am not speaking of it. The opinion of the committee is strongly against single districts in the cities, and I believe that the delegation from Philadelphia mostly incline to have a larger number selected together from the city. The Committee on Suffrage have reported that plan, and the Convention must take action upon it. I am simply stating what the committee have reported.

Then we provide that each district so made shall have a population proportionate to the number of Representatives assigned it, to which nobody will, of course, object.

We further provide that districts shall be composed of connected territory, which is also a familiar proposition; and then, at the end of the division, is the provision that in electing from these plural districts, each voter shall vote for a majority of the Representatives from his district; so that if the districts are made to elect three, four, five and six members, the voter will vote for two, three or four, as the case may be, and in any case for a majority of the whole. That is a separable provision in the third section, and the sense of the Convention can be had separately upon it.

There is another section in the report of the Committee on Suffrage, Election and Representation, which is not contained in my amendment, which is, that after each decennial census, the Secretary of the Commonwealth, the Secretary of Internal Affairs and the Attorney General shall examine the census returns as officially published by the United States, and ascertain what share of representatives belongs to each county in the State, and make report to the Governor, who shall forthwith announce the apportionment by proclamation to the people.

In conclusion, Mr. Chairman, I have to say that I have explained the several divisions of this report of the Committee on Suffrage, Election and Representation upon the subject of representation in the Legislature—a plan for county representation, with the necessary provision for the cities of Philadelphia and Allegheny, with an adjustment of the important question of fractional representation, and with a proper arrangement, as we think, for the five or six smallest counties of the Commonwealth, and with proper rules to be enforced under oath in the making of an honest apportionment for districts in the counties of Philadelphia and Allegheny.

Mr. TURRELL. I rise to make an observation in opposition to what has just been said by the gentleman who offered this proposition. I object to it because his amendment is offered as a substitute for the whole section contained in the proposition of the gentleman from Allegheny (Mr. D. N. White.) You cannot divide the amendment to the amendment and vote upon it separately. Suppose one of his amendments were adopted here and others were not; that would produce incongruity. We cannot vote upon them accidentally, because we must vote upon the whole section as amended.

Mr. BIGLER. Mr. Chairman: I rise simply for the purpose of understanding pre-

cisely what question is raised by the gentleman from Susquehanna (Mr. Turrell.) There is some difficulty in understanding exactly what is to be the effect of the vote at this time, in this Convention, and I desire the attention of the delegate from Columbia; for, if I understand his proposition properly, he proposes to strike out what is now pending and insert his entire article.

Mr. BUCKALEW. Yes, sir.

Mr. BIGLER. Then the delegate from Susquehanna is right. Then I desire to say to the delegate from Columbia that, in the main, I prefer his proposition to that of the delegate from Allegheny, but he has an embarrassing clause in his article and I desire to suggest to him that he withdraw that clause and offer it afterward as an amendment. The clause is in these words: "In choosing representatives therefrom, each elector shall vote for no more than a majority number of Representatives next above one-half the whole representative number for his district."

I should feel inclined to vote with him if he would withdraw this clause and offer it afterward as a separate proposition; it is so entirely dissimilar to the residue of his proposition. The mode of electing and the form of the districts are such separate propositions that they ought not to be placed together. I have a distinct opinion with reference to both, and when I bring the opinions together they conflict, and I hope the delegate from Columbia will relieve us of this difficulty. I want to vote with him as to all of his article except that clause, and for that I do not propose to vote. This will control my vote against his whole proposition, and therefore I trust he will separate them. I think what he says with regard to grouping these small counties together to overcome the complaints that are now made against the existing mode of forming districts, is so clear and unanswerable that he must be right. I prefer also county representation to single districts, and therefore I would prefer his proposition in the main and do not desire that this other feature shall keep me from voting for it.

Mr. MACVEAGH. I feel very much like the gentleman who has just spoken. I shall vote against this amendment; but when the matter comes up on a second reading, and some of these propositions can be separated from the others, I am

not sure but that there are one or two that I shall prefer.

Mr. NILES. I move to amend by striking out all after the word "representative" in the seventh line of the section.

Mr. MACVEAGH. That is not in order.

Mr. NILES. Why not?

Mr. MACVEAGH. There is an amendment to an amendment pending.

Mr. BIGLER. You cannot make any more amendments.

The CHAIRMAN. There is an amendment to the amendment now pending, and the amendment of the gentleman from Tioga cannot therefore be received.

Mr. BUCKALEW. I am quite willing to conform myself to the pleasure of the House as to the manner of voting on this amendment. The simple and proper plan, however, would be to take each division separately and vote upon it.

Mr. MACVEAGH. We cannot do that.

Mr. BUCKALEW. It can be divided in that manner. If any part of the amendment embarrasses gentlemen they can vote against that. At the same time I am willing to take the pleasure of the body.

Mr. NILES. The amendment that I desired to make was not an amendment to the amendment of the gentleman from Allegheny, but to the amendment of the gentleman from Columbia, and I will accept the suggestion of that gentleman.

Mr. MACVEAGH. We cannot possibly vote on this article by divisions. It is a substitute for the whole section, and we must vote upon it as a whole. I trust the Convention will vote it down.

Mr. MACCONNELL. You cannot place the city of Pittsburg and the county of Allegheny, with the city of Philadelphia, on a different footing from that which you have given the rest of the State. Being from the county of Allegheny, I rise to protest against this arrangement, especially against the arrangement of limited voting. That is an amendment which applies to Allegheny county and to the city of Philadelphia alone. If we are to have that mode of voting in Allegheny county, why not have it in the rest of the State? Is it because it is good for Allegheny county, and that it is bad for the rest of the State? If it is bad for the rest of the State, I think it would be bad for Allegheny county. I am opposed to that mode of voting. I am at a loss to know what to call it—it has had so many

names here—but it sometimes seems to me that to call it “bob-tailed voting” would be about as good a name as could be given to it. But call it what you will, I am opposed to it wherever I meet it, and I am especially opposed to it if applied to Allegheny county, while all the rest of the State is relieved from it. I enter my protest against it. I should like to know for what reason the committee propose to apply that mode of voting to Allegheny county and Philadelphia when they do not apply it to the rest of the State. We have not asked for it. As far as our votes are concerned, they have shown that we are opposed to the whole thing.

MR. BUCKALEW. I will answer the gentleman's question by saying that the cities of Philadelphia and Pittsburg are now put on a different footing from the rest of the State in this respect in the Constitution. They are by the Constitution directed to be formed into single representative districts, so that the system introduced is not new here.

MR. HALL. Mr Chairman: There are but two members of this Convention from the small counties which are made exceptions in this amendment proposed by the gentleman from Columbia—the gentleman from Potter (Mr. Mann) and myself. The gentleman from Potter is absent to-day; else I would not occupy the time of the Convention. I had hoped to be able to show my wisdom in this Convention, only by my silence; but the position of things to-day compels me to say something.

The proposition of the gentleman from Columbia differs from the amendment of the gentleman from Allegheny (Mr. D. N. White) in one particular, to wit: The proposition of the gentleman from Allegheny proposes representation primarily by counties, and only secondarily on the basis of population, and the gentleman from Columbia professes to recognize the principle of representation by counties, but sees fit to make certain exceptions. Now, sir, I understand the idea of representation by counties to be that population alone is not a fair basis and that in order to have well-considered laws every locality and every community in the State should be heard through its Representative in the formation of those laws. If that be a correct principle, there is no sort of reason why a community because it is small in population, or a county be-

cause it is small in territory, should not be heard.

It seems to me that if you adopt a principle as a basis, it is better to carry that principle to its logical conclusion, instead of lumbering up your Constitution with exceptions, and crystallizing into certain districts particular counties, as is done by these exceptions. To make your rule absolute, to make it universal, is to give us a rule which is at once complete, simple and uniform, qualities which are certainly very desirable in a Constitution.

It is objected that the giving of separate representation to these small counties will lead to corruption, that parties desiring a particular complexion of the Legislature can go to these small counties and corruptly influence the choice of candidates. Why, sir, it is very much easier, it seems to me, to go into a conference of districts, where six or nine conferees are to name the representatives, than to go into a county convention among the people themselves and corrupt them. But, sir, there is nothing in the past history of this Commonwealth or of this country anywhere, that shows that corruption in politics is confined to these rural and sparsely settled districts; quite the contrary. If we are to believe the statements that have been made on this floor corruption is engendered, and mainly fostered and principally found, not in the rural and sparsely settled districts, but in the wealthy and populous communities of this State. Why will the people of Philadelphia complain? In the past, the respectable people of Philadelphia have gone time after time to Harrisburg and appealed to the country members to save them from the corrupt grasp and the evil machinations of their own representatives; and what has been in the past will be repeated in the future. To the independent, honest members of the country, the honest and respectable portion of the people of Philadelphia have again and again appealed and will again and again appeal for their own security.

But, sir, there is an unanswerable objection, it seems to me, to the arrangement proposed for my own county. The arrangement is for a district to consist of the counties of Cameron, Elk and Forest. It is true that Forest and Elk counties are contiguous as to territory, but it is not true that they have identical interests or that they are a similar people to any great extent. While they adjoin in territory, the point of contact is a wilderness, an unbroken wilderness, so much so that there is

not even a wagon road leading through Elk county into Forest. In order to reach Tionesta, the county seat of Forest, we should have to go by way of the Philadelphia and Erie railroad through M'Kean county and through Warren county, and then take the Allegheny Valley railroad to go down to Tionesta, a distance of one hundred miles. Their people do not know our people; we do not know their people. Our interests are entirely diverse. They have oil; we have none. We have coal; they have none. It seems to me that to put these counties into one district would violate all the rules that have been heretofore, to some extent at least, regarded in making apportionments.

Then, sir, there is another objection which, it seems to me, ought to have some weight. I am not speaking now in the interest of any party or with any political view. If Forest and Cameron counties be attached to Elk, Elk will predominate. Elk county is the larger county; Elk county is in the centre of the district; and Elk county will command the district because her vote will overpower the votes of the other two counties. In Elk county we have a Democratic majority of about five hundred, while the other two counties cast, each, Republican majorities of less than one hundred. Thus you place two small Republican counties under the control of Democratic Elk.

MR. CORBETT. I wish to ask the gentleman a question. I ask him what more natural connection there is than Forest and Elk?

MR. HALL. I would have Forest a district by herself.

MR. CORBETT. But is that a connection? With what other county contiguous to it can Elk so naturally be joined as with Forest?

MR. HALL. I am speaking against any connection. I say they have no natural and necessary connection. That is the very argument I have risen to make, and the reason why she should have a member of her own.

I was about to say that I was surprised that such a district as this should be suggested by the gentleman from Columbia, who, time and again, has been so eloquent an advocate of minority representation, because the construction of this district not only deprives the minority in Elk county of any voice, but it enables the Democratic majority in Elk to actually over-ride the Republican majorities in

the other two counties of the district. It seems to me that it would be much better to give each county a Representative. It will not be attended with corruption, and will give us a complete, simple, and uniform rule.

For these reasons, I am in favor of the amendment of the gentleman from Allegheny, and shall vote against the amendment to it, offered by the gentleman from Columbia.

MR. J. PRICE WETHERILL. Mr. Chairman: I entirely agree with the remarks made by the gentleman from Allegheny (Mr. MacConnell) in regard to paragraph four, of this section, that it is not right or proper to have exceptions made of the counties of Philadelphia and Allegheny. I am very glad that the delegates on this floor from the county of Allegheny have an opportunity of seeing how unfair and unjust and hard it is to make exceptions of this sort. Exceptions have been frequently made on this floor against the city of Philadelphia; and the original proposition now before us does make an exception, unfair and unjust, towards the city of Philadelphia, and that proposition comes from the county of Allegheny. I am very glad to find that when the county of Allegheny is thus treated, and when exceptions are made against that county, her representatives can see how unfair and how unjust they are, and can properly appreciate the condition in which they desire the city of Philadelphia to be placed in this regard.

Now, in order to understand this proposition thoroughly, let us look exactly at what it provides. It provides for a House of one hundred and fifty, and on that basis the ratio would be about twenty-four thousand to each representative. Half a ratio will entitle any county to a Representative. Thus there is a great deal of liberality shown to the counties having a small population, to which I do not object. I desire to have every county represented upon a fair basis; and, therefore, if half a ratio is considered proper and right, if eleven thousand is considered a fair number so that every county may be represented, I do not object; but at the same time, when I see the degree of liberality which is shown to the small counties having a population of only eleven or twelve thousand, when the ratio is twenty-four thousand, and upon that basis they have a Representative, I say do not let the Representatives of those counties act unfairly or unjustly to the few

large cities, of which they should be proud. Let them not except the city of Philadelphia and the city of Pittsburg in a section like this. Let them not place a limited vote upon those two cities when they desire to apply the ordinary vote upon majorities throughout the State.

What is the effect of this limited vote? Just look at it. Here we have a district in the city of Philadelphia from which we must elect five Representatives upon a limited vote, and no elector is to vote for more than a majority of the number to be chosen; that is, no elector shall vote for more than three. We have a district containing five-sixth Republican voters and one-sixth Democratic voters, and that one-sixth Democratic vote secures nearly one-half of the Representatives, when they are only entitled by a fair and honest calculation to one-sixth. That is the effect of the limited vote, as must be admitted by the gentleman from Columbia, whenever you increase the number to be voted for beyond three. Surely, it is an unfair thing to give one-sixth of the voters the voting power of nearly one-half. That objection to the limited vote will apply the world over, and the plan will apply unfairly and unequally the world over when you have over three to vote for. The gentleman from Columbia himself will admit that when you vote on a limited vote for a large number, it works unfairly and unjustly; and yet he would apply that system to the city of Philadelphia and to the county of Allegheny. I say to him and I say to those who press this amendment that it is unfair and unjust. He wants to try an unfair and an unjust experiment in the two great cities of which he should be proud and of which every member of this Convention should be proud, because those two cities contribute so largely to the financial interests and prosperity of the State; and shall they be crippled by this scheme pronounced by him to be unfair, unjust and impracticable?

Mr. NILES. Mr. Chairman: Three of the counties that are in this black list are in the district that I have the honor in part to represent on this floor—Cameron, M'Kean and Potter. I am very much obliged indeed to the delegate from Elk (Mr. Hall) for the remarks he has made. He being a Democrat could afford to make them; I being a Republican perhaps could not. I do not suppose that the Committee on Suffrage, Election, and Representation intended any unfairness

when they proposed to district these little counties as they did, putting Republican Cameron and Forest in with Elk. As a matter of course for all time to come they would be over-counted and out-voted. There are two Republican counties used up; and I say I am obliged to the fairness of the delegate from Elk for making that statement. Again, I presume it was not intended, yet there are the two counties of M'Kean and Potter good for a thousand Republican majority usually, linked together, and thus you use up two Republican majorities in that way. I say this in the absence of the immediate delegate from Potter (Mr. Mann.)

But, sir, aside from this consideration, I undertake to say that this exclusion of these counties from separate representation is unfair and unjust.

The idea conveyed in the second section of the article reported by the Committee on Suffrage is county representation. Now, I undertake to say we should have one or the other. We should either have representation by counties; the municipalities, the localities should be represented, or it should be based primarily upon population. We should have one or the other; and whether we take one or the other I have no particular preference. If population is to be the basis, let us have it. If county organizations are to be the basis, let us have those.

Now, sir, what does this second section provide? It makes twenty-one thousand population in Potter and M'Kean entitled to one member, and yet little Pike, with eight thousand, has a member. Is that fair? I appeal to the generosity of the chairman of the Committee on Representation, is it fair to say that eight thousand in Pike, (and I presume that is not because Pike is a Democratic county!) shall be entitled to one member for all time to come; and that twenty-one thousand in Potter and M'Kean shall never be entitled to more than one member? Is it fair to say that nine thousand out in little Fulton shall always be entitled for all time to come to one separate Representatives, and that twenty-one thousand in Potter and M'Kean shall only have one? Why, sir, in these little counties, we have eight thousand in Elk, eight thousand in M'Kean, and eleven thousand in Potter, and yet you give to two counties in the State a separate representation with no more than either. Is it fair?

Now, sir, let us have either one thing or the other. If it is population let it be alike and do not say that eight thousand in Pike, and nine thousand in Fulton for all time to come in this great Commonwealth shall be entitled to the same representation as the people of M'Kean and Potter?

That is all I have to say. I merely designed to call the attention of this committee to that point. But, sir, further, Montour, with fifteen thousand, has a member; Union with fifteen thousand, Centre with fifteen thousand, and Mifflin, with seventeen thousand, each have a member. Pike and Monroe each have a member. I suppose it is not because Pike and Monroe are Democratic counties that they are given two members, but Pike and Monroe have just about the same population with two members that M'Kean and Potter have with one.

I should not have made these remarks had they not been foreshadowed by the generosity and fairness of the delegate from Elk (Mr. Hall.) Now, if we are to have the thing fair and square, let it be so throughout.

MR. CORBETT. Mr. Chairman: I care very little whether these small counties be districted by this Convention or whether that be left to the Legislature of the State. I am perfectly willing that either course should be pursued; but probably the better course is to leave the matter to the hands of the Legislature in the future. Standing here representing a western county with fully at the present time thirty-thousand inhabitants, I cannot give my assent to the proposition now pending before the committee coming from the gentleman from Allegheny, (Mr. D. N. White.)

I am somewhat acquainted with Forest county, and although I desire to vote here and will be willing to do anything to advance her interests, I can never consent that a county with only four thousand inhabitants shall have a Representative when you give to another county right by the side of her, containing thirty thousand inhabitants, only one Representative, and when, more than that, Mr. Chairman, you do not allow her an increase of another member until she contains forty-thousand. This I never will assent to. It is not fair in principle. This proposition is to change the whole character of the lower House and turn it into

a House representing municipalities or communities, which is unjust and unfair.

Now, a word with reference to the remarks of my friend from Elk (Mr. Hall.) I shall not vote for giving Elk county a Representative, and I do not care whether she be Republican or Democratic. When I vote here I vote without reference to party or party objects. We are establishing a rule for the future, and the moment we let party motives control us we are liable to burn our own fingers. I know somewhat of the county of Forest. I hope she will increase rapidly in population; and in anything I may say now I may be very much mistaken, but my own belief at the present moment is that for agricultural purposes she will not have ten thousand population in the next ten years. If oil should be discovered she may be immensely developed, and so far as lumber is concerned there is very little of it in the county. A connection with Elk county is as natural a connection as you can make at present. It is very true that other county seats are nearer to Elk than the county seat of Forest; but the county seat of Forrest and the great body of her population are more accessible to Elk than any other county. The connection is natural enough. It is certainly not so unnatural as the present connection with Clarion. Clarion is twenty miles off from my friend and he can only reach it by land travel. Elk is connected with Clarion now, and I say the connection is an unnatural one.

The gentleman from Elk speaks in reference to the purity of elections in these small counties. I have had a little experience in them. I know a little about them; and I know that in this very county of Forest, not by my political friends alone, but by our friends on the other side, there is always a rush made there to carry this little county, and the fact is that it is manipulated altogether by politicians. I will say further that these little counties are always a load upon other counties with which they are connected, and I care not to what party their majority belongs, they are always a load and an annoyance to the counties with which they are connected all the time. So far as the connection is concerned, it is not a desirable one; but I say the natural connection of Forest with Elk county is as great as with any other county contiguous to it.

MR. BUCKALEW. I desire to modify the amendment. In accordance with what I

said before, I will modify the second division in the seventh line by inserting after the word "Cameron" the word "M'Kean," and striking out "Elk and Forest;" in the eighth line by striking out "M'Kean and Potter," and inserting "Elk and Forest." That will leave the section read:

"The counties of Cameron and M'Kean shall elect one; the counties of Elk and Forest one; the counties of Sullivan and Wyoming one."

The practical effect of it will be to allow the county of Potter to elect by herself. As she has about twelve thousand population, much larger than either of the others, I have agreed to make that concession.

Again, I modify my amendment by withdrawing, at the desire of gentlemen, as it is a separate proposition, the last clause of the fourth division in relation to the manner of electing Representatives. I omit all after the word "districts," in the twenty-ninth line.

Mr. Chairman, I wish to say a word on one point, in justice to the committee, by way of explanation, in consequence of what was said by the member from Tioga, (Mr. Niles,) and also by the member from Elk (Mr. Hall.) The committee are not liable to criticism on party grounds. It is not necessary for me to vindicate the committee here against such aspersions. The county of Sullivan is united with Wyoming, instead of being alone. The counties of Pike and Fulton lie in sections of the State where it is impossible to connect them with counties below the ratio. Therefore of necessity they must elect alone, or be connected with adjoining counties that have a surplus, so as to make up a double district. If the committee were to report that Pike should be connected with Wayne county, the political vote of Pike county would always control the result in that district. Again, in the case of Bedford and Fulton, Bedford being a comparatively close county, the vote of Fulton would control the result in that double district, as a matter of course.

In both those cases the people of all the counties interested would desire to stay apart unquestionably. Bedford would rather elect one alone than have her surplus connected with Fulton; and so it would be in Wayne. As to the county of Monroe, she has almost a ratio, falling only three or four thousand below the ratio, so that she has no surplus to be

used in an adjoining district. She has so much more than the three-fifths as to justify a separate representation. In the case of Sullivan county, it also lies by itself, a Democratic county, and strongly so, one of the most decided ones in the State. We do not give her a Representative, but we unite her with Wyoming; so that for political purposes she is merged. Then again the county of Elk and the county of Forest must of necessity be united. We unite, where we can unite, counties that are a great way below the ratio, and the connection is natural and inevitable. Forest must be united with Elk. But with the modification I have now made, Cameron and M'Kean will elect together, which would be a Republican district, and I concede the point that Potter shall elect alone, which would be another Republican district.

So you see that the criticism made by the gentleman from Tioga have no application at all to the report of the committee. Let gentlemen disabuse their minds of the idea that there is any political effect in this arrangement as to these small counties. If there is any effect in it, the effect is disadvantageous to the Democratic party of the State.

I desire at this moment only to repel the idea that anything of that kind was in contemplation.

The CHAIRMAN. The question is on the amendment of the gentleman from Columbia to the amendment.

The amendment to the amendment was rejected, there being on a division ayes thirty-four, noes forty-two.

Mr. BROOMALL. The question now is on the amendment of the gentleman from Allegheny (Mr. D. N. White.) Before the vote is taken I simply desire to call the attention of the Convention to one fact. In Delaware and Chester counties there are 117,208 population, who would be entitled to four members. In Forest, Elk, Sullivan and Cameron there are 22,962, who by this proposition would be entitled to four members. Now, I deny here that we ought to consider territory as being represented in the State Legislature in either branch. I maintain that it is the people who are represented there, and not the territory, not the counties; and until somebody can show me some reason why five men in my district should have no more power in the State Legislature than one man in M'Kean, Elk, Potter or Cameron, I must vote

against every principle that proposes to represent counties in the State Legislature.

Mr. HARRY WHITE. Allow me to inform the delegate that he has done injustice to Chester and Delaware. Under this provision Chester and Delaware will be entitled, as separate districts, Chester to three and Delaware to two members. They would be entitled to five members instead of four, as he supposes. The delegate has miscounted.

Mr. BROOMALL. Very well, I have mis-stated it then simply in degree. The excess is not quite so bad. It is then four men in my district that are to be counted as one in those small counties.

The CHAIRMAN. The question is on the second division of the amendment of the gentlemen from Allegheny (Mr. D. N. White) as amended. It will be read.

The CLERK read as follows:

"The House of Representatives shall consist of not less than one hundred and fifty-two members, to be apportioned and distributed to the counties of the State severally in proportion to the population, on a ratio of twenty-five thousand inhabitants to each member, except that no county shall have less than one member, and the city of Philadelphia, or any county having an excess of three-fifths of said ratio over one or more ratios, shall be entitled to an additional member. In case the number of one hundred and fifty-two members is not reached by the above apportionment, counties having the largest surplus over one or more ratios shall be entitled to one additional member until the number of one hundred and fifty-two members is arrived at."

The division was agreed to, there being, on a division, ayes, fifty-three; noes, twenty-six.

The CHAIRMAN. The question now is on the third paragraph of the amendment of the gentleman from Allegheny, which will be read.

The CLERK read as follows:

"As soon as this Constitution is adopted the Legislature shall apportion the State in accordance with the provisions of the two preceding sections; counties and the city of Philadelphia, entitled to more than one member, shall be divided into single districts of compact and contiguous territory, as nearly equal in population as possible; but no township or ward, except in the city of Philadelphia, shall be divided in the formation of a district: *Provided*, That in making said ap-

portionment for the House of Representatives in the year 1881, and every ten years thereafter, there shall be added to the ratio five hundred for each increase of seventy-five thousand inhabitants."

Mr. LITTLETON. I suggest to the gentleman offering the amendment that he ought to make it more specific. Instead of saying "as soon as this Constitution is adopted," he ought to make it more specific as to time.

Mr. MACVEAGH. That can be arranged in the schedule.

Mr. LITTLETON. It is a very indefinite expression now.

Mr. D. N. WHITE. Of course the schedule will fix the time.

Mr. CORBETT. I say to this Convention now that if this proposition remains in this shape and is adopted by this Convention, it may be a very good electioneering instrument in Elk county and in Forest and in those little counties, but in other counties in the western portion of the State you will get very little support for it, and I apprehend it will be the same in the east; and I say to you, so far as I am individually concerned, I can never assent to it and I must work against it. It is an outrage on all justice; it is changing the House—

The CHAIRMAN. The Chair will state to the gentleman that he is not debating the subject before the committee.

Mr. CORBETT. I say it is carrying municipality representation into the House, where it was not intended. It is giving to small communities a representation equal to one of ten or fifteen times their body. It is unjust in every sense, and I here enter my solemn protest against it. I will never give my assent to a Constitution that contains a principle of the kind.

The CHAIRMAN. The question is on this paragraph of the amendment.

The paragraph was agreed to, there being on a division, ayes, forty-nine; noes, twenty-three.

The CHAIRMAN. The question now is on section nineteen of the article as amended.

The section as amended was agreed to, there being on a division, ayes, forty-six; noes, twenty-eight.

The CHAIRMAN. The twentieth section will be read.

The CLERK read as follows:

Twentieth. The General Assembly, at its first session after the adoption of this Constitution, and every ten years thereafter, shall apportion the State for the

election of Senators and Representatives according to its population as ascertained by the last preceding national census. Senatorial and representative districts shall in all cases be composed of compact and contiguous territory and shall contain as nearly as possible an equal number of inhabitants: *Provided however*, That no city or county shall be entitled to more than six Senators.

Mr. MACVEAGH. That will be voted down of course, as it has been superceded.

The section was rejected.

The CLERK read the next section as follows:

Twenty-first. No city or county shall be divided in any apportionment for the purpose of annexing any part thereof to any other city or county in the formation of any Senatorial or Representative district.

Mr. ROSS. I desire to amend this section by inserting in the third line—

Mr. MACVEAGH. Allow me to suggest that that section is superceded by the section which we have adopted, which covers the entire question. I presume it will be voted down as a matter of course.

Mr. ROSS. Then I desire to offer a new section at this place.

Mr. MACVEAGH. Let us take the vote and vote down this section, and then the delegate can offer his amendment.

Mr. ROSS. Very well.

The section was rejected.

Mr. ROSS. Now I offer the following amendment as an additional section:

"No city or county shall be divided in any apportionment for the purpose of annexing any part thereof to any other city or county in the formation of any congressional district."

Mr. Chairman, I think the propriety of this amendment is manifest on the face of it. It is to provide against the dismemberment and massacre of counties in congressional apportionments. I am at a loss to understand why we should not provide in this Constitution against an improper congressional apportionment fully as much as in regard to senatorial and representative apportionments.

I feel a considerable interest in this matter for the reason that the county which I have the honor in part to represent here, one of the three original counties of this State, under the recent legislative congressional apportionment has been totally massacred and dismembered. We have a population of something like sixty-four thousand. We have been divided into

a congressional district composed of the ten upper townships of my county and Lehigh and Northampton, and the rest of the county is thrown in with Montgomery county. This district is one that is objectionable alike to gentlemen of both parties; it is one that is unjust and unfair; and I think this Convention should provide in this article against apportionments of this character. It is with that view that I offer this amendment, and I appeal to gentlemen to support the amendment for the reason that it will prevent these unjust and unfair apportionments for political and partisan purposes.

Mr. MACVEAGH. I submit to the delegate from Bucks that this amendment is not germane to the article upon the Legislature, and that it certainly cannot have a proper place here. It might be inserted in the article on legislation as a limitation upon the action of the Legislature, and it would be perfectly proper there. There is no reason why it should not yet be considered in that connection, but I do not think it ought to be attached to this article in any manner.

Mr. BRODHEAD. I should like to ask the gentleman from Dauphin where it does belong if it does not belong here?

Mr. MACVEAGH. It belongs to the article on legislation. It is a limitation on the legislative power of the Legislature simply, just like the other limitations in that article; but it has nothing whatever to do with the construction of the legislative body. The Committee on the Legislature was restricted to making a working machine of the legislative body. What they may do, after they have made such a machine, belongs to the Committee on Legislation, and all the limitations on their power have been put in that article, and it is to that article undoubtedly that this question belongs. It seems to me that now, at the close of the week, to raise a discussion upon a matter of this kind will simply interfere with the passing of this article to its second reading, because this part of the article gentlemen will understand has never passed a second reading. We want to rise with a direction to the chairman of the committee of the whole to report that the article is gone through with, and then it will come up on second reading, and we shall get through with it, as we hope, and perhaps all the principal articles next week. I submit that this is not the place at all to introduce this proposition.

Mr. KATINE. Mr. Chairman: Legislation and the Legislature are cognate subjects, and I presume when the Committee on Revision and Adjustment get to work they will make but one article out of the two subjects. We have but one in the present Constitution; we have never had any other, and there will be no necessity whatever for having two in this amended Constitution. There will be no necessity for having an article on the Legislature and one upon legislation. Therefore, the amendment offered by the gentleman from Bucks is proper in this place. It might perhaps have been better or as well to have considered it when the Convention was considering the subject of legislation; but as it is, as I said, belonging to the same subject-matter, there is no impropriety in considering it here. It is an appropriate amendment; it is an important one; and it does not make any difference in which place it is passed. If it is passed, the Committee on Revision and Adjustment will put it in its proper place when they come to act on the several subjects before them in the Constitution.

Mr. HARRY WHITE. Before the vote is taken on this subject, I desire to make a remark.

I sympathize entirely with the spirit and purpose of this amendment and shall vote for it. I admit that, technically, it is not proper here. I agree with what has been said by the delegate from Fayette (Mr. Kaine) that ultimately we shall have but one article regulating the legislative department. While the amendment might technically and properly come under the head of the report on legislation, yet it has been well said that it is cognate to this question of apportionment.

I can well understand the motives which prompted the delegate from Bucks in offering the amendment. A practical illustration of the necessity of some provision of this kind is to be found in the apportionment of the State last year by the Legislature into congressional districts; and I am glad to know that so flagrant and glaring an instance of injustice has been recognized by this Convention, as was done in cutting up Bucks county and attaching a portion of it to Lehigh and Northampton to make a Democratic district, so that the residue might be added to Montgomery and make a Republican district. That is wrong in principle, and the persons who passed that bill may live to see the day when they will be cursed,

for curses like chickens sometimes come home to roost.

I confess I sympathize very much with my friend from Montgomery who is seriously affected by that apportionment, and I hope his eloquent voice and earnest words will be raised in behalf of this amendment. I refer to my friend who sits opposite to me in this Hall (Mr. Boyd) because by reason of this division of Bucks county, it has been made impossible for the next ten years for him to go to Congress unless he succeeds in making that popularity before the people which he has succeeded in making in this Convention!

Mr. CUYLER. I have no doubt that the Congress of the United States has lost largely by the absence of the gentleman alluded to by the member from Indiana; nevertheless, I am opposed to this amendment, on principle, either here or in the article on legislation. I am opposed to it because I do not perceive that cities or counties are represented in the Congress of the United States, and I do not see why county lines or city lines should be in any manner whatsoever connected with the basis of representation there. Its practical effect upon the city of Philadelphia would be to throw out one or two wards of this city, which are now annexed to the fifth congressional district.

Mr. WORRELL. No, sir.

Mr. CUYLER. We should inevitably lose on our ratio of population. It cannot be otherwise upon the basis of the present representation.

Mr. WORRELL. Philadelphia has five Congressmen, and no portion of the city of Philadelphia is attached to any other county.

Mr. CUYLER. The gentleman is right under the new apportionment. I was referring to the old. But on the principle I speak of, I do not see why any such provision would be proper. It will not have the effect to prevent gerrymandering. It cannot prevent the Legislature from attaching Bucks county to any other county in the State, even to Allegheny, if they choose. It leaves all that with the Legislature just as it was before. As therefore I can perceive no good to be accomplished by it, I shall vote against it.

Mr. MACVEAGH. I trust it will not be taken for granted because some bad action has been had, if such action has been had, and I take the word of the delegate from Indiana on that point, that we must apply a remedy of this kind without a full

consideration of it. On the other hand, what will be one of its practical effects? You limit the Legislature in making the apportionment to counties, and if they are contiguous counties, if they are adjoining counties, they must sacrifice large fractions of representation. You give the greatest possible opportunities for fraud in that matter. You create gerrymandering as a necessity. Recollect, you have got the ratio of representation fixed, not by the Legislature, not by you, but by the Congress of the United States, and it says you must find one hundred and thirty thousand people for a Congressman. Now, take such a county as Lancaster; what are you going to do about it? Put Lancaster and Berks together?

Mr. HUNSICKER and others. Yes.

Mr. MACVEAGH. Yes, gentlemen say, do that; or put Lancaster and Chester together, or put Lancaster and York and Adams and Bedford and Somerset together? You compel a strife for the most infamous political advantages everywhere. Let any man sit down as a practical matter and attempt to annex them by counties, and he will find that the Democrat would annex them to prevent Democratic counties losing their surplus, and the Republican will annex them to prevent the Republican counties from losing their surplus, and a city like Pittsburgh or a city like Philadelphia may have within five votes of a member, and that large number cannot be utilized at all. A county like Luzerne may have within five votes of two members, and that cannot be utilized at all without gerrymandering. It seems to me, upon the reflection that I have given to it, in seeking a remedy for one evil, you open the door to greater evils.

If there is a practical answer to this, if it does not compel the division of the State in the interest of the political party having the majority, I am utterly unable to understand its practical effect; and certainly in this manner sprung upon the Convention upon a matter in which the law does not recognize the distinction of boundaries, it seems to me worthy of very full consideration. If the present system of allowing the districts to remain nearly equal in population works so very badly in one district or another, we must look at the possible dangers on the other side, and whichever outweighs, of course gentlemen will vote; but I confess, with the impression the matter has made upon my

mind, I am unable to vote for this section.

Mr. HUNSICKER. Mr. Chairman: There are two ways of defeating a thing. When this proposition was offered by the gentleman from Bucks, the gentleman from Dauphin arose and said: "Offer it to the report of the Committee on Legislation; it belongs there." Now, unfortunately, the Legislature makes the apportionment, and, as this article covers the matter of apportionments, this seemed to be the proper place to put the amendment. The Convention has already passed the article on legislation on second reading, and any amendment to that would have to be made, as I understand, on third reading, by going into committee of the whole for the purpose of amendment; and the gentleman from Dauphin would be just as tired then as he is now, and he would not want the Convention detained by considering this proposition.

Now, I will make a proposition to him, and to all others who feel like him. Let this proposition be adopted by the committee of the whole in this place, and whatever objections there may be to it finally, if this idea is right it can be matured; after it appears upon our files, we can then all give it thought and consideration. But that there is an evil in this system which requires some sort of remedy at the hands of this Convention, I have no doubt, and I therefore hope, if delegates are impatient for a vote on this question, are anxious to get rid of the subject, that they will simply pass this section, so that it may go to second reading, and receive that judgment and consideration which its importance demands.

Mr. EWING. Mr. Chairman: I cannot see the propriety of incorporating this section in the Constitution of the State, for two reasons. First, I think it will be entirely inoperative. It is not within the purview of the Constitution of the State to determine how the State is to be apportioned for members of Congress. That depends on the Constitution and laws of the United States; and if the Legislature should district the State in contravention of a section we might adopt, it would be entirely legal and proper.

Then, in the next place, as the section is offered, it would prevent a proper apportionment of the State. Take, for example, the last ten years, the county of Allegheny composed the Twenty-second Congressional district, and had enough left on the north side of

the Ohio and Allegheny rivers to make three-fifths or three-fourths of another district. That was annexed to Butler county, or Butler county annexed to Allegheny—I do not care which you call it—and made the Twenty-third district a full district. This section would prevent anything of that sort, and would, in that case, have required Allegheny to have been limited to one member, with a population almost sufficient for two. You have the same thing in different parts of the State.

The CHAIRMAN. The question is on the amendment.

The amendment was rejected, the ayes being twenty-seven; less than a majority of a quorum.

The CHAIRMAN. The article has now been gone through with, and the committee will rise.

The committee of the whole rose, and the President *pro tem.* (Mr. Walker) having resumed the chair, the Chairman (Mr. Stanton) reported that the committee of the whole had under consideration the nineteenth and subsequent sections of the article on the Legislature, and had instructed him to report them back with amendments.

The PRESIDENT *pro tem.* The Chairman of the committee of the whole reports with amendments the article on the Legislature. ("Adjourn." "Adjourn.")

Mr. MACVEAGH. I will take the sense of the Convention upon that matter. There is nearly an hour left, and at first it occurred to me that we might proceed with the second reading, ("No." "No.") but it seems to be the sense of the Convention to adjourn, and I therefore move that the House do now adjourn.

Mr. BUCKALEW. I rise to a question of order, that upon a report from the committee of the whole nothing is in order except the reading of the amendments. I ask for the reading of the amendments.

The PRESIDENT *pro tem.* The amendments will be read.

Mr. MACVEAGH. I move to waive the reading of the report and that it be printed for second reading.

The PRESIDENT *pro tem.* It is moved that the reading of the reading of the amendments be dispensed with and that the article as amended be printed.

The motion was agreed to.

WARRANTS FOR PAY.

Mr. HAY. I ask leave to make a report from the Committee on Accounts and Expenditures.

Leave was granted, and the report was received and read as follows:

The Committee on Accounts and Expenditures of the Convention respectfully reports:

That the Convention having fixed the salaries of its members at twenty-five hundred dollars each, and those of its officers at the following amounts, to wit:

The Chief Clerk and two assistant clerks, each.....	\$2,750
Two transcribing clerks, each.....	2,000
Sergeant-at-arms.....	2,000
Assistant sergeant-at-arms, door-keeper, assistant doorkeeper, postmaster, and assistant post master, each.....	1,800

and having ordered that warrants be drawn in favor of each member and officer for three-fifths of the full amount of his salary as above stated, and referred it to this committee to ascertain and report for what particular amounts warrants should be drawn, the following are therefore reported as the particular and proper amounts now due to each member and officer below named for which warrants should be drawn under said order of the Convention.

[Here follow the names of the members, with an allowance of \$1,500 to each.]

The names of Samuel E. Dimmick, Franklin B. Gowen, and Samuel H. Reynolds, who resigned, and of H. N. M'Allister and William Hopkins, who died during the session, and their respective successors, Henry Green, John C. Bullitt, William Bigler, Samuel Calvin, and Lewis Z. Mitchell, are omitted from the above schedule. No day of final adjournment being appointed, it was not practicable at this time to equitably adjust the amount due to each of these delegates who have at different times occupied the same seats; and unless otherwise ordered by the Convention, the Committee on Accounts will postpone any report designating the amount of salary due to those members until the close of the session, when a just apportionment can be made.

The names of Daniel L. Rhone and John G. Freeze have not been included in the foregoing list for the reason that

they make no claim for salary and served in the Convention for but one and two days respectively; and their successors, Caleb E. Wright and Charles R. Buckalew, are reported as entitled to salary for the whole period of the session.

OFFICERS.	Full pay	Am't already paid.....	Remainder of three-fifths of pay.....
D. L. Imbrie, Chief Clerk.....	\$2,750	\$1,200	\$450
Lucius Rogers, first assistant clerk.....	2,750	960	690
A. D. Harlan, second assistant clerk.....	2,750	960	690
John L. Linton, transcribing clerk.....	2,000	800	400
A. T. Parker, do do	2,000	800	400
James Onslow, sergeant-at-arms.....	2,000	680	520
C. M. Brown, assistant sergeant-at-arms.....	1,800	480	600
Clement Evans, doorkeeper.....	1,800	480	600
Frank Bentley, assistant doorkeeper.....	1,800	400	680
Henry B. Price, postmaster.....	1,800	640	440
B. Frank Major, assistant postmaster.....	1,800	480	600
Total.....	23,950	7,880	6,070

The following resolution is therefore respectfully submitted:

Resolved, That the President of this Convention draw his warrant on the State Treasurer in favor of each of the members and officers above named for the sum last set opposite to their names respectively.

The resolution was read twice and agreed to.

Mr. BRODHEAD. I move that the Convention adjourn.

The motion was agreed to, and (at two o'clock and twenty-five minutes P. M.) the Convention adjourned to meet at half-past ten o'clock A. M. on Monday next.

ONE HUNDRED AND TWENTIETH DAY.

MONDAY, June 16, 1873.

The Convention met at half-past ten o'clock A. M.

Hon. John H. Walker, President, took the chair and caused the following letter to be read by the Clerk:

MY DEAR SIR:

I expected to be at the Convention to-day, but am disappointed, and find that my physical inability to attend may probably be prolonged for some days.

I shall therefore make no appointment to the chair for to-morrow, in order that the Convention may elect a President *pro tem.*, in pursuance of the provisions of rule six.

I desire that the members of the Convention should be apprised of the state of things as early as possible.

I therefore suggest that you cause this note to be read at the Clerk's desk immediately before calling the House to order, and also after the adjournment. It is with great regret that I am compelled thus to suspend the performance of duties to which the Convention has done me the honor of assigning me, and I hope in a few days to return with renewed strength to their performance.

Always faithfully and

Truly Yours,

W. M. MEREDITH.

9 A. M., Monday, 16th June, 1873.

Hon. JOHN N. WALKER.

ELECTION OF PRESIDENT *pro tem.*

The PRESIDENT *pro tem.* The Chair has received an appointment for to-day, which will be read.

The CLERK read as follows:

I appoint the Hon. John H. Walker to act as President *pro tem.* of the Constitutional Convention during this day.

W. M. MEREDITH.

Monday, June 16, 1873.

Mr. DALLAS. I move that other business be suspended for the purpose of making a motion at this time that the present incumbent of the Chair be elected *pro tempore* President of this Convention.

Mr. TURRELL and others. I second the motion.

Mr. DARLINGTON. I ask that the assistant clerk, Mr. Rogers, put that question to the House.

The ASSISTANT CLERK. A motion is made by the gentleman from the city that the business of the Convention be suspended for the purpose of proceeding to the election of a President *pro tem.*

The motion was agreed to, there being on a division: Ayes forty-eight: noes nineteen.

Mr. DALLAS. I now nominate Mr. Walker, of Erie.

The motion was seconded by gentlemen in various parts of the house.

Mr. DONN. I move that the election of Mr. Walker be made unanimous.

Mr. TEMPLE. I second the motion.

The motion was agreed to *nem con.*

The PRESIDENT *pro tem.* Gentlemen, I return you my sincere thanks for the honor you have conferred upon me. I shall endeavor to discharge with impartiality the duties of the Chair until it is resumed by our proper President. The Journal of Friday will now be read.

JOURNAL.

The Journal of the proceedings of Friday last was read and approved.

LEAVES OF ABSENCE.

Mr. LILLY asked and obtained leave of absence for Mr. Long for a few days from to-day.

Mr. STANTON asked and obtained leave of absence for Mr. Cassidy for to-day and to-morrow.

Mr. DARLINGTON asked and obtained leave of absence for Mr. Hemphill for a few days from to-day.

SALE OF LIQUORS.

Mr. S. A. PURVIANCE. Mr. President: I offer the following resolution:

Resolved, That the Committee on Suffrage, Election and Representation be instructed to report the following to be submitted to the people as a separate amendment to the Constitution:

"The Legislature shall by general law regulate the sale of vinous, malt and fermented liquors; but the sale of distilled spirituous liquors, except for medicinal

and manufacturing purposes, is hereby prohibited, the prohibition to take effect one year after the adoption of this amendment."

I desire that this resolution shall lie over until next week, when I will call it up.

The PRESIDENT *pro tem.* It will be laid on the table.

DECLARATION OF RIGHTS.

Mr. BIGLER. There seems to be some difficulty in the way of proceeding with the further consideration of the legislative article to day, and I therefore move that the Convention proceed to the second reading and consideration of the article on the Bill of Rights.

The motion was agreed to.

The PRESIDENT *pro tem.* The article on the Bill of Rights is under consideration upon second reading. The first section will be read

The CLERK read as follows:

SECTION 1. All men are born equally free and independent, and have certain inherent and inalienable rights, among which are those of enjoying and defending life and liberty; of acquiring, possessing and protecting property and reputation; and of pursuing their own happiness.

Mr. DARLINGTON. I desire to suggest for the purpose of saving time, that if there be any members of the Committee on the Declaration of Rights present, they will state whether or not this is in conformity with the Bill of Rights in the present Constitution.

Mr. MACCONNELL. This is the clause of the Bill of Rights as it exists now.

The section was agreed to.

The PRESIDENT *pro tem.* The next section will be read.

The CLERK read as follows:

SECTION 2. That all power is inherent in the people, and all free governments are founded on their authority, and instituted for their peace, safety and happiness. For the advancement of these ends, they have at all times an inalienable and indefeasible right to alter, reform or abolish their government in such manner as they may think proper.

The section was agreed to.

The CLERK read the next section, as follows:

SECTION 3. That all men have a natural and indefeasible right to worship Almighty God according to the dictates of their own consciences; that no man can of right be compelled to attend, erect or

support any place of worship, or to maintain any ministry against his consent; no human authority can in any case whatever control or interfere with the rights of conscience; and no preference shall ever be given by law to any religious establishments or modes of worship.

The section was agreed to.

The CLERK read the next section as follows:

SECTION 4. That no person who acknowledges the being of a God and a future state of rewards and punishments shall, on account of his religious sentiments, be disqualified to hold any office or place of profit or trust under this Commonwealth.

Mr. BROOMALL. Mr. President: I move to strike out all after the word "person," in the first line, to and including the word "punishments" in the second line, so that the section will read, "That no person shall, on account of his religious sentiments, be disqualified to hold any office or place of profit or trust under this Commonwealth."

I move that for two reasons; first, because it makes the section more in the spirit of the preceeding section, section three; and second, because I am not sure that the expression "a future state of rewards and punishments" would not exclude certain religious sects. I would not desire that to be done. The section conveys the whole idea without that language. The only effect of leaving that in would be to exclude men who are honest enough to express their doubts, and therefore men who ought not to be excluded, and to let in men who are dishonest enough to lie out of their doubts, and who ought therefore to be excluded. In other words, the words I have moved to strike out are words that will keep out nobody that ought to be kept out and will let in some who had better be kept out. It has the effect to keep out good men and to let in bad ones.

Mr. MACCONNELL. I desire to ask the gentleman a question. This section is precisely the language of the section in the old Constitution—

Mr. BROOMALL. I know it.

Mr. BIDDLE. This is precisely the language of the old section.

Mr. MACCONNELL. What I want to ask the gentleman from Delaware is, whether he has ever heard of anybody being kept out of citizenship on account of this language in the old Constitution, and if it has not been in the Constitution

for seventy years without the effect he apprehends.

Mr. BROOMALL. The argument that the words have been in the Constitution so long would have more force with me if I found other gentlemen here willing to apply it to other cases. When I quote the old Constitution and try to retain what is good in it in other cases, gentlemen seem to think the fact that the provisions are part of the old Constitution of very little importance. Upon the other branch of the question, I can only say this: That if men have not been excluded who have these doubts, it was because they disguised them and were hypocrites, and therefore ought to have been excluded. If men have been excluded by this provision, they have been men who were honest enough to confess their doubts and hence men who ought not to have been excluded.

Mr. J. S. BLACK. What class of men does the gentleman hold will be excluded under this clause?

Mr. BROOMALL. I am not sure but that a large proportion of the Universalists would be excluded.

Mr. J. S. BLACK. Can the gentleman show that?

Mr. BROOMALL. When I have the time.

Mr. J. S. BLACK. Is not the gentleman aware that a construction has been given to this language by the Supreme Court which does not exclude the Universalists nor any other class of men who profess to believe in the existence of a Supreme Divine Governor of the Universe, and believe in any kind of punishment for doing wrong, either in this world or in the next.

Mr. BROOMALL. If that is the settled law of the land, then the phrase is unmeaning and should be stricken out. If the word "future" has reference to this life alone, and if that is the decision of the Supreme Court of Pennsylvania, all I can say is that the Supreme Court of Pennsylvania has made more than one ridiculous decision.

Mr. J. S. BLACK. I simply wished to correct a misapprehension. The phrase, "future state of rewards and punishments," does not refer to this life alone. It means any kind of rewards and punishments, either in this life or after this life is ended.

Mr. BROOMALL. If that is the meaning that has been attached to the expression, then it should be stricken

out because that is not the commonly received acceptation of it. If the Supreme Court has found it necessary to explain the language away lest it should do damage, I have too much regard for the consciences of the supreme judges to ask them to continue explaining away plain language to mean nothing, lest it should do injury. The very reason the gentleman has given for the sentence being there is one of the strongest reasons for striking it out. But the reason I allege is this: That it will not exclude any man who ought to be excluded, because it will not exclude any man who is dishonest enough to disguise his doubts, and it will exclude men who are honest enough to be entrusted with any office, because it will exclude men who are honest enough to confess unpopular religious opinions.

Mr. BARTHOLOMEW. I hope these words will not be stricken out. They have a signification and a meaning that become important in the administration of justice. It is well known, I suppose, by the lawyers of this body and other well-read, intelligent people, that all legal proceedings are based upon the solemnity of an oath, that that is the foundation-stone of all proceedings at law. Without it, proceedings are without foundation and cannot stand. Now, it is no more than right that where a party undertakes to institute legal proceedings or becomes a part of the machinery whereby legal proceedings are enforced or carried on, he should have that within his conscience which makes his testimony or his statement of some binding effect. I take it that the rule that has been held by the courts is simply this: That there must be in the conscience or in the mind of the man a belief in an accountability to a higher power than the mere municipal power which is enforcing the law or of which he is playing a part; some other power, a higher power, a spiritual power, and an accountability in the shape of rewards and punishments, without location or time.

I take it that this clause is one of exceeding value, because it limits those who are to become parties or witnesses in the trial of a cause or in the holding of an office where their oath is to bind them to discharge their duties, that in all such cases where they are officials or where they are witnesses or parties there should be something in the conscience of the man which shows that the oath is not a mere sham and a delusion, but something that

is substantial and binding upon him. Therefore it is but proper that these words should remain in and I hope they will. They are in the old Constitution; they have received a judicial construction; they are understood by the profession and by the people, and I cannot see that any good object can be attained by striking them out.

The *PRESIDENT pro tem.* The question is on the amendment of the delegate from Delaware (Mr. Broomall.)

Mr. CORBETT. Mr. President: I conceive that the construction put on this section by the gentleman from Delaware is correct; and if his amendment does not prevail, I shall move to strike out in the second line "a" and insert "in," and strike out immediately after the words "state of," leaving it read "and in future rewards and punishments," making it conform to the rule established by our courts with reference to the competency of witnesses. Here clearly this section would give the Legislature the power of excluding Universalists from holding office. The Legislature never has done so; it has never exercised the power; but I apprehend there is no decision upon this section determining that the Legislature has not that power. Our courts with reference to the competency of witnesses have held that all persons believing in future rewards and punishments are competent witnesses and can testify. The rule is confined to future rewards and punishments, not to a future state of rewards and punishments; and if this amendment offered by the gentleman from Delaware does not prevail, I shall move to amend this section so as to make it correspond with the rule established as to the competency of witnesses.

Mr. BROOMALL called for the yeas and nays on his amendment.

The *PRESIDENT pro tem.* Gentlemen who second the call will rise.

Mr. Campbell, Mr. Dallas, Mr. Elliott, Mr. Corbett and Mr. Ewing rose to second the call.

The *PRESIDENT pro tem.* The call is not seconded, ten gentlemen not rising. The question is on the amendment.

The amendment was rejected.

Mr. CORBETT. Now, Mr. President, I move to strike out "a," in the second line, and insert "in," and then to strike out the words "state of," so as to read: "And in future rewards and punishments."

Mr. J. S. BLACK. Is not that the very same language offered before?

Mr. CORBETT. Not exactly. Mr. President, that will leave this section correspond with reference to the power of the Legislature excluding a person from holding office, to the decisions allowing parties who are competent to testify in courts of justice. The rule there is that if a party believes in future rewards and punishments, he is competent. It allows Universalists to testify in courts of justice, and it will allow Universalists to hold office. There is no good reason why if a man is competent to testify and if you can depend upon his veracity, he should not be allowed to hold office. It is very true that these parties have heretofore been allowed to hold office in the State of Pennsylvania, but they have been so allowed simply because the Legislature has not undertaken to exclude them. Under this clause of the Constitution, the Legislature could prevent any person holding office in the State who did not believe in a future state of rewards and punishments. They might believe in punishment in this life; but if they did not believe in a future state of punishment or a future state of rewards, they could not hold office; or the Legislature, in other words, would have the power to exclude them.

Mr. BIDDLE. Mr. President: I shall vote against the amendment offered by the gentleman from Clarion, because I believe it entirely unnecessary. Were this a new question there would be force in what he says; but the question has been closed for a third of a century. As long ago as the case of *Cubbison vs. M'Creary*, 2 Watts and Sergeant's Reports, page two hundred and sixty-two, this whole question was reviewed, discussed and definitely settled; and it was then held by the Supreme Court of this State upon the very language of this section, which is the language of the Constitution of 1790 and 1833 as well as the language of the section now under discussion, that any man who believed in the existence of a God who would punish or reward him for the swearing or affirmation, whether in this or the next life, was entitled to testify.

Now, therefore, the language of the existing Constitution has this advantage over any change offered, that it has been specially expounded and everybody knows what it means. Probably the change indicated by the member from Clarion would receive the same exposition; but I can see no good to be attained by substituting different language over

language which has been authoritatively expounded and which meets precisely as well the objection put argumentatively and hypothetically by the gentleman from Delaware as the objection put pointedly by the gentleman from Clarion. I shall vote for keeping the section precisely as it is.

Mr. BROOMALL. I shall vote for the amendment of the gentleman from Clarion, not because it does all I wanted to do, which was to clear our Constitution of everything in the shape of a creed, and so make this section consonant with the section that precedes it; but I shall vote for it for the reasons that according to the argument of the gentleman who has preceded me, the Supreme Court has decided that in effect the words moved to be stricken out are not there. He wishes to keep the Constitution as it is, because it has received a judicial construction, but the judicial expression upon which he relies, to wit: That the words are not in effect there, is the strongest argument in favor of striking them out altogether; that they be not there in fact, as well as in effect. I would remind the gentleman, too, that there are such things as changes of judicial construction, and I doubt very much whether five judges of the Supreme Court, throwing aside all prejudice against creeds and looking upon this language just as it is, could conscientiously declare that the words "state of" have no function in the sentence.

To my mind it is distorting the Constitution to hold that the words "state of" refer to our present condition of life, and I am sorry to leave anything in the Constitution that would be a stumbling block in the way of future judges, as most assuredly this would be. When a conscientious judge comes to look at the words, and I am not saying that the gentlemen who made that decision alluded to are not conscientious, I am only saying that their consciences fitted more comfortably than the consciences of some other men—when a judge whose conscience is not so comfortable comes to assign a meaning to these words, I doubt very much whether he can conscientiously say that the words "state of" have reference alone to this life.

I am also reminded by the gentleman from Clarion that the decision itself does not come up to the point alleged, but that it is upon the law excluding from testifying certain persons who have not suffi-

cient religious convictions and not upon this clause of the Constitution at all. I do not know how that may be. I have not the decision here, but I would desire to expunge from the Constitution every partiality for every set of religious opinions, so that at least in this country religion shall be as free as the air we breathe.

Mr. MANTOR. I should like ask the gentleman from Delaware a question.

Mr. BROOMALL. Certainly.

Mr. MANTOR. Has the gentleman from Delaware any knowledge where the Legislature has ever denied the right to hold any office of trust or honor or profit under this section as it is in the Constitution, to any person on account of his religious belief.

Mr. BROOMALL. No, I have already stated that no Legislature has ever been mad enough to enact a law under this provision. It never was carried out and it never will be carried out in this enlightened age, and therefore it should be stricken out.

The PRESIDENT *pro tem*. The question is upon agreeing to the amendment of the gentleman from Clarion (Mr. Corbett.)

Mr. CORBETT. On that question I call the yeas and nays.

The PRESIDENT *pro tem*. Is the call sustained?

Messrs. Littleton, Ewing, Howard, Campbell, Bowman, Corson, Dallas, Hay, Biddle, Boyd, J. S. Black, J. M. Bailey, Hunsicker, Craig, De France, Reynolds, Simpson and Hanna rose.

The PRESIDENT *pro tem*. The call is sustained, and the Clerk will proceed with the call.

The yeas and nays being taken were as follow:

YEAS.

Messrs. Bardsley, Beebe, Broomall, Campbell, Carter, Corbett, Corson, Craig, Darlington, De France, Finney, Hanna, Howard, Littleton, Newlin and Reynolds—16.

NAYS.

Messrs. Achenbach, Addicks, Andrews, Bailly, (Perry,) Bailey, (Huntington,) Baker, Barclay, Bartholomew, Biddle, Bigler, Black, J. S., Bowman, Boyd, Brown, Bullitt, Calvin, Carey, Clark, Collins, Curry, Dallas, Dodd, Edwards, Elliott, Ewing, Gilpin, Guthrie, Harvey, Hay, Hazzard, Heverin, Hunsicker, Kaine, Lamberton, Landis, Lear, Lilly, MacConnell, McClean,

Mann, Mantor, Metzger, Minor, Niles, Palmer, G. W., Palmer, H. W., Patton, Purviance, Sam'l A., Read, John R., Reed, Andrew, Rooke, Ross, Runk, Russell, Simpson, Smith, H. G., Smith, Henry W., Smith, Wm. H., Stanton, Struthers, Turrell, Walker, Wetherill, J. Price, Wherry, White, David N., Woodward, Worrell and Wright—68.

So the amendment was rejected.

ABSENT.—Messrs. Ainey, Alricks, Armstrong, Baer, Bannan, Black, Charles A., Brodhead, Buckalew, Cassidy, Church, Cochran, Cronmiller, Curtin, Cuyler, Davis, Dunning, Ellis, Fell, Fulton, Funck, Gibson, Green, Hall, Hemphill, Horton, Knight, Lawrence, Long, MacVeagh, M'Canant, M'Culloch, M'Murray, Mitchell, Mott, Parsons, Patterson, D. W., Patterson, T. H. B., Porter, Pughe, Purman, Purviance, John N., Sharpe, Stewart, Temple, Van Reed, Wetherill, J. M., White, Harry, White, J. W. F. and Meredith, *President*.—49.

The *PRESIDENT pro tem.* The question now is on the fourth section.

Mr. CAMPBELL. I move to strike out the section and insert as follows, in lieu of it:

"The free exercise and enjoyment of religious profession shall forever be guaranteed, and no person shall be denied any civil or political right, privilege or capacity on account of his religious opinions."

That is substantially the provision of the New York Constitution, and of the Iowa, Illinois, and a number of the other Constitutions. It gets rid of the objections which some members make to the present provision that it would exclude certain persons from holding office or being witnesses. I propose now simply to call for the yeas and nays on the amendment.

Mr. CURRY. Mr. President: I hope this proposition, with all similar propositions upon this subject, will meet with the disapproval of this Convention, as did the amendment offered by the gentleman from Clarion (Mr. Corbett.) It seems to me that it is merely a waste of time for this Convention to trifle with propositions of the kind. I presume no people upon the face of the earth have more freedom than the American people; and why try indirectly to make a sectarian rule in the Constitution as this amendment proposes.

Mr. BROOMALL. Mr. President: I think the last observation of the gentleman who has just taken his seat very remarkable. Why, the amendment guarantees free-

dom of religion just as the Constitution of New York and the Constitutions of the other States that have been named do. It guarantees freedom of religion. At the time this provision was put in our Constitution the people of the State had some question whether men who claimed an especial privilege to appeal to the throne of grace had not some right to compel the less favored of us to subscribe to notions of theirs. The Constitutions of the States that have been revised lately, when the people of the country have come up to the full growth of christianity as understood in America, and are willing to grant religious freedom in its fullest and largest sense, have dethroned the gentleman and his compeers from civil power and have made their power to rest where they ought to do, upon the consciences and convictions of men. Now, I think that this section is behind the age; it is behind the institutions of our country, and I think the gentleman here who votes against the provision offered by the gentleman from Philadelphia, that all religious professions shall be free forever and guaranteed so, must have a very narrow creed of his own and must have some fondness for the smoke of Smithfield and the ropes of Boston that used to force people's opinions to be right by measures which we, in our superior enlightenment, would hardly justify.

Mr. CORBETT. Mr. President: As this section now stands I undertake to say that it is proscriptive. There is a denomination in the State of Pennsylvania, known commonly as Universalists. Those people under the decisions of the courts of Pennsylvania, are competent witnesses. They believe in future rewards and punishments; in other words, they believe in rewards and punishments in this life, but they deny a future state, and the word "state" is used in contradiction. Now, my learned friend from Philadelphia, (Mr. Biddle,) who is a good lawyer, cites those decisions as applicable to this section. I say they are not at all. Those decisions were made on questions of the competency of evidence, and if you will read those opinions carefully, the very contest was between a belief in future rewards and punishments and a future state of rewards and punishments; and the court held that those believing in future rewards and punishments were competent to testify, although they did not believe in a future state of rewards and punishments. That was the decision.

Now, what does this section do? It is simply a negative-pregnant. It is a limitation on the Legislature, but, inferentially, it gives the Legislature the power of excluding every man in the State of Pennsylvania who does not believe in a future state of rewards and punishments. That is the result of it. It is a negative pregnant. It gives them that power, and the Legislature, if it were in session tomorrow, might pass an act excluding every one of these men from holding office in the State of Pennsylvania.

I ask you if that is just? I ask you if it is right? We know that these people are as moral as other people, and why should they be excluded? Your courts do not exclude them as witnesses. I recollect that in a contest of this kind with my friend from Allegheny we had this whole question discussed, and the person was taken as a witness, although he did not believe in a future state; he believed in future rewards and punishments; he believed in a God, and he was held competent as a witness, and he testified and there was a conviction on his testimony. Courts give credit to these men, as they do to all others, and juries give credit to them, and why should you incorporate this clause into the Constitution that really does proscribe these men?

I shall vote for the amendment of the gentleman from Philadelphia, although it is much broader than the amendment that has just been voted down.

The *PRESIDENT pro tem.* The question is on the amendment.

Mr. CAMPBELL. On that question I ask for the yeas and nays.

The *PRESIDENT pro tem.* It requires ten delegates to second the call.

Messrs. Broomall, Dallas, Gilpin, Biddle, Corbett, Heverin, H. G. Smith, Reynolds, Howard, Hay, J. M. Barclay, John R. Read, Curry, Newlin and Beebe rose to second the call.

The *PRESIDENT pro tem.* The call is sustained, and the Clerk will call the roll.

The question being taken by yeas and nays resulted: yeas twenty-nine; nays fifty-eight, as follow:

YEAS.

Messrs. Addicks, Baily, (Perry,) Bardsley, Bartholomew, Beebe, Boyd, Broomall, Bullitt, Campbell, Carey, Carter, Corbett, Corson, Craig, Darlington, De France, Gilpin, Hanna, Heverin, Howard,

Hunsicker, Knight, Littleton, Mantor, Newlin, Read, John R., Reynolds, Smith, H. G. and Wetherill, Jno. Price—29.

NAYS.

Messrs. Achenbach, Andrews, Bailey, (Huntingdon,) Baker, Barclay, Biddle, Bigler, Black, Charles A., Black, J. S., Bowman, Brodhead, Brown, Calvin, Clark, Collins, Curry, Dallas, Dodd, Edwards, Ewing, Guthrie, Harvey, Hay, Hazzard, Kaine, Lamberton, Landis, Lear, Lilly, MacConnell, M'CLean, Mann, Minor, Mott, Niles, Palmer, G. W., Palmer, H. W., Patterson, D. W., Patton, Purviance, Sempel A., Reed, Andrew, Rooke, Ross, Runk, Russell, Simpson, Smith, Henry W., Smith, Wm. H., Stanton, Struthers, Turrell, Walker, Wherry, White, David N., Woodward, Worrell and Wright—58.

So the amendment was rejected.

ABSENT.—Messrs. Ainey, Alricks, Armstrong, Baer, Bannan, Buckalew, Cassidy, Church, Cochran, Cronmiller, Curtin, Cuyler, Davis, Dunning, Ellis, Fell, Finney, Fulton, Funck, Gibson, Green, Hall, Hemphill, Horton, Lawrence, Long, MacVeagh, M'Camant, M'Culloch, M'Murray, Metzger, Mitchell, Parsons, Patterson, T. H. B., Porter, Pughe, Purman, Purviance, John N., Sharpe, Stewart, Temple, Van Reed, Wetherill, J. M., White, Harry, White, J. W. F. and Meredith, *President*—46.

Mr. RUNK. Mr. President: There is a verbal amendment in the first line that I think should be made in order to make the language conform to the present form of expression. I have reference to the word "being." I think if the word "existence" was substituted for the word "being," it would be more in conformity with the present mode of thought. I therefore move to strike out the word "being," and insert "existence."

Mr. KAINE. The section as before the Convention is precisely a transcript of the same section in the old Constitution. The word "being" is there used; and I do not think it is worth while to change it to the word "existence." The old Constitution says that "no person who acknowledges the being of a God and a future state of rewards and punishments shall," &c. I hope the change will not be made.

The *PRESIDENT pro tem.* The question is upon the amendment of the gentleman from Lehigh (Mr. Runk.)

The amendment was rejected.

The PRESIDENT *pro tem*. The question now is on the section.

The section was agreed to.

The fifth section was read as follows:

SECTION 5. That elections shall be free and equal; and no power, civil or military, shall at any time interfere to prevent the free exercise of the right of suffrage.

Mr. DARLINGTON. I move to strike out all after the word "equal" in the first line, which will leave the section precisely as it is in the old Constitution.

Mr. President, I have but a word to say on the subject. While I would agree with every gentleman here that there ought to be no interference by civil or military power with the exercise of the right of suffrage, placing this in the Constitution may have the effect to turn some of your elections into mobs where the free exercise of the right of suffrage may not exist, and it will be done under the pretense of preserving the freedom of elections.

Now, I would propose to leave it precisely where it has always been, and if a mob should take possession of your elections in the city of Philadelphia or elsewhere let it be the duty of the government to disperse the mob by troops if necessary and insure the free exercise of the elective franchise. I fear that by putting this into the Constitution, you make it an open question whether the government can interfere by military force to secure the free exercise of the right of suffrage. I want that left as it is now so that the government shall by all the power of the government secure this invaluable right.

Mr. MACCONNELL. If the amendment of the gentleman from Chester be adopted, it will leave the section stand just as it is in the old Constitution. That provides "that elections shall be free." That, it seems to me, covers the whole ground. That they shall be equal seems to me to mean nothing at all; but if elections are free, and if they are equal what more can be asked for? I have been opposed to this new addition all the way through, and I hope the words will be stricken out.

The PRESIDENT *pro tem*. The question is on the amendment.

Mr. J. R. READ. I call for the yeas and nays.

The PRESIDENT *pro tem*. Gentlemen seconding the call will rise.

Messrs. Bartholomew, Brodhead, Calvin, Campbell, Clark, Curry, Darlington, De France, Edwards, Hanna, Knight,

Mantor, Minor, Runk and Struthers rose to second the call.

The yeas and nays were taken and resulted—yeas thirty-four; nays fifty-two, as follows:

Y E A S.

Messrs. Addicks, Bardsley, Bartholomew, Beebe, Broomall, Calvin, Carey, Carter, Clark, Collins, Craig, Curry, Darlington, Ewing, Hanna, Hazzard, Howard, Knight, Lilly, MacConnell, Mann, Mantor, Minor, Newlin, Palmer, H. W., Patterson, D. W., Purviance, Samuel A., Reynolds, Rooke, Russell, Stanton, Struthers, Turrell and White, David N.—34.

N A Y S.

Messrs. Achenbach, Andrews, Bailly, (Perry,) Bailey, (Huntingdon,) Baker, Biddle, Bigler, Black, Charles A., Black, J. S., Bowman, Boyd, Brodhead, Brown, Bullitt, Campbell, Corbett, Corson, Curtin, Dallas, De France, Dodd, Edwards, Elliott, Gilpin, Guthrie, Harvey, Hay, Heverin, Hunsicker, Kaine, Lamberton, Landis, Lear, M'Clellan, Mott, Niles, Palmer, G. W., Patton, Read, John R., Reed, Andrew, Ross, Runk, Simpson, Smith, Henry W., Smith, Wm. H., Walker, Wetherill, J. M., Wetherill, Jno. Price, Wherry, Woodward, Worrel and Wright—52.

So the amendment was rejected.

ABSENT. — Messrs. Ainey, Alricks, Armstrong, Baer, Bannan, Barclay, Buckalew, Cassidy, Church, Cochran, Cronmiller, Cuyler, Davis, Dunning, Ellis, Fell, Finney, Fulton, Funck, Gibson, Green, Hall, Hemphill, Horton, Lawrence, Littleton, Long, MacVeagh, M'Camant, M'Culloch, M'Murray, Metzger, Mitchell, Parsons, Patterson, T. H. B., Porter, Pughe, Purman, Purviance, John N., Sharpe, Smith, H. G., Stewart, Temple, Van Reed, White, Harry, White, J. W. F. and Meredith, *President*—47.

The section was agreed to.

The PRESIDENT *pro tem*. The sixth section will be read.

The CLERK read as follows:

SECTION 6. That trial by jury shall be as heretofore, and the right thereof remain inviolate.

Mr. NEWLIN. I offer the following amendment: Strike out all after the words "Section 6," and insert:

"The right of trial by jury shall remain inviolate, but may be waived by the parties, and the cause shall be decided by the

court in the manner to be prescribed by law. In civil cases three-fourths of the jury may find a verdict, after such deliberation as may be required by law."

The PRESIDENT *pro tem*. The question is on the amendment of the gentleman from Philadelphia.

Mr. NEWLIN. The Convention will observe that there are two propositions embraced in this amendment. The first is permitting parties to waive a jury trial and leave the law and the facts to be decided by the court. The other is in civil cases to allow nine jurors out of twelve—or three-fourths of a jury, which is the same thing if twelve constitute a jury—to give a verdict after such length of deliberation as shall be required by law.

As to the first proposition, it occurs to me that, on every reasonable principle, parties should be permitted, if they see fit, to waive a jury trial. We know that in equity proceedings, the complainant brings the defendant into court and compels the waiver of a jury trial without consulting him; and, under the rapid growth of the equity system, the most important questions of law and fact are now determined by the court on exceptions to masters' reports, without the aid of a jury; and that, too, Mr. President, without the consent of the defendants in the action. My proposition here would of course apply only in common law proceedings; and there it would require both parties to consent before the cause would be submitted to the court. Now, not only in equity, but also in orphans' court proceedings, it is the every-day practice, in all parts of the State and in every part of the United State, to leave the question of law and fact to be decided by the court without any jury whatever. And the system has worked well. It has never been complained of, and there is no reason whatever, that I can see, why it should not be extended in the manner indicated in the amendment.

When this question was before the Convention on a former occasion, the principal, and in fact I take it the only argument, that was urged against this system, was that if the court were compelled to decide questions of fact and in that way pass upon the veracity of witnesses, disappointed litigants would create a clamor which would reflect upon the judiciary, and in that way would weaken the respect of the community for the judges. It was urged that even the allegation of partiality in a judge in de-

ciding questions of fact, even the allegation of the existence of that partiality, would give rise to such a feeling of distrust in the community as would injure the judiciary and cause parties litigant to feel uncertain as to the proper determination of their rights. If I recollect aright, that was the only objection to this system on which there was really any plausibility whatever. We all know that in addition to the cases I have cited, of equity proceedings, orphans' court proceedings, and I might also add cases in admiralty where the court decides the facts and the law without a jury, in a number of States the system of waiving jury trials in common law cases and of allowing the law and the facts to be decided by the court has been tried for many years. Since this question was up before I have been in correspondence with judges of the Supreme Courts of those States, and in writing to them I mentioned the objections that were raised here to the introduction of the system into this State. I have received replies from seven different judges. I do not propose to read them all, though the letters are short; but I will read a few. I take it that these letters will conclusively show that the objection which has been urged to this system does not apply and that it does not arise when practically tried.

I will read a very short letter from the chief justice of the court of appeals of the State of Maryland, (Judge Bartol,) and I would say just here that certainly that State is not liable to the objection which is frequently urged here against what might be called the immature Commonwealths of the West; because, when propositions are urged here as being supported there, we are frequently told that they are infant States; that they have not had the length of experience to fit them to decide questions by precedent for us. The State of Maryland is an old State, a conservative State, and eminently so; and I might also add that where a jury trial is demanded, there is no State in the Union where a jury has greater liberty and more weight than in the State of Maryland. I have tried causes in that State, and I can remember one case in particular which occupied three weeks, and in which there were one hundred and fifty witnesses examined on the two sides, and after that was over the sole charge of the court was this: "Gentlemen of the jury, if you believe the witnesses for the plaintiff, you will find a verdict accord-

ingly; and if you believe the witnesses for the defence, you will find for the defendant." In that State they never undertake to charge the jury upon the facts, and even on questions of law the court never charges the jury. Both sides present their points; they are settled by the court, and then they are used indiscriminately by counsel as instructions from the court. I make this observation to show that in that State jury trial is not looked down upon, but where the parties desire it, it has the fullest possible sway; and, therefore, I take it that in such a State, and an old State, the experience of the past is worthy of careful consideration. Chief Justice Bartol says:

"The provision in our Constitution permitting parties in civil cases to waive a jury trial, and leave the decision of law and facts to the court, was first adopted in 1864."

That is when they amended their Constitution.

"It was afterwards incorporated in the Constitution of 1867. The experience both of the profession and the public, so far as I am informed, has demonstrated that the provision is a good one."

I will take occasion here to observe that the chief justice does not sit at *nisi prius*, but his seven associates all sit at *nisi prius* in the circuits into which the State is divided.

"I have no practical experience on the subject which would justify me in expressing an opinion, as my official duties are confined to the appellate court; but all of my associates, six in number, sit at *nisi prius*, having their several circuits. They all unite in saying that this constitutional provision has their approbation, having been found to work well in practice. It is often acted on. It saves trouble and expense and delay, and has not been found liable to the objections suggested in your letter to me."

Which were the objections I have just been answering. He adds that:

"In criminal cases ever since 1809 the defendant has had the right of election in this State to submit his cause to the court, waiving his right to a jury trial."

In the State of Vermont, which is certainly an old State and a conservative one, a judge of the Supreme Court, Judge Barron, writes as follows:

"In more than thirty years of professional and judicial life in Vermont, I have neither seen any indication nor heard any intimation of such results from the trial of issues of fact and law by our

courts as indicated in your letter. It is extensively practised and with quite as little conscious criticism of decisions as is expressed upon verdicts of juries or upon judgments of the courts upon questions of law."

I have another letter, from Judge Coolsey, who is well known, I suppose, to every member of the profession upon this floor:

"The system of permitting the parties to waive jury trial has worked well in this State and has never led to any attempt to set aside the circuit court judges by reason of dissatisfaction with their decisions. Several of these judges are retained upon the bench by common consent so long as they see fit to remain. Decisions on questions of law are much more likely to lead to organized opposition on the part of dissatisfied litigants and others, because these sometimes affect particular interests very extensively, and relate to subjects upon which popular and political excitement is easily aroused; but the cases must be very peculiar that would lead to any formidable opposition to a judge or shake his hold upon the public confidence because of his rulings in individual cases upon the facts. I do not know why the danger would not be as great in admiralty and in equity cases where a jury is never had, as in cases of common law. Of course, individual instances of hostility to the judge are met with; but, so far as I have observed, the effect upon the election has been inappreciable."

I have another letter, which I will read, from Judge Cole, a judge of the Supreme Court of the State of Wisconsin:

"Yours of the 30th is before me asking my views in regard to the practice in this State which permits parties to a common law action to waive a jury trial, and to leave the decision of the law and the facts to the courts."

"In reply, I have to say that such a practice has obtained in this State since the organization of the State government, in 1848, and so far as I know has worked well. I do not think that judges are subjected to the clamor of disappointed litigants any more by deciding questions of fact than by deciding questions of law. Nor do I believe there is any ground for saying that public confidence is weakened in the judiciary by the practice of submitting the decision of questions of fact to the court. In 1860 the Legislature went further and provided that, upon an appeal to the Supreme

Court from a judgment rendered in cases tried by the court or before a referee, the Supreme Court might review any question of fact as well as of law decided by the court or referee upon exceptions taken to those findings. This enactment practically places common law actions tried by the court or before a referee, upon the same ground, so far as a review of the facts in the Supreme Court is concerned, as equity causes; and this law is so popular with the profession that all efforts to have it repealed have thus far been unavailing. And this shows, as I think, a growing tendency, on the part of the profession, to submit more and more the decision of questions of fact to the courts in common law cases; and there can be no doubt that the practice of waiving jury trials is becoming every year more popular with the profession, and that thus far experience has proved nothing whatever against it."

There is one other letter from Minnesota which I will read, from Judge M'Millan, of the Supreme Court of that State. He says:

"The provision permitting the parties to an issue of fact in actions arising on contract, and with the consent of the court in other civil actions, to waive a trial by jury and have the cause tried by the court, was adopted in 1851, shortly after our territorial organization, and has been in operation ever since. The practice of waiving a jury trial and consenting to a trial by the court, at least in our city, and in larger communities, is quite frequent and familiar to us. The operation of the system in our State has been altogether favorable, and our experience under it affords no ground whatever for the objection that the system subjects the judges to the clamor of disappointed litigants, or weakens the public confidence in the judiciary. Our *nisi prius* courts are composed respectively of a single law judge. Our juries will compare favorably with those in other parts of the country."

Mr. President, in addition to all of this concurrent testimony upon this subject, and in addition to the propriety of allowing parties to do what they see fit, the proposition resolves itself into this: That by allowing parties to waive a jury trial in common law proceedings, we have all the benefit of equity in the decision of causes without any of the expense which attends the appointment of examiners and masters, and the printing of testimo-

ny, and the extended delay which necessarily attends those proceedings.

Again, the proposed amendment leaves it entirely to the Legislature to provide all the details of this system. They can provide in what manner the waiver shall be, whether openly or in writing. They can also provide as to writs of error and appeals, and they can regulate in detail everything which is necessary to make this system a perfection.

On the second proposition, of allowing three-fourths of the jury to find a verdict, I have but very few words to say.

In the first place a jury is the only body known to the law, composed of more than two individuals, wherein a majority does not rule. In all judicial proceedings, in all courts, in all commissions, in all legislative bodies, in elections, everywhere, a majority governs. Here it is proposed simply that three-fourths may find a verdict, and that not immediately. It is intended that they may only find a verdict after such length of deliberation as shall be required by law. That is a matter of detail which I would leave to the Legislature. I think it would be wise to provide three or six hours, so that the minority should be heard. They might urge their reasons to the nine why the verdict should be the other way, and if, after spending a reasonable time in trying to arrive at a conclusion, they fail to unanimously agree, then a majority, or at all events three-fourths, should be permitted to find a verdict.

The origin of this rule alone should convince this body that it is not founded on reason. Originally, juries were simply witnesses. They were sworn not to *find* the truth, but to *tell* it, and that is why they were called from the vicinage, and when a jury was empanelled, and the jurors swore that they did not *know* the truth, that they themselves could not determine the question of their own knowledge, they were discharged and another jury was summoned, composed of jurors who did of their own knowledge know all the facts of the case. For hundreds of years, and until the middle of the sixteenth century, juries were composed of nothing but witnesses, and it was required that twelve witnesses should agree upon one state of facts, and when there were only twelve of these juror-witnesses, and some of them did not agree with the majority, how were the twelve obtained? Why, sir, additional jurors were sum-

moned. If seven men were for the plaintiff and five for the defendant, instead of taking a vote and deciding the question there, five more jurors, or six, if necessary, were summoned, and the seven were added to until twelve were found who could agree, and the minority were excluded. That is how unanimity, as it is called, was reached in juries in the times wherein the rule arose. This process was called "affording the assize."

That being the origin of the rule, and there being so many grounds why such a rule never should have existed, it is only reasonable at this time to discard it. It will be observed that it is not proposed to bring this system into use in criminal cases. I am not clear in my mind as to the propriety of that proposition, and I am not willing to go any further than this.

MR. HAZZARD. Mr. President: I am very much in favor of the proposition of the gentleman from Philadelphia (Mr. Newlin.) I know we are very much attached to old usages and do not like to make violent changes in politics or in the organic law; but I believe that this amendment as proposed, as far as juries are concerned, is demanded and expected of this Convention.

There does not seem to be any magic in the number twelve; but when we speak about juries, we usually remember that twelve men constitute a jury, and we have been constantly carrying on cases in our courts before that number of men. When this subject was up before I listened with great attention to the argument of delegates, and I must confess I adhere to my first convictions upon this subject, that in civil cases three-fourths of a jury should find a verdict. I said there was no magic in the number twelve. There were twelve chosen apostles, but one Judas dissenting, the world took the verdict of the eleven, and is acting to-day upon their finding.

Those who spoke at the time when the subject was up under a section in the judiciary report, seemed to think it was proposed to destroy the trial by jury altogether, whereas, it is only designed to modify the manner of receiving the verdict.

There is at present a virtual modification of the trial by jury. Arbitrators are quasi jurymen, and we take their award, although in some cases only a majority sign the finding, and this majority sometimes consists only of two. A jury of

six try cases before justices of the peace, and yet the Supreme Court have said these two forms are not contrary to the Bill of Rights or any other provision of the Constitution. It will be conceded, I think, that in case a jury be called they are usually of about the same general integrity and intelligence, and would agree on subjects presented to them only for the misconception of some fact presented, or of the law, or charge of the court, or, which is more probable, disagree for the mere purpose of defeating a verdict to save a friend, or on account of improper means having been used to influence the jurymen. One man of this sort may get upon the jury, but it becomes more improbable that two may be found, and still more that three corrupt persons of this sort could by any means get upon a jury. Should more than three disagree it would be very proper to hesitate and presume there were honest and conscientious doubts. I am of the opinion if we adopt this amendment we avoid much that is now corrupt and save great cost and much valuable time of the court in re-trying cases, and in a great majority of instances we would obtain a righteous and intelligent judgment.

Special cases may be cited on both sides where justice has been defeated by the disagreement of one or two jurymen, and in other cases where an innocent person has been saved from punishment for the same reason, but on the premises already assumed that the calm judgment of nine is better than the judgment of three, this amendment seems to me to be highly proper and safe. In voting for it I know I reflect the wishes of those I represent, for having often witnessed the ostentatious stubbornness of a single jurymen, they are, many of them, desirous of having this change.

We cannot prove anything by special cases, but there are cases within the knowledge of every one in this Convention where justice has been defeated by the disagreement of a single jurymen. I understand there are some fifteen thousand liquor shops in this city and they keep open on Sunday. They keep open those important places where whiskey can be bought and where cigars can be bought, the necessities of life, [laughter;] but if a man wants anything for his family in the way of groceries he cannot get it until Monday. You cannot turn a corner, however, without finding a liquor shop and a cigar store open. I have understood that

there was a case where some of these men were prosecuted. I understand it is against the law to-day to keep these shops open on Sunday. They were taken down here to the court house and tried, but they got a liquor man on the jury, and of course he would not agree and the jury was dismissed, and there was a re trial. Another of the same sort got on that jury, and the jury did not agree. It was said openly by the jurymen in the jury room that he never could consent to a verdict of guilty, for he was a liquor-seller himself. It is said that there are gambling places in this city. They tried a case of that sort down in the court house since this Convention has been sitting here, and there was one man on the jury who knew more than the other eleven on the final trial a long time. He was happy in that thought for two whole weeks, but there was considerable endurance in the other eleven, and finally they did find a verdict of guilty. Now, I think where nine men on a jury, of equal intelligence generally, of the same sort, agree upon a verdict, it ought to be taken, and I think the amendment of the gentleman from Philadelphia ought to be adopted.

Mr. RUSSELL. I call for a division of the question on the amendment.

The PRESIDENT *pro tem.* A division of the question is asked.

Mr. RUSSELL. If the Clerk will read the amendment, I will designate where I wish the division.

The Clerk read as follows:

"The right of trial by jury shall remain inviolate, but may be waived by the parties, and the cause shall be decided by the court in the manner to be prescribed by law."

Mr. RUSSELL. Let that be the first division.

The PRESIDENT *pro tem.* The first division will end there.

Mr. BIGLER. Mr. President: Although deeply impressed with the idea that this is a subject upon which my opinion cannot be valuable, I still desire to express it on one point. I think I am very safe in saying, notwithstanding the remarks of my friend from Washington, (Mr. Hazard,) that no proposition has been submitted to this Convention which has so shocked the sensibilities of the people of this State and of the bar, as the attempt to change the trial by jury.

I do not pretend to enter upon any argument on this subject, for it is not much in the line of my thoughts; but I am

fearful that the influence would be bad, that the tendency would be to poison the sources of justice; in other words, to beget discontent and destroy public confidence in your judiciary and in your trials by jury.

So far as the argument goes that a jury of twelve sometimes fail to agree, you will see that the force of that position is greatly reduced when you consider the difficulties that may surround the agreeing of nine jurors. There may be delay there. It is true, it is fair to conclude that the delay would not be so protracted; but, sir, I do not consider that argument one of great force. There is a sanctity about the trial by jury, the decision of a jury of twelve men, which you can never give to the decision of a less number of jurymen, for this is a proposition to yield a verdict from a jury, a united jury, and accept a verdict at the hands of a part of the jury or from jury men.

This is the special point of apprehension with regard to the pending proposition, and I desire the lawyers here to notice it: You accept a verdict from nine of a jury of twelve; there will remain three of a minority. Now, sir, it will be singular if that minority is not like other minorities, if that minority does not make its own report—of course it would not be allowed to go before the court; but when you accept a verdict from a divided jury, you will find outside of the court the contest kept up; you will find the minority expressing their opinions against the judgment of the majority, and thus beget discontent, and beget dissatisfaction in regard to jury trials; you destroy public confidence. It is no difficult matter to imagine a case in which weak-minded men, in the first instance, constituting a majority, might in their public conversations and discussions go over to the minority, and thus you would have the alarming fact that the opinion that had produced the verdict before the jury had failed to maintain that verdict before the people.

Now, sir, I take alarm at this suggestion. I have taken alarm at other suggestions made in this Convention. I am one of about thirty laymen here. There are over one hundred lawyers, and I felt like entreating the lawyers earnestly not to take up all the landmarks of the government. I am deeply impressed with the danger of this proposition even in its restricted form of accepting a verdict from a part of a jury.

On the other point, I have only a thought or two to express. The testimony presented by my young friend from Philadelphia (Mr. Newlin) that this system of allowing a judge to pass in some measure upon the facts as well as the law, has in some parts of the country operated well, seems to be very strong, almost conclusive, testimony. But, sir, I am quite inclined to think that it would be a very severe ordeal to put a judge through. I judge only by outside observation of public affairs. I have never practiced law, and therefore have not been so close an observer as others; but I do know that there are cases of testimony where, though you may give it to the judge as clear as you can, he will be most successfully and triumphantly criticized in his decisions. It is desirable to know something beyond the naked facts that come before the judge. The jurors of a county generally know that. They know far more of witnesses than they express. They understand their class and their character. They know how far they can rely upon them, and it is no uncommon thing, nor is it a wrong thing, to make great allowances as to testimony. Under such a case of decision by a judge, he would take the testimony precisely as it appeared before him, believing that John Jones and Phil. Wagner were to be trusted implicitly in what they said, whereas the juror, knowing the men, would make large allowance; he would understand something about the credibility of testimony.

These are the two points which have excited an entire aversion, in my mind to the propositions of my friend from the city.

Mr. CALVIN. The gentleman from Clearfield has a great respect for the institutions of the past. Some respect for the past is due and right; but when the reason of a rule or an institution has passed away, the rule or institution itself ought to pass away, or be modified to meet the new order of things.

The gentleman is shocked at the idea that nine jurors should find a verdict. Sir, in a civil suit between A and B, where the question is, how much A owed B, or whether he owed him anything, I should like to know what reason can be given why the twelve men must agree as to the precise amount? I will agree that in criminal prosecutions, when the humane principles, it is alleged, should prevail, that it is better ninety-nine guilty men should escape than that one innocent man

should suffer, unanimity may, perhaps, properly be required. But it strikes my mind—and I have been a lawyer for some years, and the profession are not distinguished for broad and liberal views; there is, perhaps, no profession more wedded to the past, more blindly attached to old forms and customs—I repeat it, it strikes my mind that in the present condition of human reason it is absurd to require twelve men in a civil suit to view a case of complicated facts in the same light, and to come to the same conclusion, and to make this requirement under a solemn oath, and when a mere preponderance of evidence must determine the conclusion at which they are to arrive; when we shall have more nearly approached that glorious period when we all “shall see eye to eye,” we may revive this ancient rule of unanimity. But I insist that in the present state of the human understanding, to make this requirement is to teach men to disregard the solemn obligations of the oath, the foundation of all government.

The gentleman from Washington (Mr. Hazzard) has given us a number of illustrations where one man may defeat the ends of justice in criminal cases; but in criminal cases we do not propose to change or alter the law as it stands. I repeat the question, why should twelve men be required to agree as to the precise amount of indebtedness from A to B? Is there any reason in it? Are we not governed by majorities in every other case—in commissions, in boards of arbitration, in courts, in the Legislature, in elections, in every thing but juries? Will any gentleman give a sensible reason for requiring unanimity in juries? The fact is generally that they do not agree; that a number of them, three or four perhaps of the weakest men on the jury, surrender their judgment to the majority. For example, in the case of inquisitions on real estate, where again the twelve men are required to agree, how do they act? Do they agree? Or, if they do, *how* do they agree? How is a valuation reached? The general practice is for each man to put down the amount of his judgment as to the value of the property, and they then add them all up and divide the gross amount by twelve or more; generally those who are anxious to have a high valuation, and who are fearful that there are others who will put down a valuation too low, in order to reach what they think would be about just, put their valuation high; and *vice versa*, those who are afraid of a high

valuation, put their amounts down below what they believe honestly would be the correct valuation. That is the way valuations are obtained. It is a mockery! There is no observance of their oath at all. Unable to agree, they are compelled by the Constitution and the law thus to *trifle with their oaths*. Should this Convention continue so demoralizing a state of affairs?

Now, as to the full proposition of the amendment, that the parties may agree to submit the questions of fact as well as of law to the court. Why should the parties to a civil suit not have a right to refer the facts and the law to the court? Who ought to object? Who has any right to object? Who is interested but themselves? And if believing that the judge would be competent to decide the questions of fact, more familiar with the business of examining testimony and weighing it, why should not the two parties, the only parties in the world interested in the suit, agree to submit both the issues of law and fact to the judge? and why should the law prohibit them from doing so? They may enter a rule of reference, refer the case to referees or arbitrators, and they may agree that the award shall be final and conclusive; and our courts hold that where a proper agreement is entered into by the parties, making the decision of the board of arbitrators or referees final and conclusive, without appeal or the right of filing exceptions, it is conclusive; and why should not the parties have it in their power to refer to him the whole case?

The testimony from some seven States from the highest officers in the judiciary shows that this system has worked admirably. It would lessen the cost of litigation and facilitate and hasten the disposition of causes.

I am in favor of both these propositions. I believe I would strike out the latter part of the clause which requires that the jury should have the subject under consideration for some length of time before three-fourths shall decide. I would make it competent for a majority of three-fourths to decide the case without requiring them to remain out any length of time after they found it impossible that they could reach unanimity.

I think, therefore, Mr. President, that the first proposition embraced in this amendment, that the parties should have the right to refer the matter to the court, is clearly and manifestly right. I can see

no reason under heaven why the parties should not be permitted to agree to submit the whole case to the judge, and why they should be compelled to try every case before twelve men. I would most certainly, if I were interested in a long and intricate settlement of accounts between parties, prefer to refer them to three experienced men of my own choosing, rather than to twelve men called into a jury-box without any especial reference to their fitness.

It is very well to have a respect for the past; but I would say there appears to me something savoring of superstition in this veneration for juries which my friend from Clearfield (Mr. Bigler) has expressed. I see no reason in it whatever. Let us adhere to these institutions of the past that are right, that have been found to be salutary and convenient, and consistent with the progress of human events; but though somewhat of an old foggy, I have still some young American blood in me, and I am in favor of progress, I am in favor of discarding these things which experience has proved to be cumbersome or unfitted to the new state of affairs, and for going ahead all the time.

I hope, therefore, that this amendment may be adopted, and I am very certain that the people of the country will not be at all dissatisfied with this change. I am quite certain that the people themselves will agree that it would be very absurd in the first place to compel parties to try cases before a jury when they were both willing to submit them to the court, and in the next place they will all see the absurdity of requiring twelve men to agree to one proposition in a civil suit in which the preponderance of the evidence determines the question to be decided.

MR. WRIGHT. Mr. President: I favor a part of the amendment offered by the gentleman from the city and I disapprove of a part. I do not think we ought to interfere with the ancient practice of trial by jury. I do not believe that the people would ratify such a change. My apprehension is that they are sensitive upon that subject. If we undertake to make a revolution in that respect, it will not be acceptable to them. But with regard to the submission of a cause to a judge's decision, that I most highly approve of. I think where both of the parties demand it, it should for all time to come be allowed..

For some years past we have had in our county the referee system. It has been most useful; it has facilitated the administration of justice. A great many causes are referred to a referee. There is not a term of court passes but what at least half a dozen cases are thus referred; and this has been most highly approved because it facilitates the administration of justice in our courts. Now, what objection can there be to referring a case to a judge, because in a majority of instances it is the opinion of the judge upon the facts that controls the jury? The bias of the judge on the facts who tries the cause is always to be found in the jury-box, and the jury always go with the judge.

Mr. WOODWARD. I beg leave to ask the gentleman a question. I do not want to discuss this subject, and therefore content myself with asking a question. I want to know how the advocates of this measure propose to get the facts of the case, after they have been passed upon by the judge, into the Supreme Court for review? I want to know how that body can review the judgment of the judge who passes upon the facts of the case?

Mr. WRIGHT. We merely act here upon the abstract principle. As to the submission of the facts to the court, the Legislature points out the manner in which it shall be done, how they shall be submitted to the court, and they decide upon it as the law provides.

Mr. WOODWARD. Your abstract principle must work out some practical measure. Now, what is it? How are you going to get to the court of review for a review of the facts?

Mr. WRIGHT. That is all for the action of the Assembly. I suppose it will be in the nature of a stated case or a special verdict, and the testimony will be taken the same as if the jury were in the box.

Mr. WOODWARD. Is it possible that it is necessary for me to remind the gentleman that a special verdict or a stated case agrees upon the facts and submits to the court the question of law applicable to those facts? This cannot be compared to that, for here the judge is to ascertain the facts. Now, I want to know how you are going to review him upon the facts?

Mr. WRIGHT. That is a question that nobody can answer here, because it is not before us. The proposition here, as made by the gentleman from Philadelphia, is that the court shall decide the case according to law. As a matter of course, the Legislature will point out the

method and manner in which the case shall be disposed of when it is referred.

Now, in the matter of a case before a referee, he reports the testimony, he reports his decision upon the testimony, he reports the way in which he rules the law upon the testimony. Then, in our court, it comes before their honors and they approve or they disapprove. If they approve or otherwise then a writ of error lies by either party to the judgment of the court upon this report of the referee. I decidedly favor this proposition for another reason. It is a great saving of costs to every county in the State. I apprehend that if this principle be put in practice, there will be a great many causes in the different judicial districts referred to the courts; the expense of keeping a large number of jurors at court will be dispensed with. That is a matter that will avoid a great deal of costs, and I therefore shall vote, in some form or other, for the principle, and I want it put in the Constitution, because then it cannot be repealed. The act of Assembly that extends the system to our county and works there so favorably may be repealed, and we be thrown back upon the old form of practice; but if it be put into the organic law, it cannot be taken away by the Legislature.

Mr. CLARK. Mr. President, When this question was before the Convention on a previous occasion, I was opposed to the proposition, and I am opposed to it yet. It seems to me that we undervalue the privileges we now enjoy in respect to trials of questions of fact. We have two distinct tribunals before whom the two branches of every case are tried—the jury and the court. Now, it is proposed to dismiss the jury in certain cases, and try the question of fact before the court. Let us look for a moment at the character of these two tribunals.

The court very often does, and in the future probably will, consist of but one person, whose term of office may continue for ten or fifteen years. A jury consists of twelve, chosen fortuitously, chosen at the time. All opportunities for previous solicitation, all opportunities for corruption, if you please, all opportunities for improper practices upon that tribunal, are obviated by the manner in which they are chosen. They are chosen from the body of the people of the country, and they come there, forty-eight in number; twelve of that number are chosen by lot to try each cause. They are in most

cases altogether disinterested, and in the main persons of honest instincts. All opportunity for solicitation or corruption is in great measure destroyed by the manner of their selection.

A court, on the contrary, will consist of a single person holding his office for a long term of years, inheriting all the frailties of human nature, in some cases at least, perhaps, accessible as other men, weak as other men, and susceptible to outside influences as other men. Such a tribunal is not to be preferred to the jury. We have in Pennsylvania heretofore experienced the fact that our judges are not thus influenced or corrupted, but we have never entrusted them with the facts of a cause. The jury is empanelled for a single cause, the court tries all cases. Jurors are practical men, experienced in the affairs of men—in agricultural districts they are devoted to that interest, in manufacturing districts they are generally thus engaged, and in commercial and mercantile communities they are generally chosen from persons in that calling—hence they generally exhibit in their experience a knowledge, practical and useful, in matters coming into or likely to come into controversy.

More than that, there is between the bench and the bar, at the present day, existing a condition of feeling and sentiment which is very much to be courted and admired, and very much to be desired in the future. As I remarked on the previous occasion on this very question, the odium of every case is in the disposal of the facts. Questions of veracity arise, questions of conflict of evidence and questions of character involving a special importance in the locality from which they come. Should the judge carry all the odium of such cases on his own shoulders? Must he bear the odium of this and of that and of the other case until he becomes odious to all parties? As it is now, the jury carries that odium away from the court, and the court disposes only of such questions of law as are involved and which may be reviewed in another and a higher tribunal; hence the high character in which, in the estimation of the people of the Commonwealth, our courts have always been held. I say this to protect the courts and to prevent any diminution of the high sense of respect in which they are held by the people of the State.

But it is answered that the parties must agree before this proposition can be car-

ried out, that the court shall not try such a case until the parties shall agree to submit it. I say that under this proposition the court has no right to deny or refuse to decide questions of fact. If the parties agree, they may force upon the court the duty of disposing of that issue, and the court should have the right to refuse. It is for the court that I stand here to object to this proposition, and I say that this amendment would impose upon them not only an onerous but an odious duty which they have no right to bear and which the people of this Commonwealth have no right to insist upon. I regard the amendment as dangerous and pernicious in principle, and it ought to be dismissed by this Convention.

Mr. BARTHOLOMEW. Mr. President: I took occasion once before to express my views upon this question. I propose to treat this subject now fairly, and say that I am not an advocate of the first branch of this proposition, but that I am a sincere advocate of the second branch. Further, I would go so far as to apply the rule here sought to be introduced into civil cases, to misdemeanors as well. I am satisfied, however, that this broad proposition will not prevail in this Convention, and I simply desire to place myself upon record.

I have an intense desire to do something in this Convention that was not done in Illinois. [Laughter.] I feel as though we should try not to have assembled here and spent nine months of our time, and rise without taking one step in advance in governmental science which would entitle us to the gratitude of the people of the Commonwealth. I take it that we have heretofore had submitted to us a proposition which, if accepted by this Convention, would have entitled us to a place in the memory of men—the proposition voted down the other day to elevate the character of the Senate, and protect the public funds which have been waylaid in the treasury by the political robbers of the Commonwealth. But it was voted down. And why? Because Illinois had not adopted it, and for no other reason under the heavens. I take it that if we propose to do anything that will leave a record of our action, it is our duty to take one step at least in advance in this question of government.

I know that it is the tendency of the men of this Commonwealth, because of their peculiar character and of their origin, antecedents, and descent, to be

conservative and slow. This has been a characteristic of our people, and it has been, perhaps, a sheet-anchor of safety. In many cases we have ridden the storm safely and without damage on this principle. But where, I ask, in the history of this Commonwealth is there a record of one great advance step that was worthy the gratitude of a people? This I fail to see.

I take it, right here, that this jury system is one which not only the minds of the people of the Commonwealth adhere to with great tenacity and firmness, but also that the professional mind has been educated and drilled to believe that it is the great bulwark of American liberty and the great protection for the American citizen in his rights. And yet when we look at the origin of the jury system, we find that from the beginning the whole system is based, not upon the attempt to get the honest judgment and conscience of the juror, but to coerce his judgment and coerce his conscience. Why, the history of the past has taught us that the jurymen has been subject to physical torture, deprivation of food. What for? To get his honest opinion and his conscience? He had that half an hour after he went into the jury room. No; it was to coerce him from that which before God, and in accordance with his conscience, he deemed to be right, and to drive him from that position.

I am not in favor of adhering to anything merely because it is ancient and covered with the dust of ages. I believe that there is more value in one mile of railway track than there is in the pyramids of Egypt. I believe in that rule of action in life which will produce, or is most likely to produce, results of substantial benefits to our kind. Let us gather wisdom from the past with this object in view; but let us not be paralyzed in our progress by clinging to institutions whose chiefest merit is age and long uses. We cannot disguise from ourselves that the unanimous verdict, as a rule, has been founded upon coercion; unanimity is a rule unknown to any other department of municipal government. To illustrate: A case is tried before a common pleas judge, with two associates unlearned in the law upon the bench; the particular case may not involve more than a hundred dollars; the legal question to be determined upon the facts, however, may involve thousands.

You require the unanimous verdict of the jury to determine the right for the mere pitiful sum as to fact; but the great question of law involving thousands you allow a majority of the judges to decide, and that majority may be composed of men, laymen unlearned and unfamiliar with legal principles. I took occasion before, when discussing this question, to illustrate my position by referring to the difference in mental construction of men, that it never was, or will it ever be, that twelve men can see a transaction or hear it detailed by those who did see it, who will come to the same conclusion in relation to it; it is against the uniform action of the mind, and, therefore, I claim that your trial by jury heretofore, requiring the unanimous consent of twelve men, has been not the result of deliberative judgment and conscience, but the coercion of all. And, say what you please, I take it that this system is open to the objection that it is liable to work injustice and wrong by means of fraudulent approaches.

If you have three-fourths of a jury, if you have nine men to determine a verdict, I take it that the chances are three out of five that that verdict will be nearer right upon that proposition of being less liable to fraudulent influences than if you require the whole panel to give a unanimous decision. If there are fraudulent means used to make a verdict where nine men shall render it, you have to approach three men, you have to corrupt three men. Where there is a unanimous verdict to be rendered, one single individual may have the power to have either an unrighteous or unjust or a fraudulent verdict rendered, or he may have the power to make the jury disagree. This is in the power of a single man, and as I referred before to cases on trial in New York and cases on trial here, cases within the memory of every lawyer in this body, I say that the power of making a unanimous verdict is a dangerous one; it is not in accordance with the execution and the enforcement of any other principle; it is not in accordance with what I believe to be the best interests of substantial justice. Therefore I shall vote at least for the second branch of this proposition.

Mr. J. S. BLACK. Would the gentleman vote to abolish trial by jury altogether?

Mr. BARTHOLOMEW. No, sir; I would not.

Mr. J. S. BLACK. Why not?

Mr. BARTHOLOMEW. I am for just what I have proposed. I am sorry the gentleman does not understand me. If the jury is to remain as a common law of the number of twelve, then I would say that three-fourths should find a verdict; if you make it nine, then I should say six.

Mr. J. S. BLACK. The gentleman simply objects to having a verdict by twelve men unanimous.

Mr. BARTHOLOMEW. That is the idea exactly.

Mr. J. S. BLACK. But you would coerce nine men.

Mr. BARTHOLOMEW. No, I would not do any such thing, because I say it is exceedingly probable that upon the weight of evidence you will find nine men out of twelve that will agree to a certain proposition, but I will also state what is well known to the gentleman, that you never empanelled twelve men in your life where you did not find one or two very crooked individuals.

Mr. BOYD. Mr. President: I am in favor of the first branch of the proposition and shall vote for it, but I shall vote against the last.

The PRESIDENT *pro tem*. The Chair will endeavor hereafter to keep delegates, in discussing matters before the House, to the discussion of the question immediately pending. The first division of the amendment of the delegate from Philadelphia (Mr. Newlin) is now before the House.

Mr. BOYD. That is what I understood; it is upon that question that I desire to say very few words. If I were a judge, I should be opposed to the proposition, because all of us who know anything about judges know perfectly well that they do not care to do any more work than they are obliged to do. As I have said, if I were a judge, I would be precisely of that class. As I have no expectations whatever in that direction, but expect to be a hewer of wood and a drawer of water at the bar, I am favor of this proposition; and whilst I favor it I can thoroughly appreciate the condition of my friend from Indiana, (Mr. Clark,) who has been a judge at least for a time and who will certainly be a judge at no distant day—and if he is not he ought to be, and from his make-up I am perfectly convinced that he is going to be a judge—and when he is a judge I know perfectly well that he never wants to have any question of fact submitted to him to

decide, or anything that will impose upon him any additional labor to what the judges now have, although he expects in common with us that their pay is to be largely increased. [Laughter.]

And the same principle will apply to my friend from Chester, (Mr. Darlington,) who ought to have been a judge more than half a century ago, and who when he is a judge will be a good judge, and by the time he is one, (which will probably be about fifty years hence,) he will be inclined to take his ease. [Laughter.]

Now, that this proposition should meet with such opposition here passes my comprehension, because there are a large number of cases where there is not much involved and where the litigants have not a great deal of money to spend, and the little that they have the lawyers want; and this will save it from the greedy masters who always manage to get more money for their services than the counsel on both sides united, saving and excepting one case only that I know of, and that is the case of my friend from York (Mr. J. S. Black.) Why should we not be permitted to agree to submit to the judges a few facts about which oftentimes the opinions are not very variant, but which the counsel are not in a position to concede? When there is a difference existing, where the fact must be passed upon, why can we not be allowed by agreement to submit them to the judge for his decision, and thus abbreviate a long litigation and the expense attendant upon it, is as I said before, past my comprehension.

I understand very well about the amenities of the bar and the bench. I do not believe much in having amenities too strong between the bench and the bar. The amenities are generally confined to a few members of the bar who happen to be, as they deserve to be, no doubt, rather favorites of the judge. That is natural; judges are human and so are the bar. But if the amenities do prevail to the extent that is claimed by the gentleman from Indiana, then I am opposed to this amenity business altogether. [Laughter.] I would vastly prefer to see the bar and the bench at arms-length than that these amenities should be preserved and continued in the manner the gentleman proposes to do. He must be one of the amenity gentlemen in favor with his judge, for he tells us that he wants to save his judge as well as all judges from the odium of a decision upon the facts. I answer that by saying that I do not know the judge, certainly

in eastern Pennsylvania, but what does handle the facts and give them a direction to the jury, which the jury respond to by rendering a verdict for the party in whose favor the judge emphasizes the facts, as the judges always do. Not that they do directly say to the jury, "your verdict must be for the plaintiff," or "for the defendant;" but still they have a way of emphasizing certain evidence which will give a verdict a particular direction, and will hastily pass over the evidence on the other side, or will say: "Gentlemen of the jury, the court have not the time to review all the evidence in this case; but the facts are for you, and your intelligence is comprehensive enough, broad enough, and expansive enough to take in all the evidence, and as between the parties and their witnesses you will determine the facts," after he had already fixed it and the verdict.

Now, a judge does that always; and if he incurs no odium when he does so, there is not a particle of danger of his incurring odium when he undertakes to decide the facts that are submitted to him by agreement. Why should there be more odium in the one case than there is in the other? And with entire respect to the gentleman from Indiana, it is the thinnest argument that he has addressed to this body, so thin indeed that it will not wash at all. The only motive I can ascribe to that gentleman for so boldly and violently opposing this proposition is because he triumphed when this matter was up before, and took the advantage of me, by replying after I had concluded. [Laughter.] Now, if I have the advantage of him by following him, I want it; [laughter;] and I would like to throttle—I would not like to strangle, but I would like to hold him still and silent until this Convention can come to a sober understanding and comprehension of this question and allow us to have this as it is proposed, so that we can have justice cheap. I have never been a master and never an auditor but twice, and was appointed first by Judge Burnside by mistake, [laughter;] and his successor was Judge Krause, and he appointed me at the first court, which was also by mistake, [laughter;] and there has never been a mistake of that kind committed in our court since. [Laughter.] I never was a master; but I have been a worker, and I have seen this system of masters and of auditors grow into such proportions that by the time the thing is done there is a

little or no money left for the counsel; and I want some. [Laughter.]

Now, in all seriousness, I appeal to what is the acknowledged intelligence of this body, that is, the honest portion of it, as declared here in the early portion of this session, to wit, the laymen, to take a practical, common sense view of it, and to say whether there can be an objection to the parties and the counsel on both sides agreeing to submit a question of fact for the decision of the court. Surely, in the districts where these amenities exist between the bench and the bar, no two members of such a bar would force upon a judge to decide under this provision any question of fact, because if they found it was disagreeable to the judge the amenities would forbid them to press it upon his consideration, and there is, therefore, not a particle of danger of any hurt in that direction. Why not allow the facts to be submitted to the judge, where he is willing to decide them, and where, as our judge always is, he desires to accommodate and to dispatch business, and where no effort would be made to crowd upon him, or other judges, an interminable investigation, or one that was to last for days and weeks, and where a multitude of witnesses are to be examined *pro* and *con*. Not one time in a thousand would such a case as that be submitted to a judge for his decision upon the facts, but it would be the poor man's cases that will not bear heavy fees, cases where it is extremely desirous that they should be decided with dispatch, that parties would avail themselves of this provision, and only in such cases.

I therefore trust that the branch of this proposition now under consideration will be adopted by this Convention.

MR. DARLINGTON. Mr. President: I cannot agree with my esteemed friend from Montgomery.

MR. BOYD. I said distinctly you would not for the reason I gave. [Laughter.]

MR. DARLINGTON. I do not understand that this Convention seriously contemplate impairing the full force and effect of the article as it stands in the old Constitution, "that trial by jury shall remain as heretofore, and the right thereof remain inviolate." I do not think that we intend to move from that position one whit. It is the only thing at any rate that ought to go in this part of the Constitution, the Bill of Rights; for all that is proposed to be done is to provide that parties may agree to submit the decision of facts to the court,

and that they can do already, and having done so on more than one occasion, it has received the sanction of the Supreme Court of the State as an arbitrament of the whole case and without appeal. You do not propose to confer any additional power upon suitors by this means, but you propose to make it constitutional that they may submit their cases on the facts to the court.

There is no necessity for any change in the Constitution thus far. The only thing, therefore, that is wanted to carry out the views of those who favor this proposition is a provision that the judge shall be compelled to decide the facts. To that I am opposed now, and I trust I shall be forever, because it is unsuitable to the administration of justice that we should educate and place a man upon the bench learned in the law, and then trouble him with the question of credibility of witnesses who are swearing different ways upon every question of fact. It is bringing to the decision of that question intellect which is not necessary to it, learning which is not necessary to it, and taking it out of the hands of those who are best qualified of all others to decide such questions—I mean a jury.

If any disposition is intended to be made upon that question by this Convention, to compel the judges to decide facts, it does not belong in this article; it belongs in the article relating to the judiciary; and introduced there, it cannot receive my assent; but certainly it belongs not here.

Now, as to the question whether you will submit to a majority of two-fifths, three-fifths, two-thirds or whatever proportion of a jury to decide, let us pause a moment and think whether we have in the experience of the last century in the administration of justice in this country found the trial by jury to be such a failure as to call upon us to adopt any such new and untried experiment. Among the thousand cases that are tried in a year, perhaps not one or not more than one is ever believed to be improperly tried. The decisions of the juries in nine cases out of ten are precisely as they ought to be. I appeal to every man's experience who has been on the bench or at the bar, in looking over his past professional life, whether he knows of any material proportion of cases that were improperly decided by juries. If they have not been, there is, I submit, great danger in changing this system which has been so well

tried and so long, for anything new, nine out of twelve, eight out of twelve, or any other number. What guaranty have you that you would have a more accurate decision on a question of fact?

What is the value of the unanimity of the jury? It is that after hearing the facts deliberately at the bar and hearing all that can be said for and against by the counsel, and hearing the charge of the court upon the law, they shall retire to the jury room and there reason together, if they are of different minds, until they shall come to a unanimous verdict—reason together until one shall convince another, until the reason and the argument of the mind shall be brought into play, and thus a conclusion arrived at that shall be satisfactory to all. Grant you that in some instances it may take time; it may take a day, a day and a half or two days; grant, if you please, that in some cases they are unable to agree and the jury have to be discharged, still that is no reason against the universal application of it, and the universal good use of it, and the universal success of it.

I attach great value to that very principle which requires the jurors, when they retire to consider of their verdict, to reason together until they shall arrive at what they believe to be a just conclusion. It is far better indeed that they should be compelled to stay there, not carried around the country, but stay there fed, amply fed and lodged, with free minds and full bodies until they shall have an opportunity to come to a decision by reason and argument.

What would be the result of the other course, to require a mere majority? A jury goes out. They receive an impression while the case is being tried. They go out into the jury-room, and seven of them are found to be of one way of thinking and five of another way of thinking. What is the necessary consequence? "Here are seven of us; we are in favor of the plaintiff, we are in favor of giving him a verdict for so much. What is the use of talking with these other fellows?" No reason, no argument, although the five may have the best of the argument, and may be right, there is no hesitation about deciding against them, because there is a majority in favor of finding the verdict. That is the result. You would lose that most invaluable part of the finding and the verdict—the reasoning together of the jurors.

I am aware that experiments have been proposed in England. I am aware that upon a very recent occasion Earl Russell has introduced into the House of Lords a proposition to permit eight of a jury to decide the questions of fact submitted to them, in Ireland only, probably thinking that eight are enough to decide an Irishman's case; I do not know the reason. In Scotland we know a majority is allowed to decide; but I am yet to learn that the administration of justice in Scotland or anywhere else is purer or safer than it is in England or in America where we have retained, and I hope ever will retain, this bulwark of our liberties in criminal cases, and this invaluable right which every man should enjoy, of having his case submitted to the unanimous verdict of twelve men. I am opposed to all these schemes coming into the Convention, when they may or in whatever article they may; but as to this, I presume we are not disposed to disturb one single letter of this section, but that we will decide that the right of trial by jury shall remain as heretofore, and be forever inviolate.

Mr. ANDREW REED. Mr. President: I am opposed to the branch of the proposition that is now pending before the Convention; and not having spoken, I desire to place my reasons on the record for this position.

The proposition is, that when both sides shall agree, the court shall be required to decide the facts of the case. Now, what would be the practical operation of that? It would be to force the decision of every case upon the judges where one of the parties desires him to decide it. Suppose one side refuses to submit the facts to him when the other side has proposed to do it, will it not be thrown out constantly during the trial of the case in the hearing of the jury, "that on this side we were willing to submit to the decision of the court, a court competent to decide, whereas the other side has declined and refused to do so?" This would prejudice the jury against the other side so that the case would be really decided before the jury goes out. For that reason I am opposed to the proposition.

Another reason is this: Suppose two prominent parties in a county have a case, and as the law is now, they are witnesses; say they are both members of the bar; one man is brought up and he swears to one state of facts, and the other to a diametrically opposite state of facts. In

such a case the court is to determine which of these two men has lied or perjured himself; and the court is bound to make that decision. Do you suppose that when the judge makes that decision, the party against whom he decides will not hold a grudge against him? It will have the effect of arraying a part of the community against him, and they will never forgive him. The result will be to lose for the courts that respect which they ought to have; and during the long time that a judge has to sit on the bench, some fifteen or twenty years, there will be a large part of the people in his district who will be inimical and personally hostile to him, which will produce such a state of feeling as I think will entirely outweigh any benefit which may be supposed would naturally result from the submission of facts to the decision of the courts. For these reasons I shall vote against the proposition.

The PRESIDENT *pro tem*. The question is on the first division of the amendment, which will be read.

The CLERK. The first division of the amendment is to insert in lieu of the section:

That the trial by jury shall remain inviolate, but may be waived by the parties, and the case shall be decided by the court in the manner to be prescribed by law."

Mr. NEWLIN. I call for the yeas and nays.

Messrs. Beebe, Bardsley, Carter, Sharpe, Boyd, Biddle, Corbett, Hay, Hazzard, Dallas, Russell, D. W. Patterson, Worrell, Howard, D. N. White, Kaine and Lilly rose to second the call.

The PRESIDENT *pro tem*. The call for the yeas and nays is seconded, and the Clerk will call the roll.

The question being taken by yeas and nays, resulted: Yeas, thirty-six; nays, fifty, as follow:

YEAS.

Messrs. Bardsley, Bartholomew, Beebe, Boyd, Brodhead, Broomall, Calvin, Campbell, Carter, Collins, Corbett, Corson, Craig, Curtin, De France, Dodd, Edwards, Ewing, Finney, Gilpin, Guthrie, Hazzard, Howard, Landis, Lilly, Littleton, Newlin, Patterson, D. W., Patton, Reynolds, Runk, Russell, Turrell, Wetherill, Jno. Price, White, David N. and Wright—36.

NAYS.

Messrs. Achenbach, Andrews, Baily, (Perry,) Bailey, (Huntingdon,) Baker,

Bannan, Biddle, Bigler, Black, Charles A., Black, J. S., Bowman, Brown, Bullitt, Clark, Dallas, Darlington, Elliott, Gibson, Harvey, Hay, Heverin, Hunsicker, Kaine, Knight, Lamberton, MacConnell, M'Clean, Mann, Mantor, Mott, Niles, Palmer, G. W., Palmer, H. W., Purviance, Samuel A., Reed, Andrew, Rooke, Ross, Sharpe, Simpson, Smith, H. G., Smith, Henry W., Smith, Wm. H., Stanton, Struthers, Temple, Walker, Wherry, Woodward and Worrell—50.

So the first division of the amendment was rejected.

ABSENT.—Messrs. Addicks, Ainey, Alricks, Armstrong, Baer, Barclay, Buckalew, Carey, Cassidy, Church, Cochran, Cronmiller, Curry, Cuyler, Davis, Dunning, Ellis, Fell, Fulton, Funck, Green, Hall, Hanna, Hemphill, Horton, Lawrence, Lear, Long, MacVeagh, M'Camant, M'Culloch, M'Murray, Metzger, Minor, Mitchell, Parsons, Patterson, T. H. B., Porter, Pughe, Purman, Purviance, John N., Read, John R., Stewart, Van Reed, Wetherill, J. M., White, Harry, White, J. W. F. and Meredith, *President*—47.

The *PRESIDENT pro tem.* The second division of the amendment is now before the House and will be read.

The *CLERK* read as follows:

"In civil actions three-fourths of the jury may find a verdict after such length of deliberation as may be required by law."

Mr. BARTHOLOMEW. I call for the yeas and nays.

The call was seconded by Messrs. Biddle, Boyd, Bigler, Hunsicker, Edwards, Bannan, Dallas, Newlin, Temple, Sharpe, Campbell, Brown, S. A. Purviance and Clark.

Mr. TURRELL. Mr. President: I do not wish at this time to argue this question; but having had the honor to submit a proposition of this kind when we first met at Harrisburg, I simply wish to state that I have not abandoned it, but I still approve it. I will not go into an argument of the question because it has been presented already to the Convention; but I have this to say: That my attention was called to this subject before the Convention met, in conversation with one of the judges in the northern part of the State, and that the judges of our district expressed themselves decidedly in favor of such a proposition.

I have to say, further, that upon conversation after I went home with the members of the bar of our county, I found

them unanimously in favor of it. Whatever that is worth, the Convention have the benefit of it.

I wish to say, further, that we should not be driven from the support of a proposition here, no matter what it be, by the cry of innovation. All progress is to some extent innovation, and without it there will be no progress. It is not a reason for rejecting a proposition. It may be and in perhaps most instances is a reason for close investigation, but it is no reason for its rejection.

Now, sir, I say that from all the investigation I have been able to give to this subject since it was first called to my attention, I have been confirmed in my belief that the adoption of a measure like this would be found one of substantial progress and reform, and I hope that the Convention will adopt it.

Mr. J. M. BAILEY. Mr. President: I hope that the Constitution which we are framing here will preserve the declaration that the right of trial by jury shall remain inviolate, which has been voted down in connection with the other words in the first part of this proposition. I therefore move to amend by preceding this amendment by the words "the right of trial by jury shall remain inviolate," and then let it proceed, "but in civil actions," &c.

The *PRESIDENT pro tem.* The second division of the amendment is before the House. The amendment was to strike out all after the words "the right of trial by jury shall remain inviolate" and insert; so that the words which the gentleman moves will remain in.

Mr. J. M. BAILEY. Very well; that is what I want to provide, that the right of trial by jury shall remain inviolate.

Mr. BEEBE. Mr. President: I trust that we are not to be precluded from doing anything in this Convention because it has not been done before. As I understand it, we came here to do those things which were required of us by virtue of the progress of the age and the change of public sentiment derived from experience. Sir, I should be glad to see this amendment adopted for the reasons stated by the parties who have argued it, for I will not attempt to do so, and for the additional reason that the old conservative State of Pennsylvania dares do one thing that no other State has done, dare to put a declaration of principle in their Bill of Rights not taken from Illinois or some other State Constitution. I would

like to see it in for this single reason, after satisfying myself that it is reasonable and just.

I am, sir, considered by my constituents a conservative in regard to the right of trial by jury, and I believe it is the unanimous opinion of the bar in the county which I represent that this Convention met for the purpose, amongst other reforms, of adopting the section which has just been voted down, in connection with that upon which we are now acting. If we do it, we shall, so far as the district in which I live is concerned, be enacting one of those reforms which the people hoped for and expected. I trust, therefore, that the mere bugbear of innovation, after gentlemen have satisfied themselves as to the reasons given, will not deter the members of this Convention from doing that which they deem consistent with the spirit of the age.

The *PRESIDENT pro tem.* The Clerk will call the names of members on the second branch of the amendment of the gentleman from Philadelphia.

The question was taken by yeas and nays with the following result:

YEAS.

Messrs. Bailey, (Huntingdon,) Bannan, Bardsley, Bartholomew, Beebe, Calvin, Campbell, Carter, Collins, Corbett, Craig, Curtin, Dallas, De France, Dodd, Edwards, Ewing, Finney, Hanna, Hay, Hazzard, Landis, Lilly, Littleton, Mott, Newlin, Patton, Reynolds, Russell, Smith, William H., Temple, Turrell, Wherry and White, David N.—34.

NAYS.

Messrs. Andrews, Baily, (Perry,) Baker, Biddle, Bigler, Black, Charles A., Black, J. S., Bowman, Boyd, Brodhead, Broomall, Brown, Bullitt, Clark, Corson, Darlington, Elliot, Gibson, Gilpin, Guthrie, Harvey, Heverin, Hunsicker, Kaine, Knight, Lamberton, Lear, MacConnell, MacVeagh, M'Clean, Mann, Mantor, Niles, Palmer, G. W., Palmer, H. W., Patterson, D. W., Purviance, Samuel A., Reed, Andrew, Rooke, Ross, Runk, Sharpe, Simpson, Smith, H. G., Smith, Henry W., Stanton, Struthers, Walker, Woodward, Worrell and Wright—50.

So the second division of the amendment was rejected.

ABSENT.—Messrs. Achenbach, Addicks, Ainey, Alricks, Armstrong, Baer, Barclay, Buckalew, Carey, Cassidy, Church, Cochran, Cronmiller, Curry, Cuyler, De-

vis, Dunning, Ellis, Fell, Fulton, Funck, Green, Hall, Hemphill, Horton, Howard, Lawrence, Long, M'Camant, M'Culloch, M'Murray, Metzger, Minor, Mitchell, Parsons, Patterson, T. H. B., Porter, Pugh, Purman, Purviance, John N., Read, John R., Stewart, Van Reed Wetherill, J. M., Wetherill, John Price, White, Harry, White, J. W. F. and Meredith, *President*—49.

Mr. CAMPBELL. I offer the following amendment, to be inserted after the word "inviolable," at the end of the section:

"The General Assembly may modify or abolish the grand jury in all cases."

Mr. President, we are all of us so familiar with this question that I do not propose to discuss it, but I merely wish to have the vote taken upon it directly. We are all acquainted with it, and we have made up our minds whether we shall vote to abolish the grand jury system or to retain it. Therefore I hope we shall have a vote without any long discussion. I call for the yeas and nays on the amendment.

The *PRESIDENT pro tem.* It requires ten delegates to second the call.

Messrs. Worrell, Calvin, Sharpe, Dallas, Corbett, Hanna, Ross, Littleton, Temple, Bartholomew, Bigler, Brodhead, H. W. Smith, Heverin and Curtin rose to second the call.

The *PRESIDENT pro tem.* The call is sustained, and the Clerk will call the roll.

The question being taken by yeas and nays, resulted: Yeas, twenty-five; nays, fifty-nine, as follow:

YEAS.

Messrs. Bailey, (Huntingdon,) Bannan, Bardsley, Bartholomew, Beebe, Brodhead, Campbell, Collins, Corbett, Corson, Craig, Gilpin, Hanna, Hazzard, Littleton, Mann, Newlin, Patton, Reynolds, Ross, Simpson, Smith, H. G., Smith, Henry W., Temple and White, David N.—25.

NAYS.

Messrs. Achenbach, Andrews, Baily, (Perry,) Baker, Biddle, Bigler, Black, Charles A., Black, J. S., Bowman, Boyd, Broomall, Brown, Bullitt, Calvin, Clark, Curtin, Dallas, Darlington, Dodd, Edwards, Elliott, Ewing, Finney, Gibson, Guthrie, Harvey, Hay, Heverin, Hunsicker, Kaine, Knight, Lamberton, Landis, Lilly, MacConnell, MacVeagh, M'Clean, Mantor, Metzger, Mott, Niles, Palmer, G. W., Palmer, H. W., Patterson, D. W., Purviance, Sam'l A., Reed, Andrew,

Rooke, Runk, Russell, Sharpe, Smith, Wm. H., Stanton, Struthers, Turrell, Walker, Wherry, Woodward, Worrell and Wright—59.

So the amendment was rejected.

ABSENT.—Messrs. Addicks, Ainey, Alricks, Armstrong, Baer, Barclay, Buckalew, Carey, Carter, Cassidy, Church, Cochran, Cronmiller, Curry, Cuyler, Davis, De France, Dunning, Ellis, Fell, Fulton, Funck, Green, Hall, Hemphill, Horton, Howard, Lawrence, Lear, Long, McCamant, McCulloch, McMurray, Minor, Mitchell, Parsons, Patterson, T. H. B., Porter, Puche, Purman, Purviance, John N., Read, John R., Stewart, Van Reed, Wetherill, J. M., Wetherill, Jno. Price, White, Harry, White, J. W. F. and Meredith, *President*—49.

The *PRESIDENT pro tem.* The question now is on the section.

The section was agreed to.

The *CLERK* read the next section as follows:

SECTION 7. That the printing press shall be free to every person who undertakes to examine the proceedings of the Legislature or any branch of the government, and no law shall ever be made to restrain the right thereof. The free communication of thoughts and opinions is one of the invaluable rights of man, and every citizen may freely speak, write and print on any subject, being responsible for the abuse of that liberty. In prosecutions for the publications of papers investigating the official conduct of officers or men in public capacities, or where the matter published is proper for public information, the truth thereof may be given in evidence; and in all indictments for libels the jury shall have a right to determine the law and the facts, under the direction of the court, as in other cases.

Mr. DALLAS. I move to amend the section by striking out all after and including the word "in," at the commencement of the seventh line, to and including the word "evidence," in the tenth line, and inserting in lieu thereof the following:

"All papers relating to the conduct of officers or men in public capacity, or to any other matter proper for public investigation or information, shall be privileged, and no recovery or conviction shall be had in any suit or prosecution, civil or criminal, for the publication thereof, *where the fact that such publication was not*

maliciously made shall be established to the satisfaction of the jury."

Mr. President, the clause in the present Constitution for which this proposition is intended to be substituted is as follows:

"In prosecutions for the publications of papers investigating the official conduct of officers or men in public capacity, or where the matter published is proper for public information, the truth thereof may be given in evidence."

The amendment now offered by me somewhat differs from that which I heretofore proposed, and which will be found in the fourth volume of the Debates, page 711. That former amendment reads as follows:

"All papers relating to the conduct of officers or men in public capacity, or to any other matter proper for public investigation or information, shall be privileged, and no recovery or conviction shall be had or sustained in any suit or prosecution, civil or criminal, for the publication thereof, *except where such paper shall have been maliciously published, and malice shall not be presumed from the fact of publication."*

The difference between the present amendment and that originally offered is indicated by that portion of the language of each now printed in italics in the copy laid upon our tables this morning.

The amendment as it was originally offered by me was founded upon a long line of English decisions. At the time at which I had the honor to offer that amendment I think I demonstrated beyond question that I claimed simply the same liberty for the press here which the judge-made Constitution of England now gives to the press of that country, and that the press of Republican Pennsylvania should have the same liberty precisely which the press of Monarchical England at this day has. I do not propose to go over that argument. It would not be fair to this Convention, hurried, reasonably hurried as it is, that I should repeat a single word of what I have heretofore said.

It will be observed, *Mr. President,* that the article as reported is precisely the same as that of the Constitution of 1838, aye, sir, and that of 1790; so that with the advance of newspaper enterprise in this State from 1790 until this date, we have not advanced a single step on the subject now before us; and we have reported to us, from the Committee on the Bill of

Rights, precisely the same clause as to the liberty of the press which was adopted by the Convention of 1790. That clause presents the simple proposition, that "in prosecutions for the publication of papers investigating the official conduct of men in public capacity, or where the matter published is proper for public information, the truth thereof may be given in evidence.

That was the Constitution of 1790; that is the Constitution of 1838. The radical defect in that Constitution is that it makes the touchstone the question of truth. Sir, that is not the point which should be made vital in any case of libel. I say, sir, and I speak this not for the press but for the people, whose tribune the press is, that the truth is not the real question, but that the fact of malice or no malice in the publication should be the criterion of responsibility. The press of Pennsylvania is carrying on as legitimate a business as any man in this Convention, be he lawyer or layman, conducts to-day; and a very material portion of the legitimate duty and business of the press is to give to its readers fair, reasonable and even stirring comments upon public events, and I claim that in doing so they should have the same privileges as those who conduct any other business of the State; and that if, in the legitimate, regular, proper conduct of their business, they fall into unintentional error, they shall not be held responsible. I claim that a typographical error, if you please, should not subject the editor of a public paper to a felon's cell. Why, sir, I am told that in the county of Bucks, very ably represented upon this floor, this peculiar case arose: A newspaper published of a very respectable citizen of that county that he had been committed by a magistrate for the crime of larceny; the compositor who set the type, making a mistake incident to his trade, led to the publication that he had been so committed; and the next day the magistrate appeared before the editor of that paper and said: "Sir, you have done me injustice; you have published me as guilty of a theft, whereas, in point of fact, I was the magistrate, who bound another man over for that theft." The statement of that magistrate was precisely true, and a mechanic, a setter of type in the office of that paper, had been unfortunate—not guilty—in making the misprint. If that magistrate had been a less just man than he was, instead of going to the editor of

that paper and saying, "Sir, you have made a mistake; I wish you to contradict it, which, as an honest man, you will," he would have brought suit in the court of common pleas of Bucks county, and its judge, although the high-toned, honorable man that he is, would, if he had followed decisions which I have heretofore quoted in the presence of this body, have said: "You cannot open your mouth to show that that was an error: you must show that it was true that that magistrate was a thief, and was committed as a thief, or you must go to the penitentiary." To that extent have the rulings under the Constitution of the State of Pennsylvania gone.

Now, sir, my friend from York, (Mr. J. S. Black,) I hope I may call him so, asks me the question, whether any man has been put in the penitentiary for such a thing as that. My answer is that if the gentleman from York had been here when this question was argued before, he would have heard that a man had been convicted, and would have been sentenced but for a merely technical point, for publishing matter which he asked, but was not permitted, to show had been published by innocent mistake. That the gentleman from York was not here was not my fault; it was not his, perhaps, but his misfortune. He asks now: "To the penitentiary?" I reply that I refer to the case of the Commonwealth vs. C. Cathcart Taylor, in the city of Philadelphia, in which the defendant offered to show that he had received reliable information, and had used every care to discover the truth of what he published; that so far from harboring any malice against the parties inflicted, he was entirely free from malice, and that he had published matter which, if true, was (as was admitted) proper for public investigation; but because he could not prove every word and every syllable of what he had said to be true, he was not permitted to rebut a forced presumption of malice or to prove its absence, and but for a new trial, granted upon another point, he would now be under sentence of imprisonment. And, sir, to take a case somewhat distant, we have, although we live in a different city and a different Commonwealth, watched with interest the proceedings in New York which succeeded finally in dethroning the monstrous iniquity that sat there crowned; and how was it brought about? It was brought about by the press of New York, and notably by the *Times*, of New

York. I tell you, sir, but for that single paper, the man Tweed and his subordinates, he and his satellites, would still revolve in the heaven of political power. But, sir, the *Times*, of New York, undertook to show what we all know now to have been substantially correct; it undertook to lay before the people of New York what was proper for the public information of that city; and the result is that they now lie low and their power is gone. But, sir, if in publishing its account of the thefts there, if in the city of New York, the *Daily Times* had made a misprint, had made a slip of a single figure, and had thereby accused those men who it rightfully accused of wrong doing, of the theft of \$500 beyond the millions which it now appears they had stolen, not they, but their rightful expositors would have suffered, if the decisions and judgments of some of the courts of Pennsylvania under our present Constitution, could have been made applicable.

Sir, when this proposition was before this Convention at an earlier stage of its deliberations, the objections made to it were only two-fold: First. That it proposed to alter the Bill of Rights. Upon that head, I submit that we have already altered the Bill of Rights, and that there are gentlemen who have their favorite views, which, if adopted, will still further alter it, and that, therefore, this objection is now without weight.

But, second, it was argued that the great difficulty in the proposition, which will be found at page 711 of the fourth volume of the Debates, was this, "that when a man, through the newspaper press, should be accused of any infamous crime, the burden of proof would be unfairly thrown upon him." Now, sir, I believed, and I still believe, and I submit with all sincerity and with great earnestness to this body, that just in that particular the original proposition was right. In every trial of fact that comes before a court, it must determine where the burden of proof shall lie, and it always does and always should under the law, place the burden of proof upon him who stands in opposition to the *natural* presumption. There is in every case that comes before a court a presumption upon one side or upon the other, and the law places upon that man who seeks to rebut a natural and reasonable presumption the burden of establishing his case by proof. In other words, the law says to every litigant in a court of justice what the presumption is, and that pre-

sumption stands thus high that we assume it to be correct until it be contradicted, and therefore proof of that which tends to overthrow it must be given to entitle the person who invokes its overthrow to a verdict.

I argued here on a previous occasion, and I now repeat, that the natural and reasonable presumption as to the press of Pennsylvania, is that it does not intend maliciously, wilfully or negligently (in law the same) to charge upon any man who is a candidate for public office, or who stands in public capacity, or who is properly before the public in connection with any matter proper for public investigation, any wrong or ill-doing, from motives of personal spite or ill-will; but that the natural and reasonable presumption in every such case is precisely the opposite; and that as to the conductor of a newspaper who presents for the consideration of the people of Pennsylvania any matter proper for their information or investigation, the natural, fair, reasonable and charitable presumption is that he does it for the public good, and in the line of his own proper business, and not for any ill-will he bears to any person.

In public contests men war for public ends. A free press alone can truly serve the State, and public purposes are best subserved by free discussion of public men, and of men who present themselves for public position, and the presumption is, *even* for editors, that they intend well until proved to purpose ill!

But I have learned that upon this part of my proposition a majority of this Convention do not agree with me in opinion, but while I regret that this is so, I am glad to have also learned that the noble and true men who are the judges of the highest courts in England, have gone the whole way with me in it. They go farther than I can hope to carry the free delegates of free Pennsylvania, and therefore I have modified my amendment. The modification will be found in *italics* in the amendment, as it now lies on the desk of each member.

MR. LITTLETON. I desire to ask my colleague a question.

THE PRESIDENT *pro tem*. Will the gentleman permit himself to be interrupted?

MR. DALLAS. With pleasure, if the Chair will permit it, under previous rulings.

THE PRESIDENT *pro tem*. The Chair will not permit it.

Mr. DALLAS. The modification that I have referred to has been made in view of objections made publicly by several delegates, and privately by the able gentleman from York, (Mr. J. S. Black,) so that, in lieu of the latter portion of the language in the amendment as it will be found on page 711, of volume 4, of the Debates, and which reads in this way, "except where such papers shall have been maliciously published, malice shall not be presumed from the fact of publication," I have substituted "where the fact that such publication was not maliciously made shall be established to the satisfaction of the jury." I have yielded thus far not to my own judgment, but to my necessities, so that the natural presumption shall go for nothing, but be reversed to meet the views of others; and I now only ask from this Convention that the press may have the poor liberty—the miserable privilege—if they make a mistake in their legitimate calling, of showing their error to have been not malicious, but unintentional.

In this I do not ask anything that you do not accord to every other order of business. A builder is not permitted wantonly to throw the materials of which he is constructing a building right and left to the injury of every man who may be passing. If he does, there is such negligence established by that fact alone, that malice becomes the natural and necessary presumption, and he must be convicted of manslaughter, and even (it may be) of murder; but he would be always permitted to show, if he could, that in the fall of the material, which resulted in injury, that he was chargeable with no neglect, and had been guilty of no malice, but was conducting his usual business in the regular and ordinary way, and that the injury was the result of accident merely; and such proof, if made to the satisfaction of the jury, would operate to acquit him in a criminal prosecution or to secure him a verdict in a civil action.

Malice in every such case is the *gravamen* of the offense. It is the only test which should be applied.

But, sir, you will observe that my illustration touches a mere private employment; and will you say to the press of Pennsylvania, conducting a great public business for a great good, that they shall not be entitled to the benefit of the same rules of law as those who are engaged in purely private concerns solely for their individual ends? This section, as re-

ported from the Committee on the Declaration of Rights, as I have said already, is as we had it in the Constitution of 1790. From that time until this we have had no change. But the times now differ from those of 1790. Every morning we expect to read our morning papers, and we expect to read not only what is doing by the Emperor of Japan, but we are entitled to know from them what is done by our own men in public employment. We are entitled to look to their columns for information as to what is transpiring in our own public offices, and we look to them to teach us all that may enable us to know those who seek public employment.

It is true, as heretofore stated upon this floor, that the original significance of the phrase "freedom of the press," was that the press should be free from censorship; and subsequently its significance was to be found in the question which gave rise to Mr. Fox's bill, and for which Mr. Erskine largely deserves the credit, by which it was enacted that the judges should not say to the jury you must or must not find this thing to be a libel, and so, practically, take the whole case from them. But in these modern times the question of the freedom of the press, although not the same, is as important to the people as it ever has been, and it has come to mean something more than it ever has before. It has come to mean freedom to instruct the people justly and righteously on public affairs, without fear of impending law suits for innocent mistakes. I claim for them no greater power than this, and no man upon this floor would go further than I in curbing any licentiousness of the press in publishing matters—true or false—which the public have not a right to know. My purpose is to elevate the press, not to debase it; and to make it what it should be, the instrument of the people for good ends, and to accomplish such ends I would give it all the freedom necessary to its usefulness. This is the sole purpose of my amendment.

The rulers of the State of Pennsylvania to-day, as has been stated and restated upon this floor, and by no one more ably and eloquently than by the gentleman from York, are its "Rings" and its "third house." Who hears of men of undoubted and unblemished character instituting actions for libel? Why, sir, actions of libel arise only when our present rulers, the "Ring," the "third house," are nominated for office, and their characters are pre-

sented to the people, and then any portion of the press which dares to attack them is dragged into a court of justice—justice it would be but for the trammels of this Constitution, and some of the rulings under it.

I ask not that private men shall be drawn into public discussions, not that even truth shall justify malice: but that an editor writing at midnight what appears on your table next morning, and with no chance to thoroughly investigate, shall not be required to write his article as if he were writing an indictment, and compelled to prove it as if he were prosecuting attorney, but that he shall be permitted to lay before the people those public matters which he reasonably and without negligence believes to be true, leaving his columns open and the columns of other papers to contradict him when he falls into error; and that he shall, in every case, be allowed to show the ground for his publication, and that he was not negligent or reckless in his action. In the case to which I have before referred, the defendant asked to be allowed to prove that he sought the best sources of information; that he made every effort which could be expected from a reasonable man, but he was told he must prove absolute truth or hold his peace, and the jury convicted him.

Have I asked too much for the press of a free people? I refer, for the purpose of abbreviating debate upon the subject, to what I said before, and to the authorities that I then cited (now printed in our debates) to satisfy any reasonable delegate that I have but asked what the judges of England have fully granted.

We have called ourselves, and we have been called, a Reform Convention, and from every side of this Hall we have heard speeches in the interest of reform. No delegate has found it possible to make any extended remarks upon any subject, without waxing warm upon reform in public affairs.

Sir, may we hope that we can mature all the measures of reform that ever will be needed? We have been told frequently that much must be left to the Legislature. Surely, something should be left to the people.

When we shall have done our utmost the people of the State, whose delegates we are, must still agitate this question of reform to make it effectual for good, and in the name of reform I ask for them a free voice in criticising, not your private

affairs or those of any man, but the public affairs of the Commonwealth of Pennsylvania.

MR. DE FRANCE. Mr. President: I have but a very few words to say upon this subject. I am opposed to the amendment and in favor of the section as it stands. I would like some of the members of this Convention who are in favor of the change to tell me if the Legislature have not the right to pass a libel law as liberal as they choose. I would like to ask, in the second place, if there has ever been any allegation that there has been corruption used in the Legislature in regard to that matter. Has there ever been bribery used? What is the reason then we have not such a law? The reason must be that the people do not want it, are not in favor of it.

This section as it stands in the report allows the truth to be given in evidence—when the public are interested. Tweed and all his confederates who were holding office could have been examined and put out of office in this State under this Constitution just as well as they were in New York. Now if the people are opposed to making as liberal a libel law as the gentleman from Philadelphia in his most eloquent and persistent argument talks about, why in common sense do not the people do it? Why do they not have men elected to the Legislature for that purpose? Who opposes it? If the gentleman urges it strongly and the members of this Convention are very strongly in favor of it and go into the country and urge the people to elect members to the Legislature on that question, they will get as liberal a law as they want in regard to that. You can, if you get such a law, examine into every man's private character, you can tell every ordinary story that has been afloat and everything about his family, if you choose, but the people are opposed to this thing; they are not in favor of it as the gentleman supposes. They are directly opposed to it so far as my knowledge goes, and they have been. I have never heard but very few, and those are editors of papers mostly, who are in favor of anything better than what we have, or worse, as in my opinion it would be, because I do not believe that it would be for the safety of society that there should be a law made so that you could malign everybody, particularly by the editors of country newspapers, for they are frequently men of not the highest character of intelligence. They have attacked

men and they do now attack men, and those abused say nothing about it. They tell the most infamous lies on them, in politics at least, and there is nothing said about it.

For that reason, and very many other reasons, I am opposed to this amendment. I say, in the first place, that the Legislature have the right to pass a law on the subject; and the Legislature was never interfered with, that I know of, corruptly, and there is no necessity for so putting legislation in the Constitution.

I make these remarks upon this question, and I hope the reporters for the Philadelphia papers will not make a mistake and report anything that I may say on this occasion, for they have not been in the habit of reporting anything that anybody said who came from west of the Allegheny mountains except it be a member who has been Governor of the State [laughter;] and I do not wish them, at this late day of the session, to violate the rule.

Mr. HAY. I desire to submit an amendment to the amendment offered by the delegate from Philadelphia, to insert after the word "maliciously" in the amendment, the words "or negligently."

I am very well aware, sir, that the word "maliciously" in this amendment is used in a technical sense and that under that word it would no doubt be competent to offer evidence of negligence to prove malice; but I also think that there are many cases of negligence in such publications as those mentioned in the section now under consideration, for which the publisher of the libel would be properly responsible, that might nevertheless not amount to maliciousness; certainly not in the estimation of an ordinary jury. I think that the publisher of a newspaper or book or any other publication should be held responsible for carelessness and negligence in the conduct and management of his business; and if he so con-

ducts it as to carelessly and negligently permit unfounded accusations to be publicly made against men he should be held responsible, even if it should not be found that the negligence was of so gross a character as to amount to maliciousness. The reputation and character of our citizens is a possession too valuable to be carelessly and negligently attacked and injured, and the man who by his negligence has permitted such attacks to be made in publications over which he has control should be responsible to the person injured and to the community, even if such negligence has not been of that gross and wilful character which in law would constitute "malice."

Mr. LILLY. I think that the remarks of the gentleman from Allegheny are proper and correct and the amendment should be put in. If a man fires a pistol in the streets negligently, and accidentally hurts another person, he has to pay damage. So if a man throws a stone and accidentally hits a man or an animal, or does any other damage, if it is done carelessly and maliciously, he has to pay damages. I think the words "or negligently" should be inserted here.

Mr. DALLAS. Before the vote is taken, I wish to say that I have no objection to the amendment to the amendment, except that it adds two additional words, and unnecessary words, to the proposition. What my friend from Carbon stated is precisely true, that if a man negligently fires a pistol or throws a stone, he is held liable, because the law reasonably infers, from that negligence, malice. That is the only reason. Negligence such as the amendment of the gentleman from Allegheny comprehends would be in result malicious, and therefore I think it is unnecessary.

Mr. D. W. PATTERSON. I move that the Convention adjourn.

The motion was agreed to, and at three o'clock P. M. the Convention adjourned.

ONE HUNDRED AND TWENTY-FIRST DAY.

TUESDAY, June 17, 1873.

The Convention met at half-past nine o'clock A. M., Hon. John H. Walker, President *pro tem.*, in the chair:

Prayer by Rev. Jas. W. Curry.

The Journal of yesterday was read and approved.

CAPE MAY EXCURSION.

Mr. NILES submitted the following resolution, which was read twice and considered:

Resolved, That the thanks of this Convention be and the same are hereby tendered to the West Jersey railroad company, through their president, Hon. T. Jones York, as an acknowledgment of the special excursion to Cape May, given to the members of this body on Saturday, June 14th, 1873.

Mr. LILLY. I was not aware that this Convention went as a Convention to Cape May. Many members of the Convention accepted individually this courtesy. I do not think, therefore, there is any propriety in our acting as a Convention on a resolution like this. I have no objection to each member who received this courtesy returning his sincere thanks in writing, but I do not really see that it ought to go on our minutes.

Mr. EWING. This is not the first time that the Convention has done things that the gentleman from Carbon was not aware of on account of his absence. [Laughter.]

Mr. LILLY. I desire to say that I have not been absent. I have been here regularly every day in this seat voting on every proposition. The yeas and nays of this Convention will not show that I have ever been absent one time.

The PRESIDENT. The question is on the resolution of the gentleman from Tioga (Mr. Niles.)

The resolution was agreed to.

SUBMISSION OF CONSTITUTION.

Mr. BIGLER submitted the following resolution, which was read twice:

Resolved, That a committee of — members be appointed by the President to con-

sider and report at an early day as to the time and manner of submitting the amended Constitution for ratification by the people.

Mr. BIGLER. I do not desire to proceed with the consideration of the resolution at this time. I think it is better that the body should have this notice of it, and I will call it up to-morrow morning, or at an early day hereafter.

The PRESIDENT *pro tem.* It is moved to postpone the further consideration of the resolution.

Mr. LILLY. I desire to say that the same proposition is before the Committee on Election, Suffrage and Representation, which they have under consideration, and will act on at their next meeting. They expect to do something on this subject.

Mr. BARTHOLOMEW. I desire to state that two similar resolutions have been referred—one to the Committee on Schedule and one to the Committee on Election, Suffrage and Representation, and I understand that the latter committee are prepared now, or nearly prepared, to make a report.

The PRESIDENT *pro tem.* The motion is to postpone the resolution for the present.

The motion was agreed to.

LIMITATION OF DEBATE.

Mr. MACCONNELL submitted the following resolution, which was read twice and considered:

Resolved, That no member shall speak on the same subject more than once, nor more than ten minutes.

Mr. MACCONNELL. I offer that because it has become a necessity. We have been working at the second reading for some time with subjects before us which had been fully discussed in committee of the whole. We have had to listen to speeches of considerable length, some of them as much as an hour long, that were mere repetitions of speeches that were made in committee of the whole on subjects that the Convention were familiar with, and that probably every member of the Convention had made up his mind

upon. If we are to spend as much time in discussion in the future as we have thus far, it seems to me we shall not get through until well on in the fall, if we sit continuously. Now, it seems to me, sir, that these discussions are a mere waste of time, and it will be better for us to take the votes, as a general thing, on subjects that have been discussed in committee of the whole, but I have no objection to listening to gentlemen on new subjects, or where the debate has not been exhausted in committee. It does seem to me that we ought not to indulge in speech-making of any length on subjects that have been once fully discussed. If we do not adopt something of this kind, it does seem to me that the only alternative will be that we must adjourn and meet in the fall to finish our work. I do not see anything else for us.

I have, therefore, offered the resolution for the purpose of taking the sense of the Convention and if the sense of the Convention should be against the resolution, I think we shall find it a necessity before many days to resolve on an adjournment over until fall.

Mr. BOWMAN. I move to amend the resolution by striking out all after the word "resolved," and inserting:

"That no delegate shall speak longer than five minutes on any one question in consideration of articles on second or third reading. And in no case shall the time be extended without the unanimous consent of the House.

Mr. DARLINGTON. I move to amend the amendment by striking out five and inserting two and one-half.

The amendment to the amendment was rejected.

The PRESIDENT *pro tem*. The question recurs on the amendment.

The amendment was rejected.

The PRESIDENT *pro tem*. The question now recurs on the resolution.

The resolution was agreed to.

DECLARATION OF RIGHTS.

The PRESIDENT *pro tem*. The next business before the Convention is the resumption of the second reading and consideration of the article on the Declaration of Rights. Will the House proceed to the second reading and consideration of that article? ["Aye."] It is before the Convention.

When the House adjourned yesterday the seventh section was under consideration, and the question was on the amend-

ment of the gentleman from Allegheny (Mr. Hay) to the amendment of the gentleman from Philadelphia (Mr. Dallas.) The Clerk will read the section.

The CLERK read as follows:

SECTION 7. That the printing press shall be free to every person who undertakes to examine the proceedings of the Legislature or any branch of the government, and no law shall ever be made to restrain the right thereof. The free communication of thoughts and opinions is one of the invaluable rights of man; and every citizen may freely speak, write and print on any subject, being responsible for the abuse of that liberty. In prosecutions for the publications of papers investigating the official conduct of officers or men in public capacities, or where the matter published is proper for public information, the truth thereof may be given in evidence; and in all indictments for libels the jury shall have a right to determine the law and the facts, under the direction of the court, as in other cases.

The PRESIDENT *pro tem*. The amendment of the gentleman from Philadelphia (Mr. Dallas) is to strike out all after the word "liberty," down to the word "evidence," and insert what the Clerk will read:

The CLERK read as follows:

"All papers relating to the conduct of officers or men in public capacity, or to any other matter proper for public investigation or information shall be privileged, and no recovery or conviction shall be had in any suit or prosecution, civil or criminal, for the publication thereof, *where the fact that such publication was not maliciously made shall be established to the satisfaction of the jury.*

The PRESIDENT *pro tem*. To this amendment an amendment has been moved by the gentleman from Allegheny (Mr. Hay) to insert the words "or negligently," after the word "maliciously," and the question before the Convention is upon the amendment to the amendment.

Mr. LANDIS. I feel very reluctant, Mr. President, to trespass one moment unnecessarily upon the time of the Convention; and my view of the importance of this subject is the only apology I can offer for troubling you with what little I have to say at this time. If it is necessary that the Constitution of Pennsylvania should ever be amended at all to meet the complaints that have arisen from so many quarters, the present is the opportunity.

The Convention, sitting in committee of the whole, have seen fit to report no change in the section; and if now on second reading we fail to remedy what seems to me defective in it, it will probably never be attained till another convention shall assemble to ascertain the constitutional wants of the people.

The present section is certainly not what the public press would have it. I do not know that those not associated with the press have felt that *their* rights have not been respected, for neither the press nor the courts, as a general thing, have ever furnished the public at large with room or right to complain. But it is those who are connected with the press who complain that while the organic law says, "The printing presses shall be free," with proper responsibility for abuse of the freedom, the freedom is in some cases so hampered and restricted, in others so dwarfed and curtailed, that the boasted freedom of our press is more mythical than real—more, theoretical than practical. The truth, I take it, sir, is, that while, perhaps, under a literal interpretation of the language of the Constitution, it might afford all the freedom asked, its inexplicitness or insufficiency have, in some cases, led the courts to such construction of its language as has led to injustice being done defendants, when the very ingredient of the offence—malice—was wholly wanting. Thus many have justly felt that the law of the State was in this particular, if not unsettled, illiberal; and as it was a matter of such grave importance as to require a definition in the Declaration of Rights, it was now of sufficient importance that that which was uncertain and unsatisfactory should be made clear and perhaps more liberal by a suitable amendment to the section.

But, sir, I take it there are certain things which are clear enough and which will not be controverted. It requires no amendatory language saying that the publication of papers investigating the official conduct of officers or men in a public capacity, or matter proper for public information, should be *privileged*, and I therefore do not at least favor this part of the amendment. It is not necessary to use the word "privileged." The very scope and spirit of the section grant that. The law of the State in this respect is well settled, and it would require neither the accumulated authorities of the English courts, nor indeed of our own, ending

with the case of *Commonwealth vs. Featherstone*, to show that a "written communication upon the character of a servant," or a "printed notice of stolen bonds," or "the liberty of writers to comment on the conduct and motives of public men," or "newspaper comments on matters of public interest are privileged." But of course the publishers are responsible for the abuse of the privilege; if not, then privilege would mean unlimited license. If you should insert the word privilege, you must restrict it with responsibility for its abuse. When you have done that you have done that which makes the language of the section just what it means now. So that I am of the opinion no alteration is needed in this respect. The press have felt no hardship in this particular. Its practice has been almost unfettered. It has ever been keenly alive to the great privilege it enjoyed. No crime has been too black or too venial to escape its uncovering notice. Official failure, venality or robbery have been unhesitatingly unveiled by this prying, vice-hating custodian of the public virtue. Disloyalty never raised its voice or hand to assail the principles of our free government but the press was there to rebuke and alarm the public mind to the impending evil. No, sir, the press has always felt its freedom and its privileges, and what is better, a sympathizing and admiring public have conceded it. But the press has sometimes transgressed, and when called upon to answer in a court of justice for the abuse of the privilege, the trouble has been to know how the transgressor should answer, or if he answer and shows there was no malice, how he should obtain full relief; hence it is alleged the law is defective. But of this I will speak in a few moments.

Again, if the supposed defamatory publication is but a statement of the truth, no one can complain that under the present Constitution the truth may not be given in evidence. This is allowed as matter of defense, and I presume the press will not claim that it should always constitute an absolute defense, because I can well conceive how a writer may so publish a truth to the world in commenting upon one in a public capacity, may so clothe his information in extravagant and violent language, that the object of his animadversions may undeservedly be held up to public hatred, contempt and ridicule, and the publication be so fraught

with malice that it becomes libellous. Here is an abuse which even proof of truth might not save. The freedom has been abused and conviction or recovery should ensue. It is true that publications affecting the character of private individuals are not attended with the same privilege. In suits by them for violation of the law of libel, the truth may not be given in evidence, for "it is not matter proper for public information. The common weal is not interested in such a communication, except to suppress it."—*Republica vs. Dennis*, 3 Yeates, 267. Hence the maxim in such cases—"the greater the truth, the greater the libel."

So it is not necessary that anything should be done by us in connection with this branch of the subject. The law of Pennsylvania in this particular is in harmony with that of a large majority of her sister States.

Again, libel is said to be a malicious publication. Malice is a necessary, indispensable ingredient to constitute the offence. Malice is well defined by criminal writers to be a "wickedness of disposition, hardness of heart, cruelty, recklessness of consequences, a mind regardless of social duty and bent on injury to others, whether any particular person is intended to be injured or not." If any one by publication defame the character of another within the spirit of this definition, then he is guilty of libel—he does that which scandalizes his neighbor, which injures him in the estimation of his fellow-men, and tends to provoke him or his friends to a breach of the peace. It is necessary therefore that the motive of the publisher be a malicious one, and it is for the Commonwealth in the prosecution to make this appear to the jury in order to make out the case. But how may the prosecution show malice, how may the defendant rebut the express or presumptive evidence of malice? And how may he be discharged when he has shown there was no malice? Here it is claimed the law of the State is not settled nor generous; that the rights of the defendant are not sufficiently protected, that courts are uncertain, inharmenous and capricious, and that, in consequence, some constitutional prescription is necessary.

In my humble judgment some provision is necessary. The press has long sought it. The necessity has been long felt. The Legislature have been applied to repeatedly in vain. This body has

been appealed to, and shall we longer remain indifferent?

So far as the prosecutor or plaintiff is concerned in making out his case, I do not see that the Constitution should either enlarge or restrict his rights as they are at present known in the courts. The facts of his case are for the jury. In this connection I might remark that if it be urged here in this debate, as it has been before, that "malice shall not be presumed from the fact of publication," I cannot assent to it. The publication is one of the facts that the prosecutor must show. The publication in a majority of cases furnishes all the facts which he is called to prove. The person meant in the alleged libel, the publisher of it, the libellous matter, the malice or motive of the publication, and in short all that it is requisite to prove, are generally proved by the production of the paper itself. There may not be a scintilla of other evidence attainable, and yet there may be a gross and malicious libel. If no presumption could be drawn from the publication, who could recover—who could be convicted? Whilst I am always ready to guard by my own vote the rights of the public, I am too friendly to the press to consent to any plan that would bestow upon it a license that would destroy it, and unsettle the very foundations of society. The facts proven by the Commonwealth are for the jury. The evidence of express malice, or of presumed malice, is for the jury, for they have the right to determine both the law and the facts.

But the trouble in Pennsylvania is, where one is charged with composing and publishing a malicious and defamatory libel, there is no well-settled rule of law which will allow him to prove, in all cases, that he did not do so; or, if he adduces proof rebutting the presumption of malicious intent, that he does not have the full benefit of it. When one is indicted for larceny the Commonwealth makes out what appears to be a *prima facie* case, the important element of which is the *felonious* taking. The defendant, although he may admit the taking, is permitted to prove almost any facts that may negative the proposition of *felonious* taking, and if the jury find that necessary ingredient wanting, he is justly acquitted. Now, why may not a similar right be afforded a defendant in a prosecution for libel, the *gist* of which is malice, to prove such facts as will tend to negative the proposition of a malicious publication, and secure his ac-

quittal? Assuredly there is no good reason. It is but slim protection to him to say—you may prove the truth. This will not do, because the publication may not be true, and yet not malicious. Many of the statements concerning men in official capacity, and concerning matter proper for public information, may not be absolutely true in all particulars—may not have the positiveness of judicial ascertainment, and yet must the ban be laid upon their publication, or if published, must the publisher answer a prosecution, when the motive was entirely proper, when the end was perfectly justifiable, and when malice and negligence are wanting? Or again, if not every grain must be a grain of truth, how many grains of falsehood, or rather inaccuracy, will our shifting rule allow to save the diluted mixture from falling below the standard strength of judicial truth?

Here it is, sir, that the publisher of a newspaper is not sufficiently protected by the law. It is his duty, his business, sanctioned by the law, to furnish news to the public. All news refers more or less to the sayings and actions of men. Their words and their deeds he daily publishes to the world. Many persons are employed in gathering up this information, and preparing it for the public eye, and thus manifold matters are daily furnished to thousands who receive the newspaper with the same regularity of habit that they daily satisfy the demands of the natural appetite. Much of this information, under the circumstances, must be necessarily inaccurate, though much effort and patient investigation have procured it from the most authentic sources; and yet does the law of Pennsylvania say that portion of the intelligence concerning the conduct of some official incumbent, which eventually proves to be untrue, shall, for that reason, be presumed to be a malicious act? If this is the law of the State, it is our duty to reform it—it is our duty to supply wherein it is deficient, that those who are engaged in an enterprise indispensable to the public may be protected. I know it may be urged that the defendant now may show some extenuating circumstances, but under the instructions of the court, while it may operate in mitigation of damages, it does not wholly relieve, nor will it save a verdict of guilty. Should the law, therefore, not be such as to give full relief, when the jury are satisfied no malice exists?

As already indicated, whilst I do not favor the first portion of the amendment of the gentleman from the city, (Mr. Dallas,) and with that part stricken out, I will vote for it as then modified by the amendment of the gentleman from Allegheny (Mr. Hay.) I had prepared an amendment myself, which I had proposed to offer, but as its operation would be nearly the same as this, I will withhold it. This amendment as modified requires that if there is a verdict of guilty, or a recovery, the jury must be satisfied there was either negligence or malice. If there be either the one or the other of these ingredients there can be no verdict for the defendant. This imposes upon a publisher great care; the carelessness of employees, information loosely obtained, mistakes arising from the want of vigilance, and the exercise of a proper caution and a reasonable discretion, will furnish no immunity to the publisher called to answer. But while these restrictions are imposed, his liberty is enlarged, and better still the rule of law is made clear and settled, so that the judicial determination of his responsibility is the determination of the amplest justice to all parties.

But again, if the publication was not maliciously made it operates to the relief and acquittal of the defendant. If malice is presumed from the publication, the defendant under this amendment may rebut it by competent testimony, showing there was no malice or that the publication was true, that the motives were proper, that the purpose in view was justifiable, and thus that the very essence of the offense is wholly wanting. And why may he not do so? The body of the offense is in the maliciousness of the motive, and the motive gave birth to the act. You charge him with having entertained a malicious motive; why then may he not prove that it was not malicious. You may convict him whether the publication be true or false if it be shown it was malicious. Why then should he not be acquitted, if under the same circumstances, he satisfies the jury it was not a malicious publication? So long as *malice* is held to be an essential ingredient of the offense to ensure conviction, the absence of it ought to ensure acquittal.

I take it also, sir, that under the language of the amendment, to show the absence of malice, the defendant may show how the information was obtained. *Motive* is an operation of the human mind.

If the motive in making a publication is a good one, it must be founded on the belief of the subject-matter. If it is believed, and the matter is proper for publication, how can it be malicious? And unless it is clothed in violent, intemperate and scandalous language, or if there has been no negligence, why should the defendant suffer a conviction? If, on the other hand, the statement published is pure invention, or upon some slender pretext there has been a fabrication, or if there has not been that care and prudence, so that negligence may be inferred, the jury would not, and should not, find for nor acquit the defendant. Or if the person reflected upon in the publication denies its truth and demands a published retraction of the same, which is refused, evidence is afforded from which the jury might infer malice in the publication, and I think there is the authority of Chief Justice Cockburn, of England, in affirmation of this view.

And just here I might observe, sir, that with this alteration of the law, whether a judge be right or wrong, when he says to the jury:

"If you find the publication being proved, its application to the prosecutor established, and the article upon its face a libel tending to defame the prosecutor and to blacken his character, then I instruct you that the law *presumes* that the act was malicious, and express malice need not be proved," it is not decisive nor irrefragable in its result. For, if he is wrong, he must so modify his instructions as to make them accord with the law, and say, as he must under any circumstances say, substantially:

"Unless the evidence adduced by the defendant is sufficient in your minds to overcome such presumptions, and satisfy you that the publication was not maliciously nor negligently made" &c., and whether the case of the plaintiff or the prosecutor be heinous or trivial, and the evidence for the defence be weak, or satisfactory, the jury will judge of all the circumstances and render even-handed justice.

So, sir, as I look at this matter, I believe the rule furnished by the latter portion of the amended amendment would work satisfactorily; and it may be safely affirmed as a maxim, that if any rule of law does not, or by reason of its insufficiency has not and can not secure the desirable result of justice, it ought to be abandoned; and applying the principle

of that maxim to this question, as the crucial test, it will be found that the old law fails, and it becomes the duty of this Convention to depart from a usage which, while it may be honored by age, is marred by results of injury and injustice, and to apply by constitutional enactment a speedy and a salutary corrective.

Mr. DODD. Mr. President: I do not expect to add anything to the able arguments already made upon this subject. But we are not all lawyers in this Convention, and a plain statement of the law of libel as it exists, the mischief complained of and the remedy proposed, may assist some in understanding a subject not free from difficulty. I shall not strive for technical exactness, nor quote authorities, but will endeavor to explain the law as I understand it.

There are many definitions of libel, but they amount to about this: "The publication of a false and malicious communication tending to injure another." Each libel is said to contain three ingredients—*injury, falsehood and malice*. This our law books teach us, but whoever should rely upon this as really true would be deceived. And yet it will answer our purpose to keep this definition in mind.

In most cases so far from falsehood being an element, one prosecuted for libel cannot even prove the truth in his defence. The Constitution of 1790 altered this rule in a certain class of cases. It provided, "that in prosecution for the publication of papers investigating the official conduct of officers or men in public capacities, or where the matter published is proper for public information, the *truth* thereof may be given in evidence."

That provision remains unaltered, and thus we have two classes of cases. Where the matter is not proper for public information any publication which tends to injure another is libellous, whether true or untrue. This rule it is not proposed to change. It will remain the same if the amendment is adopted. But where the matter is proper for public information, the defendant may prove the truth in defence.

Now, in the first case we have but one element, *injury*; in the second, two elements, *injury* and *falsehood*. But what has become of the third element said to exist in every libel—*malice*? In the first class of cases it is presumed by law from the mere fact of publication. In the second class of cases, it is presumed from the falsity of the publication. In no case

need it be proved, and therefore it is only in presumption of law that it exists at all.

The mischief complained of is that in matters proper for public information, relating to the conduct of men in public position and candidates for office, while it is the duty of the press to speak freely and fully what it believes, and while it is impossible for publishers to investigate and ascertain beyond possibility of mistake the truth, yet when publishers innocently fall into error, they are held responsible for wilful and malicious falsehood.

Without at present stopping to discuss whether this is a mischief which demands a remedy, let us examine the remedy proposed.

It is simply to make *malice* in fact, as it is in theory, an element in libel, in the cases referred to. The amendment may be liable to misconstruction. The word "privilege" means that the burden is thrown upon the plaintiff of offering some evidence of malice beyond the mere falsity of the charge. But the remaining portion of the section is so plain and specific that there can be no doubt the burden of proof is upon the defendant. Yet I would prefer to this amendment a simple addition to the original section, which I will offer if this is voted down, so that it will read: "In prosecutions for the publication of papers investigating the official conduct of officers or men in public capacities, or where the matter published is proper for public information, the truth thereof, and *facts tending to show absence of malicious motives in the publication*, shall be given in evidence in defence."

But I shall vote for the amendment, believing that if adopted we make the law of libel for the cases specified just what our books define it to be, a false and *malicious* publication which injures another. We restore to it the ingredient always supposed to be there, but which has really been eliminated from it, *malice*.

Now, the question to be decided is simply this—whether publishers should be held accountable for the truth of all they publish in regard to men in public position and candidates for office—or only for the malicious publication of falsehoods. Where a man publishes a matter calculated to injure another which he knows is untrue or has reason to believe is untrue, he must necessarily be actuated by malicious motives, and no intelligent jury would hesitate one moment to so find. But may a publisher print as a matter

proper for public information that which he neither knows nor has reason to believe to be untrue, but of the absolute truth of which he has no proof?

If any are of opinion that the truth should be spoken in all cases, and a man should be held criminally and civilly responsible for any untruth which injures another, let him remember that this is a rule which prevents free discussion about persons, prevents statements upon information and belief, and that it has in many cases, from necessity, been relaxed.

Many papers and statements are privileged, as it is termed; that is, the authors cannot be held accountable for their falsehood alone without circumstances showing malice. Lawyers always take care of themselves, and the language of a lawyer in legal proceedings is privileged; so are words of a legislator in debate; so is a petition praying for the removal of an officer, a remonstrance against a license, and many such cases. The principle upon which they are privileged is this: "*That where a party has a duty to discharge which requires him to speak freely and fully what he believes, his words are privileged.*"

Now, let us apply the same rule to the public press that we do in all other cases. Let us inquire whether it has a duty to discharge which requires it to speak fully and freely what it believes in regard to men in public position, candidates for office, and on all subjects proper for public information, and if we deem that such is the duty of the press, let us say here that it too shall be privileged, that malice shall, not be conclusively presumed against it but shall be proved by the facts in the case. By so doing we will not be making exceptions in favor of the press. There exists now an unjust exception against it. It is entitled to the same privileges as lawyers, legislators and all others who have a public duty to perform.

Does any one doubt that it is the duty of the press to keep the people fully posted upon matters of public interest, and to discuss fully and freely the character and conduct of public men? If so he lives too late. He belongs to the last century, which gave us our present libel law. The press is the educator of the public. We boast of railroads and telegraphs. They would lose most of their usefulness without the daily paper. It is greater than them both. A history of the past days' events throughout the world is laid at our door every morning. And not public events alone, but the actions of public

men, are chronicled, whether they be good or whether they be evil. The public demand this, and have a right to it, for public men belong to the public. No newspaper could live which omitted this feature. No people could exercise the elective franchise intelligently unless the newspapers kept them informed on such subjects.

And how does the newspaper become possessed of the information. It comes most frequently in exchanges, by telegraph, from correspondents. The publisher can have no knowledge on the subject—and if he delays the information until he has positive proof of its correctness, it ceases to be news and is of no value. The public must have the news, whether of Credit Mobilier transactions, the purchase of seats in the Senate, or election thereto under false names. And yet the publisher who tries to inform the public, who relies upon the truth of dispatches or the honor of correspondents, and who can by no possibility have any personal knowledge upon the subject, may be convicted as a libeller and villain—not only as a liar, but as a *malicious* liar, when he is as free from intention of evil as a babe. It is no defence to the publisher that he copied without comment from another paper, or that he gave his source of information, or that the publication was made without the knowledge of the proprietor, or that it was a criticism on the character of a candidate for office, or a correct and impartial account of a public meeting, or of proceedings in which the public have an interest. All this is of no consequence. He was instigated by the devil, and his heart was filled with malice, presumes the law. All I have to say is, that the law presumes a lie and has more malice in its presumption than any newspaper publisher in his publication.

Let us deal justly on this subject. Do not let us force the law to convict men of crimes when they are guilty of none. I appeal to the lawyers of this Convention. Do not let us refuse to the press a privilege which we claim for ourselves. If we are entitled to speak freely what we believe in the interests of our clients, and cannot be called in question for our words unless they are instigated by malice, let us accord to the press the same privilege, for its duty is as great as ours, its influence upon right and justice much greater. Some papers may abuse this privilege, as some lawyers abuse it. But they are the mere shysters of the profession, whose

words injure no man but themselves. And the press which uses its columns maliciously to blacken private character never injures the victim of its malice, but simply degrades itself in public estimation. And when private character is maliciously injured by the press, there is no more difficulty in proving it than there is in proving that the man who steals property has the mind of a thief. The motive in one case, as in the other, is inferred from all the circumstances of the case.

Bear then in mind that in regard to persons in private life, and to circumstances of private concern, in which the public has no interest, the amendment proposes no change whatever. But in regard to statements concerning public men and public matters, upon which the press is bound to instruct the people, we propose simply to say that they shall not be presumed malicious unless the circumstances show malice did exist.

The success of the work we do here is in the hands of the press. All our labor is in vain if it unites to condemn. If we do not accord to it this plain measure of justice, how can we expect its support in our efforts at reform.

MR. CORBETT. Mr. President; I hope that these amendments will not prevail. The press certainly has a fair chance to discuss the acts and doings of our public servants, and it discusses them freely. We are here asked to change the rule entirely in this class of cases. In slander nothing but proof, the truth of the charge, will justify it. In the other classes of libel not included in this amendment, it is not pertinent to apply to them the rule that if the publisher can show that he has not been misled, then he should go scot-free; and I ask you, Mr. President, why we should apply this rule in this case? Why, if a publisher can show simply that he was mistaken, or show that he had been imposed upon by others, and that he had published that which he did not know to be true, should he be excused?

Sir, when we go the length of saying that the truth of matters relating to the public servants of the State, with reference to subjects that are proper for public information, or when we go the length in the Constitution of saying that the truth shall be given in evidence, we have gone sufficiently far. Now, why have we gone sufficiently far? Because this whole subject of libel is within the province of the Legislature. The only

restriction that we put upon it here is that we change the rule of the common law, and we allow the truth to be given in evidence. But with reference to everything else, we leave this whole matter under the control of the Legislature, and I say that it is impolitic for us to put into the Constitution an unbending rule that would go further than this.

If there be any injustice in the present law, the Legislature can be applied to for relief. They can change this whole law with reference to libel, and then, if their change operates well, if it works wisely, it can be left the statute law of the Commonwealth. But if you put it in the Constitution, there is no chance to change it. The Legislature have, under several circumstances, made changes with respect to libel, and they have found the changes work so badly that they have modified their action, or after a sufficient period of time repealed their laws. But I undertake to say that if you allow the newspapers to publish whatever they think proper about persons, simply because they happen to be candidates for office, or because they happen to be public officers, and you allow them to show that they are imposed on by some other person who has told them the matter which is the subject of publication; and if you allow publishers to screen themselves in that way, the character of the citizens of this Commonwealth will be worth nothing at all. There will be no protection for private character, and it is a great mistake to say that the people of the State are asking this change. There is nothing that they more complain of than the license of the press of Pennsylvania to-day, with respect to candidates for official position. There is nothing that you will hear more loudly complained of than this very change, if the Convention should make it. It is a great mistake to say that the people of Pennsylvania are asking for this change. It is only newspaper publishers that are asking it. We are well aware what a public journal is to-day, publishing everything, without respect to any personal knowledge or any sufficient or reliable information by the persons who publish it.

There is another reason why we should not make this change, Mr. President. This matter has been agitated for the last twenty years in the Legislature, and the Legislature, except in one or two instances, have uniformly refused to interfere, and when they did interfere, within very

short periods of time they have retraced their steps. It is a great mistake to undertake to alter this law in the organic act, and I am entirely opposed to it, and shall vote against it. I think the press of Pennsylvania to-day has sufficient license, and certainly ought not to be allowed to publish with reference even to public servants or on public questions, matters of which the editors and publishers are not fully satisfied, on evidence, of the truth of.

Mr. BIDDLE. Mr. President: The condition of the law of libel, during the past hundred years, has been something quite remarkable. Within that period it was a greatly agitated and wrongly decided question in regard to the power of the jury to pass upon the law and the facts in a criminal prosecution, for this offense, as well as in other cases. Every one who has paid attention to the subject is aware that the existing provision in our Constitution, adopted in 1790, re-enacted in 1838, and found in the present Bill of Rights as reported by the committee of the whole, giving the jury the right to determine the law and the facts under the direction of the court, as in other cases, was introduced in consequence of the Dean of St. Asaph's case in England, and is a copy, a textual copy, from Mr. Fox's libel bill, thus putting that question to rest forever. For, strange as it may appear to us at this day, all that a jury could determine before this enactment was passed, was the fact of publication and the meaning of innuendoes, neither more nor less; and the whole question of whether the publication was fairly meant for the instruction and enlightenment of the public, or as a libel upon government or an individual, was taken from them and arbitrarily settled by the court. From that condition we have emerged, but not very long since—within a century.

Again, all of us who are lawyers, and, perhaps, every one here, knows that while in a civil suit for damages you could always justify, and give the truth in evidence, yet in a prosecution for libel you could not, the old maxim being, "the greater the truth the greater the libel." It was found, however, very soon, that this worked absurdly, because it being conceded that information in regard to men in public capacity (which includes, I suppose, or ought to include, as well those actually enjoying the possession of offices as those aspiring to its enjoyment) might be discussed, yet in regard to others it could not. The distinction so far as it

went—I say purposely, “so far as it went,” for it did not take the right direction; it was merely a going in that way—was wise, every one knowing and feeling that no matter what the sins of commission or omission of mere private citizens might have been, there was no reason for dragging them before the public. What had passed in private ought to have been buried in oblivion forever. Not so, however, with regard to public officers. There is no use of shutting our eyes to this question; there is no use of misconstruing motive when we discuss it; the true value of our institutions depends, after all, upon the most searching right of investigation into the conduct of public servants; and if you do not grant this, you really grant nothing.

Then comes this question, which is met here, and met judiciously in my humble opinion, by the amendment: Is the mere question of literal truth to be a decisive test? Just look at it. If you take that as a standard, how in the name of all that is fair and all that is reasonable, if a man is to be tied down to that strict line in discussing the acts of candidates or of public officers, is he to enter into that thorough, yes that impassioned discussion of the question which alone is valuable? The journalist, I contend, who is, or ought to be, and generally is, the instructor of the public on all these important subjects, has the same right to discuss with temper, ay with passion, these subjects, as the advocate in the fearless discharge of his duty, or the legislator in his place in the halls of representation has; and he should feel that he ought not to be “cabined, cribbed, confined” as to every word that he utters in the interest of the public who are his readers.

The office of the public press is of the highest and the greatest importance. It is the instructor of that portion of our population who can turn to no other source for information, and I would grant to the press neither more nor less than is granted to the advocate of the individual, or to the legislator of the people, in the discharge of this sacred function.

Therefore I would make the element of malice the true criterion, not the mere naked truth. An editor may be unable from a thousand circumstances which I do not stop to dilate upon, to prove literally what he has printed; but let him go before his peers, (fortunately I may now say twelve men, after the action of yesterday,) and satisfy them beyond a perad-

venture that his intentions were good, that his object was merely the proper instruction of the public, and I say no matter what mistake he may have made he ought to be discharged from anything like criminality of intention.

Mr. President, why do we boggle here upon this question? Is not malice the very gist and essence of all criminal offenses? Is not that the reason why the plea of “not guilty” is always the right plea in criminal cases, because that puts in question the *mala mens*, the *animus*, the question of intention; and why should we be afraid to say so here?

I believe that so far from introducing those evils which my friend from Clarion (Mr. Corbett) to-day, and my friend from Mercer (Mr. De France) yesterday, depicted, the press would be, on the contrary, vastly improved by this qualification. They would feel that having this right and act of justice accorded to them, they were, as it were, on their good behaviour, and they would scan and criticise more carefully when they felt that this precious talent was entrusted to them, to be dealt with in the way I have mentioned.

Now, what harm can come from this amendment? Is it not a monstrous thing that in regard to the case put by my colleague from Philadelphia (Mr. Dallas) yesterday, the case from Bucks county, I believe, the editor should run the risk (I say run the risk because it might not have happened; he might merely have been fined and not imprisoned) of the jail for the mere accidental mistake of one of his employees, when everything like bad intention was absent from his breast. Let us put this fairly to ourselves and see what the response will be. Unless you mean to say that you disregard altogether the value of the public press as a teacher, you must inevitably come to the result which is sought to be reached by this amendment; because to tell the press in one breath that they are placed in the position of public instructors, the pointers-out of that which requires redress, the advocates of that which ought to be introduced, and, on the other hand, to cripple them so that they cannot fairly discharge their functions, you grant them, and what is vastly more important you grant the people who are instructed by them, no boon at all. Now, just look for a moment

The PRESIDENT *pro tem*. The gentleman's time has expired.

Mr. WOODWARD. Mr. President: If the Constitution and laws of Pennsylvania relating to the press were to be administered by our judiciary as they were administered in this city by Judge Parsons several years ago, I do not think there would be any need for any change or alteration. I agree with what has fallen from the gentleman from Philadelphia, (Mr. Biddle,) that the essence of all prosecutions for libel is malice. What is malice? The only definition we have of it, in Blackstone, and it is not much of a definition, is that it is that state of mind which indicates a heart regardless of social duty and fatally bent on mischief. That is the only idea of malice that any lawyer here has ever learned, for lawyers do not look much below the surface of things. Perhaps it is just as good as any other definition.

But, sir, who does not know that the most careless and vicious editor who publishes the most scandalous falsehood about any of us is not actuated by any such motive. He is not a man whose heart is regardless of social duty and fatally bent on mischief. I will tell you what he is bent on. He is bent on ministering to the prurient tastes of his readers. You will hear about the streets here any hour of the day boys selling papers with the announcement of some sensation that is calculated to attract your attention. The New York *Herald* never stops to consider whether what it publishes is true. The only question with the New York *Herald* is, will it sell? Malice! Why, sir, they are not animated by any such motive at all. It is a mere love of gain; it is the desire to convert their paper into coin that prompts the scandal. An editor of a daily paper told me that just as sure as his paper contained no gossip or scandal nobody cared anything for it, and in order to make it current and popular it was necessary to get up some scandal and gossip.

Now, sir, I say if our courts had always dealt with this subject as Judge Parsons dealt with it in the case to which I alluded, we would have no occasion for reform, because the Constitution and laws of Pennsylvania do abundantly guard the liberty and freedom of the press; but our judges are elected by the people, whom the press very largely control, and there are political rings formed around the judge, and they hold the power, and when you have one man up on an indictment for libel, the law is laid down one way,

and when another man is up the law is laid down another way, and the jury is led to the finding of malice or not finding it, just according to the connection of things and men and rings. That is the state of facts now in this State.

In these circumstances I think the law needs a little amendment, and that this amendment of the gentleman from Philadelphia is calculated to introduce into the law of libel a valuable element, one that will not give judges an opportunity to hold the rule fast and loose according to the circumstances of the parties, but which will commit to the jury the question whether, on the whole, malice has been established to their satisfaction. In the actual circumstances in which we find ourselves placed, I think this amendment would be an improvement on the law of libel.

If it should destroy the law of libel, that is to say, if the practical consequence should be that no more indictments for libel would take place in our courts, I should not be among the mourners. There is nobody in this Convention who has suffered more from the freedom and licentiousness of the press than I have. There has never yet been anything published about me in the press to which I have replied; I have never explained anything that anybody has said about me; and I never mean to do so. I have had speeches reported in the press with the material words left out, so as to convey exactly the opposite idea from that which the words I used did convey. I never took the pains to correct it, and I never mean to. I do not care for the law of libel. The licentiousness of the press undoubtedly is a great evil, and I do not blame the man who meets an editor who has defamed his wife or even himself, if he happens to have a horsewhip in his hand, and applies it to his shoulders. There have been times when I would have done it myself if I had fallen in with the publisher. Talk about the peace of the Commonwealth! Sir, the peace of the Commonwealth is preserved by the thrashing of such a libellous editor as that. [Laughter.] That is the best law of libel that I know of, and there are times, now and then, when the application of a horsewhip would be much better than these miserable prosecutions for libel, with the law laid down one way or another, just according to the influence that is brought to bear!

I do not care if the ultimate effect of this amendment is to destroy the law of libel. Sir, let every man so live as that the world will not believe his enemy when he slanders him. Let him live down the libels. He can do it. I know he can do it. I do not believe that any man's family, or friends, or posterity, if posterity feel any interest in him, are going to think any the worse of him because some editor of a morning paper publishes a scandalous story on him. It does not last till the going down of the sun. Everybody reads it. Let a paper come out this morning charging my friend here, (Mr. Biddle,) with pettifoggery—and that would be the farthest from the truth that any editor could get—my word for it, every man in this Convention would buy a copy of that paper, and there might be a history of George Washington or any other patriot in that paper, and they would read that libel before they would look at the history. Such is the prurient taste of the community. We all have it. But what harm would it do to my friend? Would he not sleep just as well after as before? Would he not eat just as well? Would not posterity think as much of him? Would not the world employ him as their counsel as much as now? Undoubtedly they would. Now, that editor would not mean any malicious injury to my friend; he would simply mean to sell his paper.

Where is the remedy for this evil, for it is an evil undoubtedly? It is in the elevation of the general tone of public morals, in the improvement of society, the lifting up of the newspapers to a higher and better plane where a different kind of literature would be demanded, and then the people would have it, and reputation would begin to be valuable. How is this to be done, sir? We have a great many educational influences in this land; we have the pulpit; we have the school; we have the social circle. The best view that I have ever had of this Convention is that it is an educational body calculated to advance and build up the body of the community to a higher and a better life, one in which this prurient literature will be thrown away like so much filth or worthless weeds, and in which there shall be a demand for a better kind of literature. This Convention ought to be an educating body; it ought to contribute to the advancement of society in a better direction when it would go very far towards the correction of the licentiousness

of the press. How fully this body has come up to the demand, what sort of influence this body has exerted upon the public mind, is not a fair question at present to consider; and gentlemen might differ about that, too. Therefore I will not enter upon that. But there have been a good many propositions for constitutional reform made in this body that I think are of this educational character. I will allude to one. Some gentleman not here now, as usual, had a scheme of oaths by which he would swear men that were to enter upon public duty to perform that duty faithfully, as you do a private trustee or an executor or administrator when he is about taking his office, and then when he was retiring from that office swear him again, just as you do an executor or administrator or a private trustee, hedge him around with solemn oaths before and after. The answer to that proposition on this floor was that you cannot make corrupt men honest by swearing them. I admit that. I feel the force of that answer. Still I voted for those oaths. Why? Because they were calculated to educate the young men of the country up to a better standard than we have attained ourselves. They were calculated to warn the future politicians and legislators of the country that they must be honest and that they must begin by swearing that they are honest and they must end by swearing that they have been honest.

The PRESIDENT *pro tem.* The gentleman's time has expired.

MR. GIBSON. Mr. President: I feel very reluctant to oppose any proposition which any gentleman on this floor considers to be an element of reform, and which he has convinced his own mind is proper to be introduced into the Constitution we are about to make. I feel much more reluctant to oppose anything that seems to be desired by the large and useful class of the community known as the publishers of our newspapers. I rise now, sir, for the purpose not of attacking in any manner the principle involved in the amendment that has been submitted by the gentleman from Philadelphia. When I had the honor to address the Convention before, I said that some such proposition might have been submitted by the Committee on the Bill of Rights to this Convention for their consideration, not in the language expressed by him, but to cover the difficulty under which the press of the country thought they labored—that is, something which would

give them the right to show, if they supposed they had not the right, that there was at least some probable cause for any charge they had made in their papers against any public official, or in the matter of any subject proper for public information.

Sir, when I addressed the committee of the whole on this subject, the excellent reporter for one of the newspapers of this city caught isolated sentences of mine or condensed the substance of remarks in other sentences, and made appear somewhat incongruous the substance of my remarks, and the editor of that newspaper probably was not aware that at that time there was another amendment pending immediately before this body than the one that was submitted by the gentleman from Philadelphia—an amendment which proposed to throw open all libel cases to the admission of evidence of truth, and which proposed that when good motives and justifiable ends were proved, the party should be acquitted, and also proposing to strike out the words that the jury should be judges of the law and the facts.

Now, sir, the ground, the single ground upon which on a former occasion I opposed any alteration of this section of the ninth article of the Constitution, was that I thought this was not the place to determine what the law of libel should be. And although I shall say nothing against the principle involved in the amendment proposed by the gentleman from Philadelphia, and which, by the way, I considered would be much better expressed by adopting the suggestion made by the gentleman from Venango, I still maintain the ground that this is not the place to legislate upon the subject of the law of libel; that our forefathers never intended to make any exclusive law on the subject of libel, and that the declaration of principles they made was not to be considered in the nature of a law or an enactment by the Legislature to bind the trial of such cases, beyond the exception they provided for.

In support of that position, I ask leave to refer the Convention to the law of libel as declared by the Legislature in the Criminal Code of 1861. It says:

"If any person shall write, print, publish or exhibit any malicious or defamatory libel, tending either to blacken the memory of one who is dead, or the reputation of one who is alive, and thereby exposing him to public hatred, contempt,

or ridicule, such person shall be guilty of a misdemeanor."

That is the law of libel of Pennsylvania as it is now. The words "malicious or defamatory libel" tending to bring a person into "public hatred, contempt or ridicule" constitute the *gravamen* of that law. The codifiers in regard to this clause say in their report:

"This question merely puts the common law definition of a malicious and defamatory libel in a statutory form; the object of the commissioners being to assign this crime a place in the statute laws, in order to admonish and instruct."

If it was the common law at the time that code was made, it was the common law in 1790 when our first Constitution was made. There was this law of libel and on trials under the law of libel, the element of malice was a part of it; and when our forefathers declared in the sections relating to libel in the Bill of Rights that the jury should be the judges of the law and the facts, and when they declared that the truth should be given in evidence in a certain class of cases, they did not intend to destroy the element of malice as a part of the law of libel. It was no part of their intention to change the common law of libel. It has already been explained to you by two lawyers who have addressed you this morning on this subject, that at one time the truth could not be given in evidence in any cases of libel at all. There would have been, otherwise, no necessity to change the Constitution or the law in this particular, and there would have been no change if it were not that publishers at the time of making that Constitution were subjected to prosecutions on the part of the government, on account of proper investigations. Therefore, it was thought necessary to say that the truth might be given in evidence "in prosecutions for the publication of papers investigating the official conduct of officers, or men in public capacities, or where the matter published is proper for public information." Now, I ask gentlemen upon this floor who are members of the legal profession whether this is to be construed as abolishing the element of malice, whether any judge who has a case of libel before him is obliged to rule that the truth, and the truth alone, must be given in evidence as a defence? Does it mean anything more than the introduction in such cases of the principle that the truth shall be given in evidence? It was not allowed before;

but since that Constitution was adopted it has been allowed, and it will continue to be allowed; but there seems to be an idea that the element of malice is abolished by this provision. Not at all, sir. The common law exists still. A man who is indicted and tried for publishing a malicious and defamatory libel is tried under the statute, and the only difference between the trial of ordinary cases and this class of cases is that in this class of cases, with regard to questions of public information, the defendant is allowed to give the truth in evidence; and that is all that it means.

The amendment that is before the committee, offered by the gentleman from Philadelphia, (Mr. Dallas,) in my opinion does not change the law on this subject. The case of a libel in this city, that of Mr. Taylor, has been referred to, in which certain evidence was excluded by the ruling of the judge. I would ask the gentleman from Philadelphia, who offered this amendment, whether, if the very words of the amendment had been at the time of that trial incorporated in the Constitution, and if under those words the same question had come before the court, there is anything in the amendment which would have changed the ruling of the judge on that subject? If there is, then I cannot see it. All that there is in it is simply the words "not maliciously," that is, in the negative phrase. There seems to be an idea that the use of the negative phrase "not maliciously" changes the burden of proof and allows the defendant to say that he did not maliciously publish the article upon which the suit for libel is based. Why, sir, words cannot be turned in that way. The meaning of the amendment of the gentleman from Philadelphia is simply that malice is to be an element considered by the jury, and that it must be proved to the jury that the publication was not made maliciously. That still leaves the burden of proof upon the prosecutor to show that it was published with malice, which does not transcend the very provisions of our statute law, which contains the word "malicious," and which, together with the constitutional provision, makes it necessary that malice shall be proved.

This is, however, a mere matter of criticism. I do not intend it as an argument. I simply ask whether, from the uncertain manner in which that amendment is worded, it really gives to the press what they ask for, whether it really does allow

the defendant to give in evidence matters which will show that he had probable cause for believing what he published, or that he received his information from a reliable source. I understand that what the press of Pennsylvania demand is that they shall have the right to show that there was probable cause to believe the truth of what they published if they are unable to prove the truth of it. I think that under the law of libel, as it now exists in regard to officials, it rests upon the Commonwealth to prove that a libel was maliciously published. The very fact of the Constitution giving the right to allow the truth to be given in evidence converts it into a privileged communication; and a privileged communication *per se* repels the presumption of malice, and throws the proof of it on the prosecutor.

The CHAIRMAN. The gentleman's time has expired.

The PRESIDENT *pro tem*. The question is upon the amendment to the amendment, to insert after the word "maliciously" the words "or negligently."

Mr. HAY. I desire simply to call to the attention of the members of the Convention the fact that they are not now called to vote upon the amendment of the delegate from Philadelphia, (Mr. Dallas,) but upon the amendment to his amendment, which I offered yesterday, viz: to insert the words "or negligently" after the word "maliciously." I yesterday explained that the reason why this amendment was offered was that I thought in many cases there might be such negligence as should properly and rightfully make the publisher of a libel responsible to the person injured and yet nevertheless not be of such a gross and wilful character as to amount to maliciousness. If this amendment be adopted by the Convention, I shall then vote for the amendment offered by the delegate from Philadelphia (Mr. Dallas.)

Mr. H. G. SMITH. Mr. President: I wish to occupy the time of this Convention but for a very few moments, and that only in alluding to some of the remarks that have fallen from gentlemen upon this floor who are opposed to the present amendment. In what I have to say in the brief period allotted for debate under the ten minute rule, I shall confine myself to an exposition of some of the practical disadvantages under which the press of Pennsylvania labors,

The necessity for some provision on the subject here arises from the uncertainty of the law of libel as it exists by statute and

constitutional provision in this Commonwealth. Gentlemen have asserted upon this floor that the law of libel in Pennsylvania is well defined; but the facts of the case do not bear out the assertion. Certain it is that English judges of the most distinguished character, who have had this and other definitions before them, have declared that no definition of the law of libel which they had seen in the common law of England or in any of the writers upon that law embraced in itself the two great requirements of a positive definition—that of including all that was intended to be embraced, and excluded all that was not so intended.

The statutory definition of the law of libel in this Commonwealth is therefore not certain. It has been declared to be uncertain and unmeaning by the best judicial minds, learned in the common law and all its readings. Nor is your constitutional provision void of uncertainty. You have heard what has been said by a distinguished ex-chief justice of this Commonwealth (Judge Woodward.) Every lawyer in this body knows what he said to be true, or ought to know it to be true. The press of this State stands to-day with an uncertain statute and an uncertain constitutional provision, at the mercy of any judge and his ignorant or prejudiced ruling, and they cannot appeal from improper rulings to the Supreme Court of the Commonwealth. They cannot, if injustice be done, carry the case to a higher tribunal; and you cannot find in the whole volume of the laws of your Commonwealth, and in the decisions thereupon rendered, any distinct, well-recognized and well-settled definition of the law of libel, or any authoritative rulings, which protect the publisher in his right, because your Supreme Court has not decided upon it, and this for the reason that cases decided criminally in your courts of quarter sessions can not be taken up to the Supreme Court.

A case was alluded to yesterday, a case that may occur in any newspaper office, that of a soldier whose right hand was shivered by a cannon ball at Fort Wagner, and who writes with his left to-day, and you were told that under the law of this Commonwealth he could be taken into a criminal court, and that when there arraigned, he could not give facts in evidence to the jury, could not show the facts which removed the imputation of malice. The publication of the

matter alone is conclusive. There the judge may stop and he may tell the jury and tell your counsel and tell you to your face that you can prove the truth "thereof," of the publication as you made it, word for word; but that you can explain nothing. The murderer can do more than that, a horse-thief can put his whole case before a jury, and it is only the publishers of this Commonwealth alone who have their mouths closed when arraigned in the criminal dock.

The distinguished gentleman from York, not now present, (Mr. J. S. Black,) yesterday asked the gentleman from Philadelphia (Mr. Dallas) whether he had ever known a conviction to occur under such circumstances. Well, admit that there never has been such a conviction in the Commonwealth of Pennsylvania, yet the fact stands that every publisher sits this day with that unjust provision hanging over his head like the sword of Damocles, and the will of an unjust or a partisan judge may drop it at any hour. Do you wonder that the publishers of this Commonwealth feel the injustice of such a law? Take it to yourselves. I know that many gentlemen now here are sensitive on account of attacks that have been made by the press; I know that the press has been licentious to a considerable extent; I know that undue freedom has been frequently exercised in the discussion of public men and public measures; but the law as it stands protects the press thus far. It can comment with the widest liberty upon the conduct of every man occupying any public position; but in other matters, in the publication of important news, it feels the weight and the injury of that uncertainty in the law, which has been made an engine of injustice.

We are told here that if such a clause as this is inserted in our State Constitution we shall have a licentious press and that every man's private character may be attacked. Why, sir, we had a libel law which stood on the statute book of Pennsylvania for years which allowed greater latitude than the amendment of the gentleman from Philadelphia proposes to grant. That statute, known as the Getz libel law, reads thus:

"On the trial of an indictment for writing or publishing a libel the truth of the matter charged as libellous may be given in evidence, and if the jury in any such case shall find that the same was written or published with good motives

and for justifiable ends, and that the matter so charged was true, it shall operate to the acquittal of the defendant or defendants."

That law, in those unequivocal terms, stood on your statute books for years, and I ask any lawyer in this body, or any layman, whether, during the years in which that was the law of Pennsylvania, fixing, as it did, the rule of evidence in libel cases, there was any undue license of the press, whether the press was less decorous than it is to-day.

The *PRESIDENT pro tem.* The gentleman's time has expired.

Mr. BROOMALL. Mr. President: Up to a very recent period in this discussion my inclination was to vote against the amendment. I am about coming to the conclusion to vote the other way, and I desire to state, in a very few words, some of the reasons that have led me to that change of mind.

I know there is great difficulty in guarding against the licentiousness of the press without, to some extent, crippling the usefulness of the press. I know that editors and managers of papers, like all other people, are composed of two classes—good men and bad men; and I know that there is a difficulty in controlling the one without tying the hands of the other; but I have been led to ask myself whether there is really, in the present condition of the law, any guard against the bad press, any guard against men who choose to pervert the powers they have to the injury of their fellow-men; and I have concluded that there is not. It is a blundering editor that brings himself within the law of libel as it stands at the present day. If he does it, I might say that he deserves to be punished for his stupidity, for, by an ingenious management of language, he can cut deeper and do more damage outside of the law of libel than he can by making himself liable to it.

If there is no use in the law as it exists now, if it is no protection against the bad, why preserve it? Because, undoubtedly, the dissemination of useful information, both with respect to individuals and measures, is a thing greatly to be desired within proper limits, and if the guards that we now have are no protection against the abuse, I for one will say—remove those guards.

I agree with the gentleman from Philadelphia (Mr. Woodward) that there is probably nothing short of physical force

to prevent many of the abuses of the press. You cannot strike an editor with effect unless you have his own weapons. There is but one of two things to do when a bad reporter or a bad newspaper manager attacks you, because, as I say, unless he is a dunce as well as a bad man, he will not make himself liable to prosecution for libel as the law now stands; there is but one of two things to do. The one is to run and the other is to resort to physical force. I generally prefer the former. When I have been attacked, I have got out of the way. It is no mark of cowardice to run from a polecat, because you cannot fight him with his own weapons. [Laughter.] It is no mark of cowardice to make no reply to the attack of a bad newspaper man, because you cannot attack him with his own weapons. The plan of the gentleman from Philadelphia to resort to the cowhide might be beneficial in many instances. Being naturally a man of peace, I would not resort to it. Like the gentleman from Philadelphia, I, too, have been attacked, and, like him, I never was brought to an explanation, and never will be. I never plead even "not guilty," until I am at the bar and hear the indictment read.

For these reasons, therefore, that the present law is no protection against the evils perpetrated by bad men who have the control of papers, and because the present law is in the way of some of the good that might be done by good men who have the control of papers, I am inclined to vote for this amendment. I have some doubt about the expression "civil." I would rather incline to have that stricken out; but as there is an amendment to the amendment pending, of course I cannot move it now. I have some doubt whether a man should not be liable for his mistakes that were not maliciously made, in a civil action; but I have not time to argue that within my ten minutes, and I will content myself with voting for the amendment, and probably then moving an amendment to the clause to strike out the word "civil," and whether that succeeds or not, voting for the proposition.

The *PRESIDENT pro tem.* The question is on the amendment of the gentleman from Allegheny (Mr. Hay) to the amendment of the gentleman from Philadelphia, (Mr. Dallas,) by adding, after the word "maliciously," the words "or negligently."

The amendment to the amendment was agreed to, there being, on a division: Ayes, fifty-six; noes, thirteen.

The PRESIDENT *pro tem*. The question is on the amendment as amended.

Mr. BROOMALL. I now move to strike out the words "civil or criminal," to strike out the words "suit or," and insert "criminal" before "prosecution," and to strike out the words "recovery or," so as to limit it to criminal prosecutions. The amendment would then read:

"All papers relating to the conduct of officers or men in public capacity, or to any other matter proper for public investigation or information, shall be privileged; and no conviction shall be had in any criminal prosecution for the publication thereof, where the fact that such publication was not maliciously or negligently made shall be established to the satisfaction of the jury."

I only desire to say that I think a man should be held responsible in a civil action for his misdeeds, short of malice, probably short of negligence, at least short of gross negligence. I would much prefer to have the amendment read in that way.

Mr. DALLAS. I wish to say a single word, and entirely upon the amendment just offered by the gentleman from Delaware (Mr. Broomall.) I desire to call the attention of the Convention to the fact that if that amendment should be adopted, the proposition which I have offered will be shorn of its effectiveness. It can make very little difference to the editor of a paper brought into a court of justice upon a charge of libel whether he is tried upon the civil or the criminal side of the court. If the result in the civil court be a verdict for damages in \$1,000, it differs nothing from a prosecution in the criminal court and a verdict there involving a fine of the same amount.

When the gentleman from Pittsburg (Mr. Hay) offered his amendment to insert the words "or negligently," I stated that I had no objection to it whatever, except that I thought his intention already provided for in the word "maliciously." The Convention has thought differently and has inserted the word "negligently." That puts any question on that point entirely beyond doubt, and I urge upon this Convention that no man should be held civilly responsible for a pure accident; that in all actions of tort of the class now being considered, the question of negligence is the true question to be presented

to the jury, as in the case of railroad accidents and in the case put by me yesterday of a brick falling from a house in course of erection. In all such cases, even in civil actions, the true question is, negligence or no negligence, and in all like actions of tort the judges' duty is to enter judgment of non-suit in the absence of proof of negligence, and it certainly would be unfair not to permit the editor to prove the non-existence of negligence. That is the whole question.

Mr. CLARK. Mr. President: I shall vote against any change in the Bill of Rights, believing as I do that we have no right or power to change any part of that article. I apprehend, however, that the amendment of the gentleman from Delaware will have an effect the very contrary of what he desires. Perhaps I am mistaken. As proposed to be modified, substantially his amendment would cause the section to read thus: "All papers relating to the conduct of officers or men in public capacity, or to any other matter proper for public investigation or information, shall be privileged." That is, as to both civil and criminal proceedings, they are privileged. Now, then, as to criminal prosecutions alone: "And no conviction shall be had in any prosecution for the publication thereof where the fact that such publication was not maliciously made shall be established to the satisfaction of the jury." How is it with respect to civil cases? These papers are privileged as to all civil cases, and the amendment substantially destroys every civil action for damages for libel. It has the very contrary effect of what the gentleman desires.

The PRESIDENT *pro tem*. The question is on the amendment to the amendment.

Mr. BROOMALL. I withdraw it. I believe the gentlemen from Indiana is right.

The PRESIDENT *pro tem*. The amendment to the amendment is withdrawn.

Mr. LANDIS. The amendment of the gentleman from Allegheny (Mr. Hay) being adopted, I now propose to offer an amendment to the amendment of the gentleman from Philadelphia (Mr. Dallas) with a view of meeting one of the objections which I urged in the remarks that I submitted this morning, and that was, the want of any necessity for stating that the publication of any paper or comments upon men occupying official position should be privileged. Under the Constitution as it stands at present, communications of that kind are privileged.

The *PRESIDENT pro tem.* The gentleman has already spoken on that subject.

Mr. LANDIS. I submit the amendment.

The *PRESIDENT pro tem.* The proposed amendment to the amendment will be read.

The CLERK read as follows:

"In prosecutions for the publication of papers investigating the official conduct of officers or men in public capacities, or where the matter published is proper for public information, in any civil suit or criminal prosecution for the publication of the same, the truth thereof may be given in evidence, and there shall be no recovery or conviction where the fact that such publication was not maliciously or negligently made shall be established to the satisfaction of the jury."

The *PRESIDENT pro tem.* Where will the amendment come in?

Mr. LANDIS. In a word I will state the operation of the amendment. The gentleman from Philadelphia has stricken out the language of the old Constitution which relates to the publication of papers and to matter relating to the official conduct of officers. Now, I propose to retain the original language of the section of the Constitution. I propose further to retain, in addition to that, that clause in it which says that the truth may be given in evidence because that part of it is stricken out by the amendment of the gentleman from Philadelphia. Then I propose to add to it just there the language of the gentleman's amendment, which is, that there shall be no recovery or conviction in any suit or prosecution where the jury are not satisfied that the publication was maliciously or negligently made. I think this would be safer even for the publisher of a newspaper because it still permits him to give the truth in evidence. The position might be taken before the court that the old clause in the Constitution allowing the truth to be given in evidence was stricken out and therefore that the truth might not be given in evidence under this amendment. I propose simply therefore, to retain so much of the old language as is consistent with his amendment and then to the end of that add the amendment of the gentleman from Philadelphia, to which nobody can object.

Mr. KNIGHT. Mr. President: The Legislature, in calling us together, restricted us by providing that we should not, in any way, change the present Bill of Rights, and I have so far, I believe, voted,

and I intend in the future to vote, against all amendments tending to change the present Bill of Rights as it stands in the Constitution. This section, as reported by the committee, is precisely the same as the section contained in the old Bill of Rights, and therefore I shall favor the section without amendment.

The *PRESIDENT pro tem.* The Chair will state that if he understands the amendment offered by the delegate from Blair, (Mr. Landis,) it is a mere substitution of what is proposed to be stricken out by the amendment of the delegate from the city. If that is so, it is not in order.

Mr. LANDIS. That is not the case, Mr. President.

The *PRESIDENT pro tem.* Then the question is on the amendment to the amendment.

Mr. DALLAS. I understood the Chair to rule it out of order.

The *PRESIDENT pro tem.* The inclination of my mind is to rule it out, but it seems that I do not properly understand the proposed amendment.

Mr. DALLAS. I do not rise to that point, but I wish to say a single word in explanation of the matter suggested by the gentleman from Blair. His amendment and the explanation he gave of it misconceive the purpose and the scope of the amendment, which is the principal question before the Convention. It is true that it is proposed by the amendment which I have offered to substitute it for the language in the Constitution as it now stands, which gives to publishers the bare, simple right of proving the truth of an alleged libel in evidence. There is no necessity of retaining that clause if the amendment that I have offered to be adopted, for the truth or falsity of the alleged libel will always be a question proper for the consideration of the jury upon the question of malice, and I do not want language retained that will make the mere truth, coupled with malice, a defence for a libel; but I desire that the truth may always be given in evidence where, in its effect, it will rebut malice. That will be the effect of my amendment; but still let the proof of truth come in on the real question involved, and do not let it come in on any other question whatever.

The *PRESIDENT pro tem.* The question is on the amendment of the delegate from Blair to the amendment of the delegate from Philadelphia.

The amendment to the amendment was rejected.

Mr. H. W. PALMER. Mr. President: The claims of the friends of this amendment is that they only desire for the press an opportunity to investigate the conduct and character of public officers, and that the amendment would not allow publication concerning private individuals. That also seems to be the demand and belief of the press of the State. Judging from their published solicitations, they seem to desire an opportunity to investigate, in the fullest manner, the character and conduct of public officials and those seeking public places only. I read from one of the morning journals of this city, (the *Press*,) the remarks made in this behalf:

"Mr. Dallas has modified his proposition, and very materially. As originally offered it provided in effect that in all papers affecting public officers, and relating to public affairs which were of concern to the people, and the publication of which was likely to favorably affect their interests, malice should not be presumed from the publication, but that when alleged it must be proved to exist, or as we stated some time ago, that the legal presumption should be made accordant with the presumption in fact that public matters are treated of in public prints for public reasons, and not for the gratification of personal spite. This provision was not too sweeping, and it is to be regretted that the Convention should have thought so, and that Mr. Dallas was compelled to modify it. It did not, as a contemporary has charged, and many of the members seemed to think, open the doors to attacks in the newspapers upon private individuals, or even upon public officials in their private conduct."

Of course the accomplished editor of this journal is better able to interpret the effect of a section of the organic law on the subject of libel than the judges and lawyers of the Convention, and they doubtless did not comprehend Mr. Dallas' amendment.

But we now understand from its advocates, and from the newspapers also, that all they desire is the opportunity to investigate the conduct of public officials in their official capacities as well as their private character. To test the sincerity of the gentlemen here, and to ascertain whether they are ready to stand by what they profess, I move to strike out the word "or," in the second line, and insert the word "and."

Mr. LILLY. How will it read then?

Mr. H. W. PALMER. It will then read: "All papers relating to the conduct of officers or men in public capacity, and to any other matter proper for public investigation," &c.

As it stands, the disjunctive conjunction "or" separates the latter from the former clause, and under the amendment, if an editor chose to publish any matter concerning a private individual, he may do so, alleging it to be proper for public information. If you insert the conjunction "and," it will connect this phrase with the one going before, and then the whole amendment will relate to public officers and to their official acts and to investigation of their private character. In that form there is less objection to the amendment. That from the newspapers, if I can understand them, is what the editors of the State desire, and that, I am told, is the purpose of the movers of this amendment. My difficulty is that I believe the original language is broader in scope than its authors admit, that it opens the door to attacks upon the conduct and character of private individuals. It would allow these newspaper men to walk into the household of any citizen of this Commonwealth and drag forth to light secrets that ought not to be published, under the assertion that the matter was proper for public information. I can imagine the awful consequence of such a license in the hands of irresponsible, reckless persons.

The flood of libels that would flow from a licentious and unbridled press would slaughter character, destroy business, rupture social connections, blight domestic happiness and all to accommodate a class of citizens who assume quite liberty enough already. The publication of newspapers is private business conducted for private gain, and their editors should be held to the same strict accountability for sins of omission and commission as other private citizens. No authority has appointed them censors of public conduct or conservators of public morals, and while the influence of the press is conceded to be great, the character of its teachings and its codes of morality are not always such as to inspire undoubted confidence in its integrity. I shall never consent to throw down the barriers that protect private reputation, and, therefore, to test the sincerity of gentlemen here who claim not to ask it, I offer this amendment.

Mr. CLARK. It seems to me that the amendment which the gentleman from Luzerne suggests will not express his idea. He proposes to amend it to read in this way: "All papers relating to the conduct of officers or men in public capacity, and to any other matter proper for public information." If he wants to express the idea which he has just argued before the Convention he should make it read: "All papers relating to the conduct of officers or men in public capacity and proper for public information."

Mr. H. W. PALMER. I will accept that modification.

Mr. CLARK. I shall not offer such an amendment—I am not in favor of it. I shall vote against it, but I want the question distinctly raised.

The PRESIDENT *pro tem*. The modification is accepted.

Mr. DALLAS. I only desire to say to the Convention that the language, as used with the disjunctive conjunction, is precisely the language of and was copied from the present Constitution, where it reads: "In prosecutions for the publication of papers investigating the official conduct of officers or men in public capacities, or where the matter published is proper for public information."

Now, Mr. President, I am as far as the gentleman is from desiring to open the door to the publication of mere private scandal. I have said that more than once; and when he appeals to my sincerity, I can only repeat that I am sincere in it. But in laying down the fundamental law upon this subject, we cannot safely undertake to schedule for the press of Pennsylvania all the matters which are proper for public information; nor is it true, as the gentleman's argument supposes, that this amendment, as I have written it, will leave to the press of Pennsylvania to determine what is and what is not proper for public investigation. I aver—and it will strike every man's mind as reasonable—that twelve jurymen shall sit upon the question, and twelve average jurymen of the State of Pennsylvania anywhere, made up of its citizens, can be safely trusted never to agree that private scandal is proper for public information.

The PRESIDENT *pro tem*. The question is on the amendment to the amendment, which will be read.

The CLERK read as follows:

"All papers relating to the conduct of officers or men in public capacity, and

proper for public information, shall be privileged."

The question being put, there were, ayes, fifty-nine—

Mr. DALLAS. I call for the yeas and nays on this question.

The PRESIDENT *pro tem*. Gentlemen seconding the call will please rise.

Messrs. Biddle, Bigler, Boyd, Buckalew, Bullitt, Calvin, Campbell, Cochran, Curry, Cuyler, Guthrie, Hay, Hemphill, Landis, Russell, Sharpe, H. G. Smith, Wherry, Woodward and Worrell rose to second the call.

The PRESIDENT *pro tem*. The yeas and nays are ordered.

Mr. COCHRAN. I have no disposition to embark on the discussion of this question particularly, but I wish to call the attention of gentlemen to one fact, and then they will act accordingly. The adoption of this amendment as proposed to the amendment will make the provision of the Constitution, in my judgment, far more restrictive on the press of this State than it is under the present section as it stands in the Bill of Rights. I am opposed to that. For my own part, I am willing to vote for a proper amendment in some way meeting what I believe to be the inconveniences under which the press now is placed; but I am not willing to adopt any proposition or amendment here which will make the Constitution of the State still more restrictive upon the press than it is under the present provision.

Mr. BIDDLE. Mr. President: I concur entirely with the gentlemen from York. This amendment, I think, has been offered in a misapprehension of the subject, under the belief that no information is proper for the public consideration except in regard to public men.

Mr. D. N. WHITE. Mr. President: I rise to a question of order.

The PRESIDENT *pro tem*. The gentleman will state his point of order.

Mr. D. N. WHITE. That debate is not in order after the yeas and nays are called for.

Mr. COCHRAN. The yeas and nays were not ordered.

Mr. D. N. WHITE. The yeas and nays were ordered by a sufficient number rising.

The PRESIDENT *pro tem*. The point of order is well taken. The Clerk will call the names of delegates on the amendment to the amendment.

The question being taken by yeas and nays, resulted: Yeas, thirty-one; nays, sixty-eight, as follow:

YEAS.

Messrs. Ainey, Andrews, Bannan, Bowman, Collins, Corbett, Craig, Darlington, DeFrance, Elliott, Gilpin, Guthrie, Hanna, Howard, Lamberton, Lear, Lilly, MacConnell, Mann, Metzger, Minor, Niles, Palmer, G. W., Palmer, H. W., Reed, Andrew, Smith, Henry W., Struthers, Temple, Turrell, Walker, and White, David N.—31.

NAYS.

Messrs. Achenbach, Alricks, Armstrong, Baily, (Perry,) Bailey, (Huntingdon,) Baker, Bartholomew, Beebe, Biddle, Bigler, Black, Charles A., Black, J. S., Boyd, Broomall, Brown, Buckalew, Bullitt, Calvin, Campbell, Carey, Carter, Clark, Cochran, Cronmiller, Curry, Cuyler, Dallas, Dodd, Dunning, Edwards, Ewing, Finney, Fulton, Funck, Gibson, Green, Harvey, Hay, Hazzard, Hemphill, Horton, Knight, Landis, MacVeagh, M'Clean, Mantor, Mott, Newlin, Patton, Purviance, John N., Purviance, Sam'l A., Read, John R., Rooke, Ross, Runk, Russell, Sharpe, Simpson, Smith, H. G., Smith, Wm. H., Stanton, Stewart, Van Reed, Wetherill, Jno. Price, Wherry, Woodward, Worrell and Wright—68.

So the amendment to the amendment was rejected.

ABSENT.—Messrs. Addicks, Baer, Barclay, Bardsley, Brodhead, Cassidy, Church, Corson, Curtin, Davis, Ellis, Fell, Hall, Heverin, Hunsicker, Kaine, Lawrence, Littleton, Long, M'Camant, M'Culloch, M'Murray, Mitchell, Parsons, Patterson, D. W., Patterson, T. H. B., Porter, Pughe, Purman, Reynolds, Wetherill, J. M., White, Harry, White, J. W. F. and Meredith, *President*—34.

THE PRESIDENT. The question recurs on the amendment of the gentleman from Philadelphia (Mr. Dallas.)

MR. MACVEAGH. I voted against the amendment of the delegate from Luzerne (Mr. H. W. Palmer) because on examining the text of the Constitution I supposed it omitted the words "proper for public investigation or information." I supposed it exempted that class of subjects from the privilege of publication in the press and, therefore, I was opposed to it. I am opposed, however, to the amendment of the gentleman from Philadelphia, (Mr. Dallas,) because practically

it means turning every complainant of a libel upon his character over to an irresponsible correspondent somewhere else. To-day one of the evils of your political system is that good men are kept out of your public life, kept from being candidates for its honors and its legitimate prizes, simply by fear of the assaults of the irresponsible portion of the press upon their characters.

There are newspapers that are conducted with an eye single to the public interest, and there are those that are conducted simply to make spicy and sensational reading in slanders upon public and private character. Now, that is no reason for destroying the liberty of the press, and the men who framed the Constitution of 1838 put thoroughly secure safeguards around the liberty of the press, but to-day you are asked to allow absolute license. When a bill is before either the Legislature at Harrisburg or the National Legislature at Washington and one set of men are voting from dishonest and corrupt motives and another set of men are voting from perfectly honest and correct motives, any correspondent at either Capitol may confuse the classes indiscriminately, may telegraph that a perfectly honest and upright man has sold his vote, may put a scarlet letter upon his forehead that will burn into his memory and into his heart, and send him embittered to his grave; and what is his possible remedy?

He comes and shows the article to the editor in this city and the editor replies, "Why I did not do this maliciously; I did not know Mr. ———; I had no personal malice; it was sent to me by my correspondent at Washington, or by the correspondent of some New York newspaper; I received and printed it in good faith, and your Constitution protects me, for I had no particle of malice."

If the little protection given by the Constitution of 1838 to good character is beaten down, the last reason for making good character in your public service is gone. What is the use of being honest in your Legislature, as far as the rewards of public life are concerned, if any man may refuse to investigate the charge that you are a thief before he sends that charge broadcast to be read of all men in America? There is none! Why should not the delegate from Columbia, (Mr. Buckalew,) who is here to-day, have made all his legislative career an infamy as far as public rewards are concerned, if any man had been at liberty to tel-

ograph from Harrisburg that he had sold his vote? Or why should it not be recorded of the gentleman from Delaware (Mr. Broomall) that when in the National Congress he had the money of the *Credit Mobilier* in his pocket as a price for his vote? There were men in both bodies who were corrupt; and if there is no public sanction given to character in your public life, what possible inducement do you offer to your young men to remain true?

I say now that if this amendment be adopted, the last of our barriers for private character will be gone. When you allow a publisher not to be responsible, you do not know who the correspondent is, and if you do know, you know that he is not responsible. He is at Washington, or he is at Harrisburg, or he is in New York, or he is in Europe, or he is in California, by the time your case comes to trial, and all the publisher has to do is to prove that he was actuated by no malice whatever, either partisan or personal. In other words, he can safely make his sheet a conduit for any filth against your name at the instance of any man whom heretofore you have offended. Any correspondent whom you have annoyed, any person to whom you have refused black-mail, may send his falsehoods and foster them upon your name so that it will keep you busy all your life to eradicate them.

Gentlemen talk as if a printed libel on a good man's name was an easy matter to endure. It was only a mistake in the types! The editor meant to say that Mr. — was a thief and he put in your name by mistake, and you must not complain of it although nine-tenths of the people you meet are telling you of it, and one-half of them, if they do not know you, are believing it. I say you ought to have some little protection, before a man can print a libel on you. He may print almost anything now. He may print any falsehood about you. He may say anything that does not tend to make you infamous in the memory of your children or in the circle of your domestic and social life. He may do everything else now; why allow him to do that also without a little preliminary investigation as to its truth?

Are the barriers now impassable? Is it true that the American press is "gagged" to-day? Is it true that there is any actual limitation upon its liberty? Why, one gentleman made the astounding argument here that because the present re-

strictions did not avail as any curb at all upon the press, therefore he would vote in favor of this amendment to remove them from your Constitution. Surely, therefore, they cannot do much harm. The good men who are enlightening the public mind by the influence of the public press, I do not suppose, when they come to investigate it, will care to have this amendment. Certainly, it will be an inducement, a palpable inducement, to the bad men to be utterly reckless in the defamation of private character. We know, as we have been told in this debate, that in the neighboring city of New York a great work was done in the exposure of a gigantic political iniquity. The American press is always safe before American juries in that work. But on the other hand consider the scandal that to-day is soiling almost every home of the city of Brooklyn, making mothers almost ashamed to look into their daughters' faces and fathers almost afraid to kiss their daughters' lips, because the poison of a great scandal has entered every home in that community, by being spread broadcast by an unbridled press.

This amendment I submit can do no good. In its present form it is too broad. I trust, therefore, that the Convention will hold fast to all the guarantees of the liberty of the press which our forefathers found to be necessary, and will add to them if it is found necessary to do so. As the gentleman from York has suggested, a proper amendment can doubtless be framed which will not allow a publisher of a libel under his own name to remit the responsibility of that publication to an unknown correspondent somewhere else, but which will fully and amply protect all publications made after proper inquiry or the exercise of proper care and from proper motives. That far I will go, but no further.

MR. BUCKALEW. Mr. Chairman: I find it necessary to add a few words to this debate in order to justify my peculiar position on this subject. I am disposed to yield something to the demands of newspaper publishers of our State in regard to our criminal laws on the subject of libel. I am agreed that they shall be sent into the jury-box; that the question of motive under which they have made any publication which shall be charged as libellous in its character, shall be there reviewed. I am agreed that that question shall not be in the hands of the court to draw a legal inference of malice from

language where none may in fact have existed. To that extent I am willing to mitigate the unusual severity of the common law and to put this question of the law of libel, criminally administered, upon principles of common sense and of common justice. I am not sure that is not the law now. I know some gentlemen insisted that is, and among them the member from York, (Mr. J. S. Black,) who is an honor to this body, as he is to the American bar. But, sir, the law is not thus administered in the courts of this State, at least it is not thus uniformly administered, and I am in favor of granting that additional privilege or, if you choose, declaration of existing law, here or somewhere else in the Constitution.

But I am averse to going to the extent of saying, as this amendment does say, that any publication which relates to men in official life or to any occurrence, the ventilation of which is proper for public information, shall be privileged. That word "privileged" is a very comprehensive word. It has a strong signification in the law. It means an exemption from ordinary responsibility, something extraordinary, granted under a particular state of circumstances or to a particular person, which is not made general to all persons, or applicable to all circumstances. It has received a liberal construction in courts of justice, such as will not fit it for the broad extension which is proposed for it here in this amendment.

I am not willing that private character in this State shall be put under the—I will not say pressure—but under the oppression of this proposed provision of the Constitution; that an editor may say anything he pleases about me or about my domestic affairs provided he can persuade a jury that it has some connection with any transaction in the community the examination of which is proper for the public information, and that his motive is not malicious.

Let me illustrate my ideas on this subject very briefly by stating a case which is now pending in one of the courts of this State. An editor publishes an article stating that bones had been discovered in a certain well upon premises occupied by a man of a given name, that those bones were human, that suspicion had been raised in the neighborhood that a murder had been committed, that a certain man had disappeared at a given time and that the day before his disappearance he was seen in the company of the owner of the

very promises upon which this discovery was made. This publication is sent forth through the columns of the newspapers, and in due course of time the man upon whom the charge of felonious homicide was indirectly made in that article, brings his action at law and it is pending for decision. I want to know whether you will exclude him altogether from remedy in the case I have stated. The discovery of a murder in a community is certainly a matter proper for public information, and if there is a suspicion of foul play and there are bones discovered in a well, has not an editor a perfect right to state that and to state upon whose premises they were found, who occupied the house at the time the disappearance took place, who is supposed to be the missing man, or any other circumstance in relation to it? Certainly he has the right to do so, it will be said, because it is proper for public information.

But suppose a grievous wrong is done to that man. Are you to preclude him from any remedy at all? Suppose he goes to the editor of that paper and says: "You have published a statement that brings me into general contempt, disgrace and danger; here is the testimony of all my neighbors, and I want you to print it;" and the editor replies, "I will not do it." Yet under the proposed provision of the Constitution, there is no mode of reaching him. If, in the original publication he was not actuated by malice, or was not guilty of gross negligence at that time, as the circumstances appeared to him, he goes scot-free forever, and this even though he shall refuse to communicate to the party injured the source from which he received his information, so as to give him a remedy against the original calumniator, or shall refuse to publish a correction of the charge so that the man's character shall be vindicated. I do not desire to shut a man off from remedy against such an editor as that, at all events not by a provision in the Constitution.

Then again, take another aspect of this very case. The week following the publication of this charge a brother of the missing man came to the editor of the newspaper and explained that his brother was not in the country at the time of his supposed disappearance, that he was in California, that he had received a letter from him of a subsequent date. All this was published by the editor the week following, and thereupon a further question, under our law, is whether the editor can

prove that. The offense was completed when the first publication was made, and it is not certain that after an interval of a week an editor can purge himself from his original wrong or error by doing justice to the party.

I cite this as a case of hardship, and where the authority of the Legislature acting as it does upon other subjects, ought to be interposed. As these various points come up in the course of judicial experience in the State and in the experience of the people, your law-making power can mould and shape your laws to meet them all. Here we are putting in the Constitution words, the true effect of which we cannot foresee; but I can see far enough, I think, to perceive that this provision that all publications of this character shall be privileged in the technical sense of the law expression, is most improvident and hazardous. Therefore I shall vote against this amendment. Although I am desirous to vote with the gentleman from Philadelphia upon the branch of it which relates to criminal law, I am compelled to vote against it so long as it affects the civil remedies in these cases.

Mr. D. W. PATTERSON. Mr. President: I do not design to make a speech but merely to refer to the public mind of the press as I have observed it and to note how much, apparently, it has varied from last fall. I think it will not be disputed that last fall after the election of the delegates to this Convention the public press very generally advocated the position which the Legislature had taken in passing that provision of the act authorizing this Convention prohibiting this Convention from altering in any particular the Bill of Rights. Just preceding the meeting of this Convention in December last, the papers generally hoped that the Convention would give heed to that indication in the act of Assembly, whether the Legislature was authorized to do so or not. I do not say all the papers thus viewed it, for there were some here and there that thought there ought to be a change in the Bill of Rights or in the Constitution relating to law of libel. Among such was a prominent paper of this city, the *Philadelphia Press*, and this is what it published on the second week of December, 1872—the *Press*, of Philadelphia:

“THE LAW OF LIBEL.

“That the Constitutional Convention will amend the libel laws, is, we take it, abso-

lutely certain. The statutes on this subject are illiberal, unjust, and unworthy of the age we live in. Their effect is seen in the dwarfed independence and enterprise of the press of the State and the immunity from public contempt and punishment of its incompetent and dishonest officials. Suggestions in the matter come to us by the score; but what is needed is a change that will admit the truth of the alleged libel to be presented to the jury, and such other evidence as will show that the publication was from good motives and justifiable ends. This is the law of New York and should be of Pennsylvania.”

Now, I want to read just a short piece, being the comment of as able, I may say as efficient, an editor or writer as you will find out of the great cities or perhaps in either of the two great cities of Pennsylvania; I speak of the editor of the *Express* of the city of Lancaster. He thus comments on the editorial of the *Press* above referred to.

“We are surprised to see a journal generally so well informed as the *Philadelphia Press* on all public questions, taking the above view of one of the best and most important sections of our bill of rights as it exists in the present Constitution, and which the Legislature, in authorizing the new Convention, wisely (whether authoritatively or not is an open question) enacted should not be changed. Under the present fundamental law the truth of an alleged libel can be presented to a jury in all cases “where the matter published is proper for public information.” In the case of public officers and candidates for office, we have the right to print the truth, being responsible only for the abuse of the privilege. If we know an officer or candidate for office to be a thief, we have a right to print the fact Court is bound to admit the evidence, and if we prove the allegation it must operate to our acquittal. It is only when the character of *private* citizens is assailed that the law protects such citizens from the malice of journalistic defamation. We have no right to print the charge that the wife of a respectable citizen was once a public prostitute, although we might be able to prove the fact to the satisfaction of any court and jury. Such facts are no concern of the public. To print them would only incite breaches of the public peace. If the husband or son of the defamed wife and mother could find no law to convict the libeller in court, he would

naturally want to horsewhip or shoot the scoundrel; and, in that case, the public verdict would be "served him right." Yet the "amendment" advocated by the *Press* and some other journals—

Very few at that day—

—"would open the door of every private dwelling to the malicious defamation of any editorial Pariah whose malice might prompt him in this way to avenge some fancied insult or wrong. We hope the Convention, in this case, will 'let well enough alone.'" It is not the fault of our libel law that dishonest and incompetent officers are not visited with their just deserts. It is rather the result of the terrible demoralization of our partisan politics, and a disposition in the partisan press to exaggerate the faults of opposing candidates and magnify the virtues of any one who bears the imprint of a caucus or convention."

Now, if we would not wish to entirely shut our eyes to the importance of private character; if we do not wish to open the door of every private dwelling to the malicious defamation of every editor in the State, let us leave "well enough alone."

MR. CORBETT. I ask for the yeas and nays.

THE PRESIDENT *pro tem*. The yeas and nays are called for by the delegate from Clarion. Who seconds the call?

Messrs. Dodd, Wherry, J. S. Black, Dallas, Carey, Heverin, Knight, Newlin, Bullitt, Sharpe, Biddle, Cochran, H. W. Palmer, Bigler, Howard, Ross, Harvey, Darlington, Hay, Russell, Finney, Struthers, Joseph Baily, Collins, MacConnell, Beebe and and Turrell rose to second the call.

THE PRESIDENT *pro tem*. The Clerk will call the names of the members on the amendment of the delegate from Philadelphia (Mr. Dallas.)

MR. DALLAS. I ask unanimous consent to modify the amendment in one particular to meet objections from several gentlemen. I understand that unanimous consent is necessary. Unless I can have it, I shall not ask it. ["No." "No."] I will have nothing to say on that subject.

THE PRESIDENT *pro tem*. There appears to be objection.

MR. DALLAS. Am I right in supposing unanimous consent to be necessary? I am told I have a right to modify it.

THE PRESIDENT *pro tem*. The gentleman has a right to move to amend the amendment.

MR. DALLAS. Then I propose to modify it by striking out the word "all" at the commencement, and inserting "as to," and in the fourth line to strike out the words "shall be privileged and," so as to get rid of the word "privileged," which is a stumbling block in the way of some members.

THE PRESIDENT *pro tem*. The gentleman can move to amend the amendment, but cannot modify it.

MR. DALLAS. Then I move to amend—

MR. D. N. WHITE. I rise to a question of order. The yeas and nays having been ordered, no amendment can be made.

THE PRESIDENT *pro tem*. That point of order is sustained by the Chair. The Clerk will call the roll on the amendment of the delegate from Philadelphia (Mr. Dallas.)

The question being taken by yeas and nays, resulted—yeas, thirty-three; nays, seventy-one, as follows:

YEAS.

Messrs. Baker, Barclay, Beebe, Biddle, Bigler, Black, Charles A., Boyd, Broomall, Bullitt, Campbell, Carter, Dallas, Dodd, Ewing, Green, Guthrie, Hay, Hazard, Hemphill, Heverin, Horton, Lilly, M'Clean, Purviance, John N., Runk, Sharpe, Simpson, Smith, H. G., Smith, Wm. H., Stanton, Temple, Wherry and Woodward—33.

NAYS.

Messrs. Achenbach, Ainey, Alricks, Andrews, Armstrong, Baily, (Perry,) Bailey, (Huntingdon,) Bannan, Bartholomew, Black, J. S., Bowman, Brown, Buckalew, Calvin, Carey, Clark, Cochran, Collins, Corbett, Craig, Cronmiller, Curry, Curtin, Cuyler, Darlington, De France, Dunning, Edwards, Elliott, Finney, Fulton, Funck, Gibson, Gilpin, Hanna, Harvey, Howard, Knight, Lamberton, Landis, Lear, Littleton, MacConnell, MacVeagh, Mann, Mantor, Metzger, Minor, Newlin, Niles, Palmer, G. W., Palmer, H. W., Patterson, D. W., Pughe, Purviance, Sam'l A., Reed, Andrew, Reynolds, Rooke, Ross, Russell, Smith, Henry W., Stewart, Struthers, Turrell, Van Reed, Walker, Wetherill, J. M., Wetherill, Jno. Price, White, David N., Worrell and Wright—71.

So the amendment was rejected.

ABSENT.—Messrs. Addicks, Baer, Bardsley, Brodhead, Cassidy, Church, Corson, Davis, Ellis, Fell, Hall, Hunsicker, Kaine,

Lawrence, Long, M'Camant, M'Culloch, M'Murray, Mitchell, Mott, Parsons, Patterson, T. H. B. Patton, Porter, Purman, Read, John R., White, Harry, White, J. W. F. and Meredith, *President*—29.

Mr. W. H. SMITH obtained the floor.

Mr. DALLAS. I wish to state, if the gentleman will allow me, that I desire to offer a modification of the last amendment. ["No!" "No!"]

The *PRESIDENT pro tem.* The delegate from Allegheny has the floor.

Mr. W. H. SMITH. I offer this amendment to the section, to strike out and insert.

"In all civil suits or criminal prosecutions for libel, the truth may be given in evidence as well as the sources of information on which the alleged libel may be based. And if it shall appear to the jury that the publication charged as libellous be true, or that it was based upon information derived from reliable sources, was not inspired by malice, and was published for good motives and justifiable ends, the accused shall be acquitted."

Mr. President, if I could avoid presenting this amendment, I should be glad to do so, after all that has been said, and the time that has been taken up, but I have not been able to see my duty in that way. I believe that such a section as this is necessary, not only to protect the printers and editors, but to protect the people. If it is not asked for by the people, it is simply because they are by no means all acquainted with the public interests. It is not asked for the purpose of assailing any man's private character or for petty spite. Such is not the purpose of those who advocate this reform here.

As for the press, we all know that it is the habit of the press to deal very gently with private matters in these days. They do not, and it is right that they should not, expose what they know, but they give to the man that is accused a full hearing by interviewing him and getting his side of the case.

Mr. President: It was said by the gentleman from Mercer, (Mr. De France,) yesterday, that the Legislature would pass such a law, and that because the Legislature had not done so, therefore the people did not ask it. I do not think that that is correct; I do not think that that is sound. The Legislature has been accused of doing very many bad things, very many corrupt things, and one of the things that the Legislature, the "ring"

that do these wicked things, would do would be to protect themselves by refusing to pass a proper libel law; and that they have refused to do in the interest of their own corruption. Therefore, that is not a proper and sound argument.

Mr. President, I do not agree with the idea that there is nothing to be said at all about private character, that no man's private rascalities are to be touched by the press. I should be very sorry to see the door open to general slander for hire or revenge; but if a man goes into public office and in that public office manages to steal very largely, as sometimes public officers have done, and he retires from that office with his plunder, I think it is entirely proper that that man should be exposed, and that the limitation should last at least one year, as long as a man has to bring a suit for assault and battery.

Mr. President, the effect of the law of libel is one that is almost entirely confined to editors and publishers, in so far as punishments inflicted under it are concerned. For the writer of a libellous diatribe, if he be not a publisher himself, must have it printed, and therefore, even if the printer be entirely innocent of the conception of the libel, he is sure to be made to suffer for its promulgation, and this may be done by agreement.

Newspapers now a days are like what Shakespeare describes the actors to have been, in his own period:

"Do you hear? Let them be well used. They are the abstracts and brief chronicles of the time. After your death you had better have a bad epitaph than their ill report while you live."

But editors have far exceeded such modest pretensions as these, and now supervise or take part in every public transaction, and too often, perhaps, take or seek to take a meddlesome part in men's private affairs.

The newspaper publishers of Pennsylvania, in what I believe to be public interest, almost unanimously consider the provision about libels in our two former Constitutions as too restrictive or oppressive; indeed, those editors who do not join in this ardent and general sentiment of their brethren have, it is not uncharitable to say, more to expect from fostering and protecting the public abuses of which all honest men complain than they have from a fair and liberal law of libel. I do not for a moment believe the extension of the privileges of the pen are sought for the purpose of

defaming private persons, or to prejudice those who are innocent or untried. It would really seem, however, that in the general decadence of public morals there may be people who do not wish to see the chances for detection and punishment increased. It is among these that Captain Jack finds feeble apologists, and the young parricide Walworth his sickly, sentimental sympathizers.

Instead of publishing only *ex parte* and therefore frequently unfair statements, the object of public accusations is duly "interviewed," as the fashion is, and thus has an opportunity to put the best possible construction on his motives and to give the (for him) best possible history of the transaction called in question. It is clearly the habit of the press to "deal gently with the erring." It is not then, I repeat, to spread defamation of private persons that the useful, and honorable, and honest publisher seeks this indulgence, if indulgence it can be called, but for the detection, exposure and punishment of public plunderers and pardon-jobbers whose dextrous manœuvres, even if conviction is obtained, have so enmeshed and persuaded men in power that the most shameless criminals have been set free, once more to prey upon the people and their treasuries.

It is a lamentable and a remarkable fact that many of the legal profession have set their faces against this reform. You can always find a lawyer that is ready to bring suit for libel. You can too frequently find a judge that agrees with the lawyer that alleged libels are *always* lies. Now this profession claims "a charter liberal as the wind, to blow on whom they please," in the pursuit of their vocation. They, it would seem, wish alone to hold the lash with which naked scoundrels are to be scourged through the world. [Do they treat well-clothed scoundrels in the same way?] They claim to be the honest men who are alone entitled to wield this much praised effective, but perhaps too little used implement. This may account for the fact that they do not spare the use of invective before courts and juries. The most bitter and vindictive Bohemian, who may have taken *Cobbett* or *Bennett* for his exemplar, cannot exceed the energetic advocate in the forcible and skillful use of the logical club or scalping knife when he uses them against another attorney's client, and very often only because he is the client of another man. I do not mean to censure legal gentlemen

for this their favorite mode of dispatching their own business. They might, perhaps, be a little more gentle-tongued in their oratory, but mere laymen do not know, perhaps, how these things are most deftly done, nor how the ends of justice can be best subserved. But still it strikes the common mind as singular how the legal profession, which, in the name of public justice, claims so much license for itself in this regard, should be so fearful of removing restrictions from the newspapers, which with themselves, are or ought to be honestly seeking to free the land from error, and to punish crime; and this is yet more strange when we consider that in the long run, under all the propositions made here, the courts and the counsellors hold a curb-bit on the press, in that they must discover and decide, even when a crime shall have been exposed by a publisher, whether it was done for good motives or justifiable ends! By this important provision, the law still can restrain the publishers—and this is necessary and proper—for black-mailers and slanderers for revenge, or for terror, or for hire, should be held to a strict account.

You have many committees to inquire into various abuses which the people, or any considerable division of them may have suffered from, and to propose reforms for each. You have Committees on Legislation, on Elections, on Education, &c., &c., and here also now come the publishers of newspapers asking relief from what they consider to be a capital grievance. They ask for liberty to investigate fraud, and to assail and expose the impudent plunderers of the people. Will you allow to them the same liberty that is enjoyed by editors and all writers on public affairs in say twenty States of the Union? Are they importunate or exacting or troublesome in praying for this? They declare that they do not seek license to attack private persons for personal pique or private malice. They wish to be allowed freely to discuss the acts of public agents—they want the law of libel so clearly defined by the Convention that there cannot possibly be opposite decisions made in the same county (or the same court) on precisely similar facts, as has been often done heretofore. Shall they be heard for and upon the merits of their cause? Shall they be placed on the same platform with their brethren in New York, Indiana, Michigan, and many other enlightened States of the Union? They are earnest and practically unanimous in their prayer for re-

lief. It must be conceded that each class of citizens are competent judges of the operation of laws only applicable to themselves and which have borne hardly upon them—and newspaper men vehemently declare that the present libel law cripples their efforts in the cause of reform, and renders them almost powerless for good. They may denounce “rings” in general terms, and say that certain combinations have misapplied or foully perverted public money to private use. But they dare not name names nor print figures—they dare not say, even though they know it, that A B and his accomplices have made wrongful conveyance of five thousand dollars of the public funds, nay, not even if they are positively sure of it. Should they not be relieved from these obstructions?

Here let me call attention to the language of my amendment:

“In all civil suits or criminal prosecutions for libel, the truth may be given in evidence as well as the sources of information on which the alleged libel may be based. And if it shall appear to the jury that the publication charged as libellous be true, or that it was based upon information received from reliable sources, was not inspired by malice, and was published for good motives and justifiable ends, the accused shall be acquitted.”

Other interests and classes have threatened opposition to anything this Convention may offer, if what they conceive to be their especial wrongs are not redressed, or if their (as they think) reasonable requests are not granted. The press has made no threat like this. Yet newspaper publishers do conceive that it is most harsh and oppressive that they alone, while old abuses are diligently swept away, should be compelled still to bear the burden imposed upon their predecessors of the press centuries ago. They respectfully demand that they should not be made the only victims of a system of laws which were ordained at a period when the press was a startling novelty in the world—when telegraphs, and rail roads and steam had not approached, much less entered into the mind of man. They only ask for justice—shall they have it?

Mr. President, this matter has now received a great deal of attention, and I trust it will be properly disposed of. When it was first brought into this body it was not considered of much importance. I am very glad that it has been discussed as ex-

tensively as it has. I shall desire at the proper time to call for the yeas and nays on this amendment.

The *PRESIDENT pro tem.* On the question the yeas and nays are called by the delegate from Allegheny (Mr. W. H. Smith.)

Messrs. Campbell, Howard, Dallas, Edwards, Sharpe, Bullitt and Baker rose to second the call.

The *PRESIDENT pro tem.* There are not ten gentlemen up. The call for the yeas and nays is not seconded.

The amendment was rejected.

Mr. NEWLIN. I offer the following amendment: To strike out all after the word “liberty,” in the eighth line, down to and including the word “evidence,” in the tenth line, and insert:

“In all trials for libel, both civil and criminal, the truth, when published with good motives and for justifiable ends, shall be a sufficient defence.”

Mr. President, there are two requirements in this proposition: First, that the matter shall be true, and, secondly, that it shall be published for good motives and justifiable ends. Inasmuch as the question has been thoroughly debated, I do not propose to say anything upon it, but simply ask that a vote be taken upon it at once.

Mr. ALBICKS. I suppose an amendment to the amendment will be in order.

The *PRESIDENT pro tem.* Of course an amendment to the amendment is in order.

Mr. ALBICKS. Then I wish to say a word on this subject. With the majority

The *PRESIDENT pro tem.* The Chair is of opinion, if his memory serves him right, that this amendment was proposed once before, to strike out all from the beginning of the seventh line to the word “and” in the tenth line.

Mr. NEWLIN. That was in committee of the whole, and not on second reading. Besides, the wording of this amendment is different and the object is different.

Mr. ALBICKS. Mr. President: With the majority of this Convention I voted against making the press privileged. The majority of the Convention are evidently satisfied with the Bill of Rights as it has come to us from our forefathers. The liberty of the press has always been the glory of our country, and I believe that our forefathers fully expressed all that we intend to express here; but the misfortune is that a wrong construction has

been given to their language. Our Supreme Court have limited the terms that are used in the Constitution. If that language receives its proper construction, I think both the majority and the minority of this House will be reconciled to what was found formerly in our Bill of Rights, and it is this: That where the matter published is proper for public information, the truth thereof may given in evidence. Now, as I understand the gentleman from Philadelphia, (Mr. Dallas,) that is all he asked or desired by his amendment, and as I understand the gentleman from Philadelphia who has now offered an amendment, (Mr. Newlin,) it is all that he asks and all that he desires. The misfortune is that the Supreme Court have limited the construction of these words.

Undoubtedly, Mr. President, every member of the community is under an implied recognizance to be of good behavior. Every man who publishes an article in a paper which is false may be supposed to have done it maliciously; and there are some articles which if true are not necessary for public information. Therefore I think it is only necessary that we should put the language of our forefathers in its proper position that it may receive a proper construction in order to meet the wants of the day. The press do not ask for any other liberty than that they may be permitted to give the truth in evidence where the matter is proper for public information, and therefore I intend to offer as an amendment to the amendment a reversion of the very words that we find in our Constitution so that they shall fairly express the intention of those who framed that original provision in the Bill of Rights:

You know, Mr. President—if you do not, I remember very well—that when I came to the bar I was taken by surprise when I learned that the Supreme Court of Pennsylvania had put a construction on the word in the statute in relation to murder, requiring that it should be done “deliberately,” that the deliberation might be for a minute or for an hour or for a day. Our forefathers said that any murder that was committed deliberately by lying in wait or by poison should be murder in the first degree; but our Supreme Court has put a construction upon it that even if there was but deliberation for an hour, it was sufficient to convict the party of murder in the first degree. They have put a limited construction on this language as we find it in the Bill of

Rights, and therefore I have reversed it. I use the very words that they have used. I offer the following as an amendment to the amendment:

“Where matter published is proper for public information, the truth thereof may be given in evidence, and also in prosecutions for the publication of papers investigating the official conduct of officers or men in public capacity.”

The PRESIDENT *pro tem.* Where does the gentleman intend the amendment to come in?

Mr. ALBRICKS. I propose to strike out and insert.

The PRESIDENT *pro tem.* The Chair is of opinion that it is not in order as an amendment to the amendment. It will be a proper amendment to offer after the vote on the pending amendment.

Mr. COCHRAN. I move to amend the amendment, by striking out the words in the beginning, “in all trials for libel, civil or criminal,” and insert, “in all indictments for libel in such cases.”

I wish to state in a very few words what I mean by this amendment and my position on this subject. I desire to retain the spirit of the section as it is in the old Constitution, but I desire also to extend the privilege of the press to some extent. I do not want the privilege to be extended to the press of giving the truth in evidence or that they relied upon information in publishing an alleged libel against private individuals or in matters which are not proper for public information; but wherever public officers are involved or wherever the matter is proper for public information, then in a criminal prosecution that the truth shall be given in evidence and that they shall be allowed to show that they had received the information from reliable sources; that is, that they may be allowed to rebut the presumption of malice in these cases in that way. That is the object of my amendment, to amend this amendment by reducing it down to that rule and applying it not to civil cases, but to criminal prosecutions alone.

The PRESIDENT *pro tem.* The question is on the amendment of the delegate from York (Mr. Cochran) to the amendment of the delegate from Philadelphia (Mr. Newlin.)

The amendment to the amendment was rejected.

The PRESIDENT *pro tem.* The question recurs on the amendment.

Mr. NEWLIN. I ask that it be read.

The CLERK. The amendment is to strike out, from the word "liberty," in the sixth line, down to and including the word "evidence," in the tenth line, and insert:

"In all trials for libel, both civil and criminal, the truth, when published with good motives and for justifiable ends, shall be sufficient defense."

The amendment was rejected.

Mr. DALLAS. I desire now to offer an amendment, which is in substance the amendment that I previously offered and which I asked to modify, but out of order. I have now made the modification in such manner as to strike out the word "privileged," which is objected to by several members, and to insert the words "or negligently," which were adopted when the amendment was before the House on another point. I ask that it be read as it now stands.

The PRESIDENT *pro tem*. The amendment will be read.

The CLERK read as follows:

"As to papers relating to the conduct of officers or men in public capacity or to any other matter proper for public investigation or information, no recovery or conviction shall be had in any suit or prosecution, civil or criminal, for the publication thereof, where the fact that such publication was not maliciously or negligently made, shall be established to the satisfaction of the jury."

Mr. LITTLETON. I move to amend this amendment, by inserting the word "official," in the first line, before the word "conduct;" so that it shall read: "As to papers relating to the official conduct of officers or men in public capacity," &c.

Mr. DALLAS. I hope that will not be agreed to.

The PRESIDENT *pro tem*. The question is on the amendment to the amendment.

The amendment to the amendment was rejected, the ayes being twenty-three—less than a majority of a quorum.

The PRESIDENT *pro tem*. The question is on the amendment.

Mr. LANDIS. In regard to the amendment just submitted by the gentleman from Philadelphia, (Mr. Dallas,) I will say that the modification of it very nearly meets the objections which I made to it this morning, and it also meets I think the objections made by the gentleman from Columbia, (Mr. Buckalew,) and other

members. I will, therefore, very cheerfully support it in this form.

Mr. BROOMALL. I desire to offer an amendment to the amendment. The delegate from Philadelphia has stricken out one obnoxious expression by striking out the word "privileged." He has left in, however, another expression which I attempted to get out once before, but which I failed to get out because it required the remodelling of the provision. I now offer as an amendment to his amendment, the following, which I will read so that gentlemen will see that it leaves out both the provisions which were complained of in his amendment originally, and leaves the provision exactly as the gentleman from Columbia advocated when he had the floor:

"No conviction shall be had in any prosecution for the publication of papers relating to the conduct of officers or men in public capacity, or to any other matter proper for public investigation or information, where the fact that such publication was not maliciously or negligently made shall be established to the satisfaction of the jury."

Mr. DALLAS. I rise to a point of order. Is that an amendment to the amendment?

The PRESIDENT *pro tem*. The Chair is not able to say that it is an amendment to the amendment. If the delegate will come forward and show where he desires to offer his amendment, the Chair will be able to decide.

Mr. BROOMALL. It is suggested to me to offer it separately after the vote is had on the pending amendment. I therefore withdraw it for the present to renew it as soon as the other shall be voted on.

Mr. DALLAS. I call for the yeas and nays on my amendment.

Mr. MACVEAGH. I do not see that the change now made alters it substantially at all. It is the same question on which the yeas and nays were taken once before.

The PRESIDENT *pro tem*. The yeas and nays are called for. Delegates seconding the call will rise.

Messrs. Beebe, Biddle, Boyd, Brodhead, Bullitt, Greene, Guthrie, J. N. Purviance, Runk, Sharpe, Simpson and H. G. Smith rose to second the call.

The PRESIDENT *pro tem*. The yeas and nays are ordered, and the Clerk will call the names of members.

The question being taken by yeas and nays resulted, yeas thirty-nine, nays fifty-nine, as follows:

YEAS.

Messrs. Alricks, Baker, Beebe, Biddle, Bigler, Black, Charles A., Black, J. S., Boyd, Brodhead, Broomall, Bullitt, Campbell, Carter, Cochran, Curtin, Cuyler, Dallas, Dodd, Ewing, Green, Guthrie, Hay, Hemphill, Heverin, Horton, Landis, Lilly, M'Clean, Mott, Purviance, John N., Runk, Sharpe, Simpson, Smith, H. G., Smith, Wm. H., Stanton, Temple, Wherry and Woodward—39.

NAYS.

Messrs. Achenbach, Ainey, Andrews, Armstrong, Baily, (Perry,) Bailey, (Huntingdon,) Bannan, Bowman, Brown, Buckalew, Calvin, Carey, Clark, Collins, Corbett, Craig, Cronmiller, Curry, Darlington, De France, Dunning, Edwards, Elliott, Finney, Fulton, Funck, Gilpin, Hanna, Harvey, Howard, Knight, Lamberton, Littleton, MacConnell, MacVeagh, Mann, Mantor, Metzger, Minor, Niles, Palmer, G. W., Patterson, D. W., Pughe, Purviance, Samuel A., Reed, Andrew, Reynolds, Rooke, Ross, Russell, Smith, Henry W., Stewart, Struthers, Turrell, Van Reed, Walker, Wetherill, J. M., White, David N., Worrell and Wright—59.

So the amendment was rejected.

ABSENT.—Messrs. Addicks, Baer, Barclay, Bardsley, Bartholomew, Cassidy, Church, Corson, Davis, Ellis, Fell, Gibson, Hall, Hazzard, Hunsicker, Kaine, Lawrence, Lear, Long, M'Camant, M'Culloch, M'Murray, Mitchell, Newlin, Parsons, Patterson, T. H. B., Patton, Porter, Purman, Read, John R., Wetherill, John Price, White, Harry, White, J. W. F. and Meredith, *President*—35.

Mr. BROOMALL. I now offer the amendment which I read a little while ago, and withdrew, to substitute for the words in the section:

"No conviction shall be had in any prosecution for the publication of papers relating to the conduct of officers or men in public capacity or to any other matter proper for public information or investigation, where the fact that such publication was not maliciously or negligently made shall be established to the satisfaction of the jury."

Now, Mr. President, I have only to say that that avoids all that was complained of in the amendment of the gentleman

from Philadelphia and is precisely that amendment transposed, so that striking out the obnoxious provision will make it sense and will make it read right. I trust the Convention will take action affirmatively on this amendment.

Mr. MANN. I hope this amendment will be adopted. I have voted against all the amendments before for the reason that they attempted to make the press privileged to publish anything, and attempted to excuse them from liability for damages done in civil prosecutions. This amendment does relieve the proposition from both of those objections, and I hope, therefore, it will prevail.

Mr. CORBETT. On this amendment I call for the yeas and nays.

The *PRESIDENT pro tem.* Gentlemen seconding the call for the yeas and nays will rise.

Messrs. Baker, Bigler, Boyd, Broomall, Bullitt, Campbell, Carter, Dallas, Green, J. M. Wetherill, Sharpe, Pugh, Ross, Russell, H. W. Smith, W. H. Smith and Turrell rose to second the call.

The *PRESIDENT pro tem.* The yeas and nays are ordered and the Clerk will call the roll.

The question being taken by yeas and nays resulted, yeas fifty-three, nays forty-eight, as follows:

YEAS.

Messrs. Alricks, Bailey, (Huntingdon,) Baker, Beebe, Biddle, Bigler, Black, Charles A., Bowman, Boyd, Brodhead, Broomall, Buckalew, Bullitt, Campbell, Carey, Carter, Cochran, Curry, Curtin, Cuyler, Dallas, Dodd, Dunning, Edwards, Elliott, Ewing, Gilpin, Green, Guthrie, Hay, Hemphill, Heverin, Horton, Landis, Lilly, Littleton, Mann, Mott, Niles, Palmer, G. W., Palmer, H. W., Pughe, Purviance, John N., Runk, Sharpe, Simpson, Smith, H. G., Smith, Wm. H., Stanton, Van Reed, Wherry, Woodward and Wright—53.

NAYS.

Messrs. Ainey, Andrews, Armstrong, Baily, (Perry,) Bannan, Bartholomew, Black, J. S., Brown, Calvin, Clark, Collins, Corbett, Craig, Cronmiller, Darlington, De France, Finney, Fulton, Funck, Gibson, Hanna, Harvey, Howard, Knight, Lamberton, Lear, MacConnell, MacVeagh, M'Clean, Mantor, Metzger, Minor, Patterson, D. W., Purviance, Sam'l A., Reed, Andrew, Reynolds, Rooke, Ross, Russell, Smith, Henry W., Stewart,

Struthers, Turrell, Walker, Wetherill, J. M., Wetherill, Jno. Price, White, David N. and Worrell—48.

So the amendment was agreed to.

ABSENT.—Messrs. Achenbach, Addicks, Baer, Barclay, Bardsley, Cassidy, Church, Corson, Davis, Ellis, Fell, Hall, Hazzard, Hunsicker, Kaine, Lawrence, Long, M'Camant, M'Culloch, M'Murray, Mitchell, Newlin, Parsons, Patterson, T. H. B., Patton, Porter, Purman, Read, John R., Temple, White, Harry, White, J. W. F. and Meredith, *President*—32.

The *PRESIDENT pro tem.* The question recurs on the section as amended.

MR. ALRICKS. I now offer my amendment, which is to strike out from the word "liberty" down to and including the word "evidence," and insert as follows:

"When the matter published is proper for public information, the truth thereof may be given in evidence, and also in prosecutions for the publication of papers investigating the official conduct of officers or men in public capacity."

I desire to call attention to the fact that these are the very words of the Bill of Rights, but they have been transposed in order that they may receive the construction which I allege was intended to be given to them when the Bill of Rights was framed—that is, that in matters proper for public information the truth may be given in evidence.

Many persons are sensitive of the criticism of the press, and I have great respect for the sentiment of these people. It is a sentiment to be admired. There are some persons who are so sensitive on this subject that they would rather undergo the old extinct punishment of the boot than to have their names published in the public press. I respect them in their sentiment, and we ought to protect them in it; but, at the same time, I believe that it was the intention of those who framed this Bill of Rights that in all matters published proper for public information the truth might be given in evidence, and I wish by this amendment simply to put the words in such form that they will receive that construction which I believe was intended originally to be placed upon the section. It will, if adopted, do no violence to the intention of those who framed the Bill of Rights; but if you put them in that way, the courts cannot fail to give this language its proper construction.

The amendment was rejected.

The *PRESIDENT pro tem.* The question is on the section as amended.

MR. CLARK. I have an inquiry to make of this body. When, by the adoption of this amendment, have provided that in any prosecution for libel it shall be a sufficient defense that the publication was not made maliciously or negligently. I want to know what is to become of the civil remedy for libel—whether or not at the common law a defendant in a civil action for libel was permitted, as against a public officer, or a man actually in public capacity, to prove that what he alleged was true? It was so under the Constitution of 1790; it was so under the Constitution of 1838; but is it construed to have been so at the common law, because we have stricken out the seventh section, and unless that right is saved at the common law, it is lost on the striking out of this section, and I have some doubts in my mind about it. I believe, however, that in civil actions, for slander as well as libel, the defendant was permitted to prove the truth in justification. Upon reflection, I believe this is so.

MR. MACVEAGH. Let us have the section read as it now stands, and see how that is.

The *PRESIDENT pro tem.* The only information that the Chair can give is to have the section as amended read. The Clerk will read the section as amended.

The Clerk read as follows:

SECTION 7. That the printing press shall be free to every person who undertakes to examine the proceedings of the Legislature or any branch of the Government; and no law shall ever be made to restrain the right thereof. The free communication of thoughts and opinions is one of the invaluable rights of man; and every citizen may freely speak, write and print on any subject, being responsible for the abuse of that liberty. No conviction shall be had on any prosecution for the publication of papers relating to the conduct of officers or men in public capacity, or to any other matter proper for public investigation or information, where the fact that such publication was not maliciously or negligently made shall be established to the satisfaction of the jury. And in all indictments for libels the jury shall have a right to determine the law and the facts, under the direction of the court, as in other cases.

MR. MACVEAGH. I submit that it is very important to have that matter clearly understood, whether or not this section,

as now collated, will not be really worse than the section as it stands in the Bill of Rights. It seemed to me, when I heard it read, that it would be. Otherwise I, for one, would have been willing to accept it as a settlement of this controversy, because I do not see that it changes the present aspect of the criminal law one particle in practical effect. But it does seem to me to be a very serious question whether in view of this constitutional provision lasting so long, it would be permissible in Pennsylvania to plead the truth in answer to a printed libel. Whether that is a justification or not, under all circumstances, may, perhaps, be questioned. It has not been so, and certainly I should have been glad to see the section printed together, that we might have some opportunity for considering this clause in harmony with the other parts of it. But if gentlemen are satisfied to take it in this form, I certainly have no possible objection.

Mr. SHARPE. Does not that part refer to criminal prosecutions alone, having no relation whatever to civil cases?

Mr. MACVEAGH. That is probably correct.

Mr. BROOMALL. I have never heard it questioned that at common law, in a civil action, for either slander or libel, the truth might be given in evidence; and this provision does not change that.

Mr. COCHRAN. It will be observed by those who read the section, as the gentleman from Franklin (Mr. Sharpe) said, but he was not heard, that this part of it is a part which relates to criminal prosecutions alone and does not have any relation to a civil action.

Mr. LITTLETON. If it is in order, I desire to renew a motion that was made some time since. I think this ought to relate wholly to official conduct, and therefore I move to amend by inserting the word "official" before the word "conduct."

Mr. MACVEAGH. That amendment has been already voted down.

The PRESIDENT *pro tem*. The Chair will state to the gentleman from Philadelphia that that amendment has already been acted upon.

Mr. LITTLETON. Not in this place; not to this amendment. It was moved as an amendment to the amendment offered by the gentleman from Philadelphia, (Mr. Dallas,) which was defeated. The amendment now under consideration is an amendment offered by the gentleman

from Delaware, (Mr. Broomall,) and my amendment is certainly in order in this place. The other amendment, to which the amendment that I now renew was originally offered, was voted down.

The PRESIDENT *pro tem*. It was the same amendment substantially.

Mr. LITTLETON. If that is an objection to the amendment to the amendment, it would apply with equal force to the amendment also.

The PRESIDENT *pro tempore*. The delegate from Philadelphia will state his amendment.

Mr. LITTLETON. I move to amend by inserting the word "official" before the word "conduct."

Mr. MACVEAGH. That word is in the old section.

Mr. LITTLETON. I do not desire to say anything in support of my amendment, but upon it I call for the yeas and nays.

The PRESIDENT *pro tem*. Is the call for the yeas and nays sustained?

Messrs. Hanna, Heverin Horton, H. W. Smith, Carter Boyd, Minor, Collins, H. W. Palmer, MacVeagh, Green, Worrell, Stanton, Lear, Corbett, Mantor, De France, Jno. M. Bailey, Hay, Darlington and Calvin rose.

The PRESIDENT *pro tem*. The call for the yeas and nays is sustained, and the Clerk will proceed with the call.

The yeas and nays were taken and were as follow, viz:

YEAS.

Messrs. Achenbach, Ainey, Alricks, Andrews, Armstrong, Baily, (Perry,) Bailey, (Huntingdon,) Bannan, Bartholomew, Bowman, Brown, Calvin, Carter, Cochran, Collins, Corbett, Cronmiller, Curry, Curtin, Darlington, De France, Elliott, Funck, Gibson, Gilpin, Hanna, Harvey, Horton, Knight, Lamberton, Landis, Lear, Littleton, MacVeagh, M'Clean, Mantor, Metzger, Minor, Niles, Palmer, G. W., Palmer, H. W., Patterson, D. W., Pughe, Purviance, John N., Purviance, Samuel A., Reynolds, Rooke, Ross, Runk, Russell, Smith, Henry W., Struthers, Turrell, Van Reed, Walker, White, David N., Worrell and Wright—58.

NAYS.

Messrs. Baker, Beebe, Biddle, Bigler, Black, Chas. A., Black, J. S., Boyd, Brodhead, Broomall, Buckalew, Bullitt, Campbell, Carey, Clark, Craig, Dallas, Dodd, Dunning, Edwards, Ewing, Fulton, Green, Guthrie, Hay, Hazzard,

Hemphill, Heverin, Lilly, MacConnell, Mann, Mott, Reed, Andrew, Sharpe, Simpson, Smith, H. G., Smith, Wm. H., Stewart, Wherry and Woodward—39.

So the amendment was agreed to.

ABSENT.—Messrs. Addicks, Baer, Barclay, Bardsley, Cassidy, Church, Corson, Cuyler, Davis, Ellis, Fell, Finney, Hall, Howard, Hunsicker, Kaine, Lawrence, Long, M'Camant, M'Culloch, M'Murray, Mitchell, Newlin, Parsons, Patterson, T. H. B., Patton, Porter, Purman, Read, John R., Stanton, Temple, Wetherill, J. M., Wetherill, Jno. Price, White, Harry, White, J. W. F. and Meredith, *President*—36.

The *PRESIDENT pro tem.* The question recurs on the section as amended.

Mr. MACVEAGH. I trust it will be adopted. It is satisfactory.

On the question of agreeing to the section as amended, a division was called for which resulted, sixty-seven in the affirmative. This being a majority of the whole House, the section as amended was agreed to.

The *PRESIDENT pro tem.* The eighth section will be read.

The CLERK read as follows:

SECTION 8. That the people shall be secure in their persons, houses, papers and possessions from unreasonable searches and seizures; and that no warrant to search any place or to seize any person or things shall issue, without describing them as nearly as may be, or without probable cause supported by oath or affirmation subscribed to by the affiant.

The section was agreed to.

The ninth section was read as follows:

SECTION 9. That in all criminal prosecutions the accused hath a 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 prosecution by indictment or information a speedy public trial by an impartial jury of the vicinage. He cannot be compelled to give evidence against himself; nor can he be deprived of his life, liberty or property, unless by the judgment of his peers or the law of the land.

Mr. BROOMALL. I move to amend the section by adding to the end thereof these words:

"The right to punish crime by legal process shall not extend to the taking of the life of the criminal."

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The Convention will see at once the purport of the amendment. I do not intend to discuss it. The object of the amendment is to abolish capital punishment. What I desire is a vote of the Convention upon the question. I only desire to state, in short, that my opposition to capital punishment is based, first, upon the command, "thou shalt not kill;" second, upon the fact that it belongs to a barbarous age when it was lawful to kill prisoners of war, and that time has gone by; and a single violator of the law has all the rights, as against the community that a prisoner of war has, and being once captured his life is sacred as the life of any other man.

Mr. CUYLER. May I ask the gentleman from Delaware a question?

Mr. BROOMALL. I do not object to replying to a question; but I do not desire that my remarks shall be at all extended.

Mr. CUYLER. I only desire to ask if you base your objection to capital punishment upon Scripture, how you dispose of the passage "whosoever sheddeth man's blood by man shall his blood be shed?"

Mr. BROOMALL. I have cited my passage of Scripture. If the gentleman will make his correspond with mine, I shall have no difficulty in making mine correspond with his; but I will remind him that a greater than Moses said that the law of retaliation shall exist no longer, and that that law did not repeal the law I spoke of, "thou shalt not kill."

Mr. CUYLER. Was not the command "whosoever sheddeth man's blood, by man shall his blood be shed," given through Moses to the people?

Mr. MACVEAGH. I submit that it is out of order for the gentleman from Philadelphia to catechise the gentleman from Delaware on the Scriptures. As it is a matter he knows nothing about, he should say nothing in regard to it. [Laughter.]

Mr. BROOMALL. I would say in answer to the gentleman from Philadelphia that the passage he has cited has been translated differently and has been translated in a way not at all inconsistent with the language I have cited. But it is enough for me to say that his law has been repealed by the command that the law of retaliation shall exist no longer.

I object to capital punishment because it is ineffectual to prevent crime. It is not sufficiently certain. The certainty of punishment rather than its severity is effectual for the prevention of crime, and

we unfortunately know at this time that it is only the poor, the downtrodden, those who cannot employ the necessary means of defence, that run any risk of punishment for murder in the first degree.

Again, I am opposed to the principle because it tends to harden the community; it tends to make human life less valuable in the estimation of men, to make us careless with respect to human life, and so counteracts itself. Nothing will protect human life so much as for society to say that it shall be sacred against even society itself, sacred against everything but the fiat of the Almighty.

I object to it again because of the uncertainty of human testimony. Men have been hanged who were afterwards found to be innocent. I know instances within my own knowledge of men who have been hanged who were afterwards found to be innocent, and could relate them here if there were time. If you stop short of death you can do away with the great wrongs done by the improper conviction of men for horrible crimes, but when you have killed the supposed criminal your remedy is gone.

For these reasons, and for still another—that society is supposed to be based upon an implied compact between all the members of it, by which each man gives up something for the sake of getting something, so that if he has no right to give up his life the part of the compact that permits capital punishment is void, and I think that no man has a right to barter away his own life—I am opposed to capital punishment.

This is all I have to say on the subject.

The *PRESIDENT pro tem*. The question is on the amendment of the delegate from Delaware.

Mr. BROOMAL. I call for the yeas and nays on this question.

Mr. ALRICKS. One word. Will the gentleman accept a modification of his amendment, adding "except murder in the first degree?" I will vote for it if so modified.

The *PRESIDENT pro tem*. The yeas and nays are called for. Members seconding the call will rise.

Messrs. Biddle, Brown, Bullitt, Carter, Collins, Cuyler, Calvin, Dallas, De France, Horton, Knight, Mantor, Mott, Ross, Russell, Beebe and Brodhead rose to second the call.

The yeas and nays were taken and were as follow, viz :

YEAS.

Messrs. Ainey, Beebe, Brodhead, Broomall, Carter, Darlington, De France, Green, Heverin, Knight, Lilly, Mann, Mantor, Simpson, Stewart and White, David N. —16.

NAYS.

Messrs. Achenbach, Alricks, Armstrong, Baily, (Perry,) Bailey, (Huntingdon,) Baker, Bannan, Bartholomew, Biddle, Bigler, Black, Chas. A., Black, J. S., Bowman, Boyd, Brown, Buckalew, Bullitt, Calvin, Campbell, Collins, Cronmiller, Curry, Curtin, Cuyler, Dallas, Dodd, Dunning, Elliott, Ewing, Fulton, Funck, Gibson, Gilpin, Guthrie, Harvey, Hay, Hazzard, Hemphill, Horton, Howard, Lamberton, Landis, Lear, MacConnell, MacVeagh, M'Clean, Metzger, Minor, Mott, Niles, Palmer G. W., Palmer, H. W., Patterson D. W., Pughe, Purviance, John N., Purviance, Samuel A., Reed, Andrew, Reynolds, Rooke, Ross, Runk, Russell, Sharpe, Smith, Henry W., Smith, Wm. H., Stanton, Struthers, Temple, Turrell, Van Reed, Walker, Wetherill, J. M., Wetherill, J. Price, Woodward, Worrell and Wright—76.

So the amendment was rejected.

ABSENT.—Messrs. Addicks, Andrews, Baer, Barclay, Bardsley, Carey, Cassidy, Church, Clark, Cochran, Corbett, Corson, Craig, Davis, Edwards, Ellis, Fell, Finney, Hall, Hanna, Hunsicker, Kaine, Lawrence, Littleton, Long, M'Camant, M'Culloch, M'Murray, Mitchell, Newlin, Parsons, Patterson, T. H. B., Patton, Porter, Purman, Read, John R., Smith, H. G., Wherry, White, Harry, White, J. W. F. and Meredith, *President*—41.

The *PRESIDENT pro tem*. The question recurs on the section.

Mr. SIMPSON. I propose to amend the section, and in offering the amendment I will state to the Convention that the reason I present it is that I believe it will secure more certainty in the punishment of crime than we now have in cases of murder in the first degree. I believe that frequently criminals are permitted to escape on the pretext of insanity or some other side issue, on account of the effect of the verdict. I propose to amend the section by adding to it the following words:

"In trials for homicide the jury may render a verdict of guilty of murder in

the first degree without capital punishment."

I have reason to believe, Mr. President, that if the jury have this power given them, there will be convictions of murder in the first degree where there are now acquittals. Jurors are now desirous, anxious to find some loophole to prevent the taking of human life; and if they could render a verdict of murder in the first degree, and at the same time assign that it should be without capital punishment, there would be more convictions, and it would tend to the prevention of that crime. For that reason I offer the amendment and shall vote for it.

The question being put, the amendment was declared to be rejected.

Mr. SIMPSON. I call for the yeas and nays.

SEVERAL DELEGATES. The call is too late.

The PRESIDENT *pro tem*. Does the gentleman insist on his call for the yeas and nays?

Mr. SIMPSON. Yes, sir.

The PRESIDENT *pro tem*. The call does not seem to be seconded. The amendment of the gentleman from Philadelphia is not agreed to. The question is on the ninth section.

The section was agreed to.

The tenth section was read as follows:

SECTION 10. That no person shall for any indictable offense be proceeded against criminally by information, except in cases arising in the land or naval forces or in the militia when in actual service in time of war or public danger, or by leave of the court for oppression or misdemeanor in office. No person shall for the same offence be twice put in jeopardy of life or limb; nor shall any man's property be taken or applied to public use without the consent of his representatives, and without just compensation being first made or secured.

Mr. HAY. I offer the following amendment: Strike out the word "and" in the seventh line of the section and insert:

"Nor by any private corporation or person, without the necessity for such taking being first ascertained in a manner to be prescribed by law, nor."

I have offered this amendment, Mr. President, for the simple reason that I believe that no man's property should be taken away from him for any public use without the consent of his representatives or his own consent, nor without just compensation therefor being first made or se-

cured; nor do I believe that his property should be taken from him for any private use or *quasi* public use without the necessity for such taking being first ascertained by an indifferent tribunal. I do not believe that my property or the property of any other citizen of this Commonwealth should be taken away at the will of any other citizen or of any combination of citizens, whether called a corporation or a partnership.

The Committee on the Declaration of Rights in reporting the article that is now before us reported a provision that was somewhat similar to this but which was stricken out while the article was under consideration in the committee of the whole. Its exact language was to add after the word "representatives," "without the necessity for such taking being first ascertained by a jury." That proposition was voted out of the report of the committee, probably for these two reasons: That in the first place it provided that no property should be taken for any public use whatever without the necessity for such taking being first ascertained; which extended to the case of all takings, whether by the State directly, for solely public purposes, such as to afford room for the erection of school buildings, as well as for the taking of property for the building of railroads and for other corporate and business purposes. It also included the provision that the necessity should be ascertained *only* by a jury. I believe that that provision is an impracticable one in many cases, while most wise and necessary in many others, that it would obstruct the course of public improvements very seriously, as in the case of the building of a railroad. Certainly railroads ought to be built. We ought not to adopt any measures that will unjustly restrict the progress of public improvements; but I believe that the individual citizen has rights which are sacred as well as corporations; and I do not believe, as I said before, that private property should be taken from the citizen at the mere will or whim of a company of men who happen to want it. Certainly there need be no difficulty in providing some just mode in which the necessity for the taking of property can be ascertained. That matter can be very properly provided by the Legislature.

A company propose to build a railroad from one point to another, of say ten or twelve miles in length. Let them have the route of their road first surveyed; let

competent engineers make careful plans of the route to be pursued; let accurate drawings be made of the property which it is proposed to take for so-called public purposes; let those surveys, plans and drawings be submitted to a competent board chosen under the authority of the Legislature or designated by them, or submitted to the legislative body itself if it is deemed necessary; and let it first be approved and confirmed before any private property can be taken. After it is approved and the necessity is properly ascertained for the taking of that property for public use and the building of the road, let the company go on and take it as they now can do, and pay the damages which may be justly required for the property; but until by some means—and I leave the means altogether to the Legislature, for I do not think that this body is competent to devise the particular methods of ascertainment of the necessity of taking private property for public use—but after it has been ascertained, under the authority of the Legislature, that it is necessary that certain private property should be taken for the use of the public, or by corporations which the State has authorized to seize it, then let it be taken, *but not before*.

I hope, sir, that this amendment or some similar amendment, in its spirit, will be adopted. I only want here to see the principle incorporated into the Constitution of the State that private citizens have *some* rights that are sacred and secure against the overweening power of corporations. I ask for the yeas and nays on this amendment.

The PRESIDENT *pro tem*. Gentlemen seconding the call for the yeas and nays will rise.

Messrs. Buckalew, Campbell, Clark, Cuyler, Cochran, Ewing, Dallas, Gilpin, J. N. Purviance, Sharpe and Woodward rose to second the call.

The PRESIDENT *pro tem*. The yeas and nays are ordered on the amendment.

Mr. RUSSELL. I hope, Mr. President, that this amendment will be adopted. I am satisfied of my own knowledge that some restraint ought to be placed upon railroad companies in their appropriation of the lands of individuals. In the town in which I reside, the Bedford and Bridgeport railroad company located its road, and the owner of a tract of land there conveyed to them six acres of land for a certain amount of their stock, worth to-day I suppose, if anything at all, about fifteen

cents per share. Soon after this conveyance was made, the railroad company requested the gentleman who had owned this property to give them an adjoining piece. He declined on the ground that he had already given them all that he ought to be asked to give. The president of the company then telegraphed, as I understand, to his superintendent to go there and take the land, and he went there with his engineers and laid off four acres, or very nearly four acres, of the ground and applied it to the use of the railroad company, without the consent of the owner of the land. I think there ought to be some restraint upon the power of any company to appropriate the land of individuals in that way. They ought not to be permitted to take the land of private individuals without compensation, because no compensation has been made for this property. They can come into court and swear that the owner of the land is vastly benefited by the land having been taken, by the railroad being made, and he can get no damages for his land.

Mr. CUYLER. Mr. President: In the individual instance alluded to by the gentleman who has just spoken, a bargain must have been made between the owner of the land and the corporation, or the corporation could not have acquired title. It does not, therefore, lie in the mouth of the individual to complain because he received in compensation for his land that which he agreed to take. No power could have compelled him to take the stock of the company in payment for his land except his own free will, and he must have exercised his own free will and given the land and received the stock as full payment.

Again, I have to say to the gentleman, with some knowledge, not of the individual instance to which he alludes, but of the particular corporation of which he speaks, that when he estimates the stock of the Bedford and Bridgeport railroad as not worth fifteen cents a share, he must have derived his knowledge of values from some source very different from that which I have. I believe that stock will be worth at a very early day a hundred cents on the dollar; I have no doubt about it, and I think I understand the subject.

Now, Mr. President, to adopt this amendment is practically to kill any public improvement, because if it is to depend upon the vote of a jury of the neighbors of the individual whose land may be pro-

posed to be taken for public uses as to whether the improvement shall be made, nine times out of ten the improvement never will or can be made.

The *PRESIDENT pro tem.* The Chair is obliged to rule that the discussion now going on is out of order. The yeas and nays have been ordered and must be taken. When the delegate from Bedford rose the Chair supposed he was going to make some explanation. The Clerk will call the yeas and nays.

Mr. RUSSELL. I have only to say in answer to the gentleman from Philadelphia—

The *PRESIDENT pro tem.* The Clerk will call the yeas and nays.

Mr. HAY. I am perfectly willing to withdraw the call.

The *PRESIDENT pro tem.* Is the call withdrawn?

Mr. LILLY. After the call is seconded it cannot be withdrawn.

The *PRESIDENT pro tem.* The Clerk will proceed with the call.

Mr. RUSSELL. I merely want to say to the gentleman from Philadelphia that he can have the stock at fifty cents on the dollar if he wants it. ["Order." "Order."]

The question was taken by yeas and nays with the following result:

Y E A S .

Messrs. Achenbach, Alricks, Baily, (Perry,) Baker, Black, J. S., Buckalew, Bullitt, Calvin, Campbell, Cochran, Collins, De France, Dodd, Elliott, Ewing, Finney, Funck, Gibson, Gilpin, Guthrie, Harvey, Hay, Hazzard, Hemphill, Landis, Lilly, MacConnell, Mantor, Mott, Newlin, Purviance, John N., Purviance, Samuel A., Reynolds, Ross, Russell, Simpson, Smith, H. G., Smith, Henry W., Smith, Wm. H., Wetherill, J. M., Wherry, Woodward, Worrell and Wright—44.

N A Y S .

Messrs. Ainey, Andrews, Armstrong, Bailey, (Huntingdon,) Bannan, Biddle, Bigler, Black, Chas. A., Bowman, Boyd, Brodhead, Broggall, Brown, Clark, Corbett, Cronmiller, Curtin, Cuyler, Darlington, Dunning, Edwards, Green, Knight, Lamberton, Lear, MacVeagh, Mann, Minor, Niles, Palmer, G. W., Palmer, H. W., Patterson, D. W., Pughe, Reed, Andrew, Runk, Sharpe, Stanton, Stewart, Struthers, Temple, Turrell, Walker, Wetherill, John Price and White, David N.—44.

ABSENT.—Messrs. Addicks, Baer, Barclay, Bardsley, Bartholomew, Beebe, Carey, Carter, Cassidy, Church, Corson, Craig, Curry, Dallas, Davis, Ellis, Fell, Fulton, Hall, Hanna, Heverin, Horton, Howard, Hunsicker, Kaine, Lawrence, Littleton, Long, M'Camant, M'Clean, M'Culloch, M'Murray, Metzger, Mitchell, Parsons, Patterson, T. H. B., Patton, Porter, Purman, Read, John R., Rooke, Van Reed, White, Harry, White, J. W. F. and Meredith, *President*—45.

The *PRESIDENT pro tem.* The vote being a tie the amendment is not agreed to. The question recurs on the section.

Mr. STRUTHERS. I move to amend by striking out the words "consent of his representatives" in the seventh line and inserting in lieu thereof the words "authority of law."

It seems to me, Mr. President, that the expression used in the section is of very doubtful import. What does "his representatives" mean? If it is intended to mean his representatives in the Legislature who enact laws, it would be better to say at once "authority of law," because that is the way the expression of their consent is made, in the shape of a law. If it is intended to mean his personal representatives it would be better to say "by his agent or attorney." If it is his personal consent or the consent of his personal representative that is to be given there, these words are unnecessary altogether, because anything may be done by the consent of the parties. The party owning the property may sell it, or transfer it, or give it in any manner he may see proper, or he may authorize his agent to do so.

I presume what is meant by the expression is, his representatives in the Legislature. If the meaning is, his representatives in the Legislature, it would be better to say at once that by authority of law it shall be done. It would then read:

"No person shall for the same offence be twice put in jeopardy of life or limb; nor shall any man's property be taken or applied to public use without authority of law and without just compensation being first made or secured."

I think that would make the section read very much better and it would be more clear and understandable.

Mr. ANDREW REED. I submit to the delegate from Warren that if he would change the word "and," in the seventh line, to "or," it would preserve his meaning.

Mr. STRUTHERS. I presume the intention of this section as of that in the present Constitution is that property shall not be forcibly taken and without at the same time also compensation having been made or secured. I think the better expression is to say "authority of law." That will express much better and more clearly the idea and intent of the section than to say "the consent of his representatives." If you mean his personal representatives, then it is not necessary to have that in at all; but it is necessary and important, and I suppose that was the meaning and intention, to provide that it shall not be done without authority of law. It is a briefer expression, and, I think, makes it much more clear than the words, "the consent of his representatives."

The PRESIDENT *pro tem*. The question is on the amendment of the delegate from Warren (Mr. Struthers.)

Mr. BRODHEAD. I call for the reading of the amendment. We do not know what it is in this portion of the Hall.

The CLERK. The amendment is to strike out, in the seventh line, the words, "the consent of his representatives," and insert "the authority of law."

The amendment was agreed to, there being, on a division: Ayes, forty-six; noes, twenty-one.

Mr. STEWART. I offer the following amendment: Strike out, in the fifth and sixth lines, the words, "no person shall, for the same offense, be twice put in jeopardy of life or limb," and insert "in all cases where there has been a final verdict of acquittal or conviction upon an adequate indictment, the defendant shall not again be proceeded against, criminally, for the same offense."

I trust I shall not be considered unreasonably persistent in renewing this amendment. I am prompted to do so because I believe, if adopted, it will effect a much needed reform in our organic law, as well because when under consideration on a former occasion I am persuaded that many delegates voted against it because of a misapprehension of the law involved.

The distinguished delegate from Philadelphia (Mr. Cuyler) controverted my position in the most unqualified manner, and in positive terms denied that the law was as I had stated it.

It was not surprising that upon a question of this kind, about which it was not informed, the Convention should prefer to be governed by the legal views of the

distinguished gentleman rather than those of myself. I have so long been accustomed to regard him as a high legal authority that I confess my own convictions were shaken for the moment under his stout denial.

Since that, however, delegates have had an opportunity to inform themselves upon this question, and if they have taken the trouble to do so I have no doubt as to the conclusion they have reached. I repeat that the law which governs this question is as I then stated it, and in further support of this view I appeal to those of our number who have occupied seats upon our highest judicial tribunal, and one of whom I know has passed upon this very question.

If this amendment is not to prevail I desire that it shall be defeated upon proper grounds, and not because of a misapprehension of the law. The only fair way to attack it is to say that the prisoner should be allowed the great advantage the present law gives him in its fullest scope.

Now, a single word in explanation of the spirit and purpose of the amendment. I can explain it in no better way than by taking a familiar illustration. The Constitution of New York contains exactly the same provision as that which I complain of in ours: "No person shall twice be put in jeopardy of life or limb." The courts of New York have passed upon this and have construed it to mean that the jeopardy of the prisoner does not begin until the jury that has his case in charge shall have returned to the box and said that they have agreed upon their verdict. Our courts have on the other hand held that the jeopardy begins the moment the jury is sworn to take the prisoner in charge. In the one case, a discharge of the jury for disagreement does not prevent a subsequent trial of the prisoner; in the other it does, as will be readily understood.

Now, sir, the amendment proposes simply to get rid of what I think an unfortunate construction of this clause by our courts. I do not say that the construction is an improper one. It is a fair construction of the language of the section; but the construction of it by the courts of New York, while constrained and forced, is more consonant with the spirit and reason of the section. It seems to be a most awkward thing to construe a section to mean what its language does not express in order to make the law at all reason-

able. Yet this is what has been done in New York, while we here in Pennsylvania adhere to the letter, even though such a course leads us into a faulty jurisprudence.

Would it not be better to throw aside the old phraseology and adopt another expression which shall interpret itself to the minds of all alike?

Let gentlemen consider that the expression "once in jeopardy of life or limb" is older than our system of jurisprudence. We find it in our modern laws and constitutions just as in the warm currents of the Gulf stream in a latitude far north you may occasionally find the products of the tropics. This expression has drifted down to us from an antiquated jurisprudence that recognized as the highest arbitrament the trial by battle.

When one engaged in such a trial, from the very moment the contest was begun he was in jeopardy of both life and limb, for a well-directed stroke of his adversary might at any time deprive him of either.

It properly expressed the rights of the prisoner in such a trial; but what meaning has it now? What prisoner is in jeopardy of his limbs? So much of the expression, at least, is meaningless, and it shows that the whole is out of place in our Constitution.

The amendment I have offered gives to the prisoner, as I think, every advantage he ought to have. I am not so partial to the language I have used in framing it as to be unwilling to modify it or change it in any way, so that the reform it contemplates shall not be defeated.

I trust that the Convention will give the amendment the consideration it deserves.

The PRESIDENT *pro tem.* Is the Convention ready for the question on the amendment of the gentleman from Franklin (Mr. Stewart.)

Mr. STEWART. I call for the yeas and nays.

Messrs. Temple, D. W. Patterson, Sharpe, Armstrong, Cuyler, Russell, Cochran, Wherry, W. H. Smith, Ainey, Baker, Bartholomew and Mott rose to second the call.

The PRESIDENT *pro tem.* The call for the yeas and nays is sustained and the Clerk will call the roll.

The question being taken by yeas and nays, resulted yeas, twenty-eight; nays, sixty-two, as follow:

Y E A S.

Messrs. Ainey, Armstrong, Baker, Bartholomew, Beebe, Black, Charles A., Campbell, Cochran, Curtin, Ewing, Funck, Guthrie, Hazzard, Lear, Lilly, MacVeagh, Mann, Metzger, Mott, Patterson, D. W., Reynolds, Russell, Simpson, Smith, Wm. H., Stewart, Wherry, White, David N. and Woodward—28.

N A Y S.

Messrs. Achenbach, Alricks, Andrews, Baily, (Perry,) Bailey, (Huntingdon,) Bannan, Bardsley, Biddle, Bigler, Black, J. S., Bowman, Boyd, Brodhead, Broomall, Brown, Buckalew, Calvin, Carter, Clark, Collins, Corbett, Craig, Cuyler, Darlington, De France, Dunning, Edwards, Elliott, Finney, Fulton, Gibson, Gilpin, Green, Harvey, Hay, Hemphill, Horton, Knight, Lamberton, Landis, MacConnell, M'Clellan, Mantor, Minor, Newlin, Niles, Palmer, G. W., Pughe, Purviance, John N., Purviance, Samuel A., Reed, Andrew, Runk, Sharpe, Smith, H. G., Sraith, Henry W., Stanton, Struthers, Temple, Turrell, Walker, Wetherill, Jno. Price and Worrell—62.

So the amendment was rejected.

ABSENT.—Addicks, Baer, Barclay, Bullett, Carey, Cassidy, Church, Corson, Cronmiller, Curry, Dallas, Davis, Dodd, Ellis, Fell, Hall, Hanna, Heverin, Howard, Hunsicker, Kaine, Lawrence, Littleton, Long, M'Camant, M'Culloch, M'Murray, Mitchell, Palmer, H. W., Parsons, Patterson, T. H. B., Patton, Porter, Purman, Read, John R., Rooke, Ross, Van Reed, Wetherill, J. M., White, Harry, White, J. W. F., Wright and Meredith, *President*—43.

Mr. BOWMAN. Mr. President: I move to strike out, in the sixth line, "any man's," and insert "private."

I move this amendment, Mr. President, because the residue of the section says that property shall not be taken for public use. I do it because I think it is more consonant with the rest of the section. I do not like this term "man's." Now we are saying here that individual property shall not be taken for public use without just compensation. Then I propose to use the word "private property," so that private property will not be taken.

The PRESIDENT *pro tem.* The question is on the amendment of the gentleman from Erie (Mr. Bowman.)

The amendment was agreed to: Ayes, sixty-one; noes, not counted.

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

"And all consequential damages resulting from improvements made under legislative authority or by municipal authority or by municipal corporations shall be paid."

Mr. CUYLER. That belongs in the corporation article and not here.

The PRESIDENT *pro tem*. The question is on the amendment of the delegate from Lebanon.

The amendment was rejected.

Mr. BULLITT. Mr. President: I offer this amendment to the tenth section, to be added to it:

"And in ascertaining and determining such compensation, the right of the owner to an appeal from the finding of a jury of view and a trial by a jury, under the direction of a court of competent jurisdiction, as in other issues of fact, shall be preserved inviolate.

Mr. CUYLER. I move to amend the amendment, by striking out the words "the owner," and inserting "each party."

Mr. BULLITT. I have no objection to that. I accept the modification.

The PRESIDENT *pro tem*. The amendment will be so modified.

Mr. BULLITT. I desire to say but a word or two in explanation of this amendment. As the practice now prevails, any man's property may be taken under a proper law. A jury of view examine it, and make an award of damages, and there is now no control in such cases as exists in other cases of the trial of issues of fact. The jury meet not under the immediate direction of the court; there is no such control over a jury of view as is ordinarily held by a court over a jury in the trial of issues of fact; and the party finds himself without remedy if that jury make a mistake in point of law in reference to the questions which are raised before them.

This amendment is merely intended not to take the place of juries of view in the first instance, but to give to any man who may feel that he has been aggrieved by the finding of a jury of view the right to an appeal to a trial before a jury of twelve men in the ordinary form observed in the courts of common law throughout the State. That is all that the amendment was intended to effect, and it does seem to me that is a proper thing to be protected by this Convention.

Mr. BARTHOLOMEW. Mr. President:

We have such a provision in one of the reports already passed on second reading, I think the report on legislation, that parties shall not be confined to the damages assessed by the viewers, but shall have the right of appeal. I think the provision in this Convention would be of no avail, because we have it already adopted by this Convention.

Mr. MANN. I take it the gentleman from Schuylkill refers to section six of the article on corporations, report number twenty-one on the files.

Mr. BARTHOLOMEW. It may be in the article on corporations.

Mr. MANN. The provision there is that "no corporation shall engage in any other business than that expressly authorized in its charter; nor shall it take or hold any real estate except what may be necessary and proper for its legitimate business; and the Legislature is hereby prohibited from depriving any person of an appeal from any preliminary assessment of damages made by viewers or otherwise. The final determination of the amount of such damages shall in all cases of appeal be determined by a jury."

Mr. BARTHOLOMEW. That is it.

The PRESIDENT *pro tem*. The question is on the amendment of the gentleman from Philadelphia.

Mr. BULLITT. I withdraw the amendment.

The PRESIDENT *pro tem*. The question recurs on the tenth section.

Mr. WHERRY. I offer an amendment in the sixth line to strike out two words, "or limb," after the word "life." The cutting of ears and the splitting of noses as punishments having gone by, I think the memory of them might be stricken out also.

The amendment was rejected.

The PRESIDENT *pro tem*. The question recurs on the section as amended.

The section was agreed to.

The eleventh section was read as follows:

SECTION 11. 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. Suits may be brought against the Commonwealth in such manner, in such courts and in such cases, as the Legislature may by law direct.

Mr. CUYLER. I move to amend by adding, after the word "direct," at the

end of the section, the words "and the Legislature shall so provide." In other words, that that which by the language of the section, as written, is merely optional on the part of the Legislature shall become compulsory. I can perceive no reason why the Commonwealth should have the power to inflict a wrong upon the citizen, and the citizen be left without redress in the courts of justice.

Mr. BIDDLE. Mr. President: Suppose the Legislature, after this direction, do not so provide, how are they to be compelled to provide?

Mr. CUYLER. Just as they would with any other constitutional provision.

Mr. BIDDLE. But I should like to know if it must not after all be left discretionary with them? If it is necessary, in their judgment, they will so provide, and if it is not they will not, and I know no mode of compelling them.

Mr. J. S. BLACK. Swear them to perform the duty you put upon them.

The PRESIDENT *pro tem*. The question is on the amendment.

Mr. CUYLER. I call for the yeas and nays. ["No." "No."]

The PRESIDENT *pro tem*. Gentlemen seconding the call will rise.

Messrs. Alricks, Sharpe and Worrell rose to second the call.

The PRESIDENT *pro tem*. The call for the yeas and nays is not seconded.

Mr. STRUTHERS. I wish to suggest to the gentleman from Philadelphia whether striking out the word "may," in the last clause, and putting in the word "shall" would not affect the same object.

Mr. CUYLER. No, sir.

The PRESIDENT *pro tem*. The question is on the amendment of the delegate from Philadelphia (Mr. Cuyler.)

The amendment was rejected, the yeas being eight—less than a majority of a quorum.

Mr. STRUTHERS. I move to strike out the word "may," at the beginning of the sixth line, and insert the word "shall."

The amendment was rejected.

The PRESIDENT *pro tem*. The question is on the section.

The section was agreed to.

Section twelve was read as follows:

SECTION 12. That no power of suspending laws shall be exercised unless by the Legislature or its authority.

The section was agreed to.

The PRESIDENT *pro tem*. The thirteenth section will be read.

The CLERK read as follows:

SECTION 13. That excessive bail shall not be required, nor excessive fines imposed nor cruel punishment inflicted.

The section was agreed to.

The PRESIDENT *pro tem*. The fourteenth section will be read.

The CLERK read as follows:

SECTION 14. That all prisoners shall be bailable by sufficient sureties, unless for capital offences, when the proof is evident or presumption great; and the privilege of the writ of *habeas corpus* shall not be suspended unless when in case of rebellion or invasion the public safety may require it.

The section was agreed to.

The PRESIDENT *pro tem*. The fifteenth section will be read.

The CLERK read as follows:

SECTION 15. That no commission of oyer and terminer or jail delivery shall be issued.

The section was agreed to.

The sixteenth section was read as follows:

SECTION 16. That the person of a debtor, where there is not strong presumption of fraud, shall not be continued in prison after delivering up his estate for the benefit of his creditors in such manner as shall be prescribed by law.

The section was agreed to.

The seventeenth section was read as follows:

SECTION 17. That no *ex post facto* law, nor any law impairing contracts, or making irrevocable any grant of special privileges or immunities shall be paid.

Mr. BUCKALEW. I move to amend by inserting before the word "contracts" the words "the obligation of." I suppose they were dropped out by accident.

Mr. NILES. The section reported is exactly in the language of the section of the old Constitution.

Mr. BUCKALEW. I take it for granted that the Constitution of 1838 was intended to follow the language of the Constitution of the United States, and the words I have moved to insert were dropped out accidentally.

Mr. MACCONNELL. The Committee on the Bill of Rights have no objection to this section conforming to the national Constitution.

Mr. MACVEAGH. I trust the desire to harmonize this instrument with the Constitution of the United States will prevail.

The amendment was agreed to.

The *PRESIDENT pro tem.* The question is on the section as amended.

Mr. GILPIN. Mr. President: I offer the following amendment, to insert before the word "shall," in the third line, as follows: "Or any law depriving the party of any remedy for the enforcement of a contract which existed when the contract was made."

My object in offering this amendment is to make the section really do what, without it, it seems to do, viz: to prevent the obligation of any contract being interfered with by any law made subsequent to the making of the contract.

Without the amendment proposed it is true no law impairing or altering the expressed terms of the contract can be passed, but in effect the same thing as an alteration of the contract may be effected by a law altering or diminishing the remedies for the enforcement of such contract. And this alteration of the remedy is almost, yea, sometimes it really is, as disastrous to the party injured and seeking to enforce the contract or obtain recompense for its violation as if its very terms had been changed, in fact and effect its obligation is impaired.

When a man makes a contract he always takes into consideration the remedy which the law then gives him to enforce it. And the nature of the remedy allowed influences him always in determining the value of the contract he makes or of the security he purchases. Take an example. Some few years ago the law was that any holder of the bonds (secured by a mortgage) issued by a railroad company could, in case his interest or principal was not paid when due, proceed at once to enforce payment, but by a subsequent act of Assembly it was provided that the mortgage should not be proceeded on except at the instance of a certain number, say one-third or one-half, of all the holders of the bonds secured thereby. Thus the right of the holder of one or two bonds to proceed on the mortgage was entirely taken away from him; that is, he could only proceed after obtaining the concurrence of the requisite one-third or one-half of all the other bondholders.

It is clear that if a contract is to be really preserved all remedies for its enforcement must be saved also. Because, after all, the remedy is the life of a contract. For if a party to it has no remedy to enforce it he might just as well have no contract; in fact the other party is obligated only to the extent that the other

can hold him, and this first one can hold only by means of the remedies which the law gives. Change the remedy and you change the hold that is the obligation of the contract. And it is to prevent any contract being by any law impaired directly or indirectly that this proposed amendment seeks to effect.

Mr. BARTHOLOMEW. If I understand the scope of the amendment proposed by the gentleman from Armstrong, (Mr. Gilpin,) it strikes a blow, at once, at all stay laws, and provides that the Legislature hereafter shall be prohibited from passing any stay law to postpone the collection of debts, a remedy which existed at the time the contract was entered into. I take it that such a provision of the Constitution as that would be provident and unwise, because there are times in the history of this Commonwealth, and of every State, when it becomes an absolute necessity for the protection of the people that there should be a postponement of the time of payment. That is a postponement of remedy and not a violation of the obligation of the contract, or an impairing of the contract, but simply as to the remedy for the collection of the debt. We have heretofore in the history of our Commonwealth had such occasions, and the Legislature have granted to the people and to the corporations of the Commonwealth of Pennsylvania a stay in relation to their contract debts, and I undertake to say that that legislation thus made met with the approbation of the people, and has been of a good character. These legislative acts have been wise legislation, and it seems to me that this provision in the Constitution would be a very unwise one.

The amendment was rejected.

The *PRESIDENT pro tem.* The question is upon the section.

The section was agreed to.

The *PRESIDENT pro tem.* The eighteenth section will be read.

The CLERK read as follows:

SECTION 18. That no person shall be attainted of treason or felony by the Legislature.

The section was agreed to.

The *PRESIDENT pro tem.* The nineteenth section will be read.

The CLERK read as follows:

SECTION 19. That no attainer shall work corruption of blood; nor, except during the life of the offender, forfeiture of the estate to the Commonwealth; that the estates of such persons as shall destroy

their own lives shall descend or vest as in cases of natural death; and if any person shall be killed by casualty there shall be no forfeiture by reason thereof.

Mr. DARLINGTON. The article "the," in the second line, it seems to me has been improperly interpolated. I suppose it is intended to make this section exactly as the old Constitution was, and the article "the" is not contained in that section. As the section now stands it would make the clause read, "forfeiture of the estate," and in the old Constitution it stands "forfeiture of estate." I ask unanimous consent to have the article "the" stricken out.

Mr. MACCONNELL. The word "the" was not intended to be placed in the section, and it is there by a mistake of the printer.

The PRESIDENT *pro tem*. The correction of the section will be made, and the question is upon the section.

The section was agreed to.

The twentieth section was read as follows:

SECTION 20. That the citizens have a right in a peaceable manner to assemble together for their common good, and to apply to those invested with the powers of government for redress of grievances or other proper purposes by petition, address or remonstrance.

The section was agreed to.

The twenty-first section was read as follows:

SECTION 21. That the right of the citizens to bear arms in defence of themselves and the State shall not be questioned.

The section was agreed to.

The PRESIDENT *pro tem*. The twenty-second section will be read.

The CLERK read as follows:

SECTION 22. That no standing army shall in time of peace be kept up without the consent of the Legislature; and the military shall in all cases and at all times, be in strict subordination to the civil power.

The section was agreed to.

The PRESIDENT *pro tem*. The twenty-third section will be read.

The CLERK read as follows:

SECTION 23. That no soldier shall in time of peace be quartered in any house without the consent of the owner, nor in time of war but in a manner to be prescribed by law.

The section was agreed to.

The twenty-fourth section was read as follows:

SECTION 24. That the Legislature shall not grant any title of nobility or hereditary distinction, nor create any office the appointment to which shall be for a longer term than during good behavior.

The PRESIDENT *pro tem*. The twenty-fifth section will be read.

The CLERK read as follows:

SECTION 25. The emigration from the State shall not be prohibited.

Mr. SIMPSON. I move to strike out the first word in the section, the word "the."

Mr. BIDDLE. Read the section as amended.

The CLERK read as follows:

"Emigration from the State shall not be prohibited."

The amendment was agreed to.

The PRESIDENT *pro tem*. The question is upon the section as amended.

The section as amended was agreed to.

The PRESIDENT *pro tem*. The twenty-sixth section will be read.

The CLERK read as follows:

SECTION 26. To guard against transgressions of the high powers which we have delegated, we declare that everything in this article is excepted out of the general powers of government and shall forever remain inviolate.

The section was agreed to.

Mr. D. W. PATTERSON. Now the preamble.

The PRESIDENT *pro tem*. The preamble will be read.

The CLERK read as follows:

We, the people of the Commonwealth of Pennsylvania, grateful to Almighty God for the blessing of civil and religious liberty, and humbly invoking His guidance, do ordain and establish this Constitution for its government.

Mr. J. N. PURVIANCE. I desire to move an amendment. In order to make the preamble more in accord with the many petitions that have been presented in this Convention, I move to amend by inserting after the word "God" the words "Sovereign Ruler of the Universe," and after the word "His" the words "favor and," so as to make the preamble read: "We, the people of the Commonwealth of Pennsylvania, grateful to Almighty God, the Sovereign Ruler of the Universe, for the blessings of civil and religious liberty, and humbly invoking His guidance and favor, do ordain and establish this Constitution for its government."

I have offered the amendment because I think it an improvement and more fully expressive of the desire of the people as shown by the petitions which have been presented to this body, and an enlargement of the expression as adopted in committee of the whole, and would be more appropriate and generally satisfactory.

The preamble, as we have adopted it in committee of the whole, is a mere expression of gratitude or thanks to God. This amendment extends further and acknowledges the sovereignty of the deity as Ruler of the universe. Another portion of the preamble is invoking the guidance of the Almighty. This adds to that His favor and guidance. These I take it are appropriate amendments, and such as should be adopted.

Mr. WOODWARD. I should like to ask the gentleman a question. I want to know what additional idea his amendments convey?

Mr. J. N. PURVIANCE. The expression of thanks to God—

The PRESIDENT *pro tem*. The Chair will rule this interrogation out of order.

Mr. J. N. PURVIANCE. One is the expression of thanks to God for the enjoyment of the blessings of civil and religious liberty. The other is recognizing the deity of God as Sovereign of the universe.

Mr. WOODWARD. The gentleman does not get the point of my inquiry.

The PRESIDENT *pro tem*. Gentlemen will please come to order.

Mr. WOODWARD. Here is the expression: "We, the people of the Commonwealth of Pennsylvania, grateful to Almighty God." Now you propose to add, "the Sovereign Ruler of the universe." I want to know (and that is my question) what the idea is?

Mr. EWING. Mr. President: I object to that little Convention that is being held on the other side of the Hall. We are all interested in this.

Mr. WOODWARD. The gentleman from Butler allowed himself to be interrogated.

Mr. J. N. PURVIANCE. Certainly.

Mr. WOODWARD. I do not know what novelty there is here. I may be out of order, but I see no occasion for being called to order.

The PRESIDENT *pro tem*. The delegate from Butler has the floor.

Mr. WOODWARD. But he allows me to ask him a question. I have not yet got at my question.

Mr. J. N. PURVIANCE. I have answered it.

The PRESIDENT *pro tem*. The time of the delegate from Butler has expired. The question is on the amendment of the delegate from Butler.

The amendment was rejected.

The PRESIDENT *pro tem*. The question is on the preamble.

The preamble was agreed to.

Mr. CAMPBELL. I offer a new section at this time. ["Too late."]

Mr. BIGLER. I move that the Convention do now adjourn.

The PRESIDENT *pro tem*. The Chair states that if an objection is made he will rule the proposition of the delegate from the city (Mr. Campbell) out of order.

Several delegates objected.

Mr. WHERRY. I move that we adjourn.

Mr. CUYLER. I move that leave be granted to the delegate from Philadelphia (Mr. Campbell) to offer his amendment.

Mr. CORBETT. I move to refer the article to the Committee on Revision and Adjustment.

The PRESIDENT *pro tem*. The question is on the motion to refer.

The motion was agreed to.

THE LEGISLATURE.

Mr. MACVEAGH. I move you, sir, that we proceed to the second reading of the last three sections of the article reported by the Committee on the Legislature, and after that motion is agreed to we can adjourn.

The PRESIDENT *pro tem*. It is moved to take up the article on the Legislature.

Mr. WOODWARD. I move to amend the motion by moving that the Convention next proceed to the consideration of the report of the committee of the whole on Private Corporations.

Mr. MACVEAGH. I trust that will not be done, for this reason: We have gone to the last three sections of the legislative article on second reading already. It is in an unfinished and truncated condition, and it was left over because the delegate from Columbia (Mr. Buckalew) did not expect to be here yesterday. I trust now that, it being the only unfinished article left in that condition before the Convention, it will be taken up and the last three sections put through second

reading so that it can be printed as the other articles are printed. There is no objection to that.

Mr. EWING. Mr. President: I rise to a question of order—

The PRESIDENT *pro tem*. The Chair will state that in his opinion he ought not to recognize the motion of the delegate from the city (Mr. Woodward;) that the way to reach his object is to vote down the motion of the delegate from Dauphin, and then the delegate from the city can make his motion.

Mr. MACVEAGH. I trust it will not be done.

Mr. WHERRY. I rise to ask the Chair a question.

Mr. J. N. PURVIANCE. I rise to a question of order. I intended to call for the yeas and nays on the amendment which I offered to the preamble of the Bill of Rights, but I found it utterly impossible to do anything, such was the confusion existing in the House. I wish to assert my right by calling for the yeas and nays on that question. Whether from design or not, such was the confusion created by the interrogation of my friend Judge Woodward that the whole body got into disorder and I could not make the request.

The PRESIDENT *pro tem*. Shall the Chair permit the member to ask for the yeas and nays? ["No." "No."]

Mr. BROOMALL. I rise to a point of order. That article has been referred to the Committee on Revision and Adjustment. Other business has intervened, and there is a question now before the Chair.

The PRESIDENT *pro tem*. The point of order is well taken.

Mr. J. N. PURVIANCE. I called for the yeas and nays as soon as it was possible for me to do so.

Mr. BROOMALL. That matter has been disposed of.

Mr. LAMBERTON. I move that the Convention adjourn.

The PRESIDENT *pro tem*. It is impossible for the Chair to recognize motions when there is such confusion.

Mr. J. N. PURVIANCE. I call now for the yeas and nays on my amendment.

The PRESIDENT *pro tem*. The Chair cannot recognize the call for the yeas and nays, for the article is out of our reach.

Mr. LAMBERTON. I move that the Convention adjourn.

Mr. CLARK. One moment; will the gentleman allow me? ["No." "No."]

The PRESIDENT *pro tem*. The question is on the motion to adjourn.

The motion to adjourn was not agreed to, there being on a division: Ayes thirty-four; noes thirty-eight.

Mr. MACVEAGH. Mr. President: I now insist on my motion.

The PRESIDENT *pro tem*. The motion of the delegate from Dauphin is before the House, to proceed to the further consideration of the second reading of the article on the Legislature.

The motion was agreed to.

The PRESIDENT *pro tem*. The eighteenth section of the article is before the House and will be read.

The CLERK read as follows:

SECTION 18. The State shall be divided into fifty senatorial districts of compact and contiguous territory, as equal in population 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 by possessing a population exceeding one senatorial ratio and three-fifths of a second ratio. And no county or city shall be entitled to more than one-sixth of the whole number of members.

Mr. MACVEAGH. Now I will yield to the gentleman from Indiana, (Mr. Clark,) who wishes to ask leave of absence.

LEAVES OF ABSENCE.

Mr. CLARK. Mr. President: I ask leave at this time to make a motion for leave of absence for the gentleman from Fayette, (Mr. Kaine,) who is sick, and inasmuch as I failed to reach here in time I ask that the leave be entered as having been granted this morning before the votes of to-day were taken.

The PRESIDENT *pro tem*. Does the gentleman from Indiana move to postpone the further consideration of the eighteenth section?

Mr. CLARK. Mr. Kaine has been marked absent from all the votes to-day and—

The PRESIDENT *pro tem*. The motion is to postpone the further consideration of the section.

Mr. MACVEAGH. No, no; unanimous consent is asked by the gentleman from Indiana to request leave of absence for Mr. Kaine, who is sick. I trust it will be granted.

Mr. CLARK. Mr. Kaine is confined to his bed to-day, and I ask that leave of ab-

sence be entered upon the Journal to-day immediately after the assembling of the House.

The PRESIDENT *pro tem.* Shall leave be granted to Mr. Kaine?

Leave was granted.

Mr. S. A. PURVIANCE. Before we adjourn I move as an amendment to the section which relates to the construction of the House the amendment which I have already sent to the Chair, but which

I believe has not been printed but will be here by to-morrow morning in print.

The PRESIDENT *pro tem.* The amendment of the gentleman from Allegheny is before the House.

Mr. MACVEAGH. I move an adjournment.

The motion was agreed to, and (at three o'clock P. M.) the Convention adjourned.

ONE HUNDRED AND TWENTY-SECOND DAY.

WEDNESDAY, June 18, 1878.

The Convention met at half past nine o'clock A. M., Hon. John H. Walker, President *pro tem.*, in the chair.

Prayer by Rev. J. W. Curry.

The Journal of yesterday's proceedings was read.

Mr. COCHRAN. Mr. President: I desire to ask leave of the Convention to have the Journal amended in one respect. While the subject of the law of libel was under consideration yesterday, I offered an amendment to the amendment of the gentleman from Philadelphia, (Mr. Newlin,) which was rejected by the Convention; and on looking at the matter I find that that amendment would not at all have accomplished the object which I intended; and having been drawn hastily, it will appear, to say the least, very badly upon the Journal of this body. I ask the unanimous consent of this Convention to omit that amendment from the Journal.

The PRESIDENT *pro tem.* Will the Convention agree to the request of the delegate from York? ["Yes."] The Chair hears no objection, and the request is granted.

DECLARATION OF RIGHTS.

Mr. J. N. PURVIANCE. I move to reconsider the vote taken yesterday upon the Declaration of Rights, referring that article to the Committee on Revision and Adjustment, for the purpose of renewing the amendment which I offered yesterday to the preamble. Perhaps it will be the sense of the body to adopt the amendment.

The PRESIDENT *pro tem.* The delegate from Butler moves to reconsider the vote by which the article on the Declaration of Rights was referred to the Committee on Revision and Adjustment. Did the delegate vote in the affirmative?

Mr. EWING. Mr. President: I voted in the affirmative on that question. I understand that the gentleman from Butler is very anxious to have the yeas and nays recorded on his amendment to the preamble. I voted against his amendment, but I am entirely willing to accommodate

him, and therefore I move a reconsideration of the vote by which the article on the Bill of Rights was referred to the Committee on Revision and Adjustment.

Mr. D. N. WHITE. I rise to a point of order. The article is beyond our reach, having been referred to the Committee on Revision and Adjustment.

The PRESIDENT *pro tem.* It is not beyond the control of the House.

On the question of agreeing to the motion to reconsider a division was called for, which resulted—seventeen in the affirmative. This being less than a majority of a quorum, the motion to reconsider was rejected.

LEAVES OF ABSENCE.

Mr. HUNSICKER asked and obtained leave of absence for Mr. Corson, who is at home sick, for a few days from to-day.

Mr. C. A. BLACK asked and obtained leave of absence for Mr. John R. Read for a few days from to-day.

Mr. SIMPSON asked and obtained leave of absence for Mr. Baker for to-morrow.

CALLS OF THE YEAS AND NAYS.

Mr. LILLY. I offer the following resolution for the purpose of saving time:

Resolved, That hereafter in calling the yeas and nays on all amendments to sections on second reading, the call shall be seconded by ten delegates, who shall rise in their places and stand until counted by the Clerk; but the names so seconded shall not be recorded on the Journal.

The PRESIDENT *pro tem.* What shall be done with the resolution?

Mr. JOSEPH BAILY. It is an alteration of the rules, and lies over.

Mr. LILLY. I do not think so, and I move to proceed to its second reading and consideration.

The motion was agreed to, and the resolution was read the second time and considered.

Mr. LILLY. My idea is to save time by the adoption of this resolution. It does not change the standing rule, but the present method of entering the names on the Journal requires considerable time; first,

for the Clerk to take a record of them, and second, to journalize them.

The resolution was agreed to.

ACCOUNTS AND EXPENDITURES.

Mr. HAY submitted the following report, which was read:

The Committee on Accounts and Expenditures of the Convention respectfully reports:

1. That D. F. Murphy, Official Reporter of the Convention, in addition to the payments heretofore made him on account of his services, is entitled to be now paid the sum of five thousand dollars.

2. That two accounts of William W. Harding, dated respectively June third and June sixteenth, for three hundred and eighty-one reams of paper furnished under his contract with the Convention, together amounting to the sum of \$2,857 50, have been examined. The accounts are certified as approved from the Committee on Printing, and the Printer acknowledges to have received the same and that the quality is satisfactory. They are accordingly reported as correct and proper to be paid.

3. On the thirteenth day of June, instant, the following resolution was adopted by the Convention:

Resolved, That the Committee on Accounts and Expenditures of the Convention are hereby instructed to report the amount of compensation to be paid the fireman and his assistant for their services.

Under this instruction, the committee reports that the Convention, on the thirteenth day of November, 1872, directed that in addition to its other employees, the Chief Clerk should appoint one fireman who should be paid \$3 50 per day "while actually engaged in the discharge of his duties;" and on the twenty-fourth day of January, 1873, the employment of an assistant fireman who should be paid \$3 00 per day "while actually engaged in the discharge of his duties," was also authorized. The compensation of these employees having been defined by the Convention itself, and the amount appearing to be quite sufficient for services, however faithful, of the character rendered, and the persons mentioned having been fully paid for the period authorized by the Convention, the committee has no recommendation to make which would increase the expenditure of the Convention on this account. While all service rendered to the Convention should be fairly and pro-

perly compensated, the committee perceive no propriety in making appropriations to any persons in its employment beyond the fair value of what they have done and beyond what equally competent persons would be prepared and very willing to work for, merely as gratuities.

The following resolutions are accordingly reported:

Resolved, That a warrant be drawn in favor of D. F. Murphy, Official Reporter of the Convention, for the sum of \$5,000, to be accounted for by him in the settlement of his accounts.

Resolved, That the above mentioned accounts of Wm. W. Harding, for three hundred and eighty-one reams of paper, amounting to the sum of \$2,857 50 be and the same are hereby approved, and that a warrant be drawn in favor of said W. W. Harding for the payment thereof.

Resolved, That the Committee on Accounts and Expenditures be and are hereby discharged from the further consideration of the resolution of the Convention, adopted June 13, 1873, upon the subject of the further compensation of the fireman and assistant fireman, lately in the service of the Convention.

The resolutions were severally read twice and agreed to.

THE LEGISLATURE.

The PRESIDENT *pro tem*. The Convention resumes the consideration on second reading of the article reported by the Committee on the Legislature, reported from the committee of the whole, the pending question being on the eighteenth section, which will be read.

The CLERK read as follows:

SECTION 18. The State shall be divided into fifty Senatorial districts of compact and contiguous territory as equal in population 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 by possessing a population exceeding one senatorial ratio and three-fifths of a second ratio. And no county or city shall be entitled to more than one-sixth of the whole number of members.

Mr. COCHRAN. Mr. President:—

The PRESIDENT *pro tem*. The gentleman from Allegheny (Mr. S. A. Purviance) had the floor last evening and the Chair feels compelled to recognize him.

Mr. S. A. PURVIANCE. I offer an amendment to take the place of that part of the

section which relates to the construction of the lower House.

Mr. MACVEAGH. I submit that that is not in order at this time.

Mr. S. A. PURVIANCE. As the section on that subject is not at present before the Convention, I withdraw my amendment for the present.

Mr. COCHRAN. I move the following amendment to take the place of the section under consideration:

"The number of Senators shall be thirty-three; the number of Representatives ninety-nine. The State shall be divided into eleven senatorial districts of compact and contiguous territory as nearly equal in population as possible, and each district shall be entitled to elect three Senators, but no elector shall vote for more than two. The three highest in vote shall be declared elected. No county shall be divided in forming a district unless it is entitled to more than three Senators. If entitled to more than three and less than six, the territory not included in the district as formed shall be united to an adjoining county or counties to form another district. If entitled to more than six, then after two districts shall have been made the remaining territory shall be united to an adjoining county or counties to form another district. No such union shall be formed unless the surplus population of such county shall equal the one-third of the number required to elect a Senator.

The State shall be divided into thirty-three Representative districts of compact and contiguous territory as nearly equal in population as possible, and each district shall be entitled to elect three Representatives; but no elector shall vote for more than two, and the three highest in vote shall be declared elected. No county shall be divided in forming a district unless it shall be entitled to more than three Representatives, and should its population exceed the number required for that purpose the county may be divided into two or more representative districts, each electing three Representatives in the manner aforesaid, if possessing the requisite population or within one-third of the number required to constitute a district.

The PRESIDENT *pro tem*. So far as the amendment refers to the nineteenth and twentieth sections of the article under consideration, it appears not to be in order.

Mr. COCHRAN. I apprehend that the amendment is in order. If it should be adopted, of course the Convention would vote down the nineteenth section, for this would supply the place of it. I have offered the amendment in this form to take the place of the eighteenth section, to bring up fairly and clearly before the Convention two or three questions. It proposes to be a system complete for the election of the members of the Legislature in both branches. I am very sorry that it was not printed so that members could have it before them for their immediate inspection. I had to write it this morning in some haste at my desk, but I endeavored to embody the principle as clearly as I could in the time that was allowed me.

Mr. S. A. PURVIANCE. I rise to a point of order. My point of order is this: The gentleman's amendment so far as it relates to the House of Representatives is not before the Convention. If it is before the Convention, it certainly does injustice to my amendment. My amendment was offered first. If the gentleman is prepared to withdraw all that portion of his amendment that relates to the construction of the lower House, I am perfectly satisfied; if not, I insist that my amendment in point of order is first in.

The PRESIDENT *pro tem*. The Chair would not have ruled the amendment of the delegate from Allegheny out of order had he left out of his amendment the feature of it referring to the House of Representatives. The delegate from York has included the Senatorial representation as well as the representation in the House.

Mr. COCHRAN. Mr. President: I have no disposition at all to treat the amendment of the gentleman from Allegheny with any degree of unfairness; but it was impossible for me to present this proposition and to have it contain the idea that I had in mind unless I included the House of Representatives. If this amendment does not meet the views of the majority of this Convention, of course they will vote it down, and then the question will come up on the original proposition of the committee, subject to such amendments as other gentlemen may propose.

Now, the first thing contained in this amendment is that the number of Senators and Representatives is not to be increased. I am well aware, sir, that that has not heretofore met the approbation of this body; but I felt it due to myself at least that I should make the proposition

distinct and clear, and get a direct vote upon it on second reading.

I do not apprehend that there is any benefit at all to be derived from an increase in the number of Senators and Representatives of the State. I believe that the idea that by increasing the number you prevent corruption is fallacious; but that seems to be the idea upon which the proposition to increase it is based.

Sir, where a man is willing to sell his vote, he will sell it for what it will bring in the market where such things are for sale or bargain; and it makes very little difference, it is simply a question of amount or degree, whether a man shall sell it for five dollars or five hundred dollars if he has a corrupt disposition to sell his vote at all; and I am one of those who believe that a man who will sell his vote for one hundred dollars will sell it for five dollars if he cannot get the hundred.

Mr. President, believing that the increase proposed and already adopted here, is in itself of no account, that the difference between thirty-three and fifty Senators, and between ninety-nine and one hundred and fifty representatives, could of itself, even in that point of view, have very little influence or effect, I have not been able to bring my mind to the conclusion to support that proposition at all, nor can I see that any advantage could be derived from it, if it was adopted. To meet the views of the gentlemen who propose to prevent corruption by increasing the numbers, you must increase far more than about fifty per cent. on the present number in the Legislature. You would have to multiply it until it would be, as I contend, simply a mob. I do not pretend to understand how it is that they have such large representative bodies in New England, and keep them in order; but I do say with one hundred and thirty-three members here (and we claim to be at least the average of respectability in this Commonwealth) we find it very difficult to keep this number in order on many occasions, and sometimes we get into "most admired disorder."

I think, sir, that the increase of the number of members of the Legislature is simply an increase of expense, an increase of confusion, and a destruction of the deliberative character of the body; and seeing no possible benefit, I contend, sir, for the retention of the present number, as nearly as it may be.

But, sir, there is another principle involved in this amendment which I pro-

pose and to which I am wedded—and which I am ready to support whenever it can be fairly brought forward; and that is the principle of the representation of minorities, the distinct—not the constructive—representation of minorities in our legislative bodies. That I propose to realize by dividing the senatorial districts in such manner in the State as to elect three Senators in each senatorial district, and three Representatives in each representative district on the limited plan of voting. In this way I believe that the control of the majority over the public affairs of the Commonwealth will be retained, and I believe also that you will have the benefit and advantage of a stern, numerous minority in those bodies who will act as an effective check upon the majority. I believe that it is the advantage of this country that there should be always a strong minority, a minority which will act to a certain extent as a control and check upon the action of the majority, of whatever class or party that majority may be constituted or composed.

I refer to the example of the State of Illinois. It has been here represented at the election of Representatives in that State on this plan has been a failure. I do not concede that to be correct. I have seen recently a communication addressed by a distinguished citizen of Illinois to a member of the Ohio Constitutional Convention, in which he declares that the experience of that State during the last session of the Legislature was that that method of election was a success, that the relative proportions between parties in that State were well maintained, and that it had operated beneficially to the public interests of that Commonwealth. I believe that the gentleman who wrote this letter, Mr. Medill, of Chicago, is as good authority as any who contend for the contrary. And believing, apart from that, that the proposition in itself is meritorious and beneficial, I am prepared to vote for it, and I would be very glad if I could be sustained in that vote by a majority of this body. But whether sustained or not, I at least desire that the question shall be fairly and squarely met and determined by a distinct vote on the proposition that the members of the Legislature shall not be increased in number, and that they shall be elected on this plan of limited voting.

MR. DARLINGTON. I move to amend in the first line by striking out the word

"thirty-three" and inserting the word "fifty," making fifty Senators.

I do this for the purpose of accommodating the gentleman from York, (Mr. Cochran,) with a square vote upon the point, whether we will or will not increase the Senate. If we increase the Senate we shall of course increase the House. Intending afterward to vote against the whole proposition and merely desiring to have a distinct vote, I offer this amendment to the amendment.

Mr. CARTER. I am opposed to the amendment offered by the gentleman from York for two reasons, and both, to me, are so important and so fundamental that either would constitute a sufficient reason for opposing his amendment. I do not desire to multiply words on a matter which has before been so fully discussed in this Convention, and I think it unnecessary to do so. I think that there is truth in the saying that

"Words are like leaves,
And where they most abound
Truth of sense is seldom found."

I think that the multiplication of words especially is unnecessary at this stage of the proceedings of the Convention. I will indicate as briefly as possible the grounds of my objection.

I am in favor of an increase of the legislative body, not altogether for the reason assigned by the gentleman from York. It is not, as I apprehend, put entirely upon the ground of preventive of corruption. There are several other reasons that might be adduced. It was indicated by the gentleman from Centre (Mr. Curtin) that there was another consideration equally important in his eyes entering into it; which was that as the size of the representative body was increased, in a measure it drew that body nearer to the people. As a principle, I think there is something in that which the gentleman from York overlooked; nor do I by any means concede that the lower House with the increase to one hundred and fifty would be more riotous or more demonstrative. I think that experience proves otherwise. So far as I have heard the large bodies in New England are harmonious. We know that large representative bodies can be conducted without disorder. Why, sir, twenty or thirty men may be just as disorderly as two hundred or three hundred. I apprehend that such is often the case.

But believing that this Convention has fully made up its mind, as indicated by numerous votes, in regard to the increase

of the body, I do not desire to amplify on that subject. I hope that a call of the yeas and nays will be had and that this matter will be settled finally at this time.

Mr. DARLINGTON. I withdraw the amendment to the amendment so as to let the gentleman from York have a square vote on his proposition.

The PRESIDENT *pro tem*. The amendment to the amendment is withdrawn.

Mr. CARTER. I am not speaking specially in reference to that; I am speaking in reference to the amendment offered by the gentleman from York (Mr. Cochran) proposing the smaller number.

Now, with regard to the second point, he proposes that a representative body is to be chosen on the limited-vote system. I believe that I was the first member of this body that indicated what to me was a very plain difference, and I think it is receiving the assent of this Convention that the merit of that system or manner of voting depends very much, or rather altogether, on the offices to which it may be applied. As applied to those that are purely ministerial in character and not legislative, I apprehend there is much merit in that system; but I do contend that where a political issue is raised and is fully discussed over a State or over a community, the majority should rule not merely by a bare majority, but by a sufficient majority not to be subjected to the chance of having a bare one or two of a majority. After a hard-spent struggle over an entire State determining political interests which are to be vitalized in the form of law, the thing should not be left to the mere accident of one or two, which might readily be changed, and the expressed wishes of an entire State defeated by an accident, death, resignation, or some other casualty. I say that no such principle as that should be incorporated into this Constitution. I believe that the party of the majority in legislative bodies is entitled to all the majority that it can obtain to carry out its political views. I draw the distinction broadly. I have voted in favor of its application to county officers and also to judges, and in one or two other cases. But at any rate, let it be tried in regard to those officers before we make so radical a change as introducing it into the structure of legislative bodies. We certainly should be careful of placing irrevocably in the Constitution, a matter which in great measure is experimental or untried.

Those, Mr. President, as briefly stated as possible, are the two objections that I have to this amendment, which I hope will not prevail when we come to the vote. I believe I might say that the opinion of this Convention has been so fully expressed in regard to both those principles that not much time need be occupied in further discussion.

Mr. COCHRAN. On my amendment I ask for the yeas and nays.

The yeas and nays were ordered.

Mr. DE FRANCE. Let the amendment be read.

The CLERK read the amendment.

Mr. PURMAN. I call for a division of the question.

Mr. MACVEAGH. It is too late. The yeas and nays have been ordered on the amendment.

The PRESIDENT *pro tem.* The amendment cannot now be divided, the yeas and nays having been ordered upon it.

The question being taken by yeas and nays, resulted yeas fifteen, nays eighty-five, as follows:

Y E A S .

Messrs. Carey, Cochran, Cuyler, De France, Gilpin, Guthrie, Kaine, Mott, Palmer, H. W., Patton, Smith, H. G., Temple, Van Reed, Wherry and Wright—15.

N A Y S .

Messrs. Achenbach, Alricks, Andrews, Baer, Baily, (Perry,) Bailey, (Huntingdon,) Baker, Bannan, Barclay, Bartholomew, Beebe, Biddle, Bigler, Black, Chas. A., Bowman, Boyd, Broomall, Brown, Bullitt, Calvin, Carter, Church, Clark, Corbett, Cronmiller, Curry, Darlington, Dunning, Edwards, Elliott, Ellis, Ewing, Fell, Fulton, Gibson, Green, Hanna, Harvey, Hay, Hazzard, Hemphill, Horton, Howard, Hunsicker, Knight, Lamberton, Landis, Lawrence, Lear, Lilly, MacConnell, MacVeagh, M'CLean, M'Culloch, M'Murray, Mann, Mantor, Metzger, Minor, Niles, Palmer, G. W., Parsons, Patterson, D. W., Pughe, Purman, Purviance, John N., Purviance, Samuel A., Reed, Andrew, Reynolds, Rooke, Runk, Russell, Sharpe, Simpson, Smith, Henry W., Stanton, Stewart, Struthers, Turrell, Walker, Wetherill, J. M., Wetherill, J. Price, White, David N., Woodward and Worrell—85.

So the amendment was rejected.

ABSENT—Messrs. Addicks, Ainey, Armstrong, Bardsley, Black, J. S., Brodhead,

Buckalew, Campbell, Cassidy, Collins, Corson, Craig, Curtin, Dallas, Davis, Dodd, Finney, Funck, Hall, Heverin, Littleton, Long, M'Camant, Mitchell, Newlin, Patterson, T. H. B., Porter, Read, John R., Ross, Smith, Wm. H., White, Harry, White, J. W. F. and Meredith, President—33.

Mr. J. PRICE WETHERILL. I move to amend the section, by striking out all after the word "ratio," in the sixth line. The words that I propose to strike out are: "And no county or city shall be entitled to more than one-sixth of the whole number of members."

On that I call for the yeas and nays.

Mr. WORRELL. I second the call for the yeas and nays.

Mr. CUYLER. I hope that this amendment may prevail. Gentlemen near me say that cannot be; but I would ask why it cannot be?

Mr. COLLINS. I rise to a question order. The yeas and nays have been called for, and there can be no speaking after that.

The PRESIDENT *pro tem.* The yeas and nays have not been ordered yet.

Mr. COLLINS. I thought they were ordered.

Mr. CUYLER. Gentlemen need not be impatient, for I do not propose to inflict a speech upon the House. I do not propose to do so because I know it is perfectly hopeless. I am sorry to feel that it is so, because I have listened in vain during all the previous discussion of this question to hear one single solitary reason advanced why the city of Philadelphia is to be in a large degree disfranchised. I ask gentlemen to give me one single good reason why it should be so. Why is one who is so unhappy as to reside in this particular latitude or longitude, to be less represented in the Legislature of the Commonwealth than one who may reside in any other portion of the State? Why is this city, which pays one-fourth of the entire taxes of the Commonwealth and has a fifth of its population, to be dwarfed in comparison with other portions of the Commonwealth? Is it jealousy of those whom we sent to represent us there? That jealousy is sadly misplaced; indeed, I fear that the only reason that could be urged for such an amendment is that in past years in so large a degree the city of Philadelphia has sent an inferior representation to Harrisburg that gentlemen have come to the conclusion that the less they have of it the better for the Commonwealth.

There is a story, sir, told in history that at the commencement of the American revolution Lord North, who was then the British War Minister, sent for a list of the officers of the British army so that he might select those who should be sent to command here, and as he looked through the list he made this remark: "I do not know how the enemy may be affected by this, but their names make me tremble;" and that has been, I am sorry to say, in much too large a degree the character of the representation that has been sent from the city of Philadelphia in the past. But we are entering upon a new era; this Convention is to accomplish some real good, and hereafter I hope the city of Philadelphia is to be represented at Harrisburg by men whose breadth of view and culture and intelligence may adapt them to the duties that are to be discharged there. But all that is aside from the main abstract question that I press upon gentlemen here. Show me one single good reason why the city of Philadelphia is not entitled to the same ratio of representation that is accorded to every other part of the Commonwealth. I cannot answer any argument on this subject, because I have never heard a gentleman urge any reason for it at all. It is simply blind obstinacy, as it seems to me, upon the part of this Convention to insist upon a doctrine so utterly unrepresentative and so utterly unjust to the city of Philadelphia.

I hope, therefore, that the amendment will prevail, and that we shall not be partially disfranchised here, but be given our fair proportion of the representation of the State.

Mr. BROOMALL. Mr. President: I intend to vote for this amendment. I never will consent to the principle that a man living in one part of the State shall have less power in the State than a man living in another. I have always felt that that provision in our Constitution was wrong. There is no reason that can be urged in favor of retaining it except the single one that we have the power to do so by a majority of votes; and if we continue it for that reason, the time may come when the city of Philadelphia may be able to retaliate upon us, because she is growing faster than the State, and when that day comes we cannot complain if she rules us with a rod of iron and limits down our power in the State when she can, as we limit down her power in the State when we can.

Mr. CURTIN. I will vote for this amendment for the reason that in a representative

government population is the true basis of representation, and we have no right in justice to the people of the State to limit the representation of any part of the people of the State, whether they live in the city or in the country.

Mr. CALVIN. Mr. President: This provision, as I understand it, applies to all cities. It is true that at present no city but the city of Philadelphia would come under the provision; but it is a general provision intended to apply to cities generally, and in time other cities will advance in population until they will be embraced within it.

The gentleman from Philadelphia has challenged anybody in this Convention to give a reason why Philadelphia should not be represented in the Senate according to population. It appears to me that a reason can be given and a very good reason why this should not be done. In the first place, Philadelphia gets more than justice in the representation to which she will be entitled in the House. She will be entitled under this Constitution to thirty members, one-fifth of the entire number, and *she will lose but one surplus*. Now, take any number of counties that will make up thirty members, and tell me what amount of surpluses these counties will lose. It will amount to a very large figure. A little county may lose as large a surplus as Philadelphia; so that if she does not get *precisely* the same representation according to population in the Senate that the counties do in the House, she really gets more according to population than any other portion of the State. That is one good reason.

In the next place, the city of Philadelphia will be divided into eight senatorial districts, and into thirty representative districts. Here is one immense community, identical in interests; and it is to be presumed that they will act from a common motive for a common purpose, and in concert, whenever their interests are involved. And so large a body as thirty members in the House, and eight in the Senate, will enable the city of Philadelphia to control the legislation of the State on almost any subject. I should like to know why her power should be further increased. I would do no injustice to Philadelphia; I have no prejudice against her, and the people of the country have no prejudice against her. We glory in Philadelphia as the great metropolis of the State, distinguished for her great wealth, her varied and immense industrial inter-

ests, her noble, charitable and benevolent institutions; and this Convention has no disposition to do any injustice to Philadelphia or to any other portion of the State. She gets one-sixth of the Senate. That is very nearly all she would be entitled to under the principle of representation according to population. In the present Senate she has four; in the next Senate, under this Constitution, she will have eight. Now, when we consider that all her representatives are the representatives of one community, identical in interest, and who it is to be presumed will act in concert and with a common purpose whenever Philadelphia interests are concerned, I would like to know whether there is any danger of her interests being sacrificed; or whether on the contrary there is not rather danger that she may undertake to control the legislation of the State. In the course of time, Mr. President, there will be other cities in this State which will come under the provisions of this section, and I think that they will not then, nor Philadelphia now, have any reason to complain of any injustice whatever likely to be inflicted on them by the section at present under consideration.

Again, the Senate is intended in the National Government, and everywhere in this country, as a *conservative body*, and as a *check to hasty, rash and inconsiderate legislation by the popular branch*. Its members are elected for a longer period for the purpose of removing them from the influence of sudden, popular excitements; and this conservative body therefore has generally, heretofore, not been based strictly on population. And its object and purpose might be defeated if it were in the same manner as the popular branch thus based, and thus rendered liable to the same sudden, popular impulses. This, sir, I conceive is another reason for not confining this Convention in the organization of this conservative body strictly to the basis of population. The Conventions of 1790 and 1838, in the organization of the Senate, did not thus confine themselves.

Mr. J. PRICE WETHERILL. Mr. President: I desire to say just a word or two in reply to the delegate from Blair (Mr. Calvin) who has just taken his seat. The article upon the number of Representatives from Philadelphia, as I understand it, is not under consideration; and if it were, I would say to the gentleman from Blair that he is in error in his statement

that under the section upon representation, Philadelphia would not secure thirty representatives but would secure but twenty-seven, exactly her proportion under a full ratio and not under any fractions thereof.

Under the section now before us, that relating to the Senate and its representation, Philadelphia will get eight members, and if we adopt the amendment which I have offered striking out the latter part of the clause of this section, Philadelphia will probably not gain another member, but at the same time if we do strike it out, you establish by it a principle of even-handed justice, you establish this fair, just, and honest principle—representation based upon population.

Just look at it! Suppose we do secure by the amendment as offered by the gentleman from Allegheny (Mr. S. A. Purviance) twenty-seven members of the House, is that any reason why Philadelphia should control the House? The Philadelphia delegation in this body consists of twenty-four members; and who will rise in his place and say that the Philadelphia delegation control this body? It is not true. The Philadelphia members do not control this body; and when they want to act with justice, when they want to act with propriety, when they want to extend fair and even-handed justice, if they control a body of this sort in that direction, they control it to their good, to the good of the delegation, to the good of the Convention and to the good of the State at large.

One moment more. We have for the last four or five months been endeavoring to so control legislation hereafter that we will do away with corruption. We have endeavored to so control legislation hereafter that no special legislation whatever will be secured. I ask if this Convention should give to Philadelphia her fair proportion in the House and her honest proportion in the Senate; and if we have secured all the good which we believe we have by our action this winter; and if good and true men from Philadelphia, based upon a fair and just representation according to population, can be secured to represent the city; and if we should send honest men to Harrisburg as we expect to send them—I say that this proposition cannot possibly do the harm which that of the gentleman from Allegheny will do if he districts the city unjustly and unfairly, an injury which her people will not soon forget; an opportunity will soon be given

when our people will vote upon our work, and this injury done to Philadelphia by the gentleman from Allegheny is so apparent that our people may condemn our entire work because we allow so glaring a wrong as this to remain in it.

Mr. LILLY. Mr. President: I intend to vote for this amendment for the very reason that I am opposed to giving the small counties representation, and I call upon the delegation from Philadelphia, when they ask us to do justice to them and when we are ready to do it, to stand here by us in the country and not give the small counties a misrepresentation in the other direction. I am ready to vote for Philadelphia every member of the House and every Senator to which she is entitled according to her population, and on that account I beg Philadelphians and the rest of the members here to vote with me to make population the basis, and not county lines or anything of the kind.

Mr. BAER. Mr. President: I have never seen the day yet when two wrongs made one right. The gentleman from Blair (Mr. Calvin) argues this proposition because by the apportionment of the House as reported by committee in the whole the city of Philadelphia gets more than she is entitled to. I perceive that by that apportionment Philadelphia gets twenty-seven members, and she will thereby get more than she is entitled to, and that is wrong. I say that limiting the city of Philadelphia for senatorial apportionment is wrong, and taking apportionment outside of popular representation is also wrong. Philadelphia should not be restricted in the Senate to one-sixth, but she should have her proportionate share as well as the balance of the State; and I trust that the members of this Convention will give her full justice on this proposition, and then when the proposition of the gentleman from Allegheny, (Mr. S. A. Purviance,) to proportion the State on the basis of his amendment, comes to be acted upon, that they will vote in favor of that, and bring the Philadelphia members down to twenty, which is a fair representation for her according to population.

Any other number than that would be for Philadelphia an unfair proportion, because of the fractions lost throughout the State which are necessarily taken from the interior counties. Under this proposition they would amount to two hundred thousand, while Philadelphia loses none. I am in favor of striking out

all after the word "ratio," so as to do even-handed justice in the Senate to Philadelphia, and then when the other proposition comes up we will ask city members to help adopt it, and then even-handed justice in the House be done to the interior as well as to Philadelphia.

Mr. MACVEAGH. Mr. President: I think the Convention sees the danger of giving an exaggerated representation to a great city, in the proposition of the gentleman from Carbon, (Mr. Lilly,) made to the gentleman from Philadelphia, (Mr. Cuyler,) and which the gentleman from Philadelphia accepts so cordially. The gentleman from Carbon says in effect to the gentleman from Philadelphia, "we will vote with you on this question if you will vote with us on the next question," and the gentleman from Philadelphia says in effect, "we will." That is just what it means. A few gentlemen like the gentleman from Carbon, making propositions to the city delegation, smother the representation of the country districts. It has been done frequently in the Legislature, and will doubtless be done frequently in the future. It is plain to be seen to what we are coming. A gentleman who has some pet proposition to carry only needs to go to the Philadelphia delegation, and say, "Here, you want this?" "Yes." "You are a unit?" "Yes." "Be a unit with me, and I will go with you, and we will carry both propositions!" And yet we are talking about reform and about discouraging bargaining for and trading votes!

Gentlemen, it is absolutely demonstrable that when this section, as now before the House, is adopted without amendment, the vote of a gentleman from Philadelphia will assuredly count more than the vote of any man in this State outside of this city, both in the Senate and in the House of Representatives. I do not admit that there is anything in the character of a city population that ought to give it an extraordinary political weight, and I say that from the very fact of the compactness of their residence, by the very fact of the enormous monetary interests they represent, by the very fact that every great corporation has its home necessarily in the money centre of the State—by these facts, a vote here is stronger, weightier, more powerful than the vote of any man in the rural districts when his Representative stands upon the floor either of the Senate or the House. You have stricken down the barrier. In

these days of corruption, when money buys your Legislature, your Governors, your Senators, man after man, high and low, you have stricken down the barrier between the rural districts and the corrupting power of your great money centres. You give the city of Philadelphia every Senator to which she is entitled—every one. You keep a nominal barrier in the Constitution; but you really, while you increase the rural districts fifty per cent. in the Senate, increase the district of Philadelphia one hundred per cent. She has but four Senators now, and you give her eight. A country district has but four and you give her six; and now, taking the basis of population in this city and in the State, she is only entitled to eight Senators, and you give her eight.

Then there is another thing; even if there were no unity of interests here, you cannot divide sparsely settled territory without losing very large fractions. Think of it. In senatorial districts in this city no fractions are lost. When you come to put Chester and Delaware, or Dauphin and Lancaster, or Lancaster and York, or Fayette and Somerset together, you lose five hundred or a thousand votes. In a great compact city you do not lose a vote. You therefore give them more representation now than you give the country. What will satisfy them? Tell us not that no reason can be given, that this is sheer, blind obstinacy! We want some little equality in the country also. We want some little weight given to our votes also.

Now, because of the unity of their interests, because of their enormous money interests and centres, because of their compact territory which prevents the loss of fractions in division, they to-day are more powerful, man for man, than we are. I believe in equality and not in taking only one fact and shutting your eyes to every other and then saying you make that the basis because in that the city gets the advantage, and disregard all other considerations. I say to-day I want to make the citizen of Philadelphia the exact peer and equal of every other voter in the Commonwealth, and I say this makes him more than the peer or the equal of any man living in a rural district.

MR. CUYLER. Mr. President—

The PRESIDENT *pro tem*. The delegate from Philadelphia has spoken once on this question.

MR. TEMPLE. I move that he have leave.

The PRESIDENT *pro tem*. The rule is positive.

MR. HANNA. Mr. President: I hesitate very much to say anything upon this question after the able and eloquent remarks of my colleagues from the city (Mr. Cuyler and Mr. J. Price Wetherill;) but after listening to the remarks which have just fallen from the lips of the gentleman from Dauphin (Mr. MacVeagh) I must say that I regret that he should endeavor upon this occasion to excite the feelings which he evidently intends to excite by the speech which he has just made. Nothing has been said by the delegates from the city of Philadelphia which should call forth any such remarks. All we have asked at the hands of this Convention is that you, in this instance, extend to us that same principle of equality which you by this section propose to extend to the State. This section, as reported by the committee, lays down the principle of equality. It provides that the State shall be divided into senatorial districts equal in population and size as far as possible; but at the end of the section a proviso is inserted which destroys the principle set forth in the section itself. The proviso is that no city or county shall be entitled to more than one-sixth of the whole number of Senators.

Now, let us look at the equity of this section. It provides that there shall be equal representation in the Senate. Take the census of 1870, and we find the population of the Commonwealth to be three million five hundred and twenty-one thousand seven hundred and ninety-one. What will be the basis of representation throughout the State in the Senate? It will be a ratio of seventy thousand four hundred and thirty-five. According to that ratio, the city of Philadelphia would, without this proviso, be entitled to nine Senators; and yet by this proviso we only represent, out of the population of Philadelphia, five hundred and sixty-three thousand four hundred and eighty, leaving a fraction of one hundred and ten thousand five hundred and forty-two unrepresented.

By the principle of this section, if we applied its equity and the rule of justice to all portions of the State, the population of Philadelphia would be represented almost entirely, and the fraction remaining would be only forty-one thousand one hundred and seven.

I submit, Mr. President, that we ask nothing unreasonable, nothing unfair;

and I am glad to hear the sentiments upon this floor coming from the gentleman from Centre, the gentleman from Delaware and the gentleman from Carbon. My friend from Dauphin seems to look upon a remark made by the gentleman from Carbon as pregnant with evil and mischief. Why, sir, I understand nothing of the kind. I never heard before of any such proposition as that made by the gentleman from Dauphin. If it is made by my colleague from Philadelphia, he acts upon his own responsibility. We know nothing of it; we have heard nothing of it before; and we will act and vote individually according to our own judgment.

Mr. LILLY. I should like to explain if the gentleman will give me a moment.

Mr. HANNA. Certainly.

Mr. LILLY. I made no proposition to Philadelphia.

Mr. HANNA. I did not so understand.

Mr. LILLY. The gentleman from Dauphin knew I made no proposition to Philadelphia when he made that assertion in his place here; I made no such proposition. I only said I was going to vote for this amendment because it was just and right, and I asked the gentlemen from Philadelphia to stand by me in apportioning the State on that basis of justice and right, and the insinuation of the gentleman from Dauphin I throw back in his teeth here in this Convention.

Mr. MACVEAGH. If that is not a proposition, the gentleman may give any name to it that suits him. I understand it to be a proposition.

Mr. LILLY. It was no such thing.

Mr. MACVEAGH. It was that, and that is what I stated it to be, and that is what the gentleman has stated it was.

Mr. HANNA. When I allowed the gentleman from Carbon to explain, I did not propose to yield the floor for the purpose of any speech either from that gentleman or the gentleman from Dauphin. If other members of the Convention understood the remarks of the gentleman from Carbon as being a proposition, very well; but if so, it is one for which he alone is responsible and not any one from the city of Philadelphia.

Coming back to the subject before us, all that we ask, Mr. President, is that you mete out to us even-handed justice. That is all the people of Philadelphia demand, and they will continue to demand it. Sir, this proviso in this section will be the most unpopular provision that will

be submitted to the people of Philadelphia in the new Constitution. It was so in the case of the Constitution of 1837-38. That unjust discrimination has been borne by the people of Philadelphia from that time to the present with patience, hoping that at some future day they would receive their proper representation in the Senate of the Commonwealth.

Why, sir, we all understand why it is that to-day we have but four Senators. Prior to the act of consolidation of 1854, we had, if I remember aright, six Senators, and if it had not been for that act consolidating the city with the county of Philadelphia, we would have a representation to-day of eight Senators out of thirty-three, but by the act of consolidation we lost our proper representation. Of that we do not complain. We are responsible for that ourselves. We chose to waive that right and to lose that power and influence. But, sir, Philadelphia is still one of the counties of the Commonwealth, although called a city, and now we ask, as a county, that we shall receive the same representation that Dauphin, and Lancaster, and Allegheny, and Berks receive. I submit that if we wish to do that which the people of this community will approve, we will adopt the amendment of the gentleman from Philadelphia (Mr. J. Price Wetherill) and strike out this proviso.

Mr. SIMPSON. Before the vote is taken I desire to say a single word. It has been argued on this floor that if the last clause of this section is stricken out, some one locality of this State will get an undue proportion of weight in the Legislature. I desire to say to this Convention that I saw a bill pass through both branches of the Legislature in 1855 with thirteen out of fifteen members from Philadelphia in the House opposing it, and every Senator from the city and county of Philadelphia arrayed against it and speaking against it. The matter affected Philadelphia, and Philadelphia alone, and yet that bill passed the Senate and House and became a law of this State. So much for the question of weight in the Legislature.

Mr. CARTER. One word only, Mr. President. I wish simply to explain to my friends from Philadelphia that we have a reason for the course that we pursue in reference to this matter, without the slightest desire to do injustice to anybody. We do wish to mete out strict justice to all. We believe that if we as-

sign to Philadelphia more than one-sixth of the Senate they will have more than justice and more than their due power and influence, because there is a power in associated effort in a community. It is exactly like a well-disciplined, well-organized army against an undisciplined mob. We want them to have their full representative power; but if we give them an equal number under the ratio without this condition, they will have more than their just proportion of power. That is the ground of our opposition.

Sir, there is one fact which I notice here that I will state to the Convention. On looking around the Hall this morning I observe that there are twenty-one Philadelphia delegates present. What has brought them here in such numbers today? I venture to say that this is the very first time that that number have been in this Hall for the last month or two.

MR. CUYLER. Oh, no.

MR. CARTER. I have counted them, and I believe my statement is correct. This serves to illustrate my argument that communities can concentrate, can and will act as a unit when they desire, and will have the power even with a less number than the ratio would give them without this proviso, and a fair share of legislative power is what the gentlemen from the city ask. I do not believe they desire more, nor do we desire to give them less.

The PRESIDENT *pro tem*. On this question the yeas and nays have been called by the gentleman from the city (Mr. Worrell.) Is the call seconded?

Ten delegates rising to second the call, the yeas and nays were ordered, and the Clerk proceeded to call the roll.

MR. BEEBE (when his name was called) said: To neutralize the proposition of the gentleman from Carbon, (Mr. Lilly,) I vote "yea."

The call of the roll having been completed, the result was announced: Yeas, forty-nine; nays, sixty-four, as follows:

YEAS.

Messrs. Addicks, Baer, Baker, Bannan, Bardsley, Beebe, Biddle, Bigler, Black, Charles A., Black, J. S., Boyd, Broomall, Brown, Bullitt, Campbell, Carey, Cassidy, Craig, Curry, Curtin, Cuyler, Dodd, Edwards, Elliott, Ellis, Fell, Guthrie, Hanna, Heverin, Hunsicker, Knight, Lamberton, Lear, Lilly, Littleton, M'

Murray, Mann, Newlin, Purviance, Sam'l A., Rooke, Runk, Simpson, Stanton, Temple, Walker, Wetherill, J. M., Wetherill, J. Price, Wherry and Worrell—49.

NAYS.

Messrs. Achenbach, Alricks, Andrews, Armstrong, Baily, (Perry,) Bailey, (Huntington,) Barclay, Bartholmew, Bowman, Buckalew, Calvin, Carter, Church, Clark, Collins, Corbett, Cronmiller, Darlington, De France, Dunning, Ewing, Fulton, Funck, Gibson, Gilpin, Green, Harvey, Hay, Hazzard, Hemp-hill, Horton, Howard, Kaine, Landis, Lawrence, MacConnell, MacVeagh, M'Clean, M'Culloch, Mantor, Metzger, Minor, Mott, Niles, Palmer, H. W., Parsons, Patterson, D. W., Patton, Pughe, Purman, Purviance, John N., Reed, Andrew, Reynolds, Russell, Sharpe, Smith, H. G., Smith, Henry W., Stewart, Struthers, Turrell, Van Reed, White, David N., Woodward and Wright—64.

So the amendment was rejected.

ABSENT.—Messrs. Ainey, Brodhead, Cochran, Corson, Dallas, Davis, Finney, Hall, Long, M'Camant, Mitchell, Palmer, G. W., Patterson, T. H. B., Porter, Read, John R., Ross, Smith, Wm. H., White, Harry, White, J. W. F. and Meredith, *President*—20.

MR. LITTLETON. I move to strike out "fifty" and insert "one hundred" in the first line as the number of the Senate.

The amendment was rejected.

MR. DARLINGTON. I move to amend, by striking out the word "sixth," in the seventh line, and inserting "seventh." I want to say one word only and then leave it to the Convention. One-eighth, the present rule, gives to Philadelphia a Senator for every eighty-four thousand, while Chester and Delaware have only a Senator for one hundred and seventeen thousand.

MR. MACCONNELL. I rise to a question of order. I ask the President to direct the thirteenth rule to be read and to enforce it. There is so much confusion by gentlemen speaking in all parts of the Hall that we cannot transact business.

MR. DARLINGTON. The gentleman desires that I should go to my desk.

The PRESIDENT *pro tem*. The point of order is sustained.

MR. DARLINGTON (after reaching his desk.) Now, Mr. President, having arrived at this delightful situation, I want to say in a very few words that the proposition I make is to give to the city of Phil-

adelphia more than fifty per cent. increase over the present representation in the Senate, while to all the rest of the State only fifty per cent. increase at most is allowed, and I wish to bring to their notice also the striking contrast between the representation of Philadelphia and that of my district, Chester and Delaware, where we have a population of one hundred and seventeen thousand and upwards, and one Senator, and no hope of any more, while Philadelphia, according to the proposition I make, has one Senator for every ninety-six thousand. Thus a large advantage is given to Philadelphia over districts situated as this of mine is, and a large advantage over all other districts similarly situated. I offer this in the spirit of compromise and harmony between one-sixth and one-eighth. I am willing to go half way to meet my friend from Philadelphia and allow them one-seventh of the whole number of Senators.

Mr. MACVEAGH. I trust the House will adhere to the fraction now in the section, one-sixth. It was voted upon several times, and I think the House is ready to vote down the amendment and to adhere to the section.

Mr. CUYLER. Mr. President: I thank the gentleman from Chester for the spirit which prompts his amendment; but as one of the representatives of Philadelphia, I am not willing to accept it. We are not arguing here for fractions or for a fractional representation; we are arguing simply for right, for all right, not for a part of it which the proposition as now adopted concedes, not for a little more of it, which the proposition of the gentleman from Chester proposes, but for our whole right—that, and nothing more, and nothing less.

The arguments of my friend from Dauphin (Mr. MacVeagh) are very fine spun and very ingenious; but why does he not apply them throughout the whole Commonwealth? The thought that underlies his argument is simply this: In proportion as a man or a community possess wealth or possess intelligence, they must be deprived of votes and brought down to the level of those that have neither. The argument is that because the city of Philadelphia has accumulated wealth, because it has cultivated intellect and intelligence, therefore it ought to be deprived of its legitimate power in the representation of the State. I think any such train of reasoning leads exactly to the opposite conclusion to that at which the gentleman has arrived. I should like to see the

wealth and I should like to see the intelligence of the State have their fair representation upon the floor of the Legislature. We should sigh for that, we should desire it, strive for it, and not seek to repress it and take it away from those communities that have it.

But let the gentleman follow out his plan. Does he propose to apply this plan to any other city than the city of Philadelphia? No. Why does he not apply it to Reading and to Lancaster and to Norristown and to Pittsburg? Why does he not enter into some strict examination by which he shall ascertain the proportion of population to the square mile of territory within the State, or its precise wealth? The truth is the theory is too refined for the practical business purposes of life. If he carried it out uniformly throughout the whole State, then there would be equality in it; but until he is prepared to do that, it works but simple inequality and positive injustice to the city of Philadelphia. I cannot, therefore, vote for the proposition of the gentleman from Chester, simply because I desire to stand on principle and to have our whole right or else stand out before the people of the State as trampled upon and deprived of our fair share of representation by the action of the Convention.

Mr. KNIGHT. Mr. President: I trust that this amendment will be voted down. I believe this is the third time the gentleman from Chester has offered this same thing, and it has been already voted down twice, and I do not see any reason for members changing their views upon it.

The PRESIDENT *pro tem*. The question is on the amendment of the delegate from Chester.

The amendment was rejected.

The PRESIDENT *pro tem*. The question recurs on the eighteenth section.

Mr. WHERRY. Mr. President: In order that my plan of representation may appear on the records of this body, I move to strike out all after the words "section eighteen," and insert the following:

"The State shall be divided into ten senatorial districts of compact and contiguous territory, as equal in population as possible, and each district shall be entitled to elect four Senators. The vote of no elector shall count in the election of more than one Senator, but the votes shall be counted in the order of preference indicated by the electors. No county shall be divided in the formation

of a district unless entitled to two or more Senators."

Mr. President, I do not intend to consume more than a moment of the precious time of this Convention this morning. I have little to add to what I said on a former occasion on the subject of representation, the more especially as my remarks were supplemented by the very able argument of the gentleman from Philadelphia (Mr. Biddle.) But this debate has developed enough to convince me more firmly than ever that the true theory of representation, after all the proper groundwork of it, forbids that any elector of the Commonwealth of Pennsylvania shall be represented in any body by more than one representative. The true theory of representation limits the representation to one for every elector. The true basis of representation is not *territory*, is not *population*, but *INTERESTS*; the true basis of representation is *interests in communities*. But (mark the distinction) the *just distribution* of representation on the basis of interest is *ratio of population*. Mark the distinction between the true *representation* and the true *distribution* of the representation. The true representation is based upon community of *interests*, and that alone. The true basis of distribution is *numerical* ratio, and that alone.

Now, sir, I hold to the general ticket, the ticket-at-large, to the fullest extent. I am entirely opposed to the geographical, chess-board, rotten borough system, to the arbitrary, pocket-breeches, legislative, district system. It is a worn out crudity, unjust, undemocratic, the prime source of legislative corruptions and legislative misrepresentation. I hold that if the ratio of representation in the Senate is, for example, one for ten thousand, every ten thousand voters, with community of interest, shall have a representative wherever in the State they may live, and that they have a right to choose as their Representative whomsoever they please, wheresoever he may reside.

But, sir, I have offered this proposition as a compromise. It provides for the division of the State into *ten* senatorial districts so as to secure a compromise on the question of community and the question of ratio and the question of distribution. I have no hope at all that this section will pass as I offer it, but I offer it merely that it may go on the record as the expression of a view which I believe will as certainly triumph as

self-government will continue to exist in the Commonwealth of Pennsylvania.

The PRESIDENT *pro tem*. The question is upon the amendment of the delegate from Cumberland.

The amendment was rejected.

Mr. BROOMALL. I desire to have a vote upon the question whether the number of Representatives and Senators shall be increased, and I desire the yeas and nays on that. I do not propose to say anything upon it. I move to strike out the word "fifty," in the first line, and insert the word "thirty-three," and upon that question I ask for the yeas and nays.

Mr. STANTON. I rise to a point of order. That question has been decided four or five times.

The PRESIDENT *pro tem*. Not in Convention. The gentleman refers to what took place in committee of the whole. The question is on the amendment of the delegate from Delaware, (Mr. Broomall,) upon which he calls for the yeas and nays. Gentlemen seconding the call will rise.

More than ten delegates rising, the call for the yeas and nays was seconded; and the yeas and nays were taken with the following result:

YEAS.

Messrs. Baer, Bannan, Black, Charles A., Bowman, Broomall, Buckalew, Carey, Clark, Cochran, Collins, Craig, Ellis, Ewing, Fulton, Funck, Gilpin, Guthrie, Howard, Kaine, MacVeagh, M'Culloch, M'Murray, Minor, Niles, Palmer, H. W., Patterson, D. W., Purman, Purviance, Samuel A., Reed, Andrew, Smith, H. G., Smith, Henry W., Stewart, Van Reed, Walker, Wherry and Wright—36.

NAYS.

Messrs. Achenbach, Addicks, Alricks, Andrews, Armstrong, Baily, (Perry,) Baker, Barclay, Bartholomew, Beebe, Biddle, Bigler, Black, J. S., Boyd, Brown, Bullitt, Calvin, Campbell, Cassidy, Church, Corbett, Cronmiller, Curry, Cuyler, Darlington, De France, Edwards, Elliott, Fell, Gibson, Green, Hanna, Harvey, Hay, Hazzard, Hemphill, Heverin, Horton, Hunsicker, Knight, Lamberton, Landis, Lawrence, Lear, Lilly, Littleton, MacConnell, M'CLean, Mann, Mantor, Metzger, Newlin, Palmer, G. W., Parsons, Patton, Purviance, John N., Reynolds, Rooke, Runk, Russell, Sharpe, Simpson, Stanton, Struthers, Temple, Turrell, Wetherill, John Price, White, David N., Woodward and Worrell—70.

So the amendment was rejected.

ABSENT.—Messrs. Ainey, Bailey, (Huntingdon,) Bardsley, Brodhead, Carter, Corson, Curtin, Dallas, Davis, Dodd, Dunning, Finney, Hall, Long, M'Camant, Mitchell, Mott, Patterson, T. H. B., Porter, Pughe, Read, John R., Ross, Smith, Wm. H., Wetherill, J. M., White, Harry, White, J. W. F. and Meredith, *President*—27.

The *PRESIDENT pro tem.* The question recurs on the section.

Mr. HEMPHILL. I offer as an amendment the following substitute for the whole section :

"The Senate shall be composed of one Senator from each county."

The amendment was rejected.

Mr. CUYLER. I move to strike out the section and insert as follows :

"The number of Senators shall be fifty-one, and of Representative one hundred and fifty.

"Each county shall be entitled to one Representative, and the remaining number of Representatives shall be apportioned to districts made up of contiguous territory, and as nearly equal in population as practicable.

"It shall be the duty of the Legislature to adjust such districts at their first session after the adoption of this Constitution, and every ten years thereafter, according to population as ascertained by the last preceding United States census.

"Senators shall be elected on general ticket by all the lawful voters of the Commonwealth. At the first election held after the adoption of this Constitution, one-third of the Senators chosen shall be for a term of two years, one-third for three years, and one-third for four years, and thereafter they shall be chosen for a term of four years.

"When more than three Senators are to be elected, each voter shall cast his ballot for not more than two-thirds of the number required to be chosen."

Mr. S. A. PURVIANCE. I rise to a point of order. We are not yet discussing the section which relates to the construction of the House, and therefore all of the proposition of the gentleman from Philadelphia that relates to the House is out of order.

The *PRESIDENT pro tem.* The Chair is of opinion that the point of order is not well taken.

Mr. CUYLER. I only desire to state that the substitute which I have now offered is the same proposition that I offered in

committee of the whole, and I renew it now, not intending to debate it ; but simply desiring to call for the yeas and nays in order that I may place myself upon record.

Mr. LITTLETON. I move to strike out the last clause of the substitute which regulates the manner in which Senators shall be elected.

The *PRESIDENT pro tem.* The Clerk will read the clause proposed to be stricken out.

The *CLERK* read as follows :

"When more than three Senators are to be elected, each voter shall cast his ballot for not more than two-thirds of the number required to be chosen."

Mr. CUYLER. Cannot the result desired by my colleague from Philadelphia be attained by simply dividing the amendment ?

Mr. MACVEAGH. Oh, no ! Let the vote be taken as a whole.

Mr. LITTLETON. I call for the yeas and nays on my amendment.

Mr. CUYLER. I still desire to suggest to the gentleman that a simple division would answer the same purpose as his amendment to strike out a part of my substitute.

Mr. LITTLETON. Very well, I will withdraw my amendment and ask for a division to end at the words, "four years."

The *PRESIDENT pro tem.* The Clerk will read the first division.

The *CLERK* read as follows :

"The number of Senators shall be fifty-one, and of Representatives one hundred and fifty.

"Each county shall be entitled to one Representative, and the remaining number of Representatives shall be apportioned to districts made up of contiguous territory, and as nearly equal in population as practicable.

"It shall be the duty of the Legislature to adjust such districts at their first session after the adoption of this Constitution, and every ten years thereafter, according to population as ascertained by the last preceding United States census.

"Senators shall be elected on general ticket by all the lawful voters of the Commonwealth. At the first election held after the adoption of this Constitution, one-third of the Senators chosen shall be for a term of two years, one-third for three years, and one third for four years, and thereafter they shall be chosen for a term of four years."

Mr. CUYLER. I would desire that the division take place at the preceding paragraph, and end at the word "census." Upon the vote on the first division I call for the yeas and nays.

The PRESIDENT *pro tem.* Is the call sustained?

Ten members rose to second the call.

The PRESIDENT *pro tem.* The call is sustained and the Clerk will call the roll.

Mr. BUCKALEW. Before the yeas and nays are taken, I desire to say that it is inconvenient to vote upon the amendment in this form. The amendment of the gentleman from Philadelphia (Mr. Cuyler) comprises half a dozen propositions.

Mr. D. N. WHITE. I rise to a point of order. The yeas and nays having been called for, no debate is in order.

The PRESIDENT *pro tem.* The yeas and nays were not ordered. The delegate from Columbia will proceed.

Mr. BUCKALEW. Mr. President: I desire the attention of the gentleman from Philadelphia who offers this amendment. His amendment comprises some half a dozen separable propositions, and it may very well happen that a majority of the Convention is in favor of one, two, or three of them and opposed to the others. The result will be that no correct expression of the opinion of the Convention can be obtained upon the amendment.

There is one thing in this amendment that I cannot vote for. In fact I am not sure that with my views I can honorably vote for a Constitution that contains it. I suspect that a large number of others in this Convention hold a similar view. As it is just as convenient for me to speak to this point now as at some subsequent stage of the debate, I embrace the occasion to do so.

This amendment, as well as the section itself, contains, very carefully inserted, the provision that the Legislature shall district the State.

Mr. CUYLER. If the gentleman will pardon me I should cheerfully accept a modification that would remove that feature of the amendment.

Mr. BUCKALEW. And future apportionments under each decennial census of the United States are to be made by the same authority. Now, sir, under the section before us, what have you? You have the map of the State spread out before the Legislature with the power expressly conferred that they may write

any gerrymander they please upon it for both the Senate and House, with no limitation, no regulation or restraint upon them whatever, with two exceptions; first, that they shall divide no county for Senators into districts unless it contains one ratio and three-fifths of a second; and next, that as to the assignment of one Representative to each county in the State, so the apportionment will take place without their agency.

Now, Mr. President, I engage to sit down and give you a Senate under this provision, a decided majority of which shall belong to the minority party in the State and a House of Representatives that shall contain from twenty to thirty majority in the same direction, or if you please furnish you an apportionment which shall give to the majority party of the State a majority four or five times greater than belongs to it in the House.

Mr. President, if this section, as agreed to in the committee of the whole, shall be agreed to by the Convention and accepted by the people, we shall have, by all odds, the worst Constitution in the United States upon the subject of the constitution of the Legislature. No example of gerrymandering in the United States which has heretofore affronted the sensibilities of all honest men will bear any comparison with the gerrymandering which we shall have in Pennsylvania under this Constitution.

Now, what ought to be done? I do not descend upon this; I simply state the nature of this astonishing proposition which was agreed to in committee of the whole, upon which, to a great extent, the gentleman from Philadelphia proposes to model his amendment. We follow the example of New York in making single districts for Senators and Representatives, and yet we forget that in New York they do not allow their Legislature to touch an apportionment. They have nothing more to do with the apportionment than the Governor of the State has, and neither has anything to do with it.

Now, what ought we to do? I will agree to anything almost that is reasonable. I am in favor of an apportionment of the State by this Convention for Senate and House, or by a committee fairly selected by the Convention which shall last over the intervening period of time until the next United States census shall be taken. Then apportionments may be made every ten years by a commission selected by the Legislature of the State if you please,

or chosen by a popular vote of the people upon the plan already proposed by the member from Philadelphia (Mr. Simpson) or the amendment of the gentleman from Carbon (Mr. Lilly.)

Unless you provide some mode of apportioning the State fairly, your legislative article will be a failure and a disgrace. I will vote steadily as I did this morning against increasing the number of members in either House, in fact in favor of retaining the present Constitution of the State as to its legislative article, and for amendments which may be offered by gentlemen which will strike at the general features of this proposition before the Convention, reported by the committee of the whole, in the hope that some more acceptable proposition will at last be presented and prevail.

I think the evil of legislative apportionments as here authorized is so great and in future times will be felt to be so oppressive upon the people of this State, and will have such a disastrous effect upon the integrity of the Legislature itself, that it becomes a serious question whether our general amendments to the Constitution should be accepted along with this evil change.

I hope the gentleman, whatever else he may do with his amendment, will withdraw this power of legislative apportionment from it.

MR. D. N. WHITE. Mr. President: The gentleman from Columbia has made some most extraordinary and most extravagant statements with regard to the proposition before this House—I mean the section as reported from the committee of the whole. He declares it to be the worst proposition ever before this body, and the worst in any Constitution in any State in the United States, worse than the old Constitution.

Now, Mr. President, a few words will show how much the gentleman from Columbia is actuated by his chagrin because he cannot carry his peculiar views on what he calls reform voting.

MR. TEMPLE. I rise to a point of order, that the amendment of the delegate from Philadelphia is now before the Convention and that discussion of the section adopted in committee of the whole is not in order at all. I ask for a decision on that point. I claim that the amendment of the delegate from Philadelphia is under consideration.

MR. D. N. WHITE. I am replying to the remarks of the gentleman from Columbia, who has just taken his seat.

The PRESIDENT *pro tem*. The gentleman from Allegheny will proceed.

MR. D. N. WHITE. What is this proposition which the gentleman has denounced in such unmeasured terms? As far as the Senate is concerned, the proposition before the House is simply to divide it as the State is now divided by the Legislature. The Legislature now divides the State into thirty-three Senatorial districts.

MR. BUCKALEW. I rise to explain. The gentleman's own county elects three; Luzerne, Pike and Monroe elect two. Those are plural districts, and the Legislature can make plural districts electing Senators not exceeding four.

MR. D. N. WHITE. So far I consider the amendment I had the honor to offer, and which was adopted in committee of the whole, an improvement, because under it the Legislature is compelled to make single districts; but the fact in regard to the apportionment remains the same; it is done by the Legislature; and if any mode could have been devised by which it could have been apportioned without going to the Legislature, I would have done it; but I see no mode whatever without giving every county a Senator, which is preposterous. You must trust the power somewhere.

The gentleman from Columbia conveys the impression that the Legislature is a dangerous body to which to entrust this power. He has been a member of it some time, and I suppose he knows of what he speaks. If you look at what you have done in the article on legislation, you will see that you have provided there that if the number of the House is established at one hundred and fifty-two it shall take seventy-seven members to pass any proposition at all. Now, in a House of one hundred and fifty-two you will always have more or less absent. We hardly ever have in this Convention, out of one hundred and thirty-three members, one hundred votes. Except on very extraordinary occasions, such as the election of United States Senator, you can never have the full number there. Now, sir, assert that on the proposition I have made to this House with regard to the apportionment of the members of the House and Senate, there never could be, unless there was a very extraordinary political popular majority for one party more than three or four or five majority to either party in the House. Then suppose you have an apportionment of the State by the Legislature; if there was any

one of the majority party absent, you could not get a vote of seventy-seven of that party, and it would require that somebody of the opposite party should vote for the proposition, or it could not carry, and if there was one man of the majority party who thought the proposed apportionment was not a fair one, all that he would have to do would be to decline voting. The law requires that there shall be an absolute majority of the whole number. Sir, I say that with one hundred and fifty-two members elected to a reform Legislature, elected in the manner that I have provided for, you would not have any gerrymandering; you would have an honest apportionment of the State.

Besides, with regard to the House of Representatives, it apportions itself. The counties will receive the representatives which their population gives them in accordance with the ratio, and the Legislature has nothing to do but figure it out. It has no power to change it. The various counties will have the number of members to which their population entitles them under the ratio.

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

Mr. D. N. WHITE. Certainly.

Mr. KAINE. Does not the gentleman propose to divide a county into as many districts as it has members?

Mr. D. N. WHITE. Yes, sir.

Mr. KAINE. For instance, in the case of a county entitled to three members, does he not propose that the Legislature shall divide that county into three districts?

Mr. D. N. WHITE. I do.

Mr. KAINE. Explain that.

Mr. D. N. WHITE. I will come to that. The reason why I offered that proposition is because it is the very best mode of representing every portion of the people and every portion of every party. In a county that has an almost equal number of each political party in it, and entitled to three or four Representatives, there would always be one or two of those who would be of each political party, if the county was divided.

Mr. KAINE. Will the gentleman allow me further to interrogate him?

Mr. D. N. WHITE. Yes, sir.

Mr. KAINE. I want to know of the gentleman now and here whether the Legislature could not, in a county that was entirely Republican on the whole vote, so arrange that county in districts by town-

ships as to elect three Democratic members?

Mr. D. N. WHITE. No, sir; they could not honestly do it.

Mr. KAINE. That is just the trouble; they would do it dishonestly.

Mr. D. N. WHITE. They could not do it if they kept the districts contiguous and nearly equal in population; but I say our protection in that respect would be in requiring the vote of seventy-seven members out of one hundred and fifty-two. That many votes would be required to carry any proposition, and you could not get seventy-seven men to disgrace themselves by any such action as the gentleman from Fayette speaks of. But, sir, that question of division is only an incident to the plan, and if it is desired, it can be easily changed. The gentleman can move to strike out "one" and insert "three," and that will leave but six counties in the whole State to be divided.

I myself am in favor of single districts, because, as I said before, if the Legislature is elected in that way, it will best represent the opinions and interests of the whole body of the people; but I am not tenacious on that subject. If gentlemen think the State would be better represented by crushing out minorities in the counties where otherwise there would be one or more representatives of different parties, they can insert "three" in place of "one," and then there will be but six counties in the whole State divided.

I do not want Philadelphia to vote as one solid body. If she did she would sway the whole Legislature. Whichever party carried this city would carry the Legislature; would carry the United States Senator. I do not want Allegheny county, with its large Republican majority, to elect eleven members as one solid body on one side. We might have one or two Democratic members on the other plan, and I say this is the best mode of reaching minority representation by majority votes. It is far better than the free voting system of the gentleman from Columbia. But still, sir, if gentlemen here want their counties divided it is only necessary for them to change this proposition so as to provide that instead of the city of Philadelphia and counties entitled to more than one member shall be divided, they can say that the city of Philadelphia or counties entitled to more than three members shall be divided, and that will leave every county in the State but six undivided, just as

they would be without any such clause in it. But, sir, I must say, and that is what I rose to say, that the declaration of the gentleman from Columbia, that this is a bad proposition, that it is the worst that has been presented, is exceedingly extravagant and uncalled for by anything contained in the proposition which I presented, and which is now under discussion.

The PRESIDENT *pro tem*. The question is on the first division of the amendment. The yeas and nays will be called by the Clerk.

Mr. CUYLER. I ask that the first division end with the word "practicable."

Mr. LITTLETON. I will consent to that.

Mr. CUYLER. The division will then read as follows:

"The number of Senators shall be fifty-one, and of Representatives one hundred and fifty.

"Each county shall be entitled to one Representative, and the remaining number of Representatives shall be apportioned to districts made up of contiguous territory, and as nearly equal in population as practicable."

Mr. S. A. PURVIANCE. I ask for the division to end with the words "fifty-one," so that we may have a distinct vote on the Senators before coming to Representatives. That we are fairly entitled to.

The PRESIDENT *pro tem*. A further division is asked, of which the amendment is susceptible. That division will be read:

The CLERK read as follows:

"The number of Senators shall be fifty-one."

Mr. CURTIN. I suggest to the gentleman moving the amendment that fifty would be a better number, as we are now to elect a Lieutenant Governor.

Mr. CUYLER. My only object in making it fifty-one was to enable the Senators to be divided into three classes of seventeen each, so that they might hold office for one, two or three years, according to classes.

Mr. MACVEAGH. The term is now four years, and the number of fifty is contained in the section as reported.

The PRESIDENT *pro tem*. The Clerk will call the roll on the first division of the amendment.

The CLERK proceeded to call the roll, and several members answered to their names.

Mr. CUYLER. To save time I propose to modify the amendment and make the

number fifty. It will avoid the calling of the yeas and nays twice.

The PRESIDENT *pro tem*. It will be so modified if there is no objection.

Mr. CUYLER. Then I ask that the roll be again called, making it fifty instead of fifty-one, to save time.

Mr. MACCONNELL. That is not an amendment now. It is precisely the same as the original proposition.

Mr. MANN. I rise to a point of order. The yeas and nays have been ordered, and the Clerk has commenced calling the roll, and no modification can be made of the amendment.

The PRESIDENT *pro tem*. The Chair sustains the point of order.

Mr. CUYLER. I ask that the names be called anew. Some gentlemen voted against fifty-one who would vote for fifty.

Mr. MANN. They can change their votes.

Mr. MACVEAGH. I do not see the slightest advantage in taking the gentleman's number rather than the section.

The PRESIDENT *pro tem*. A point of order was raised that after the yeas and nays were called it was not in the power of the delegate to modify his amendment, and the Chair sustained the point of order.

Mr. STANTON. Then, as I understand, the question is on the first division.

The PRESIDENT *pro tem*. It is on the first division, that the Senate shall consist of fifty-one members. The Clerk will continue the calling of the roll.

The call of the roll having been concluded, the result was announced, yeas eighteen; nays eighty-six, as follows:

YEAS.

Messrs. Achenbach, Ainey, Andrews, Bardsley, Bartholomew, Boyd, Curry, Cuyler, Dallas, Guthrie, Hanna, Lilly, Littleton, Mott, Purviance, Samuel A., Reynolds, Runk and Stanton—18.

NAYS.

Messrs. Addicks, Alricks, Armstrong, Baily, (Perry,) Baker, Bannan, Beebe, Bigler, Black, Charles A., Black, J. S., Bowman, Broomall, Brown, Buckalew, Bullitt, Campbell, Carey, Carter, Calvin, Church, Clark, Cochran, Collins, Corbett, Craig, Cronmiller, Curtin, Darlington, De France, Dunning, Edwards, Elliott, Ewing, Fulton, Funck, Gibson, Gilpin, Green, Harvey, Hay, Hazard, Hemphill, Horton, Howard, Hunsicker, Kaine,

Knight, Lamberton, Landis, Lawrence, Lear, MacConnell, Mac Veagh, M'Clean, M'Culloch, M'Murray, Mann, Mantor, Minor, Metzger, Niles, Palmer, G. W., Palmer, H. W., Parsons, Patterson, D. W., Patton, Pughe, Purman, Purviance, John N., Reed, Andrew, Rooke, Ross, Russell, Sharpe, Simpson, Smith, Henry W., Smith, Wm. H., Stewart, Struthers, Turrell, Van Reed, Walker, White, David N., Woodward, Worrell and Wright—86.

So the first division of the amendment was rejected.

ABSENT.—Messrs. Baer, Bailey, (Huntingdon,) Barclay, Biddle, Brodhead, Cassidy, Corson, Davis, Dodd, Ellis, Fell, Finney, Hall, Heverin, Long, M'Camant, Mitchell, Newlin, Patterson, T. H. B., Porter, Read, John R., Smith, H. G., Temple, Wetherill, J. M., Wetherill, Jno. Price, Wherry, White, Harry, White, J. W. F. and Meredith, *President*—29.

Mr. CUYLER. Mr. President: I now move to amend by inserting:

"The number of Senators shall be fifty, and of Representatives one hundred and fifty."

This is the amendment that I had designed offering when I ventured to interrupt the calling of the yeas and nays.

Mr. EWING. I rise to a question of order. We have just voted down the "fifty-one," and it leaves a second section. Now, that clause in regard to the Senate is not pertinent to the second division of the gentleman's amendment.

The *PRESIDENT pro tem*. The Chair cannot rule it out of order, inasmuch as the House has voted down "fifty-one" and the proposed amendment is "fifty."

Mr. MACVEAGH. Is it in order when the yeas and nays have been ordered, and a division has been prescribed and the vote is being taken, to offer an amendment?

Mr. CUYLER. The yeas and nays have not been called for.

Mr. MACVEAGH. The yeas and nays have been ordered on the entire amendment.

Mr. CUYLER. Only on the first division.

Mr. MACVEAGH. No, on the amendment.

The *PRESIDENT pro tem*. The Chair is of the opinion that we are compelled to proceed with the second division, and when all the divisions are through the Chair will receive the amendment of the

gentleman from Philadelphia. The second division will be read.

The CLERK read as follows:

"And of Representatives one hundred and fifty."

"Each county shall be entitled to one Representative, and the remaining number of Representatives shall be apportioned to districts made up of contiguous territory, and as nearly equal in population as practicable."

Mr. S. A. PURVIANCE. I now move the following as an amendment—

Mr. MACVEAGH. I rise to a question of order. An amendment is not in order after the yeas and nays have been ordered on the section.

The *PRESIDENT pro tem*. The Chair sustains the point or order. The Clerk will call the names of delegates on the second division.

The yeas and nays were taken with the following result:

Y E A S .

Messrs. Bannan, Bartholomew, Curry, Curtin, Cuyler, Dallas, Guthrie, Hanna, Lilly, Littleton, Mott, Rooke, Runk, Woodward and Worrell—15.

N A Y S .

Messrs. Achenbach, Addicks, Ainey, Alricks, Andrews, Armstrong, Baer, Bailly, (Perry,) Baker, Barclay, Bardsley, Beebe, Biddle, Bigler, Black, Charles A., Black, J. S., Bowman, Boyd, Broomall, Brown, Buckalew, Bullitt, Calvin, Campbell, Carey, Carter, Church, Clark, Cochran, Collins, Corbett, Craig, Cronmiller, Darlington, De France, Dunning, Edwards, Elliott, Ewing, Fulton, Funck, Gibson, Gilpin, Green, Harvey, Hay, Hazzard, Hemphill, Horton, Howard, Hunsicker, Kaine, Knight, Lamberton, Landis, Lawrence, MacConnell, Mac Veagh, M'Clean, Mann, Mantor, Metzger, Minor, Niles, Palmer, G. W., Palmer, H. W., Parsons, Patterson, D. W., Patton, Pughe, Purman, Purviance, John N., Purviance, Samuel A., Reed, Andrew, Reynolds, Ross, Russell, Sharpe, Simpson, Smith, Henry W., Smith, Wm. H., Stanton, Stewart, Struthers, Turrell, Walker, Wetherill, Jno. Price, White, David N. and Wright—89.

So the second division of the amendment was rejected.

ABSENT.—Messrs. Bailey, (Huntingdon,) Brodhead, Cassidy, Corson, Davis, Dodd, Ellis, Fell, Finney, Hall, Heverin,

Lear, Long, M'Camant, M'Culloch, M'Murray, Mitchell, Newlin, Patterson, T. H. B., Porter, Read, John R., Smith, H. G., Temple, Van Reed, Wetherill, J. M., Wherry, White, Harry, White, J. W. F. and Meredith, *President*—29.

Mr. CUYLER. I should like to withdraw the next division relative to the apportionment, and then to proceed with the part of it providing that Senators shall be elected on general ticket.

The *PRESIDENT pro tem.* With the consent of the Convention the proposition may be withdrawn. Will the Convention grant leave? ["Yes."] Leave is granted, and that branch of the amendment is withdrawn.

The *CLERK* read the last division of the amendment as follows:

"Senators shall be elected on general ticket by all the lawful voters of the Commonwealth. At the first election held after the adoption of this Constitution, one-third of the Senators chosen shall be for a term of two years, one-third for three years, and one-third for four years, and thereafter they shall be chosen for a term of four years.

"When more than three Senators are to be elected, each voter shall cast his ballot for not more than two-thirds of the number required to be chosen."

Mr. HUNSICKER. I call for a division of that. ["Too late."]

The *PRESIDENT pro tem.* The yeas and nays will be taken.

The yeas and nays were taken with the following result:

YEAS.

Messrs. Ainey, Armstrong, Bannan, Bartholomew, Buckalew, Bullitt, Curtin, Cuyler, Dallas, De France, Dunning, Guthrie, Lamberton, Lilly, Mott, Patton, Sharpe, Stewart, Woodward and Worrell—20.

NAYS.

Messrs. Addicks, Alricks, Andrews, Baer, Baily, (Perry,) Baker, Barclay, Bardsley, Beebe, Biddle, Bigler, Black, Charles A., Black, J. S., Bowman, Boyd, Broomall, Brown, Calvin, Campbell, Carter, Church, Clark, Cochran, Collins, Corbett, Craig, Cronmiller, Curry, Darlington, Edwards, Elliott, Ewing, Fell, Fulton, Funck, Gibson, Gilpin, Green, Hanna, Harvey, Hay, Hazzard, Hemphill, Horton, Howard, Hunsicker, Kaine, Knight, Land's, Lawrence, Littleton, MacConnell, MacVeagh, M'Clean, M'Culloch, M'Mur-

ray, Mann, Mantor, Metzger, Minor, Niles, Palmer, G. W., Parsons, Patterson, D. W., Purman, Purviance, John N., Purviance, Samuel A., Reed, Andrew, Reynolds, Rooke, Ross, Runk, Russell, Simpson, Smith, H. G., Smith, Henry W., Smith, William H., Stanton, Struthers, Turrell, Walker, Wetherill, John Price and White, David N.—83.

So the last division of the amendment was rejected.

ABSENT.—Messrs. Achenbach, Bailey, (Huntingdon,) Brodhead, Carey, Cassidy, Corson, Davis, Dodd, Ellis, Finney, Hall, Heverin, Lear, Long, M'Camant, Mitchell, Newlin, Palmer, H. W., Patterson, T. H. B., Porter, Pughe, Read, John R., Temple, Van Reed, Wetherill, J. M., Wherry, White, Harry, White, J. W. F., Wright and Meredith, *President*—30.

Mr. DALLAS. I rise to a question of privilege. I ask leave to record my vote upon the amendment of the gentleman from Philadelphia (Mr. J. Price Wetherill) to strike out the proviso to the eighteenth section. I was necessarily absent and I should have voted for the amendment if I had been here.

Mr. J. PRICE WETHERILL. I move that the gentleman have leave to record his vote.

Mr. MACVEAGH. It is sufficient that he states how he would have voted. That appears on the record.

Mr. DALLAS. I simply desire to record my vote. It will not change the result.

Mr. MACVEAGH. It is sufficient that the delegate states how he would have voted.

Mr. DALLAS. I desire my vote to be placed on record.

Mr. MACVEAGH. That we cannot agree to. If we once enter upon that course we cannot tell where it will end.

The *PRESIDENT pro tem.* Objection is made and the gentlemen from Philadelphia cannot record his vote. The question is on the eighteenth section.

Mr. BIDDLE. Let it be read.

The *CLERK* read as follows:

"The State shall be divided into fifty senatorial districts of compact and contiguous territory, as equal in population 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 by possessing a population exceeding one senatorial ratio and three-

fifths of a second ratio. And no county or city shall be entitled to more than one-sixth of the whole number of members."

The section was agreed to.

The PRESIDENT *pro tem.* The nineteenth section will be read.

The CLERK read as follows:

SECTION 19. The House of Representatives shall consist of not less than one hundred and fifty-two members, to be apportioned and distributed to the counties of the State severally in proportion to the population, on a ratio of twenty-five thousand inhabitants to each member; except that no county shall have less than one member, and the city of Philadelphia, or any county having an excess of three-fifths of said ratio over one or more ratios, shall be entitled to an additional member. In case the number of one hundred and fifty-two members is not reached by the above apportionment, counties having the largest surplus over one or more ratios shall be entitled to one additional member until the number of one hundred and fifty-two members is arrived at.

Mr. S. A. PURVIANCE. I offer the following amendment in lieu of the section:

"Each county in the State, including the city of Philadelphia, shall be entitled to one member in the House of Representatives, and for every thirty-five thousand inhabitants, or a fraction of three-fifths of a ratio of thirty-five thousand to an additional member, until the House has increased in number to one hundred and eighty, which shall be the maximum. The city of Philadelphia, and counties having a population of one hundred and fifty thousand, may be divided into separate Legislative districts.

"The Legislature shall provide by law for a return, once in every three years, to the several counties of this Commonwealth of the inhabitants thereof, and the commissioners of said counties shall certify to the office of the Secretary of the Commonwealth, within thirty days after said return, the number of inhabitants of each county; and whenever it shall appear that any county has attained the requisite number of inhabitants 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."

Mr. BRIDGER. I offer the following amendment to the amendment:

"The ratio for a member of House of Representatives shall be twenty-five

thousand inhabitants, and members shall be apportioned among the counties as follows: Counties having less than three-fifths of a ratio shall be attached to each other or to larger counties and districts so constituted with not less than three-fifths of a ratio shall be entitled to one member; and the remainder of the counties shall be entitled to a member for every ratio of population, and any county having an excess of three-fifths of a ratio over one or more, shall be entitled to an additional member; except that the counties of Philadelphia, Allegheny and Luzerne shall be divided into districts of contiguous territory, as near equal in population as practicable, and each to be entitled to two members. And counties hereafter created shall each be entitled to one member.

"The senatorial districts herein provided for shall not be changed, but so soon as may be after the enumeration of the inhabitants of the State by the authority of the United States in the year 1880, the Legislature shall re-adjust the districts and apportionment so as to give each of the counties theretofore united in districts one member, and to the other counties or districts such additional members as they may be entitled on the ratio and rule hereinbefore established; and thereafter the number of members shall not be increased."

Mr. President, if it be possible to have a brief conversation with the committee about the three propositions now before this body, I should like it very much, for it is desirable to now be understanding pretty distinctly what we finally intend to do.

I will explain the plan which I have submitted as briefly as possible. We have observed all the way through the discussion that the points of difference in the Convention relate first to allowing each one of the small counties of the State a member in the House of Representatives. That is one of the points of difference. Another is the question of county or district representation. The text of the amendment offered by the delegate from Allegheny (Mr. S. A. Purviance) provides for district representation. In other words, under it the counties would be divided. There are those who think a division of counties, except where they are very large, like Philadelphia, Allegheny and Luzerne, unnecessary, apt to be troublesome, and perhaps more than that, may result in some measure of political abuse. I am amongst those who prefer

county representation. The amendment which I propose will accomplish that end. Then, sir, I have attempted a kind of adjustment of the question relating to the smaller counties, and I will call especial attention to that, because unless the members notice it particularly, it will be difficult for them to understand exactly how that is brought about.

"The ratio for a member of House of Representatives shall be twenty-five thousand inhabitants, and members shall be apportioned among the counties as follows: Counties having less than three-fifths of a ratio shall be attached to each other or to larger counties."

You will observe that there are probably only two counties, Fulton and Pike, that will come within the last clause. All the other small counties would be thrown together, "and districts so constituted with not less than three-fifths of a ratio shall be entitled to one member."

The reason of this is that when you throw the small counties of Cameron, Forest and Elk together, the three would not have a ratio. Hence this concession to them of having a member or three-fifths of a ratio.

"And the remainder of the counties shall be entitled to a member for every ratio of population, and any county having an excess of three-fifths of a ratio over one or more, shall be entitled to an additional member; except that the counties of Philadelphia, Allegheny and Luzerne shall be divided into districts of contiguous territory, as near equal in population as practicable, and each to be entitled to two members. And counties hereafter created shall be entitled to one member."

Now, Mr. President, for the future adjustment in regard to these small counties:

"The Senatorial districts herein provided for shall not be changed, but so soon as may be after the enumeration of the inhabitants of this State by the authority of the United States in the year 1880, the Legislature shall re-adjust the districts and apportionment so as to give to each the counties theretofore united in districts one member, and to the other counties or districts such additional members as they may be entitled on the ratio and rule hereinbefore established; and thereafter the number of members shall not be increased."

This would give a number as nearly as we could say, ranging from one hundred

and seventy-five to one hundred and eighty.

That is the plan which I propose with an additional section, which I have not offered, providing that at long periods of twenty years the Legislature hereafter may proportion the State. But, sir, the most important feature, and one that I think deserves grave consideration, is that referred to by the distinguished delegate from Columbia (Mr. Buckalew.) It relates to districting the State. I doubt whether there is a single proposition upon which the mass of the people of this State of both parties would more cordially agree than on this, that some remedy should be found for the abuse of parties when in power, on this question of districting. This gerrymandering has become a common scandal, and if it is possible to produce a remedy we ought to bring it into existence.

Mr. BOYD. Will the gentleman allow himself to be interrupted?

Mr. BIGLER. Yes, sir.

Mr. BOYD. Will he inform us what mode of arrangement he would adopt to cut up this gerrymandering? If he has a scheme, I would like to know what it is?

Mr. BIGLER. I was about to say that I hold in my hand what I believe would be a conclusive remedy for this great evil, so far as it refers to the first proportionment or the first creation of districts. I may be excused perhaps more readily than most others as to the confidence I have in the success of this measure, because I have not been so long a member of this body as some others, and because it relates largely to the body itself.

I propose, (and of course this proposition would in the end go into the schedule, and I bring it in here in order only that members of the Convention may take a general view of this subject,) that instead of districting the State for Senators and Representatives by the Legislature immediately after the adoption of this Constitution, we shall adopt this form:

"The power to apportion the State the first time under this article shall be vested in a committee of ten members of this body, who shall be selected by ballot, each member of the Convention voting for five, and the ten having the highest number of votes shall be declared elected. Any vacancies in said committee shall be filled by the remaining members of the party to which the retiring member belonged.

The said apportionment shall be made immediately after the adoption of this amended Constitution, and a detailed copy thereof delivered to the Governor, who shall make proclamation of the same."

Now, Mr. President, I have submitted, with great deference, feeling indeed that it is a subject of great importance, what I think would be a perfect remedy, and I have no hesitation in saying so. Let the gentlemen on this side of the Convention select five men united with five from the other side to discharge this duty as a matter of conscience and judgment, and we should have, at least for the beginning, just the very best apportionment that the judgment of sound men permits.

Now, I interpose this view not so much against the proposition of the delegate from Allegheny on the east side of the chamber (Mr. S. A. Purviance) as I do to get the attention of the Convention to some general and completed system. There is no great difference between my proposition and the amendment of the delegate from Allegheny on the other side except as to the small counties. His proposition is to give each county of the State, small and great, a member on some territorial idea. My proposition is to deal as kindly as possible with these small counties. The difference between the small counties and a ratio is so striking that I feel reluctant to open our work to such a clear, complete criticism. Forest has but about 4,000, Cameron about 4,000, and the ratio is 25,000. This would be a subject of complaint, and instead of having that at this time I prefer to defer those counties for ten or twelve years, after the enumeration of the census of 1880, when we shall then, in connection with granting to each of these small counties, give to all the remaining counties a member on this same ratio of 25,000.

There is the point to be observed, that my proposition would not make the House of Representatives so large as one hundred and fifty at this time. My estimate is that it would be about one hundred and forty, and that after the final adjustment to which I have referred it would be somewhere from one hundred and seventy-five to one hundred and eighty.

Mr. President, I have no disposition to delay on this subject. Indeed I am as anxious as any one can be, and in some way or other, whether I can do it now or not, I intend to have the sense of the

body on this matter of districting the State. I do not offer it here because it would not be in its proper place, but either against the section as it stands, when we reach that feature which we have not reached I think yet, under which it is proposed to apportion by the Legislature, I shall move to strike out that and insert this. Failing in that, I shall move to go into committee of the whole on third reading to endeavor to accomplish it.

Mr. S. A. PURVIANCE. Mr. President: If the House will give me their attention for about five minutes I will explain the proposition which I have submitted.

Since I have been in this body I have endeavored in the construction of the lower House, the House of Representatives, to aim at so constructing it as that it will not require in future any apportionment by the Legislature. In this my plan differs from that of my colleague across the way (Mr. D. N. White) and from that of the gentleman from Clearfield. The working of my plan is this: Every county in the Commonwealth is conceded a member; and it seems now to be given up on all sides of this House that that is to be the case; and that for every thirty-five thousand inhabitants, or a fraction of three-fifths of that ratio of thirty-five thousand, there shall be an additional member; and then the provision that when the House arrives at one hundred and eighty that shall be the maximum. The Legislature cannot lay hands upon it by the apportionment which we have made in this Convention.

And here allow me to say that I differ from my colleague in reference to the right of representation, even of my own county and that of the city of Philadelphia. The proposition of my colleague gives Allegheny county eleven and Philadelphia twenty-seven. By my proposition I give Allegheny eight and Philadelphia twenty. The difference is this: I charge Allegheny and I charge Philadelphia with the outstanding fractions which necessarily accrue in the several counties. For instance, in the city of Philadelphia, with a population of six hundred and seventy-two thousand, divided by any number you may choose as a divisor, either twenty-five thousand or thirty-five thousand, it will give her a larger proportion than any other county in the State. In endeavoring to adjust the balances between the counties, I bring in the first place into the House of

Representatives under this plan one hundred and sixty members. There are twenty to come in upon the fractions specified in this proposition. How does it stand? In the outstanding fractions, Allegheny having eight members would still have a fraction of seventeen thousand, whilst Philadelphia, having her twenty members, would have a fraction of only ninety persons, so that Allegheny would come in for her ninth member before Philadelphia would come in for her twenty-first member. Counties with larger fractions standing out which still number some two hundred thousand, in the best way that you can fix it they are compensated only by the fact that you charge Philadelphia and Allegheny with their proportional share of these fractions. Otherwise, if you allow a clean cut, as the saying is, through these compact bodies you give them a disproportion in the representation and you throw all the fractions upon the counties.

Now, sir, I have counties footing up one hundred and sixty members. Take, for instance, the county of Allegheny, with a population of 262,000, which has eight members, and a fraction of 17,000 remaining; Bradford, two, with 18,204; Mercer, two, with a fraction of 14,977; Lancaster, four, with a fraction of 17,340; Washington, two, with a fraction of 13,483. These counties would come in upon a fraction of three-fifths, when it reaches 21,000, before any others, and when they are all in, and when the House has arrived at one hundred and eighty, thus obtaining the maximum, then full justice would be done to all, and the outstanding fractions, some 200,000, would almost be obliterated.

Then in reference to the counties which come in upon fractions. Adams, 30,315; Bedford, 29,635; Carbon, 28,144; Centre, 34,000; Clarion, 21,000; Clearfield, 25,000; Clinton, 23,000; Columbia, 28,000; Greene, 25,000; Huntingdon, 31,000; Jefferson, 21,000; Lawrence, 27,000; Lebanon, 34,000; Perry, 20,000; Somerset, Warren and Wayne, in all seventeen counties. They are, as you will observe, not up to the full ratio of 35,000, but they have fractions too large to be thrown out of representation. I bring those counties in, and having about 75,000 of fractions less than to entitle them to representation on a full ratio, although they are less than a ratio, yet more than 35,000, and if you deduct them from the 200,000 and of fractions of larger counties, it still leaves outstanding and unrepre-

sented about 120,000 or 130,000 of fractions.

I say this comes nearer equalizing them than any other proposition that can be made; as, for instance, take the proposition of my colleague, (Mr. D. N. White,) and take the county of Lebanon, with 34,000 population. He gives that county but one member on 34,000; she cannot attain twenty-seven members and be on an equality with Philadelphia until she has 925,000 of population, whereas, Philadelphia has 672,000 only. So you may take the counties of Somerset, Wayne, Huntingdon and Centre, and you put them together, and they make an aggregate population of 161,070. They have but one member each by my colleague's proposition, and by the simple rule of three you can demonstrate that that is a very great iniquity. If 161,000 population will give but five members, what should 672,000 population in Philadelphia give? Why, sir, the quotient is twenty, the precise number which I have in my proposition. That puts the counties upon an equality; that distributes the fractions throughout the entire State and to Philadelphia her just proportion.

Now, sir, the further difference of inequality is this: A county which may have 25,000 or 30,000 population is not allowed to have a representation upon that amount of population, whereas, my colleague gives the county of Forest or the county of Elk or the county of Cameron, with four, five or six thousand population, a member each, equal to a county that has 25,000 or 26,000 or 28,000. I give each county a Representative and then make an equitable division of population among all the counties.

My proposition further does not allow of the cutting up and dividing of the counties of the State, except the city of Philadelphia and the county of Luzerne, or any county having a population beyond 150,000.

I therefore, without intending to trespass upon the time and attention of the House longer, ask the Convention, in justice to the whole State, to say that this proposition is a fairer one than that of either my own colleague or of the gentleman from Clearfield, and with the result of the vote of this House I shall be satisfied.

Mr. MANN. Mr. President: I hope the amendment of the gentleman from Clearfield will not be adopted by this Conven-

tion. I understand, from the votes given by this body, that they have intelligently and deliberately decided to permit every county in the Commonwealth to have one member in the House of Representatives. I hope the Convention will adhere to that principle, because it was one established and recognized by the fathers. It was a provision in the original Constitution of this Commonwealth, that every county in the State should have one member. It was based upon the idea that county organization, territory is to count for something in this matter of representation in the Legislature. It is a principle recognized by every New England State; it is a principle recognized in the Constitution of every State in this Union, that county organization, municipality and territory shall count for something. Even in the amendment of the gentleman from Clearfield, he recognizes this principle; but he cuts it down from the grand proportions of the amendment under consideration to three-fifths of what would be the actual ratio which would entitle a county to representation.

Now, as a delegate representing one of the smaller counties materially affected by this provision, I desire to express the gratification I feel at the intelligence that has heretofore seemed to govern this body upon this question, and I shall endeavor to give one or two reasons why they should adhere to that proposition.

I say, first, these small counties are nearly all of them located in the mountain districts of Pennsylvania, and mountain districts are proverbial the world over for the growth of intelligence and integrity, purity, honesty and uprightness. The world over the mountain districts are the home of intelligence, of industry, and of honesty; and they are especially so in Pennsylvania. You can, therefore, safely trust these small counties with separate representation in the Legislature.

They are, too, in this State nearly equally divided in politics. This proposition will therefore give to no party any advantage over the other.

As an additional reason, I desire to suggest to the delegates that in these rural mountain districts the openings for men of intelligence and culture are not so large as in the old and wealthy districts, and as a result of this the very best men and the most intelligent men of these counties are willing, and frequently anxious, to accept a seat in the Legislature. It is not so

in the old and populous districts. You cannot induce by any means the men of greatest intelligence in Philadelphia or in Lancaster and some of the other counties to accept a seat in the Legislature, because there are so many other openings offering greater inducements and greater attractions to satisfy their ambition; but in these rural districts there is not one of them that cannot select its very ablest man, and he will take a seat in the Legislature. I ask you to look over the records of the Pennsylvania Legislature for the last fifteen years, and as a proof of the statement I have made, it has been their universal practice, when one of these small counties has been entitled to a member, to select one of their representative men in all instances. For illustration, the county of Elk a few years ago was entitled to a member of the Legislature, and it sent its foremost man, now a delegate in this Convention, absent from his seat at this time, (Mr. Hall.) In every instance where one of these mountain districts was entitled to a member, it has selected its foremost man to represent it in the Legislature. It is not so in the other districts for the reasons I have given. I submit to delegates that these two facts ought to have great weight in determining this question, and ought to induce delegates to vote down the amendment of the gentleman from Clearfield.

I desire to state an additional objection to this amendment. If it is adopted you will necessarily compel the linking of small counties to large ones in the formation of districts, and that invariably results injuriously to the district so formed. It gives rise to jealousies and ill-will, and it removes the Representative to a very large extent from the immediate influence which the people have over him, and he is taken away from their supervision and criticism to some extent.

But the chief reasons why it does seem to me that the Convention ought to adhere to the principle adopted in committee of the whole are those I have given. There is no possible danger to the Commonwealth from giving to each of the small counties a Representative. There are no improper interests originating in those counties, and the members from those districts are never the representatives of any such interests. They will give strength to the Legislature and will strengthen the purest and best elements in the Legislature universally and without exception. For these reasons, I trust

the amendment of the gentleman from Clearfield will be voted down.

Now a word in answer to the gentleman from Columbia. I sympathize very largely with him in his objection to the apportionment by the Legislature as provided in this article; but that subject is not now under consideration. Neither the eighteenth section, which we have adopted, nor the nineteenth, which is now under consideration, has any bearing upon that question. This section simply provides that the House of Representatives shall consist of one hundred and fifty-two members, and if adopted it will permit the Convention to adopt any plan of apportionment which in its wisdom it may see fit to adopt. That question is in no way under consideration now. This is simply determining the numbers of which the House shall consist and whether every county in the State shall have one member. That is the entire proposition; and whether this amendment or the amendment of the gentleman from Allegheny shall be adopted or not, in no way affects that proposition. It simply determines the number of which the Legislature shall be composed and the representation of counties. I trust, therefore, that the remarks of the gentleman from Columbia will prejudice no mind against this section. When we come to the question of apportioning by the Legislature, let us dispose of that question on its merits.

MR. KAYNE. Mr. President: I prefer the amendment of the gentleman from Clearfield (Mr. Bigler) to that of the gentleman from Allegheny, (Mr. S. A. Purviance,) and I prefer either of them infinitely to the original proposition as adopted in committee of the whole; I mean the proposition of the distinguished gentleman from Allegheny (Mr. D. N. White.) I am in favor of county representation. I am in favor of every county in the State being represented in proportion to its population. I want every county to be a district, except the smaller counties which have been spoken of by the gentleman from Potter, who has just taken his seat. I do not think it is fair that those smaller counties should have an equal representation with the larger ones.

I am especially opposed to the division of a county into separate representative districts. As I indicated in the inquiry which I put to the gentleman from Allegheny, the author of this proposition, this morning, a county of a particular political complexion, for instance, a county having

a Republican majority of seven or eight hundred, a county composed of twelve townships, with three or four Republican townships on the one side with very heavy majorities, and then seven or eight townships on the other side with very light Democratic majorities, if that county were entitled to three members it could be so apportioned as to give the Republicans but one member and the Democrats two. A county containing a Republican majority of seven hundred and fifty could be so gerrymandered by grouping Republican townships together, and Democratic townships together that two Democrats could be sent to the Legislature and but one Republican; and *vice versa* if it were a Democratic county. I submit that this proposition would lay the foundation for the very worst kind of gerrymandering.

Sir, give to each county, as is proposed by the amendment of the gentleman from Clearfield, a representation in proportion to its population, and let the parties there work it out as best they may. For instance, if a Republican county or a Democratic county was entitled to two members, and one party should make nominations and put up one good candidate and one bad candidate, and the other party should put up better candidates, one probably of each party would be elected. Such things have occurred, and such things will occur again.

I am opposed to the present system of uniting counties together for the purpose of forming districts for political purposes. As was very well remarked by the gentleman from Washington (Mr. Lawrence) a day or two ago on that subject, he is in a district composed of three counties, and it elects four members to the Legislature. Under a fair representation, under the old system, Washington county would be entitled to two members, Butler to one, and Beaver to one. Why not let each of those counties elect its own members? Why not let Butler county elect a member? Then if the Republicans, as it is slightly a Republican county, put up a bad man, and the Democrats put up a good one, the Democrat will probably be elected. Such things as that have occurred there, and such things have occurred in Beaver. I, myself, served in the Legislature with two members from the county of Washington, where parties are very equally divided, one of whom was a Democrat and the other a Republican. Such was frequently the case in Washington county, and such probably would be the

case again. But do not, I pray you, adopt a system that will destroy the election of members of the Legislature in this State.

So far as Allegheny county, with the city of Pittsburg within its borders, and the city of Philadelphia are concerned, let the Legislature provide for the division of those large cities into districts, so that the people may be fairly represented; but so far as counties are concerned, let them be as they are, every county to be a representative district. If it should come to that, if I am compelled to vote upon that question, in order to secure this, I would have to go with the gentleman from Potter; I would have to concede even to Cameron county, with four thousand population, a single member in order to secure the greater good of having every county in the Commonwealth a representative district.

I merely rose, Mr. President, not being very well, to say this much on the proposition of the gentleman from Allegheny, (Mr. D. N. White,) which is now under consideration in the Convention. I do not propose to discuss either the proposition of the gentleman from Clearfield (Mr. Bigler) or that of the gentleman from Allegheny (Mr. S. A. Purviance.)

Mr. BAER. Before this vote is taken, I desire to say that unless I greatly misapprehend the scope of the amendment offered by the distinguished delegate from Clearfield, his amendment, if adopted, would disfranchise the county of Jefferson, with a population within one thousand, and disfranchise Perry, Warren, Union, Juniata, Mifflin, Monroe, Montour and Snyder. I cannot see that by any possibility could they be represented by a member in the House of Representatives under the amendment offered by the gentleman from Clearfield. His proposition provides for an excess of less than three-fifths of the ratio, the ratio being twenty-five thousand, and provides for an excess of three-fifths over one or more; but in counties where the excess is over three-fifths and less than the ratio there is no provision for representation at all, and there could be none, if that amendment be adopted, from either of those counties. For that reason I shall be compelled to vote against that proposition.

The proposition offered by the gentleman from Allegheny (Mr. S. A. Purviance) looks to me as meting out even-handed justice to all localities in the State; first, by giving each locality a member, and afterwards distributing the

remainder according to population on a basis of thirty-five thousand for each member. It does full justice to the entire State, and it only takes from Philadelphia and Allegheny, as against the proposition adopted by the committee of the whole, and that taking from is entirely right. It will reduce Philadelphia from twenty-seven to twenty members, and twenty is all she is entitled to under a fair calculation unless you mean to have all the fractions in the interior, and let her lose no votes at all. She would only lose the paltry number of ninety votes, while in the interior there would be a loss of over two hundred thousand on the basis of the proposition adopted by the committee of the whole. If you adopt the proposition of the gentleman from Allegheny you dispense with waste material, as you may well call it.

The gentleman from Clarion (Mr. Corbett) says that I am mistaken in regard to Jefferson county, because she has over three-fifths of a ratio. I admit she has over three-fifths, but because she has three-fifths, and less than twenty-five thousand, under the proposition of the gentleman from Clearfield, she is not provided for at all. If she had less than three-fifths she would be provided for, or if she had three-fifths in excess of an entire ratio she would be provided for; but as it is she is not.

I therefore say that the proposition to do even-handed justice to all the people without regard to politics, is the amendment of the gentleman from Allegheny (Mr. S. A. Purviance.) While it does apparently reduce Philadelphia to twenty, it does not unjustly reduce her, because it gives her her quota according to population, and I have stood all the time on the basis of population both for the Senate and the House; but with a view of reaching all the counties of this State, this proposition will give each of them one representative on the basis of territory and afterwards distribute the remainder according to population. I hope the amendment of the gentleman from Allegheny will prevail.

Mr. STRUTHERS. I have examined these different propositions very carefully with a view to ascertain as nearly as possible what would be the most equal distribution of the representation throughout the State, and after a careful examination I have arrived at a satisfactory solution, to myself at least, and that is, that the amendment offered by the gentleman

from Allegheny is the best proposition that has been offered, and comes the nearest to equalizing representation throughout the State. I do not wish to discuss it, because it has been very clearly and fully explained so that I think the Convention understand it, and I could not add to the clear explanation given by him. There is one thing, however, to which I wish to call the gentleman's attention. The amendment reads: "Each county in the State, including the city of Philadelphia, shall be entitled to one member." I suggest to my friend to modify that by saying, "shall be a district and entitled to one member."

Mr. S. A. PURVIANCE. I accept that modification.

Mr. STRUTHERS. That would preserve the counties as districts. Each county would be a district.

The PRESIDENT *pro tem*. The question now is on the amendment to the amendment offered by the delegate from Clearfield (Mr. Bigler.)

Mr. STRUTHERS. The great object I had in rising was to get that feature introduced which the gentleman admits as a modification. I have nothing more to say except that I approve very decidedly of the amendment offered by the gentleman from Allegheny.

Mr. DALLAS. Before the vote is taken on the amendment of the gentleman from Allegheny—

The PRESIDENT *pro tem*. The question now is on the amendment of the delegate from Clearfield to the amendment.

Mr. DALLAS. Then I will defer what I have to say for the present.

Mr. MACVEAGH. I trust the House will not adopt the amendment proposed by the gentleman from Clearfield. It includes two very objectionable matters which the House twice over have voted down, as it seems to me.

The PRESIDENT *pro tem*. The question is on the amendment of the delegate from Clearfield (Mr. Bigler) to the amendment of the delegate from Allegheny (Mr. S. A. Purviance.)

The amendment to the amendment was rejected.

The PRESIDENT *pro tem*. The question now recurs on the amendment of the delegate from Allegheny (Mr. S. A. Purviance.)

Mr. KNIGHT. Mr. President: I am disposed to be quite liberal with the small counties of the State, and I think I shall vote in favor of allowing every county one

Representative. I very much favor the section as it now stands in this article, introduced by the gentleman from Allegheny (Mr. D. N. White.) The amendment, however, goes rather further than I can favor. Under it the county of Jefferson, having a population of 21,656, would be entitled to two Representatives, or one Representative to 10,828 inhabitants. The county of Perry, with a population of 20,447, would also be entitled to two Representatives, or one to a population of 10,224. It allows to Philadelphia twenty Representatives. On the same basis of population as the counties to which I have referred Philadelphia would be entitled to sixty-seven members. I think it is unreasonable and so far out of the way that I shall feel obliged to vote against it, and I hope members generally will do the same.

Mr. EWING. I merely wish to enter my protest against the amendment now offered. Of all the absurd, unjust provisions introduced into this body on this subject, I think the proposition now before us is the worst. It proposes to give to seventeen counties, with a population of 472,000, thirty-four members, and to give to Philadelphia, with a population of 674,000, nearly fifty per cent. more, twenty members. It proposes to give those seventeen counties their members on an average representation of 13,609, and to Philadelphia its twenty members on a representation of 33,700, nearly three times as many to constitute one Representative as is required in the others.

Then again, among the smaller counties, it gives to Jefferson county, for instance, two members on a population of 21,000, and it gives to Washington, with a population of 48,000, precisely the same number.

There is no equality in it in any possible aspect of the case. I can understand the representation of a county, including its territory, its population, and all its interests, whether it has population enough according to the ratio or not; but the mere representation of pine stumps and hemlock trees, I cannot understand; and that is just what this proposition is.

Then again, to a large number of counties, those counties having about 30,000 inhabitants, it gives a very undue representation. Where they are only entitled to one member, and in a number of cases where they are not entitled to one member, having only three-fifths of a ratio, they are given two members. I under-

take to say that in Allegheny county the gentleman cannot get a thousand votes for the Constitution with that provision in it.

Mr. S. A. PURVIANCE. I only rise to say that I hope this Convention will give full consideration to the learned argument of my colleague (Mr. Ewing) and will sustain the proposition without regard to his epithets.

Mr. BUCKALEW. I move to amend the amendment, by making the word "may," at the end of the first paragraph, read "shall." This modification is manifestly proper, and I suppose there will be no objection made to it. It will then read: "The city of Philadelphia and counties containing 150,000 of population shall be divided into separate districts." If you do not make this imperative, you will permit the Legislature to pass an apportionment act authorizing the election of all the members for Philadelphia and all the members for Allegheny and all the members for Luzerne by general ticket. If you make any regulation on that subject, it ought to be a fixed one. I move, therefore, to amend, by making the word "may" read "shall."

Mr. LITTLETON. I trust this amendment of the gentleman from Columbia will not be adopted. We have proposed what we consider a fair representation from Philadelphia in the Senate; but it has not been conceded. I do hope we shall have some representation in the lower House, at any rate. Under the present system, I do not think we have any. Where districts are represented, each having its particular king or potentate in a political sense, the member from the district represents him, and not the people. I trust we shall so leave the Constitution that, if the Legislature thinks it advisable, we may elect our members in each county on a general ticket, so that the county, or the city in our case, may actually have a representation—something which it has not enjoyed since the amendment of 1857.

Mr. CORBETT. Mr. President: I am somewhat amused at the remarks of the gentleman from Allegheny (Mr. Ewing) as to the effect of the amendment of his colleague (Mr. S. A. Purviance.) He demonstrates that it is very unfair, and I am not prepared to say that it will operate equally; but I shall vote for the amendment of the delegate from Allegheny in preference to the section reported by the committee of the whole, which was moved

also by a gentleman from Allegheny (Mr. D. N. White.) If he had carried out his system or arithmetic a little, he would have found that under the provision reported by the committee of the whole, before a county could have two Representatives it would be necessary for it to have 40,000 population. He can take the population of either Cameron or Forest and cypher, and see what the proportion would be. It would take at least eight or ten times the number in some counties to have a Representative in the Legislature that it would in others.

I do not think that either of these propositions is a fair one. The proposition voted down of the gentleman from Clearfield was much fairer than either; but certainly neither one of these is fair; and the proposition that is offered as an amendment by the delegate from Allegheny (Mr. S. A. Purviance) is much the fairer of the two.

It may do very well for us here to urge these matters through with haste, but when they come to be discussed all over the State of Pennsylvania, they will be understood by the people. Do not arraign counties, do not arraign large sections of this State against your Constitution, in addition to the opposition that it will have to meet in any event.

I am well satisfied that a large number of the delegates in this Convention wish to avoid apportionments by the Legislature, which lead to wrong, I care not which party is in power. But, sir, the proposition as reported from the committee of the whole does not prevent this. It will lead to gerrymandering of the worst kind; it will lead to an unequal system of representation, and it will meet with objection and opposition from the people of Pennsylvania, when it comes to be understood, in many respects that have not been fully considered here. If we are not to have anything better, I hope that the amendment offered by the gentleman from Allegheny (Mr. S. A. Purviance) to the proposition reported from the committee of the whole will be adopted. I do not think it is fair; I do not think it is right; but it is far better than that which comes from the committee of the whole, and therefore I shall vote for it as an amendment to that.

Mr. D. N. WHITE. Mr. President: I cannot let the vote be taken without entering my protest against the shameful violation of all right and justice in the proposition of my colleague from

Allegheny (Mr. S. A. Purviance.) He proposes to give to some counties a member for about 10,500 inhabitants, while he gives to the county of Allegheny a member for over 36,700. Not a member will go to the Legislature from Allegheny county without a constituency of over 36,000, or in exact figures 36,765. While a large number of members, according to his proposition, will go from constituencies of between 10,000 and 11,000, in the city of Philadelphia each member will represent 35,000. Was ever so monstrous a proposition offered as a scheme of representation of the people? The lower House is supposed to be a representation for the people and of the people. Here we have from him a proposition which gives about one-half the representation of the State to one-third of the population of the State. Who ever heard of so extraordinary and flagrant a proposition?

I will simply state further, before the vote is taken, because there has been a great deal said about my proposition, that the section which I had the honor to offer, and which was adopted in committee of the whole, districts the members throughout the State as follows: On less than three-fifths of a ratio, nine members, to the small counties; on three-fifths of a ratio, twenty-two members; on a full ratio, 110 members; on a surplus, eleven members; making in all one hundred and fifty-two members, giving every county in the State a member, and distributing the remainder throughout the State in a manner which I assert—and I think the gentleman from Columbia will bear me out in so asserting—is the best apportionment of Representatives ever made in the State of Pennsylvania.

The PRESIDENT *pro tem.* The question is on the amendment of the delegate from Columbia to the amendment of the delegate from Allegheny, to strike out the word "may" and insert the word "shall."

The amendment was agreed to.

The PRESIDENT *pro tem.* The question now is on the amendment of the delegate from Allegheny as amended.

Mr. CAMPBELL. I move to further amend the amendment, in order to make it more perfect, by inserting after the words "city of Philadelphia," in the last part of the first paragraph, these words:

"In each of which districts there shall be elected not less than three nor more than five Representatives."

The amendment to the amendment was rejected.

Mr. BUCKALEW. I move further to amend the amendment of the gentleman from Allegheny, by adding at the end of the first paragraph, after the word "districts:"

"Provided however, That the counties of Cameron and M'Kean, the counties of Elk and Forest, and the counties of Sullivan and Wyoming shall, in the order named, constitute representative districts, each thereof to elect one Representative, with a right to a second Representative whenever its amount of population would entitle a separate county to such second Representative."

Mr. President, the remarks which have been made and the figures shown as to the result of the amendment of the gentleman from Allegheny on my right (Mr. S. A. Purviance) might be submitted with regard to the section of his colleague (Mr. D. N. White) reported by the committee of the whole. In all these projects we have departed from the principle of numbers; we have taken the principle of county representation; and therefore we get, so far as numbers are concerned, very astonishing results. Any gentleman may criticise either one of these propositions as showing a departure from the principle of proportional representation of the people considered with reference to the standard of numbers. The remarks, therefore, as applied to the amendment of the gentleman from Allegheny on my right, have no force, because all these propositions have abjured the principle of numbers so far as the representation of counties is concerned. One main distinction between the report of the committee of the whole and the amendment offered by the gentleman from Allegheny, is that he has adjusted his scheme in reference to another principle, to wit, the allowance of representation to fractions, which is a necessity whenever you intend to have a just apportionment. Then as between the two, I consider his proposition quite as defensible as the original one. But whichever one of these propositions shall receive the assent of the Convention, if either of them does, the amendment which I have proposed is necessary in order that our work shall not appear ridiculous, absurd, unreasonable upon its face to all the good people of this Commonwealth.

I have presented what was reported on this subject substantially by the Commit-

tee on Suffrage, Election and Representation, to wit, the grouping of the very small counties of the Commonwealth into representative districts by themselves, each to have one Representative, with a provision that whenever they shall have a population which would entitle a separate county to a second Representative, they shall have it. If you are to have county representation, do not send it out with the same representation for four thousand people in one section of the State that you give to 674,000 in Philadelphia, or 160,000 in Luzerne, or 116,000 in Schuylkill, or nearly 300,000 in Allegheny. Show at least, by excepting these very small counties, forming a class by themselves, utterly unlike the average counties of the State, that you pay some attention to the principle of equality as to the representation of the people of the State by numbers.

I hope, therefore, that the amendment I have offered will be adopted.

MR. J. PRICE WETHERILL. I desire to say just one word in endorsement of the principle just announced by the gentleman from Columbia, that we ought to be extremely careful to give due regard to numbers.

I have had very little time to analyze the proposition presented by the gentleman from Allegheny, (Mr. S. A. Purviance,) but I desire to call the attention of the Convention to a few of the figures which I have prepared by analyzing the statement which he has laid upon the desks of members. You will find by looking over the figures that he gives to a certain number of counties thirty-four members, beginning with Adams and ending with Wayne, on this statement, giving thirty-four members to a population of 465,000. Then he gives one member to each county of fifteen counties, with a population of 69,000. Thus he gives certain counties in the State forty-nine representatives upon a population of about 634,000. Philadelphia has a population of 674,000. By his calculation we receive twenty members. Other counties with a population of 634,000 receive forty-nine members.

Now, sir, this is a House composed of one hundred and sixty-one members; and as forty-nine members are selected on a population of six hundred and thirty-four thousand, one hundred and ten members are selected upon a population of three millions. These are the figures that I desire to call the attention of the Convention to; that six hundred

and thirty thousand population send to the House of Representatives forty-nine members, and three millions of population send one hundred and ten members! There is an unfairness in this proposition, which upon a careful calculation will appear, which the people will understand, and I am very much afraid those who live outside of these small counties, with their forty-nine representatives, representing three millions people, will see at once throughout the State that they are not fairly represented, and will repudiate the action of the gentleman from Allegheny if we sustain it by our vote to-day.

MR. S. A. PURVIANCE. MR. President: In answer to the gentleman from Philadelphia, I have to say with regard to those small counties there is one thing that possibly has been entirely overlooked, and that is that under no system of arithmetic in any of the plans proposed here, after we give them their member upon territory and upon the small population they have, can they ever come into two members each. They may run up to thirty-five thousand, but up to that time the counties having the largest fraction will come in, such as Franklin, Lancaster, Lycoming, and so on. They will fill up the space between one hundred and sixty-one members and the maximum of one hundred and eighty, and these smaller counties, to which the gentleman from Philadelphia (Mr. Wetherill) seems to have so much opposition, will never get beyond their one member, and if they should complain, when they come up to twenty-five or thirty thousand, that they are not upon an equality with the other counties the answer will be a good one: "You were let into representation upon a very small population, and you have therefore no ground of complaint now."

MR. LILLY. MR. President: I am very glad this Convention have got to looking at numbers and to making some calculations, which seems as if they were trying to get to something nearly right. Both propositions of the two gentlemen from Allegheny are as vulnerable as possible when you undertake to hold them up and analyze them in the light of numbers. Neither of them is at all right or at all according to justice in any way, shape or manner. I should be entirely in favor of the amendment of the gentleman from Columbia as it is now proposed, but I think it would make very bad language, and I should like to have the proposition that I hold in my hand read for the infor-

mation of the House. I think the House, if they will listen to it attentively, will come to the conclusion that it is just, proper and right according to numbers, and by it the small counties are represented according to the people who live in them.

MR. DARLINGTON. I rise to a point of order. The gentleman from Carbon is not in his place.

MR. LILLY. All right. If the gentleman holds to that, I will. I got nearer the Chair on purpose to be heard.

The PRESIDENT *pro tem*. The point of order is sustained.

MR. LILLY, (having returned to his seat.) I give the gentleman notice that he must stay in his place hereafter. [Laughter.]

This, I say, is representation for every man, woman and child in these small counties. It does not give representation to hemlock trees or beech or maple trees; but it gives representation according to population, and I say that the proposition of the gentleman from Allegheny on the right (Mr. S. A. Purviance) does give territory representation, and with no population to base it on at all.

But he talks about representing Forest and Cameron, giving them a full member, the same amount of representation that is given to the county of Delaware with forty thousand people, or nearly so. I say it is entirely wrong and unjust, and I am very glad to see that this Convention has come down to looking at numbers. As I said this morning, I am in favor of a representation according to population exactly and entirely, and let them go generally, not let it strike one place and let up in another.

The gentleman from Allegheny, (Mr. D. N. White,) when he rose a few moments ago to criticise the proposition of the gentleman from Allegheny on my right, (Mr. S. A. Purviance,) was very eloquent about injustice, but he overlooked his own wrongs, which are just as bad, and just as vulnerable; but it does not strike Allegheny county so much as the other does, and hence the whole trouble with him.

Now I ask that this be read at the Clerk's desk. I think it is the fairest proposition that has been made, and if the proposition of the gentleman from Columbia is voted down I shall offer it.

The PRESIDENT *pro tem*. The paper sent up by the gentleman from Carbon will be read for information.

The CLERK read as follows:

"The House of Representatives shall be constituted as follows: The whole population of the Commonwealth, as ascertained by the last census taken by the authority of the government of the United States, shall be divided by one hundred and fifty; the quotient shall be the ratio for membership in the House of Representatives of this Commonwealth. Each county shall elect at least one member, except the counties of Bedford and Fulton, who shall vote together and elect two members; the counties of Wayne and Pike shall vote together and elect two members, and the counties of Forest, Elk and Cameron shall vote together and elect one member; the counties of Potter and M'Kean shall vote together and elect one member, and the counties of Wyoming and Sullivan shall vote together and elect one member. Every county or district that has a full ratio and a fraction of three-fifths of a ratio shall be entitled to and elect an additional member, and for each additional ratio of population in any county or district the said district or county shall elect an additional member.

"The Secretary of the Commonwealth, the Secretary of Internal Affairs and the Attorney General of the Commonwealth shall, in the year 1881, and every ten years thereafter, divide the whole population of the Commonwealth, as ascertained by the most recent census taken by the authority of the United States government, by one hundred and fifty, and the quotient shall be the ratio for members of the House of Representatives of this Commonwealth for the next succeeding ten years, and upon that basis and in accordance with the first foregoing section of this article shall apportion and proclaim the number of members each district and county are entitled to. Said district shall vote in accordance therewith, and in accordance with the further provisions of this article."

The PRESIDENT *pro tem*. The question is on the amendment proposed by the delegate from Columbia to the amendment of the delegate from Allegheny.

MR. STEWART. Mr. President: As a practical illustration of the injustice and inequality of the scheme of the gentleman from Allegheny, I call the attention of the members of the Convention to the fact that under that scheme the county of Jefferson, with a population of twenty-one thousand, will be entitled to the same representation that the county of Franklin will be entitled to with a population

of forty-five thousand. The county of Jefferson, with less than one-half the population of Franklin, will be entitled to the same representation. Now, I have no comments to make; I simply call the attention of delegates to that one fact.

Mr. MACVEAGH. Mr. President: I shall feel obliged to vote against the amendment of the gentleman from Columbia, though originally I was in favor of it, because I believe that this Convention has quite determined to give to each county in this State a member. The gentleman from Philadelphia (Mr. Knight) even said that he believed he would vote in favor of it, and I think the repeated votes we have had show the determination of the Convention to be settled upon that question. I cannot vote for the amendment of the gentleman from Allegheny now pending, because it seems to me to do gross injustice alike to the cities of Pittsburgh and Philadelphia. I confess I cannot reconcile myself to limiting this city to twenty Representatives on its population, while, as is shown by the gentleman from Philadelphia, (Mr. J. Price Wetherill,) to other districts is given twice the number and more of members with less population; and it is no answer when the gentleman from Allegheny says that if we do that injustice now, in ten years hereafter those counties cannot argue against submitting longer to the injustice of which they will then be the victims.

For myself it seems to me quite clear that this Convention is willing to give each county one member, is willing to do as near justice as it can do in the distribution of the other members, and that the scheme elaborated by the gentleman from Allegheny (Mr. D. N. White) and adopted by the committee of the whole, while not acceptable in every respect, indeed not acceptable in many respects to me, still seems more nearly to express the common judgment of this Convention than any other that has been submitted, and we must come to some compromise and settlement of this matter at some time. We must get not what will suit the county of Dauphin or of Franklin or of Philadelphia exactly, but something that will do as near justice all over the State as we possibly can reach. I therefore shall vote against the pending amendments and in favor of the section as adopted by the committee of the whole.

Mr. S. A. PURVIANCE. Mr. President In answer to the gentleman from Frank-

lin, (Mr. Stewart,) who complains of injustice in this apportionment, I will say that if he will make a calculation he will find that whilst his county gets two members at present it is on the highway, and very shortly, towards the attainment of a third member, because when the outstanding fractions will come in there are nine to be provided for, first one of which is Franklin, her fraction numbering about ten thousand.

Now a word in reference to what is said by the gentleman from Dauphin (Mr. MacVeagh.) I do not think the gentleman from Dauphin has a right to stand here and speak for Allegheny county. I do not suppose she has authorized him to do so. She has on this floor ample force, able men; and here, sir, allow me to say that while I may stand alone in my delegation on this subject, if I do, I stand here as a representative endeavoring to do justice throughout the entire Commonwealth; and I undertake to say in regard to this very apportionment it makes Allegheny stronger relatively than she is under the apportionment made by my colleague. His stands eleven for Allegheny to twenty-seven for Philadelphia; mine stands eight to twenty. Thereby on his proposition Allegheny is shorn of a portion of her strength. Besides that, by mine, Allegheny has a fraction of seventeen thousand, and would be one of the first to come in for a ninth member, and when she has her ninth member she will be within one of having half the representation of Philadelphia. Now she has just her proportion; but the fraction brings in a little while one more. I only mention this for the purpose of showing that no gentleman has a right to complain here that I am doing injustice to the county of Allegheny.

Mr. BEEBE. Mr. President: I would not desire to hinder the Convention from voting or draw a moment upon their time, but the repeated remarks of the gentleman from Clarton (Mr. Corbett) in relation to the dissatisfaction in the west upon small counties having a representation, I think deserve at least a passing comment; as from that notion seems to have emanated the amendment of the gentleman from Columbia.

Mr. BUCKALEW. I beg leave to explain. The amendment I offered was proposed by the Committee on Suffrage.

Mr. BEEBE. Very well. Inasmuch as it is to be voted upon now, I think this is

the proper place for my remarks. He is entitled to his opinion, but I differ entirely from the gentleman from Clarion upon any idea that it would create any dissatisfaction in the west for us to provide that each county shall be represented. These small counties in population are not small in area. They are now coupled with counties at a distance, and judging of the future by the past, if this junction be continued, they will have to enter, as they have always entered, into a sort of *hopeless* contest to secure some of the nominations. The larger counties by virtue of their population claim those nominations. The result is an embittered feeling between the counties, and when a member is elected by such a district, he is anything but a representative of the smaller counties; on the contrary, the counties have often diverse interests, and he is the enemy of those—a part of his constituents; so much so that it is not new to members of the Legislature and Senators to receive requests for bills to be passed by members from other counties for them as a constituency; and not only that, but the aid of members outside is asked for legislation which is presented by the member in the majority or the Representative of the larger county which is absolutely injurious to the smaller, or ruinous altogether to their interests involved in the legislation.

I did not rise to make any speech, but simply to state that for these and other reasons both the larger counties and the smaller counties would be satisfied, eminently satisfied, with this arrangement in preference to that which is now offered as an amendment, for they would then be rid of local jealousies and distracting feuds, and the small counties would thereby have that which they very often do not now have—*representation*.

MR. MACCONNELL. On looking at this scheme I find that the ratio of representation for Perry county is ten thousand two hundred and twenty-three and a half, whereas the ratio of representation of Allegheny county would be about thirty-two thousand and something—more than three times as much; it will be even worse; it is thirty-three thousand and something for Philadelphia. The gentleman seems to justify that by saying that Allegheny county ought not to complain, because this injustice does not cheat us quite as badly as it cheats Philadelphia. Well, there is some force in that argument; but I do not think it very sound. I am very

certain that my constituents, who are a most exceedingly moral people, will not regard it with favor. I do not think that in their moral status at the present time they will thank my learned colleague for an argument of that kind. I do not think they will accept it as one that suits them. Really, sir, I cannot conceive anything more unfair and improper—I was almost going to say irrational—than this proposition. It seems to me monstrous. I repudiate for the high moral constituency of Allegheny the argument of my learned colleague on that subject.

MR. M'MURRAY. Mr. President: The amendment now submitted affects the county of Forest. I am here as one of the representatives of the district in which that county is situated. Were it not for that, I should not say a word.

This Convention voted but recently that each county, be it large or be it small, shall have one Representative, and that irrespective of population. That vote was a very decided one. I do not doubt that the Convention is of the same opinion now that it was when that vote was taken. As a matter of right, I think each county ought to have a Representative. It is true that we have done away with special legislation to a very great extent, and the reason which applied heretofore that each county should have a Representative does not apply now with so much force; yet that which was done heretofore by special act of Assembly must now be accomplished to a great extent by general law, and this argument applies with great force that each county should have in the Legislature a Representative to see to her interests, because if she has not, who is going to care for her interests? Heretofore, the county of Forest has been represented in the Legislature but one year to the best of my recollection, and I believe that happened because the counties forming the remainder of the district could not agree on a candidate, and as a compromise they gave the candidate to Forest county, and then, sir, those outside parties refused to give the position to the choice of the county. This is the way these small counties are used in every instance. They are attached to other counties having a smaller population, and in the district so composed the small county is in a minority; she has simply to take what she can get, not what right and justice would give her, but what the others may think fit to concede. Her-

people have no rights that the majority are bound to respect.

I hope this Convention will adhere to the vote it cast heretofore that each county shall have one Representative. The counties that would be affected by the amendment offered by the delegate from Columbia are but few in number, probably not exceeding five. I acknowledge that their population is small, and if we make population the basis of representation entirely, they would be excluded; but, being here as one of the Representatives of Forest, I insist that she shall hereafter have representation, which she has not had heretofore. Do not leave the county of Forest to the tender mercies of Clarion county or Clearfield county, or any of the large counties to which she has been heretofore attached.

The *PRESIDENT pro tem.* The question is on the amendment of the delegate from Columbia to the amendment.

The amendment to the amendment was rejected; there being on a division—ayes, thirty-six; noes, fifty-two.

Mr. LITTLETON. I offer the following amendment to the amendment:

"Provided, That the city of Philadelphia shall always be entitled to at least twenty-seven members."

I desire that to come in at the end of the section.

The amendment to the amendment was rejected.

The *PRESIDENT pro tem.* The question recurs on the amendment of the gentleman from Allegheny (Mr. S. A. Purviance.)

Mr. CORBETT. On that I call for the yeas and nays.

The call being seconded by ten members, the yeas and nays were taken, and were as follow, viz:

Y E A S .

Messrs. Achenbach, Ainey, Alricks, Andrews, Baer, Beebe, Bigler, Black, Chas. A., Black, J. S., Boyd, Broomall, Brown, Buckalew, Bullitt, Clark, Corbett, Curtin, De France, Dunning, Elliott, Fulton, Gibson, Gilpin, Guthrie, Harvey, Hunsicker, Kaine, Lamberton, Landis, Lilly, M'Clean, M'Murray, Mott, Niles, Palmer, G. W., Patton, Purviance, S. A., Reed, Andrew, Ross, Runk, Sharpe, Smith, H. G., Smith, Wm. H., Struthers, Wherry, Woodward, Worrell and Wright—48.

N A Y S .

Messrs. Addicks, Armstrong, Bailly, (Perry,) Baker, Bannan, Bartholomew,

Biddle, Bowman, Calvin, Campbell, Church, Cochran, Collins, Craig, Cronmiller, Dallas, Darlington, Edwards, Ewing, Fell, Funck, Hanna, Hay, Hazzard, Hemphill, Horton, Howard, Knight, Lawrence, Lear, Littleton, MacConnell, MacVeagh, M'Culloch, Mann, Mantor, Minor, Newlin, Palmer, H. W., Parsons, Patterson, D. W., Pughe, Purviance, Jno. N., Reynolds, Rooke, Russell, Simpson, Smith, Henry W., Stanton, Stewart, Temple, Turrell, Van Reed, Walker, Wetherill, J. M., Wetherill, John Price and White, David N.—57.

So the amendment was rejected.

ABSENT.—Messrs. Bailey, (Huntingdon,) Barclay, Bardsley, Brodhead, Carey, Carter, Cassidy, Corson, Curry, Cuyler, Davis, Dodd, Ellis, Finney, Green, Hall, Heverin, Long, M'Camant, Metzger, Mitchell, Patterson, T. H. B., Porter, Purman, Read, John R., White, Harry, White, J. W. F. and Meredith, *President*—28.

The *PRESIDENT pro tem.* The question recurs on the section.

Mr. LITTLETON. I move to amend the section, by striking out, in the fourth and fifth lines, the words, "except that no county shall have less than one member;" and on this amendment I call for the yeas and nays.

Mr. LILLY. My amendment will cover all that, and is a great deal better.

Mr. CORBETT. I second the call for the yeas and nays.

The *PRESIDENT pro tem.* Is the call sustained.

Ten members rising to second the call, the yeas and nays were taken, and were as follow, viz:

Y E A S .

Messrs. Addicks, Ainey, Bartholomew, Biddle, Bigler, Black, Charles A., Black, J. S., Boyd, Broomall, Buckalew, Campbell, Church, Cochran, Corbett, Dallas, De France, Edwards, Fell, Gibson, Harvey, Lilly, Littleton, Newlin, Palmer, H. W., Patton, Reynolds, Sharpe, Smith, H. G., Smith, Henry W., Stanton, Stewart, Temple, Van Reed, Wetherill, J. M., Wetherill, Jno. Price and Wherry—36.

N A Y S .

Messrs. Alricks, Andrews, Armstrong, Baer, Bailly, (Perry,) Baker, Bannan, Beebe, Bowman, Brown, Calvin, Clark, Collins, Craig, Cronmiller, Darlington, Dunning, Elliott, Ewing, Fulton, Funck,

Gilpin, Hanna, Hay, Hazzard, Horton, Howard, Hunsicker, Kaine, Knight, Lamberton, Landis, Lawrence, Lear, MacConnell, MacVeagh, M'Clean, M'Culloch, M'Murray, Mann, Mantor, Minor, Mott, Niles, Palmer, G. W., Parsons, Pughe, Purman, Purviance, John N., Purviance, Sam'l A., Reed, Andrew, Rooke, Ross, Runk, Russell, Simpson, Smith, Wm. H., Struthers, Tarrell, Walker, White, David N., Woodward and Worrell—63.

So the amendment was rejected.

ABSENT.—Messrs. Achenbach, Bailey, (Huntingdon,) Barelay, Bardsley, Brodhead, Bullitt, Carey, Carter, Cassidy, Corson, Curry, Curtin, Cuyler, Davis, Dodd, Ellis, Finney, Green, Guthrie, Hall, Hemphill, Heverin, Long, M'Camant, Metzger, Mitchell, Patterson, D. W., Patterson, T. H. B., Porter, Read, John R., White, Harry, White, J. W. F., Wright and Meredith, *President*—34.

Mr. HANNA. I move to amend the section, in the fifth line, by striking out the word "no" and inserting the word "each," and striking out the words, "have less than," and inserting the words "be entitled to at least," so as to read :

"That each county shall be entitled to at least one member."

That strikes me as being better.

The amendment was agreed to.

Mr. NILES. Mr. President: I move to strike out, in the first and second lines of section nineteen, the words, "not less than," so that the section will read :

"The House of Representatives shall consist of one hundred and fifty-two members."

It seems to me that those words are surplusage, and ought to be omitted.

The *PRESIDENT pro tem*. The question is on the amendment of the delegate from Tioga (Mr. Niles.)

The amendment was rejected, the ayes being twenty-four, less than a majority of a quorum.

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

"The Legislature may, after the year 1881, increase the number of its members not exceeding fifty."

The amendment was rejected, the ayes being twenty-two, less than a majority of a quorum.

Mr. BUCKALEW. Mr. President: I move to strike out the section and insert what is the report of the Committee on Suffrage, Election and Representation,

amended according to certain votes already taken.

The amendment was read, being to strike out the section and insert in lieu thereof the following :

"The House of Representatives shall be constituted as follows :

1. "The population of the State, as ascertained at each decennial census of the United States, shall be divided by the number one hundred and fifty, and the resulting quotient shall be the representative ratio.

2. "Each county now organized shall be entitled to at least one Representative, but no county hereafter erected shall be entitled to separate representation unless its population shall exceed one-half a representative ratio.

3. "Counties containing a representative ratio and three-fifths of a second ratio shall be entitled to two Representatives; those containing two ratios and four-fifths of a third ratio shall be entitled to three Representatives; and each county containing three or more ratios shall be entitled to one Representative for each ratio of its population.

4. "The Representatives assigned to the counties of Philadelphia and Allegheny shall be chosen by single districts. The said Representative districts shall be so formed as to secure the full proportionate and just representation of each division of the electors of each of said counties, as the same shall be exhibited in the returns of popular elections; shall have, respectively, a census population as nearly equal as may be, and shall be composed of connected territory; but no township or election district shall be divided in the formation of said representative districts.

"As soon as may be after each decennial enumeration of the inhabitants of this State by authority of the United States shall be made, and the result thereof published, the Secretary of the Commonwealth, the Secretary of Internal Affairs, and the Attorney General shall meet together and proceed to ascertain and determine the number of Representatives to which each county and district composed of counties shall be entitled under this Constitution, and shall apportion the same thereto and certify their apportionment to the Governor of the Commonwealth, who shall forthwith announce the same by proclamation to the people."

Mr. BARTHOLOMEW. I simply want to move an amendment, to add the county

of Schuylkill to; after Allegheny, in the single district provision.

Mr. H. W. PALMER. And add Luzerne.

Mr. BUCKALEW. The gentleman will have that opportunity presently.

This is, as I remarked, substantially the report unanimously agreed to by the Committee on Representation in regard to the representation of the people in the Legislature, except that certain clauses in the report which have been considered by the Convention and disapproved are omitted. It omits the exclusion of small counties, for instance, and several other clauses, but everything contained now in the amendment was substantially agreed upon by the committee. As to a plan for making the apportionment of the State two of my colleagues on the committee will present their propositions in due time whether this amendment shall be agreed to or not.

This amendment provides a simple and just plan, a reasonable device by which county representation shall be secured in the popular branch of the Legislature, without sacrificing just principles which should prevail in an apportionment.

Gentlemen of the Convention will perceive that each county is to have a Representative. Then, that a county with one Representative and a fraction of three-fifths of a second ratio, shall have a second member; a county with two Representatives and a fraction of four-fifths, shall have a third member; and counties exceeding them in magnitude, shall have one Representative for every ratio which they shall have upon the returns of the decennial enumeration taken by the United States.

Mr. President, I am extremely anxious that we shall constitute the Legislature of our State in such manner as to be an example, if possible, to the people of other States who are amending their constitutions. If you adopt this plan, which, in substance, the committee reported, you will have principles which can be applied in all the States of the Union—a principle of local representation, along with a fair principle of apportionment according to the numbers, the population, in the respective parts of the State.

This amendment now contains none of those debatable matters which were connected with the report of the committee originally. It does not touch the question of the constitution of the State Senate. It does not present even the question of

the authority by which apportionments shall be made. But it contains, for the first time in all these propositions, a just arrangement as to the representation of fractions.

It is simple and workable for the whole State. It does not accept the fatal doctrine, as I regard it, contained in the amendment of the gentleman from Allegheny, which was endorsed by the Convention in committee of the whole, that in the arrangement of the State for Senators and Representatives, the State shall be divided into single districts, and that that shall be done by the Legislature. That is omitted, and rightly omitted. No county in the State will be divided for representative districts except Philadelphia and Allegheny, and they are divided now by virtue of the existing Constitution; at least Philadelphia is divided into single representative districts, and the city of Pittsburg also. As the city of Pittsburg is being extended by including territory south of the Monongahela river, as it is proposed to be extended by including Allegheny city, north of the Allegheny river, as it is proposed to extend it also eastward over the territory lying in that direction, as a matter of course the city of Pittsburg will comprise the main part of Allegheny county, the populous part. Very likely you may get there what you have in Philadelphia, a consolidation of the whole territory comprised in the county into the city of Pittsburg. Therefore, substantially, our report adheres to the present Constitution, so far as the making of single districts is concerned. It leaves the counties of Philadelphia and Allegheny alone to be districted. It does not permit that indiscriminate gerrymandering by the worst possible authority, to wit, the Legislature of the State, as was proposed by the proposition of the gentleman from Allegheny.

Mr. LITTLETON. I should like to ask the gentleman from Columbia a question, with his permission. Did I not understand him, when this question was under debate some time ago, to admit that the single district system, as applied to Philadelphia, was a great failure?

Mr. BUCKALEW. I have explained that the amendment which I offer is the report of the committee, stripped of all those contested provisions which were objected to or rejected in committee of the whole. Therefore, it is not open to the debate which heretofore was had upon it. I answer the gentleman by saying that I

am opposed to the single district system, and would not accept it if a better plan could be carried.

Mr. BARTHOLOMEW. I move to amend the amendment, by inserting after the word "Allegheny" the words, "and Schuylkill," and at the request of one of the delegates from Luzerne I will also add Luzerne.

The PRESIDENT *pro tem*. It is moved to amend the pending amendment, by adding after the word "Allegheny," in the fourth paragraph, the words, "and Schuylkill and Luzerne."

Mr. BARTHOLOMEW. Mr. President: I am not an advocate of the pending proposition, but I think it is better than any thing I have yet heard offered before this body. I take it that this proposition, as well as those which have heretofore been offered which recognized the right of each county to send a Representative to the lower House, is in violation of the principle of popular government. I take it that the lower House represents the people of this Commonwealth, and it should be an exact Representative of the people. There can be no question as to the peculiar province of the lower branch of the Assembly. It is the direct organ of the people and of the whole body of the people. It is or should be entirely differently constituted from the Senate. Its object is manifestly different. It is intended to express directly the wishes of the people. It partakes of their peculiar feeling at the time of the election of the members. It represents them in the body of the State where their representation is of power and of weight.

I have voted heretofore in favor of constituting the Senate upon an entirely different basis. I have believed that the Senate of Pennsylvania as now constituted is not a Senate within the intent of the framers of the Constitution; that it has failed to act as a check upon the legislation of this Commonwealth. Therefore I have voted consistently for that proposition which looked to the election of Senators by the whole body of the people of the Commonwealth, and not by representative districts. I ask the members of this Convention to-day whether the Senate as now constituted is a check upon legislation? Does it not facilitate and aid simply local legislation? Does not every Senator who goes into the Senate of the Commonwealth of Pennsylvania have within his special keeping the legislation of his special district, that he does

not look outside of or beyond? Sir, it is simply a second lower House. It is that and nothing else.

So far as the object of the framers of the Constitution was concerned, the Senate is an utter and absolute failure. So far as practical purposes are concerned, so far as usefulness is concerned, it might as well be abolished as to exist as it does exist at this day. It is nothing but a representative body. It represents localities; it represents special districts. It has not in its keeping the interests of the Commonwealth. It does not propose to be a check upon that body which, from its peculiar construction, is subject to local passions, feelings, interests and prejudices. It does not look above and beyond them, but is a part of them and enters into their feelings, prejudices and passions, and to-day is as much influenced by merely local feeling as the lower branch of the Legislature. That was not the object and purpose of the Senate.

But, sir, the lower House is entirely differently constituted, and the intention was to constitute it differently. It was intended to represent the people and the body of the people. Therefore I take it that the only true principle in the formation of that lower House, is to have the whole body of the people of the Commonwealth represented there. Fix the number of your representatives, take the number that you propose shall constitute that House, divide the population by your decennial census or any other you may design, and let that be the ratio which shall fix the basis of representation. Then fix your districts, and I do not care whether you make single representative districts or whether you divide the Commonwealth into ten or twelve districts, but have the whole population represented without these fractions, without a part of the people not being represented; let every man be represented by the formation of such districts as shall include every citizen of the Commonwealth. The House of Representatives is the popular branch of the Legislature, and the whole body of the Commonwealth should be represented in it.

Why, sir, this idea of county representation is an absurdity. I can understand very well how you can make such a proposition as that in regard to senatorial representation. You can say because a county has lines and a local government and it has interests attached to its particular territory and within its own dominion,

therefore it should have a representation in the Legislature. That argument will do as applied to the Senate, because the Senate represents something of that character. Analogous to the government, it may represent sovereignty, it may represent territory; but the popular branch of the Legislature does not represent county lines, it does not represent court houses nor county officers, nor row officers, but it represents the people of the Commonwealth in their majesty and in their unity, and none of them should be disfranchised. The only true principle of representation is to divide the whole population of the State by the number of Representatives in the lower House, and then fix your districts accordingly.

I shall vote for thy amendment, but I shall reluctantly vote for the proposition now pending for the single idea that it is a violation of the principle of popular government. It is against the lights and the teachings of the past. We have no right to divide the people of the State into districts that shall throw out fractions, that shall make a part of the people represented and a part not; but we should stand upon the whole people and represent them all in the lower branch. For a proposition of that kind I am willing and anxious to vote if somebody will offer it.

Mr. H. W. PALMER. I hope delegates will give us in Luzerne, at least, single districts, because I assure you that owing to the peculiar character of our population it is the only method by which we can get a decent representation in the Legislature.

The PRESIDENT *pro tem*. The question is on the amendment of the delegate from Schuylkill (Mr. Bartholomew) to the amendment of the delegate from Columbia (Mr. Buckalew.)

The amendment to the amendment was agreed to.

The PRESIDENT *pro tem*. The question recurs on the amendment of the delegate from Columbia.

Mr. LILLY. I should like to have the yeas and nays on that.

Mr. MACVEAGH. That allows single districts in Philadelphia, Allegheny, Schuylkill and Luzerne, and forbids them in the other counties in the State. It seems to me that it would be exceedingly unwise to adopt a provision of that kind.

The PRESIDENT *pro tem*. Is the call for the yeas and nays seconded?

Mr. BUCKALEW. If gentlemen will permit me, I intended to ask for a division of the amendment, and then gentlemen can call for the yeas and nays on any division.

The PRESIDENT *pro tem*. A division of the amendment is asked for. The first division will be read.

The CLERK read as follows:

"The House of Representatives shall be constituted as follows:

1. "The population of the State, as ascertained by each decennial census of the United States, shall be divided by the number one hundred and fifty, and the resulting quotient shall be the representative ratio."

Mr. LILLY. I do not ask for the yeas and nays on that division.

The question being put, there were on a division, yeas fifty-five.

Mr. MACVEAGH. I call for the yeas and nays on this question.

SEVERAL DELEGATES. No. No.

Mr. MACVEAGH. Yes, it is the vital question on the section. It takes the place distinctly of the other. Let the Convention decide whether they want this or whether they want the section of the gentleman from Allegheny (Mr. D. N. White.)

The PRESIDENT *pro tem*. Is the call for the yeas and nays seconded?

The yeas and nays were ordered, ten delegates rising to second the call, and being taken resulted as follows:

Y E A S .

Messrs. Achenbach, Addicks, Alricks, Armstrong, Bear, Bannan, Bartholomew, Biddle, Bigler, Black, Charles A. Black, J. S., Boyd, Broomall, Brown, Buckalew, Bullitt, Church, Clark, Corbett, Curtin, Cuyler, Dallas, De France, Dunning, Elliott, Fulton, Gibson, Guthrie, Harvey, Hay, Heverin, Hunsicker, Kaine, Lambertson, Lilly, M'Clean, M'Murray, Metzger, Minor, Mott, Palmer, G. W., Palmer, H. W., Parsons, Patton, Pughe, Purman, Purviance, Samuel A., Reed, Andrew, Ross, Runk, Sharpe, Smith, H. G., Smith, Henry W., Smith, Wm. H., Stanton, Van Reed, Walker, Wetherill, John Price, Wherry and Worrell—61.

N A Y S .

Messrs. Ainey, Andrews, Bailly, (Perry,) Baker, Beebe, Bowman, Calvin, Campbell, Cochran, Collins, Craig, Darlington, Edwards, Ewing, Funck, Hanna, Hazard, Horton, Howard, Knight, Landis,

Lawrence, Lear, Littleton, MacConnell, Mac Veagh, M'Culloch, Mann, Mantor, Newlin, Niles, Patterson, D. W., Purviance, John N., Reynolds, Rooke, Russell, Simpson, Stewart, Struthers, Turreil, and White, David N.—41.

So the first division of the amendment was agreed to.

ABSENT.—Messrs. Bailey, (Huntingdon,) Barclay, Bardsley, Brodhead, Carey, Carter, Cassidy, Corson, Cronmiller, Curry, Davis, Dodd, Ellis, Fell, Finney, Gilpin, Green, Hall, Hemphill, Long, M'Camant, Mitchell, Patterson, T. H. B., Porter, Read, John R., Temple, White, Harry, White, J. W. F., Woodward, Wright and Meredith, *President*.—31.

Mr. LILLY. I suggest that before we adjourn—

USE OF THE HALL.

The PRESIDENT *pro tem*. The Chair will lay before the Convention a communication which he has received from Mr. Lloyd D. Simpson, requesting that he may have the use of the Hall on Tuesday even-

ing next for the purpose of delivering an address against woman suffrage. ["No." "No."]

Mr. DALLAS. The gentleman who presents that communication through the President of this body requested my attention to it. As we have heretofore been in the habit of granting the use of this Hall for similar purposes, I hope that he may be allowed the use of the Hall for Tuesday evening of next week.

Mr. MANN. I rise to a question of order.

The PRESIDENT *pro tem*. The delegate from Potter will state his point of order.

Mr. MANN. The gentleman had no leave to make the motion at this time and it is out of order to make it.

Mr. DALLAS. The communication was before the body on the request of the Chair for leave, and being before the body the Convention can take action.

Mr. STEWART. I move an adjournment.

The motion was agreed to, and at three o'clock P. M. the Convention adjourned.

ONE HUNDRED AND TWENTY-THIRD DAY.

THURSDAY, June 19, 1873.

The Convention met at half-past nine o'clock A. M., Hon. John H. Walker, President *pro tem.*, in the chair.

Prayer by Rev. Jas. W. Curry.

The Journal of yesterday was read and approved.

LEAVES OF ABSENCE.

Mr. WM. H. SMITH asked and obtained leave of absence for himself for a few days from to-morrow.

Mr. AINEY asked and obtained leave of absence for Mr. Harvey for to-day.

Mr. HAZZARD asked and obtained leave of absence for himself for a few days from to-morrow.

Mr. PUGHE. I move that leave of absence be granted to Mr. Curry for a few days, owing to a severe calamity which has occurred in his family.

The motion was agreed to.

PROPOSED RECESS.

Mr. WRIGHT. I offer the following resolution:

Resolved, That when all the articles have passed second reading, the Convention will adjourn and re-assemble in three weeks.

I ask that the resolution lie over till to-morrow.

The PRESIDENT *pro tem.* The resolution will lie on the table for the present.

THE LEGISLATURE.

The PRESIDENT *pro tem.* The Convention resumes the consideration of the article on the Legislature reported from the committee of the whole. The question is on the second division of the amendment of the delegate from Columbia (Mr. Buckalew) to the nineteenth section of the article, which will be read.

The CLERK read the second division of the substitute offered by Mr. Buckalew, as follows:

"Each county now organized shall be entitled to at least one Representative; but no county hereafter erected shall be entitled to separate representation unless its population shall exceed one-half a representative ratio."

Mr. D. N. WHITE. Mr. President: The plan proposed to us by the gentleman from Columbia he calls a model plan; he wants it to be a model for all the States; and therefore I propose to examine it to see if it is such a model as the State of Pennsylvania should prepare for the acceptance of our sister States.

In the first place, you observe that he has abandoned all the propositions that he has been proposing to this Convention from the beginning of the session. He abandons his proposition of limited voting; he abandons his proposition of gerrymandering the northern counties; and he comes down to the proposition which I had the honor to present to this Convention, modified so as to ruin its beauty and harmony. A proposition which he has denounced on this floor in the most unmitigated tones of harshness, he adopts as his own, after marring its fair proportions!

Now, I propose, Mr. President, to show some of the defects of this plan. I took the pains last night to go over the whole State to see how it works, how it will divide the State up, what members it will give to each county and what fractions it leaves. I find the difference between his plan and mine only that of nine members in all the counties, and it works out the same results precisely as the one that I had the honor to present to this Convention, except that in nine counties it takes away a member, all from the country. It takes away one from Beaver, one from Bucks, one from Butler, one from Crawford, one from Indiana, one from Northampton, one from Schuylkill, one from Susquehanna, and one from Cambria.

It makes the whole number one hundred and forty-four, giving Philadelphia an additional member, twenty-eight in all, and the eight less than the proposition before the House before, which was voted down, makes up the whole number, one hundred and fifty-two.

Now look at some of the fractions under this proposition. Here are fractions of 15,000, 17,000, 11,000, 16,000, 13,000 and 12,000. Some people think it strange that

you cannot take a quotient and divide the whole population of the State by one hundred and fifty, and then work out one hundred and fifty members. You cannot do it, because you have these large fractions. It will not work out in that way. That was the reason that I provided for using up the surplus by adding one member to counties having the largest surplus. I thus used up the surplus and made up the number. You cannot do it in any other way. I am a little surprised that the gentleman while he was taking a part of my proposition, did not take the whole of it.

Now, sir, look at the operation of this amendment upon Schuylkill and Susquehanna. Schuylkill has a population of 116,428. The plan that I presented gave Schuylkill five members; this plan gives her four members; leaving a surplus of 22,716, lacking only 762 of being enough to give another member. Susquehanna has a population of 87,523, and this proposition gives her one member; mine gave her two; and she has 14,045 of a surplus, lacking only forty of the requisite number to obtain two members. Such are the inequalities of this plan.

The gentleman's "model," I am afraid, would be rather a poor one. It is simply taking the proposition that I presented to this House and marring it and destroying its harmony and beauty, giving us a muddled proposition, cutting down the representation of the county and adding to that of Philadelphia, which already has a larger representation in proportion by having no fractions than any other part of the State.

The gentleman from Columbia said the other day that my plan was vicious, and he added that it was incurably vicious, and the reason why he said it was incurably vicious was that it gave Philadelphia more than the country. Now he has taken off from the country nine members and added to Philadelphia one. That is the way he has changed it to cure, he calls, my vicious proposition.

Again, the gentleman denounced my proposition in the most outrageous terms because I provided that the Legislature should apportion the State. Now he proposes that it shall be apportioned by whom? By three partisans, by the Secretary of the Commonwealth, the Secretary of the Interior, and the Attorney General. The Secretary of the Commonwealth and the Secretary of the Interior have both been in the Legislature, and

are pretty smart fellows, too, in their way, in apportionment. The gentleman is willing to trust the apportionment of the State to three partisans, but he denounced my proposition in the most unmeasured terms because I proposed to leave it to the Legislature, where you never could get a majority of the whole number elected, which is necessary to pass anything whatever. Now the gentleman knows that he never could get seventy-seven men of one party to vote for a proposition for an apportionment of the State.

I hope the members of this Convention will come back to a sound basis, which the section before the House before it was changed was. It answered every purpose for all time. It is short; it is clear; it is distinct in every part; it would answer for all ages without any marring of its harmony. Now, let us look at what the gentleman proposes to take its place.

"Counties containing a representative ratio and three-fifths of a second ratio shall be entitled to two Representatives; those containing two ratios and four-fifths of a third ratio shall be entitled to three Representatives; and each county containing three or more ratios shall be entitled to one Representative for each ratio of its population.

"The Representatives assigned to the counties of Philadelphia and Allegheny, Schuylkill and Luzerne shall be chosen by single districts; said Representative districts shall be so formed as to secure the full proportionate and just representation of each division of the electors of each of said counties as the same shall be exhibited in the returns of popular elections."

What he means by that I do not know. I think it is very poor phraseology to put into a Constitution.

But, Mr. President, I see that my time is about expiring and I want to read and call the attention of the House to a change that I propose to make in the last section I offered, provided we can get it up again, and I call the attention of the House to it; I ask their candid examination, their careful and considerate and impartial examination of it. The objection of the gentleman from Columbia has been to my proposition that it provided that the Legislature should district the State. I have left that out and provided thus:

"Counties shall not be joined together in the formation of districts; and counties entitled to more than three members

shall be divided into single districts of compact and contiguous territory, as nearly equal in population as possible, but no township or election district shall be divided in the formation of a district."

I therefore leave the whole question of apportionment to be considered afterwards in a separate proposition when we can meet it without its being mixed up with this question of the distribution of members, who shall do it, whether commissioners shall do it or the Legislature, to be settled by itself; and I do not divide any county in the State unless it contains more than enough for three members. I understand it is the desire of the large counties of the State to be so divided.

Mr. BROOMALL. Mr. President: I have always hitherto advocated the present number of Senators and Representatives. The several votes of the body upon that question have satisfied me that there is a determination to increase. I therefore give up my opposition to the numbers fifty and one hundred and fifty; but I submit that the debates of the last two days ought to have satisfied all the members that we cannot district the State; that that must be left to the Legislature.

The report of the Committee on the Legislature, it does seem to me, is the measure that we shall have ultimately to fall back upon if we remain here ineffectually trying to district the State until the last of September. We cannot district the State to suit ourselves and to suit the State for the next ten years. I repeat we must leave that to the Legislature, and the sooner we come to that conclusion the sooner we shall get away from this hot and unhealthy place.

There is one reason why we cannot district the State, that I might as well state here, and that is we are not a fair representative body of the people of the State. The manner in which we were selected—about which I will say nothing now, for I have already several times condemned that—makes us not a representative body of the State. The minorities are too largely represented here. We have the entire minority party represented by almost one-half of our members, and then we have all the minorities of the majority party, so that adding together the minorities represented here, the aggregate minority, in fact, is greater than the majority; and that is not the case among the people by a good deal. Hence it is that we do not fairly represent the people, and ought not to try to district the State to suit them.

But I do not base my argument on that. I base my argument on the fact that we cannot succeed satisfactorily to ourselves. We have been demonstrating that for two whole days that we cannot—and if we go on discussing for two hundred days more the result will be precisely the same—we shall not district the State.

The report of the Committee on Legislature proposes that: "The General Assembly, at its first session after the adoption of this Constitution, and every ten years thereafter, shall apportion the State for the election of Senators and Representatives, according to its population as ascertained by the last preceding national census. Senatorial and Representative districts shall, in all cases, be composed of compact and contiguous territory, and shall contain, as nearly as possible, an equal number of inhabitants: *Provided however*, That no city or county shall be entitled to more than one-sixth of the whole number of Senators."

That is the report of the committee, modified slightly, to suit our recent vote on the maximum, and that seems to me is the only plan that we ought to think of adopting. If we cannot trust the representatives of the people to district the State themselves, we had better abolish the Legislature and take the whole business in our own hands, resolving ourselves into perpetual session.

Mr. BRODHEAD. I move to amend this section, by striking out all after the word "representative."

The PRESIDENT *pro tem*. The Clerk will read the portion proposed to be stricken out.

The CLERK read as follows:

"But no county hereafter erected shall be entitled to separate representation unless its population shall exceed one-half a representative ratio."

Mr. BRODHEAD. As the section would read, if my amendment be adopted, it would simply provide that, "each county now organized shall be entitled to at least one Representative." The Committee on Counties having reported a section, which has passed second reading, providing that no county shall be formed with less than twenty thousand inhabitants, and twenty-five thousand inhabitants being the number required for a member of the lower House, I submit that these two last lines are surplusage, and ought to be stricken out.

Mr. PURMAN. I agree with the gentleman from Delaware (Mr. Broomall) that

the numbers of the lower House and of Senate ought not to be increased. I would prefer that the number of the lower House should be retained as at present constituted; indeed I would prefer, if any change is to be made, to reduce the number, and I would do the same thing with the Senate. I believe that the increase of the number of members of the lower House and of the Senate, instead of accomplishing the purpose that so many members of this Convention believe, namely, the purification of that body, it will have a tendency to lower the standard of both Houses. As you increase the number and bring them in from smaller districts you will in all probability get an inferior class of men.

But I do not agree with the gentleman from Delaware when he says that this body cannot district the State. I believe that this Convention can district the State and I believe that it is its duty to do so. I believe if we should spend one hundred days in districting the State and accomplish it upon a fair basis, the time would be well spent, and the people of Pennsylvania would pronounce us good and faithful servants. District the State by the Constitution and we remove one of the causes that have produced a great deal of irritation throughout the State, and which has been always troublesome in the Legislature of the Commonwealth.

I do not, Mr. President, agree with the gentleman from Delaware when he says that this body, having been elected as they were, ought not to undertake to district this Commonwealth; that the minority party is too heavily represented in this body; and that the mode by which we were elected was an improper one. I want to say here to the gentleman from Delaware that it was a credit to the dominant party in Pennsylvania in 1872 that they consented to elect the members of this Convention in the mode they did. For years there had been a great clamor over this State that an election in Pennsylvania was a farce; that there were certain portions of this State in which there might as well have been no election; that it was a question of certificate and a question of count.

Now, Mr. President, I am not here to arraign Philadelphia, and in all that has been said about the city of Philadelphia in regard to elections, I have stood on this floor to defend the city of Philadelphia. I know there are good and pure and honest men in Philadelphia, but the

complaint that I have against the city of Philadelphia is that that class of men do not participate in the elections; that they do not lay their hands upon the rogues, the rounders and the repeaters, and put them down with strong hands. These complaints were broadcast over the land, and were the cause which induced the Legislature to determine that it would have this body elected in such a manner that it would be a fair representative of the people. The mode in which we were elected took away the power of evil persons to manipulate and to control the election and this body, and therefore we stand here fairly and purely the representative of the people. I say, and I repeat it, that the mode by which we were elected was a wise and judicious arrangement, and reflects credit upon the State and upon the Legislature; and, indeed, of all other modes none heretofore have been adopted that so fairly represent the people. I deny that the minority party of Pennsylvania is too fully represented here, and perhaps upon a full and fair investigation the party that the gentleman from Delaware speaks of as in the minority might turn out to be in the majority. This is firmly believed by a large portion of the people of the State.

How those certificates have been procured is another question, and I do not propose to discuss it here. The Legislature itself pronounced upon this question, and in favor of the suspicions entertained by the people by electing the delegates to this Convention in the manner complained of by the gentleman. I think we ought not on this occasion to refer to such subjects, and I regret the gentleman has deemed it necessary to do so, and I have done so only to remove any impressions which may have been made by his remarks.

This question of representation and districting the State is, I admit, a troublesome and vexed one. In theory population is the basis of representations, but in practice it is and must be subject to limitations. In the rural districts the population is settled and real, while in the cities a large per cent. of the population is floating, daily removing, and ought not to be permitted to control the government. The real population of the State ought to be the basis of representation. Each county ought to have one Representative for its individual existence, and then the residue on population. I trust that this Convention will district the State. I be-

lieve it is their duty to do so. I believe we can do so and do it in a way that it will never be done by the Legislature; so that all sections of the State will be fairly and truly represented.

Mr. AINEY. I move to reconsider the first proposition that was adopted yesterday.

The PRESIDENT *pro tem*. The delegate from Lehigh moves to reconsider the vote on the first division of the present amendment. Did the delegate vote in the majority or minority?

Mr. AINEY. I voted with the majority.

Mr. WHERRY. I rise to a point of order. The second proposition is now before the House.

The PRESIDENT *pro tem*. The motion to reconsider is a privileged question. Is the motion seconded?

Mr. MINOR. I second the motion.

The PRESIDENT *pro tem*. The motion is before the Convention.

Mr. AINEY. Mr. President: I have given this subject—

The PRESIDENT *pro tem*. It is not a debatable question. The Clerk will read the division proposed to be reconsidered, in order that delegates may understand what they are voting upon.

The CLERK. The first division of Mr. Buckalew's amendment reads as follows:

"The House of Representatives shall be constituted as follows:

1. "The population of the State, as ascertained at each decennial census of the United States, shall be divided by the number one hundred and fifty, and the resulting quotient shall be the representative ratio."

The PRESIDENT *pro tem*. The question is on the motion to reconsider the vote on the division just read.

The motion was agreed to, there being on a division: Ayes fifty-six; nays thirty-three.

The PRESIDENT *pro tem*. The question now is on agreeing to the first division of the amendment of the delegate from Columbia.

Mr. AINEY. Mr. President: I have given this subject much thought and examination since the Convention adjourned last evening, and I have satisfied my own mind that the section as adopted in committee of the whole is preferable. That section fixes the ratio at twenty-five thousand inhabitants, which, with the increase of population, will slide up and increase the number of members of the Legisla-

ture as population increases. One of the prominent reasons assigned in justification of an increase of the number of members of the Legislature is, as I understand it, on the basis of increase of population. If that is true, if that is a reason to justify an increase of the Legislature, why should we fix the number inflexibly now? Why not fix a ratio which will slide up as the population of the State increases? For that reason I prefer the section as it stands, and will vote against this amendment, and I hope the House will reject it.

Mr. STRUTHERS. I offer an amendment, to strike out this division and insert:

"The House of Representatives shall consist of one hundred and fifty members. Each county shall be a district and entitled to one member. The ratio for a Representative shall be ascertained by dividing the inhabitants of the State, as ascertained by the last national census, by the number of members remaining after deducting one for each county from one hundred and fifty. Each county having one or more ratios shall be entitled to one member for each; the deficiency, if any, at each apportionment shall be made up by giving a member to the county or counties having the highest fraction of unrepresented inhabitants until the House is full."

Mr. STRUTHERS. It has been settled by a number of votes here, and I think it is the sense of the Convention, that each county should have a Representative. Without reference to the particular effect it may have upon the different parties of the State, which I have not investigated at all, it appears to me that the fair and equitable mode of proceeding, then, is to allow to each county a member for each ratio of population, ascertained by dividing the whole population by eighty-four. Take sixty-six, the number of counties, from one hundred and fifty, and it leaves you eighty-four; divide the whole population by that and distribute your members accordingly. That is simply what this proposition is. It gives to each county a member, and then divides the whole remainder according to population equally amongst the people of the counties—the whole number of counties. In the first place you give to each county one; that is, in other words, giving to each community one. Each county is a community, and, I believe, sir, in the proposition announced here, and announced by our President with great force on one oc-

casation, that communities ought to be represented. Now, sir, each county of the Commonwealth being a community, as such, without reference to any other consideration, ought to be represented. This amendment gives the representation of one member to each community, each county, and allows the remaining members to be divided amongst the entire counties of the State according to their respective population. That will work equitably; it will give to each county and to each district a representation over and above and outside of the representation allowed to communities in proportion to what their population justly, fairly and equitably entitles them to. The proposition is the suggestion of the President *pro tem*, (Mr. Walker,) now in the chair, and I think it the best before the Convention. I hope it will receive the due consideration and approval of the Convention.

Mr. COCHRAN. I think, sir, that the experience of a day or two past ought to satisfy us that all these attempts to get up artificial plans of representation are calculated only to embarrass and to mislead. My own impression is distinct that the only proper and true basis of establishing a House of Representatives is the basis of population and nothing else. All these complicated arrangements by which you are to put a county, simply because it is a municipality, into the possession of a Representative, when there are no people there adequate to elect a Representative in comparison with the other counties of the State—all of them, sir, are unequal and will not operate fairly; and I believe that the only true plan is to come down to the simple plan that we have hitherto always pursued in the State of allowing population simply to be the basis of representation. Our basis heretofore has been taxables. Well, sir, the only difference now is that we propose to take the aggregate population instead of the taxable population, and we can just as well divide the whole representation by the population at large as by taxables; and then we shall reach a fair and proportionate representation of the people of the State as nearly as in the nature of things it is practicable to attain that result.

Whenever you adopt any proposition of this kind, artificially devised, you run into the peril of putting the control of the Commonwealth into the hands of the minority of its people. That is the peril which you will encounter on every arti-

ficial proposition of that sort. Such results would not be fair or just, and it is a result which if it is attained, or likely to be attained, will never be sanctioned by the people of the State by their suffrages. The House of Representatives of the State should represent the public sentiment of the State, whatever that sentiment may be at the time of their election; and whenever you depart from that, you do that which is wrong and it imperils not only the Constitution which you make, but the very principle on which your systems of government are founded.

In regard to this, it is well known to the members of the Convention that I have been opposed to any increase of the numbers of the House of Representatives, and on that question I think still that the numbers should remain as at present; but whatever number of Representatives you determine shall constitute your Senate and House of Representatives, I hold that those members should be elected—especially in the House of Representatives, the popular branch of the government—on the simple basis of population. I admit that you may make a distinction in the Senate, on the ground that it is a more limited and conservative body; but when we come to the House, which is the matter now before us for consideration, there is no just, equal and right rule, except the simple rule of population.

So far as I comprehend the amendment immediately pending, offered by the gentleman from Warren, I prefer it to the proposition to which it is offered as an amendment; but if it is agreed to, I shall be opposed to that and every other proposition which departs from the simple basis of population.

Mr. BUCKALEW. I beg leave to state that this amendment does not change the question of numbers. As I understand it, it simply affects the manner in which representation shall be given to fractions, and embodies the principle of dividing counties before you divide members. All that is included under the third division of my amendment, and perhaps it would be better to take up this in its regular order.

I desire to add that under the modification which the Committee on Suffrage, Election and Representation proposes the number of Representatives under our amendment will be one hundred and fifty-three, in case distinct Representatives shall be allowed to the smaller counties.

The PRESIDENT *pro tem.* The question is on the amendment of the gentleman from Warren (Mr. Struthers) to the amendment.

The amendment to the amendment was rejected.

The PRESIDENT *pro tem.* The question now recurs on the first division of the amendment, offered by the gentleman from Columbia (Mr. Buckalew.)

Mr. MACVEAGH. Mr. President: I desire to suggest to the Convention that it occurs to me that it will, perhaps, be necessary for us yet to adopt the suggestion of the delegate from Delaware, (Mr. Broomall,) and to recur to the second report of the Committee on the Legislature. Gentlemen will do me the justice to believe that I have no partiality for it, for that portion was in no sense my report. My inclination toward it is due wholly to the fact that it seems to me to afford altogether the safest escape from these troubles. That report prevents the division of any city or county for the purpose of annexing any part of it to another. It requires that the territory shall be compact and contiguous, and allows the apportionment upon a basis of population alone. It is easy to insert that every county shall have a member if the Convention is still of that opinion, as I believe it was yesterday.

But there is one feature in the scheme of the gentleman from Allegheny (Mr. D. N. White) and in the scheme of the gentleman from Columbia, (Mr. Buckalew,) to which I desire to attract the attention of members of all political opinions upon this floor. That is that whether we adopt the scheme of the gentleman from Allegheny, or that of the gentleman from Columbia, the ink will not be dry with which it will be printed, until it will be cyphered out in a hundred quarters of this State by political partisans, and the chances are overwhelming that it will be discovered that it gives some great temporary advantage to one political party or the other. Now, however we may exclude partisan considerations here, we cannot hope to exclude them in the discussion of the work of our labors; and when this Constitution is before the people, if it turns out that a great temporary advantage in the legislative department of our government is secured to the party to which I belong by virtue of this method of apportionment, it will be regarded by the members of another political party as an unfair and an in-

tentional discrimination against them. And if, on the other hand, the discrimination is against the party to which I belong, then it will be regarded as an unfair discrimination against them by their political opponents.

However these schemes may work in practice, however just may be the considerations which support it, I appeal to the gentleman from Allegheny and the gentleman from Columbia to look at this danger in a fair and manly way. If it is true that both schemes, practically reduced to the present political complexion of the State, will not give a very great political advantage, or any political advantage, that difficulty is removed. But it will be figured. Every man of strong political opinions in the State will be tempted to judge of the work of this Convention as it tends to give to his party, or to the opposing party, an advantage in the Legislature which it does not now possess. Any scheme, the wisest, the best, the most thoughtfully prepared, if, in point of fact, it had that danger in it, could not receive my vote; for I do believe, that in spite of things that I regard as great blots on this Constitution, if we go on as we have been going on, we will make the best Constitution yet submitted to any State in the American Union. We will secure for it, if we guard against such dangers in our work, the approval of the people of the Commonwealth. We are taking abundant precautions to secure a good Legislature in the future. We put guards and protections about it, and it seems to me that it is the lesser of two evils to trust this matter, under these limitations and restrictions, to the legislative department of the Government. Therefore, if these propositions are voted down, I will move to amend, after we reach the amendment of the gentleman from Allegheny, by substituting the section reported by the Committee on Legislature, unless the most of the Convention appears to be decidedly against it.

Mr. HARRY WHITE. Mr. President: I am unwilling, returning to the Convention this morning after an absence of a day or two (without having been compelled to travel on Sunday to get here), to trespass upon the time of the Convention by any extended argument. I am unwilling, however, to be regarded as having no opinion upon this very important question. I confess to great surprise at the remarks which have fallen from the lips of my es-

teemed friend, the delegate from Dauphin. As chairman of the Committee on the Legislature, I listened patiently and quietly for some words of wisdom, some words of persuasion, some words of enlightenment from him upon this vexed question. I am sorry to say that when that delegate took his seat he had made no impression upon my mind or failed to convince me that he had any impression whatever upon this question of apportionment. I regret that this is so.

I realize the fact that it is as difficult, Mr. President, to make a proposition upon this question entirely pleasant and acceptable to all delegates here as it is for a rich man to enter into the kingdom of heaven. I have figured and I have ciphered, the Convention will pardon me for saying, plan after plan. I confess I have been unable to satisfy my own judgment entirely, and I am not reckless enough to imagine for a moment that I can throw a proposition upon this Convention which will be acceptable to all conflicting views.

I have come to the conclusion, after failing to satisfy myself from my own cyphering, that the very best thing to be done is to yield to the judgment maturely pronounced, after fair discussion and solemn vote, of a majority of the members of this Convention had in committee of the whole. I am not here as a politician. Everybody knows my politics and my political preferences. I have no hesitation at any time in expressing them. I am unwilling, however, to regard mere political results in considering this question. I am unwilling here to advocate any scheme which is necessarily partisan. If I know myself, I will not do so. At the same time I do not desire to act upon this subject, so as to give any advantage to my political antagonists. I would rather stand upon a principle which in itself is fair and capable of indication. I will trust to the future to regulate the political complexion of the legislative body we may provide for.

Now, sir, I have studied carefully the proposition of the very distinguished delegate from Columbia. I do not like it. I do not think it fair. I think it is open to just criticism. I do not, at all events, see any improvement whatever in his suggestion, over the plan suggested by the delegate from Allegheny (Mr. D. N. White.)

Now, what is the proposition of the delegate from Allegheny? It recognizes the principle so stubbornly contended for

here by representatives of territorial representation. There is fairness and propriety in this. I was made a convert to that theory, by the eloquent argument of one of the delegates from Allegheny, (Mr. S. A. Purviance,) in the early part of our discussions upon this matter. I confess that the earnest arguments adduced at that time in favor of territorial representation I have never been able to disregard. The proposition of the delegate from Allegheny (Mr. D. N. White) recognizes this territorial principle, and also representation upon the basis of population; not indeed on any whimsical theory, not leaving it to the discretion and the caprices entirely of the Legislature from time to time, but enunciating here a principle of ratio, which cannot lead to confusion. I find, after he has allowed every county a Representative, that he fixes the ratio at twenty-five thousand, and then anticipating the increase of population of the State, he provides for the addition of five hundred to the ratio for every seventy-five thousand of increase of population of the whole State every ten years. This establishes a principle of representation upon population, which is fair and just. It relieves us of a difficulty which the Legislature has encountered from time to time in this matter of making apportionments. The want of some guiding rule of this kind has occasioned the complaints of the past. The only prohibition in the present Constitution against joining counties which are not homogeneous to each other, has been a restriction against uniting more than three counties. We have seen various instances where combinations within this limit have been made for selfish purposes heretofore in the Legislature. This will be prevented. A correction will be administered by adopting the proposition offered by the delegate from Allegheny, and avoiding this confusion and unfairness hereafter.

I confess again, Mr. President, that I would like to have adopted some principle of apportionment that would be self-adjusting without appealing from time to time to the Legislature. I have been unable to discover it. No delegate here has suggested a more equitable basis. There is another serious objection to the pending substitute of the delegate from Columbia (Mr. Buckalew.) In the fourth clause of the proposed substitute for the proposition of the delegate from Allegheny, I find a board to consist of the

Secretary of the Commonwealth, the Attorney General, and the Secretary of Internal Affairs to make all legislative apportionments hereafter.

Mr. President, the remedy suggested here is worse than the disease now afflicting the Commonwealth in this regard. Talk about rings, talk about combinations, talk about men ambitious of going to the United States Senate! I can imagine, sir, some Governor or Attorney General, or Secretary of the Commonwealth, casting his eye to Washington city, how easy to make a combination for his purpose. An apportionment, or that portion of it over which they have power, will be made in the interest of an individual aspirant.

No, Mr. President, rather than trust to this combination, I would trust to the representatives of the people of the Commonwealth, assembled as legislators. The possibility of conflicting interests in the different localities will be a safer reliance than any board so constituted. If any principle of apportionment which is self-adjusting can be made here so as to relieve a resort to any tribunal from time to time, except for mere purposes of calculation, I will vote for it; but I will not vote for a proposition that allows a certain combination of men in a certain interest to advance individual views.

Owing to these considerations, Mr. President, thus cursorily stated, and inasmuch as a majority of this body have heretofore, after solemn vote, decided in favor of the proposition of the delegate from Allegheny, and inasmuch as the proposition of the delegate from Columbia is not so fair, in that it does not combine the basis of population and territory, I shall support the former and oppose the latter.

Mr. C. A. BLACK. Mr. President: I was not present when the debate on this important question arose in committee of the whole, and I have taken no part in the debate thus far. When the debate commenced I had my mind pretty well made up as to the true principle that should govern in the determination of this subject, and I have been trying during this entire debate to get away from my preconceived opinions; but I confess that my friends from Schuylkill (Mr. Bartholomew) and from York (Mr. Cochran) have brought me back to my first love.

Sir, if there be anything in popular government, anything in democratic gov-

ernment at all, it is that the people must be represented and not by property or by territorial limits. On what principle of justice or common sense will you say that a county of three or four thousand inhabitants shall have a representation when the ratio is twenty-five thousand? There they do not represent the people at all. There is no popular representation in a case of such a kind. It is a representation of mere territory, mere things, mere material. If that is not opposed to what we have always thought to be true democratic government, then I do not know what is. I maintain that anything that contravenes that theory is a violation of correct principle, and I agree with my friend from York that the only true basis of distribution is according to population. Any other basis of representation, and especially that of a *quasi* corporation, containing, as in many counties, but a mere fraction of a ratio, is in flat violation, in my opinion, of the true principle.

I was also opposed to any increase of either the Senate or the House of Representatives, and I am still opposed to it; but this body seems determined to increase the House to one hundred and fifty. It is not, I hope, out of place to inquire just here, although that question seems settled, what we gain by an increase to one hundred and fifty. It is said that increasing the number will furnish a guard against corruption. If that be true in the abstract, what do you gain as a guard against corruption by the small increase of fifty members? Surely nothing at all. If men can be bought, as has been so freely alleged on this floor, the additional fifty can, it seems to me, be bought just as readily as the hundred; and unless you increase it to a most unwieldy number there is nothing gained by that.

The next argument is that it comes nigher the fountain of representation; the people themselves, that, in other words, it gives a larger representation. I concede that there is some force in this position; but the increase proposed is so small that it amounts to nothing at all. Practically, then, all that you gain is an increase of the House at a very large expense to the people without any corresponding benefit. I submit that so far as the increase is concerned, it does not compensate for the great increase of cost. We gain nothing by it; we lose as to the expedition of business, and incur a very large increase of expense. This was not, in my judgment, one of the reforms called for by the peo-

ple or any part of the people. It was not asked by them that the number of representatives should be largely increased; and an increase to this inconsiderable extent is no advantage, even assuming that a larger number would be a protection against the evils complained of.

Then coming back to the true principle of representation, I maintain that population alone is the only correct mode of adjustment. It is a simple principle. You can divide the whole population of the State by one hundred and fifty, and then give the representation upon that basis.

Now, sir, there have been two interests at work here: one to prevent Philadelphia from getting an undue share of representation in the popular branch, and the other to provide for fractions in counties. Under this popular system, and as I maintain the true one, Philadelphia gets but twenty-seven members; and if she has the people, why should she not have the representation? And the fact that she has the number is demonstrated by the census. Now as to fractions, what right have we on principle to charge Philadelphia with the loss of fractions in any of the counties? It is certainly not a misfortune that any county has a greater population than the ratio; it may seem unjust that the fraction or surplus should not be represented, but the result seems unavoidable. And it certainly seems unreasonable that because counties have not enough for two Representatives and too much for one we must therefore charge Philadelphia with the loss, or any other large part of the State? I see no justice at all in such a proposition.

These are the reasons that influenced me when I first became a member of this body in making up my mind to oppose any change of what I believed to be the true principle of representation. I did my very best to get away from that thought, but I have, upon mature reflection, been brought back to it, and I will not vote for anything that violates the principle of representation according to population. I maintain that it is the only correct one in a government like ours; the only one that will do exact justice to all parts of the State. If some counties lose by fractions it is their misfortune, but that can all be compensated and adjusted by having districts under the old form. I think, then, by adhering to this simple rule, and adopting the system of districts, we may adjust the whole matter.

As to the question whether we shall

apportion the State or leave the Legislature to do so, I have no feeling or opinion. I believe this body can do it, and, perhaps, should do so in the first instance, and whether we ought to do it or not is for the Convention to decide. I would either do it or I would leave it to the Legislature, because, with the limitations now thrown around that body, if adopted by the people, I have no fears of any very unjust apportionment, and I would be willing to allow them to do that which it seems to me to be their more appropriate duty to do as representatives of the people. The duty seems more immediately that of the Legislature, and we might, I think, let them decide what shall be the proper districts. I shall, therefore, vote against this proposition, as it contravenes what I believe to be the true principle of representation.

The PRESIDENT *pro tem*. The question is on the first division of the amendment of the delegate from Columbia (Mr. Buckalew.)

The question being put, it was declared that the yeas appeared to prevail, and a division was called for.

MR. BUCKALEW. I desire to make a few remarks on this question.

It is obvious that most of the gentlemen who have spoken this morning are opposed to what has already been decided upon by the Convention. The gentleman from Lehigh (Mr. Ainey) wants a good many more than 150 Representatives. Another gentleman wants us to abandon the whole idea of county representation, and go back either to the present number or to an increase, to be distributed at the pleasure of the Legislature. Now, sir, I take it that those who are in favor of county representation, and in favor of fixing the number at about 150, will act prudently by voting for this first division, at least, of the amendment, which will secure to them in substance what they desire. Then, in the divisions which follow, the points that have been put into the debate this morning will come up in their regular order. It is premature now to discuss them.

All that I desire to say is this: That upon the modification, which was authorized by our committee, of the third division of this amendment, the whole number of Representatives will be 153; that is, it will be exactly 150, without the allowance of the three additional Representatives to Cameron, Elk, Forest, M'Kean and Sullivan.

As the committee authorized their plan to be modified from its original form, the number would result in exactly 150, giving one additional member more than gentlemen have supposed to each of the counties of Beaver, Bucks, Butler, Crawford, Cambria, Indiana, Northampton, Susquehanna and Schuylkill, making the number exactly 150, and with separate representation in those little counties, making the total 153. Now, sir, that is all that is contained in the first division of the amendment.

The only other feature in it is that the number is fixed. Now, sir, I undertake to say that public opinion out of doors all over the State has settled down on the number one hundred and fifty, and we shall satisfy public opinion by standing to that number. I propose to show hereafter, when we come to the proper division, that the manner in which this distribution in representation will take place under the proposed scheme of representing fractions, is the only just mode.

Gentlemen seem to have abandoned the principle on which the gentleman from Allegheny made his scheme originally of giving a member to the largest fraction, which is purely arbitrary and works out wrong results. Here in this report, one of its valuable features, we have the whole subject of fractional representation settled upon a just principle, and one that will work itself out always hereafter.

But I will not multiply words at present. This division relates only to the number of the House of Representatives. It is one of the main pillars of the edifice we are about to erect, and I hope it will be adopted.

MR. H. G. SMITH. I call for the yeas and nays.

MR. COCHRAN. Before the vote is taken on the proposition I move to amend, by striking out and inserting.

MR. BIGLER. I should like to know—beginning at the text—how many questions there are before us?

THE PRESIDENT *pro tem*. But one at present. The amendment of the delegate from York is an amendment to an amendment, and it will be read.

MR. BIGLER. I take it the text is the report of the committee of the whole. Then there is the amendment of the delegate from Columbia (Mr. Buckalew.)

THE PRESIDENT *pro tem*. And this is an amendment to that amendment, and it will be read.

THE CLERK read the words proposed to be inserted by Mr. Cochran, as follows:

"The number of members of the House of Representatives shall be one hundred and fifty, and shall be apportioned among the people on the basis of the population of the State, as ascertained by each decennial census taken under the authority of the United States. No county shall be divided in apportioning Representatives. Counties not having three-fifths of the ratio of representation shall not be entitled to a separate Representative. Smaller counties shall be united together or to larger counties in apportioning Representatives. Should the whole number of Representatives not be reached by an apportionment made on the basis above appointed, it shall be made by giving additional members to the counties or representative districts having the largest surplus of population."

MR. AINEY. Mr. President: I rise to a point of order. The question upon the first division of the proposition moved by the gentleman from Columbia was voted upon, and a division was asked, and we were in the process of taking the vote. The point I raise is that it is not competent now to offer an amendment to it.

THE PRESIDENT *pro tem*. A motion was made to reconsider the first division. That was carried. The first division was then before the Convention, and that division the gentleman from York proposes to amend as has just been read.

MR. AINEY. The point I raise is that we were voting on that proposition and had voted, and that a division was asked and pending the determination of the result of the vote the gentleman from Columbia (Mr. Buckalew) got up and addressed the House. I did not like to object to his being heard; but I do object to another amendment being offered now.

THE PRESIDENT *pro tem*. The amendment to the amendment is in order.

MR. COCHRAN. I wish to say now, in a very few words, that I have recognized the determination of the Convention to increase the number of members of the House of Representatives to one hundred and fifty. The proposition, then, that I make, is that they shall be distributed among the people of this State on the basis of population, as ascertained by each decennial census taken under the authority of the United States. Then this amendment goes on to prescribe that counties shall not be divided. It further prescribes that counties not having three-

fifths of a representative ratio shall not be entitled to separate representation, and that smaller counties shall be united either together or with larger counties, in order to entitle them to a Representative. And then it goes on to say, that if on that basis the whole number of one hundred and fifty should not be made up—because it is impossible to tell, without a very close calculation, whether it would or would not—then that those counties or representative districts having the largest surplus shall be entitled to have the additional Representatives apportioned among them.

Now, sir, is there any fairer basis than this? Can you get nearer to a true representation of the people of the State than by adopting a simple plan of this kind? Do you not avoid all these complications, and in this way reach a fair reflex of the political opinions of the people at the time the elections are held?

In the condition of the atmosphere this morning, and in the condition of the Convention, which is very properly impatient of long discussion, I do not see that I can enforce the proposition which I have made by prolonging my remarks. It presents itself—and I hope gentlemen will consider it—just in the light in which I have stated. I accede, as I have said, to the determination of members of this body to have a House of one hundred and fifty members, and then its simple and sole object is that that House shall be distributed on the basis of the population of the State as closely, as equitably and fairly as I think it is practicable to do it.

I confess that the amendment has this defect, that it has been written with some degree of haste; but I think that the language in which it is expressed reflects the idea precisely, and that it is the very best thing which the Convention can do to rid itself of the complications in which it is involved, and to attain the great object of having a fair representation of the people of the State in the popular branch of their Legislature.

Mr. MANN. Mr. President: The amendment offered by the gentleman from York is substantially the amendment offered yesterday by the gentleman from Clearfield, (Mr. Bigler,) which was voted down by a very large majority, and the same idea has been voted down several times, either in Convention or in committee of the whole; and all the complications which the gentleman complains of come from the attempt of the minority in this Convention, as has been shown by

repeated votes, to baffle the majority and thwart it of its purpose. This Convention has decided as emphatically, by repeated votes, that it intends to allow every county one Representative as it has that it intends to fix the number of the House at one hundred and fifty. Both of these propositions have been voted on favorably time and again, and all the complication, as I have said before, comes from the efforts of the minority to thwart the purpose of the majority, and defeat them in their purpose. Only allow the Convention to vote upon the section as reported by the committee of the whole, and there will be no difficulty about it. That section, as approved, is substantially the section of 1790 with different figures. The Constitution of the State, as adopted in 1790, on this question of representation reads: as follows:

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

Now is there any complication about that? It is just as simple as any language can make it, and it is as just as the men who formed this government. I submit to the gentleman from York (Mr. Cochran) that it is doing injustice to the fathers of our government when he charges that this is an injustice, for that is the basis upon which this State government was formed, and upon which the government of all the New England States was formed. It is unjust, therefore, to charge this provision as unfair.

The section reported from the committee of the whole can be put in the precise language of this section in five minutes, if it is desired. There is no complication about it, except what is intended to be made to defeat this purpose. I yesterday

objected to this provision of the gentleman from Columbia and voted against it, because it at the same time attempts to decide the question of the number of Representatives and also the manner of their apportionment. I appeal to the delegates here and now to settle this question of the principle of representation, and then afterward to take up the apportionment question to settle that upon its merits. The delegates have decided time and again their purpose, and there is no use, and there is no justice, in attempting to prevent them from getting at the result at which they aim. The whole question of apportionment can then come up and be decided upon its merits. The nineteenth section can be amended to suit the exact determination of this Convention, as they have been determined time and again.

Mr. BIGLER. The delegate from Potter (Mr. Mann) is right. This proposition is substantially that which I offered yesterday, and which was voted down, so far as it goes. I endeavored to get the floor to suggest to the delegate from York to offer the additional section of the proposition which I submitted yesterday, and I desire, in view of what the delegate from Potter has said, to make some point on that proposition.

I did not overlook the rights of these smaller counties in my proposition. I distinctly provided that as soon as may be after the enumeration of 1880 these counties should have, each one, a Representative. I can foresee that M'Kean and Elk will surely be entitled to a Representative at that time on the ratio. And besides, I was very anxious to close up this whole business of apportioning the State, so far as the rights of counties were concerned, and to provide that in a short period of time each county should have a Representative.

The remaining portion of my proposition was more generous to the smaller counties than that submitted by the delegate from York. That is all I desire to say.

On the question of agreeing to his amendment to the amendment, Mr. Cochran called for the yeas and nays. The call was seconded by ten members, and the yeas and nays were taken and were as follow, viz:

Y E A S.

Messrs. Achenbach, Alricks, Baer, Bannan, Bardsley, Bartholomew, Biddle,

Bigler, Black, Charles A., Broomall, Bullitt, Carey, Carter, Cochran, Collins, Dallas, De France, Dodd, Ellis, Fell, Funck, Gibson, Guthrie, Heverin, Kaine, Knight, Lear, Lilly, Littleton, MacVeagh, M'Culloch, Newlin, Palmer, G. W., Palmer, H. W., Patterson, D. W., Porter, Pughe, Reed, Andrew, Reynolds, Sharpe, Smith, Wm. H., Stewart, Wetherill, J. M., Wetherill, Jno. Price and Wright—45.

N A Y S.

Messrs. Ainey, Andrews, Armstrong, Baily, (Perry,) Beebe, Bowman, Boyd, Brodhead, Brown, Buckalew, Calvin, Campbell, Church, Clark, Corson, Craig, Cronmiller, Curry, Curtin, Darlington, Dunning, Edwards, Elliott, Ewing, Fulton, Gilpin, Green, Hall, Hanna, Hay, Hazzard, Hemphill, Horton, Howard, Hunsicker, Landis, Lawrence, Long, MacConnell, M'Camant, M'Clean, M'Murray, Mann, Mantor, Metzger, Minor, Mott, Niles, Parsons, Patton, Parman, Purviance, John N., Purviance, Sam'l A., Rooke, Ross, Runk, Russell, Smith, H. G., Smith, Henry W., Stanton, Struthers, Temple, Turrell, Van Reed, Walker, Wherry, White, David N., White, Harry, Woodward and Worrell—70.

So the amendment to the amendment was rejected.

ABSENT. — Messrs. Addicks, Bailey, (Huntington,) Baker, Barclay, Black, J. S., Cassidy, Corbett, Cuyler, Davis, Finney, Harvey, Lamberton, Mitchell, Patterson, T. H. B., Read, John R., Simpson, White, J. W. F. and Meredith, *President*—18.

The PRESIDENT *pro tem*. The question recurs on the first division of the amendment of the delegate from Columbia, (Mr. Buckalew,) which will be read.

The CLERK read as follows:

"The House of Representatives shall be constituted as follows:

1. "The population of the State, as ascertained at each decennial census of the United States, shall be divided by the number one hundred and fifty, and the resulting quotient shall be the representative ratio."

Mr. WHERRY. I call for the yeas and nays.

The yeas and nays were ordered, ten delegates rising to second the call, and being taken, resulted as follow:

Y E A S.

Messrs. Achenbach, Alricks, Baer, Biddle, Bigler, Boyd, Brodhead, Broomall,

Brown, Buckalew, Bullitt, Carter, Corbett, Dallas, De France, Dodd, Dunning, Elliott, Ellis, Gibson, Gilpin, Guthrie, Hay, Hemphill, Heverin, Hunsicker, Kaine, Landis, Lilly, Long, M'Camant, M'Clean, M'Murray, Metzger, Mott, Palmer, G. W., Patton, Pughe, Purman, Reed, Andrew, Ross, Sharpe, Smith, H. G., Temple, Wetherill, J. M., Wetherill, John Price, Wherry, Woodward and Worrell—49.

NA Y S.

Messrs. Ainey, Andrews, Armstrong, Bailly, (Perry,) Bannan, Bartholomew, Beebe, Black, Charles A., Bowman, Calvin, Campbell, Carey, Cochran, Collins, Corson, Cronmiller, Curry, Curtin, Darlington, Edwards, Ewing, Fell, Funck, Green, Hall, Hanna, Hazzard, Horton, Howard, Knight, Lawrence, Lear, Littleton, MacConnell, MacVeagh, M'Culloch, Mann, Mantor, Minor, Newlin, Niles, Parsons, Patterson, D. W., Porter, Purviance, John N., Purviance, Samuel A., Reynolds, Rooke, Runk, Russell, Smith, Henry W., Stanton, Stewart, Struthers, Turrell, Van Reed, Walker, White, David N., White, Harry and Wright—60.

So the first division of the amendment was rejected.

ABSENT. — Messrs. Addicks, Bailey, (Huntingdon,) Baker, Barclay, Bardsley, Black, J. S., Cassidy, Church, Clark, Craig, Cuyler, Davis, Finney, Fulton, Harvey, Lamberton, Mitchell, Palmer, H. W., Patterson, T. H. B., Read, John R., Simpson, Smith, Wm. H., White, J. W. F. and Meredith, *President*—24.

Mr. CRAIG. I desire to vote.

The *PRESIDENT pro tem.* The delegate from Lawrence asks leave to record his vote. It will not alter the result.

Mr. HARRY WHITE. I move that he have unanimous consent.

Mr. MACVEAGH. No, sir; I oppose that. Let the gentleman state how he would have voted, and that will go on the record and will do him all the benefit that the other would, but I do insist that gentlemen ought not to come in and change the vote afterwards.

The *PRESIDENT pro tem.* Objection being made the gentleman cannot vote. The second division of the amendment is before the Convention.

Mr. HARRY WHITE. Allow me to say that the delegate from Lawrence was on the floor trying to vote when the President announced the result. It is a peculiar case.

The *PRESIDENT pro tem.* The result had been declared before the Chair observed the gentleman from Lawrence, and objection being made the Chair can not entertain the motion. The second division of the amendment of the delegate from Columbia will now be read.

The *CLERK* read as follows:

2. "Each county now organized shall be entitled to at least one Representative; but no county hereafter erected shall be entitled to separate representation unless its population shall exceed one-half a representative ratio."

The *PRESIDENT pro tem.* To this division an amendment was offered by the delegate from Northampton, (Mr. Brodhead,) to strike out all after the word "representative," in the second line, so that the division would read:

"Each county now organized shall be entitled to at least one Representative."

The question is on this amendment to the amendment.

The amendment to the amendment was rejected.

Mr. BROOMALL. I offer the following amendment, to strike out and insert:

"The Senate shall consist of fifty members and the House of Representatives shall consist of one hundred and fifty members.

"The General Assembly, at its first session after the adoption of this Constitution, and every ten years thereafter, shall apportion the State for the election of Senators and representatives according to its population, as ascertained by the last preceding national census. Senatorial and representative districts shall in all cases be composed of compact and contiguous territory, and shall contain as nearly as possible an equal number of inhabitants: *Provided, however,* That no city or county shall be entitled to more than eight Senators."

The Convention will see that this is the report of the Committee on the Legislature, modified in consequence of our vote yesterday, allowing the maximum representation of any city or county in the Senate to be eight instead of six. I desire only to say, in addition to what I said a little while ago, about the necessity of remitting the whole business of districting the State to the Legislature, that we cannot district the State in such a way that it will not make ten enemies to our Constitution for every friend that it makes. Those who are acquainted with that business will agree with me when I

say that there never yet was an apportionment bill that would have been adopted by the people of the State. This party is displeased by this section; the other party by another section; this county is displeased on one ground and another county on another, and the results are all worked out by the politicians, and their opposition is made to the Constitution upon this ground, when the real opposition is some other one. All the opponents of the Constitution, upon all other grounds, will single out the unequal districting that we make, and will make their opposition hinge upon that. If we district the State in any way, the best possible, anybody may see what will be the result; our work will fail with the people.

Mr. MANN. I rise to a question of order. The amendment offered by the gentleman from Delaware is not confined to the division under consideration. The Convention has already determined the number of Senators in the eighteenth section adopted yesterday. The amendment of the gentleman from Delaware refers also to the number of Senators in the matter of apportionment, while the section under consideration is confined exclusively to the House of Representatives, and the Senate is not under consideration at all.

The PRESIDENT *pro tem*. The point of order is not sustained.

Mr. LILLY. Mr. President: I was in hopes a month ago or more, but that hope has been gradually fading away, that we might apportion the State in such a way that it would be satisfactory to everybody; but I believe that we have now got beyond that point. It is not possible or practicable to have that thing done here. I should therefore be in favor of the amendment of the gentleman from Delaware but for one provision contained in it; and that is, restricting Philadelphia to eight Senators. I cannot vote for a restriction on any county or any city in any part of the State. Otherwise I would vote for his amendment.

Mr. S. A. PURVIANCE. Mr. President: I move as an amendment to the amendment this proviso:

"Provided, however, That each county shall have at least one member."

The PRESIDENT *pro tem*. There is an amendment to an amendment already pending. The question is on the amendment of the delegate from Delaware (Mr. Broomall) to the amendment of the delegate from Columbia (Mr. Buckalew.)

Mr. WOODWARD. Mr. President: I am opposed to the amendment of the gentleman from Delaware. I thought the House had decided once, or twice or thrice that each county in the Commonwealth should have one Representative in the Legislature. I thought that was a sound conclusion and fairly reached. Now this amendment denies that.

Why, Mr. President, let gentlemen consider that if we give to each county a member we thereby exclude the great evil of multiplying smaller counties. The moment you put that into the Constitution you throw the influence of the large counties in the Legislature against the multiplication of small counties. We shall have no more counties in Pennsylvania unless they come up at once to the ratio of representation, if you provide that every county now in existence and hereafter to be created shall have a Representative, for I say the influence of the larger counties will be thrown on the right side of that question. Hitherto it has been on the wrong side. It has stimulated all matters of local speculation in counties. The moment you give them a Representative in the Legislature, a thing which in itself is right, you restrain the members from the large counties from this vicious habit of multiplying small counties for political effect or speculative advantages.

Mr. President, in the Convention of 1837, there was a young man by the name of Hamlin, then dying of consumption, and long since in his grave, who discussed this subject in such a manner as to wring from Mr. Sergeant, the President of the Convention, a very high compliment, and I undertake to say, that from the beginning to the end of the session of that body there was no subject so scientifically and thoroughly discussed as this subject of county representation by that young man. Since this debate has come up in this body, I have referred to the Debates of the Convention of 1837, and have read his speech, and I wish every gentleman here had done so. It did not prevail in that body, and the rule was not introduced. Had it been introduced at that time, several of the counties which have been since created would never have been called into existence, and the wisdom of that rule would have long since been vindicated by the judgment of every member of this body. "Better late than never." It ought to have been introduced in 1837.

It was not. Now, let us introduce it in 1873, and you will find that it will work well.

Mr. President, counties are organized by the Legislature, and made what we call *quasi* corporations. I hope nobody will ask me what a *quasi* corporation means, for I could not answer it; but we call them *quasi* corporations, something like corporations, I suppose. We make them such by distinct legislation; we give them boundaries; we give them a seal; we give them power to contract. They are a body politic; they represent a community whose interests are interlocked in that county and administered by the commissioners who are elected as the fiscal and corporate agents of the county. Now, then, such corporations existing all over Pennsylvania would seem to me to be entitled to a Representative in the Legislature, quite irrespective of population. This principle of representation of population is a sound principle as a general principle; but, like all general principles, it has necessary exceptions. There must be modifications in the application of all general principles, or you will work destruction to the body politic.

I would make population the general basis of representation; but when you come to the question of organized counties, no matter how unadvisedly a county has been organized, it is an organized community. Gentlemen have compared it to the townships. We have been told that some townships in Pennsylvania have more population than some counties. What of that? Townships are not corporations nor *quasi* corporations. They have no seal; they have no legislative power. The counties have. And as organized communities, I maintain they ought to have a Representative on the floor of the House of Representatives.

Then, as to the residue, let the residue of one hundred and fifty be distributed according to population without exception. That seems to me to be wise. I firmly believe if this principle had been introduced into the Constitution in 1837, it would have been found so beneficial that the boldest reformer here—I do not know who he is—would not have proposed to strike it out. My impression is that it would have been a favorite constitutional principle at this time.

One word more, Mr. President. I am altogether opposed to the amendment of the gentleman from Delaware, because it

provides for all time a legislative districting of the State. If the philosophical gentleman behind me from Columbia (Mr. Buckalew) has demonstrated nothing else, he has demonstrated the evil and the danger of committing this question to the Legislature of Pennsylvania, and any man who will recur to the history of our State can see that that demonstration is founded in the truth of history. The State of New York has found it necessary to take this question out of the hands of its Legislature. The gentleman proposes to place it nowhere else. I heard a proposition from my friend from Clearfield (Mr. Bigler) the other day which, I believe, has not been moved—I have not heard of it except in his own speech—that this body should provide a committee to distribute Representatives and district the State.

Mr. COCHRAN. Will the gentleman permit me to make an inquiry at this moment?

Mr. WOODWARD. Yes, sir.

Mr. COCHRAN. I understand the gentleman to say that the proposition which I offered, and which was defeated, submitted the apportionment to the Legislature.

Mr. WOODWARD. No, sir; I did not speak of that. I am speaking of the proposition of the gentleman from Delaware. I did not say that of the proposition of the gentleman from York. I said it of the proposition of the gentleman from Delaware. That does commit the subject to the Legislature, as I understand it, and in his speech advocating it he especially advocates and applauds that arrangement, which arrangement I say is infinitely pernicious and dangerous; has brought disgrace upon the fair name of Pennsylvania, and will do so in future, and is not fit to be incorporated into our fundamental law. I sincerely trust the Convention will not do that, whatever else it may do. There are many methods of attaining this result without committing it to the Legislature, and all of the provisions we have introduced into the Constitution with a view of purifying the Legislature will be defeated by such a proposition as this.

You cannot throw this proposition before any Legislature without tempting men to do iniquitous and wrong things. I do not care who they are or of what party they are, they will do the extravagant things that have been done in the past just so long as you continue it in

their power to do so. Let the proposition of the gentleman from Clearfield (Mr. Bigler) be adopted, or some other body be provided for districting the State as far as it needs to be districted. When you come to the matter of Senators —

MR. BIGLER. The gentleman will allow me one moment in regard to the proposition which I read yesterday. It proposed to apportion only for the first apportionment under the article. I make this explanation, because it might occur to members of the Convention that it would be absurd to apportion permanently through a committee of this Convention. It is only the first apportionment under the article that that applies to.

MR. WOODWARD. I want to finish what I have to say on this subject in the fewest possible words, and while I am up I want to say that the proposition to elect the Senate by general ticket seemed to me one of the wisest I have heard in this body. Amongst other merits which it had, it took away that ugly question, which re-appears in this amendment of the gentleman from Delaware, limiting cities and counties to eight Senators. The city of Philadelphia has exhibited great sensibility upon this question whenever it has been touched in this Convention; and naturally, perhaps properly, so. Now, that proposition to elect Senators by general ticket took that limitation entirely away; and yet how did the city of Philadelphia vote on that question? I paid a little attention to the votes on the yeas and nays of the gentlemen from the city of Philadelphia who are so sensitive upon the subject of a limitation of their representation in the Senate, and the great body of them voted against it. Some of the wiser of them voted for it; but the great body of the representation from Philadelphia was thrown against that conservative and salutary measure which would have given us for the first time in our history a Senate in which the city of Philadelphia would have been represented according to her full power, her numbers, her wealth, her culture; and never was there a vote cast more plainly against the true interest of the city. When gentlemen complain of other people for not expunging from the old Constitution the limitation that has been in it from 1790, let them remember that they had a chance then, and possibly they will have a chance again, to throw their whole influence into the Senate in the form of a general ticket. If

they are wise they will embrace the opportunity. I do not know under that arrangement whether Philadelphia and Pittsburg would not elect nearly all the Senators. I am rather inclined to think, if you would throw in a few more of the big cities of the Commonwealth, they would have the entire control of the Senate, and yet you find Philadelphia and Pittsburg voting against it on this floor, and at the same time complaining of maintaining a limitation upon the representation of the Senate. Sir, "consistency is a jewel!"

Now I hope this amendment of the gentleman from Delaware will be voted down, and I hope we shall come to the sound principle of representing every county we have got, and thus preventing the multiplication of counties in the future, and then I hope we shall come to the soundest of all principles, the election of a Senate by the people of Pennsylvania, without regard to districts at all, by general ticket. If we come to these results, we shall have labored in this hot weather and in this hot city to some purpose. If we do not come to these results, we shall have wasted our time and our labors to no purpose.

MR. BROOMALL. In deference to the remarks of the gentleman who has just taken his seat, of whose judgment I have a very high opinion, I will modify my amendment in both the particulars of which he complains. I will strike out everything that refers to the Senate, which gets rid of the question we settled yesterday in a way that I did not like; and I will also put in a provision which this House seems to have adopted against my judgment, giving each county a member.

MR. BARTHOLOMEW. I hope the gentleman will do nothing of the kind.

MR. BIDDLE. I hope so, too.

MR. BARTHOLOMEW. It is just on that proposition that he now intends to take out that I proposed to support his amendment.

MR. BROOMALL. I propose to make these modifications, and ask for a vote upon the amendment to the amendment.

THE PRESIDENT *pro tem*. The Clerk will read the amendment to the amendment, as modified:

THE CLERK read as follows:

"The House of Representatives shall consist of one hundred and fifty members. The General Assembly, at its first session after the adoption of this Constitution, and every ten years thereafter, shall apportion

the State for the election of Representatives according to its population, as ascertained by the last preceding national census. Representative districts shall in all cases be composed of compact and contiguous territory, and shall contain, as nearly as possible, an equal number of inhabitants. Every county shall have at least one member."

Mr. MACVEAGH. I ask for a division of this question, so as to get rid of the last section and desire the first section read.

The CLERK read the words proposed to be left out of the first division, as follows:

"Every county shall have at least one member."

Mr. MACVEAGH. Well, read the first division.

The CLERK read the first division, as follows:

"The House of Representatives shall consist of one hundred and fifty members. The General Assembly, at its first session after the adoption of this Constitution, and every ten years thereafter, shall apportion the State for the election of Representatives according to its population, as ascertained by the last preceding national census. Representative districts shall in all cases be composed of compact and contiguous territory, and shall contain, as nearly as possible, an equal number of inhabitants."

Mr. MACVEAGH. That is it. Now a vote can be taken on each of these two divisions, and taken fairly and squarely. The first division is a clear question of apportionment. The other, whether every county shall have one member, will come up afterward for a square distinct vote.

Mr. BUCKALEW. I would like to know how the gentleman intends representative districts to be made. He says they shall contain an equal number of inhabitants. Does he mean that they shall be single districts, or districts in which a larger number of Representatives shall be selected? Or does he mean that one district shall elect one, another two, another three, and another five members? Under the amendment the Legislature might make any of these districts, as they should see fit?

I do not like the division of the amendment to the amendment called for by the gentleman from Dauphin. I would so divide it as to have a vote on that clause which fixes the apportionment to be made by the Legislature, in order to re-

serve that question for a distinct consideration. The way in which the gentleman from Delaware now frames his amendment it will not be amendable, and I will therefore ask for a separate vote on that provision of the amendment which provides that the Legislature, after the adoption of this Constitution, and every ten years thereafter, shall apportion the State.

The PRESIDENT *pro tem*. Where does the gentleman desire his provision to take place?

Mr. BUCKALEW. If the Clerk will read the amendment to the amendment I will indicate it.

The CLERK read as follows:

"The House of Representatives shall consist of one hundred and fifty members. The General Assembly, at its first session after the adoption of this Constitution,—"

Mr. BUCKALEW. That is the part I desire reserved for a distinct vote, so that we can have it before us fairly and pass upon it.

The PRESIDENT *pro tem*. The first division will end with the first sentence. It will be read.

The CLERK read as follows:

"The House of Representatives shall consist of one hundred and fifty members."

Mr. BUCKALEW. That is what I desire. I suggest that it is necessary to vote upon the first clause, that the House of Representatives shall consist of one hundred and fifty members. Then will come the part I wish to reserve for a separate vote.

Mr. MACVEAGH. But we have voted on that. I hope it will be withdrawn.

The PRESIDENT *pro tem*. It cannot be withdrawn.

Mr. MACVEAGH. Then the first division ought to end at the word "census."

Mr. BUCKALEW. I ask for a separate vote on the first clause, that the House of Representatives shall consist of one hundred and fifty members.

The first division was agreed to.

The PRESIDENT *pro tem*. The second division will be read.

The CLERK read as follows:

"The General Assembly, at its first session after the adoption of this Constitution, and every ten years thereafter, shall apportion the State for the election of Representatives according to its population, as ascertained by the last preceding national census."

Mr. MACVEAGH. I ask for the yeas and nays.

Mr. BUCKALEW. I second the call.

The PRESIDENT *pro tem.* Is the call sustained?

More than ten members rose.

The PRESIDENT *pro tem.* The call is sustained and the Clerk will proceed with the call.

The yeas and nays were taken, and were as follow, viz:

Y E A S.

Messrs. Bardsley, Bartholomew, Biddle, Broomall, Carey, Cochran, Collins, Corbett, Corson, Curtin, Dallas, Dodd, Edwards, Fell, Funck, Hemphill, Howard, Knight, Lawrence, Lear, Lilly, Littleton, MacConnell, MacVeagh, M'Culloch, Niles, Palmer, G. W., Palmer, H. W., Porter, Pughe, Purviance, John N., Purviance, Samuel A., Reynolds, Smith, Henry W., Stanton, Wetherill, J. M. and Wetherill, Jno. Price—37.

N A Y S.

Messrs. Ainey, Alricks, Andrews, Armstrong, Baer, Bailly, (Perry,) Bannan, Beebe, Bigler, Black, Charles A., Black, J. S., Bowman, Boyd, Brodhead, Brown, Buckalew, Bullitt, Calvin, Campbell, Carter, Church, Clark, Cronmiller, Darlington, De France, Dunning, Elliott, Ellis, Ewing, Fulton, Gibson, Gilpin, Green, Guthrie, Hall, Hanna, Hay, Hazzard, Heverin, Horton, Hunsicker, Kaine, Lamberton, Landis, Long, M'Camant, M'Clean, M'Murray, Mann, Mantor, Metzger, Minor, Mott, Parsons, Patton, Purman, Reed, Andrew, Rooke, Ross, Runk, Russell, Sharpe, Smith, H. G., Stewart, Struthers, Temple, Turrell, Van Reed, Walker, Wherry, White, Harry, Woodward, Worrell and Wright—74.

So the second division was rejected.

ABSENT.—Messrs. Achenbach, Addicks, Bailey, (Huntingdon,) Baker, Barclay, Cassidy, Craig, Curry, Cuyler, Davis, Finney, Harvey, Mitchell, Newlin, Patterson, D. W., Patterson, T. H. B., Read, John R., Simpson, Smith, Wm. H., White, David N., White, J. W. F. and Meredith, *President*—22.

Mr. BROOMALL. The remainder of the amendment would be inconsistent with itself and with what was done, and I therefore ask leave to withdraw it. ["No." "No."]

The PRESIDENT *pro tem.* The question is on the remaining divisions of the amendment.

The remaining divisions were rejected.

The PRESIDENT *pro tem.* The question recurs on the second division of the amendment of the delegate from Columbia (Mr. Buckalew.) That division will be read.

The CLERK read as follows:

2. "Each county now organized shall be entitled to at least one Representative, but no county hereafter erected shall be entitled to separate representation unless its population shall exceed one-half a representative ratio."

Mr. MACVEAGH. Now, Mr. President for what is that a substitute? This is substitute for the section adopted in committee of the whole on motion of the gentleman from Allegheny (Mr. D. N. White.)

SEVERAL DELEGATES. Vots it all down.

Mr. CARTER. Mr. President: If I had reason to suppose, as the gentleman from Philadelphia claimed, that the expressed wish of this Convention was to accord a member to each individual county, I should not rise to make the very few remarks that I intend to make. But I have not come to that conclusion, nor have I lost all hope that the good sense of this Convention will yet put its foot upon that most improper measure. The gentleman before me (Mr. Biddle) says it is too late. I am not satisfied that that is so or I should not detain the Convention.

The gentleman from Philadelphia (Mr. Woodward) has referred to a certain great speech that was made in the former Convention; a speech so logical, so clear and demonstrative in regard to county representation, but which seemed then to have failed in its effect of affecting the action of the former Convention. He did not tell us what those arguments were or we perhaps might have been converted by them. The leap of Rhodes was not made here, but he suggested some ideas of his own, with which I dissent, and which I think I can demonstrate to be incorrect, in the very few moments indeed that I claim the attention of the Convention.

As one reason he assigned that it would prevent the formation in future of counties, the interest of the larger counties being always opposed to it. Now I could say to the Convention, and will call attention to this fact, that that matter is settled already. The gentleman in the north-eastern corner of the Hall, Mr. Lawrence, has repeated again and again, and it received the assent of the Conven-

tion, that no new counties could be formed under the amendment which we have already adopted; so that nothing is to be gained in that direction. I think under the restrictions against the formation of new counties this danger will not occur. Hence that is no reason why we should pursue this course. So much for that position of the gentleman. But he then says that these *quasi* communities, as he designates counties, should have a representation. I agree with that, but not in this branch of the legislative body. The representative body must reflect the sentiments of the people of the State, and it will not be done under the system the gentleman proposes.

Now, sir, to illustrate, I find that eleven counties, that add up something like three thousand less than the population of the county of Lancaster, thus giving them eleven votes in the representative branch and Lancaster county five, counting the fraction. I submit that this is not right, and I submit that it is anti-democratic, that it will not represent the people, and that a body so constituted will not represent the sentiments of the people of the State, and how comes this? Because we have departed from the true democratic idea that representation must rest upon population in the lower branch. That is the way we have got into this error. Let a vote be taken in which great political issues are made before the people, these eleven counties count in the House of Assembly twice as much and over as they should do. Now, I contend that this is wrong and anti-democratic.

I trust that the Convention is not committed to a policy so anti-democratic and so radically wrong in principle as I hold this to be. I would defer speaking; I would not take up a moment of the precious time of this Convention if I thought the body had so committed themselves by previous votes, but of that I am not satisfied.

I think there is something in the views I have presented, and I entreat gentlemen of the Convention to pause and see if there is not force in these views. We cannot afford to let any great political issue be raised. The people are to determine it. Perhaps it may be the election of a United States Senator that may be determined. I claim that if the people of this State elect a representative body on the true system representing, the wishes of the men of the State will be carried out; not these small municipali-

ties, though then they will have their proper say, their proper share in their proper place; but have a Legislature that will utter the sentiments of the freemen of this Commonwealth. Let them be represented in that body; and that cannot be done under the proposed system. I only instance my own county because we have made these calculations. It applies, I presume, in all other cases. You are about to introduce a system radically wrong in principle that in my opinion can only result in harm.

Mr. S. A. PURVIANCE. Mr. President: I rise for the purpose of asking a division, ending with the word "Representative," in the second line. I wish an unencumbered vote on the question of whether there shall be separate representation for each county.

The PRESIDENT *pro tem*. A division of the second division is asked for, to end with the word "Representative," in the second line.

Mr. BIDDLE. I concur heartily with what was said by the gentleman from Lancaster. I doubt if he can be answered.

The PRESIDENT *pro tem*. The question is on the first branch of the second division, which will be read.

The CLERK read as follows:

"Each county now organized shall be entitled to at least one Representative."

Mr. MACVEAGH. On that let us have the yeas and nays to decide this question.

The yeas and nays were ordered, ten delegates seconding the call, and being taken resulted as follow:

YEAS.

Messrs. Alricks, Andrews, Armstrong, Baer, Baily, (Perry,) Beebe, Bowman, Boyd, Brodhead, Brown, Buckalew, Calvin, Clark, Collins, Corson, Cronmiller, Dodd, Dunning, Edwards, Elliott, Fulton, Funck, Gilpin, Guthrie, Hall, Hay, Hazzard, Heverin, Horton, Howard, Hunsicker, Kaine, Lamberton, Landis, Long, MacConnell, M'Camant, M'Clean, M'Murray, Mann, Mantor, Minor, Mott, Niles, Parsons, Patton, Purman, Purviance, John N., Purviance, Samuel A., Reed, Andrew, Rooke, Ross, Runk, Russell, Sharpe, Struthers, Turrell, Van Reed, Walker, Wherry, Woodward and Worrell—62.

NAYS.

Messrs. Ainey, Biddle, Bigler, Black, Charles A., Black, J. S., Broomall, Campbell, Carey, Carter, Church, Cochran,

Corbett, Craig, Curtin, Darlington, De France, Ellis, Ewing, Fell, Gibson, Green, Hanna, Hemphill, Lawrence, Lear, Lilly, Littleton, MacVeagh, Palmer, H. W., Patterson, D. W., Pughe, Reynolds, Smith, H. G., Smith, Henry W., Smith, Wm. H., Stewart, Wetherill, Jno. Price, White, David N., White, Harry and Wright—40.

So the first branch of the second division was agreed to.

ABSENT.—Messrs. Achenbach, Addicks, Bailey, (Huntingdon,) Baker, Bannan, Barclay, Bardsley, Bartholomew, Bullitt, Cassidy, Curry, Cuyler, Dallas, Davis, Finney, Harvey, Knight, McCulloch, Metzger, Mitchell, Newlin, Palmer, G. W., Patterson, T. H. B., Porter, Read, John R., Simpson, Stanton, Temple, Wetherill, J. M., White, J. W. F. and Meredith, *President*—31.

The *PRESIDENT pro tem.* The second portion of the second division will now be read.

The *CLERK* read as follows:

"But no county hereafter erected shall be entitled to separate representation unless its population shall exceed one-half a representative ratio."

Mr. MACVEAGH. I think that is unnecessary under any circumstances. The difficulties we have put in the way of the creation of new counties will certainly answer every purpose in this regard.

Mr. BUCKALEW. One-fifth of the population are ordinarily voters, and the limitation of twenty thousand of population in erecting a new county amounts to a limitation of four thousand voters; so that without this amendment in all future time four thousand voters would be entitled to a Representative. The ratio for a Representative under the present apportionment is now between eight and nine thousand, and the representative ratio may rise as high as twenty-five or thirty thousand. Therefore I do not consider that limitation in the section in regard to the formation of new counties a sufficient protection. At the same time I do not consider this to be a very important provision.

Mr. MACVEAGH. It is totally inconsistent to vote that no new county in the future shall have a member while we give every little county formed now a member.

The *PRESIDENT pro tem.* The question is on the second clause of the second division of the amendment.

The question being put, there were on a division: Ayes forty-four; nays thirty-seven.

Mr. HARRY WHITE. I call for the yeas and nays.

Mr. HUNSICKER and others. It is too late; the question has been decided.

The *PRESIDENT pro tem.* The yeas and nays are called on this question.

Mr. COCHRAN. I move to amend this division, by striking out the words "exceed one-half," and insert the word "equal," so as to require every new county hereafter constituted to have a full ratio before it can have a Representative.

The *PRESIDENT pro tem.* The question is on the amendment to the amendment.

The amendment to the amendment was agreed to, there being on a division: Ayes thirty-nine; noes thirty-eight.

The *PRESIDENT pro tem.* The question is now on the division as amended.

Mr. MACVEAGH. Let it be read.

The *CLERK* read as follows:

"But no county hereafter erected shall be entitled to separate representation unless its population shall equal a representative ratio."

Mr. MACVEAGH. Let us have the yeas and nays on that question.

The yeas and nays were ordered, ten delegates rising to second the call.

Mr. HARRY WHITE. I have but a single observation to make. So far as I am concerned, I am going to vote against this division, because I am in favor of the proposition of the delegate from Allegheny (Mr. D. N. White.) If this is voted down, I hope to have the opportunity of voting for his proposition.

Mr. COCHRAN. The gentleman from Indiana must remember that this Convention has already adopted matter which is a substitute for the proposition of the gentleman from Allegheny, and he will not hurt it by putting in more.

Mr. DODD. I rise to a point of order. The yeas and nays being called for, debate is out of order.

The *PRESIDENT pro tem.* The Chair sustains the point of order.

The question being taken by yeas and nays, resulted: Yeas thirty-four; nays fifty-nine, as follows:

YEAS.

Messrs. Alricks, Biddle, Broomall, Brown, Bullitt, Campbell, Carter, Church, Cochran, Curtin, Dodd, Ellis, Fell, Funck, Gibson, Haverin, Hunsicker, Kaine, Knight, Lilly, Littleton, Long, McCulloch,

loch, Porter, Purviance, Samuel A., Reed, Andrew, Reynolds, Ross, Smith, H. G., Stewart, Van Reed, Walker, Woodward and Wright—34.

N A Y S.

Messrs. Ainey, Armstrong, Baer, Bailly, (Perry,) Bigler, Black, Charles A., Bowman, Brodhead, Buckalew, Calvin, Clark, Collins, Corson, Craig, Cronmiller, Darlington, De France, Dunning, Edwards, Elliott, Ewing Fulton, Gilpin, Green, Guthrie, Hall, Hanna, Hay, Hazzard, Hemphill, Horton, Howard, Lamberton, Landis, Lawrence, MacConnell, MacVeagh, McClean, Mann, Mantor, Minor, Niles, Palmer, H. W., Parsons, Patterson, D. W., Patton, Purman, Purviance, John N., Rooke, Runk, Russell, Sharpe, Smith, Henry W., Struthers, Turrell, Wherry, White, David N., White, Harry and Worrell—59.

So the division was rejected.

ABSENT.—Messrs. Achenbach, Addicks, Andrews, Bailey, (Huntingdon,) Baker, Bannan, Barclay, Bardsley, Bartholomew, Beebe, Black, J. S., Boyd, Carey, Cassidy, Corbett, Curry, Cuyler, Dallas, Davis, Finney, Harvey, Lear, M'Camant, M'Murray, Metzger, Mitchell, Mott, Newlin, Palmer, G. W., Patterson, T. H. B., Pughe, Read, John R., Simpson, Smith, Wm. H., Stanton, Temple, Wetherill, J. M., Wetherill, John Price, White, J. W. F. and Meredith, *President*—40.

Mr. HAY. I understand we have just voted on the last branch of the second division.

The *PRESIDENT pro tem.* Yes, sir. The third division will now be read.

The *CLERK* read as follows:

3. "Counties containing a representative ratio and three-fifths of a second ratio shall be entitled to two Representatives; those containing two ratios and four-fifths of a third ratio shall be entitled to three Representatives; and each county containing three or more ratios shall be entitled to one Representative for each ratio of its population."

Mr. HAY. It seems to me, in view of the vote that has just been taken, that the counties hereafter erected, as well as those now organized, shall have a Representative, that the words "now organized," in the sixth line, ought to be stricken out. I do not know whether it is in order to move an amendment, but I think those words ought to be stricken out.

Mr. MACVEAGH. Unanimous consent can be given to strike out those words.

The *PRESIDENT pro tem.* It would require a reconsideration of the vote on that division. The third division, which has just been read, is before the Convention.

Mr. MACVEAGH. That, I understand, is a substitute for the nineteenth section of the report, offered by the gentleman from Allegheny (Mr. D. N. White.) I shall, therefore, vote "no," as a choice between evils.

Mr. BUCKALEW. I have a modification to offer to that division, and a very important one. It is to strike out and insert:

"Counties containing a representative ratio, and more than one-half a second ratio shall be entitled to two Representatives; those containing two ratios and three-fifths of a third ratio shall be entitled to three Representatives; those containing three ratios and four-fifths of a fourth ratio shall be entitled to four Representatives; those containing four ratios and nine-tenths of a fifth ratio, shall be entitled to five representatives; and each county containing five or more ratios shall be entitled to one Representative for each ratio of its population."

Mr. President: This amendment conforms to the principle of the clause as originally reported by the committee. The report was made in a simple form for two fractions alone, but as it seems to be generally agreed that this mode of representing fractions is the correct principle, I have prepared, in accordance with authority from the committee, this modification, making it complete, and making a rule workable conveniently for all future time. The result is to give us exactly one hundred and fifty Representatives, if an apportionment should now be made, and three additional Representatives from the small counties, which the committee had grouped together as I before stated. The Convention has chosen to add to the report of the committee those three members, by giving these small counties each a separate Representative. The outcome of the fraction, however, that will be represented under this modification of the amendment will be exactly one hundred and fifty, and it will be about that in all future time.

Now, sir, this scale is adapted to the principle which I have several times before fully discussed, and which it seems to be agreed to on all hands is a correct one. I will state the result. It will give

to the county of Adams, 1; Allegheny, 11; Armstrong, 2; Beaver, 2; Bedford, 1; Berks, 4; Blair, 2; Bradford, 2; Bucks, 3; Butler, 2; Cambria, 2; Cameron, 1; Carbon, 1; Chester, 3; Centre, 1; Clarion, 1; Clinton, 1; Clearfield, 1; Columbia, 1; Crawford, 3; Cumberland, 2; Dauphin, 2; Delaware, 2; Elk, 1; Erie, 3; Fayette, 2; Franklin, 2; Huntingdon, 1; Indiana, 2; Jefferson, 1; Juniata, 1; Lancaster, 5; Lawrence, 1; Lebanon, 1; Lehigh, 2; Luzerne, 6; Lycoming, 2; Mercer, 2; M'Kean, 1; Mifflin, 1; Monroe, 1; Montgomery, 3; Montour, 1; Northampton, 3; Northumberland, 2; Perry, 1; Philadelphia, 28; Pike, 1; Potter, 1; Schuylkill, 5; Snyder, 1; Somerset, 2; Sullivan, 1; Susquehanna, 1; Tioga, 1; Union, 1; Venango, 2; Warren, 1; Washington, 2; Wayne, 1; Westmoreland, 2; Wyoming, 1; York, 3; resulting in 153 Representatives.

Upon the scale of numbers, in the proposition as first printed, the number would be one hundred and forty-four; but the arrangement of fractions here, furnishing an adjustable scale and a proper one for all time, results in the number I have mentioned.

MR. S. A. PURVIANCE. I move you, sir, that the representation assigned to Philadelphia in this estimate be reduced to twenty-four.

The PRESIDENT *pro tem*. There is an amendment to the amendment pending. The question is on the amendment of the delegate from Columbia to the third division of his original amendment.

MR. BUCKALEW called for the yeas and nays, and the call was seconded by ten members.

MR. J. N. PURVIANCE. Let the proposition be read.

The CLERK. It is to insert in place of the third division of Mr. Buckalew's amendment, offered yesterday, the following:

"Counties containing a representative ratio and one-half a second ratio shall be entitled to two Representatives; those containing two ratios and three-fifths of a third ratio shall be entitled to three Representatives; those containing three ratios and four-fifths of a fourth ratio shall be entitled to four Representatives; those containing four ratios and nine-tenths of a fifth ratio shall be entitled to five Representatives; and each county containing five or more ratios shall be enti-

tled to one Representative for each ratio of its population.

The PRESIDENT *pro tem*. The Clerk will call the names of delegates.

The yeas and nays were taken, with the following result:

YEAS.

Messrs. Achenbach, Alricks, Baer, Bigler, Black, Charles A., Black, J. S., Boyd, Brodhead, Broomall, Brown, Buckalew, Bullitt, Campbell, Church, Clark, Corbett, Cronmiller, Curtin, De France, Dodd, Dunning, Elliott, Ellis, Gibson, Gilpin, Guthrie, Hall, Hay, Hemphill, Heverin, Kaine, Lamberton, Landis, Lilly, Long, M'Camant, M'Clean, Mott, Palmer, G. W., Patton, Pughe, Purman, Purviance, John N., Reed, Andrew, Reynolds, Ross, Runk, Sharpe, Smith, H. G., Smith, Wm. H., Stewart, Van Reed, Wherry, Woodward, Worrell and Wright—56.

NAYS.

Messrs. Ainey, Armstrong, Bailly, (Perry,) Bannan, Bartholomew, Beebe, Bidle, Bowman, Calvin, Carey, Carter, Cochran, Collins, Corson, Craig, Darlington, Edwards, Ewing, Fell, Fulton, Funk, Green, Hanna, Hazzard, Horton, Howard, Knight, Lawrence, Lear, Littleton, MacConnell, MacVeagh, M'Culloch, Mann, Mantor, Minor, Niles, Palmer, H. W., Patterson, D. W., Porter, Purviance, Samuel A., Rooke, Russell, Smith, Henry W., Stanton, Struthers, Turrell, Walker, White, David N. and White, Harry—50.

So the amendment to the amendment was agreed to.

ABSENT.—Messrs. Addicks, Andrews, Bailey, (Huntingdon,) Baker, Barclay, Bardsley, Cassidy, Curry, Cuyler, Dallas, Davis, Finney, Harvey, Hunsicker, M'Murray, Metzger, Mitchell, Newlin, Parsons, Patterson, T. H. B., Read, John R., Simpson, Temple, Wetherill, J. M., Wetherill, Jno. Price, White, J. W. F. and Meredith, *President*—27.

The PRESIDENT *pro tem*. The question recurs on the division as amended.

MR. BRODHEAD. I offer the following, to come in as an amendment to this division of the amendment of the gentleman from Columbia:

"The unrepresented fractions of the population of all the counties of the State shall be aggregated, and Representation allowed for the same according to the ratio; and these additional Representatives shall be elected on a general ticket.

The *PRESIDENT pro tem.* The question is on the amendment to the amendment. The amendment to the amendment was rejected.

The *PRESIDENT pro tem.* The question recurs on the third division of the amendment of the gentleman from Columbia, as amended.

Mr. D. W. PATTERSON. Is not the question now on the whole amendment, as amended, offered by the gentleman from Columbia?

The *PRESIDENT pro tem.* On the third division of that amendment as amended.

Mr. CORBETT. I call for the yeas and nays.

The yeas and nays were ordered, more than ten members rising to second the call.

Mr. AINEY. I desire to say one word on this section. ["Too late."]

The *PRESIDENT pro tem.* The call for the yeas and nays is seconded.

Mr. AINEY. I hope this proposition will not be adopted. To show how unequal and unfair it will district the State, let me refer to the fact that the county in which I reside, Lehigh, will have two members, with a population of very nearly fifty-eight thousand. The county of Susquehanna, with a population of thirty-seven thousand, will have two members. I hope it will not be agreed to.

Mr. LILLY. I want to ask the delegate if he has not been voting for giving counties with four thousand a Representative along with my county; and now he complains for his own county?

Mr. AINEY. I answer the gentleman that I did not so vote when the question was before the House.

The *PRESIDENT pro tem.* The Clerk will call the names of members on the third division of the amendment of the gentleman from Columbia, as amended.

SEVERAL DELEGATES. Let the division be read.

The CLERK. This division as amended reads:

"Counties containing a representative ratio and more than one-half a second ratio shall be entitled to two Representatives; those containing two ratios and three-fifths of a third ratio shall be entitled to three Representatives; those containing three ratios and four-fifths of a fourth ratio shall be entitled to four Representatives; those containing four ratios and nine-tenths of a fifth ratio shall be entitled to five Representatives; and each

county containing five or more ratios shall be entitled to a Representative for each ratio of its population.

Mr. HARRY WHITE. I rise for information. Did we not vote on that division just now?

The *PRESIDENT pro tem.* It was before voted on as an amendment to the division. The question now is on the division as amended.

The question was taken by yeas and nays, with the following result:

YEAS.

Messrs. Achenbach, Alricks, Baer, Bigler, Black, Charles A., Boyd, Brodhead, Brown, Buckalew, Bullitt, Campbell, Church, Clark, Corbett, Cronmiller, Curtin, Dallas, De France, Dodd, Dunning, Elliott, Ellis, Gibson, Gilpin, Guthrie, Hay, Hunsicker, Kaine, Lamberton, Landis, Lilly, Long, M'Camant, M'Clean, Metzger, Mott, Palmer, G. W., Patton, Purman, Purviance, John N., Reed, Andrew, Ross, Runk, Sharpe, Smith, H. G., Smith, Wm. H., Stewart, Van Reed, Wetherill, J. M., Wherry, Woodward and Worrell—52.

NAYS.

Messrs. Ainey, Armstrong, Bailly, (Perry,) Bannan, Bartholomew, Beebe, Biddle, Bowman, Broomall, Calvin, Carey, Carter, Cochran, Collins, Corson, Craig, Darlington, Edwards, Ewing, Fell, Fulton, Funck, Green, Hanna, Hazzard, Heverin, Horton, Howard, Knight, Lawrence, Lear, Littleton, MacConnell, MacVeagh, M'Culloch, Mann, Mantor, Minor, Niles, Palmer, H. W., Parsons, Patterson, D. W., Porter, Pughe, Purviance, Sam'l A., Reynolds, Rooke, Russell, Smith, Henry W., Stanton, Struthers, Turrell, Walker, Wetherill, Jno. Price, White, David N., White, Harry and Wright—58.

So the third division of Mr. Buckalew's amendment as amended was rejected.

ABSENT.—Messrs. Addicks, Andrews, Bailey, (Huntington,) Baker, Barclay, Bardsley, Black, J. S., Cassidy, Curry, Cuyler, Davis, Finney, Hall, Harvey, Hemphill, M'Murray, Mitchell, Newlin, Patterson, T. H. B., Read, John R., Simpson, Temple, White, J. W. F. and Meredith, *President*—23.

The *PRESIDENT pro tem.* The Clerk will read the fourth division.

The CLERK read as follows:

4. "The Representatives assigned to the counties of Philadelphia and Allegheny, Schuylkill and Luzerne shall be chosen

by single districts. The said representative districts shall be so formed as to secure the full proportionate and just representation of each division of the electors of each of said counties, as the same shall be exhibited in the returns of popular elections; shall have respectively a census population, as nearly equal as may be, and shall be composed of connected territory; but no township or election district shall be divided in the formation of said representative districts.

Mr. BUCKALEW. I desire to modify this division; first, by striking out all after the word "to," in the first sentence, to the word "shall," and inserting the words "counties containing over two hundred and fifty thousand inhabitants;" also to add after the word "secure," in the second sentence, the words "as nearly as may be."

Mr. NILES. Does that leave out Schuylkill and Luzerne?

Mr. BUCKALEW. It strikes out "counties of Philadelphia and Allegheny, Schuylkill and Luzerne."

Mr. EWING. That clause was left in the amendment by adding the counties of Schuylkill and Luzerne, and I suggest that it is not now in order to modify it in the way proposed.

The PRESIDENT *pro tem*. It is in order to strike out more than was put in.

Mr. BUCKALEW. Now let the division as modified be read.

The CLERK read as follows:

"The Representatives assigned to counties containing over two hundred and fifty thousand inhabitants shall be chosen by single districts. The said representative districts shall be so formed as to secure, as nearly as may be, the full proportionate and just representation of each division of the electors of each of said counties as the same shall be exhibited in the returns of popular elections; shall have respectively a census population, as nearly equal as may be, and shall be composed of connected territory; but no township or election district shall be divided in the formation of said representative districts."

Mr. MACVEAGH. That modification would not now be in order. The Convention voted into this section, as an amendment, the counties of Schuylkill and Luzerne, and the gentleman now proposes to strike that out.

Mr. DALLAS. He strikes out more.

The PRESIDENT *pro tem*. If the motion was to strike out only what was inserted it would be out of order.

Mr. BARTHOLOMEW. The amendment I offered was to insert Luzerne and Schuylkill.

The PRESIDENT *pro tem*. The amendment of the gentleman from Columbia is to strike out more. The Chair thinks it is in order, and the division as modified is before the Convention.

Mr. LITTLETON. I hope the division as modified will not be agreed to.

Mr. BUCKALEW. This division as modified will be a general provision, and will be in better form than the section as originally framed. It provides that the counties containing over a quarter of a million of inhabitants shall be subject to division into single districts, leaving all counties of less magnitude undivided, to choose their Representatives by general ticket, as the people of the State have been accustomed to do from the time the State was organized down to this day. The exception of two hundred and fifty thousand inhabitants for counties above that leaves substantially the arrangement in the Constitution that has always existed. We have provided that the cities of Philadelphia and Pittsburg shall be divided into single senatorial districts and single representative districts, substantially leaving that arrangement as it is now, considering the fact that the city of Pittsburg is being extended to include populous parts of Allegheny county, and probably soon will include the whole county, or at least all the material parts of it.

Now, if you depart from this and attempt to pick out particular counties, and subject them to the handling of the Legislature or some other tribunal of apportionment, you get into inextricable difficulty at once. You will be obliged to adopt the expedient of the gentleman from Allegheny over the way, (Mr. D. N. White,) and provide that all the counties of the State shall be divided. For instance, this amendment which the gentleman from Schuylkill (Mr. Bartholomew) moved provides that the county of Schuylkill shall be divided, which contains one hundred and sixteen thousand inhabitants. Well, sir, there is the county of Lancaster left undivided, with one hundred and twenty-one thousand inhabitants. You see that this thing is capricious. You must either leave the question as it stands now, to separate districts in the great cities of the State, and allow the

remainder of the counties to elect by general ticket; or if you depart from that you must go into the interior and sparsely settled counties of the State and divide them up. Manifestly this amendment would be most absurd.

Mr. BARTHOLOMEW. Will the gentleman from Columbia permit an interruption?

Mr. BUCKALEW. Certainly.

Mr. BARTHOLOMEW. Did not the gentleman vote for it yesterday?

Mr. BUCKALEW. For his amendment?

Mr. BARTHOLOMEW. Yes, sir.

Mr. BUCKALEW. The vote was not taken on it yesterday.

Mr. BARTHOLOMEW. The vote was taken yesterday, and I understood you to vote for it.

Mr. BUCKALEW. I did not oppose it.

Mr. BARTHOLOMEW. But you voted for it.

Mr. BUCKALEW. No, sir.

Mr. BARTHOLOMEW. As I understood it, the gentleman accepted it.

Mr. BUCKALEW. No, sir.

Mr. BARTHOLOMEW. That is the way I understood it.

Mr. BUCKALEW. The gentleman interrupted me while I was speaking, and desired me to accept it, and I said that he could submit it when I was done, and take the sense of the Convention upon it. At all events it is manifestly improper to include this in the section. I want to leave the general subject where it now stands in the Constitution.

Mr. NILES. I have paid some attention to the phraseology of this section. An old saying tells us that "an honest confession is good for the soul," and I suppose that I might as well make the confession that I am unable to see what the Committee on Suffrage, Election and Representation means by saying that representative districts shall be so formed as to secure a full proportionate representation to each division of the electors. I would be very glad to have some gentleman who is championing this proposition tell us just exactly what it means. It looks to me as if there was something covered up in that proposition which has not been brought to the surface. If it means limited voting, or anything of that sort, I am utterly opposed to it. It must mean something, because the learned gentleman who has put in this language would never have put it there unless he meant something; and I believe there is something in this proposition which has not been properly

developed and understood by the delegates here.

Again. I am opposed to the immediate pending amendment. I submit that if we are to have single districts, it is just as fair to give them to Schuylkill and Luzerne, where one party is in the majority, as it is to force them on Allegheny and Pittsburgh, where the majority happens to be the other way. If we are to have single districts anywhere, let us go the whole hog or nothing. Do not let us say that in a county with above two hundred and fifty thousand the people shall have separate districts, and when they come a vote below that figure they shall elect as heretofore. Is that right? Why stop upon that number? Why not put here, in the organic law, if we are to have gerrymandering; if we are to tie up in the Constitution for all time to come an apportionment bill; why not say that when counties shall be entitled to two or more Representatives they shall elect by separate districts, and then we shall all know exactly where we are?

Why not apply this same thing to Berks and Lancaster, that you are applying to Philadelphia and Allegheny? I am opposed to this whole scheme of putting in the Constitution an apportionment bill; I believe that we should leave it to the Legislature. We have seen here, during the past week, the difficulty of harmonizing anything. Delegates cannot agree upon any proposition. You have, by a solemn vote of this Convention not five minutes ago, voted in division three of the amendment of the delegate from Columbia, by five majority, and in less than three minutes afterward voted it out by a majority of eight. That is what we are doing here.

I am opposed to the amendment. If we are to have single districts I propose to stand by the delegates from Luzerne and Schuylkill.

Mr. ELLIS. I was not here yesterday when the vote was taken on the amendment inserting Luzerne and Schuylkill counties in the exception to this section. I do not think that any section of the State should be mentioned especially. The amendment, as I understand it, reads: "The Representatives assigned to the counties of Philadelphia and Allegheny, Schuylkill and Luzerne shall be chosen by single districts." We are here establishing a fundamental law for this Commonwealth. To-day Schuylkill is the fifth county in the State in population.

In three years she may be the fifth or sixth or seventh, or she may be the third. Allegheny is a large county this year. Next year she may fall off or increase. When you name counties to be divided into districts, you adopt an arbitrary and unfair standard; whereas our true purpose is to establish a law based upon principle, and not upon any mere geographical distinction of this kind.

Now, the amendment offered by the gentleman from Columbia is most proper; it is uniform and it is just. I care not whether you apply the principle of single districts to counties of two hundred and fifty thousand, three hundred thousand or one hundred thousand population. If you choose to say it shall be applied to counties with one hundred thousand population, I will not ask to have Schuylkill excepted, but will, perhaps, vote for it. But when Schuylkill is named and Lancaster is not named—Lancaster with a population of one hundred and twenty-one thousand, and Schuylkill with a population of only about one hundred and sixteen thousand—when you provide that Schuylkill shall be dismembered and Lancaster not, it is special legislation of the most vicious character; and surely when we have laid our hand upon special legislation in the Legislature, we should not establish a monument of folly here by doing ourselves the very thing which we consider vicious in others.

I care not specially for Schuylkill on this question. As I said, if the principle is made uniform and applied to every county with like population, I shall not raise my voice against it; but to dot over the Commonwealth and say this county shall have a dismembered representation in the Legislature and one adjoining it with a larger population shall not—such patch-work is unbecoming the dignity of a Constitutional Convention. I had hoped to have a direct and naked vote on this question of Schuylkill, inasmuch as I do not desire personally to urge upon the Convention any other question, because it is so manifestly absurd that Schuylkill should be here inserted; but I entirely coincide with the gentleman from Columbia that we should not name territory at all. If we do fix a basis on which counties shall be districted, let it be population. Population is the basis upon which we have fixed representation; population is the basis in every respect on which we are making representation; and let population be the rule throughout. What-

ever other defect there may be in this amendment, so far as it will go to exclude Schuylkill from the exception made yesterday, it is certainly not only eminently proper, but the converse is absolutely absurd.

Mr. TURRELL. Mr. President: I hope that this Convention will not at this stage or any other adopt a rule for localities different from that which is applied to the whole State. If there is any reason for making an exception to this general provision it applies as well to the country as to the cities; and I am in favor of the single district system, because it comes nearer to the principles upon which our government was founded. It brings the Representative nearer to the people who elect him; and when you have a small district every man in that district knows his Representative, and can meet him face to face and call him to account for his conduct. Take a large county, like Luzerne, for instance, with six members. Some of the people may know the Representatives; but of necessity most of them can know very little about them. Here and there you will find a man who knows something about some of the Representatives, but very few who know them all. But when you divide that county into six districts, the people in each district will know the man whom they elect. They will know what kind of a man he is, and all about him. The people follow him and feel a direct interest in him, and look after his conduct; and if he goes wrong the people have an opportunity to call him to account.

It is a principle, as I have said, which lies at the foundation of our government, that all power shall be kept as much as possible in the hands of the people consistently with the efficient and harmonious working of the government; and the Representative should be kept as near to the people as possible, so that he may be kept to a strict account for his conduct.

In view of this principle, I am in favor of the single district system, and that is contained in the twentieth section of the article which the committee of the whole adopted, presented originally by the gentleman from Allegheny (Mr. D. N. White.) Now I hope the gentlemen from Schuylkill and other counties which are attempted to be made an exception here, with the mass of the Representatives of the State, will vote down this proposition and then adopt the section which follows, and which provides the single district

system, which I believe is the true one, and will be found to work well in practice.

MR. BARTHOLOMEW. Mr. President: The motive which induced me to offer the amendment yesterday was simply the conviction which I have had in my mind from the very beginning of this question that the Legislature in its lower branch should be a representative of the population, or should be based on the population of the Commonwealth; that the lower branch being the popular branch and the expression of the popular will, should be brought as closely to the citizen as possible. Therefore, so far as the lower branch is concerned, I have always been in favor of the single district system, and I am in favor of it now. Hence, yesterday when this proposition was moved, which conferred upon Philadelphia and Allegheny the single district system, actuated by the convictions which I have held, I was anxious to have it applied to that part of the State in which I am directly interested, and therefore I moved to insert the county of Schuylkill.

I believe it to be the true system. I am utterly opposed to this corporate representation, either as to counties or as to boroughs, or anything based upon a system of communities. I was surprised at the argument of the learned gentleman from Philadelphia (Mr. Woodward) this morning, because I agreed with him upon the main proposition of his opposition to a division of counties; but it seems to me that he utterly mistook the argument, and mistated that which is a necessary result from the position which he assumed. He says we should allow a representative from each county, and thereby prevent new and small counties from being formed. Why, sir, in four cases out five the very object for which new counties are formed is to multiply offices for men who seek positions. They go to work and form a ring in an old county for the very purpose of organizing a new court house ring, and fixing a new seat of justice in connection with some man who has a town plat. That is the very thing which begets new counties, and when you add to that the additional inducement of thereby securing a member of the Legislature, it is an inducement overwhelming. It is an inducement to the division of old counties three times greater than the inducement that has heretofore existed.

I am in favor of a general proposition that the lower branch of the Legislature shall be selected by district representation, by single districts throughout this Commonwealth. I believe it to be the true principle. I do not believe in a principle that is to disfranchise fractions throughout the Commonwealth. I do not believe in districts that are to be bounded by county lines. I believe the basis of such a proposition as that is wrong and pernicious. I believe that legislative districts should be made without regard to county lines. They should be made with relation to population, and population alone. County boundaries should have nothing to do with it. The State should be made up into legislative districts so that the whole population should be represented, and choose Representatives by single districts. This is the true basis of a popular government and the popular branch of its Legislature.

I hold to-day that the error is in the departure from this principle in our Commonwealth. One of the evils that we are laboring under is a departure from the principle which gives in the lower branch a representation based upon population; and then we should adopt the other principle, which I take it is the best and the truest that has been announced in this Convention, of representation in the Senate of the whole Commonwealth—a true system, such as is consistent with the organization of our government; not one that is based upon mere districts, making the Senate simply a like body to the lower House, making a representative body of districts with all the local passions and prejudices and feelings of the respective districts, but making it something that is a true check to legislation; something that will elevate its character something that will place in that body men who have a State reputation, men who will control the legislation of the State; something that will be to us a credit; something that will inaugurate a principle new to legislation, but which will be adopted throughout the length and breadth of this Union.

I offered the amendment which I presented yesterday, so as to try to be consistent with my preconceived ideas. I stood by it then, and I say here that if this report is to be adopted, I ask that this principle may at least be carried out in the county of Schuylkill, so that the Representative shall be brought home to the

people. It is the true principle; and if there are those in this Convention who disapprove of it so far as their localities are concerned, I ask them at least to let us have it in the county of Schuylkill.

Mr. DALLAS. Mr. President: I agree with much that the gentleman from Schuylkill county (Mr. Bartholomew) has said; but I cannot concur in his conclusion. I do agree with him in thinking that this Convention has made a mistake in determining that in the House of Representatives each county in the State should have a Representative; but I believe that that is a question that has been decided. I am satisfied that the views of this Convention are determined against those of the gentleman from Schuylkill and myself upon that subject; and I am not surprised that a body of gentlemen who have found themselves able to say that an elector who lives in the largest county in the Commonwealth should therefore be entitled only to a vote of less representative power than his fellow-citizens in all other portions of the State, should find it also possible to declare that a man living in the smallest county in the Commonwealth should be entitled to a greater representative power by his vote than the voters of any other part of the Commonwealth. I am not surprised that the same body which came to the one conclusion should have come to the other. I have, I think, rightly observed the temper of the Convention in this matter, and I am satisfied that it is finally determined that representation in the lower House is to be to some extent based upon counties and county lines. I am willing, therefore, to accept, as we all must accept it, as the final *flat* of this body, that we are to look for county representation without regard to population in our House of Representatives, if our work shall be approved.

Now, sir, accepting that disposes of much of the argument of the gentleman from Schuylkill, because when county representation is concluded upon it follows, if we are to be consistent with our entire course upon all other subjects, that no exception by name of particular counties should be made in this section. It would be simply special legislation of that character to which we have been continually objecting and against which we have constantly protested. Every delegate on this floor who happens to entertain the views upon this subject which animate the gentleman from Schuylkill,

who last addressed the body, and myself, would seek to make their county an exception, in order that in their county their views might prevail against the general views of the Representatives of the Commonwealth here assembled. Though I am one that holds those views, I do not favor making these exceptions to partially carry them out. If this Convention shall determine that the rule shall be as they have, then make no exception by county name. A special objection to such a course occurs to me. It is a practical objection which I have not heard mentioned, or I should not have taken the floor. It is this: You name Schuylkill and you name Luzerne; next we shall have, upon certainly equally good grounds, some gentleman from Lancaster asking that Lancaster shall be excepted, and next you will have another and another and still another. But we have not made it impossible under this Constitution that county lines may be changed. The county of Schuylkill, of which you make an exception to-day, may be reduced in its territory. Then the question will be, which is Schuylkill, the old or the new. Probably that portion of the territory which had been entirely in old Schuylkill would remain Schuylkill, and old Schuylkill might become one of the small counties of the Commonwealth; and yet you would have, by your constitutional provision, rigidly fixed that that county should be divided into separate districts, though it might become one of the small counties of the State by such division as I have suggested.

Neither this objection, nor any of the objections that have been urged, has any application, however, to the amendment proposed by the gentleman from Columbia. He proposes not to name any county by name, but to make the title to separate districts dependent upon a uniform rule, based upon population, so that when a county has a population exceeding the very large number of two hundred and fifty thousand, it shall be separated into representative districts, but not otherwise; and the reason for separate districts in such counties has been well assigned by the gentleman from Susquehanna. It is that counties of so great population should be divided, in order that the candidates for Representatives may be known to those who are to elect them; but in addition to that, the very varied interests that always must exist in such large populations may well be said

to be entitled to separate representation in the lower House.

MR. AINEY. Mr. President: I hope that this amendment will not be adopted. I am in favor of the principle of single districts. If the apportionment of representation be decided against by this body, the next best thing, and which will go to satisfy the demands of the people on this question for greater representation, will be that of single districts. If we are to have single districts, let us have them uniform throughout the State. I protest against singling out certain counties in the State, whether by reason of population or otherwise, and giving them single districts, and in other parts of the State compelling them to elect by counties as a whole. I simply rise to protest against any special legislation here in the Constitution so as to prevent a uniform mode of electing in districts throughout the Commonwealth.

MR. MACCONNELL. Mr. President: The gentleman from Philadelphia (Mr. Dallas) is very strenuously opposed to excepting any districts by name; that he thinks preposterous and wrong; but he is decidedly in favor of providing specially for them according to population. He would oppose making a provision that would apply to Philadelphia and Allegheny counties by name; but he argues that it is all right to make a provision that will apply to those two counties in effect, because that is exactly what it does. If you were to mention Philadelphia and Allegheny counties by name, you could not make it more special, more specific, more applicable to them and none else, than you do by putting it in the shape that the gentleman from Columbia does. Gentlemen are opposed to special legislation by name, but in effect they are in favor of it.

Now we all know that—

"That which we call a rose,
By any other name would smell as sweet."

And what the gentleman from Columbia wants to apply here is just special legislation by another name, and it is as much so as if he called it so. Now, I have a very strong suspicion that I understand why this thing is applied to Allegheny county and Philadelphia, and is not applied to some of the other counties. I think I understand it, and I think there are not many gentlemen on this floor who are green enough not to understand it. I will not attempt to explain it.

But coming to the other provision that is put in here, which one gentleman asked the gentleman from Columbia to explain, but which he took very good care not to explain —

MR. BUCKALEW. If the gentleman will permit me —

MR. MACCONNELL. I have no doubt it was an oversight.

MR. BUCKALEW. I rose to my feet and was not heard.

MR. MACCONNELL. Still the gentleman did not explain it. This is this provision: "The said representative districts shall be so formed as to secure the full proportionate and just representation of each division of the electors of each of said counties, as the same shall be exhibited in the returns of popular elections."

If that is not minority representation slipped in cunningly, innocently, of course, into those two counties, whilst all the rest of the State is excepted from it, then I do not know what there is in it. I am entirely at a loss to understand the meaning of the section if it does not mean that.

Now, sir, I want, so far as Allegheny county is concerned, to have it put precisely on the same footing with the rest of the State. If you do not have single districts for the rest of the State, do not give them to us. If you give them to us, give them to the remainder of the State. If that system is good for us, it cannot be bad for the State generally. If it is bad for the State generally, it cannot be good for us, and so of Philadelphia.

I insist, therefore, Mr. President, that this principle of equality should prevail, that the whole State should be put on an equal footing in this regard.

MR. BUCKALEW. Mr. President: I rise to explain. The point to which my attention was called by the gentleman from Allegheny is *also* the one of which the gentleman from Tioga spoke. This expression that the representative districts "shall be so formed as to secure the full, proportionate and just representation of each division of the electors of each of said counties according to the returns of popular elections," is as plain, I think, as human language can make it; and it has nothing more to do with the subject of reformed voting (the limited vote, or the free vote or any other) than it has to do with the laws of astronomy. I should like to see the gentleman from Allegheny point out any plan of reformed voting in

a section that provides that districts shall each elect one member!

Mr. S. A. PURVIANCE. I wish to ask the gentleman a question. In Allegheny county, and probably elsewhere, there may be three parties, the Democratic party, the Republican party and the Liberal Republican party. Now, where the Liberal Republican party consists of what it does in this House, my friend from Luzerne (Mr. Palmer)—

Mr. BUCKALEW. I hope the gentleman will not disregard the rules of order by mentioning names. [Laughter.]

Mr. S. A. PURVIANCE. How will the gentleman from Columbia carry out in such a case a proposition that districts shall be formed to secure the just representation of each division of the electors? How is that done?

Mr. BUCKALEW. There is no difficulty in understanding this provision, and I am afraid the trouble is with the candor of gentlemen rather than the obscurity of the language employed in the section. It means exactly this: That when the tribunal of apportionment comes to divide the county of Schuylkill, if you please, (if you apply the principle there, and there are five Representatives for Schuylkill,) they shall, as far as they can without dividing local districts, arrange their work so that two of the districts made shall have Republican majorities and three of them Democratic majorities, assuming that that division of representation is proportioned to the relative strength of parties in that county—the principle on which it is pretended that every apportionment in the Legislature is to be framed; the principle on which it is said every such bill should be made, but which we well know is disregarded.

Now, sir, with regard to this question as to Philadelphia: When consolidation took place the Legislature almost unanimously proposed a provision for insertion in the Constitution that Representatives should be elected from Philadelphia and Pittsburg by single districts. That was intended to secure minority representation; that these districts should be so made as to give a fair proportion of Representatives to both the majority and minority in each city. Now, what is this clause in this section but that the principle on which that constitutional amendment was founded shall be imperative upon the tribunal that shall make apportionments? I have inserted the words "as nearly as may be," because mathe-

matical exactness cannot be attained. I know very well that in districting this city of Philadelphia at present it is impossible to give the minority the proportionate share of districts to which their aggregate vote entitles them. When the last apportionment was made, gentlemen who were concerned in making the bill—I did not go into the details myself—declared that it was impracticable to make more than seven minority districts out of the eighteen in this city, from the accident of the aggregation of the vote of one interest in particular wards, not being conveniently distributed throughout the entire city; and I take it for granted that as to Allegheny the gentleman (Mr. D. N. White) is correct in his view, that out of the eleven single districts which will be made in that county the minority will not be likely to get more than two.

Now, this provision will not obstruct the work of making an apportionment, taking into account the local facts in these cities and wherever else this principle may be applied. The apportionment shall be fairly made, "as nearly as may be," and will be conformed to the proper principle on which apportionments are presumed to be based.

Mr. MACCONNELL. I wish to ask why it is confined to Philadelphia and Allegheny?

Mr. BUCKALEW. That is another question. That involves a general debate on the formation of single districts; but it has nothing to do with this clause to which the gentleman called my attention. I agree that if you go outside of the present constitutional provision for these populous districts, you ought to divide the whole State; and hence I have made the motion to omit the counties of Schuylkill and Luzerne.

Mr. S. A. PURVIANCE. I have but a word to say. I do not know whether any portion of the delegation from Allegheny county has made a request to have a provision adopted, such as has been inserted by the gentleman from Columbia. I only speak for myself, and I do not regard it as a provision which will meet with the approbation of our people. The idea expressed by my colleague is a correct one, that if it is good for one place it ought to be applied to another. Why not apply it to Berks, Lancaster and many of the other large counties of the Commonwealth? Moreover, Mr. President, under existing laws, the Legislature can do all this. The Legislature has exercised that power before; why not al-

low it to exercise it again? If the gentleman would accept such a modification as this, that the Legislature may divide counties having a population of one hundred and fifty thousand or more into separate legislative districts, I can see no objection to that; but to put into the Constitution the imperative word "shall," by which the counties shall forever under this be bound by that division into legislative districts, is going a little too far; for, sir, after a county had been divided into legislative districts, it might be that the people would desire to have a change made, and yet they would not be able to have it accomplished.

But, sir, singular to say, the language which follows in the same section, to which my colleague adverted, is most extraordinary. What does it mean? Why, sir, that you are to go into politics in your Constitution. You are, in making a Constitution which is to go down to generations yet unborn, to taint and contaminate that Constitution by politics. We are here in a Constitutional Convention, not to manipulate politics, but to model a fundamental law, and who knows what the politics of to-morrow will be in this State, and especially who knows what the politics will be in twenty, thirty or forty years, when this Constitution will still be in existence?

Now, the question which I put to the honorable gentleman from Columbia is one which I ask him to answer candidly, and it is one which he is bound to answer, because there sits my friend from Luzerne (Mr. G. W. Palmer.) He belongs to that "Liberal Republican" party which has been spoken of, and I ask how his rights would be secured under this provision of the Constitution, in giving him a representation. I say the Constitution would bind, would obligate, whoever had the carrying of it out, to give a representation to even three members of a party. As I say, Allegheny county does not desire it. If she does, her members upon this floor can express themselves favorably to it; but as I believe they do not desire, I trust that this section will be entirely voted down.

Mr. BIDDLE. Mr. President: I am opposed to the section as it now stands and also to the amendment. I think they only differ in degree. The section as it stands excepts four counties; the amendment excepts two. Neither section nor amendment proceeds upon anything like

a basis of principle; but both are partial and exceptional.

Now, I do not know, nor do I care, whether anything like what is called politics have entered either into the section or the amendment. I discard both entirely. As the section stands, you introduce two Democratic counties, Luzerne and Schuylkill, and of course by districting them you diminish the strength of the dominant party. By the amendment, which I agree with the gentlemen from Allegheny, who spoke first, is just as exceptional as if the counties to which it applies were designated, you defeat also the strength of the dominant party in two other counties which happens to be the other way. I do not care one pin whether it acts in one direction or the other; I shall give my vote on this question, as I hope I have on every other, unaffected by anything like such a consideration as that. If single districts are good for Philadelphia, and Allegheny, and Schuylkill, and Luzerne, and Lancaster, and Berks, which all have a population of over one hundred thousand, then they are good for every county that elects more than one representative. If they are not good for the rest of the State, they are not good for those counties.

I shall therefore vote to leave this subject entirely untouched here. If it turns out hereafter that it may be wise to district all the counties of the State according to a ratio of population, district them; but do not let us say here by adopting this section with four counties, which I believe is an amendment itself, or the further amendment of keeping two counties in, that we are going to descend to the consideration of those questions which are necessarily merely ephemeral, and which, if they were not, are unworthy of consideration at the hands of a body which, is asked to lay down a fundamental law, which means a law based on principle.

Mr. MCLEAN. Mr. President: I desire to express my views on this subject by referring to the Debates, vol. 2, page 198, being remarks made by a member of this Convention in relation to the adoption of the constitutional amendment of 1857 in regard to the division of Philadelphia into separate districts. Mr. Buckalew said:

"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."

Now, Mr. President, I am at a loss to be able to reconcile those views, as expressed on the 28th of February last, by the gentleman from Columbia, with the position he takes to-day.

The PRESIDENT *pro tem*. The question is on the amendment to the amendment.

The question being put, a division was called for.

Mr. J. M. WETHERILL. I call for the yeas and nays.

More than ten delegates rose to second the call.

The PRESIDENT *pro tem*. The Clerk will call the yeas and nays.

Mr. J. M. WETHERILL. At the request of the gentleman from Columbia (Mr. Buckalew) I withdraw the call for the yeas and nays.

The question being taken by a division, the yeas were thirty-five, the noes forty-nine. So the amendment to the amendment was rejected.

The PRESIDENT *pro tem*. The question recurs on the fourth division of the amendment of the delegate from Columbia.

Mr. J. M. WETHERILL. I move to amend by striking out in the fifteenth and sixteenth lines the words, "and Schuylkill."

Mr. MACVEAGH. That does not seem to be in order.

Mr. J. M. WETHERILL. I think the gentleman will agree with me that it is in order.

Mr. EWING. Yesterday this proposition was amended by putting that in, and we cannot strike it out now, I think.

The PRESIDENT *pro tem*. Yesterday the Convention inserted "Schuylkill and Luzerne." To-day the motion is to strike out "Schuylkill." It is a different question from that decided yesterday. The question is on the amendment of the gen-

tleman from Schuylkill to the amendment.

Mr. J. M. WETHERILL. Before the vote is taken permit me to say a word on this question. The amendment offered yesterday, including Schuylkill in this single district representation, is not desired by the people of the county, or at least by a majority of the people of the county, and, as is evident to all the gentlemen of this Convention, it is special legislation with regard to that county in comparison with all the rest of the State. I desire merely to repeat what I have already just now said, that it is not according to the wish of the people of Schuylkill county that this amendment shall be made, as I understand.

The PRESIDENT *pro tem*. The question is on the amendment to the amendment.

The amendment to the amendment was rejected, there being, on a division, yeas twenty-nine, not a majority of a quorum.

The PRESIDENT *pro tem*. The question recurs on the fourth division of the amendment of the gentleman from Columbia.

Mr. ELLIS. I move to insert, after the word "Schuylkill," "the counties of Lancaster, Berks, Chester, Delaware and Crawford."

Mr. J. M. WETHERILL. I move to further amend, by adding Montgomery.

Mr. CHURCH. I move to insert Crawford.

Mr. DUNNING. And York.

Mr. LILLY. And Cameron and Forest.

Mr. HARRY WHITE. I move to add M'Kean, Cameron and Forest.

Mr. ELLIS. I accept the modification.

Mr. KNIGHT. I move to insert, "and all counties that have more than one Representative."

Mr. STANTON. I move to insert Lehigh, Potter, Cameron and Montgomery.

The PRESIDENT *pro tem*. The question is on the amendment of the gentleman from Schuylkill (Mr. Ellis) to the amendment to insert, after the word "Schuylkill," in the sixteenth line, the words, "Lancaster, Berks, Chester, York, Delaware, Crawford, Forest, Elk and Cameron."

The amendment to the amendment was rejected.

The PRESIDENT *pro tem*. The question recurs on the fourth division of the amendment of the gentleman from Columbia.

Mr. BUCKALEW. Under existing circumstances, in view of what has been already done, I hope this division will be voted down without spending more time on it.

The division was rejected.

The PRESIDENT *pro tem*. The question now is on the fifth division of the amendment of the delegate from Columbia, which will be read.

The CLERK read as follows:

"As soon as may be after each decennial enumeration of the inhabitants of this State by authority of the United States shall be made and the result thereof published, the Secretary of the Commonwealth, the Secretary of Internal Affairs, and the Attorney General, shall meet together and proceed to ascertain and determine the number of Representatives to which each county and district composed of counties shall be entitled under this Constitution, and shall apportion the same thereto and certify their apportionment to the Governor of the Commonwealth, who shall forthwith announce the same by proclamation to the people."

Mr. BUCKALEW. Since the prior division, in regard to the representation of fractions, has been lost, there is scarcely any utility in this provision. It would simply authorize these officers to say how many Representatives each county is entitled to. That can be ascertained by anybody else as well. There was a meaning to it when a programme for the representation of fractions was in the section; but as it is now, I hope it will be rejected.

The division was rejected.

The PRESIDENT *pro tem*. The question now recurs upon the amendment of the delegate from Columbia as amended. It will be read.

The CLERK read as follows:

"Each county now organized shall be entitled to at least one Representative."

Mr. LILLY. Is that the whole of the amendment?

The PRESIDENT *pro tem*. It is; the rest has been rejected.

Mr. MANN. I move to amend, by inserting before the words just read: "The House of Representatives shall consist of one hundred and fifty members."

Mr. MACVEAGH. I trust that this will now all be voted down, and then let us come to the section itself, which contains the same statement exactly. Therefore the advocates of county representa-

tion can do no harm in voting down this proposition as it stands.

Mr. MANN. I wish to make a remark on my motion.

Mr. BEAR. I rise to a point of order.

The PRESIDENT *pro tem*. The gentleman will state his point of order.

Mr. BEAR. The point of order is that the first clause of the proposition of the gentleman from Delaware, (Mr. Broomall,) fixing the number of the House of Representatives at one hundred and fifty, was adopted, and that preceeds the second division here, which says that each county shall be entitled to one Representative.

Mr. MANN. I move to amend the section as it now stands, by adding to it the words: "The House of Representatives shall consist of one hundred and fifty members."

The PRESIDENT *pro tem*. The question is on the amendment of the delegate from Potter (Mr. Mann.)

Mr. MANN. I hope the suggestion of the gentleman from Dauphin (Mr. MacVeagh) will not be accepted by the Convention. There is no necessity for doing what he suggests. It is simply asking the Convention to vote down a proposition which they have adopted over and over again, thereby stultifying themselves for no purpose whatever. The section as it now stands can just as well be amended without voting it down as with voting it down.

Mr. MACVEAGH. I do not care which, so that a vote is taken.

Mr. MANN. All that I ask is, that we shall vote what we have decided upon, such an amendment as will make the section consistent with the views of the Convention. The suggestion made by my friend from Somerset, that the section already contains the number of Representatives, is a mistake, for the amendment of the gentleman from Delaware, (Mr. Broomall,) after having that inserted in it, was voted down, the whole of it; so that there is nothing left in this section except that which was read by the clerk. My amendment proposes to restore what the Convention has decided over and over again, that the House of Representatives shall consist of one hundred and fifty members. Other delegates may add whatever they please to make it perfect.

The PRESIDENT. The Clerk will read the statement of how the question stands from his minutes.

The CLERK. The first division was reconsidered this morning, and voted down by a vote of forty-nine to sixty. On the second division, Mr. Broomall moved to amend by striking out and inserting. Mr. Buckalew called for a division of that amendment. The first division, ending with the word "Representative," was agreed to. The second division, ending with the word "census," was defeated on a call of the yeas and nays. The third division was not agreed to by a *viva voce* vote. All that is left, therefore, of the proposition is what I read: "Each county now organized shall be entitled to at least one Representative."

The PRESIDENT *pro tem*. The question is on the amendment of the delegate from Potter to the amendment as just read.

Mr. BIGLER. I suggest to the delegate from Potter to withhold his amendment and offer it to the text, the original proposition of the delegate from Allegheny (Mr. D. N. White.)

Mr. MACVEAGH. If the gentleman from Potter will withdraw his amendment and allow this section, as I suggested, to be voted down, we shall come to the section before the House, and then he can offer his amendment to that section, and we shall be in regular method to take the vote and can conclude this business. I trust he will do so.

The PRESIDENT *pro tem*. The question is on the amendment of the delegate from Potter.

Mr. MANN. At the suggestion of many gentlemen, I withdraw the amendment. The PRESIDENT *pro tem*. The amendment to the amendment is withdrawn. The question recurs on the amendment of the gentleman from Columbia as amended.

Mr. MACVEAGH. Now let us vote that down, and then we shall come to the section of the delegate from Allegheny (Mr. D. N. White.)

The amendment as amended was rejected.

Mr. MACVEAGH. Now the question is on the section as it stands in the article, and anybody who wishes to amend it can do so.

The PRESIDENT *pro tem*. The question now recurs on the original section, which will be read,

The Clerk read as follows:

SEC. 19. The House of Representatives shall consist of not less than one hundred and fifty-two members, to be apportioned

and distributed to the counties of the State, severally, in proportion to the population, on a ratio of twenty-five thousand inhabitants to each member, except that each county shall be entitled to at least one member, and the city of Philadelphia, or any county, having an excess of three-fifths of said ratio over one or more ratios, shall be entitled to an additional member. In case the number of one hundred and fifty-two members is not reached by the above apportionment, counties having the largest surplus over one or more ratios shall be entitled to one additional member, until the number of one hundred and fifty-two members is arrived at."

Mr. DARLINGTON. I move to amend the section by striking out the word "two," where it occurs in the second, eighth and eleventh lines, so as to make it read one hundred and fifty members instead of one hundred and fifty-two. That is my object.

Mr. WORRELL. What is the purpose of that amendment?

The PRESIDENT *pro tem*. The amendment is before the Convention.

Mr. DARLINGTON and Mr. ANDREW REED called for the yeas and nays, and ten delegates rising to second the call, they were ordered, and being taken, resulted, yeas forty-one, nays sixty-six, as follow:

YEAS.

Messrs. Achenbach, Alricks, Andrews, Baer, Bannan, Black, Charles A., Bowman, Broomall, Buckalew, Bullitt, Campbell, Church, Corbett, Darlington, Ellis, Fell, Funck, Gilpin, Guthrie, Hay, Hemphill, Kaine, Long, MacVeagh, M'Clean, M'Murray, Metzger, Minor, Mott, Palmer, G. W., Palmer, H. W., Patton, Pughe, Purman, Reed, Andrew, Smith, H. G., Smith, Henry W., Smith, Wm. H., Stewart, Struthers and Walker—41.

NAYS.

Messrs. Addicks, Ainey, Armstrong, Baily, (Perry,) Bartholomew, Beebe, Biddle, Bigler, Black, J. S., Boyd, Brown, Calvin, Carter, Clark, Collins, Corson, Craig, Cronmiller, Curtin, Dallas, De France, Dunning, Edwards, Elliott, Ewing, Eulton, Green, Hall, Hazzard, Horton, Howard, Hunsicker, Knight, Lambertson, Landis, Lawrence, Lear, Lilly, MacConnell, M'Camant, M'Calloch, Mann, Mantor, Newlin, Niles,

Parsons, Patterson, D. W., Porter, Purviance, John N., Purviance, Samuel A., Reynolds, Ross, Runk, Russell, Sharpe, Stanton, Temple, Turrell, Wetherill, J. M., Wetherill, Jno. Price, Wherry, White, David N., White, Harry, Woodward, Worrell and Wright—68.

So the amendment was rejected.

ABSENT.—Messrs. Bailey, (Huntingdon,) Baker, Barclay, Bardsley, Brodhead, Carey, Cassidy, Cochran, Curry, Cuyler, Davis, Dodd, Finney, Gibson, Hanna, Harvey, Heverin, Littleton, Mitchell, Patterson, T. H. B., Read, John R., Rooke, Simpson, Van Reed, White, J. W. F. and Meredith, *President*—28.

Mr. Ross. I move to amend the section in the sixth line, by striking out the words "three-fifths" and inserting "one-half."

The *PRESIDENT pro tem.* The question is on the amendment of the delegate from Bucks (Mr. Ross.)

The amendment was rejected.

The *PRESIDENT pro tem.* The question recurs on the section.

Mr. WHERRY. Mr. President: It will be observed by the Convention that this nineteenth section contains four distinct bases of representation: First, county representation; second, representation upon a basis of population of twenty-five thousand; third, a representation upon the basis of three-fifths of a ratio; and fourth, and to my mind the most objectionable, the basis of representation upon accidental fractions. It is against this fourth basis of representation that I desire solemnly to protest. It is undemocratic, un-American, anti-republican, and contrary to every settled policy of republican government, contrary to everything that this Convention has heretofore done. It is not a representation of majorities or of minorities, but of pure accidents. I therefore move to strike out from this nineteenth section all after the word "members," in the seventh line.

Mr. J. PRICE WETHERILL. Mr. President: I heartily endorse every word that has been said by the gentleman who has last spoken upon this section. It is true that the latter clause of this section was prepared to accommodate some nine or eleven counties in the State—I think nine only—simply because their unused fractions happened to amount to over nine thousand. Now, there may be such a change in the condition of things that these unused fractions of nine thousand

may be reduced to a very much smaller sum than that, and if it is reduced to five thousand or four thousand, how unfair it is?

Mr. D. N. WHITE. I should like to correct the gentleman. Over eleven thousand is the smallest fraction.

Mr. J. PRICE WETHERILL. I say that if by some unforeseen accident this number should be reduced to say four or five thousand, and that should be the largest number, how unfair it would be to give a county with so small an unused fraction as that a Representative, when other counties have to have twenty-five thousand for a Representative! It is not fair, it is a mere expedient, and as such, in my opinion, should not go into the organic law.

Why was it that one hundred and fifty-two members were named? Simply to accommodate these nine counties. It was well known that the representatives upon this floor, representing these nine counties, would object seriously when they had so large a number of unused fractions that they were not recognized, and it is a compromise given by the delegate from Allegheny to the representatives on this floor of those nine counties, and it suits them, although it does not, upon any fair or just principle, suit any other county in the State.

I do hope, therefore, that the amendment offered by the gentleman from Cumberland will prevail, and that we shall strike out the latter part of this section.

Mr. TURRELL. Mr. President: I hope that the amendment will not prevail. Every one of the propositions contained in the section in one form or another, by amendments, has been passed upon by this Convention, and as we have got back to the section now, let us have a square vote upon it.

As to the remarks upon the fact that there are fractions to be provided for, that has been a thing recognized and conceded all the way through in this voting, that these fractions are to be provided for, and it is right they should be; and there is no ratio that you can take, there is no system that you can take but what will leave some fractions somewhere, and it is only a question where they shall be. Now let us come to a vote upon it. There is no injustice in it, because, as I said before, any gentleman may sit down and try and he cannot take a ratio which will not leave fractions somewhere; and it makes, as I

said before, only a question of where they shall be. Those fractions will change with population, and some who may think they are injured by it now will be benefited by and by. The proposition is as fair a one as we can get at. It has been fully canvassed. Let us have a square vote on it.

Mr. WHERRY. The gentleman from Susquehanna is mistaken when he says the Convention have passed on this question. ["Order." "Order."]

The PRESIDENT *pro tem.* The delegate from Cumberland has the floor.

SEVERAL DELEGATES. He has spoken once.

The PRESIDENT *pro tem.* Delegates will keep order and let the gentleman proceed with his remarks.

Mr. WHERRY. Efforts have been made to adopt the sliding scale by which fractions should be represented, but we object to this—

Mr. HOWARD. Mr. President: I rise to a point of order. The delegate now addressing the Chair has spoken upon this subject once.

The PRESIDENT *pro tem.* The Chair believes he has.

Mr. CORBETT. Mr. President: I want to know if I have spoken.

The PRESIDENT *pro tem.* The Chair thinks not.

Mr. CORBETT. I want to say merely a word, and I shall not detain the Convention any time. I am glad to hear that this is a fair proposition. That is a great comfort to me. [Laughter.] It gives a county which has only one hundred votes a Representative; it does not give another county of greater population a second one until she has forty thousand! I apprehend that if there was only one voter in a county he could have a Representative. I am a good deal non-plussed in this matter to know whether it is the people, the electors that vote, or the territory or pine stumps, that is represented; and yet I am told that this proposition is a fair one. I suppose it will be passed. All right if you pass it. The Convention can pass it if they see proper. The people may adopt it. If they do I say now, and here, that it strikes at popular government. I say that when the question arises in the Legislature of this State who shall represent the people of Pennsylvania in the United States Senate, the representative elected may, possibly, represent the popular will or he may not. I say on this question that it does what I

shall never consent to do, and I do not care what political party, or whether it be a political party or not—it may not be one, we may be divided on other questions than politics—I shall never give my vote to a proposition that may possibly lead to this result. I therefore shall vote against this section, and I much prefer to this proposition that you fix the amount of Representatives at one hundred and fifty and Senators at fifty, and trust the whole thing to the Legislature and allow them to gerrymander, allow them to do what they will. They cannot disregard the popular will if you do; they must pay some attention to the wishes and the will of the majority of the people of Pennsylvania. But I say this does not arrive at that result at all. It may arrive at it or it may not; it depends upon accident.

The PRESIDENT *pro tem.* The question is on the amendment of the delegate from Cumberland (Mr. Wherry.)

Mr. WHERRY. I call for the yeas and nays.

The yeas and nays were ordered, more than ten delegates rising to second the call, and they were taken with the following result:

YEAS.

Messrs. Achenbach, Alricks, Baer, Bidle, Bigler, Black, Charles A., Black, J. S., Broadhead, Broomall, Buokalew, Bullitt, Campbell, Carter, Church, Clark, Corbett, Corson, Dallas, De France, Elliott, Ellis, Gibson, Gilpin, Guthrie Hemp-hill, Hunsicker, Kaine, Lamberton, Lilly, Long, M'Camant, M'Clean, M'Murray, Metzger, Mott, Patton, Pughe, Purman, Reynolds, Sharpe, Smith, H. G., Smith, Henry W., Smith, Wm. H., Temple, Van Reed, Walker, Wetherill, John Price, Wherry and Worrell—49.

NAYS.

Messrs. Addicks, Ainey, Andrews, Armstrong, Bailly, (Perry,) Bartholomew, Beebe, Bowman, Brown, Calvin, Cochran, Collins, Craig, Darlington, Dodd, Edwards, Ewing, Fell, Fulton, Funck, Green, Hay, Hazzard, Horton, Howard, Knight, Landis, Lawrence, Lear, MacConnell, MacVeagh, M'Culloch, Mann, Mantor, Minor, Niles, Palmer, G. W., Palmer, H. W., Parsons, Porter, Purviance, John N., Purviance, Samuel A., Reed, Andrew, Rooke, Ross, Russell, Stanton, Stewart, Struthers, Turrell, Wetherill, J. M., White, David N., White, Harry, Woodward and Wright—55.

So the amendment was rejected.

ABSENT.—Messrs. Bailey, (Huntingdon,) Baker, Bannan, Barclay, Bardsley, Boyd, Carey Cassidy, Cronmiller, Curry, Curtin, Cuyler, Davis, Dunning, Finney, Hall, Hanna, Harvey, Heverin, Littleton, Mitchell, Newlin, Patterson, D. W., Patterson, T. H. B., Read, John R., Runk, Simpson, White, J. W. F. and Meredith, *President*—29.

The *PRESIDENT pro tem.* The question recurs on the section.

MR. LILLY. I have only a word to say. It appears to me that this Convention is about to put into the Constitution a monstrosity, and I appeal to gentlemen who think as I do to withdraw all further opposition to it except by their silent votes.

MR. WHERRY. I desire to move a mere verbal amendment. The words "on the ratio" occur in the fourth line. I submit that they do not make good English. I move to strike out the words, "on the," and insert the word "in." The clause will then read, "in proportion to the population in ratio."

The amendment was rejected.

The *PRESIDENT pro tem.* The question is on the nineteenth section.

The yeas and nays were required by Mr. Wherry and Mr. Kaine, and were as follow, viz:

Y E A S .

Messrs. Achenbach, Addicks, Ainey, Andrews, Armstrong, Baily, (Perry,) Bartholomew, Beebe, Bowman, Calvin, Collins, Corson, Darlington, Dodd, Edwards, Ewing, Fell, Funck, Green, Hall, Hay, Hazzard, Horton, Howard, Knight, Landis, Lawrence, MacConnell, MacVeagh, M'Culloch, Mann, Mantor, Minor, Niles, Parsons, Porter, Pughe, Purviance, John N., Reed, Andrew, Rooke, Russell, Stanton, Struthers, Turrell, Van Reed, Wetherill, J. M., White, David N. and White, Harry—48.

N A Y S .

Messrs. Alricks, Baer, Bannan, Biddle, Bigler, Black, Chas. A., Black, J. S., Brodhead, Broomall, Brown, Buckalew, Bullitt, Campbell, Carter, Church, Clark,

Cochran, Corbett, Dallas, De France, Dunning, Elliott, Ellis, Fulton, Gibson, Gilpin, Guthrie, Hemphill, Hunsicker, Kaine, Lamberton, Lilly, Littleton, Long, M'Camant, M'Clean, M'Murray, Metzger, Mott, Palmer, G. W., Palmer, H. W., Patterson, D. W., Patton, Purman, Purviance, Samuel A., Reynolds, Ross, Runk, Sharpe, Smith, H. G., Smith, Henry W., Smith, Wm. H., Stewart, Temple, Walker, Wetherill, John Price, Wherry and Worrell—58.

So the section was rejected.

ABSENT.—Messrs. Bailey, (Huntingdon,) Baker, Barclay, Bardsley, Boyd, Carey, Cassidy, Craig, Cronmiller, Curry, Curtin, Cuyler, Davis, Finney, Hanna, Harvey, Heverin, Lear, Mitchell, Newlin, Patterson, T. H. B., Read, John R., Simpson, White, J. W. F., Woodward, Wright and Meredith, *President*—27.

MR. J. PRICE WETHERILL. Mr. President: I offer the following as a new section at this place, to be numbered nineteen:

"The General Assembly shall apportion the State every ten years, beginning at its first session after the adoption of this Constitution, by dividing the population of the State, as ascertained by the last preceding Federal census, by the number one hundred and fifty, and the quotient shall be the ratio of Representatives in the House of Representatives. Every county shall be entitled to one Representative, unless its population is less than three-fifths of the ratio. Every county having a population not less than the ratio and three-fifths, shall be entitled to two Representatives; and for each additional number of inhabitants equal to the ratio one Representative. Counties containing less than three-fifths of the ratio shall be formed into single districts of compact and contiguous territory, bounded by county lines, and contain, as nearly as possible, an equal number of inhabitants."

MR. WHERRY. I move that we adjourn. The motion was agreed to, and at two o'clock and forty-eight minutes P. M. the Convention adjourned.

ONE HUNDRED AND TWENTY-FOURTH DAY.

FRIDAY, June 20, 1873.

The Convention met at half past nine o'clock A. M., Hon. John H. Walker, President *pro tem.*, in the chair.

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

ORDER OF BUSINESS.

The PRESIDENT *pro tem.* Petitions and memorials are in order.

Mr. BIGLER. I think we shall greatly facilitate business this morning by going directly to the article we had under consideration yesterday. For that purpose I move the postponement of all other orders, and that the Convention do now proceed to consider the report No. 2 on the Legislature.

The PRESIDENT *pro tem.* The delegate from Clearfield moves to postpone all other orders and proceed to the consideration of the article to which he has referred. ["No." "No."]

Mr. MACVEAGH. I trust that will not be done.

SEVERAL DELEGATES. The orders of the day.

The PRESIDENT *pro tem.* The question is on the motion of the delegate from Clearfield.

SEVERAL DELEGATES. Orders of the day.

Mr. BIGLER. The motion was to postpone the further consideration of the orders of the day.

The PRESIDENT *pro tem.* The question is on the motion of the delegate from Clearfield.

Mr. BIGLER. The motion is to postpone all other orders and proceed to the consideration of the article which was up yesterday.

The PRESIDENT *pro tem.* The Chair will again state the question. It is to postpone all other orders and proceed at once to the consideration of Article No. 2, reported from the Committee on the Legislature.

Mr. BROOMALL. That requires a two-thirds vote.

Mr. BIGLER. Only a majority.

The PRESIDENT *pro tem.* It requires two-thirds to suspend the orders.

The motion was not agreed to, there being on a division, ayes thirty-two, less than a majority of a quorum.

LEAVE OF ABSENCE.

Mr. JOSEPH BAILY. I ask leave of absence for Mr. Collins, for a few days from Monday next.

Leave was granted.

PROPOSED RECESS.

Mr. KAINE. I offer the following resolution.

"Resolved, That when the Convention adjourn on Tuesday next, it will adjourn to meet at twelve o'clock, M., on Tuesday, September 16, 1873."

On the question of proceeding to the second reading and consideration of the resolution, Mr. Dallas and Mr. Hay called for the yeas and nays.

Mr. BARTHOLOMEW. Mr. President:—The PRESIDENT *pro tem.* The yeas and nays have been called for.

Mr. MACCONNELL. Let the resolution be read.

The resolution was read for information.

Mr. MACCONNELL. Now if it is in order I move to amend—

The PRESIDENT *pro tem.* An amendment is not yet in order. The question is on proceeding to the second reading and consideration of the resolution.

The question was taken by yeas and nays, with the following result:

YEAS.

Messrs. Ainey, Andrews, Armstrong, Baker, Barclay, Bartholomew, Bowman, Boyd, Broomall, Brown, Calvin, Campbell, Cochran, Collins, Fell, Green, Harvey, Hemphill, Howard, Kaine, Knight, MacConnell, MacVeagh, M'Clean, Mantor, Minor, Newlin, Parsons, Patton, Purman, Reynolds, Runk, Russell, Smith, H. G., Smith, Henry W., Turrell, Van Reed, Wetherill, J. M., Wherry, White, David N., Woodward and Wright—42.

NAYS.

Messrs. Alricks, Baily, (Perry,) Beebe, Bigler, Black, Charles A., Brodhead, Church, Clark, Corbett, Corson, Cronmil-

ier, Curtin, Dallas, Darlington, De France, Dodd, Edwards, Elliott, Ellis, Ewing, Fulton, Funck, Gibson, Gilpin, Guthrie, Hall, Hay, Horton, Hunsicker, Lamberton, Lawrence, Lilly, M'Culloch, Mann, Niles, Palmer, H. W., Patterson, D. W., Porter, Purviance, John N., Purviance, Samuel A., Reed, Andrew, Rooke, Sharpe, Simpson, Stewart, Struthers, Temple, Walker, Wetherill, J. Price and White, Harry—50.

So the resolution was not ordered to a second reading.

ABSENT.—Messrs. Achenbach, Addicks, Baer, Bailey, (Huntingdon,) Bannan, Bardsley, Biddle, Black, J. S., Buckalew, Bullitt, Carey, Carter, Cassidy, Craig, Curry, Cuyler, Davis, Dunning, Finney, Hanna, Hazzard, Heverin, Landis, Lear, Littleton, Long, M'Camant, M'Murray, Metzger, Mitchell, Mott, Palmer, G. W., Patterson, T. H. B., Pughe, Read, John R., Ross, Smith, Wm. H., Stanton, White, J. W. F., Worrell and Meredith, *President*—41.

SATURDAY SESSIONS.

Mr. J. N. PURVIANCE submitted the following resolution:

Resolved, That hereafter, and until otherwise ordered, the sessions of the Convention shall be held, on Saturdays, from nine and a half o'clock A. M. to one P. M.

On the question of ordering the resolution to a second reading, the yeas and nays were required by Mr. Turrell and Mr. H. W. Smith, and were as follow, viz:

YEAS.

Messrs. Achenbach, Ainey, Andrews, Baer, Baily, (Perry,) Beebe, Bigler, Boyd, Brown, Campbell, Church, Collins, Corbett, Corson, Dallas, Darlington, De France, Dodd, Edwards, Elliott, Fulton, Gilpin, Guthrie, Harvey, Hay, Lawrence, MacConnell, M'Clean, M'Culloch, Mantor, Minor, Mott, Niles, Palmer, H. W., Patton, Porter, Purman, Purviance, John N., Purviance, Samuel A., Reed, Andrew, Reynolds, Russell, Smith, H. G., Stewart, Struthers, Turrell, Van Reed, Walker and White, David N.—49.

NAYS.

Messrs. Alricks, Armstrong, Baker, Barclay, Biddle, Black, Charles A., Bowman, Brodhead, Broomall, Buckalew, Calvin, Clark, Cochran, Cronmiller, Curtin, Ellis, Ewing, Fell, Funck, Gibson, Green, Hamphill, Horton, Howard, Hunsicker, Kaina, Knight, Lamberton, Lilly, Mac-

Veagh, M'Camant, Mann, Newlin, Palmer, G. W., Parsons, Patterson, D. W., Ross, Runk, Sharpe, Simpson, Smith, Henry W., Stanton, Temple, Wetherill, J. M., Wetherill, Jno. Price, Wherry, White, Harry, Woodward and Wright—49.

So the question was determined in the negative.

ABSENT.—Messrs. Addicks, Bailey, (Huntingdon,) Bannan, Bardsley, Bartholomew, Black, J. S., Bullitt, Carey, Carter, Cassidy, Craig, Curry, Cuyler, Davis, Dunning, Finney, Hall, Hanna, Hazzard, Heverin, Landis, Lear, Littleton, Long, M'Murray, Metzger, Mitchell, Patterson, T. H. B., Pughe, Read, John R., Rooke, Smith, Wm. H., White, J. W. F., Worrell and Meredith, *President*—35.

PROPOSED RECESS.

Mr. LAMBERTON. I offer the following resolution:

Resolved, That when this Convention adjourns on Thursday, the third of July, it will be to meet at Harrisburg on the — day of September next.

On the question of proceeding to the second reading of the resolution a division was called for.

Mr. WOODWARD. I wish the House would proceed to the second reading and consideration of this resolution. There is no harm in considering it.

Mr. MACVEAGH. Fill in "the first of of September."

Mr. LAMBERTON. I have made it "the — day of September." You can fill in the blank with any day you please.

On the question of proceeding to the second reading and consideration of the resolution a division was called for, which resulted: Forty-eight in the affirmative and fifty-five in the negative. So the Convention refused to read the resolution a second time.

Mr. NEWLIN. I offer the following resolution:

Resolved, That when the Convention adjourns on Friday next, it will be to meet on the third Tuesday of October.

Mr. BARTHOLOMEW. I desire to offer the following resolution:

Resolved, That when the Convention adjourns to-day, it will be to meet on Monday, the thirtieth instant, at Harrisburg.

On the question of proceeding to the second reading and consideration of the resolution, Mr. Bartholomew and Mr. Harry White called for the yeas and nays, and they were taken with the following result:

Y E A S.

Messrs. Achenbach, Ainey, Alricks, Andrews, Armstrong, Baer, Bartholomew, Bowman, Church, Cochran, Cronmiller, Ellis, Funck, Gibson, Guthrie, Hall, Harvey, Kaine, Lamberton, Lawrence, MacVeagh, M'Cleane, M'Culloch, Mantor, Newlin, Parsons, Purman, Reed, Andrew, Russell, Struthers, Van Reed, Walker, Wetherill, J. M., White, David N., White, Harry, Woodward and Worrell—37.

N A Y S.

Messrs. Baily, (Perry,) Baker, Barclay, Beebe, Biddle, Bigler, Black, Charles A., Boyd, Brodhead, Broomall, Brown, Calvin, Campbell, Carey, Carter, Clark, Corbett, Corson, Dallas, Darlington, De France, Dodd, Edwards, Elliott, Ewing, Fell, Finney, Fulton, Gilpin, Green, Hanna, Hay, Hemphill, Horton, Howard, Hunsicker, Knight, Landis, Lilly, Littleton, MacConnell, M'Camant, Mann, Minor, Mott, Niles, Palmer, G. W., Palmer, H. W., Patterson, D. W., Patton, Porter, Purviance, John N., Purviance, Sam'l A., Reynolds, Rooke, Runk, Simpson, Smith, H. G., Smith, Henry W., Stanton, Temple, Turrell, Wetherill, Jno. Price and Wright—64.

So the Convention refused to pass the resolution to a second reading.

ABSENT.—Messrs. Addicks, Bailey, (Huntingdon,) Bannan, Bardsley, Black, J. S., Buckalew, Bullitt, Cassidy, Collins, Craig, Curry, Curtin, Cuyler, Davis, Dunning, Hazzard, Heverin, Lear, Long, M'Murray, Metzger, Mitchell, Patterson, T. H. B., Pughe, Read, John R., Ross, Sharpe, Smith, Wm. H., Stewart, Wherry, White, J. W. F. and Meredith, *President*—32.

STATE CAPITAL.

Mr. KAINE. I offer the following proposition:

Resolved, That the Committee on the Legislature be requested to report a provision, to be incorporated into the Constitution, fixing the capital of the State permanently at Harrisburg.

The resolution was referred to the Committee on the Legislature.

PROPOSED RECESS.

Mr. WOODWARD. I offer the following resolution, and move the second reading and consideration of it. I hope the Convention will indulge me in that:

Resolved, That when the Convention adjourns to-day it shall be to meet on the

third Tuesday of October next, at twelve o'clock M.

Mr. MACVEAGH. I call for the yeas and nays on the second reading of that resolution.

Mr. BARTHOLOMEW. I second the call. The yeas and nays were taken, with the following result:

Y E A S.

Messrs. Ainey, Andrews, Armstrong, Baker, Barclay, Bartholomew, Bowman, Boyd, Broomall, Brown, Buckalew, Calvin, Church, Cochran, Craig, Cuyler, Fell, Finney, Green, Hall, Hanna, Harvey, Hazzard, Hemphill, Howard, Hunsicker, Kaine, Long, MacConnell, MacVeagh, M'Cleane, Mantor, Minor, Mott, Newlin, Palmer, G. W., Parsons, Patton, Porter, Purman, Purviance, John N., Reynolds, Russell, Smith, Henry W., Stanton, Van Reed, Wetherill, J. M., White, David N., Woodward and Wright—51.

N A Y S.

Messrs. Achenbach, Alricks, Baer, Baily, (Perry,) Biddle, Bigler, Black, Charles A., Brodhead, Bullitt, Campbell, Carey, Carter, Clark, Collins, Corbett, Corson, Dallas, Darlington, De France, Dodd, Edwards, Elliott, Ellis, Ewing, Fulton, Funck, Gibson, Gilpin, Guthrie, Hay, Horton, Knight, Lamberton, Landis, Lawrence, Lilly, Littleton, M'Camant, M'Culloch, Mann, Niles, Palmer, H. W., Patterson, D. W., Pughe, Purviance, Sam'l A., Reed, Andrew, Rooke, Simpson, Smith, H. G., Struthers, Temple, Turrell, Walker, Wetherill, Jno. Price, White, Harry and Worrell—56.

So the question was determined in the negative.

ABSENT.—Messrs. Addicks, Bailey, (Huntingdon,) Bannan, Bardsley, Beebe, Black, J. S., Cassidy, Cronmiller, Curry, Curtin, Davis, Dunning, Heverin, Lear, M'Murray, Metzger, Mitchell, Patterson, T. H. B., Read, John, R., Ross, Runk, Sharpe, Smith, Wm. H., Stewart, Wherry, White, J. W. F. and Meredith, *President*—26.

Mr. KNIGHT. I offer the following resolution:

Resolved, That when this Convention adjourns on Friday, the twenty-seventh instant, it will be to meet in this House again on the second Tuesday of September next.

On the question of proceeding to the second reading and consideration of the resolution, Mr. Knight and Mr. Mac-

Veagh called for the yeas and nays, and they were taken with the following result:

Y E A S .

Messrs. Ainey, Andrews, Armstrong, Baker, Barclay, Bartholomew, Bowman, Boyd, Brodhead, Broomall, Brown, Buckalew, Bullitt, Calvin, Carey, Carter, Church, Cochran, Collins, Corson, Craig, Cuyler, Fell, Green, Hall, Hanna, Harvey, Hemphill, Kaine, Knight, Lamber-ton, Littleton, Long, MacConnell, Mac-Veagh, M'Camant, Mantor, Metzger, Minor, Newlin, Palmer, G. W., Parsons, Patton, Pughe, Purmap, Runk, Russell, Smith, H. G., Smith, Henry W., Stanton, Turrell, Van Reed, Wetherill, J. M., Wherry, Woodward and Wright—56.

N A Y S .

Messrs. Achenbach, Alricks, Bailly, (Perry), Biddle, Bigler, Black, Chas. A., Campbell, Corbett, Cronmiller, Curtin, Dallas, Darlington, De France, Dodd, Edwards, Elliott, Ellis, Ewing, Finney, Fulton, Funck, Gibson, Gilpin, Guthrie, Hay, Hazzard, Horton, Howard, Munsicker, Landis, Lawrence, Lilly, M'Clean, M'Culloch, Mann, Mott, Niles, Palmer, H. W., Patterson, D. W., Porter, Purviance, John N., Purviance, Samuel A., Reed, Andrew, Reynolds, Rooke, Sharpe, Simpson, Stewart, Struthers, Temple, Walker, Wetherill, J. Price, White, David N., White, Harry and Worrell—55.

So the resolution was ordered to a second reading, and it was read the second time and considered.

ABSENT—Messrs. Addicks, Baer, Bailey, (Huntingdon,) Bannan, Bardsley, Beebe, Black, J. S., Cassidy, Clark, Curry, Davis, Dunning, Heverin, Lear, M'Murray Mitchell, Patterson, T. H. B., Read, John R., Ross, Smith, Wm. H., White, J. W. F. and Meredith, *President*—22.

Mr. LAMBERTON. I move to amend the resolution, by striking out the words "in this House" and inserting "at Harrisburg," and on that question I call for the yeas and nays.

Mr. TEMPLE. I second the call.

Mr. D. W. PATTERSON. I merely rise to protest against the passage of this resolution, to protest against this Convention adjourning now when we are within three weeks of the end of our labor, to protest against gentlemen getting up and complaining of the heat. I hope the resolution will not pass, but that we shall remain here and finish our business.

The *PRESIDENT pro tem.* The question is not debatable. The Clerk will call the yeas and nays.

Mr. WOODWARD. Mr. President—

Mr. HARRY WHITE. I move to indefinitely postpone the subject, and on that motion I call for the yeas and nays.

Mr. WOODWARD. I rise to a point of order. I deny that the gentleman has the floor to make any such motion. The President gave me the floor before the gentleman rose. Have I not the right to speak on this resolution?

Mr. HARRY WHITE. I withdraw the call for the yeas and nays to enable the delegate from Philadelphia to speak.

Mr. Kaine. The gentleman had no right to call for the yeas and nays. The member from Philadelphia had the floor before him.

The *PRESIDENT pro tem.* The delegate from Philadelphia will proceed.

Mr. WOODWARD. Mr. President : I have something to say on this subject. This resolution of the gentleman before me (Mr. Knight) being the first one that the House has consented to consider, is now fairly up for consideration. I wish to say, sir, that we country-born gentlemen cannot with safety abide in this city during the months of July and August. We cannot stand it. I never spent a July in Philadelphia in my life, and I never mean to, and I warn gentlemen that it is not safe for any of them to do so. I mean those pure country-born gentlemen who are here. I do not speak of these old hardened urban gentlemen. I say that country-born gentlemen cannot stand the heat of July in this city.

Now, sir, we have undertaken a great work. We have been honored by the people of Pennsylvania with the duty of remodeling the fundamental law of the State. We have labored at it with more or less assiduity and industry since we met. We are not through, and there is great danger in hurrying up the closing duties of this Convention that more mischief than good will be done. It is the dictate of common sense and of common honesty to take the necessary time for doing this important work *well*. It is better that it were well done in the end than that it were done hastily. Why, sir, in the State of New York, a few years ago, a Constitutional Convention sat I do not know how many months, and it finally resulted in the appointment of a commission to revise their Constitution, and they are still at it.

Mr. CUYLER. They have reported.

Mr. WOODWARD. They have reported, but their report is not finally acted upon. The subject of constitutional reform has thus been before our neighbors in that State for several years. Nobody has complained of the time and delay, and nobody will complain of the delay that we propose to take to do this work well and to do it right.

Now, sir, it can only be done right by adjourning over this heated season and meeting again in the fall. I care not whether we meet at Harrisburg or Philadelphia; I care not whether we meet in September or October, though my judgment would be decidedly in favor of a day not earlier than the third Tuesday of October; and with the time that we shall have in the interval to consider these amendments, with the opportunity to submit them to the people and hear their objections, we can come together in the fall and finish our work well in half the time in which we can do it bunglingly and badly in sitting on this present session.

For these reasons I think it is clearly the interest of the people of Pennsylvania, clearly to our own interests, that we should adjourn soon, and get out of the city during this heated term, submit our amendments to the consideration of the people in the interval, come together in the fall, correct what is wrong, complete what is unfinished, and then present our work with a feeling that we shall not have occasion to be ashamed of it.

One word more and I am done. If the Convention will not act upon these suggestions, which are intended for no personal benefit, but for the general good, if in the wisdom of this body it shall be decided by a majority to sit on through the dog days, I shall have the honor of presenting to you my resignation as a member of this body. I will not sit in this city in the month of July for the purpose of amending the Constitution or for any other purpose. I shall resign my seat in this body. I do not attach any importance to this announcement, and I do not hold it out in any threatening manner at all. I merely announce it as the settled purpose of my mind. If the majority of this body will not adjourn, I will adjourn; that is all. There is no office in this government that may not be resigned, and I propose to resign my office here.

Mr. S. A. PURVIANCE. Mr. President: I am opposed to the passage of this reso-

lution. I should have no objection to something like this, which I should like to move as an amendment at the proper time:

"That no further consideration of resolutions for adjournment of the Convention shall be had until the second reading of all the articles has been gone through with."

The PRESIDENT *pro tem*. It is not in order at this time.

Mr. S. A. PURVIANCE. No, sir; but I am presenting an argument against the adoption of the resolution of the gentleman from Philadelphia. In answer to what the gentleman has said, I say that I think before we adjourn the people demand that we should at least have, to some extent, perfected our work, so that it may appear by publication in the papers of the Commonwealth so as to enable the people to see that we have at least done something.

Now, what is the proposition? That in about a week, before we are half through the second reading of the articles reported, we are to adjourn without being able to give the people any knowledge of what we have done. Why, sir, what is the objection now to sitting here until the fourteenth of July? The Convention of 1838, of which the gentleman was a member, sat until that time and, I believe, were more industrious—

Mr. WOODWARD. Not here.

Mr. S. A. PURVIANCE. Well, sir, I take it for granted that the difference between the atmosphere of this place and Harrisburg is very little. Why, sir, it has been acknowledged on all hands that this Hall is a pleasant one; there is cool air here that is not to be found elsewhere, and the Convention of 1790 sat in this city throughout the entire month of August. Why cannot we now sit here until the middle of July? I hope sincerely we shall postpone all further discussion about adjournment until at least we have gone through the second reading of all the articles.

Mr. HARRY WHITE. Mr. President: I made the motion to indefinitely postpone the consideration of this subject, which I believe is the question now pending. This motion necessarily brings up the merits of the whole proposition. Before the final vote is taken on that, which I hope will be in the affirmative, hear an observation as I make it; I have no threat to utter against the Convention. I assume that my individual convenience must subordinate itself to the conveni-

ence and the pleasure of the majority of this body, who doubtless in their action will consult the wishes of their constituents.

Now, Mr. President, I think the delegate from Philadelphia, who has taken his seat, (Mr. Woodward,) was exceedingly unfortunate when he referred to the action of the New York Constitutional Convention. The New York Constitutional Convention of 1867 was an able body, and ably did they discharge their duties. They met and made a Constitution and submitted it to the people; but one article of it was ratified by them, because of the continuance of their sessions, their adjournments from time to time, and from place to place; the public prejudices were excited against their action, which told at the polls. I fear the same results will follow our action here if we adjourn over any considerable length of time.

I have just spent a few days among the people. In the rural districts they are talking about our action, and are anxious to know what we have done, and are doing. I am the friend of this Convention, and hope to be of its results. I assume that every delegate here is desirous of completing the work and finishing it at as early a period as possible.

The only good reason, indeed, delegates can offer for adjournment is the heated atmosphere of this city. Our constituents of the rural districts do not appreciate a reason of that kind. I indulge in no demagoguism when I say that to-day in the heated sun, over the broad acres of this Commonwealth, the farmers are performing their duties, and in the harvest fields, when we are shrinking from our duty here, they are performing theirs. I wish not to manufacture any sentiment here; but the people who are working thus do not appreciate our arguments, when we say that it is so warm here that we cannot perform our task.

Mr. President, we can get through very soon. There is but one rock in the way of our progress—which is the conflict of opinion on the constitution of the Legislature, and the difficulty to unite on any proposition. When we have arrived at a result on that question, what have we to detain us? What report is yet unacted on? We have gone through second reading on everything but the report of the Committees on the Judiciary and Railroads, and when we get through with the pending report, relative to the apportionment of the Leg-

islature, we can get through the other reports in a few days.

I trust and hope, therefore, that we shall refuse to waste any more time in the discussion of this matter, but will indefinitely postpone it, then go on with our legitimate duties. I sincerely hope, after a decisive affirmative vote on this motion to indefinitely postpone, we will hear no more of recesses until our whole work is finished.

Mr. TEMPLE. I rise, Mr. President, simply to say that I am in favor of the motion of the delegate from Indiana. I am opposed to an adjournment, to meet in this house either in September or October, or to meet in Harrisburg. I submit to this Convention, and I would like the distinguished delegate from Philadelphia (Mr. Woodward) to heed this proposition, that if this Convention adjourns over until September or October, in my humble judgment we shall consume another eight or nine months in the deliberations of this body. It may be well for gentlemen who can afford to do this, either by reason of wealth or by reason of their particular pursuits, but I submit that those delegates have no right to force upon other delegates, who cannot afford it, to submit to this proposition, which will necessarily carry us into another fall, winter and spring.

The distinguished delegate from Indiana, (Mr. Harry White,) in my opinion, uttered the truth, and the truth as it will be understood by the large masses of the people in this Commonwealth, when he said that the delegates upon this floor were not sent here expressly to consult their own personal convenience. Look, if you please, to the large number of business men in the city of Philadelphia, the merchants, and the bankers, and others who carry on business. They do not find the sultry air of this great city too bad for them to carry on their business; and why should the delegates on this floor, meeting in this Hall, which is always cool—it was cool yesterday, with a nice atmosphere breezing through it—adjourn over the summer. I submit that there is no good reason why we should adjourn. I, for one, oppose it, and I say now in my place in this Convention, that if the Convention does adjourn over to the fall, I for one will vote for going to Harrisburg.

Mr. CAREY. Mr. President: I am disposed to think that my friend from Indiana is right, and I am determined decidedly to go with him. I have not until

this hour experienced in this hall any trouble from heat whatsoever. The thermometer, I am told, yesterday was at ninety-six; and yet I was perfectly comfortable, until the hour of two o'clock when I left. I am the oldest man in the Convention, and I am perfectly willing to give at least two or three weeks more towards finishing the second reading of our articles.

Mr. BIGLER. Mr. President: The question pending to my mind is one of the utmost gravity, and I confess to some alarm at the manifestation of sentiment, which I have witnessed this morning. And, sir, because it is a question of grave interest, one which will come up here every day, if it is postponed now, I desire to suggest to the delegate from Indiana that his motion is probably not the proper one. A motion to postpone indefinitely may succeed; but this question will come up upon us to-morrow or Monday in some other form. In view of the considerations involved, being far more than those of the personal comfort of delegates, for they cover properly the whole question of how the people will look upon our work, I regret that my friend from Indiana did not move the reference of this resolution to a committee of three or five, to give it that grave consideration to which it is entitled, and make to the Convention a report that would probably settle the question.

There is a great deal of force in what has been said on the other side. There may be a period of time in which it would be impossible to remain; and when that time comes, when this delightful weather has passed away, when the city becomes heated and we see some chance of malaria and disease, and think seriously about adjourning over until fall, then a committee of this body having the subject in charge can make some proper arrangement and lay before the people, not for ratification, but for consideration, such measures as have been perfected.

I hope that, although we may be forced to adjourn, we shall not adjourn without taking the necessary, proper preliminary steps. I hope, therefore, that the gentleman from Indiana will either withdraw his motion or modify it so as to refer this subject to a committee; or if his motion does not prevail and no other member will, I will submit a motion myself to refer it to a committee.

Mr. MACVEAGH. Mr. President: I am loth to say what I feel upon this subject,

because I am not sure that my opinions may not be influenced by my own personal condition. My venerable friend from the city of Philadelphia (Mr. Carey) says that he is willing to stay here. I have not shown an unwillingness, or at least an indisposition to be at my post of duty here, and I trust that I shall not be wanting in all proper efforts to stay here in the future, if the Convention shall so order. But I know that I am not at all singular in the fact that it is simply a physical impossibility for me to remain here through July and August without serious peril to health and strength.

Gentlemen speak of this Hall and of it not being warm. When I left it yesterday I had not enough energy to walk two squares. And your water closets—gentlemen say it is very delightful here, but that is a question of taste—are in a very unfortunate condition and have been for weeks.

Mr. SHARPE. That is a question of smell.

Mr. MACVEAGH. Yes; a question of smell. I do not believe that the drainage and the sewerage of this quarter of the city is wholesome. I am assured by competent authorities that it is not; and I have not seen in the last two weeks, as it has occurred to me, the same capacity for the proper conduct of business that prevailed among us when the weather was endurable. This resolution, proposed by the gentleman from Philadelphia, (Mr. Knight,) who amidst his multiplied engagements has surely been here as much as anybody, gives us one more week of the heated term for work. It carries us down to the first of July.

The gentleman from Indiana (Mr. Harry White) says that the farmers of Indiana county are mowing their hay and performing their labors in the open fields in the fresh air, getting the physical exercise, and getting the advantages that come from it, and therefore that we, in this Hall, by these water closets, in this quarter of the city, gentlemen of impaired health, as some of us are, should sit here day after day, sweltering away the little health and strength that are left to us. I do not believe that it is the opinion of the people of the State that this work shall be done with the thermometer at one hundred in this Hall. We have taken a fair and liberal compensation for our labors here, and we should give the best season of the year, the best energy and strength that we possess to their dis-

charge. Why should we compel those of our number to stay here who cannot give that measure of energy to their work that is necessary to properly fulfil our obligations to the people of the Commonwealth, impairing still further their health and not earning their pay, because other gentlemen here are in robust health and in the enjoyment of perfect strength and capable of discharging their duties to the people.

It may be answered that such gentlemen so enfeebled ought not to be here at all. But we came here in a season that was favorable for work, when we had a reasonable temperature, and therefore that objection will not apply. But even if we were strong, I do not believe that such heat as we shall be called to endure at the close of the next week—because this resolution, if adopted, will give us a week more in this city—will be such as to allow us to do our duty acceptably to the people.

We have done much. We are making a good Constitution. Gentlemen, let us not spoil it at the last stage by slighting the closing days of our labors, which, it seems to me, are infinitely more important than those of the beginning. Therefore, sir, I do trust that this Convention will defeat the motion of the gentleman from Indiana, and that we will have a further consideration of the resolution proposed by my friend from the city (Mr. Knight.)

Mr. KNIGHT. Mr. President: I offered this resolution in the spirit of compromise. There was a resolution offered which I believe required an adjournment to-day to meet next October without providing any fixed place for the resumption of our sessions. I desire that we should give the business of this Convention another week, believing that we can do so without any great inconvenience, and then adjourn over till the middle of September. I fear that if we continue during the month of July, our work will not be well done. I am very desirous that the work of this Convention shall be well performed. As the gentleman on my right (Mr. MacVeagh) has said, the pay of the members of this Convention is very liberal, much more than we expected to receive when we came into this Convention, and it is our duty to finish our work with care.

We have taken an oath to do this work with fidelity and I doubt whether it can be done with fidelity by our remaining

here during these hot days. I am willing to remain here during July and August and finish our work, and when I say that I am willing to remain here, I expect to be here. I do not come here and say that I will remain during the hot weather, and then probably not be in the House more than once a week. I have been in this Hall and in Harrisburg, with the exception of three days, at every session of the Convention from the first time that it was called together; and if my life is spared me I intend to remain at my post of duty until our labors are finished.

I hope that this Convention will consider well what they are doing before they vote down the resolution that I have offered.

Mr. MANN. Mr. President: Every persistent effort to adjourn this body has prevailed; and I have no hope now that any effort to prevent this adjournment will fare any better than previous ones. We adjourned last fall to consult our convenience, or for some other reason, for six weeks in the coolest and most favorable weather that we could have. We again adjourned last winter in favorable weather; and now it is proposed that we adjourn because the weather is unfavorable.

I rise simply to protest against putting this question of adjournment on the ground, as one of the members from the city of Philadelphia has put it, that it is to be carried to consult the convenience or the health of the members from the country districts. I call attention to the fact that this resolution comes from a city delegate, and its most determined opponents come from the country districts. Those who come from the coolest and most rural of all the districts of Pennsylvania have this morning presented a united opposition against this adjournment. They came here to do their duty upon this question, as well as upon all others, and they are willing to remain here at their posts of duty at the risk of their health. It is not a question of the personal convenience or personal health of the delegates composing this body. It is a question of whether there shall be presented to the people of Pennsylvania a Constitution which will remedy the evils under which they labor; and I undertake to say, although I am neither a prophet nor the son of a prophet, that every enemy of reform in Pennsylvania will rejoice if this resolution shall prevail, and that every honest friend of re-

form will be discouraged at the passage of this resolution. I have mingled with the people of Pennsylvania somewhat and I have read the press of the State, and there is not in this broad Commonwealth a single paper friendly to this Convention that is not afraid that some such proposition as this will prevail. It will strike down the hope and courage of your best friends to adopt this resolution, and I earnestly hope that there is yet prudence and good sense enough in this body to remain at the post of duty at the sacrifice of personal convenience and of personal health, if need be. I am not afraid of the hot weather of this city, although I come from the coldest county in the State. It is of no earthly consequence to the people of Pennsylvania what the personal convenience of delegates here may be, but it is of the greatest consequence to them that we shall do our work well and do it speedily. It would be better not to have sent us to do it at all than to prolong it to such a time that they shall become discouraged and weary in waiting for us to complete the work assigned to us.

Mr. BOYD. Mr. President: You have observed that I have uniformly voted for an adjournment; but if the effect of my vote, and the adjournment of this body, is to bring the people of this Commonwealth into tears, I shall regret it, for I deplore wailing and weeping, and especially anything that would look toward gnashing of teeth. [Laughter.] Therefore, I must call a halt, and consider well before I cast another vote looking to an adjournment, after what I have heard from the distinguished delegate from Potter.

I am moved, too, seriously to consider the great weight that has been thrown by way of argument into the consideration of this question, coming as it did from a highly distinguished gentleman on the other side, from Indiana; and whilst I was charmed with his eloquence and felt its crushing weight upon me, I could not help but remember that but for him we should have had our labors concluded long ago. [Laughter.] If only he could have been with us from the beginning, and could have remained with us, we could have adjourned certainly on the first day of May, with a Constitution, so far as it has been formed, vastly more perfect in all its parts than we, unaided by him, have been able to accomplish. [Laughter.] These, sir, are certainly de-

plorable considerations; but then, the people willed that he should be at Harrisburg and here too, and in that will they imposed upon him what I may be pardoned for saying was a physical impossibility. But he did divide his time; he did come here always on Friday, just about the time we were going to adjourn, and left us but few of his droppings, so that we had no time to consider them. [Laughter.] Why, sir, if we vote to adjourn, sooner than see the crops in Indiana perish, I will cheerfully go up there as a reaper, (laughter,) and I will gladly garner their crops; and if those people are unhappy because of our adjourning, when they are sweltering in getting in those crops, I would propose that we should all go up there in a body and take in their crops for them and stop their sweltering; and I do not suppose it would take us more than a day to do it. [Laughter.]

Then again, sir, there has been another ponderous consideration, and one that has scared me; and I am not very good on a scare either, when our Temple threatened that if we did not do as he wished us to do he would vote to go to Harrisburg. [Laughter.] Well, of all the calamities, human or otherwise, spare me from Harrisburg! [Laughter.] I would a thousand times rather go to Cape May and be tried. [Laughter.]

Why, sir, the gentleman from Indiana and the gentleman from Philadelphia and the gentleman from Potter have told us that the people are worried about us that we have not our work done. Well, now, I have just come from my constituents this morning; I am fresher from them than the gentleman from Indiana from his, for he told us that he had just come from them, and I tell you, sir, that my people do not seem to bother themselves much about us or what we have done. [Laughter.] They have that confidence in their representatives that they know what they do will be well done [laughter;] and I deeply deplore that the constituents of the gentleman from Indiana have not the same confidence in him that ours have in us. [Laughter.]

Why, sir, we have yet to consider the judiciary report. That report was a most unfortunate one. The committee undoubtedly was a bad one, and their work has proved a failure. The committee of the whole undertook to remodel it, and they did and passed it through, and I understand that it is even more unacceptable than the report was when it came from

the Judiciary Committee. We have therefore got to go to work and fix it up, and it is plain that that is a job that will take a couple of weeks at least.

SEVERAL DELEGATES. A month.

Mr. BOYD. I am only speaking for myself. I shall require a couple of weeks myself, to reach, if possible, the understandings of this Convention so that they can see what it will be wise and well for them to do. But I stand rebuked before you, sir, that I did not do it earlier, but I counted on their intelligence, though in that it seems I was mistaken. [Laughter.] Yet I have a hope; and then some gentleman here says it will take a month. I never like to speak extravagantly, and always speak within bounds. We will say that it will take two weeks for that, and everybody will admit that that is one of the important things for the consideration of this Convention, and it is one of the things that the people certainly expect to have changed and reformed. But whether they do or not, certainly the bar of the State does expect that we shall do something that will meet their views. That has all got to be done.

Then there is the report on railroads. Well, that will take some time, as a matter of course. And then there is the report on corporations. Then there are some straggling things lying around loose.

Mr. CORSON. "Constitutional sanctions."

Mr. BOYD. "Constitutional sanctions." Allow me to suggest to the Chair that that committee has made no report yet upon constitutional sanctions. Therefore, that has got to come, and the chairman of that committee, who sits before me, (Mr. J. S. Black,) has got to be heard on it when it does come, and then we have all got to listen and reply to him if that be possible.

Mr. President, I do not know that I would have taken the floor at all if the gentleman from Dauphin (Mr. MacVeagh) had not seen fit to make what I shall characterize as a very unfair fling at me as one of the Committee on House, because he has compromised that committee in the declaration he has made on the subject of water-closets. [Laughter.] I feel bound to defend that committee in the absence of Mr. Addicks, the affable and handsome chairman. I say to the gentleman from Dauphin that those water-closets are purity itself, certainly as pure as their inmates, if not more so. [Laughter.]

Now, sir, without indulging in anything like levity, for I never like to do that, I say seriously to this body that if you are going to remain here throughout July the consequence will be that you will drive from you many members whose health will not bear the strain. I can stand it. I do not care about myself; but we young men in the full prime and vigor of our manhood, intellectually and otherwise, should have some regard for the faded, broken and mutilated old men of this body. [Laughter.] My friend Judge Woodward says he cannot stand it. Mr. Knight cannot stand it, for they are worn out already; and my friend Judge Black will hardly be able to stand it, because he too has crops, though not in Indiana, that must be seen after.

Therefore I say we cannot accomplish this work, even if we do it hurriedly, unless we carry it through July. The effect of that will be to drive away from amongst us very many of our members, and we shall be deprived of their aid and assistance, to which we are entitled. We ought to consider them in this matter and not be wholly and entirely selfish and not altogether to suit our own individual interests and convenience.

Then, sir, we shall have to consider the report of the Committee on Schedule and the Committee on Revision, all of which must necessarily take time, and it is no exaggeration to say that we shall necessarily drift far into August. I suppose the most fervid and ardent advocate for a continuance of the session would hardly ask this body to sit here in the sweltering days of August.

I believe I have occupied my ten minutes, and I will only add that I trust this question will be settled now and settled in such a way that we shall have another week at this work and then adjourn over—not to September at Harrisburg, because they have a miasma and poisonous atmosphere there that would kill us all, [laughter]—but to meet here in October. It may well be that the gentlemen from Harrisburg, who are acclimated, [laughter,] could go back there and live; but those of us who have never partaken of that sort of boon, and who value our lives, had better not go there.

Here I must say that the best season for us to come together again is in October. I always tie to the intelligence of my friend from Allegheny (Mr. D. N. White.) As he says, October is the month. Then we can get through our work in a month and

have a pleasant time here with our friends, Mr. Fell and others, who have been very kind to us. Trusting that I have succeeded in convincing the gentlemen of the Convention on this subject, I shall take up no more time on this subject.

Mr. DALLAS. Mr. President: I desire to say a very few words on this question, and I hope directly to the point. This question has been discussed in a double aspect; first, as it affects the constitutions of the members, and, second, as it affects the Constitution of the people of Pennsylvania, to which we propose to submit certain amendments. Of those two considerations I venture to suggest that the latter one is the more important. There is a great deal of force, a great deal of truth, in what has been said by certain members on this floor as to the effect of the warm weather upon their health, but I desire to make a short explanation on that subject. I wish this Convention to observe where undue regard to the convenience of delegates may lead us. If we adjourn now, (and this Convention might as well understand that question,) to return here in September, we adjourn to return in the worst possible month for residence in this city, unless it be the latter end of August. Many of the citizens of Philadelphia who are accustomed to leave the city leave it at the end of July and return about the middle or end of September, that being considered the period during which it is most desirable to be out of Philadelphia.

If we adjourn now, therefore, in deference to the constitutional difficulties of gentlemen, we must meet the question before the people who sent us here, and we must be prepared to face that question, that we adjourn our work practically for one whole year after next fall to come. If the Convention is prepared to do that, well and good. There will be no opportunity until after the next fall election to submit this Constitution to the people, and it cannot take effect until the election of the following fall. That we have to meet; whereas, if we will stay here now and do our work and stick to it, we can get through, I firmly believe, before the end of July, and the Constitution can be submitted to the people in September.

Now, sir, I desire to say a single word to those gentlemen who find it impossible to stay in the city of Philadelphia during the warm weather. I am far from being one of the oldest gentlemen in this body, but I am like the gentleman from Dau-

phin, (Mr. MacVeagh,) one of the slightest and least robust; but I am willing to stand it, not because "I am native here and to the manor born," for I am not, and I have never before spent an entire summer in the city of Philadelphia; but I am willing to spend the present one here if necessary. But, sir, it is not wholly necessary. There is no delegate here who cannot make exactly the same arrangement that I have made. If this Convention continues at its duties, as I submit it should do, there is not a delegate who cannot arrange at some of the suburbs of Philadelphia to be out of town every afternoon, evening and night, and the night is the only trying time, and be in his seat here in the morning. I expect, if this Convention continues in session, from this day forward, to travel thirty miles on a railway every morning and every afternoon for the purpose of being here; and that because, like the gentleman from Dauphin, I prefer not to risk my health by sleeping in the city at night. There is not another delegate on this floor who cannot make the same arrangement if he sees proper. I have no objection if this Convention, after the first of August, finds itself unable to complete its work that it should then adjourn; but let us who hope to be able to get through by that time have the opportunity to try it.

Mr. ARMSTRONG. Mr. President: I have taken no part in these debates touching questions of adjournment. I have endeavored carefully to observe the progress of business; and I have been strongly impressed with the belief that it is utterly impossible for the Convention to get through with its work in time to submit it to the people at the October election; and I do verily believe that the greatest danger which the Convention will now encounter will be hasty and inconsiderate action. The people also are beginning to apprehend that this hot weather is driving the Convention into inconsiderate action. Instead of injuring the Constitution and its appreciation by the people by an adjournment, I believe we would largely advance it. We could in connected form then print all that has been already done, all that has passed second reading, and all that remains as it passed the committee of the whole, and allow the people to see it as a whole, for it never yet has been published as a connected work. Let the people examine and consider it, and when we assemble again we will have the advantage

of their criticism; and that which they suggest we could properly amend, we would amend. In every way we should find their criticism and their judgment of great advantage to the Convention.

It is all very well for gentlemen to say that they are willing to sacrifice their health for public duty. I distrust it entirely. I believe the people do not expect it, and there is not a man in the Convention that would remain here at the risk of his health. Let us profit by the experience and practice of those who live in Philadelphia, and whose constant practice it is to leave the city during these warm months. The bankers, the merchants, the lawyers, the judges, all alike practically suspend their business from about the first of July to the first of September.

Then, again, it is to be remembered that some members of the Convention have already suffered in health from diseases which they believe are brought upon them by the unusual conditions (?) under which they are here compelled to live.

The Convention I believe cannot go through the months of July and August in this city without at least some of its members getting sick. They cannot stand it any more than the citizens who reside here habitually can, and they habitually leave if possible.

Now, there is nothing to be gained by continuing in session. If we remain until next Friday, which is the day named in the resolution pending, we shall get through the article on the Legislature, but there will still be left several important articles, but none of them of pressing necessity. They will rather gain by the delay.

Under all the circumstances I believe it is wiser and better that this Convention should adopt the resolution to adjourn next Friday, and I would prefer that the time for re-assembling should be fixed on the third Tuesday of October, which would carry us beyond the election and will restore this city to its usual healthy condition, and we can come back here or to Harrisburg, (and for myself I do not care which,) but let us adjourn during this hot weather and come back in a condition to do our work better, with more deliberation and sound judgment, and I believe it would better commend itself to the sound judgment of the people.

Mr. KAINE. I hope that this resolution will prevail. The distinguished gentleman from Potter, (Mr. Mann,) in the re-

marks he made, said that no member from the rural districts desired anything of that kind. He must not have been in his seat this morning, or he must be very obtuse, or he would have noticed that a member from the rural districts, myself, offered the first resolution upon this subject, very nearly in the words of the one now under consideration. I was astonished at the remarks made by the gentleman from Clearfield, (Mr. Bigler,) who seems to be opposed to the Convention adjourning now; but he wants us to stay here to see whether we do not all get sick, and then if we do, adjourn. Mr. President, I prefer adjourning before we get sick. I have not been very comfortable myself for some weeks. I do not think the climate agrees with me, although I am willing to stay here; certainly as much so as anybody else.

The gentleman from Philadelphia (Mr. Dallas) said that the people demanded that we should stay here and finish this work. I want the gentleman from Philadelphia to attend to his own constituents, and I will attend to my constituents in Fayette and Greene. I do not ask him to interfere between them and me; I will attend to them.

It is impossible, Mr. President, for us to attend to our duties properly here at this heated season of the year. The gentleman on my right from Philadelphia (Mr. Dallas) says it is perfectly convenient for a gentleman to go thirty miles into the country every night and return every morning. I think that would be very inconvenient to me. Such gentlemen as he and the delegate from Montgomery, (Mr. Boyd,) of large means, can afford to take a trip of that kind; but delegates here from a distance cannot; neither do they know the way. They do not know where to find the places. Why, Mr. President, you know, as well as many other delegates from the country, that when we came to Philadelphia we had the greatest difficulty in the world in getting suitable rooms at which to stay. I am now occupying a room that is not fit for a gentleman to stay in during such weather as this. It is illy ventilated.

I am just informed, also, by a gentleman who has been engaged, I believe, in corresponding with hotel proprietors at the summer resorts in the neighborhood of Philadelphia, that the accommodations at all of them are all taken up. I suppose the gentleman on my right from Philadelphia

has had his place engaged for months and more.

Mr. DALLAS. Only three days.

Mr. KAINE. He understands the way; he knows where the places are. We strangers, however, do not; and here we are confined to our close rooms in close hotels, situated on close streets and miserable alleys in the midst of the city of Philadelphia. I am not like the gentleman from Clearfield; I want to go away before I get sick. I do not want to have to be hauled away from here after I am sick. I hope the resolution will prevail.

Mr. NEWLIN. Mr. President: I desire to say a single word. A number of gentlemen have spoken about this question who are in bad health. Now, I am not in bad health, and I do not propose to get in that condition; and that is the reason why I will vote for an adjournment.

Mr. BUCKALEW. Mr. President: Fortunately, this question is not one of public expense. The pay of the members of the Convention and the pay of the officers of the Convention have been fixed, and fixed at a liberal standard; and whether we sit on until we conclude our work or adjourn till fall, the expense to the treasury will be about the same. I think we should decide this subject this morning, and decide it finally, and the consideration which should control its decision is the consideration of the time when our amendments are to be submitted to a vote of the people. If we can finish our work so as to submit it at a special election in September, as some gentlemen desire, we should sit it out. If we can finish our work so as to submit it to a vote of the people at the general election in October, assuming that we desire to submit it for a vote at that time, we should sit it out. If, however, it is not practicable to get our work finished more than sixty days before a proper date in September, or more than sixty days before the second Tuesday of October, or if we should not desire to mingle the question of our amendments with the ordinary political questions of the fall election, then, indeed, the necessity of sitting it out does not exist.

Therefore I submit that the members of the Convention should make up their minds with reference to this question of the time of submitting our amendments. If we are to submit them in November or December, so that they will take effect upon the next Legislature, (although they will not control the election of its members,) then we may sit it out or ad-

journ as we think proper, provided we do not adjourn later than the middle of September. Or if we think proper to take a liberal allowance of time and do our work deliberately, and submit it at the March election during the next spring, then there is no necessity upon us to proceed with our work at this time.

I believe that I have stated fairly the question or rather the grounds upon which this question should be decided by the Convention, and I hope that we shall decide it this morning and then that we will stand to our decisions. If we conclude to go on with our work, I am in favor of going on with it to the end, but I am not in favor of sitting here a week or two or three weeks and pushing our work a little farther forward and then adjourning, leaving it still incomplete. If we are to adjourn at all before our work is ended why not adjourn now?

We know pretty well what we shall do upon every article of the Constitution except two. We know that the amendments which will be yet made upon second reading, and the amendments which will be made upon third reading to all the articles save those two, will be inconsiderable. Their shape has been assigned them in the committee of the whole, or upon second reading, and as far as they are concerned, both the public and ourselves can judge very well what will be the ultimate shape of our work. But there are two articles on which debate and careful consideration are required, and those are the Legislature and the Judiciary articles. I undertake to say that as yet no final, decisive opinion has been formed by the members of the Convention with reference to the constitution of the Legislature and with reference to the organization of the courts. Of course the railroad article and the article on private corporations will consume some time, but there is no large measure of debate to be expected on any other article.

If gentlemen of the Convention are prepared now, upon due deliberation, and by the consumption of the two or three weeks necessary for the purpose, to determine the constitution of the Legislature and the organization of the courts, and are willing to sit it out and expect to submit their amendments at an early day to the people, then we should indefinitely postpone this resolution and refuse to adopt any measure of adjournment. But if, on the other hand, it is intended to give de-

liberate consideration to those two great articles of our fundamental law, yet substantially untouched, and upon which I fear just and competent opinions are not already formed; if it is not practicable to submit our work before October, nor expedient to submit it then, let us meet this question and adjourn now, and not at some future time. Let us adjourn to some day in September and secure the necessary and proper results of adjournment.

Mr. President, I have rather stated the conditions of the problem than endeavored to argue either side of the proposition involved. Public opinion out of doors, of course, ought to operate upon us. It ought to have a just and legitimate influence upon our official conduct. But how are you to judge of public opinion? From the captious criticisms of a few newspaper correspondents, from the overflow of bile of the vicious and the reprobate of the community; from the crude, foolish opinions of newspaper writers preparing sensational articles for the newspaper market? To none of these sources do I look for inspiration to my public conduct. I rather choose in the first instance to look into my own breast, and endeavor to discover there what conscientious convictions shall rule that conduct; to discover what is best for the State which we represent and serve; and next I look to that deliberate opinion of the public, that "sober second thought," sometimes ridiculed, but which ought to be a guiding star to men in public stations; I look to that intelligent public opinion which is formed after due consideration, and after a knowledge of all the facts, after an impartial examination of the subject involved in controversy; and if the reformers of this State, out of doors, those who desire your Constitution to be changed, and changed rightfully, soundly and wisely, upon a due consideration of all the facts, do not form a judgment in conformity with ours, why let us stand condemned. We shall have done the best under the circumstances that we could do, judging for ourselves, and following those independent opinions which it was expected we should follow in this place during our sittings.

I conclude, therefore, by saying to gentlemen, that if their conclusion is that we cannot finish our work, and submit our amendments before or at the October election, it will not offend public opinion, it will not violate our personal duties, to escape during this heated term, from an unbecoming series of deliberations in this

Hall, where fatigue and noise and confusion, and to some extent ill-feeling, may be expected to attend upon us. We have had premonitory symptoms of that condition of things within the last two or three days. We have had the spectacle of three days of prolonged debate, and then a prompt voting down of every possible proposition upon the subject which we had considered, leaving it all open and unadjusted; and embarrassed and fatigued, we go every night to our respective places of sojourn, looking with apprehension for the morrow, fearing that a fatigued and demoralized Convention will do bad work in the closing days of its sessions; that it will cast reproach upon its official character and conduct, and will do away with that right to approbation and applause which it has justly won by the work it has already performed.

Mr. BARTHOLOMEW. I have heretofore, and I mean when I say "heretofore," before to-day, voted for a continuance of this session, until the completion of our work. I voted for it, believing that harmony has heretofore prevailed in this body, actuated by no selfish or political motives, for the good of what I believed to be the interest of the Commonwealth, and feeling that the majority of this Convention has acted in consonance with and constantly upon such propositions, I claim to-day that no feeling of that kind has entered into my convictions, because there are fifteen or twenty men in this body with whose political convictions I am wholly unacquainted. I was fearful that an adjournment and the submission to the people of a crude and half-formed Constitution might create difficulty and antagonisms, that the press might antagonize upon those questions, that the people themselves might antagonize upon them, and when we met again instead of the harmony that had heretofore prevailed, politics might enter into this body and instead of peace we should have political conflict. But I have thought seriously upon this proposition and I have made up my mind that there is too much intelligence in this body to allow any such thing as that to enter into it, and I believe that it is physically impossible for us to remain in session in this city to complete the work we have in hand. I claim it to be simply a physical impossibility; and it is simply a question whether we shall adjourn now or whether we shall adjourn in a week, or ten days, or two weeks from

this time. We have the question before us. The people of Philadelphia leave the city? Why? Because of the danger that is before them. To-day we have men in this body whose health is seriously impaired; and I claim that whilst we shall do our duty to our constituents, they do not ask of us that we shall ruin our own constitutions in making a Constitution for the Commonwealth. I do not believe in such a proposition, and I for one have made up my mind that if such a policy is pursued we shall not only ruin our own constitutions, but make a very bad Constitution for the Commonwealth of Pennsylvania. Therefore I take it that as a question of hygiene, as a question of health, as a question of policy, as a question that we all ought to consider, it is better for us to adjourn to-day than to continue in session for a week or two and then adjourn and undo all the work we have heretofore done.

My friend to my right (Mr. Harry White) says that all the members of this Convention who have died have died in the winter. I say to him that the telegraph gives us the information that at Nashville thirty-five cases of cholera have broken out, and Cincinnati is following it up; and here in Philadelphia the hottest city on this continent—I do not except Richmond, I do not except Washington—to-day it may be approaching her borders; and whilst we may make a Constitution, it is unnecessary that we should die in making a Constitution. That was a work that was reserved for the founders of this government, not for those who live after them. There were men who had to die to make a Constitution; but that work fortunately has not fallen on us; at least I do not feel that it devolves on me; I, for one, am not in the humor to die in making a Constitution to serve any one, and I do not want to do it; but I believe that a Constitution can be better made in a month in the fall than it can be made now.

The proposition of the gentleman from Philadelphia (Mr. Dallas,) who has spoken on this question, was a very fine thing. If men undertake to hunt homes for us twenty or thirty miles from this city, and fix trains to run for this Convention, we can manage to go into the country and have fine air; but from the experience we have heretofore had, I do not believe anybody will hunt them up for us. We have got to do the best we can, and I do not know that anybody can find

any place out in the country where we can sleep, and be at this Hall by ten o'clock every morning.

I, for one, am in favor of an adjournment, because I believe that an adjournment is inevitable. It is a question of time whether it will be to-day, a week hence, or ten days hence; but come it must, and therefore let us meet the question now, and submit our work to the people for a fair consideration, conscious withal that we have acted rightfully, and then let us meet in the fall, and with the advantage of a month or two of fair and calm discussion, by those perhaps abler than to remedy the defects that we have made, we shall make a better Constitution in a month's work in the fall than we could make if we finished it up to-day, with our own defects upon us, without the advice of those who are able to give it.

Mr. COCHRAN. Mr. President: I am one of those members who have all along desired to complete this work and submit it to the people before an adjournment; and I am one of those who most thoroughly deprecate the idea that another session of the Legislature of this State shall be held around which shall not be thrown the protection which this Convention has already provided for that body. But, sir, we have arrived at a season of the year when I believe it to be injudicious, unwise and uncalled for, for us to stay and labor in this city in the condition of the atmosphere which we have to encounter, and during the season that is already upon us. We are here at the summer solstice, and we have weather which is oppressive, and no one can deny who has been in this Hall, whatever may be said of the salubrity of its location, that we have felt the pressure of this atmosphere upon us already.

I am willing to continue this work right ahead if this body is prepared to adjourn from Philadelphia to some other place, either to the State Capitol, at Harrisburg, or to the borough of Bedford, the last of which I infinitely prefer. I am willing to continue it in order that the work may be done, completed and submitted to the people. But I am not willing to sit here and attempt to do it, because, I believe, from the experience we have had from our own deportment within the last day or two, and from the season which is on us, that we cannot do that work well and profitably here, and that we are in danger of hurrying over it, and of failing to give it the consideration which it needs, simply

from the fact of the impatience which has fallen upon us, and of the danger in which we stand in regard to our personal health.

Sir, I hope this motion to indefinitely postpone this resolution will not prevail, and that the Convention will decide now, and once for all, this question of adjournment. I, myself, must vote according to my feelings and views for an adjournment. If the majority of this body is opposed to it, I will submit with the best spirit of resignation that I can call up. But I am not prepared to submit to it unless this body decidedly determines upon it. I do not believe that it is right for us to stay here. I believe that we can finish this work elsewhere; but if we cannot go on with our work at some other point, then let us re-assemble at an early time in the autumn and finish it up and submit the work to the people sometime before the time for the next meeting of the Legislature shall arrive.

I do not see any objection to our meeting in the month of September. Some gentlemen propose to put it off until after the October election. What is the October election to us? Why should it affect our action, or why should it interfere with the serenity of any gentleman who has a seat in this body? We know that the October election is a mere political matter, while this is not, or ought not to be; and I believe I can say truthfully that this has not been a political body. So far as I am conscious myself, I have been controlled by none of those partisan considerations which usually affect gentlemen, in my action here, and as far as my observation can go, I think I can testify to my fellow-members, according to the best of my judgment, that few or none of them have given indications of being controlled by any such considerations.

Now, sir, if we either go somewhere else to finish this work, or adjourn and meet in the fall and finish it at an early time, say in September, we can complete the work, and we can submit it to the people in due time before the meeting of the Legislature. But we cannot complete it here within a month certainly. It is reasonable to say, I think, with the work which is before us yet to be done, with the work of a schedule, which is not to be easily completed, with the work of revision, and if you determine that this Constitution shall be submitted to the people under the direction of officers appointed

by the Convention at any point, then to get up an ordinance for that purpose, why, sir, six weeks cannot reasonably be expected to conclude your work. Can we sit here six weeks until after the month of August has commenced, for that will carry us into August? I do not believe that we can do it. I do not believe that we can sit here or that we can complete the work sooner, and under those circumstances I think it is time for us to determine this question now, and either decide to go on with this work straight ahead at some other point or adjourn over until fall.

MR. H. W. PALMER. Mr. President: We seem to be agreed upon one subject; and that is, that it would be a great deal better to complete this work now if it could be done. I guess everybody agrees to that. It certainly seems to be an entirely conceded fact generally. Why do we not do it? Because Philadelphia is too hot; because there is danger of sickness here. That is the only reason which has been argued here why we cannot go on. Now, can that difficulty be overcome? If it can be, then I submit it is the duty of the delegates here to overcome it. It can be overcome by riding five or six hours on a railroad in the direction of cooler weather and a healthier atmosphere. Then, why object to it? After next week let us adjourn to some other place where it is cooler and healthier, and go on with our work. There is no difficulty in pursuing our deliberations in summer time at Bedford Springs. Deliberative bodies often sit in the summer time. Last summer, during the whole of July and a portion of August, the Senate of the State of New York sat at Saratoga Springs to try an impeachment case. The Constitutional Convention of New York sat in summer time, and there is not the slightest difficulty, if we find a healthy place and a pure atmosphere, in going there and continuing this work to our satisfaction and to the satisfaction of the people. Congress sometimes sits during the summer, as I am informed.

Now, I am willing to go as far as any other man for the comfort and convenience of the elderly portion of this body and of those in ill health. I am ready to go to any healthy place they may designate, and I suppose it does not make much difference to those who are in the habit of going to watering places which watering place they go to; and therefore let those who desire to adjourn for the purpose of

taking their summer vacation go with us to a watering place. Now, I am not particular about the place; I will go to any place that may be named.

I have risen to say, in behalf of a class in this Convention of whom I am one—a number of men here cannot afford to come back here next fall. We have either got to go on and finish this work or resign, or else make arrangements to go to the poor house. Our business is gone now, and we cannot afford to break in and spoil another year in this work; and there is no reason why we should do it. If gentlemen who have plenty of means and plenty of ability, and want to go to a watering place, will meet us half way, we can go on and complete our labors to our own satisfaction and to the satisfaction of the people. Therefore I shall vote against the motion to indefinitely postpone, and when the question recurs on the original resolution I shall offer an amendment to adjourn on the twenty-seventh of this month, to meet on the sixth of July at Bedford Springs.

MR. DARLINGTON. Mr. President: I am opposed to the resolution, and in favor decidedly of its indefinite postponement. I think gentlemen have not sufficiently considered what they are saying when they tell us of the unhealthiness of the city of Philadelphia, or the danger of staying here. I beg gentlemen to remember that there are over 600,000 people in this city, and that a very small proportion of them indeed ever get without its boundaries during the hot weather. Their business goes on as merchants, as tradesmen, as lawyers, as physicians, and necessarily goes on, and it is impossible—

MR. RUSSELL. Will the gentleman allow me to ask him a question;

MR. DARLINGTON. I will allow no question to be asked whatever. I want to say what I have to say within the time allotted to me.

What I say, gentlemen, is that those who fear the health of Philadelphia are without reason in fearing it. And when you reflect that, although the wealthy, and the high-born, and the fortunate, may choose to desert their homes and go to watering places, the vast body of the people cannot do it, and yet they live. I do not think there is any necessity of adjourning by reason of the force of our health. There is not a gentleman within the sound of my voice, belonging to the profession to which I have the honor to belong, who does not work as hard in his

own office and in his own town, through all the warm weather, as we are working here.

MR. D. W. PATTERSON. That is so.

MR. DARLINGTON. There is not one of us who will not be ready at any moment to embark in the business of our profession at home, regardless of the heat, and go through with it, if it was to our profit and pleasure to do so.

Another thing. Gentlemen will remember what no one can have failed to observe, that throughout the season in this climate there are seldom more than three days at a time of extreme heat or extreme cold. It varies. We are now, as it happens, in the midst of one of those fervid periods. Tomorrow we shall have a pleasant atmosphere, perhaps, and perhaps the next day, and for the next week. Occasionally you will see a brief period of heat like this, once every two or three or four weeks, but nothing alarming to anybody, nothing to drive us into higher latitudes; and while some of us may choose to visit the Water Gap or the White Mountains or Cresson for our pleasure, none of us go there for our health.

Now, what are we about to do? To adjourn over. Then we decide that this Convention shall not submit its proceedings to the people of Pennsylvania this year, neither in September at a special election, nor at the general election in October, nor at any other election during the present year. Make up your minds to that. You will have to live under the old Constitution, which, like the good old tree that my friend from Fayette (Mr. Kaine) has spoken of, will be spared a little longer, to be sure; but those who are anxious for the adoption of our amendments to the Constitution and the submission of them to the people, will not succeed in having that done this year if we do not now progress with our labors. Gentlemen here speak about submitting the new Constitution to a special election. I am opposed to that. Let any man here who has any such idea in his head look at the Debates of the preceding Convention, and at the conclusive argument of the gentleman from Philadelphia (Mr. Woodward) against submitting the amendments to the people at any other time than at the general election. Said he: "I want a full vote of the people upon the question of the adoption or rejection of the amendments, and we cannot have that at any other time than at the general election." What was true then is true still;

and I am still in favor of that principle. Submit the Constitution at none of your special elections, at none of your spring elections, at no other than at the general election. Remember that an important amendment of the Constitution of Illinois, together with all the other provisions that the Convention adopted there, was submitted to the people at a special election, in the middle of summer; not one-half of the people of the State voted; and they are to-day living under a Constitution adopted by less than a majority of the people. You will have the same thing here unless you submit your Constitution at a general election. Now, gentlemen have got to take their choice between completing our work so as to submit it at this coming general election, or to give it the go-by until some succeeding one, still I trust at a general election.

For these reasons, I am opposed to any adjournment. We are as well qualified to sit this thing out now and complete our labors in the next two, three or four weeks, as we ever shall be. I cannot appreciate the fear that some gentlemen at least on this floor have, that because we did not succeed yesterday in adopting some favorite amendment of somebody, therefore we ought to adjourn over until we could gather strength. Why, gentlemen, when I find a proposition of mine not acceptable to the Convention, I say no more about it. If other gentlemen find the same thing, that their propositions are not acceptable, let them say no more about it; leave it to the Convention to devise some better means, which they will be sure to do, and we shall not be in session one hour upon the question which we ought to have been considering for the last two hours, before another proposition will be submitted which may be acceptable and the whole subject disposed of.

The PRESIDENT *pro tem*. The question is on the motion of the delegate from Indiana (Mr. Harry White.)

Mr. HARRY WHITE. On that question I call for the yeas and nays.

Mr. D. W. PATTERSON. I second the call.

Several delegates addressed the Chair.

The PRESIDENT *pro tem*. On the question the yeas and nays are called, and the Clerk will call the roll.

Mr. EWING. There are four or five gentlemen on the floor.

Mr. BIDDLE. I should like to have the question stated.

The PRESIDENT *pro tem*. The question is on the indefinite postponement of the resolution with the amendments. The Clerk will call the roll.

Mr. EWING. I am not particular about speaking myself, but I protest against the yeas and nays being called with three or four gentleman on the floor desiring to speak.

The PRESIDENT *pro tem*. Very well; the gentleman can appeal from the decision of the Chair. Two hours and a half have already been consumed on matters that might have been disposed of in half an hour. The roll will be called.

The CLERK proceeded to call the roll.

Mr. J. S. BLACK (when his name was called) said: On this question I am paired with the delegate from Blair (Mr. Landis.)

Mr. WOODWARD (when his name was called) said: I am paired with Mr. William H. Smith, of Pittsburg. If he were here, he would vote "yea," and I should vote "nay."

The roll call having been concluded, the result was announced, yeas forty-four, nays sixty-nine, as follows:

YEAS.

Messrs. Achenback, Alicks, Baily, (Perry,) Biddle, Bigler, Campbell, Carey, Carter, Clark, Corbett, Corson, Cronmiller, Dallas, Darlington, De France, Dodd, Edwards, Elliott, Ewing, Fulton, Funk, Gibson, Gilpin, Guthrie, Hay, Lawrence, Lilly, McCulloch, Mann, Niles, Patterson, D. W., Porter, Purviance, Samuel A., Reed, Andrew, Rooke, Simpson, Stewart, Struthers, Temple, Walker, Wetherill, John Price, White, David N., White, Harry and Worrell—44.

NAYS.

Messrs. Ainey, Andrews, Armstrong, Baker, Bannan, Barclay, Bartholomew, Beebe, Black, Charles A., Bowman, Boyd, Brodhead, Broomall, Brown, Buckalew, Bullitt, Calvin, Cassidy, Church, Cochran, Craig, Curtin, Dunning, Ellis, Fell, Finney, Green, Hall, Hanna, Harvey, Hazzard, Hemphill, Heverin, Horton, Howard, Hunsicker, Kaine, Knight, Lamberton, Littleton, Long, MacConnell, MacVeagh, McClean, M^r Murray, Mantor, Metzger, Minor, Mott, Newlin, Palmer, G. W., Palmer, H. W., Parsons, Patton, Pughe, Purman, Purviance, John N., Reynolds, Runk, Russell, Sharpe, Smith, H. G., Smith, Henry W.,

Stanton, Turrell, Van Reed, Wetherill, J. M., Wherry and Wright—69.

So the motion to indefinitely postpone was not agreed to.

ABSENT.—Messrs. Addicks, Baer, Bailey, (Huntingdon,) Bardsley, Black, J. S., Collins, Curry, Cuyler, Davis, Landis, Lear, M'Camant, Mitchell, Patterson, T. H. B., Reed, John R., Ross, Smith, Wm. H., White, J. W. F., Woodward and Meredith, *President*—20.

Mr. H. W. PALMER. I desire to offer an amendment to the resolution.

The PRESIDENT *pro tem*. The question now is on the amendment of the delegate from Dauphin, (Mr. Lamberton,) which will be read.

The CLERK. The amendment is to strike out the words "in this House," and insert, "at Harrisburg," so that the resolution will read :

Resolved, That when this Convention adjourns on Friday, the twenty-seventh instant, it will be to meet at Harrisburg on the second Tuesday of September next."

Mr. H. W. PALMER. Let the vote be taken on that, and I will offer my amendment afterwards.

The yeas and nays were required by Mr. Harry White and Mr. Mann, and were as follows, viz. :

YEAS.

Messrs. Achenbach, Alricks, Baily, (Perry,) Bartholomew, Beebe, Bigler, Black, Charles A., Cochran, Collins, Corbett, Cronmiller, De France, Dodd, Edwards, Ewing, Fulton, Funck, Gibson, Hazzard, Howard, Lamberton, Lawrence, MacVeagh, Mann, Mantor, Metzger, Minor, Purviance, John N., Purviance, Samuel A., Reed, Andrew, Reynolds, Russell, Stewart, Struthers, Van Reed, Walker, Wherry, White, David N. and White, Harry—39.

NAYS.

Messrs. Ainey, Andrews, Armstrong, Baker, Bannan, Barclay, Biddle, Black, J. S., Bowman, Boyd, Brodhead, Broomall, Brown, Buckalew, Bullitt, Calvin, Campbell, Carey, Carter, Cassidy, Church, Clark, Corson, Craig Dallas, Darlington, Dunning, Elliott, Ellis, Fell, Finney, Gilpin, Green, Guthrie, Hall, Hanna, Harvey, Hay, Hemphill, Heverin, Horton, Hunsicker, Kaine, Knight, Lilly, Littleton, Long, MacConnell, M'Clean, M'Murray, Mott, Newlin, Niles, Palmer,

G. W., Palmer, H. W., Parsons, Patterson, D. W., Patton, Porter, Pughe, Purman, Rooke, Runk, Sharpe, Simpson, Smith, H. G., Smith, Henry W., Stanton, Turrell, Wetherill, J. M., Whetherill, John Price, Woodward, Worrell and Wright—74.

So the amendment was rejected.

ABSENT.—Addicks, Baer, Bailey, (Huntingdon,) Bardsley, Curry, Curtin, Cuyler, Davis, Lear, M'Camant, M'Culloch, Mitchell, Patterson, T. H. B., Read, John R., Ross, Smith, Wm. H., Temple, White, J. W. F. and Meredith, *President*—20.

Mr. H. W. PALMER. I move to amend the resolution by striking out all after the word "Resolved," and inserting:

"That when this Convention adjourns on the twenty-seventh instant, it will be to meet at Bedford on the sixth day of July."

Mr. COCHRAN. That would make us meet on Sunday, I think.

Mr. H. W. PALMER. I mean the first Monday of July.

Mr. RUSSELL. Monday is the seventh.

The PRESIDENT *pro tem*. The question is on the amendment.

Mr. COCHRAN. I move to amend by inserting the "eighth" instead of the "sixth."

Mr. H. W. PALMER. I accept that amendment, and change it to the eighth.

Mr. HARRY WHITE. I ask for the yeas and nays.

The PRESIDENT, *pro tem*. The Clerk will read the amendment as modified.

The CLERK read as follows :

"That when the Convention adjourns on the twenty-seventh instant it will be to meet at Bedford, on Tuesday the eighth day of July next."

Mr. RUSSELL. Mr. President: There are several members of this Convention who have been at Bedford, and know exactly what it is. It is not necessary for me, therefore, to say anything to them upon that subject; but that all may understand what sort of a place it is, I will ask the attention of the Convention for a few minutes.

It is unnecessary for me, perhaps, to say that Bedford is one of the healthiest locations to be found anywhere in the United States. It has pure air, and pure water, and any gentleman can be accommodated there as to the kind of water that he may desire to drink. We have there a great variety of waters.

Those gentlemen who at home have been accustomed to drink limestone water, can get it there; those who have been accustomed to soft water, can get it there also. Those who wish medicinal waters can get them, either chalybeate, sulphur, or mineral. All kinds of men can be accommodated, because we have there all kinds of water. Gentlemen ask what kind of women have we? We have but one kind of women there. They are all virtuous. I would state in answer to the inquiry of the gentleman from Philadelphia, (Mr. Biddle,) that they raise oats there, they raise corn, they raise wheat, and they raise the very best of rye.

As to the climate there, I can say with truth that we very seldom have a night that you cannot get a comfortable sleep. It is never so warm there at night that a man cannot get his rest. A number of members wish to know about the means of getting there, the facilities for getting to the town of Bedford. Those who reside in the eastern part of the State can take the ten-thirty train here and arrive at Huntingdon the next morning, remain there two or three hours, get their breakfast, take the Huntingdon and Broad Top train and get to Bedford by eleven o'clock. Those who reside in the western part of the State can take the Pittsburg and Connellsville railroad train at Pittsburg and be in Bedford the same afternoon. There is railroad communication to Bedford from every direction.

Now as to the boarding houses. We accommodate there every summer some eight hundred or one thousand people. There are boarding houses there sufficient to accommodate that number. I do not think there will be any difficulty in any gentleman of this Convention getting accommodations for himself and any members of his family he may choose to take there.

Mr. HARRY WHITE. I desire to ask the gentleman from Bedford what the hotel accommodations are there.

Mr. RUSSELL. That is just what I have been talking about. [Laughter.]

Mr. HARRY WHITE. I did not hear it.

Mr. RUSSELL. There are four hotels in the town of Bedford. There is a hotel at Bedford Springs, which is a mile and a half from the town, which will accommodate at least three times the number of the members of this Convention and its officers. There are private boarding houses there, not the kind of private boarding houses we have here, where you

must carry a night key to get in, but houses that stand open all day and night, and to which entrance is always to be had.

Mr. BRODHEAD. Is "local option" there?

Mr. RUSSELL. Local option is there, but any gentleman can take his own whiskey or his own wine with him.

One word more, because I wish it distinctly understood so that it cannot be said that I deceived the Convention. As to a hall for meeting we have there an unfinished Lutheran church, a very elegant building, which will be immediately finished, and whilst that is being done we can occupy the Presbyterian church or court house.

The PRESIDENT *pro tem*. The question is upon the amendment of the gentleman from Luzerne (Mr. H. W. Palmer.) The yeas and nays have been called and the call will proceed.

The yeas and nays were taken with the following result:

YEAS.

Messrs. Alricks, Baer, Baily, (Perry,) Beebe, Biddle, Bigler, Black, J. S., Bowman, Calvin, Campbell, Carey, Church, Cochran, Collins, Corbett, Cronmiller, Curtin, Dallas, De France, Dodd, Dunning, Elliott, Ewing, Finney, Funck, Gibson, Gilpin, Guthrie, Hazzard, Horton, Howard, Lamberton, Lawrence, MacConnell, MacVeagh, M'CLean, M'Culloch, M'Murray, Mann, Minor, Mott, Niles, Palmer, H. W., Palmer, G. W., Porter, Purviance, John N., Purviance, Sam'l A., Reed, Andrew, Rooke, Russell, Sharpe, Simpson, Stewart, Struthers, Temple, Walker, Wherry, White, David N., White, Harry and Worrell—80.

NAYS.

Messrs. Achenbach, Ainey, Andrews, Armstrong, Baker, Bannan, Barclay, Bartholomew, Black, Charles A., Boyd, Brodhead, Broomall, Brown, Buckalew, Bullitt, Carter, Cassidy, Clark, Corson, Craig, Cuyler, Darlington, Edwards, Ellis, Fell, Fulton, Green, Hall, Hanna, Harvey, Hay, Hemphill, Heverin, Hunsicker, Kaine, Knight, Lilly, Littleton, Long, M'Canant, Mantor, Metzger, Newlin, Parsons, Patterson, D. W., Patton, Pughe, Purman, Reynolds, Runk, Smith, H. G., Smith, Henry W., Stanton, Turrell, Van Reed, Wetherill, J. M., Woodward and Wright—58.

So the amendment was agreed to.

ABSENT. — Messrs. Addicks, Bailey, (Huntington,) Bardsley, Curry, Davis, Landis, Lear, Mitchell, Patterson, T. H. B., Read, John R., Ross, Smith, Wm. H., Wetherill, J. Price, White, J. W. F. and Meredith, *President*—15.

The *PRESIDENT pro tem.* The question recurs on the resolution as amended.

Mr. HARRY WHITE. I move to strike out all after the word "Resolved," and insert the following:

"That no motion to take a recess shall be acted upon by the Convention until all articles reported have been passed through second reading."

The *PRESIDENT pro tem.* That motion to amend is not in order.

Mr. HARRY WHITE. Then I move to amend, by striking out the words, "on the twenty-seventh instant," and inserting:

"After all articles have gone through second reading, the Convention will adjourn to meet in Bedford."

Mr. KAINE. I object to the amendment because it is not in writing.

The *PRESIDENT pro tem.* It is not in order to object to an amendment unless the amendment is not in order itself. The Chair has decided the amendment out of order. He is unable to see wherein the proposed amendment would alter the time of adjournment.

Mr. STANTON. I would like to know really what the gentleman from Bedford (Mr. Russell) means when he says that they have sufficient room at Bedford to accommodate this Convention. It is known by everybody that Bedford is a watering place for people who seek recreation and pleasure, and the whole of the boarding houses and hotels of which he speaks are, I understand, taken from to-day; and if we should go to Bedford where can we stop? He has stated that the boarding houses are standing open probably in the expectation that we are coming, and when we get there they will be closed. I think this is simply dling time away, and I hope the Convention will now act soberly. They certainly do not intend to stand by their action.

Mr. HOWARD. The people of Bedford, I presume, know their own business, and they would not have invited this Convention there unless they had sufficient accommodations. They held a meeting of the citizens of the place and they resolved that we should be invited to go to Bedford to finish our work.

Mr. STANTON. We refused the invita-

Mr. HOWARD. Well, now we have adopted a resolution to get away from here and I am very glad to be able to get away, and I am satisfied that there are a great many other delegates who will be glad to get away. A large number of delegates have expressed the opinion that we ought to remain here and do our work. A large number of other delegates have also said that they are unwilling to remain in Philadelphia and work. There are other places in this State where we can go and do our work, and then we can thus accommodate both these classes of delegates.

I have steadily voted against any adjournment of this body. I believe it important for the safety of our Constitution that we should do our work before we have an adjournment for any long period of time. I believe that there are fifty places in this Commonwealth where this Convention could go, where we can have the benefit of the pure air of the mountains, and where we can go right on through July, or August, or September, in perfect safety and push our labors. We have been invited by the people of Bedford to come to that place and to there complete the labors of this Convention; we have accepted that invitation; and I believe that the delegates here were in earnest when they adopted this amendment, and I hope that they will adhere to it. If we go there on the eighth of July I have no doubt we shall be fully accommodated not only with house room and with hotel accommodations, but with the pure breezes of the mountains, and we can there go forward and finish our work to our own satisfaction and to the satisfaction of the people of this Commonwealth.

Mr. HARRY WHITE. I offer the following amendment, to come in at the close of the resolution as a proviso:

Provided, That all the articles reported have been passed through second reading by that time.

The *PRESIDENT pro tem.* The question is on the amendment of the delegate from Indiana (Mr. Harry White.)

Mr. BROOMALL. I move to strike out all after the word "resolved" and insert: "That when this Convention adjourns it adjourn to meet on the third Tuesday in October next."

Mr. LAWRENCE. That is not an amendment to the amendment.

The *PRESIDENT pro tem.* The Chair rules the proposed amendment of the

delegate from Delaware out of order. The question is on the amendment of the delegate from Indiana.

Mr. HARRY WHITE. I call for the yeas and nays.

Mr. D. W. PATTERSON. I second the call for the yeas and nays.

Mr. M'CAMANT. I move that we do now adjourn until Monday next.

Mr. HEVERIN. I second that motion.

Mr. AINEY. I move to lay the whole subject on the table.

The PRESIDENT *pro tem*. The Chair cannot hear the motions that are made.

Mr. AINEY. Mr. President: I move to lay the whole subject on the table.

The PRESIDENT *pro tem*. A motion was previously made by the delegate from Schuylkill (Mr. M'Camant) that this Convention do now adjourn. That motion is before the Convention.

Mr. HEVERIN and Mr. HEMPHILL called for the yeas and nays.

The CLERK proceeded to call the roll.

Mr. CORSON (when his name was called.) For the purpose of putting a stop to these disgraceful proceedings I vote "yea."

The CLERK resumed and concluded the call of the roll, with the following result:

YEAS.

Messrs. Bartholomew, Black, J. S., Boyd, Corson, Curtin, Gilpin, Hemphill, Heverin, M'Camant, Patterson, D. W., Smith, Henry W. and White, Harry—12.

NAYS.

Messrs. Achenbach, Ainey, Alricks, Andrews, Armstrong, Baer, Bully, (Perry,) Baker, Bannan, Barclay, Beebe, Biddle, Bigler, Black, Chas. A., Bowman, Brodhead, Broomall, Brown, Buckalew, Bullitt, Calvin, Campbell, Carey, Carter, Cassidy, Church, Clark, Cochran, Collins, Corbett, Craig, Cronmiller, Cuyler, Dallas, Darlington, De France, Dodd, Edwards, Elliott, Ellis, Ewing, Fell, Finney, Fulton, Funck, Gibson, Guthrie, Hall, Hanna, Harvey, Hay, Hazzard, Horton, Howard, Hunsicker, Kaine, Knight, Lamberton, Lawrence, Lilly, Long, MacConnell, MacVeagh, M'Clean, M'Culloch, M'Murray, Mann, Mantor, Minor, Mott, Newlin, Niles, Parsons, Patton, Porter, Pughe, Purman, Purviance, John N., Purviance, Samuel A., Reed, Andrew, Reynolds, Rooke, Runk, Russell, Sharpe, Simpson, Smith, H. G., Stanton, Stewart, Struthers, Temple, Tur-

rell, Van Reed, Walker, Wetherill, J. M., Wetherill, Jno. Price, Wherry, White, David N., Woodward and Worrell—100.

So the Convention refused to adjourn.

ABSENT.—Messrs. Addicks, Bailey, (Huntingdon,) Bardsley, Curry, Davis, Dunning, Green, Landis, Lear, Littleton, Metzger, Mitchell, Palmer, G. W., Palmer, H. W., Patterson, T. H. B., Read, John R., Ross, Smith, Wm. H., White, J. W. F., Wright and Meredith, *President*—21.

The PRESIDENT *pro tem*. The question recurs on the amendment of the delegate from Indiana (Mr. Harry White.)

Mr. AINEY. I now renew my motion to lay the whole subject on the table.

Mr. HARRY WHITE. I call for the yeas and nays on that motion.

The motion was not agreed to.

Mr. LAWRENCE. I understand the question now to be on the amendment of the gentleman from Indiana.

The PRESIDENT *pro tem*. That is the question.

Mr. LAWRENCE. Will the Clerk read the resolution as it would stand if amended?

The CLERK. The resolution, if amended, would read as follows:

Resolved, That when the Convention adjourns on the twenty-seventh instant it will be to meet at Bedford, on Tuesday, the eighth day of July next. *Provided*, That all the articles reported have been passed through second reading by that time.

The amendment is the proviso.

Mr. HAY. I offer the following amendment, to strike out and insert:

"That the sessions of the Convention will be continued, without longer adjournment than from Friday until Monday, until the new Constitution is completed and ready for submission to a vote of the people."

The PRESIDENT *pro tem*. The Chair decides that that is not an amendment to the amendment. The question is on the amendment of the delegate from Indiana.

Mr. HARRY WHITE. On that amendment I call for the yeas and nays.

Mr. D. W. PATTERSON. I second the call for the yeas and nays.

The yeas and nays were taken, with the following result:

YEAS.

Messrs. Achenbach, Addicks, Ainey, Baily, (Perry,) Baker, Barclay, Bartholomew, Biddle, Bigler, Black, Chas. A., Broomall, Bullitt, Calvin, Carey,

Carter, Clark, Corson, Dallas, Darlington, De France, Dodd, Edwards, Elliott, Fulton, Funck, Gilpin, Guthrie, Hay, Heverin, Hunsicker, Knight, Lambertson, Lawrence, Lilly, M'Camant, M'Culloch, Niles, Pughe, Purviance, John N., Reed, Andrew, Rooke, Simpson, Smith, Henry W., Stanton, Stewart, Temple, Wetherill, Lilly, Price, Wherry, White, Harry and Worrell—50.

N A Y S.

Messrs. Alricks, Andrews, Armstrong, Baer, Bannan, Beebe, Black, J. S., Bowman, Boyd, Brodhead, Brown, Buckalew, Campbell, Church, Cochran, Collins, Corbett, Craig, Curtin, Cuyler, Dunning, Ellis, Ewing, Fell, Finney, Green, Hall, Hanna, Harvey, Hazzard, Hemphill, Horton, Howard, Kaine, Long, MacConnell MacVeagh, M'Clellan, M'Murray, Mann, Mantor, Metzger, Minor, Mott, Palmer, G. W., Parsons, Patterson, D. W., Patton, Purman, Purviance, Samuel A., Reynolds, Runk, Russell, Sharpe, Smith, H. G., Struthers, Turrell, Van Reed, Walker, Wetherill, J. M. and White, David N.—61.

So the amendment was not agreed to.

ABSENT. — Messrs. Bailey, (Huntingdon,) Bardsley, Cassidy, Cronmiller, Curry, Davis, Gibson, Landis, Lear, Littleton, Mitchell, Newlin, Palmer, H. W., Patterson, T. H. B., Porter, Read, John R., Ross, Smith, Wm. H., White, J. W. F., Woodward, Wright and Meredith, *President*—22.

The *PRESIDENT pro tem.* The question recurs on the resolution as amended.

Mr. HAY. I now renew my amendment, to strike out all after the word "resolved" and insert:

"That the sessions of the Convention will be continued without longer adjournment than from Friday until Monday until the new Constitution is completed and ready for submission to a vote of the people."

Mr. BROOMALL. I rise to question of order.

The *PRESIDENT pro tem.* What is the point of order?

Mr. BROOMALL. That the amendment is not in order, not being germane to the resolution.

Mr. HAY. The first question to determine is, whether we shall adjourn at all or not, and the second is the time and place.

The *PRESIDENT pro tem.* The Chair thinks it is in order.

Mr. COCHRAN. I rise to a question of order. I submit that the Convention having inserted that matter on a distinct vote, it is not in order to strike out what the Convention has inserted and insert new matter.

Mr. HARRY WHITE. This proposes to strike out other words with it.

The *PRESIDENT pro tem.* The point of order is not sustained.

Mr. HAY. I call for the yeas and nays on the amendment.

Mr. HARRY WHITE. I second the call.

Mr. BROOMALL. I desire to know of the Chair whether it is now in order to offer an amendment to strike out and insert.

The *PRESIDENT pro tem.* It is in order.

Mr. BROOMALL. Then I move to strike out all after the word "resolved" and insert the following—

Mr. BUCKALEW. I rise to submit a question of order to the Chair, and to my mind nothing can be clearer. It is this: The gentleman from Allegheny (Mr. Hay) moves to strike out the resolution as amended and to substitute for it the existing rule of the Convention, which is that we shall hold daily sessions except on Saturdays. My point of order is that it is not in order to move an amendment which does not change the question to be voted upon. The question to be voted upon by the amendment as amended is whether we shall change the rule of the Convention and go to Bedford. Now the gentleman moves as an amendment to that, that we will stand upon the existing rule of the Convention, and therefore it does not change the question at all.

Mr. BIGLER. The gentleman from Columbia is clearly right.

Mr. BUCKALEW. It is not in order to modify the question so that the continuance of the rule of the Convention shall be altered merely to the negative from the affirmative.

The *PRESIDENT pro tem.* The Chair sustains the point of order. The amendment is ruled out.

Mr. BROOMALL. Then I move the amendment which I have just sent to the Chair, and upon that I desire to say a word.

The *PRESIDENT pro tem.* The amendment will first be read.

The CLERK. The amendment is, to strike out all after the words "June twenty-seventh" and insert, "it will adjourn to meet on the third Tuesday of October next."

Mr. BROOMALL. Let the resolution be read as it will stand if amended.

The CLERK. If amended as proposed the resolution will read :

Resolved, That when the Convention adjourns, on June twenty-seventh, it will adjourn to meet on the third Tuesday of October next.

Mr. BROOMALL. That is what I desire. Now, Mr. President, all I wish to say is that I think we have expended quite enough time on this subject ; and when I ask for the previous question I hope I shall be sustained. I ask for the previous question.

The PRESIDENT *pro tem*. Will the Convention sustain the call for the previous question? Gentlemen seconding the call will rise, and the Clerk will take down their names.

Messrs. Worrell, Green, Corson, Bigler, Hanna, Edwards, Stanton, Hunsicker, Funck, J. M. Wetherill, Cuyler, Knight, MacVeagh, MacConnell, Barclay, Heverin, Gilpin, Runk, Bowman, Harvey, Mott and Patton rose to second the call.

The PRESIDENT *pro tem*. The call is seconded, and the question is, shall the question be now put?

Mr. HARRY WHITE. On that question I call for the yeas and nays.

Mr. D. W. PATTERSON. I second the call.

The question being taken by yeas and nays, resulted : Yeas, eighty-three ; nays, thirty-one, as follows :

YEAS.

Messrs. Achenbach, Addicks, Ainey, Alricks, Andrews, Armstrong, Baer, Baker, Bannan, Barclay, Beebe, Biddle, Bigler, Bowman, Boyd, Brodhead, Broomall, Brown, Bullitt, Calvin, Carey, Carter, Cassidy, Church, Collins, Corbett, Corson, Craig, Cronmiller, Curtin, Cuyler, De France, Edwards, Ewing, Finney, Funck, Green, Hall, Hanna, Harvey, Hazzard, Hemphill, Heverin, Howard, Hunsicker, Kaine, Knight, Lamberton, Littleton, Long, MacConnell, MacVeagh, M'Camant, M'Clean, M'Culloch, M'Murray, Mantor, Metzger, Minor, Mott, Newlin, Parsons, Patton, Porter, Purman, Purviance, John N., Reed, Andrew, Reynolds, Rooke, Runk, Russell, Simpson, Smith, H. G., Smith, Henry W., Stanton, Stewart, Turrell, Van Reed, Walker, Wetherill, J. M., Wetherill, John Price, Woodward and Worrell—83.

NAYS.

Messrs. Bally, (Perry,) Black, Charles A., Black, J. S., Buckalew, Campbell,

Clark, Cochran, Dallas, Darlington, Dodd, Dunning, Elliott, Ellis, Fell, Fulton, Gilpin, Guthrie, Hay, Horton, Lawrence, Lilly, Mann, Niles, Palmer, G. W., Patterson, D. W., Purviance, Samuel A., Sharpe, Struthers, Temple, Wherry and White, Harry—31.

So the previous question was sustained, and the main question ordered to be put.

ABSENT.—Messrs. Bailey, (Huntingdon,) Bardsley, Bartholomew, Curry, Davis, Gibson, Landis, Lear, Mitchell, Palmer, H. W., Patterson, T. H. B., Pughe, Read, John R., Ross, Smith, William H., White, David N., White, J. W. F., Wright and Meredith, *President*—19.

The PRESIDENT *pro tem*. The previous question is sustained. The question now is first on the amendment of the delegate from Delaware, (Mr. Broomall,) which will be read.

Mr. HARRY WHITE. I rise to a point of order, that the amendment offered by the delegate from Delaware is not in order, because it proposes to strike out that which the House has just inserted. ["Too late."]

The PRESIDENT *pro tem*. The previous question has been called.

Mr. HARRY WHITE. I rise to a point of order, that that is not admissible, and I submit that an amendment cannot be moved to strike out words that have been already inserted by a vote of the Convention.

Mr. ARMSTRONG. I rise to a point of order, to stop debate. Debate is not in order after the previous question has been ordered.

Mr. HARRY WHITE. I rise to a point of order on the amendment.

The PRESIDENT *pro tem*. The Chair directs the Clerk to proceed to call the yeas and nays on the amendment of the delegate from Delaware.

Mr. BROOMALL. I ask that it be read.

The CLERK. Strike out all after —

Mr. HARRY WHITE. Mr. President: —

Mr. MACVEAGH. I rise to a question of order.

Mr. HARRY WHITE. I rose to a question of order first.

Mr. MACVEAGH. The gentleman has been over-ruled, and the question has been directed to be taken by the Chair.

Mr. HARRY WHITE. I merely ask the privilege of stating my point.

Mr. CUYLER. I ask that the gentleman from Indiana be required to take his seat.

Mr. LILLY. I rise to a point of order.

Mr. HARRY WHITE. I insist on stating my point of order.

The PRESIDENT *pro tem.* [Rapping with his gavel.] The Chair has decided that the gentleman from Indiana is out of order, and that the question shall be taken on the amendment of the delegate from Delaware. The Clerk will call the names of delegates.

SEVERAL DELEGATES. Let the amendment be read.

The PRESIDENT *pro tem.* The amendment will be read for information.

The CLERK. The amendment is to make the resolution read:

"That when the Convention adjourns on June 27, it will adjourn to meet on the third Tuesday in October next."

Mr. WOODWARD. I am paired with Mr. W. H. Smith, of Allegheny. If he were here he would vote nay and I would vote yea.

The question was taken by yeas and nays, with the following result:

YEAS.

Messrs. Addicks, Ainey, Andrews, Armstrong, Baer, Baker, Bannan, Barclay, Bartholomew, Beebe, Biddle, Black, J. S., Bowman, Boyd, Brodhead, Broomall, Brown, Buckalew, Bullitt, Calvin, Carter, Cassidy, Church, Corson, Craig, Curtin, Cuyler, Darlington, Dunning, Ellis, Fell, Finney, Green, Hall, Harvey, Hemphill, Heverin, Hunsicker, Kalne, Knight, Lilly, Littleton, Long, MacConnell, MacVeagh, M'Camant, Newlin, Parsons, Patton, Purman, Reynolds, Runk, Smith, H. G., Stanton, Turrell, Van Reed, Walker and Wetherill, J. M.—58.

NAYS.

Messrs. Achenbach, Alricks, Baily, (Perry,) Bigler, Black, Charles A., Campbell, Carey, Clark, Cochran, Collins, Corbett, Cronmiller, Dallas, De France, Dodd, Edwards, Elliott, Ewing, Fulton, Funck, Gibson, Gilpin, Guthrie, Hanna, Hay, Hazzard, Horton, Howard, Lamberton, Lawrence, M'Clean, M'Culloch, M'Murray, Mann, Mantor, Minor, Mott, Niles, Palmer, G. W., Patterson, D. W., Porter, Purviance, John N., Purviance, Samuel A., Reed, Andrew, Rooke, Russell, Sharpe, Simpson, Smith, Henry W., Stewart Struthers, Temple, Wetherill, Jno. Price, Wherry, White, David N., White, Harry and Worrell—57.

ABSENT.—Bailey, (Huntingdon,) Bardsley, Curry, Davis, Landis, Lear, Metzger,

Mitchell, Palmer, H. W., Patterson, T. H. B., Pughe, Read, John R., Ross, Smith, Wm. H., White, J. W. F., Woodward, Wright and Meredith, *President*—18.

The PRESIDENT *pro tem.* The amendment is agreed to. The question recurs on the resolution as amended.

Mr. HARRY WHITE. I call for the yeas and nays.

Mr. JOSEPH BAILY. I second the call.

Mr. COCHRAN. I ask for the reading of the resolution, so that we may know what we are to vote upon.

The PRESIDENT *pro tem.* The resolution as amended will be read.

The CLERK read as follows:

Resolved, That when the Convention adjourns on June 27, it will adjourn to meet on the third Tuesday in October next.

The question was taken by yeas and nays.

Mr. C. A. BLACK, [when his name was called.] I want to say one word. I have uniformly voted against adjournments. I see that we shall do no good here now, and I shall vote "yea."

Mr. WOODWARD, [when his name was called.] I am paired with Mr. H. W. Smith. If he were here he would vote nay, and I should vote yea.

The result was announced as follows:

YEAS.

Messrs. Addicks, Ainey, Andrews, Armstrong, Baer, Baker, Bannan, Barclay, Bartholomew, Beebe, Biddle, Black, Charles A., Black, J. S., Bowman, Boyd, Brodhead, Broomall, Brown, Buckalew, Bullitt, Calvin, Carey, Carter, Cassidy, Church, Corson, Craig, Curtin, Cuyler, Dunning, Ellis, Fell, Finney, Green, Hall, Hanna, Harvey, Hazzard, Hemphill, Heverin, Hunsicker, Kalne, Knight, Lilly, Littleton, Long, MacConnell, MacVeagh, M'Camant, M'Clean, Minor, Newlin, Parsons, Patton, Purman, Reynolds, Runk, Russell, Smith, H. G. Stanton, Turrell, Van Reed and Wetherill. J. M.—63.

NAYS.

Messrs. Achenbach, Alricks, Baily, (Perry,) Bigler, Campbell, Clark, Cochran, Collins, Corbett, Cronmiller, Dallas, Darlington, De France, Dodd, Edwards, Elliott, Ewing, Fulton, Funck, Gibson, Gilpin, Guthrie, Hay, Horton, Howard, Lamberton, Lawrence, M'Culloch, M'Murray, Mann, Mantor, Mott, Niles, Palmer, G. W., Patterson, D. W., Porter, Purviance, John N., Purviance, Samuel A. Reed,

Andrew, Rooke Sharpe, Simpson, Smith, Henry W., Stewart, Struthers, Temple, Walker, Wetherill, John Price, Wherry, White, David N., White, Harry and Worrell—52.

So the resolution, as amended, was agreed to.

ABSENT.—Messrs. Bailey, (Huntingdon,) Bardsley, Curry, Davis, Landis, Lear, Metzger, Mitchell, Palmer, H. W., Patterson, T. H. B., Pughe, Read, John R., Ross, Smith, William H., White, J. W. F., Woodward, Wright and Meredith, *President*—18.

Mr. BUCKALEW. I desire to offer a further resolution at this time.

Resolved, That when the Convention adjourn to-day it be to meet on the third Tuesday of October next, at ten o'clock A. M.

On the question of proceeding to the second reading and consideration of the resolution, the yeas and nays were called for by Mr. Campbell and Mr. Wherry, and were as follow, viz:

Y E A S.

Messrs. Ainey, Andrews, Armstrong, Baer, Baker, Barclay, Bartholomew, Black, J. S., Bowman, Brodhead, Broomall, Brown, Buckalew, Bullitt, Carter, Cochran, Craig, Dallas, Dunning, Ellis, Green, Hall, Harvey, Hazzard, Hemphill, Howard, Hunsicker, Kaine, Long, M'Cleane, M'Murray, Minor, Mott, Newlin Palmer, G. W., Porter, Reynolds, Rooke, Runk, Smith, H. G., Van Reed, Wetherill, J. M. and Wherry—43.

N A Y S.

Messrs. Achenbach, Addicks, Alricks, Bailly, (Perry,) Bannan, Beebe, Biddle, Bigler, Black, Charles A., Boyd, Calvin, Campbell, Carey, Cassidy, Church, Clark, Corbett, Corson, Cronmiller, Curtin, Cuyler, Darlington, De France, Dodd, Edwards, Elliott, Ewing, Fell Finney, Fulton, Funck, Gibson, Gilpin Guthrie, Hanna, Hay, Heverin, Horton, Knight, Lamberton, Lawrence, Lilly, Littleton, MacConnell, MacVeagh, M'Camant, M'Culloch, Mann, Mantor, Niles, Parsons, Patterson, D. W., Patton, Purman, Purviance, John N., Purviance, Sam'l A., Reed, Andrew, Russell, Sharpe, Simpson, Smith, Henry W., Stanton, Struthers, Temple, Turrel, Walker, Wetherill, John Price, White, David N., White, Harry, Woodward and Worrell—71.

So the question was determined in the negative.

ABSENT.—Messrs. Bailey, (Huntingdon,) Bardsley, Collins, Curry, Davis, Landis, Lear, Metzger, Mitchell, Palmer, H. W., Patterson, T. H. B., Pughe, Read, John R., Ross, Smith, Wm. H., Stewart, White, J. W. F., Wright and Meredith, *President*—19.

POLYTECHNIC COLLEGE.

Mr. MACVEAGH. I move that we do now adjourn.

Mr. BARTHOLOMEW. I offer a resolution at this time, and on it I call for the yeas and nays.

Mr. TEMPLE. Is not a motion to adjourn always in order?

The *PRESIDENT pro tem*. A motion to adjourn is in order, but the Chair desires to submit a communication to the Convention.

The communication was read, being from the faculty of the Polytechnic College of the State of Pennsylvania, inviting the President and members of the Convention, on behalf of the officers and students of the Polytechnic College, to attend the twentieth annual commencement of the college, to be held at the Academy of Music on Monday evening, twenty-third instant.

Mr. BARTHOLOMEW. I move that the invitation be accepted.

Mr. CHURCH. I move that it be accepted, with the thanks of the Convention.

The motion was agreed to.

Mr. TEMPLE. I move an adjournment.

The question being put, there were, on a division, ayes, fifty-eight—

Mr. DUNNING. I call for the yeas and nays.

Mr. HARRY WHITE. I second the call.

The yeas and nays were taken, with the following result:

Y E A S.

Messrs. Addicks, Armstrong, Baker, Bigler, Black, J. S., Bowman, Boyd, Brodhead, Broomall, Brown, Bullitt, Calvin, Carey, Carter, Cassidy, Clark, Corbett, Corson, Cronmiller, Curtin, Cuyler, Dodd, Ewing, Fell, Fulton, Funck, Gilpin, Green, Harvey, Hay, Hemphill, Kaine, Lamberton, Lawrence, Littleton, MacConnell, MacVeagh, M'Cleane, Parsons, Patterson, D. W., Patton, Purviance, Samuel A., Simpson, Stanton, Stewart, Struthers, Temple, Walker, Wetherill, Jno. Price, Wherry, White, Harry and Worrell—52.

N A Y S .

Messrs. Achenbach, Ainey, Alricks, Andrews, Baer, Bailly, (Perry,) Bannan, Bartholomew, Beebe, Biddle, Black, Charles A., Buckalew, Campbell, Church, Cochran, Dallas, Darlington, De France, Dunning, Edwards, Elliott, Ellis, Finney, Gibson, Guthrie, Hall, Hazzard, Heverin, Howard, Hunsicker, Knight, Lilly, Long, M'Camant, M'Culloch, M'Murray, Mann, Mantor, Minor, Mott, Niles, Porter, Purman, Purviance, John N., Reed, Andrew, Reynolds, Runk, Russell, Sharpe, Smith, H. G., Smith, Henry W., Turrell, Van Reed, Wetherill, J. M., White, David N. and Woodward—56.

So the Convention refused to adjourn.

ABSENT.—Messrs. Bailey, (Huntingdon,) Barclay, Bardsley, Collins, Craig, Curry, Davis, Hanna, Horton, Landis, Lear, Metzger, Mitchell, Newlin, Palmer, G. W., Palmer, H. W., Patterson, T. H. B., Pughe, Read, John R., Rooke, Ross, Smith, Wm. H., White, J. W. F., Wright and Meredith, *President*—25.

PRINTING OF ARTICLES.

Mr. BARTHOLOMEW. Mr. President: I offer the resolution which is on the Clerk's table.

The CLERK stated that the resolution had been mislaid.

Mr. MACVEAGH. Let the gentleman from Schuylkill repeat it.

Mr. WOODWARD. I offer the following resolution:

Resolved, That as soon after the adjournment of the Convention as may be convenient, the Secretaries shall prepare and publish, in at least one newspaper in each county, the several amendments that have been agreed to in committee of the whole and in Convention upon second reading.

Mr. BARTHOLOMEW. I rise to a question of order. I understood that I was recognized by the Chair. I offered a resolution, which was in writing. I asked the Clerk to return it after it was on his desk, and he would not give it to me. Some one has now taken it away, and I propose to offer the resolution verbally.

The PRESIDENT *pro tem*. The Chair hopes there will be no difficulty. The resolution offered by the gentleman was accidentally mislaid or taken from the Clerk's desk. In the meantime, the gentleman from the city offered a resolution, which has been read and is now before the Convention.

On the question of proceeding to the second reading and consideration of the resolution of Mr. Woodward, a division was called for, and the ayes being seventeen, less than a majority of a quorum, the second reading of the resolution was refused.

Mr. TEMPLE. I move to adjourn.

Mr. HARRY WHITE. I second the motion.

The motion was rejected.

Mr. HUNSICKER. I move that we now proceed to the second reading and consideration of the article on the Legislature.

Mr. BUCKALEW. I move that the House do now adjourn.

The PRESIDENT *pro tem*. There is a motion pending.

Mr. BUCKALEW. I hope the motion will be withdrawn.

Mr. HUNSICKER. I withdraw it.

Mr. BUCKALEW. I renew the motion to adjourn.

The motion was agreed to, and at two o'clock and twenty minutes P. M. the Convention adjourned until next Monday morning at half-past nine o'clock.

ONE HUNDRED AND TWENTY-FIFTH DAY.

MONDAY, June 23, 1873.

The Convention met at half-past nine o'clock A. M., Hon. John H. Walker, President *pro tem.*, in the Chair.

Prayer by Rev. J. W. Curry.

The Journal of the proceedings of Friday last was read.

Mr. COCHRAN. Mr. President: I observed in the reading of the Journal that it was stated that two gentlemen had presented their reasons for voting on one of the questions which was disposed of on Friday. Those reasons were not read in the Convention, to the best of my knowledge. If they were at the time publicly presented and made known, I was not aware of it. These gentlemen have an unquestionable right to give their reasons and place them upon the Journal; but in all bodies of this kind the practice has been, I think, to have such reasons publicly presented and read, so that the body themselves may see of what they consist. I call for the reading of those reasons, because I do not think they were ever publicly presented.

The PRESIDENT *pro tem.* They will be read.

The CLERK read the following reasons, filed by Mr. Hay and Mr. Dodd, for their votes against the resolution for an adjournment from the twenty-seventh instant to the third Tuesday of October.

Mr. HAY and Mr. DODD file the following reasons for their votes:

1. That they are opposed to all adjournments of the Convention for any longer period than over Sunday, believing it to be the duty of the Convention to do its important work as diligently and speedily as possible.

2. That they believe that the people of the State are strongly desirous of having the work of the Convention concluded in time to have a vote taken upon the new Constitution during the ensuing autumn, and that this cannot be done if any recess of the sessions is taken.

3. That any adjournment of the Convention to any other place will involve the State in great and useless expense for the furnishment, in a suitable manner, of

another hall for the sessions of the Convention, or for the removal of the furniture and materials used by the Convention in this city to some other place—an expense, in their opinion, wholly unjustifiable and improper.

4. That the cessation of the work of the Convention, under the circumstances, will seriously and injuriously affect the question of the adoption of the new Constitution, and endanger its ratification by the people.

4. That an adjournment over for the time proposed will greatly and unnecessarily prolong the sessions of the Convention.

MALCOLM HAY,
S. C. T. DODD.

Mr. COCHRAN. Mr. President: I have no objection at all to the reasons presented, though to one or two of the reasons assigned I cannot give my concurrence. It seems to me that in all these cases where reasons are assigned for giving a particular vote they ought to be presented to the Convention itself, and read before they are entered upon the Journal.

The PRESIDENT *pro tem.* The Chair had the information that the reasons were asked to be filed, and allowed them to be filed on the Journal. That is the regular mode; but if the reading were called for that would be perfectly correct.

Mr. COCHRAN. I object only to the manner, because it might furnish a very improper precedent for some future occasion.

The PRESIDENT *pro tem.* Is there any objection to the filing of the reasons?

Mr. HANNA and Mr. J. N. PURVIANCE. I object.

The PRESIDENT *pro tem.* The Chair is of opinion that the gentlemen object inasmuch as the reasons were not presented to the House at the time they were asked to be filed.

Mr. WORRELL. I object.

Mr. COCHRAN. I would greatly prefer if the gentlemen would withdraw their reasons and present them this morning, and let the Convention have the control of the matter. I do not want to object,

and only do so because I think this is an improper precedent.

Mr. J. N. PURVIANCE. I object for the reason —

The PRESIDENT *pro tem*. There is no occasion for gentlemen to state the grounds of their objection.

Mr. BOYD. I object myself, positively.

The PRESIDENT *pro tem*. The delegates can withdraw their reasons and present them again with leave of the House.

LEAVES OF ABSENCE.

Mr. DARLINGTON asked and obtained leave of absence for Mr. Broomall for to-day.

Mr. M'MURRAY asked and obtained leave of absence for Mr. Andrews for to-day.

Mr. LAWRENCE asked and obtained leave of absence for Mr. Landis for a few days from to-day.

Mr. BRODHEAD asked and obtained leave of absence for himself for to-morrow.

Mr. PATTON asked and obtained leave of absence for Mr. Horton for to-day.

PERSONAL EXPLANATION.

Mr. DALLAS. I rise to a question of privilege. I find myself reported in several daily papers of Philadelphia as having voted for a recess until fall. I desire to say, in the hearing of the gentleman who so reported me, that I voted against any such recess, and also spoke against it.

NET EARNINGS OF CORPORATIONS.

Mr. BRODHEAD submitted the following resolution, which was laid on the table.

Resolved, That the Committee on Corporations are instructed to report a provision requiring all corporations to divide their net earnings at least once in each year, and where profits have been earned, but expended, such corporation shall, at least once in each year, issue certificates of indebtedness on stock to the stockholders for the amount thereof.

RESCINDING OF RECESS RESOLUTION.

Mr. HARRY WHITE. I offer the following resolution:

Resolved, That the resolution passed June twentieth, providing for an adjournment from June twenty-seventh to the third Tuesday in October, be and the same is hereby rescinded and that when the Convention adjourns on the second day of July it will adjourn to meet on the eighth day of July, at a place to be

hereafter agreed upon, and continue in session from day to day until its labors are completed.

On the question of ordering the resolution to a second reading, the yeas and nays were required by Mr. Newlin and Mr. Temple, and were as follow, viz:

YEAS.

Messrs. Achenbach, Baer, Baily, (Perry,) Bailey, (Huntingdon,) Bigler, Black, Chas. A., Campbell, Carey, Carter, Cochran, Corbett, Cronmiller, Dallas, Darlington, De France, Edwards, Ewing, Fulton, Gilpin, Guthrie, Hall, Hay, Howard, Hunsicker, Lawrence, Lear, Lilly, M'Clean, M'Culloch, Mann, Mantor, Minor, Niles, Purman, Purviance, John N., Purviance, Samuel A., Read, John R., Reed, Andrew, Russell, Simpson, Struthers, Temple, Walker, Wetherill, Jno. Price, Wherry, White, David N., White, Harry and Worrell—48.

NAYS.

Messrs. Baker, Bardsley, Biddle, Bowman, Boyd, Brodhead, Brown, Buakalew, Calvin, Church, Curry, Elliott, Fell, Hanna, Hemphill, Kaine, Knight, MacConnell, Mott, Newlin, Palmer, G. W., Patton, Ross, Runk, Smith, H. G., Smith, H. W., Stanton and Turrell—28.

So the resolution was ordered to a second reading; and it was read the second time and considered.

ABSENT. — Messrs. Addicks, Ainey, Alricks, Andrews, Armstrong, Bannan, Barclay, Bartholomew, Beebe, Black, J. S., Broomall, Bullitt, Cassidy, Clark, Collins, Corson, Craig, Curtin, Cuyler, Davis, Dodd, Dunning, Ellis, Finney, Funck, Gibson, Greene, Harvey, Hazzard, Heverin, Horton, Lamberton, Landis, Littleton, Long, MacVeagh, M'Camant, M'Murray, Metzger, Mitchell, Palmer, H. W., Parsons, Patterson, D. W., Patterson, T. H. B., Porter, Pughe, Reynolds, Rooke, Sharpe, Smith, Wm. H., Stewart, Van Reed, Wetherill, J. M., White, J. W. F., Woodward, Wright and Meredith, *President*—57.

Mr. M'MURRAY (when his name was called.) On this question I am paired with my colleague, Mr. Andrews.

Mr. KNIGHT. I move to amend, by striking out the words "a place to be hereafter agreed upon," and inserting the words "in this House."

Mr. BIGLER. I move to amend the amendment, by striking out all after the word "rescinded," thus leaving the first

proposition to be to revoke the resolution which we have adopted.

Mr. KNIGHT. I accept that amendment.

Mr. BIGLER. I hope most sincerely that the amendment will now be agreed to. I trust that we shall not re-enact the scene of last Friday. I desire to suggest with great earnestness that our action be confined simply to rescinding the resolution of Friday, and that then we allow the whole subject to lie over. Let us enter upon business, and if we progress, perhaps we shall be encouraged and make a vigorous effort to get through without adjourning to any other place. It must be manifest that if we take up the second branch of this resolution we shall have a scene similar to that of Friday last, which will probably result in no good. I insist, therefore, on the adoption of my amendment.

Mr. ANDREW REED. Mr. President: I trust that the amendment will be adopted by the House. We do not wish to adjourn over one whole week in July. If we are to stay here and finish our work, we had better stay right along. I believe that the month of July is a great deal better for work than the month of August. We propose to postpone our adjournment until the worst time. For one I believe that no higher and more patriotic way of spending the Fourth of July could be found than by coming to this place, performing our duty and presenting our work to our constituents.

The PRESIDENT *pro tem*. The resolution, as it is proposed to be amended, will be read for information, in order that it may be clearly understood by the House.

The CLERK. The resolution, if amended as proposed, will read:

"Resolved, That the resolution passed on June twentieth, providing for an adjournment from June twenty-seventh to the third Tuesday of October next, be and the same is hereby rescinded."

Mr. HARRY WHITE. Mr. President: I merely rise now to say that I offered the resolution in its original shape to accommodate some delegates who voted for the adjournment; but at the instance of the gentleman from Clearfield (Mr. Bigler) and some others, and for the reasons assigned by them, I accept the amendment that has been proposed this morning, and modify the original resolution accordingly.

The PRESIDENT *pro tem*. The amendment is accepted by the mover of the res-

olution, and the resolution will be so modified.

Mr. BAER. I move to amend the resolution, by adding to it as follows:

"And hereafter the Convention will hold two sessions daily, except Sundays, from nine A. M. to one P. M., and from half-past three P. M. to seven P. M."

On that question I ask for the yeas and nays—

Mr. HARRY WHITE. I rise to a point of order. The amendment is not germane to the original resolution.

The PRESIDENT *pro tem*. The Chair cannot sustain the point of order.

Mr. LILLY. All I have to say on this subject is that I believe nearly all of this body will agree with me in desiring that this resolution shall not result as did that of last Friday. I think we all ought to look back with shame on that proceeding. Now, I hope we shall adopt the resolution as it stands. After that is adopted, if the proposition in this amendment be pressed, and the Convention desires to sit here all day, I will stay as long as anybody.

Mr. BIGLER. I desire to appeal to my friend from Somerset (Mr. Baer) to withhold that proposition until this question is disposed of, and then offer that as an independent proposition.

Mr. NILES. Yes; let us have a fair and square vote on that.

Mr. BIGLER. It will be even stronger and more satisfactory to the Convention if presented alone than if joined with this resolution.

Mr. BAER. I would do that in a moment, but I am willing only to vote for a reconsideration of the question and vote for going ahead, provided this Convention will work vigorously every day. If we mean to reconsider the proposition that has been adopted, and then dispose of our time as we have been doing heretofore, there will be nothing gained by it. My amendment is to test the sincerity of those who are willing to work vigorously, and therefore I insist upon a square vote on it.

Mr. COCHRAN. I do not wish to minister to any excitement here this morning. I do not think there is really any occasion for it; but we shall certainly do our work better if we keep cool and act with deliberation. The resolution which was adopted on last Friday, while I voted against it, was adopted at a full meeting of this body. There was a large vote. This morning there is a comparatively

small portion of our members present. Now, if we rescind what was deliberately done on last Friday by a respectable majority of this Convention, we shall probably conclude nothing, and only on some future occasion lead to a reiteration of the same proposition.

Now, I, for one, am not willing, peremptorily and unconditionally, to rescind the resolution adopted on Friday, although I voted against it. I voted against it for the reason that I thought the interval was entirely too long, and that it was perfectly competent for this Convention to go on and continue its work at some convenient place other than that in which we are here assembled. I do not think we ought to sit in Philadelphia for the next six weeks, and I cannot conceive that the work of this Convention can be completed under six weeks' time.

Now, sir, in order to enable this body to get a deliberate vote where the members are fully represented, where there is a full attendance, I move to postpone the further consideration of the resolution, with the amendment, for the present.

The *PRESIDENT pro tem.* The question is on the postponement of the resolution and amendment for the present.

The question being put, there were, on a division: Ayes, thirty-nine; noes, thirty-nine.

Mr. H. W. SMITH and Mr. Campbell called for the yeas and nays.

Mr. BIGLER. I would be glad to have the delegate from York modify his motion so as to postpone until to-morrow. That would be notice to members.

Mr. FELL. It is too late. The yeas and nays are called for.

The *PRESIDENT pro tem.* The Clerk will call the roll.

The question was taken by yeas and nays, with the following result:

YEAS.

Messrs. Addicks, Baer, Baker, Bardsley, Biddle, Bigler, Bowman, Boyd, Brodhead, Brown, Buckalew, Calvin, Clark, Cochran, Corson, Curry, Elliott, Ellis, Fell, Finney, Hanna, Hemphill, Hunsicker, Kaine, Knight, MacConnell, M'Culloch, Mott, Newlin, Palmer, G. W., Patton, Purman, Read, John R., Ross, Runk, Smith, H. G., Smith, Henry W., Stanton and Turrell—39.

NAYS.

Messrs. Achenbach, Bailly, (Perry,) Bailey (Huntingdon,) Black, Charles A.,

Campbell, Carey, Carter, Church, Corbett, Cronmiller, Dallas, Darlington, De France, Dodd, Edwards, Ewing, Fulton, Gilpin, Guthrie, Hall, Hay, Howard, Lawrence, Lear, Lilly, M'Clean, Mann, Mantor, Minor, Niles, Patterson, T. H. B., Porter, Purviance, John N., Purviance, Samuel A., Reed, Andrew, Russell, Simpson, Struthers, Temple, Walker, Wetherill, Jno. Price, Wherry, White, David N., White, Harry, Woodward and Worrell—46.

So the motion to postpone was not agreed to.

ABSENT.—Messrs. Ainey, Alricks, Andrews, Armstrong, Bannan, Barclay, Bartholomew, Beebe, Black, J. S., Broomall, Bullitt, Cassidy, Collins, Craig, Curtin, Cuyler, Davis, Dunning, Funck, Gibson, Green, Harvey, Hazzard, Heverin, Horton, Lamberton, Landis, Littleton, Long, MacVeagh, M'Camant, M'Murray, Metzger, Mitchell, Palmer, H. W., Parsons, Patterson, D. W., Pughe, Reynolds, Rooke, Sharpe, Smith, Wm. H., Stewart, Van Reed, Wetherill, J. M., White, J. W. F., Wright and Meredith, *President*—48.

The *PRESIDENT pro tem.* The question recurs on the amendment of the delegate from Somerset (Mr. Baer.)

Mr. TEMPLE. Let it be read.

The *CLERK* read as follows:

"And hereafter the Convention will hold two sessions daily, except Sundays, from nine o'clock A. M. to two P. M., and from three and a-half P. M. to seven P. M.

The *PRESIDENT pro tem.* On this question the yeas and nays have been ordered.

The question being taken by yeas and nays resulted, yeas fifty-two, nays thirty-four, as follows:

YEAS.

Messrs. Achenbach, Baer, Bailey, (Huntingdon,) Biddle, Bowman, Boyd, Brown, Buckalew, Calvin, Campbell, Carter, Church, Corson, Cronmiller, Curry, Dallas, De France, Dodd, Edwards, Elliott, Fulton, Guthrie, Hall, Hay, Hemphill, Kaine, Lawrence, Lear, Littleton, MacConnell, M'Culloch, Mantor, Mott, Newlin, Niles, Palmer, G. W., Patterson, T. H. B., Patton, Porter, Purman, Purviance, John N., Purviance, Samuel A., Reed, Andrew, Reynolds, Russell, Smith, H. G., Stanton, Struthers, Turrell, Wherry, White, Harry and Worrell—52.

N A Y S.

Messrs. Addicks, Alricks, Baily, (Perry,) Baker, Bardsley, Bigler, Black, Chas. A., Brodhead, Carey, Clark, Cochran, Corbett, Darlington, Ellis, Ewing, Fell, Finney, Gilpin, Hanna, Howard, Hunsicker, Knight, Lilly, M'CLean, Mann, Read, John R., Ross, Runk, Simpson, Smith, Henry W., Walker, Wetherill, Jno. Price, White, David N., and Woodward—34.

So the amendment was agreed to.

ABSENT. — Messrs. Ainey, Andrews, Armstrong, Bannan, Barclay, Bartholomew, Beebe, Black, J. S., Broomall, Bullitt, Cassidy, Collins, Craig, Curtin, Cuyler, Davis, Dunning, Funck, Gibson, Green, Harvey, Hazzard, Heverin, Horton, Lamberton, Landis, Long, MacVeagh, M'Camant, M'Murray, Metzger, Minor, Mitchell, Palmer, H. W., Parsons, Patterson, D. W., Pughe, Rooke, Sharpe, Smith, Wm. H., Stewart, Temple, Van Reed, Wetherill, J. M., White, J. W. F., Wright and Meredith, *President*—47.

The *PRESIDENT pro tem.* The question recurs on the resolution as amended.

Mr. MANN. It is very evident, and I believed that would be the result when I heard the amendment offered, that it was offered for the purpose of defeating the resolution; and unless it is amended in some way it is certain to be defeated. Most of those who desire to adjourn next Friday for a long term voted to put this amendment on the resolution simply for the purpose of defeating it. We see here now precisely what we witnessed on Friday last. There was a clear majority here in favor of going on with work; but some gentlemen insisted that if we went on we must go on precisely in their way, and if they are to insist upon that now, we shall be again defeated. Unless there can be some concessions made, we may just as well adjourn at once.

The gentleman who offered this amendment says unless we can occupy our whole time he is opposed to remaining here. I submit that we were working elegantly before we were interrupted on Friday by this question of adjournment. A majority had settled down to work under the hours as we had fixed them, and I believe there is a fair majority here to-day in favor of going on with the work with those hours; but there is no majority here in favor of the hours proposed by this amendment, and the whole resolution is certain to be voted down unless there is

some willingness on the part of those in favor of work to make concessions in favor of the majority. There is no majority here in favor of holding sessions on Saturday, and there is no use to attempt it. For myself, I was anxious to have sessions on Saturday; but I gave up that idea long ago, because there was a clear majority opposed to it. But there is a majority here in favor of working five days in the week, and we can complete the entire work of this Convention, by sitting five days in the week, five and a half hours each day, in five weeks if we only go to work in earnest. But if we are to fritter away our time and efforts in attempting to change the hours of session, we shall accomplish nothing.

Mr. CORBETT. I ask now every member opposed to an adjournment of this Convention to vote for this resolution. I have steadily myself voted for a session on Saturday, but I give that up as hopeless, and I hope the members of the Convention will allow nothing that is added to this resolution to load it down so that it will not pass and rescind the action of Friday. Hereafter I shall not vote for a session on Saturday if the members appear not to desire it. So far as I am concerned myself, I am willing to work any hours of the day and as many hours of the day as the other members see proper. I am willing to work on Saturday if the Convention desire, but I am entirely opposed to an adjournment at this time. I think we ought to finish our work, and I will vote now for the resolution as amended. It can be hereafter altered if it does not suit the Convention.

Mr. PURMAN. Mr. President: I voted in favor of the resolution to adjourn on Friday for a reason which seemed to me entirely satisfactory; and so far as that is concerned my mind is yet unchanged. I believed then and I believe now that we cannot complete the work of this Convention earlier than in two months, and that the season of the year for deliberate action has passed away. But I voted for the amendment of the gentleman from Somerset (Mr. Baer) not for the reason assigned by my kind and distinguished friend from Potter, (Mr. Mann,) for the purpose of killing this resolution, but for the purpose of bringing the labors of this Convention to a close at the earliest possible moment. If we are to remain here during this hot weather, let us employ every hour that we can. I will now vote for the resolution as

amended. If it was not for the amendment, I should vote against the resolution as I did on Friday. My mind is still unchanged. I will add that I would greatly prefer that we should postpone this resolution for the present, and that we should go on with our labors during the week and see what result the labors of the week will develop, and then we can better determine the question whether we ought to adjourn or not. But for the purpose of finishing, at the present session the work assigned us by the people, I will vote for the resolution as amended, and I hope everybody in the Convention will. If it is necessary that the labors of the Convention should be closed without a recess, then we ought to employ every day of the week and every hour of the day properly applicable to labor, so as to close our labors by the first or tenth of August next.

I do not agree, however, with some of the gentlemen of the Convention in the assertion that the people will vote down any Constitution we may offer them, no matter how good, unless we complete it without a recess. I have great faith in the intelligence, integrity and honesty of the people, and I believe they will ratify and accept our work if it is just and proper without regard to the time in which we complete it. It seems to me that it is of much more importance to the people that we give them a good, wise and carefully-prepared instrument, one which will stand the criticisms of the years through which it is passed, than that we complete it without a recess. Personally it would greatly favor me to go on at present and finish the work, but I voted on Friday to take a recess, because I regarded it in the interest of our work and the public good.

Mr. H. W. SMITH. Is it in order now to move a further amendment to the resolution?

The PRESIDENT *pro tem*. It is.

Mr. H. W. SMITH. Then I move to amend, by inserting before the word "Sundays" the words "Saturdays and," so as to read, "except on Saturdays and Sundays," so as to have no meeting on Saturday as well as on Sunday.

The PRESIDENT *pro tem*. The question is on the amendment of the delegate from Berks (Mr. H. W. Smith.)

Mr. BOWMAN. I rise to a point of order, that that which is now proposed to be struck out has just been voted in.

Mr. H. G. SMITH. Mr. President: I believe that the record will show that I have been absent from this Convention

but three days, except when detained on one occasion by severe illness. I have steadily voted against every adjournment until last Friday. I have steadily voted to hold sessions on Saturday. If I believed that this Convention could, in this Hall, by continuing its session, finish its work in a proper manner at the present time, at this season of the year, I would vote against the adjournment now proposed, and would have done so last Friday; but I do not believe that the work of this Convention can be deliberately done, done with that consideration and care which it deserves, during three or six weeks to come. I do not believe that its work can be perfected in less than six weeks, and I do not believe that the members of this body can or will remain here during that period. How is it possible for men to deliberate with their blood boiling and their brains roasting?

Where on the face of the earth can you point to a representative government in a tropical climate? The reason why no such government is to be found in such a climate is because the people are rendered incapable by the very nature of the climate of properly deliberating. The danger is that the work of this Convention will not be properly done, if done in the few coming weeks.

I do not believe the story about the people being anxious and eager for us to close our work rapidly. I believe they will sanction this Convention in taking plenty of time to do the work deliberately and orderly; and inasmuch as I do not believe it can be done properly and well at this season of the year and under these circumstances, I have voted for an adjournment and shall so vote again.

Now, sir, I am in favor of letting our action of Friday stand until the last of this week, and I move, therefore, to postpone the consideration of this whole matter for the present.

Mr. DARLINGTON. If now in order—

The PRESIDENT *pro tem*. The pending motion is not debatable. It is moved to postpone the resolution, together with the amendment, for the present.

Mr. HARRY WHITE. I rise to a point of order. The motion to postpone for the present has been made and voted down.

Mr. H. G. SMITH. I call the attention of the Chair to the fact that an amendment has been added since that motion was put.

Mr. MANN. It is the same subject, however.

The *PRESIDENT pro tem.* The question is on the motion to postpone for the present.

Mr. H. G. SMITH. I call for the yeas and nays.

Mr. CAMPBELL. I second the call.

The yeas and nays were taken with the following result :

YEAS.

Messrs. Addicks, Biddle, Bigler, Bowman, Boyd, Brodhead, Brown, Buckalew, Calvin, Clark, Corson, Curry, Dodd, Elliott, Ellis, Fell, Finney, Hanna, Hemphill, Hunsicker, Kaine, Knight, Littleton, MacConnell, MacVeagh, McCulloch, Minor, Newlin, Patton, Read, John R., Reynolds, Ross, Runk, Smith, H. G., Smith, Henry W., Stanton, Struthers, Turrell, Van Reed, Wetherill, J. M. and Woodward.—41.

NAYS.

Messrs. Achenbach, Alricks, Baer, Bailly, (Perry,) Bailey, (Huntingdon,) Baker, Bardsley, Black, Charles A., Campbell, Carey, Carter, Church, Cochran, Corbett, Cronmiller, Dallas, Darlington, De France, Edwards, Ewing, Fulton, Gilpin, Guthrie, Hall, Hay, Howard, Lawrence, Lear, Lilly, M'Clellan, Mann, Mantor, Mott, Niles, Palmer, G. W., Patterson, T. H. B., Purman, Purviance, John N., Purviance, Sam'l A., Reed, Andrew, Russell, Simpson, Temple, Walker, Wetherill, John Price, Wherry, White, David N., White, Harry and Worrell.—49.

So the motion to postpone was not agreed to.

ABSENT.—Messrs. Ainey, Andrews, Armstrong, Bannan, Barclay, Bartholomew, Beebe, Black, J. S., Broomall, Bullitt, Cassidy, Collins, Craig, Curtin, Cuyler, Davis, Dunning, Funck, Gibson, Green, Harvey, Hazzard, Heverin, Horton, Lambertson, Landis, Long, M'Camant, M'Murray, Metzger, Mitchell, Palmer, H. W., Parsons, Patterson, D. W., Porter, Pughe, Rooke, Sharpe, Smith, Wm. H., Stewart, White, J. W. F., Wright and Meredith, *President*—43.

The *PRESIDENT pro tem.* The question recurs on the resolution as amended.

Mr. BOWMAN. I wish to say one word in relation to the passage of this resolution which is under consideration. I understand that the amendment offered by the gentleman from Somerset (Mr. Baer)

The *PRESIDENT pro tem.* The question is now on the amendment of the gentleman from Berks (Mr. H. J. W. Smith.)

Mr. BOWMAN. Yes sir. I understand the amendment of the gentleman from Somerset to be before us and indeed it is. That amendment is that this Convention will hereafter hold two sessions each day, except Sunday, commencing at nine o'clock in the morning and adjourning at one o'clock in the afternoon, and reassemble at half-past three, sitting until seven P. M., thus holding two sessions a day. The amendment of the gentleman from Berks is to strike out Saturday.

Mr. J. R. READ. To insert Saturday.

Mr. BOWMAN. How can he insert that which is already inserted in the amendment of the gentleman from Somerset?

The *PRESIDENT pro tem.* The amendment of the gentleman from Berks is to except Saturday.

Mr. BOWMAN. Well, sir, to except Saturday. That is of course to strike it out, to provide that there shall be no session on Saturday. I voted last Friday steadily, all the time and every time, to adjourn over the hot weather and reassemble in September or October. I believed then as I believe now, that we cannot get through with the work of this Convention in the next six weeks or two months even at the very longest period. But, sir, I will now vote for the amendment of the gentleman from Somerset and against the amendment to the amendment, of the gentleman from Berks. If we are to stay here why not hold seven and a-half hours sessions each day instead of five and a-half? We shall be the gainer by two hours each day, and if we hold a session on Saturday we shall gain one day in the week, which in the aggregate will make twelve hours each week that we shall be in session in addition to the sessions heretofore, which is two days, one third of the entire time. We shall then gain one week in three, which must be apparent to all.

Now, it is proposed to strike out Saturday, and the gentleman from Potter says, we cannot have a session on Saturday here. Why, we certainly can have one as well on Saturday as we can on Friday, if the delegates will attend, and certainly it is their duty to do so. Shall we, from the rural districts, and in the country, be compelled to come here and hold only a five and a-half hours' session each day, exclude Saturday, ramble around the town all day on Saturday, and about half of each day from Monday until Friday night doing nothing, merely to accommo-

date gentlemen residing in the city or elsewhere?

Now, one word further. I think it must be obvious to every gentleman here who has paid any attention to the proceedings of this Convention for the last three weeks, we meet here at half-past nine o'clock; at about one o'clock the delegates are not in proper temper or condition to transact the business of the Convention. Every man gets hungry, gets tired, gets fatigued, becomes almost physically exhausted. The business of the Convention goes on, but I do not believe it receives that consideration that it should receive, and it is in consequence of holding a continuous session of five and a-half hours.

If the amendment of the gentleman from Somerset prevails, it seems to me, it will be all right from nine o'clock until one. Then every gentleman can get his dinner at a seasonable hour, reassembling here at half-past three in the afternoon, holding a session until seven. We then may get through this work before the middle of August, but if his amendment is voted down, I do not believe we shall get through before the first of September.

Mr. H. W. SMITH. Mr. President: I desire to say that whenever the yeas and nays were called, my name stands recorded against each and every motion and resolution to adjourn. In every case I have done so, because I was anxious to go on and finish the work; but I acknowledge that I have voted invariably not to hold sessions on Saturday, because I found difficulty in having a quorum present at the proper time on that day. Why, sir, take this morning; we were nearly half an hour after the time of meeting, before we had a quorum. I am for going on; I have so voted; but holding sessions on Saturday will not promote the business, and for that reason I have offered the amendment.

The PRESIDENT *pro tem.* The question is on the amendment of the delegate from Berks, (Mr. H. W. Smith.)

The amendment was rejected, the yeas being thirty-two, less than a majority of a quorum.

The PRESIDENT *pro tem.* The question recurs on the resolution as amended.

Mr. HARRY WHITE. On that I call for a division of the question.

The PRESIDENT *pro tem.* The resolution as amended will be read.

The CLERK read as follows:

Resolved, That the resolution passed June twentieth, providing for an adjournment from June twenty-seventh to the third Tuesday in October next, be and is hereby rescinded; and hereafter this Convention will hold two sessions daily, except Sundays, from nine A. M. to one P. M., and from three and a-half P. M. to seven P. M.

Mr. HARRY WHITE. I ask that the resolution be divided, the first vote to be taken on the clause ending with the word "rescinded."

Mr. LILLY. Let us have a vote squarely on the whole thing.

Mr. WORRELL. I rise to a point of order. The question has been divided once, and the vote taken on the division which the gentleman from Indiana now desires. ["No." "No."] It has been voted upon separately once, and the amendment of the gentleman from Somerset added.

The PRESIDENT *pro tem.* The point of order is not well taken.

Mr. HARRY WHITE. I call for the yeas and nays on the first division.

Mr. TEMPLE. I second the call.

Mr. MACVEAGH. I wish to hear the resolution read.

The resolution was again read.

The PRESIDENT *pro tem.* A division is asked, to end at the word "rescinded," and the question is on the first division.

Mr. BUCKALEW. I rise to a question of order. The gentleman from Indiana is attempting to get a separate vote upon what we have just voted in. He cannot make a motion directly to strike out, and he cannot get a vote on it except by this attempted division. I submit also that the resolution will not have any meaning if divided in this way.

The PRESIDENT *pro tem.* The Chair has ruled the division to be in order, and the question is on the first division.

Mr. BRIDDLE. I want to understand distinctly what we are voting on.

The PRESIDENT *pro tem.* On the first division, ending with the word "rescinded." The yeas and nays have been ordered, and the Clerk will call the roll.

The question was taken by yeas and nays with the following result:

YEAS.

Messrs. Achenbach, Alricks, Baily, (Perry,) Baily, (Huntingdon,) Bigler, Black, Charles A., Campbell, Carey, Carter, Clark, Cochran, Corbett, Corson, Cronmiller, Dallas, Darlington, De

France, Dodd, Edwards, Elliott, Ewing, Fulton, Gilpin, Guthrie, Hall, Hay, Howard, Hunsicker, Lamberton, Lawrence, Lear, Lilly, M'CLean, Mann, Mantor, Niles, Patterson, D. W., Patterson, T. H. B., Porter, Purviance, John N., Purviance, Samuel A., Read, John R., Reed, Andrew, Simpson, Struthers, Temple, Walker, Wetherill, John Price, Wherry, White, David N., White, Harry and Worrell—52.

Y E A S.

Mr. DALLAS. Then I shall feel compelled to vote against it.

On the question of agreeing to the second division, the yeas and nays were required by Mr. Turrell and Mr. Niles, and were as follow, viz:

Y E A S.

Messrs. Achenbach, Baer, Bailly, (Perry,) Bailey, (Huntingdon,) Barclay, Bardsley, Biddle, Bowman, Boyd, Brown, Calvin, Campbell, Carey, Carter, Church, Corbett, Corson, Curry, Davis, DeFrance, Dodd, Edwards, Elliott, Fell, Finney, Fulton, Hall, Hay, Hemphill, Kaine, Lawrence, Lear, Littleton, MacConnell, MacVeagh, M'CLean, M'Culloch, M'Murray, Mantor, Minor, Mott, Newlin, Niles, Palmer, G. W., Patterson, D. W., Patterson, T. H. B., Patton, Porter, Purman, Purviance, John N., Purviance, Samuel A., Reed, Andrew, Reynolds, Russell, Smith, H. G., Stanton, Struthers, Turrell, Wetherill, Jno. Price, Wherry, White, Harry and Worrell—62.

Messrs. Addicks, Baer, Baker, Barclay, Biddle, Bowman, Boyd, Brodhead, Brown, Buckalew, Calvin, Church, Craig, Curry, Cuyler, Ellis, Fell, Finney, Hanna, Hemphill, Kaine, Knight, Littleton, MacConnell, MacVeagh, M'Culloch, Minor, Mott, Newlin, Palmer, G. W., Patton, Purman, Reynolds, Ross, Runk, Russell, Smith, H. G., Smith, Henry W., Stanton, Turrell, Van Reed, Wetherill, J. M. and Woodward—43.

So the first division of the resolution was agreed to.

N A Y S.

ABSENT — Messrs. Ainey, Andrews, Armstrong, Bannan, Bardsley, Bartholomew, Beebe, Black, J. S., Broomall, Bullitt, Cassidy, Collins, Curtin, Davis, Dunning, Funck, Gibson, Green, Harvey, Hazzard, Heverin, Horton, Landis, Long, M'Camant, M'Murray, Metzger, Mitchell, Palmer, H. W., Parsons, Pughe, Rooke, Sharpe, Smith, Wm. H., Stewart, White, J. W. F., Wright and Meredith, *President*—38.

The *PRESIDENT pro tem.* The second division is now before the Convention.

Mr. MACCONNELL. I raise the point of order that the second division has been agreed to.

The *PRESIDENT pro tem.* The Chair cannot so decide. The resolution was amended and constituted a whole. Any member had a right to ask for a division. It has been asked and the division has been had. One portion of the resolution has been agreed to, and the remainder is to be voted upon.

Mr. CUYLER. Let it be read.

The CLERK read as follows:

"And hereafter the Convention will hold two sessions daily, except Sundays, from nine A. M. to two P. M. and from three and one-half P. M. to seven P. M.

Mr. DALLAS. I inquire whether it is in order to offer an amendment to the second division?

The *PRESIDENT pro tem.* It is not.

Messrs. Addicks, Alricks, Baker, Bigler, Black, Charles A., Brodhead, Buckalew, Clark, Cochran, Craig, Cuyler, Dallas, Darlington, Ellis, Ewing, Gilpin, Guthrie, Hanna, Howard, Hunsicker, Knight, Lamberton, Lilly, Mann, Read, John R., Ross, Runk, Simpson, Smith, Henry W., Van Reed, Walker, Wetherill, J. M., White, David N. and Woodward—34.

So the question was determined in the affirmative.

ABSENT. — Messrs. Ainey, Andrews, Armstrong, Bannan, Bartholomew, Beebe, Black, J. S., Broomall, Bullitt, Cassidy, Collins, Cronmiller, Curtin, Dunning, Funck, Gibson, Green, Harvey, Hazzard, Heverin, Horton, Landis, Long, M'Camant, Metzger, Mitchell, Palmer, H. W., Parsons, Pughe, Rooke, Sharpe, Smith, Wm. H., Stewart, Temple, White, J. W. F., Wright and Meredith, *President*—37.

The *PRESIDENT pro tem.* Both branches of the resolution are agreed to.

THE LEGISLATURE.

Mr. LITTLETON. I move that we proceed to the consideration on second reading of the article reported from the committee of the whole on the Legislature.

The motion was agreed to, and the Convention resumed the consideration on second reading of the article on the Legislature.

The PRESIDENT *pro tem.* The pending amendment will be read.

The CLERK read the amendment of Mr. J. Price Wettherill, to insert the following as section nineteen.

"The General Assembly shall apportion the State every ten years, beginning at its first session after the adoption of this Constitution, by dividing the population of the State, as ascertained by the last preceding Federal census, by the number one hundred and fifty, and the quotient shall be the ratio of representation in the House of Representatives. Every county shall be entitled to one Representative, unless its population is less than three-fifths of the ratio. Every county having a population not less than the ratio and three-fifths shall be entitled to two Representatives, and for each additional number of inhabitants equal to the ratio one Representative. Counties containing less than three-fifths of the ratio shall be formed into single districts of compact and contiguous territory, bounded by county lines, and contain as nearly as possible an equal number of inhabitants."

Mr. BIGLER. I move to strike out the amendment and insert the following:

"The ratio for a member of the House of Representatives shall be the one hundred and fiftieth part of the entire population of the State, according to the enumeration thereof in the latest Federal census. Counties containing each a population of five ratios or less shall be districts, and entitled to representation according to population, except that no district shall have less than one member. Any district having an excess of population equal to three-fifths of a ratio over one or more ratios shall be entitled to an additional member. Counties or cities having a population exceeding five ratios shall be divided into compact single or double districts, as nearly equal in population as practicable, with representation accordingly. An excess of population in any city or county equal to three-fifths of a ratio shall entitle such city or county to an additional member. Counties hereafter erected shall be entitled to one member each."

The PRESIDENT *pro tem.* The question is on the amendment to the amendment.

Mr. BIGLER. Mr. President: As briefly as possible I will state the effect of the amendment I have moved. In the first place it makes each county a district, except Luzerne, Allegheny and Philadelphia, and all the counties containing five

ratios or less are to have representation according to population. That leaves out only the counties of Luzerne, Allegheny and Philadelphia, with the exception that each county shall have at least one member. I came to this ground reluctantly, but I came to it because it seems to be the sense of this Convention; and when we look at those counties—there are but few of them—and allow them representation on the basis of a fractional ratio of three-fifths, it leaves but about four and a half members to contend about. In view of their organization and of the large territory they embody, and future improvement, I have felt like conceding that point. Then the proposition provides for county representation. This was the point to which I objected in the plan of my friend from Allegheny, (Mr. D. N. White,) which divided the agricultural counties of the State having two, three or five ratios of population. They were to be divided into an equal number of districts. Under this plan the counties will have the number of members to which their population entitles them, with the right to an additional member in any county where there may be a fraction of three-fifths of a ratio. As to the counties of Allegheny, Philadelphia and Luzerne, it is provided that they shall be divided into compact single or double districts, and have representation accordingly.

The whole of it is exceedingly simple, and so far as I can see will be about as near justice to all sections of the Commonwealth as we can attain. I can see no ground on which the city of Philadelphia can complain, except making concessions to the few small counties. She will keep her full representation on the ratio of one hundred and fifty members, which is the basis in the House of Representatives. It may vary and it will vary slightly from that.

Now, sir, it is obvious that without some concessions of opinion we shall not get together. I think our friends from the city ought to be satisfied with a proposition so liberal to them as the one which I offer. I have yielded—

Mr. BOYD. Allow me to ask a question. How many members will Philadelphia get by this?

Mr. BIGLER. I think by this proposition about twenty-five or twenty-six members. Now, Mr. President, with this brief explanation I hope the amendment will be adopted.

Mr. SIMPSON. I should like to ask the gentleman a question, whether this printed statement upon our tables is based upon the amendment.

Mr. BIGLER. No, sir; I do not know where that came from. My amendment is not printed. So far as districts are concerned here, it gives a discretion to the apportioning power to make the districts single or double. In clustering Luzerne, Allegheny and Philadelphia together, there seemed to be some propriety in a little discretion, because in the county of Luzerne you could not divide equally. I think the county of Luzerne would be entitled to seven members, and there would have to be three double districts and one single—

Mr. J. N. PURVIANCE. What number would constitute the House under this proposition?

Mr. BIGLER. One hundred and fifty. Mr. President, I do not see that I can make this proposition any plainer than I have; and after a great deal of reflection it has satisfied my judgment, no matter how long we may dwell upon it, that this is about as near right as we can get, unless we take up the subject of apportionment and assign to counties their respective Representatives.

Mr. CORBETT. I wish to ask a question of the Chair. This proposition two or three days ago was offered as an amendment to an amendment and voted down. I now ask whether it is in order to offer it as an amendment to the proposition of the gentleman from Philadelphia (Mr. J. Price Wetherill?) It was offered as an amendment to an amendment before.

Mr. BIGLER. My friend is mistaken. The proposition is quite different. It is a very much better proposition than I offered the other day.

Mr. LILLY. The proposition of the gentleman from Clearfield (Mr. Bigler) I cannot support. For the proposition of the gentleman from Philadelphia (Mr. J. Price Wetherill) I can vote. If I understand aright, this government is a "government of the people, for the people, and by the people;" and the only way in which you can carry out that principle, which is the foundation and the cornerstone as well of the government of Pennsylvania as of the government of the United States, is to apportion the members of the two Houses of the Legislature on population. Population is the true basis of representation. I do not want the representation in our Legislature to

be based on mountains, or acres, or cities, or villages, or anything of that kind. It is the people who are represented; that is the basis of representation and has always been so considered.

What is representation? Why do you make a Legislature at all? Because the people cannot go to the seat of government and make laws. They have to delegate that power to somebody. They must be represented, and to be represented properly they must be represented in proportion to their numbers. In no other way can the true representation be made, and this seems to be as plain and positive a proposition as can possibly be presented. This amendment of the gentleman from Clearfield gives each county a Representative.

I am not willing to give every county in the State a Representative, when my county, with twenty-eight thousand inhabitants, would have but one Representative; while under this plan of the gentleman from Clearfield, there are five counties, with no greater population, to which one member each would be given. Now, I have stood upon the platform, ever since the Convention assembled, of allowing Philadelphia, and every other county of the Commonwealth, its exact representation, its representation according to population; not according to acres, not according to its hemlock trees, nor to its mines, nor to its mountains, nor to anything of the sort, but according to its people. The people must be represented in the government, and I cannot support any system of government as unjust to the people as is the amendment of the gentleman from Clearfield.

Mr. J. PRICE WETHERILL. As the amendment offered by the gentleman from Clearfield is so very nearly allied in its character to the amendment which I had the honor of offering on last Friday, it seems but right and proper that I should explain exactly what the effect of the amendment that I have offered would be in the State; and to state exactly how fairly the result will be by it secured.

To do that, I will state to the Convention that by my amendment the full ratio would be 23,000. Three-fifths of this ratio would be 14,000, and one and three-fifths of the ratio would be 37,000. One ratio of 23,000 would allow a district containing that number of inhabitants one Representative. Three-fifths of a ratio, or a population of 14,000, would allow a district one Representative, and one and three-fifths,

or a population of 37,000, would allow a district two Representatives.

This proposition, after careful and mature deliberation, was decided upon as the best proposition that could be offered by the Committee on the Legislature. That committee had this matter under consideration at several full meetings. A committee was appointed, consisting of the late Colonel Hopkins and myself, to work out this plan throughout the State, I think probably with the assistance of the gentleman from Tioga (Mr. Niles.) It was worked out for a house of one hundred members, and found to be satisfactory, to give each county a fair representation in the lower House, and was reported to this body. But it was reported for a House of one hundred Representatives, and not for a House of one hundred and fifty Representatives; and as the disposition of the Convention seemed to be for a larger House of Representatives than one hundred, the proposition was not acceded to, and for a while was lost sight of. Since that time we have had propositions from very nearly every member of this body, falling upon our desks like autumn leaves, and as each proposition was taken up and fairly considered, faults so great were found in each that we were presented on Friday last with the unusual spectacle of having voted down every proposition which had been presented and of absolutely being left in the article presented by the Committee on the Legislature without a section, showing clearly that the only fair plan and the only true plan is this—representation based upon population, with as much of the unconsumed fractions as can be used in the manner indicated in this plan.

How will this work throughout the State? It will work fairly. It will not discriminate against any section, and I think that on account of these advantages it should be adopted by this Convention. It will give twenty-six counties each one Representative. It will give fifteen counties each two Representatives. It will give eight counties each three Representatives. It will give one county—Berks—four Representatives. It will give two counties—Schuylkill and Lancaster—five Representatives. It will give one county—Luzerne—seven Representatives. It will give one county—Allegheny—eleven Representatives. It will give one county—Philadelphia—twenty-nine Representatives. And to use up the small coun-

ties of Fulton, Sullivan, Pike and M'Kean, we can unite them with the three adjoining counties entitled to only one Representative, and by the increased population given by the smaller counties to the larger counties, they will be entitled to two Representatives, so that Fulton, Sullivan and Pike, containing 9,000, 6,000 and 8,000 inhabitants, can, by being united with the counties adjoining them, which are already entitled to their full ratio, receive in addition to their full ratio of one Representatives, another Representative, making two Representatives for the counties thus united. This will give those three counties, otherwise not entitled by a full ratio to a Representative, representation in the House without doing injury or harm to the adjoining counties to which they are united.

If this is done, the only counties then unrepresented will be Cameron, Forest and Elk, with a population of 16,000. They will have one Representative. In the counties of M'Kean and Potter, with a population of 20,000, they will also have one Representative.

I desire fairly to consider this proposition, and I desire to present it with its advantages and its defects.

I desire to be perfectly fair and candid in this matter because I feel this to be one of the most important matters that will engage our attention; and I desire that we should by every possibility arrive at the best plan, and allow all selfish considerations and false pride to sink into insignificance in comparison with the importance of securing the best plan selected for our consideration. Therefore I state its defects plainly.

One of the defects of this plan is that there are about four or five counties with a population ranging from 34,000 to 37,000 that will be compelled to wait a little while before they can get their two Representatives; 37,000 would entitle each county to two Representatives, while the counties falling a little below that would have but one Representative and might have a reason to complain. That may be obviated, perhaps, by an alteration as to the time of the apportionment and the time of taking the census. This objection applies at best to but five counties; and they only could complain; and if they do complain of not being represented on a fair basis of representation throughout the State, they can receive their remedy by an alteration of the time of apportionment or of the time

of taking the census. Take, if you please, the county of Indiana, with a population of 38,000. She falls a little below the ratio to give her two Representatives. Yet I am told that if the census of that county were taken to-day she would run over 40,000 inhabitants, and thus this plan might work unfairly as far as Indiana is concerned. There are four other counties which are in the same category and they can receive their remedy according to the suggestion that I have just indicated.

The next defect which will, perhaps, strike the attention of the members of the Convention is that if we are to secure a Representative for Fulton, Sullivan and Pike each, we have to unite them, if you please, with Bedford, Bradford and Wayne. I see no harm in forming these double districts, for the reason that the proposition can be so amended as to provide that if these counties are united, the counties so united shall be entitled to elect one Representative. Take, if you choose, the county of Bedford, which has a population of twenty-nine thousand. That would give her, on a ratio of twenty-three thousand, one Representative, but if you add the nine thousand three hundred population of Fulton to the county of Bedford you make that a district containing a population of thirty-seven thousand, and, therefore, it will be entitled to two Representatives instead of one. You can then give Fulton one of the Representatives. Bedford could not complain. She is entitled to only one Representative at present, and if by a union with Fulton she will get two Representatives, I do not see how any one can complain or how any objection can be urged to double districts constructed on that plan.

The same argument will apply with equal force to the counties of Bradford and Sullivan. Bradford having a population of fifty-three thousand is entitled to two Representatives, and two only. She cannot claim more, and yet if you unite Sullivan, a small county with a population of only seven thousand, to Bradford, you get a district with a population which will be entitled to three Representatives, and you can, therefore, readily secure Sullivan her Representative. Bradford county could not complain of that arrangement, because she is only entitled to two Representatives unless she is united to Sullivan; and if by that union with Sullivan the district receives three members, Bradford still receives the two

to which she is entitled and the remaining one can be given to Sullivan.

So also with Wayne. Wayne is only entitled to one Representative under this ruling. Yet if by uniting Pike to Wayne, and adding her population of eight thousand five hundred to the population of Wayne, the district is entitled to two; then Pike can receive a Representative, and Wayne will still have the one to which she is entitled. Wayne would only be entitled to one at any event, and therefore she cannot complain if, by the union, she retains that one and Pike also receives a Representative.

Thus in that way you make up the entire sixty-six counties with a House of one hundred and fifty Representatives. We have agreed to that number. That seems to be the number which is suitable to the body, and this plan, which seems to work fairly and satisfactorily, is based upon one hundred and fifty members. To come now to what really seems to be a serious defect in the minds of a majority of this Convention, Cameron, Forest, Elk, M'Kean and Potter have only two Representatives, when it is thought they should have five. This matter can be very easily adjusted by the Convention if they will increase the House of Representatives to one hundred and fifty-three members instead of one hundred and fifty, and say in so many words that the three counties named, Cameron, Forest and Elk, shall each have a Representative. You can obviate that in this way, and you can obviate it in no other way. The very moment you give one Representative to every county in the State, you have trouble and you have unconsumed fractions to an enormous amount, and it does seem to me that by the simple amendment I have offered you have as nearly perfect a proposition as can be presented. Therefore I hope it will be adopted.

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

Mr. J. PRICE WETHERILL. Certainly.

Mr. WHERRY. I desire to ask of how many members the House will consist under this amendment?

Mr. J. PRICE WETHERILL. Of one hundred and fifty. No more. No less.

Mr. WHERRY. I think that the gentleman has not carried out his proposition mathematically, and if he does he will find that it is impossible to get one hundred and fifty Representatives.

Mr. J. PRICE WETHERILL. I desire to explain my calculation, and if the gentle-

man will follow me he will see that the House will contain exactly one hundred and fifty members.

There are twenty-six counties with twenty-six members.

There are fifteen counties with thirty members.

There are eight counties with twenty-four members.

There is one county with four members.

There are two counties with ten members.

There is one county with seven members.

There is one county with eleven members.

There is one county with twenty-nine members.

Bedford and Fulton counties with two members.

Bradford and Sullivan counties with three members.

Wayne and Pike counties with two members.

Cameron, Forest and Elk counties with one member.

Potter and M'Kean counties with one member.

Sixty-six counties with one hundred and fifty members.

MR. CLARK. Mr. President: This is a very important matter, and as the amendment is not printed I ask that the section be read slowly by the Clerk as it would read if the amendment were adopted. In that way we may understand it.

MR. J. M. BAILEY. I move to amend the amendment to the amendment by striking out the words "or double."

THE PRESIDENT *pro tem*. There is an amendment to the amendment now pending. It will be read slowly by the Clerk.

MR. CORSON. Just one moment before that is read. Let us try to get the House quiet so that we can hear. We all know that if we can hear anybody we can hear the Clerk; but it is impossible to hear even him read this morning. It would be wiser just now if the Clerk would read all the propositions pending, so that we should know which would be the better one to adopt. I do not see why we should stay here another week upon this question. We have agreed substantially that there shall be an increase; we have agreed substantially about how that increase shall be made. It seems idle to be discussing the question eternally, and I think we can come to a vote a great deal quicker if the Clerk will read all the

propositions and the amendments that we may know which to reject and which to accept, and settle this question in half an hour.

MR. HALL. Mr. President: I regard this subject as of so much importance that for one I am not willing to vote upon it without seeing the propositions in such a shape that I may analyze them at my leisure and see exactly what they mean. It seems to me that it would be much better for us to postpone this subject and take up the report of some other committee that is already before us, and which would not present so much difficulty. I make that motion, that the subject be postponed for the present, and that the proposed amendments be printed.

THE PRESIDENT *pro tem*. The delegate from Elk moves to postpone for the purpose of having the amendments printed.

MR. NILES. I rise to second the motion, and only desire to say that every one who has made any calculation of the different propositions that have been submitted has found this to be the fact, that while they all seem fair on their face, and all looking towards the same result, when we come to make a careful analysis of them they reach results widely different. I have been so much disappointed by the practical working out of different propositions, that seemed nearly alike on their face when they were read, that I for one am not prepared to vote on any one of these propositions until I have an opportunity to satisfy myself in regard to the result. I hope we shall postpone this article, and have all the amendments printed, and that will enable every delegate to come to a deliberate conclusion as to which he prefers, and then we can take up something else.

MR. SIMPSON. Mr. President: I have no objection to the postponement of this proposition if other amendments that are proposed to be offered can be included in the motion to print. ["Certainly."] I offered sometime since a proposition that I am sure the delegate from Tioga (Mr. Niles) has not attempted to carry out by figures, or he would have come to the conclusion that it is the only feasible proposition that will do equal and exact justice throughout the Commonwealth; and that proposition is not confined, as the one now pending is, to the three-fifths ratio, but one regarding ratios as entireties, and then allowing terms for the fractions of fifths over ratios, so that in a decade of five terms of two years each, each

fifth will be represented upon the floor of the House in its term and in its order. In that way we avoid the question that one less than three-fifths does not get a member, and one over equals a whole ratio.

Now, if the gentleman will include in his motion to allow other propositions to be printed, I have one that I will present, guarding the smaller counties and yet securing just representation to every part of the Commonwealth, I will vote for the postponement.

The PRESIDENT *pro tem*. The delegate from Philadelphia moves to amend the motion made so as to include all propositions of apportionment in the order to print.

Mr. HALL. I accept that suggestion.

The PRESIDENT *pro tem*. The modification is accepted.

Mr. BIGLER. Mr. President: I think there is great force in the reasoning for a postponement with the view of printing, and I think it is just the best possible way by which we can get to a clear and common understanding of this subject.

Mr. J. N. PURVIANCE. Mr. President: I desire to state that I have prepared very carefully a proposition which I think will meet with the approbation of this Convention.

The PRESIDENT *pro tem*. If this motion prevails, the delegate can hand his proposition to the Clerk and it will be printed.

Mr. J. N. PURVIANCE. It is based upon taxable inhabitants, and follows very much the present Constitution, and would give to the Senate forty members, and to the House one hundred and twenty-two members. I therefore desire that this proposition shall be printed with the rest.

The PRESIDENT *pro tem*. The question is on the motion to postpone as amended.

The motion was agreed to, there being on a division, ayes forty-four, noes sixteen.

The PRESIDENT *pro tem*. Every delegate who has a proposition will hand it to the Clerk in order that it may be printed, and hereafter there will be no difficulty about them.

ORDER OF BUSINESS.

Mr. DARLINGTON. I move that the Convention now proceed to the second reading and consideration of the report of the Committee on Education.

Mr. KAINE. I want to say a word in opposition to the motion. I think there

are other reports that had better be taken up and considered now.

Mr. LITTLETON. According to my recollection, this is not a debatable question.

The PRESIDENT *pro tem*. The question is not debatable.

Mr. DARLINGTON. I have no anxiety about taking this up now. ("Withdraw it.") I withdraw the motion.

The PRESIDENT *pro tem*. The motion is withdrawn.

Mr. HUNSICKER. I move that we take up the article reported by the Committee on Railroads.

The motion was not agreed to, the ayes being twenty, less than a majority of a quorum.

CORPORATIONS.

Mr. EWING. I move that we proceed to the second reading of the article on corporations. If the chairman of the committee is not willing for that, I trust he will say so.

The motion was agreed to; and the Convention accordingly proceeded to consider, on second reading, the article on Corporations, reported from committee of the whole.

The PRESIDENT *pro tem*. The first section will be read.

The CLERK read as follows:

SECTION 1. All existing charters or grants of special or exclusive privileges under which a *bona fide* organization shall not have taken place, and business been commenced in good faith at the time of the adoption of this Constitution, shall thereafter, have no validity.

The section was agreed to.

The CLERK read the next section, as follows:

SECTION 2. The Legislature shall not remit the forfeiture of the charter of any corporation now existing, or alter or amend the same for the benefit of such corporation, except upon the terms of such corporation thereafter holding such charter, subject to the provisions of this Constitution.

The section was agreed to.

The CLERK read the next section, as follows:

SECTION 3. The exercise of the power and the right of eminent domain shall never be so construed or abridged as to prevent the taking by the Legislature of the property and franchises of incorporated companies and subjecting them to public use the same as the property of

individuals. And the exercise of the police power of the State shall never be abridged or so construed as to permit corporations to conduct their business in such a manner as to infringe upon the equal right of individuals or the general well being of the State.

The section was agreed to.

The CLERK read the next section, as follows:

SECTION 4. In all elections for the managing officers of a corporation each member or shareholder shall have as many votes as he has shares, multiplied by the number of officers to be elected, and he may cast the whole number of his votes for one candidate or distribute them upon two or more candidates as he may prefer.

MR. ANDREW REED. I move to amend, by striking out all after the word "shares," in the third line.

MR. DARLINGTON. I do not think we are voting understandingly on this important proposition. Are we prepared to adopt the principle that in the election of the officers of a corporation one man shall cast the whole of the votes to which his stock entitles him for a single individual, or shall he vote for the whole body that composes the board of direction? This applies to all corporations, if I understand it, whether it be a church corporation, a cemetery, a bank, a railroad, or any other. Now it is, I think, very well understood in the community everywhere that the fairest mode of representation in all matters relating to corporations which are styled money corporations is to allow the proprietors, the owners, to vote in proportion to the interest they possess. And if there be two or a dozen directors or managers to be elected, the fairest way is to allow every man to vote for the whole number of officers to be elected the number of votes to which his interest in the institution entitles him. I am very well aware that it has been a general rule in all corporations to restrict the power of the large stockholders by graduating the votes in proportion to the number of shares held up to a certain number, so that no man, be his interest what it might, should be allowed to have more than a certain number of votes. In latter times, however, a different system seems to have prevailed to a very large extent. Under many charters the stockholders are entitled to vote for the direction as many votes as they have shares, thus giving a fair representation in proportion to the amount of capital involved. I am not

aware that either of these modes has been very unsatisfactory, but I am inclined to think that the last named is far the most fair, and is more generally accepted by our Legislature in latter times. Is there any good reason why we should not adhere to it? Whether they be the owners of a railroad, or a canal, or a bank, or any other corporation, those who have the largest interest in their good management ought to have the largest say in the choice of those who are to manage them, in my judgment.

I do not like this notion of introducing the minority principle, or worse, the cumulative principle, in the election of officers of every corporation, because it puts it in the power of any one man who chooses to cast all the votes he may be entitled to in favor of one individual, and thus, in a church corporation, if you please, where a number of trustees are to be elected, one man having an axe to grind, would cast all his votes in favor of a single individual, to carry in, possibly, an obnoxious man into the direction; and it might occur in every other kind of corporation. Now, why should this be? Why should one man in a corporation, having ten votes, be allowed to cast those ten votes for one individual, when I can conscientiously cast but one vote against him? He thus has a power of nine over me. He is entitled to the same number of votes that I am, ten votes, if you please. He votes ten times for one man, while I want other good men there and can vote only once for that man. A combination of men could easily be formed for the worst purposes in any corporation to carry in an individual who might have an object in view detrimental to the interests of the whole body.

I think it is unwise to introduce into the Constitution any scheme of this kind which would tie the hands of the Legislature in the organization of all manner of corporations. It would be far better to allow the Legislature in organizing a corporation, of whatever character, to prescribe the mode which those getting it up should think best for its management, and it might be varied, so that if any gentleman wishes the corporation of a church, or anything else in a particular way, he can have it so, and he may have it without any power to change its members or officers at all. He may make it like this Convention if he chooses, a perpetual corporation, with power to fill all vacancies. Nobody is concerned but the members of

the corporation, the church itself. Let the Legislature do for a community what they want done if there be no harm in it, and I do not see any. I therefore am opposed to prescribing in the fundamental law that the hands of the Legislature shall be tied in that manner, so that they shall make it a provision in every charter, of every kind, that one man shall have the right to cast all his votes for one individual if he chooses, and not distribute them over all the offices. I am opposed to it.

MR. ANDREW REED. Having made this motion to strike out all after the word "shares," it is proper that I should state my reason for so doing. As has been said by the delegate from Chester who has just taken his seat, this section, will prevent the Legislature, in the case of all companies now formed or hereafter created, from providing that they may, if they desire, so constitute themselves as to require a majority of all the shares, or two-thirds or three-fifths or any proportion whatever to elect all their officers, but the Legislature must prescribe that the one-twelfth of the stockholders of a company to be formed can place a man in that corporation who shall be a spy to look at and see the manner in which it does its business. Sir, the officers or directors of any corporation should be those who have the greatest interest in it. They are the most affected by its management, and they will conduct the business of the corporation to the best interests of the stockholders or those who should be benefited thereby.

Now, look at the effect that this section will have. Take the case of a bank or a railroad, and suppose there is a rival corporation with opposing interests. All such corporation has to do is to go into the market and buy one-twelfth of the shares of that company, and they can place a person in the board of directors, in spite of the eleven-twelfths of the stockholders, who will be there as a spy to give information to such rival interest. In the election of twelve directors of a bank, one-twelfth of the stockholders of that bank can elect as a director a man who goes there to let out the secrets or the policy of that bank to those who are unfriendly to it.

For these reasons I am opposed to this provision. I agree with the argument of the gentleman from Chester, that it will prohibit men who do not desire such a regulation as this from forming corporations. Under this section, even if every

stockholder in a corporation was opposed to this arrangement, they would be unable to organize a company unless the charter contained this provision. I trust, therefore, that the latter portion of this section will be stricken out, and let every share have a vote.

MR. BUCKALEW. Mr. President: During the last three years in which substantially this provision has been in force as to several thousand incorporated companies in Illinois, from railroads down to gas companies, not a single word of complaint, so far as I know, has been heard of its practical operation. Even in the Legislature of that State last winter when the constitutional arrangement with reference to the election of members of the lower House of the Legislature was discussed, so far as I understand not a member referred in the way of complaint to the arrangement as to corporate bodies.

The gentleman from Mifflin says that this takes away the power from the Legislature. Yes, sir, it does take away the power from the Legislature to give undue power to dominating men or cliques who undertake to run corporations in their own special interests and to the disadvantage of the stockholders. It is a check upon the Fisks and the Vanderbilts of the country in manipulating Legislatures to the injury of the general stockholders of a company; and that is all the effect that it has. The Legislature ought not to have this subject in charge. It ought to be settled as one of the fundamental arrangements concerning these corporate bodies.

Then, again, the majority of the stock will control at every election and will elect a majority of the board of management. The apprehension that the gentleman from Philadelphia (Mr. Cuyler) expressed on a former occasion was quite unfounded. It requires now a combination of a majority of the stock to elect a board of directors in any of these companies, and it will require a combination of the majority of the stock to elect under the new plan. It makes no difference at all with regard to the power of the persons holding a majority of the stock to control the corporation.

But the gentleman says that a hostile interest, some hostile company will, under some extraordinary state of circumstances, get control of some stock and will elect a director in one of these companies to watch its proceedings. All I have to say about that is that the corporation thus

operated upon can return the compliment; can choose a director in the corporation that wants to watch them and return the watching; and I take it for granted that the public interests will not suffer at all. These bodies are all of a *quasi* public character, and the more of reasonable publicity that attends upon their proceedings, the better for the general and common interests of all the people of the State.

I shall refrain from entering into the general argument which was submitted on a former occasion when the Convention in committee of the whole, after debate, agreed to this proposition. All that I have said now is with reference to the particular objection, freshly presented, leaving the former irresistible and overwhelming argument in favor of this arrangement as to corporate bodies to stand as it was left when the Convention agreed to this section. All I have to say, in conclusion, is that this section will be worth more to prevent abuses and wrongs in corporate management and to protect the people of the State generally against corporate abuses than all the other sections in the railroad article and in this corporation article put together; while at the same time it will not embarrass any corporation in the State in the performance of its proper functions. It does not impair the powers of any corporation. It does not limit, contract, or hamper them in the honest and proper pursuit of any of the purposes for which they were incorporated. In this respect it differs from the other provisions which we have in this article and in the article on railroads, because those do constrict and limit the powers of corporate bodies, and hence may in some sense be offensive to them, and so far as they do so restrict them may be objected to by those corporations for one reason or another. But this section does not effect the general powers of any corporate body; it does not limit any one in the performance of its corporate duties; it is simply an arrangement by which the corporators themselves who have money invested in these corporations shall be fairly represented in their management to protect their own interests, and at the same time to prevent the corporation from doing injury to the people.

The PRESIDENT *pro tem*. The question is on the amendment of the delegate from Mifflin (Mr. Andrew Reed.)

Mr. DARLINGTON. On that question I ask for the yeas and nays.

Mr. HUNSICKER. I second the call.

Mr. T. H. B. PATTERSON. Before the yeas and nays are called I should like to remind delegates simply of one matter, and that is that this section embodies one of the restrictions and one of the provisions which the late delegate from Philadelphia, (Mr. Gowen,) as the representative of corporations, said was a useful provision, and one that he recommended should be adopted by this Convention in one of his arguments on the railroad article.

Mr. BUCKALEW. I hope the friends of the section will vote "nay."

Mr. BIGLER. I hope the gentleman will withdraw the motion to strike out. It is simply the question of the whole section. If the amendment prevails, what is left of the section is of no consequence.

The PRESIDENT *pro tem*. The Clerk will call the names of members on the amendment of the delegate from Mifflin (Mr. Andrew Reed.)

The yeas and nays were taken, and resulted as follows:

YEAS.

Messrs. Addicks, Barclay, Bowman, Boyd, Craig, Cuyler, Darlington, Edwards, Ewing, Fell, Finney, Knight, Lamberton, Lawrence, MacConnell, MacVeagh, M'Culloch, Mann, Mantor, Minor, Palmer, H. W., Patterson, D. W., Porter, Purviance, John N., Read, John R., Reed, Andrew, Reynolds, Runk, Stanton, Struthers, Turrell, Walker, Wetherill, John Price and White, David N.—34.

NAYS.

Messrs. Achenbach, Alricks, Baer, Bailly, (Perry,) Bailey, (Huntingdon,) Bardsley, Biddle, Bigler, Black, Charles A., Brown, Buckalew, Calvin, Campbell, Carey, Carter, Cassidy, Church, Clark, Cochran, Corbett, Corson, Cronmiller, Curry, Davis, De France, Dodd, Elliott, Ellis, Fulton, Gilpin, Guthrie, Hall, Hanna, Hay, Hemphill, Howard, Hunsicker, Kaine, Lilly, Littleton, M'Clean, Mott, Palmer, G. W., Patterson, T. H. B., Patton, Purman, Purviance, Samuel A., Ross, Russell, Simpson, Smith, H. G., Smith, Henry W., Temple, Van Reed, Wherry, White, Harry, Woodward, Worrell and Wright—59.

So the amendment was rejected.

ABSENT.—Messrs. Ainey, Andrews, Armstrong, Baker, Bannan, Bartholomew, Beebe, Black, J. S., Brodhead, Broomall, Bullitt, Collins, Curtin, Dallas, Dunning,

Funck, Gibson, Green, Harvey, Hazzard, Heverin, Horton, Landis, Lear, Long, M'Camant, M'Murray, Metzger, Mitchell, Newlin, Niles, Parsons, Pughe, Rooke, Sharpe, Smith, Wm. H., Stewart, Wetherill, J. M., White, J. W. F. and Meredith, *President*—40.

The *PRESIDENT pro tem.* The question recurs on the section.

Mr. LEAR. Mr. President: I move to amend the section, by striking out the words after "shareholder," in the second line, to the word "may," in the third line

The *PRESIDENT pro tem.* The words proposed to be stricken out will be read.

The CLERK. The words proposed to be stricken out are "shall have as many votes as he has shares, multiplied by the number of officers to be elected, and he;" so as to make the section read:

"In all elections for the managing officers of a corporation each member or shareholder may cast the whole number of his votes for one candidate or distribute them upon two or more candidates as he may prefer."

Mr. LEAR. The object of that is to give the stockholders of corporations the right to vote just as many shares as they vote now by the terms of their several acts of incorporation, reserving the power to cumulate as is provided for in this section. It is for the purpose of providing for those corporations which diminish the power of voting for the number of shares which the stockholders hold as the large stockholders may increase in their number of shares. There are many such provisions now. I moved this once before, and I move it again now for the purpose of effecting what I suppose this is really designed to do—to protect the small stockholders against those who have large numbers of shares. This section is to multiply the number of shares by the number of officers to be voted for. My amendment, in effect, simply multiplies the number of votes which a man has by the number of officers, and this term about multiplying by the number of officers means nothing. It simply preserves the cumulative power of voting, which I am willing to support for the purpose of electing managing officers in corporations, but not for political officers. While I am willing to go for it for the purpose of protecting small shareholders of corporations, I do not believe it should be carried into political offices. My amendment will preserve the cumulative vote, but will confine it to the number of votes

which a man is now entitled to for his shares multiplied by the number of officers. It does not necessarily give a vote for every share, but allows a shareholder to cumulate so many votes as the company in which he is a stockholder gives him.

Mr. CUYLER. It seems to me that there is no form in which this section could pass without infinite danger to the corporate interests of the State, and I see nothing but unmixed evil in it. I perceive nothing in it whatever that could be beneficial. In the first place, it must weaken and almost paralyze corporate administration. Firm and consistent policy, and enduring representation on the part of the direction of the company of its interests, never could exist. Next it would subject our strongest corporations to foreign influences highly detrimental. I can carry myself back but a few years ago when if this had been the constitutional law of Pennsylvania, the Pennsylvania railroad would have passed to the management of the infamous and corrupt ring that controlled the Erie railroad in New York—Mr. Fisk and that party of men. Things were then "set up" and were absolutely in that position, and the stock was held that if this had been the constitutional law of Pennsylvania at that time it would have passed that corporation, with all its interests, into the control of the Erie ring.

Or look at it in another point of view, taking the same illustration. Here is a corporation with twelve directors, three of whom are elected by the councils of the city of Philadelphia, who of course are selected from the dominant political party. A concentration of votes upon four more added to those three would convert the direction of that company into a political machine at any period of time, and inevitably lead to such a result.

Now in return for these risks and perils, I do not see what advantages are proposed, and I pause to hear from gentlemen who advocate the section which is now before the Convention a statement of any good reason which can counter-vail the dangers and perils that must necessarily result from the section as it stands.

Mr. KNIGHT. From the experience I have had in corporations, I take this opportunity to fully confirm and endorse all that has been said by my colleague (Mr. Cuyler.)

Mr. WOODWARD. Mr. President : This part of the report of the committee is the result of a resolution that was brought into this body at an early day and referred to the committee and there very attentively considered. And allow me to say that this Committee on Private Corporations, whose work, perhaps, has had less explanation than that of any other committee of this body, suppose that this Convention was very much in earnest in raising such a committee. The Committee on Private Corporations were trying to devise such check or curbs as would destroy the naturally aggressive character of corporations, protect the people and at the same time not cripple or disable corporations, because this committee understood that the business of Pennsylvania could not be carried on without corporations. They had no prejudice against corporations; they did not intend to embarrass them. They only intended to put in every possible form what the gentleman on the other side has called "a spy"—and I thank him for that word; it is exactly what the people want inside of all these corporations—and if this section results in that which has been urged as an objection against it, I shall consider that the Convention has done the people a good turn in doing just that thing. Of course, sir, I am not for handing over these corporations to spies. The gentleman who puts me that question (Mr. Cuyler) knows that, and he need not have asked such a question. I do not like the word "spy" which has been used against this section on the other side of the House. But, sir, what is the objection to the stockholders in a corporation combining to put some competent man there to watch their interests against the majority who are running it in their own interest? Where is the objection? What is there wrong about that?

The gentleman (Mr. Cuyler) has talked about Fisk and the sacrifice of the Pennsylvania railroad company. Why, we hear that every time there is any proposition brought into this Convention to put a bridle on any corporation. The Pennsylvania railroad comes here to protest and object to it. Now, I do not think the Pennsylvania railroad company would be harmed by having a few representatives of combined stockholders in the board to watch the majority, to see what was done. The managers of that company have an immense power; they use it in the dark; they give the people

no more information than they choose to give them. I say this without any prejudice against the Pennsylvania railroad company. I say it is true of all companies. Wherein is the evil and danger of putting some competent man there whom several stockholders could put there by uniting their votes if it be for the purpose of watching them? Whose interests are to be sacrificed by watching them? Not the corporation's; on the contrary, I believe the corporation would be benefited.

Mr. President, I wish my friend from Philadelphia would familiarize to his mind a truth that the gentleman who used to occupy a seat here, the president of the Reading railroad company, (Mr. Gowen,) acknowledged while he was with us that everything that popularizes these corporations improves them. The more you commend them to the public confidence, the better for them, and that for a reason which I indicated on one occasion here before, that they are borrowers of money. They live by borrowing. They never had any other form of life, and they never will have. They live upon credit, faith, confidence; and whatever tends to strengthen public confidence in them strengthens the corporations. This measure does that thing. It enables stockholders to have a representative in the direction.

Why, sir, the gentleman says that the city of Philadelphia has some representatives in the board of directors of the Pennsylvania railroad company. The city of Philadelphia is a large stockholder of the Pennsylvania Central and it is right that she should be represented there. When the United States government owned a portion of the stock of the old United States Bank, the government always had some directors there; and when Henry Horn was a director for the Government, whom General Jackson said could not tell a lie, Mr. Horn's reports of what was going on in the inside of the Bank of the United States were extremely valuable to the people of this country, and by the use General Jackson made of them the people of the United States were relieved of that monster. There was no harm done to the people of this country by the fact that they had what the gentleman from Mifflin calls a spy at the board.

Now, sir, these corporations exist necessarily; I agree that they are necessary. I am not disposed to attempt to dispense with them. That were impossible. But

they need not be the utter masters of the people of this country, unless we choose to make them so. Now, this section seems to me to be as harmless a section as could be devised for the purpose of giving the people some knowledge of the internal operations of these large corporations. This section merely adopts as to the elections of the directors of our corporations a mode of voting that, as has been said, has been adopted in Illinois and perhaps in other States, without prejudice to anybody, and it will not prejudice anybody here. And of all other parties, the Pennsylvania Central is the last company that will be prejudiced by anything of this sort. On the contrary, it will benefit the Pennsylvania Central, as it will the Reading and all the other great railroads of the State. The gentleman (Mr. Cuyler) need not be afraid of that.

I do not intend to go over the general argument, because the whole of that subject was presented by the gentleman from Columbia, (Mr. Buckalew,) and as he has presented it, it is perfectly unanswerable. No one has presented any answer to his reasons thus urged. The section is before the Convention, and I hope the House is ready to adopt it.

MR. CUYLER. Mr. President: I have listened with thorough interest to that which fell from my friend the gentleman from Philadelphia, (Mr. Woodward,) who just now addressed the Convention, and I declare myself as utterly uninformed of any arguments to support this proposition now as I was when I before invoked some explanation of his reasons. I have sat at the feet of a Gamaliel quite as capable of instructing me on the principle which underlies this subject as even the gentleman from Philadelphia, and that Gamaliel has been a fruitful opportunity of knowledge, experience and observation. The gentleman who just addressed this Convention did utter one solemn and impressive truth, but he drew the wrong inference from it. He said that all our corporations are living on the breath of popular favor. That was true; but he should have seen in that fact the absence of any necessity for any such provision as he has sought to introduce here, or for any other unreasonable legislation which unfairly or unjustly trammels them in the great and beneficent work in which they are engaged. It is indeed true that they do live on the breath of popular favor, and therefore they dare not do anything which prejudices the liberties or the interests of the

people. Their safety consists in conforming themselves to the demands of public opinion. That is a protection to the State; that is a protection to the people of the State; and that is the only life and the only safety of our corporations.

The gentleman does not enter into an argument that supports this proposition. I had almost supposed that it was a burlesque, and I am inclined to think so now. He avoids any argument that can satisfy any reasonable mind of the propriety of any such provision. He says he wants to introduce a spy into every board of directors of every corporation in the land. The mere statement of that proposition ought to be enough to refute it. The bare mention of it, in the language of the gentleman himself, ought to be an answer to it in the mind of every honorable gentleman. He wants to put a spy into every board of directors in every corporation in the State—a monstrous as well as an absurd proposition. The only effect of the introduction of any such mode of election is simply weakness to many and destruction to some of our corporations. It is weakness because it enables a small minority of a corporation, whose information may be very imperfect with regard to the great questions which may be considered in that corporation, or who may be influenced by crude ideas and crude opinions, to plant a disturber of the peace of the corporation in the very bosom of the corporation itself. It destroys unity of action, and it inevitably leads to revolution and destruction. It weakens and partially paralyzes the administration of any corporation into which such a representation is introduced. To take an illustration to which I have before referred, and to which the learned gentleman himself has referred, the Pennsylvania railroad company, it is destruction to the interests of that corporation. I need not repeat what I said before, for it is a matter of historic truth, within the knowledge of every person who has had any close association with the interests and with the business of that great company, that if that system of voting had been the law of this Commonwealth two years ago, despite all the power that could have been brought to bear against it, that company would have been transferred to the management and the power that controlled the Erie railroad company in New York, and that which the past has shown can occur might happen again in the future.

It is equally true that in the board of management of the Pennsylvania railroad company, there is representation outside of its individual stockholders. The city of Philadelphia is represented there. She is one of the largest stockholders in that company, and it is of course reasonable that she should be represented in its board of direction; but her directors are all chosen in accordance with the particular views of the dominant political party of the moment which elects them. The city of Philadelphia elects three members of the board of directors of the Pennsylvania railroad company, and the addition of four members to that board, which would be easily elected by about one-seventh or one-eighth of the stock, would convert that company into a political machine.

MR. KNIGHT. I do not think so small a fraction could accomplish that result.

MR. CUYLER. Perhaps not. Perhaps I have named too small a fraction; but the principle is the same, and my words are true in fact, that there is a very small proportion of stock which could transform that company into such a political machine as I have described, and the same thing, as I am reminded by my friend beside me, (Mr. Knight,) could take place in the case of the North Pennsylvania railroad company and the Philadelphia and Erie railroad company, in each of which corporations the city of Philadelphia elects a portion of the directors. This is no mere supposition. And yet this is what has been here called a great blessing. The great blessing, (and I ask gentlemen to consider that,) which is to countervail the wrongs of these companies is to be, that a simple minority of the stockholders of a corporation, who may buy the stock for the very purpose of doing it, may plant a spy in the bosom of the board of directors, of the corporation! That is the blessing!

MR. HUNSICKER. Mr. President: I am in favor of the amendment offered by the gentleman from Bucks, (Mr. Lear,) and I desire to state the reason why I think it should be adopted.

The charters of incorporation of many of the old railroad companies limit the number of votes a stockholder may cast in all elections, so that a stockholder for a certain number of shares can vote for each share, but if he increases his number of shares, his number of votes do not proportionally increase.

If this section is adopted as reported from the committee of the whole, a large shareholder, being thereby entitled to a vote for each and every share, may combine with another shareholder, and thus elect and control the entire board of directors, and the minority principle intended to be inserted and asserted will be entirely destroyed.

Let me illustrate. The Norristown railroad company has leased its road to the Reading railroad company for nine hundred and ninety-nine years. A few gentlemen hold the bulk of the stock of that company, but under the charter of the Norristown railroad company a stockholder, no matter how many shares he holds, can only vote for a limited number of shares, no matter how many more he holds beyond that number. If the amendment of the gentleman from Bucks prevails, then those who hold a few shares would be entitled to a representative in the board of directors.

I can see that injury might result from the adoption of this section as it stands. Suppose, for example, that two or three stockholders of the Norristown railroad company were to unite their power and go over bodily to the Reading railroad company, and elect a board of directors in the interest of the Reading road, they could annul the lease now existing, which pays the stockholders (of the Norristown road) twelve per cent dividend, and execute a new one, paying the same stockholders only three per cent., or less. The small stockholders, who may have their little all invested, will thus be ruined by the depreciation of their stock, or by the expense of a ruinous or doubtful lawsuit in the courts.

I therefore hope that this amendment will prevail, and then the remainder of the section will accomplish the purpose intended, and conform itself to the charters of all companies, including those beyond our reach, as well as those within our control.

MR. CORBETT. I shall vote for the spirit of this section. I fully agree with the gentleman from Montgomery, (Mr. Hunsicker.) It appears to me that if the words moved by the gentleman from Bucks (Mr. Lear) to be stricken out are retained in the section, it would interfere with vested rights, and to that extent the section would be unconstitutional. Even should the amendment prevail, it appears to me that the section itself needs further amendment,

and the reason of that arises from what the gentleman from Philadelphia has said. The city of Philadelphia is a shareholder, and the owner of a large amount of stock in the Pennsylvania railroad company, and I understand that by the charter of incorporation the municipality has the right of electing a certain number of directors.

MR. CUYLER. Three.

MR. CORBETT. Three directors who are elected without reference to the other stockholders. The city elects them as a municipality and as a corporation. Now, if the section is examined, it will be seen that the words "member or shareholder" will apply to her as a municipality, and there is no distribution of the votes of the corporate officers that elect these directors. The city councils, or whatever corporate officers choose the city's directors, ought, as to those that the city elect, to have the right to distribute their votes, just as the shareholders would. It will be at once perceived that if this is to be attained, the section ought to be further amended, even if the present amendment be adopted, and I think it ought to prevail, because I do not think that we ought to interfere with the rights under the different charters of corporations. If we do, it clearly, in my opinion, is an interference with vested rights, and is void so far as any existing corporations are concerned.

MR. BUCKALEW. I rise to state that I have no objection, for one, to the amendment proposed by the gentleman from Bucks (Mr. Lear.) The only effect of it will be that the Legislature will determine the whole question of how many votes each stockholder shall poll, and it will permit them to control the large stockholders with reference to the proportion of votes cast by them upon their stock in elections. There are some corporations, small in number, in this State that in their charters have a limitation on the number of votes to be cast by the large stockholders. The great bulk of our corporations, I believe all the recent ones, are based, however, upon the idea of allowing each stockholder to have votes for every share of stock. Probably that will be the policy hereafter. In order to render the section acceptable, I, for one, am willing to take the amendment of the gentleman from Bucks.

I do not care anything about the effect or operation of this section upon the particular railroad company which has been

referred to, the Pennsylvania railroad company. I do not suppose that this section will have any effect upon that company. The great mass of its stock is held or controlled by a few owners, and the control of that corporation will, of course, continue substantially in the hands which now control it. What I protest against is having an argument predicated on that company embarrass us in making a general regulation for hundreds of incorporated companies distributed all over the interior of the State, corporations of different character from the one in question.

Now, I beg the Convention to steer clear of the point to which the gentleman from Clarion (Mr. Corbett) has referred, the question of how the councils of Philadelphia shall vote in electing the city's share of the directors of the Pennsylvania railroad company. At present the political majority of the city councils elect their directors. I do not want to get into a dispute about anything which may produce any measure of antagonism to the section generally. Therefore I prefer leaving that as it is.

As to the observation made by the gentleman from Philadelphia (Mr. Cuyler) that some years ago there was a probability that Mr. Fisk would obtain the control of the Pennsylvania railroad company, the answer is a very short one. I take it for granted that he could not control the city of Philadelphia in her choice of her share of the directors of the company. If he could control the city his power was much more considerable than I ever supposed it was. In regard to the election of directors by the stockholders of the corporation, Mr. Fisk could not have elected a majority of the other directors or managers unless he held a majority of the stock; and Mr. Fisk, if he were now living, could not under this amendment elect a majority of the other directors unless he held a majority of the stock or could control it. The question is exactly the same under the former as under the proposed plan. The gentleman from Philadelphia is, I know, very anxious to oppose everything that is new in regard to regulating these companies. I do not object to that, but what I claim is that we shall judge the strength of the arguments as they present themselves to us. Certainly this shaking of the dead bones of the former president of the Erie railroad company in our faces on this section should be the last possible thing to influence us here.

Mr. MACVEAGH. The trouble I have about this section is one that I have experienced about many propositions offered here; and that is that the dangers arising from it may be greater than we are able to see, and while if it was a statute which would be repealable, we could vote for it as an experiment because of certain advantages that are sure to follow, yet when it is to become a part of the Constitution and be irrepealable, we may be unable to vote for it because of dangers that we imagine are likely to follow. The difficulty in my mind is mainly on account of railroads and the great corporations and their struggles to obtain control of other enterprises. The lawyers of the body will remember the struggle that took place between the Pennsylvania railroad company and the Reading railroad company to obtain possession of the East Pennsylvania railroad, which culminated in a bill in equity in the Supreme Court. A controversy has recently come before the Supreme Court between the Baltimore and Ohio railroad company, through its Pittsburg and Connellsville branch, and the Pennsylvania railroad company. In other words, these corporations, on the one hand and the other, are endeavoring to obtain control of other enterprises. If they may by the purchase of a fraction of the stock obtain representation in the board of directors, it seems to me that very great practical evils may follow from it; that the owners of that property may be virtually so embarrassed, so hampered in the management of it as to be compelled to yield to the minority rule in the ownership because of the vastly increased power of embarrassment which a man has when he is a member of the board of directors of a corporation of this character.

On the other hand, I confess I see great advantage in allowing any considerable class of stockholders to be represented directly by a man of their own choice in the board of directors. I understand that our political arrangements of government are made to that end. I should be very sorry to see either department of the government composed entirely of men of one political view. I am glad that Berks county does not agree with Lancaster county in her political opinions and that therefore there is diversity of representation in the State government; and as this is the only way of representing smaller interests than the majority, I can see great advantages in it; but on the other

hand, as it seems to me, very great dangers can arise from it; I cannot vote now to put it in the Constitution. I am the less constrained to do so because I believe when this Constitution goes into effect it will give us a legislative body that will enact proper laws for the regulation of corporations as well as of other bodies.

Mr. KNIGHT. I ask the gentleman if he thinks this will apply to corporations now in existence?

Mr. MACVEAGH. The gentleman asks if it will apply to corporations now in existence. I have no doubt it will. I understand it is intended to so apply by the chairman of the committee.

Mr. KNIGHT. Then let me ask another question. Many of the corporations now in existence are so under laws requiring that no one shall be a director not a resident of Pennsylvania. Will this interfere with such corporations?

Mr. MACVEAGH. I understand this would not repeal any substantive part of the charter; but where the charter has provided that a man might vote for each share of stock that he holds, it does not violate the charter within the meaning of the Constitution of the United States to declare the manner in which the votes may be counted. For my own part, I have no doubt that this would be a valid section, binding upon existing corporations, unless there are corporations that have an express prohibition of it in the charter, and I do not understand that any such charter exists. I have no doubt it would be binding on them; and if it is to be binding upon future corporations, I confess I am utterly at a loss to see why it should not be binding upon existing corporations. I only vote against it because it seems to me that the balance of advantages and dangers is against putting it into the Constitution.

Mr. MINOR. Mr. President: I am opposed to the section, because it reaches to a point that we do not seem to have considered. It covers every corporation in the State. It would embrace religious, educational, charitable, and every other kind of corporation that can possibly be brought into existence. The evils that have been complained of do not pertain to such corporations as I have mentioned, but only to those of a particular class of management, like railroads and similar corporations. The evil, therefore, not existing, we ought not to introduce this new element into the mode of electing managers of those corporations to which I have

referred, religious, educational, charitable, &c. For the reason that it is so extensive, I must oppose it.

The PRESIDENT *pro tem.* The question is on the amendment of the delegate from Bucks (Mr. Lear.)

The amendment was agreed to, there being on a division ayes twenty-seven, noes twenty-six.

The PRESIDENT *pro tem.* The question now is on the section as amended.

Mr. STRUTHERS. Before the vote is taken I wish to say a word. A long time ago it was the custom in creating corporations by the Legislature to prescribe the mode of voting and limit the number of votes of the shareholder as his number of shares increased. In practice, this operated so unfavorably that the Legislature for years past have allowed to every share a vote in the election of directors of the corporation. I see no good reason, and have heard none even attempted to be shown here, why that is not a proper rule. In managing their monetary affairs, gentlemen have a more direct interest and take a more eager concern than they do in looking after political affairs; and my apprehension is that as soon as you introduce a rule of the kind here proposed, which will prohibit the majority of the owners in reality of the corporate franchises, of the stock, and of the capital invested in the company, to control it, you will cut down these institutions. The chairman of the Committee on Corporations admits the necessity of encouraging corporations throughout the State in order to carry on the business of the State to advantage and to develop its resources properly. The effect of this at once, however, I think will be to cut them down, to blot them out almost. You will find no more corporations arise; capitalists will not invest their money in corporate enterprises when at any time two or three disaffected persons may arise in the corporation and introduce obstructions to the management of their affairs. Even in co-partnerships it is necessary and proper that the co-partners should act in unison, that they should have a fair understanding with each other; and it is absurd that one of them should spring up on account of some little dissatisfaction he may have as to the general management of the business by the majority of the co-partners and expose the whole management of their business, all their private affairs, and all

their private arrangements. You would find no more private copartnerships if that were allowed. The same rule applies to corporations, for they are but copartnerships under a legal provision by which they may maintain and continue their existence as such without dissolution.

In the first place, my objection is to this general provision, that it ought not to be introduced into corporations any more than amongst private individuals. It is a principle which tends to no good, but simply to continual distrust and disturbance in the management of their affairs.

In the next place, I am opposed to it because I am totally and under all circumstances hostile to allowing, in any of its phases, the introduction of the principle of cumulative or restricted voting.

I shall not attempt to elaborate the matter at present, but hope this whole section as amended will be voted down.

Mr. DODD. Mr. President: In my country for some years the great mass of the oil business was done by incorporated companies. We had operating there at one time more than one thousand companies. Acting as attorney for a great many of them, I became well acquainted with their internal workings. In a great number of them troubles arose between the stockholders and directors. It was claimed, and I have no doubt very often truly, that the directors and officers were swindling the stockholders, that a few men managed to get control of a majority of the stock and elected their own board of directors and the other stockholders could learn very little about the business. I know of one case of a Philadelphia company whose oil operations were for some years very extensive, and which is yet in business and producing considerable oil. For four years past, at each election there has been a fight between the stockholders as to who shall constitute the board of directors. A certain board being elected some two years ago, filed a bill in equity against a former president, the superintendent, and directors, claiming that they had appropriated the property and funds of the company to their own use. That bill in equity was pending until another election day came round, when the old board managed to again get themselves elected, and to-day they control the corporation and the suit must go by default. Under minority representation no such state of circumstances could arise. The

conflicting interests would each be represented.

Now, sir, I claim that corporations should be placed exactly on the same basis as a partnership, because they are really partnerships. If five men compose a partnership, three of them are not allowed to control it absolutely. If they attempt to do it, the other two can file their bill in equity and have their rights protected by the court. What we ask for in this section is simply that in these incorporated partnerships all the stockholders shall have some voice in the management and shall have their interests represented in the board of directors.

The PRESIDENT *pro tem*. The question is on the adoption of the section.

Mr. CUYLER. I call for the yeas and nays.

Mr. CAMPBELL. I second the call.

The question being taken by yeas and nays resulted as follows :

Y E A S .

Messrs. Achenbach, Alricks, Baer, Bailly, (Perry,) Bailey, (Huntingdon,) Biddle, Bigler, Black, Charles A., Brodhead, Brown, Buckalew, Calvin, Campbell, Carter, Church, Cochran, Corbett, Corson, Cronmiller, Dallas, Dodd, Elliott, Guthrie, Hall, Hay, Hemphill, Howard, Hunsicker, Kaine, Lear, Lilly, McClean, Mann, Mott, Palmer, G. W., Patterson, T. H. B., Patton, Purman, Read, John R., Ross, Russell, Simpson, Smith, H. G., Smith, Henry W., Temple, Van Reed, Wetherill, Jno. Price, Wherry, White, Harry, Woodward, Worrell and Wright—52.

N A Y S .

Messrs. Addicks, Barclay, Bowman, Boyd, Carey, Clark, Cuyler, Darlington, Davis, Ellis, Ewing, Fell, Gilpin, Knight, Lamberton, Lawrence, Littleton, MacConnell, MacVeagh, McCulloch, Mantor, Minor, Niles, Palmer, H. W., Patterson, D. W., Porter, Purviance, John N., Purviance, Samuel A., Reed, Andrew, Reynolds, Bunk, Stanton, Struthers, Turrell and Walker—35.

So the section was agreed to.

ABSENT. — Messrs. Ainey, Andrews, Armstrong, Baker, Bannan, Bardsley, Bartholomew, Beebe, Black, J. S., Broomall, Bullitt, Cassidy, Collins, Craig, Curry, Curtin, De France, Dunning, Edwards, Finney, Fulton, Funck, Gibson, Green, Hanna, Harvey, Hazzard, Heverin, Horton, Landis, Long, M'Camant, M'Murray, Metzger, Mitchell, Newlin, Parsons,

Pughe, Rooke, Sharpe, Smith, Wm. H., Stewart, Wetherill, J. M., White, David N., White, J. W. F. and Meredith, *President*—46.

The fifth section was read as follows :

SECTION 5. No foreign corporation shall do any business in any city or county of this State without having a known place of business in such city or county, and an authorized agent upon whom process may be served.

Mr. WOODWARD. I offer the following amendment to the section, to come in at the end :

"And the majority of the managing officers of all corporations organized under the laws of this State, shall be citizens of the State."

This amendment was reported as an independent section by the committee. It was, however, voted down in the committee of the whole without any consideration whatever. There was nothing said in behalf of it, and almost nothing against it. I believe the gentleman from Carbon (Mr. Lilly) did say something against it. The object of the committee in recommending the provision was to place within the reach of the citizens of Pennsylvania a responsible party, answerable to them in damages or otherwise for injuries they might sustain at the hands of corporations. The fact is that a large number of the largest business-doing corporations in Pennsylvania are controlled by directors who are not of Pennsylvania, but who live in New York, Boston, Baltimore, anywhere and everywhere except here in Pennsylvania. Now, sir, we think it is about time that foreign corporations who come here and do business under corporate franchises in this State, should place amongst us a responsible majority of their directors, that the people of Pennsylvania may have access to them when occasion requires. That is the whole object of the amendment.

Mr. MACVEAGH. I trust the gentleman from Philadelphia will withdraw the amendment for the purpose of allowing us to have a vote on this section. I would be in favor of the amendment as an independent section, but I do trust that the Convention will not adopt section five without consideration. It virtually is a prohibition against any foreign company doing business in the counties of this State. Why should we require them to have a known place of business in each county? Take, for instance, the *Etna Fire insurance company*, incorpo-

rated by another State. If it is a thoroughly good company with a sound capital, in these days certainly it is our interest to have it come here and take insurances in this State. It ought to have a known place of business and a known agent in the State, as our own corporations do have. But if you require them to put one in every county of the State where a man wishes to insure with them, it is impracticable, it can do no good. Gentlemen may say that you want to sue them in that county. Well, the benefit of doing that, it seems to me, is so much less than the disadvantage of putting such a burdensome restriction as this, that my own mind is opposed to it, and I think the Convention will be if it considers it. Wherever it has occasion to have an agency, as in the city of Pittsburg, or the city of Philadelphia, such a company will have an agency.

I quite agree with the spirit of the gentleman's remarks as to the section that there ought to be an agency in the State if the companies desire to do business here; but I do not think you ought to prohibit a person from insuring with a foreign insurance company (because his policy would probably be void under this section) unless the company establish an agency in that particular county. It is going too far, I think; and remember you are putting it in the Constitution; you are not even enacting a statute! And it illustrates to my mind a very serious danger, to which I have frequently alluded, that of hastily incorporating provisions of this character in the Constitution.

I trust the section will either be amended to limit the requisition to the State, or that it will be voted down; and then upon the amendment proposed by the delegate from Philadelphia a vote will be had, but not in connection with this section, and not requiring us either to vote against that amendment or to vote for the section; but that upon that amendment, which is an entirely different matter, and is intended to meet a different evil, we shall act separately.

Mr. WOODWARD. It is germane to the section.

Mr. MACVHAUGH. But still it can be offered as an independent section just as well.

Mr. LILLY. Mr. President: When the proposition which the gentleman from Philadelphia speaks of was up, it was offered

as an amendment to this section. The words which I used against it then, I am willing to stand by now. I then instanced the case of parties coming from Maryland across the line into Somerset or some other of the southern tier of counties, buying a large iron property there, spending their money in mining iron ore, and not one citizen of Pennsylvania putting a dollar into the enterprise, but our people taking off all the money they could get from those engaged in it. I say when citizens of Maryland come here to engage in such enterprise and desire to get a corporate franchise, they go to our courts and obtain letters patent as a corporation under our general law. There is no man in Pennsylvania who has invested to the value of one cent in this property; and why should those who own it be required to compose a majority of their directors and officers citizens of Pennsylvania, when no people of this State are interested in the concern? Pennsylvania is benefited by their money being brought here for this purpose and being used. These men go on and develop these mines and distribute their money every month to the people of Pennsylvania. Pennsylvania is benefited by capital from Maryland coming into this business. What good reason under heaven can be shown why the majority of the directors in such a company as that should be required to be citizens of Pennsylvania? I cannot, for the life of me, see any reason for it.

The other part of the section, which the gentleman from Daphn talks about on general principles, as to insurance companies perhaps is not right; but I say that all corporations such as I have named, iron or coal or slate or oil companies, or anything of that kind that is doing business here should have an agency within reach. If Pennsylvania merchants, farmers or mechanics furnish them supplies, they ought to have at hand a person on whom they can serve process in the county in which they do business; and I presume this section as it stands on the files was drawn to effect that purpose, and I think it ought to be so; and that is the only protection that I can see that the people of Pennsylvania want. Why we should want a majority of the boards of direction to be in the hands of citizens of this State, I cannot see. I think the only effect of it will be to drive away from our Commonwealth the capital that would otherwise flow in and develop our resources.

Mr. MACCONNELL. Mr. President: I am not particularly opposed to this section so much as I am to the amendment. I am opposed to the amendment because it will affect very injuriously some of my constituents, and I opposed the proposition when the matter was before the committee of the whole for the same reason. Within the last two years an act of Assembly was passed authorizing a Massachusetts company to come into Allegheny county and purchase property to carry on their business. In pursuance of that act, they have purchased very valuable real estate; they have erected very large works on this property; they are carrying on their business; they are employing about six hundred hands; they have brought into the county, I believe, several millions of dollars of capital. Now, if you put in this amendment you strike directly at their investment. The money coming from Massachusetts, the people owning it living there, the company being a Massachusetts company, a majority of the directors are naturally Massachusetts men and not citizens of Pennsylvania. I believe that is the fact. Now, why strike at such a thing? Why prevent the citizens of other States coming to us with their capital and utilizing it here? It does seem to me that it would be unjust; that it would be unwise; that it would be suicidal. I am not opposed to the section without the amendment, but I do protest against the adoption of such an amendment as a thing that would be exceedingly against the interests of the people of Pennsylvania generally and of my constituents in particular.

Mr. WHERRY. Mr. President: As the section stands, I shall feel compelled to vote against it for the reasons so well stated by the gentleman from Dauphin. I understand that the amendment offered by the gentleman from Philadelphia is pending.

The PRESIDENT *pro tem.* The question is on the amendment proposed by the delegate from Philadelphia (Mr. Woodward.)

Mr. WHERRY. Would it be in order now to move an amendment to the original section?

The PRESIDENT *pro tem.* An amendment to the amendment would be in order.

Mr. KAINE. I move to amend the amendment by striking out the words "managing officers" and inserting the word "directors," so as to read, "and the

majority of the directors of all corporations organized under the laws of the State shall be citizens of the State."

The PRESIDENT *pro tem.* The question is on the amendment to the amendment.

Mr. WOODWARD. I have no objection whatever to the amendment of the gentleman from Fayette (Mr. Kaine.) I want to say a word before the vote is taken on this amendment, in reply to what has fallen from the gentleman from Carbon (Mr. Lilly) and the gentleman from Allegheny, (Mr. MacConnell,) and that reply is this: That with our coal, and our iron, and our oil, the capital of Boston and of Baltimore is very sure to come to Pennsylvania. We need not court them; they will come uninvited so long as we have these immense resources at our command.

The PRESIDENT *pro tem.* Does the gentleman accept the amendment proposed?

Mr. WOODWARD. I have no power to accept it. If I had, I would.

The PRESIDENT *pro tem.* It may be accepted by the gentleman.

Mr. WOODWARD. Very well, I accept it then.

Gentlemen have told us of Baltimore companies coming into Pennsylvania to make iron, and being embarrassed by the circumstance that they would be required to have a majority of their directors citizens of the State of Pennsylvania. That is a suppositious anticipating of difficulty on the part of gentlemen. Let me state a fact in regard to a Baltimore company which illustrates the necessity for such a provision. A company of Baltimore gentlemen, formed under our mining law to transport coal from Pennsylvania to Baltimore, proved insolvent and largely indebted. A client of mine in Luzerne county held their paper to the amount of \$13,000. Under a section of that mining law the directors and officers of the company were personally liable for this debt. But they were in Maryland; suit had to be brought in Baltimore, and when it was brought in the courts of Maryland we were met with the discovery that this condition of the corporation under our mining law was in the nature of a penalty, and that it did not become the sovereignty of one State to enforce the penalty of another State; that while all comity accrues from one State to another in respect to the contracts of parties, the dignity of Maryland would be wounded in enforcing the penalties of

Pennsylvania. But we said: "We do not call it a penalty in Pennsylvania, because it is part of the contract." "No," said they, "it is a penalty, and because it is a penalty we will not enforce it, and you shall not recover against these responsible men," and my client lost \$13,000 upon just that sharp point. He had gone to Baltimore and sued them, you understand, and when he got there that was the entertainment which he met.

Mr. President, that case is unlike the case cited by the gentleman from Carbon. Mine is a real case, and what happened in that case may happen again and again. Now, sir, how long does this Convention propose to subject the people of Pennsylvania to this sort of torture, allowing these speculative individuals in other States to come in here, form companies under our mining law, carry away our coal, manufacture iron, and appropriate our resources, contract debts, and when we pursue them into their own States meet us with some technicality like that which I have described and defeat the honest creditor of Pennsylvania. That has happened in many instances and it will happen again, unless we require these companies, if they want to do business in our staple commodities, to place here a responsible majority of their directors. It will not hurt them any to come and reside amongst us; and if they do not want to come and reside amongst us, let them distribute some of their stock among some of our citizens and make them directors, and then the creditor will find somebody whom he knows here at home to answer in our own courts, and the responsibility of corporations will begin to be something; now it is next to nothing when they are in the hands of people outside of our State.

Mr. President, there may be some force in the objection of the gentleman from Dauphin to this section, though I think it ought to be adopted; but I am very clear that the amendment ought to be adopted, whatever becomes of the section. The committee reported it, as I told you, as a separate section. It was stricken out on the opposition of the gentleman from Carbon without anything being said in its defence or any explanation made of it in committee of the whole. I do not care whether it comes in as a separate section or as an amendment to this section. It is germane to this section, and therefore I moved it as an amendment, and I

think both the section and the amendment ought to be adopted; but the Convention will do with it as they think proper.

Mr. LILLY. The case stated by the gentleman from Philadelphia, who has just taken his seat, does not make the position a bit stronger to me. If you put this in the Constitution, and require men who come here to Pennsylvania to spend their money to live here, to use a common country phrase, you will make them "whip the devil around the stump" by electing two or three more men of straw directors in their company, giving them a single share of stock, having nothing under God's heaven belonging to themselves but a single share of stock in order to be director.

As I said before, to get over just such cases as the gentleman from Philadelphia desires to get over, it makes them resort to devices, and the meaning of the provision is impaired. The case that I cited of course was a fictitious case to illustrate the subject that I spoke of; but I know that the people of Pennsylvania go into New Jersey under the same circumstances and buy iron mines. They spend their money there and develop the resources of New Jersey. Now, how easy it would be for the people of Pennsylvania to select some men of straw in New Jersey, claiming to be citizens there, to operate those mines.

I am for leaving all such things out of the Constitution entirely. Leave it free and open, and allow the people of New Jersey, New York, Ohio, Maryland or any other State, to come into our State, buy our mines if they are willing, and operate them fairly and honestly. Let them spend their money, operate the mines, and make themselves responsible. Pass all laws necessary to protect the citizens of Pennsylvania in their dealings with these people, and make the citizens of Pennsylvania safe in their intercourse with them; but to require that a majority of directors, who actually own nothing in the concern whatever, men of straw, shall be Pennsylvanians, is I think simply ridiculous.

Mr. WHERRY. I rise simply to call the attention of the Convention to the fact that this amendment of the gentleman from Philadelphia is substantially an act of Assembly which has been in existence for many years, and has not been found to work hardly against these corporations.

Mr. ALRICKS. The object of this provision in the Constitution is to meet the difficulty that arises from the service of summons. A corporation must be summoned in the county in which it has its chief office. You cannot serve a summons upon an officer of a corporation when he is not in that county. If the place of business is in the city of Philadelphia, and an officer of the company is passing through Harrisburg, a summons served on him there would be set aside. But as I understand the chairman of the committee who has offered this amendment, it would require a majority of the directors to reside in the Commonwealth. I fail to see wherein the creditor would be benefited by such a provision. What you want is to have your summons served on the corporation. You cannot reach the directors; you cannot touch their personal property for a debt of the corporation.

Mr. EWING. Why not?

Mr. ALRICKS. Because you must proceed against the corporate property, unless there is some provision in the statute of incorporation holding them responsible to a certain extent. Then I apprehend that in that point of view the whole difficulty could be met by the section as it has been reported by the committee.

But my chief object in addressing the House at this time is to inquire of the learned gentleman who is chairman of the committee, and who can give me the information, whether if we were to adopt this section as it has been reported by the committee, a foreign corporation could bring suit in Pennsylvania. Now, if a foreign corporation dealing in the securities of the Pennsylvania or Reading railroad companies, or of the city of Philadelphia, or of any other of our corporations in Pennsylvania, cannot sue in our courts under this section, it might put us in a worse position commercially than we are at this time; and it is therefore that I would inquire of the chairman of the committee whether, if we adopt this section, it would prevent a foreign corporation from bringing a suit in our courts to recover a debt owed to them on a security issued by one of the companies of this Commonwealth? At present our Supreme Court has said that a foreign corporation can sue in our courts; and until that decision was made it was a matter of great doubt.

Mr. WOODWARD. You can sue the corporation; but the corporation may be

worthless, and you cannot sue the stockholders, directors or officers of the corporation unless you can catch them, and they take very good care to keep out of the way.

The PRESIDENT *pro tem*. The question is on the amendment of the gentleman from Philadelphia (Mr. Woodward) as modified.

The amendment was rejected.

The PRESIDENT *pro tem*. The question recurs on the section.

Mr. STRUTHERS. I move to strike out the words "such city or county," in the third line, and insert "the State," so as to read, "a known place of business in the State, and an authorized agent upon whom process may be served."

Mr. H. W. PALMER. Mr. President: I hope this amendment will not prevail. I am in favor of the section as it stands. It has merit in it for this reason: These foreign insurance companies send their vagabond agents around through the State of Pennsylvania, through our counties and among the farmers, to effect insurances, and when a loss occurs there is nobody to serve any process on within the borders of the county, and if an agency was established in the State at Philadelphia, or at Harrisburg, or any other point, frequently it would cost more money to pursue the remedy there than it would to lose the whole risk. If the amount were four hundred dollars, five hundred dollars, or a thousand dollars, in some parts of the State, the sufferers could not afford to go to Philadelphia and try a law suit here to get it.

Mr. EWING. Allow me to ask the gentleman a question. I should like to know how this section will prevent the same thing from occurring. The insurance agent effects his insurance and leaves. In other words, the company doing business, when they do their business, have agents in the county, and as soon as it is done, and before the time for bringing suit comes they withdraw their agent. What better position will the people be in then?

Mr. H. W. PALMER. I do not suppose this section would cover that case; but these insurance companies doing business in the State, it is not to be supposed are going to effect one insurance and then withdraw the agent. The companies are doing business continuously in the State of Pennsylvania, and it is proper they should have agents in the places where they do business.

Mr. MACVEAGH. Does not the law at present allow the issuance of a writ to be served on the agent of the foreign company wherever you find him in the State?

Mr. H. W. PALMER. I believe it does.

Mr. MACVEAGH. And bring him to your county?

Mr. H. W. PALMER. I believe so.

Mr. MACVEAGH. You do not want him to open an office at Wilkesbarre before anybody takes out a policy of five hundred dollars in Luzerne County.

Mr. H. W. PALMER. You have to write and go down to Philadelphia to have it served. It would be a great deal better to have a responsible agent in that county whose representations would bind the company. A man can call his witnesses there to testify to what he said when he effected the insurance. It will be a great deal more convenient, and greatly facilitate the administration of justice. The fact is that most of the respectable insurance companies do have local agents in the counties; they cannot do much business without it; but this section affects this class of vagabond companies, who send out their vagabond agents with lies in their mouths to deceive the people.

Mr. BOWMAN. Mr. President: Just one word in connection with this section. I am opposed to it.

The PRESIDENT *pro tem*. The question now is on the amendment.

Mr. BOWMAN. I am aware that the question is on the amendment, and I am in favor of the amendment, and if that is voted in I may vote for the section, but for fear the amendment may be lost I wish to make one observation in answer to the gentleman from Luzerne.

I should like to know what difference it makes with a corporation only having a place of business, for instance the Lyecoming Mutual at Muncy, going into the western part of the State, in every county, in every nook and corner, and taking insurances without having established in any single one of those counties an agency. Suppose that is so. The agent returns to his place of business; a loss occurs, and it becomes necessary to bring an action against that corporation. You have got to go into Lyecoming county to commence your suit, provide for the service of the writ upon the agent; and the gentleman from Philadelphia (Mr. Woodward) tells you that you cannot get a service on the agent of a foreign company unless you can find him in the State; you

have got to find him in the county where you serve the process.

I think this is an unjust discrimination against foreign corporations; I believe it will work badly. They are bringing into our State a large amount of money. Why, sir, the taxes of the State to-day, its funds, are made up largely from this source. Three-fourths of the whole money paid into the Treasury of the State is paid by these corporations, and you wish now to exclude them, to turn them out of the State, and say that they shall not go into Forest county and effect an insurance upon half a dozen dwellings in that county, if there are so many—my friend from Clarion, (Mr. Corbett,) perhaps, would disagree with me in saying there are that many houses there [laughter]—But suppose they do effect a few insurances in that county or any other county without having established an agency there, which they certainly could not do practically, you would exclude them from effecting insurances there at all. I am opposed to it.

The PRESIDENT *pro tem*. The question is on the amendment.

The amendment was rejected; the ayes being nine, less than a majority of a quorum.

The PRESIDENT *pro tem*. The question recurs on the section.

Mr. MACVEAGH. I move to amend as follows: Strike out all after the word "in," in the first line, down to and including the word "of," in the second line; change the word "the" before "State," to "this;" strike out after the word "business," in the second line, down to and including the word "county," in the third line; and after the word "agent," in the third line, insert, "in the same." It will then read as follows:

"No foreign corporation shall do any business in this State without having a known place of business, and an authorized agent in the same, upon whom process may be served."

The PRESIDENT *pro tem*. The amendment of the delegate from Dauphin is before the Convention.

Mr. CORBETT. I ask for the yeas and nays upon it.

The yeas and nays were ordered, ten delegates rising to second the call; and being taken, resulted: Yeas, forty-seven; nays, forty-one, as follows:

Y E A S.

Messrs. Achienbach, Addicks, Alricks, Bannan, Biddle, Bowman, Brodhead,

Brown, Calvin, Carey, Carter, Church, Clark, Corbett, Cuyler, Dallas, Darlington, Elliott, Fell, Finney, Fulton, Hall, Hemphill, Heverin, Hunsicker, Knight, Lamberton, Lawrence, Lear, Littleton, MacVeagh, Mann, Mantor, Minor, Niles, Reed, Andrew, Runk, Stanton, Stewart, Struthers, Temple, Wetherill, J. M., Wetherill, Jno. Price, Wherry, White, David N., White, Harry and Worrell—47.

N A Y S.

Messrs. Baer, Bailly, (Perry,) Bigler, Black, Charles A., Boyd, Buckalew, Campbell, Cochran, Corson, Cronmiller, Davis, De France, Edwards, Ewing, Gibson, Guthrie, Hay, Kaine, Lilly, MacConnell, M'Clean, M'Culloch, M'Murray, Mott, Palmer, G. W., Palmer, H. W., Patterson, T. H. B., Patton, Purman, Purviance, John N., Purviance, Sam'l A., Reynolds, Ross, Russell, Simpson, Smith, H. G., Smith, Henry W., Turrell, Walker, Woodward and Wright—41.

So the amendment was agreed to.

ABSENT.—Messrs. Ainey, Andrews, Armstrong, Bailey, (Huntingdon,) Baker, Barclay, Bardsley, Bartholomew, Beebe, Black, J. S., Broomall, Bullitt, Cassidy, Collins, Craig, Curry, Curtin, Dodd, Dunning, Ellis, Funck, Gilpin, Green, Hanna, Harvey, Hazzard, Horton, Howard, Landis, Long, M'Camant, Metzger, Mitchell, Newlin, Parsons, Patterson, D. W., Porter, Pughe, Read, John R., Rooke, Sharpe, Smith, Wm. H., Van Reed, White, J. W. F. and Meredith, *President*—45.

The *PRESIDENT pro tem.* The question now recurs on the section as amended.

Mr. **WOODWARD.** The adoption of that amendment brings the thing back to the act of Assembly. I believe the law now is just as it will be under this amendment of the gentleman from Dauphin, and, of course, the section, as a constitutional provision, is no longer of any value, and might just as well be voted down.

Mr. **MACVEAGH.** I trust the section will be incorporated. It is one of the best safeguards in the Constitution.

The *PRESIDENT pro tem.* The question is on the section as amended, which will be read.

The *CLERK* read as follows :

"No foreign corporation shall do any business in this State without having a known place of business, and an authorized agent upon whom process may be served."

Mr. **HUNSICKER.** I call for the yeas and nays.

Mr. **BUCKALEW.** If the gentleman who moved the amendment has no objection, I should like to add a word or two so as to make it read, "one or more known places of business."

Mr. **CORBETT.** I suppose there is no objection to that.

Mr. **MACVEAGH.** Not at all. I trust unanimous consent will be given to allow that amendment to be made.

Mr. **HUNSICKER.** I withdraw the call for the yeas and nays to allow that to be done.

Mr. **BUCKALEW.** I move then to amend so as to make the section read :

"No foreign corporation shall do any business in this State without having one or more known places of business, and an authorized agent or agents in the same upon whom process may be served."

If you do not make this amendment, it will be argued that by the Constitution one place of business in the State is sufficient. I want to leave it in the power of the Legislature to require more.

The *PRESIDENT pro tem.* The question is on the amendment of the delegate from Columbia.

The amendment was agreed to.

The *PRESIDENT pro tem.* The question now recurs on the section as amended.

The section was agreed to.

The *CLERK* read the next section as follows :

SECTION 6. No corporation shall engage in any other business than that expressly authorized in its charter, nor shall it take or hold any real estate, except what may be necessary and proper for its legitimate business; and the Legislature is hereby prohibited from depriving any person of an appeal from any preliminary assessment of damages made by viewers or otherwise. The final determination of the amount of such damages shall in all cases of appeal be determined by a jury.

Mr. **CUYLER.** I should like to ask the chairman of the committee what is meant by "preliminary assessment of damages?"

Mr. **WOODWARD.** I am not responsible for this section. I suppose, however, that the word "preliminary" refers to those proceedings that are had before viewers appointed by the court; that that is a preliminary assessment as contrasted with the assessment by a jury on appeal.

Mr. DARLINGTON. I wish to ask the chairman of the committee whether he does not mean "by" instead of "in," in the second line, so as to read "expressly authorized by its charter?"

Mr. DE FRANOE. Either will express the meaning.

Mr. DARLINGTON. Then I ask for a division of the question, the first division to end with the word "business," in the fourth line.

The PRESIDENT *pro tem*. A division of the section is called for. The first division will be read.

The CLERK read as follows:

"No corporation shall engage in any other business than that expressly authorized in its charter, nor shall it take or hold any real estate except what may be necessary and proper for its legitimate business."

The division was agreed to.

The CLERK read the next division, as follows:

"And the Legislature is hereby prohibited from depriving any person of an appeal from any preliminary assessment of damages made by viewlers or otherwise. The final determination of the amount of such damages shall in all cases of appeal be determined by a jury."

Mr. DARLINGTON. I do not know whether this is intended to apply to assessments of damages on common roads or not. The language is certainly broad enough to cover that case. If it is intended to give to every man a jury trial who is dissatisfied with the assessment of the jury, then I think it will be found inconvenient, and I think it will be found quite inconvenient, too, to require in all cases that the assessment of damages shall go before a jury. There are charters of established incorporated companies in which assessments of this kind are final, and I am not aware that they are not just as well done by the jury appointed by the court as they would be by a jury chosen by ballot. I am opposed, therefore, to the whole of this provision.

The division was agreed to.

The PRESIDENT *pro tem*. The next section will be read.

Mr. BRODHEAD. I offer the following amendment, to come in at this point as a new section:

"All corporations, except banking companies, shall divide their net earnings at least once in each year, and when such earnings shall have been invested in improvements, the stock of the corporation

or certificates of indebtedness shall be issued to the stockholders for the amount thereof."

Mr. President, I offer this section at this point to meet what, in my opinion, is a very great evil existing among corporations. I see it every day. The larger stockholders are accustomed, for the thousand and one reasons that they give, to pass the dividends, and then, in the current language of the day, the smaller stockholders are smoked out or are sweated out. The corporation is driven along one, two or three years without making any dividend, and the smaller stockholders who live upon the proceeds of the money thus invested, or expect to do so, are debarred from any return from that source, and as a consequence are obliged to sell out to the larger holders. The effect of it is very injurious. I hope the amendment will prevail.

The PRESIDENT *pro tem*. The amendment is before the Convention.

The amendment was rejected, there being nineteen ayes, less than a majority of a quorum.

The PRESIDENT *pro tem*. The seventh section of the article will now be read.

The CLERK read as follows:

SECTION 7. Any general banking law which shall be passed shall provide for the registry and countersigning by an officer of the State of all notes or bills designed for circulation and that ample security to the full amount thereof shall be deposited with the State Treasurer for the redemption of such notes or bills.

Mr. CAREY. Mr. President: This seems to me to be a very unnecessary section. The Federal government has taken the whole matter of circulation into its own hands, and we shall never again have any State circulation, and even if we ever should have, there are laws on the statute books now that provide for all that is here contained. It is hardly worth while to burden the Constitution with a provision so entirely unnecessary as this is.

Mr. DALLAS. Mr. President: I do not know how the phraseology of this section may strike other ears than mine, but it seems to me objectionable in form to say that "any general banking law which shall be passed shall," &c. Being a restrictive clause, I think it should read in this way: "No general banking law shall be passed which shall not provide." I move an amendment to an amendment to make it read in the manner which I have indicated.

The PRESIDENT *pro tem*. The question is on the amendment of the gentleman from Philadelphia (Mr. Dallas.)

The amendment was rejected, there being, on a division: Ayes, twenty-one, less than a majority of a quorum.

The PRESIDENT *pro tem*. The question recurs on the seventh section.

Mr. COCHRAN. I see no good reason why a section of this kind should not be passed. It is true that at present we have a national currency; but the policy establishing it may continue or may not, and if that system should be done away with and at any time we should return to a system of State currency, why should we not provide in this section the principle upon which that currency shall be established? There is no reason in the world that I can see for voting it out, for I do not understand that any member here has objected to the principle upon which the currency shall be founded, a principle which provides security for the holders of the circulation when it shall be issued. Why, then, should not the section pass? I cannot see the reason why we should reject it.

Mr. MACVEAGH. I do trust this Convention will not decide to put everything in the Constitution that they think might be useful to put in a statute in case any statute on that subject should ever hereafter be passed. We certainly do not want to go that far. If there is one thing absolutely certain, as it seems to me, it is just what the gentleman from Philadelphia (Mr. Carey) has suggested to us, that the American people will never hereafter consent to be shaved by small brokers in country towns and cities in order to get currency that will pass in the different portions even of the same State, as well as in different States. And that in these days of travel and intercourse the idea that a man who wants to go from New York to San Francisco shall stop at each city and town in order to change his currency and get bills that will circulate there, and pay a percentage upon it is, it seems to me, so utterly beyond the reach of possibility that we ought not to put a provision in the Constitution guarding against it. There are already on the statute books of half a dozen States half a dozen general laws on this subject. The banking law of New York for State banking is almost perfect, and in many of its features it is the basis of the national banking law, and many of its features would even be now an advantage trans-

ferred to the national banking act; but that we are ever to come back to the irredeemable currency and shinplasters of State circulation seems to me so improbable that I cannot agree to put a provision in the Constitution to lengthen this long instrument as against such an improbable contingency.

The PRESIDENT *pro tem*. The question is on the section.

The section was agreed to.

Mr. HARRY WHITE. I offer the following as a new section to come in at this point:

"The Legislature shall have the power to alter, revoke or annul any charter of incorporation now existing and revokable at the adoption of this Constitution, or any hereafter 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."

I offer this amendment as a new section for the reason that this provision is found in the old Constitution, being the amendment of 1857. This section was prepared as just read and approved by the Committee on Legislation. When the report of the Committee on Legislation was under consideration, it was rejected for the reason that it was more proper to be in the report of the Committee on Corporations. As chairman of the Committee on Legislation, I assented to that disposition of it at that time for that reason. This is the exact language of the amendment to the Constitution of 1857, with the exception that it saves the power to the Legislature to revoke such incorporations as may have been granted between 1857 and this time.

Mr. WOODWARD. I wish the gentleman would withdraw that amendment until we get through the remaining sections.

Mr. HARRY WHITE. I thought this was the proper place right here.

Mr. WOODWARD. Any place is proper. Let us get through with what the committee of the whole adopted, and then the gentleman can move his amendments. I have several amendments to move at the proper time.

Mr. HARRY WHITE. I defer to the chairman of the committee and withdraw it at this time.

The PRESIDENT *pro tem*. The amendment is withdrawn. The eighth section will be read.

The CLERK read as follows:

SECTION 8. No banking or other corporation shall receive or pay, directly or indirectly, a greater rate of interest than is allowed by law to individuals.

Mr. DARLINGTON. For one I am unwilling to recognize in this Constitution the propriety of a bank paying interest for money. I do not think banks were ever intended to be money borrowers. They are money lenders; and a bank which becomes a money borrower does not deserve the confidence of the community. I think, therefore, all that part of the section which contemplates the borrowing of money should be stricken out. I move to strike out the words "or pay," in the first line. It will then read:

"No banking or other corporation shall receive, directly or indirectly, a greater rate of interest than is allowed by law to individuals."

The PRESIDENT *pro tem*. The question is on the amendment of the delegate from Chester.

Mr. J. PRICE WETHERILL. Mr. President: There is a great propriety, I think, in this section remaining just as it is. It is notorious that banks borrow money. They borrow money at four per cent. to lend at six, and they borrow money at five per cent. to lend at seven, and they do it all over the country. I do hope the amendment will not prevail.

Mr. DARLINGTON. That is exactly what I want to stop.

The amendment was rejected, the ayes being sixteen; less than a majority of a quorum.

Mr. CUYLER. Mr. President: A word on the section. I do not desire to say anything against it, but only hope that gentlemen will perceive the full breadth of the section, precisely what it does.

"No banking or other corporation shall receive or pay, directly or indirectly, a greater rate of interest than is allowed by law to individuals."

I suppose this amounts to putting a stop to any provision which authorizes corporations to sell their bonds below par. Many enterprises which have been for the benefit of our citizens in the past, as many kindred ones may be in the future, must come to an end because of the section. If it be adopted it will no longer be possible to sell bonds of corporations at a less rate than par; the Legislature cannot authorize the negotiation of loans under par, and the entire corporate interests of the State will be crippled.

Mr. J. N. PURVIANCE. I move to amend the section by adding after the word "corporation" the words "hereafter created."

Mr. DALLAS. I hope that amendment will not prevail, and that the suggestions of my friend (Mr. Cuyler) will not lead this Convention to reverse its action had in committee of the whole. The very same arguments with which he has indulged us to-day he gave us the benefit of in committee of the whole. I do not care to go over that debate again. The subject was discussed then on the very same grounds on which he puts it to-day. I hope the section will remain precisely as it is and that precisely as it is it will pass.

Mr. J. N. PURVIANCE. I hope the amendment will be agreed to. As the section now stands it provides that "no banking or other corporation shall pay a greater rate of interest than is allowed by law to individuals." There are many banks in existence in this State which are allowed by their charters to charge higher rates of interest, seven and eight and ten per cent., and all their business is based upon that privilege. If we now by constitutional enactment declare that they shall not charge this rate of interest, it will interfere with the privileges which they have secured in the past from the Legislature and which are vested rights, and it will also unsettle the business of the State generally.

The amendment was rejected.

Mr. HUNSICKER. I move to amend the section by inserting the word "private" after the word "other," so as to make the section read:

"No banking or other private corporation shall receive, directly or indirectly, a greater rate of interest than is allowed by law to individuals."

Mr. HARRY WHITE. That is right.

Mr. HUNSICKER. I call for the yeas and nays on that amendment.

Mr. HARRY WHITE. May I ask the gentleman if he does not design to accomplish this object: That where the authorities of a county or town or a municipality are making some public improvement or negotiating bonds, they do not want anything to stand in the way of negotiating those bonds. All that they do is done under the foresight of the public. Therefore no danger is to be apprehended in this regard. I think the provision as reported from the committee of the whole is a wise one, but I think that

we ought to have in it some saving clause of this kind.

Mr. HUNSICKER. The object I had in offering that amendment was this: The section as it is upon our files would apply to every municipal corporation. The term "private corporation" has received judicial construction time and again, and it has been decided to mean every sort of corporation except such as are of a public or municipal character. A town is a municipal corporation, that is a public corporation; and I do not want to prevent a city or a county or a borough or a school district from borrowing money at a higher rate of interest than six per cent. If it is proper to apply the spirit and meaning of this section to railroad, banking and insurance corporations, then the word "private" ought to be inserted.

Mr. CORBETT. I do not see any necessity for an amendment to prevent municipal corporations from paying a greater rate of interest than is allowed by the law to individuals. I think that corporations are likely to be able to borrow all the money they need at the current rates of interest. I shall vote against this section while it retains the word "pay." If it be intended to cripple future enterprises so far as railroads are concerned, then I am also opposed to it. I live in a section where we ought to have railroads; and if the eastern portion of this State and the other portions of the State do not intend that those sections that are undeveloped so far as railroads are concerned shall be crippled in order to prevent the introduction of railroad enterprises, I cannot see how they can vote for this section. We need railroads with us, and it is not likely that railroads seeking to borrow money can borrow it at the par value of their bonds. If the word "pay" is intended to produce that result on individual enterprises, I am entirely opposed to it and I shall vote against the section.

Mr. BUCKALEW. I was opposed to this section in committee, and shall vote against it now. I will state one objection which has not been mentioned, and unless some gentleman will relieve my mind from the impression upon it, it is a sound and, I suppose, an unanswerable objection. If you put this clause into the Constitution, you will get your laws upon the subject of interest revised very soon. You will have the rate of interest lifted up. If these corporations, extensive in number and powerful in influence, find it ne-

cessary to have a higher rate of interest prescribed to accommodate them in making loans, they will get the laws on this subject changed as they desire, the effect of which will be that the rate of interest in this State will probably be raised higher than the other interests of the State would require. I take it for granted that you will be forced to have a rate of seven or eight per cent. prescribed by general law under this section.

It seems to me, then, that in adopting this section you are creating a powerful interest in favor of railroads and the changing of the rate of interest in this State. If I am mistaken in that impression, I should like some gentleman to point it out; but so long as it remains my view on the subject, I shall vote against the section.

Mr. J. PRICE WETHERILL. If that would be the effect of passing the section, it seems to me that the result to be secured would be proper. Individuals have certainly in this State just as much right and just as good right as corporations, either public or private. If a public corporation needs, to carry on its business successfully, a certain amount of money for which it must pay seven, eight or nine per cent., and we allow it to pay that rate of interest by selling its bonds at less than par, why deprive an individual of that right? Individuals have already a great deal to contend with as against associated capital. Individual enterprise should be dear to the heart of every delegate here as contrasted with corporate enterprise and should be protected. If I, as an individual, desire to go into a large business in competition with a company, I am shut out because that corporation can pay more for money than I can, and it can, therefore, deprive me of the money market. Corporate rights should be protected, but individual rights should be equally cared for; and when we say to corporations "we will protect your rights," we should also say "we will protect them only so far as we protect individual rights, and you shall live under the same law precisely as individual rights."

That is right; that is fair; and if it should lead to a different rate of interest, seven per cent or more, in this State, then this will be a just section and that will be a wise result, and what, probably, some day or the other, will surely come. If we are to limit the rate to six per cent. to corporations or to individuals, we shall make a

great mistake, because a large amount of money received by corporations on the negotiations of their bonds is received outside of this State. Experience has shown that no law of this kind will work well, because corporations from other States will claim and insist and demand on special privileges which will not be granted to our own corporations and individuals, and this is not right. Let us make our corporations and our individuals equal in respect to borrowing money; let us take care of the interests of the people of the State, of its voters, and of its tax-payers; and then it will be time enough for us to look after railroad and other corporations.

The amendment proposed by Mr. Hunsicker was rejected, the ayes being twenty-three, less than a majority of a quorum.

The *PRESIDENT* *protem*. The question recurs upon the section.

Mr EWING. I move to amend the section by striking out all after the word "section," and inserting:

"No banking or other private corporation shall be authorized by any act of the Legislature to charge or receive a greater rate of interest than may be authorized by law to be received by individuals."

I believe it to be unwise in the Constitution to limit the rate of interest that may be paid by corporations for borrowed money. But there is a propriety, and I think a necessity, for prohibiting in the Constitution the authorization that has been given from time to time to savings banks and other similar institutions, to charge a higher rate of interest than is allowed by statute to be charged by private individuals. A corporation may get a charter authorizing it to receive or to pay ten per cent. Some of them have been authorized to receive or to pay as high as twelve per cent., and some have been chartered without any limitation at all, whereas, private individuals are limited to six per cent. The amendment that I have offered would prohibit such a discrimination in favor of banking institutions, and would allow the Legislature, in certain cases, to authorize corporations to pay a higher rate of interest.

Mr. LILLY. Will the gentleman from Allegheny answer me a question?

Mr. EWING. Certainly.

Mr. LILLY. In what does his amendment differ from the section?

Mr. EWING. The section prohibits any corporation from paying a higher rate of

interest than the regularly authorized legal rate of interest, if that be six or seven or eight per cent. The amendment that I have offered will prohibit the Legislature from granting special privileges to savings banks and other institutions of that sort to charge a higher rate of interest than other parties.

Mr. MACVEAGH. I trust if the Convention desires to undo the work that it did on the clause relating to the rate of interest, that it will do it on that clause and not require every corporation in the State which desires to borrow money to become a party in an organized effort on the Legislature to change the law. This will result in that, and more than that, it is unjust. The security that these corporations offer is of a totally different kind from a mortgage or a judgment on which farmers borrow money, and the people who loan money are of a totally different class, not needing protection in any sense whatever, and the money in nine cases out of ten is not borrowed in this State. It is borrowed in other countries and in other States, and it does seem to me exceedingly unwise to require them, as the gentleman from Columbia has clearly explained, to labor incessantly for a repeal of your usury laws. If you want it repealed, why not come up to the question fairly and vote, "I am in favor of the repeal," or, "I am opposed to it;" but do not put in your Constitution a prohibition against these corporations paying a larger rate of interest. Why need we a constitutional provision? You do not do that with reference to the private individual except here. You do not anywhere say the man shall not pay; you only say somebody shall not exact. Do we mean corporations shall not pay in order to make them a unit for the repeal of your usury laws? The laws apply to totally different classes of people and do not rest upon the same basis at all.

Mr. WOODWARD. Mr. President: The committee did not report this section as it now stands. The expression "or pay" was interjected into it in committee of the whole on first reading. I thought at the time that they were not wise and good words to put in. I am better satisfied of that now than I was then. I hope the section will be voted down if it contains those words. I do not think that they make it reasonable and sensible.

Mr. CAREY. I do most heartily hope that the section may be voted down. I had a talk with my friend Woodward a

few days ago on this subject, and I was in great hopes that he would propose at once to withdraw it. It can do no good; and the only effect of all these operations, these limitations which we are putting on to-day, is to make difficulty that will prevent, as I am afraid, the adoption of our Constitution. I believe if this whole question of interest had been left out, from the beginning to the end, it would have been of great service to the Constitution; but if we go on adding one restriction upon top of another, forgetting entirely that we need to bring capital into the State, we shall certainly undo all the work we have done.

Mr. HEVERIN. I would suggest a modification of the amendment offered by the gentleman from Allegheny, to insert the words "charged or" before the word "received."

Mr. EWING. I accept that modification. I think it is proper.

The PRESIDENT *pro tem*. The amendment as modified will be read.

The Clerk read as follows:

"No banking or other private corporation shall be authorized by any act of the Legislature to charge or receive a greater rate of interest than may be authorized by law to be charged or received by individuals."

The question being put, there were yeas thirty-one; less than a majority of a quorum.

Mr. COCHRAN. I ask for the yeas and nays.

The PRESIDENT *pro tem*. Is the call for yeas and nays seconded?

Ten members rose to second the call.

Mr. COCHRAN. I think this modification is proper, and for that reason I have called the yeas and nays on it. The effect and operation of this amendment should be distinctly understood. If I understand the position of the question, the proposition made by the gentleman from Allegheny was intended as a substitute for the section. Is that correct? ["Yes."] If that be the case, then I understand further that the amendment offered by the gentleman from Allegheny proposes to omit that which gentlemen have objected to in a part of this section, the requirement that such corporations shall not pay a greater amount of interest than individuals; that is to say, it omits the part which, as I understand, the distinguished chairman of this committee objected to, and therefore desired that the section should be voted down. If that be

the case, I do not exactly see where the objection to the section would rest. I think if that is the case the section ought to be adopted. It would then be simply a restriction on this class of corporations which would prevent them from charging more interest than individuals may charge.

Mr. BAER. I shall vote against the amendment because by it this Convention legislates against the people and in favor of corporations. The section as it stands here I shall vote for; but the amendment makes it next to impossible for any person to get money except corporations, for the reason that they will be permitted to get it at any rate they please, and other people, not being permitted to give a higher rate than the legal rate of interest, will not be able to get any money.

Mr. COCHRAN. Will my friend from Somerset allow me to inquire whether that section, so modified, would not leave the law precisely as it is now.

Mr. BAER. That may be; but as it stands now, companies may get all the money they please, for the reason that they pay a different rate of interest, more than the people can afford to pay. If the effect of this will be to raise the rate of interest in the State, that is exactly why I shall vote for it, for the reason that the raising of the rate of interest in this Commonwealth will be a cheapening of money to the people, and it is the people we are to represent here and not the large corporations who can get all the money they want. I say if the section as it stands will have the effect to force an increase of the rate of interest in this State, that will be the very best thing that could occur to the people of this State, for it would cheapen money. As it is, we have a rate of six per cent. on the statute book, and not one man out of ten thousand, not even the ministers or priests of this Commonwealth, adhere to it; every man of them will take more if he can get it, and the greater the man's necessities are the greater the rate of interest, in the teeth of all the law. Let this principle of restricting them to six per cent. be wiped out, allow people to contract at a reasonable rate, and they will get their money cheaper, because then there will be no necessity for the intermediate men to charge percentage in order to raise money by evading the law as it stands.

Mr. EWING. I understood the call for yeas and nays to be sustained.

The PRESIDENT *pro tem.* It was.

Mr. COCHRAN. Will the Chair please withdraw the call for a moment?

The PRESIDENT *pro tem.* The Chair cannot.

Mr. COCHRAN. I want to make a suggestion to the mover of the amendment.

The PRESIDENT *pro tem.* The Clerk will call the roll.

Mr. EWING. I ask to have the amendment read.

The CLERK again read the amendment.

The question was taken by yeas and nays with the following result:

Y E A S.

Messrs. Alricks, Bailey, (Huntingdon,) Bannan, Bowman, Brown, Buckalew, Calvin, Campbell, Carter, Clark, Cochran, Corbett, Corson, Darlington, De France, Edwards, Elliott, Ewing, Finney, Gibson, Heverin, Hunsicker, Kaine, M'Murray, Niles, Read, John R., Reynolds, Wetherill, J. M., White, David N. and White, Harry—30.

N A Y S.

Messrs. Baer, Baily, (Perry,) Biddle, Bigler, Black, Charles A., Boyd, Brodhead, Church, Craig, Cuyler, Dallas, Dodd, Fell, Fulton, Guthrie, Hall, Hay, Howard, Knight, Lamberton, Lawrence, Lear, Lilly, MacConnell, M'Clean, M'Culloch, Mann, Mantor, Minor, Mott, Palmer, G. W., Palmer, H. W., Patterson, D. W., Patterson, T. H. B., Patton, Purman, Purviance, John N., Purviance, Samuel A., Reed, Andrew, Ross, Runk, Russell, Simpson, Smith, H. G., Smith, Henry W., Stanton, Stewart, Struthers, Turrell, Walker, Wetherill, Jno. Price, Wherry, Woodward, Worrell and Wright—55.

So the amendment was rejected.

ABSENT.—Messrs. Achenbach, Addicks, Ainey, Andrews, Armstrong, Baker, Barclay, Bardsley, Bartholomew, Beebe, Black, J. S., Broomall, Bullitt, Carey, Cassidy, Collins, Cronmiller, Curry, Curtin, Davis, Dunning, Ellis, Funck, Gilpin, Green, Hanna, Harvey, Hazzard, Hemphill, Horton, Landis, Littleton, Long, MacVeagh, M'Camant, Metzger,

Mitchell, Newlin, Parsons, Porter, Pughe, Rooke, Sharpe, Smith, Wm. H., Temple, Van Reed, White, J. W. F. and Meredith, President—48.

The PRESIDENT *pro tem.* The question recurs on the section.

Mr. WOODWARD. I ask leave of the Convention to have printed an amendment which I mean to offer to-morrow. I intend to move it as an addition to this article, and I ask that it be printed that we may have it before us.

SEVERAL DELEGATES. Let it be read.

The CLERK read the amendment.

The PRESIDENT *pro tem.* The Chair hears no objection, and the order to print will be made.

INVITATION TO SHIPPENSBURG.

Mr. J. N. PURVIANCE. I move the Convention now adjourn.

The PRESIDENT *pro tem.* The Chair asks to lay before the Convention the following telegram:

"Cumberland Valley State Normal School building is at the disposal of the Constitutional Convention after July third to September first. Accommodation and feed first-class."

[Signed by the Trustees.]

SESSION AT BETHLEHEM.

Mr. BRODHEAD. I offer the following resolution:

["No." "No."]

Mr. NILES. Let it be read for information.

The CLERK read as follows:

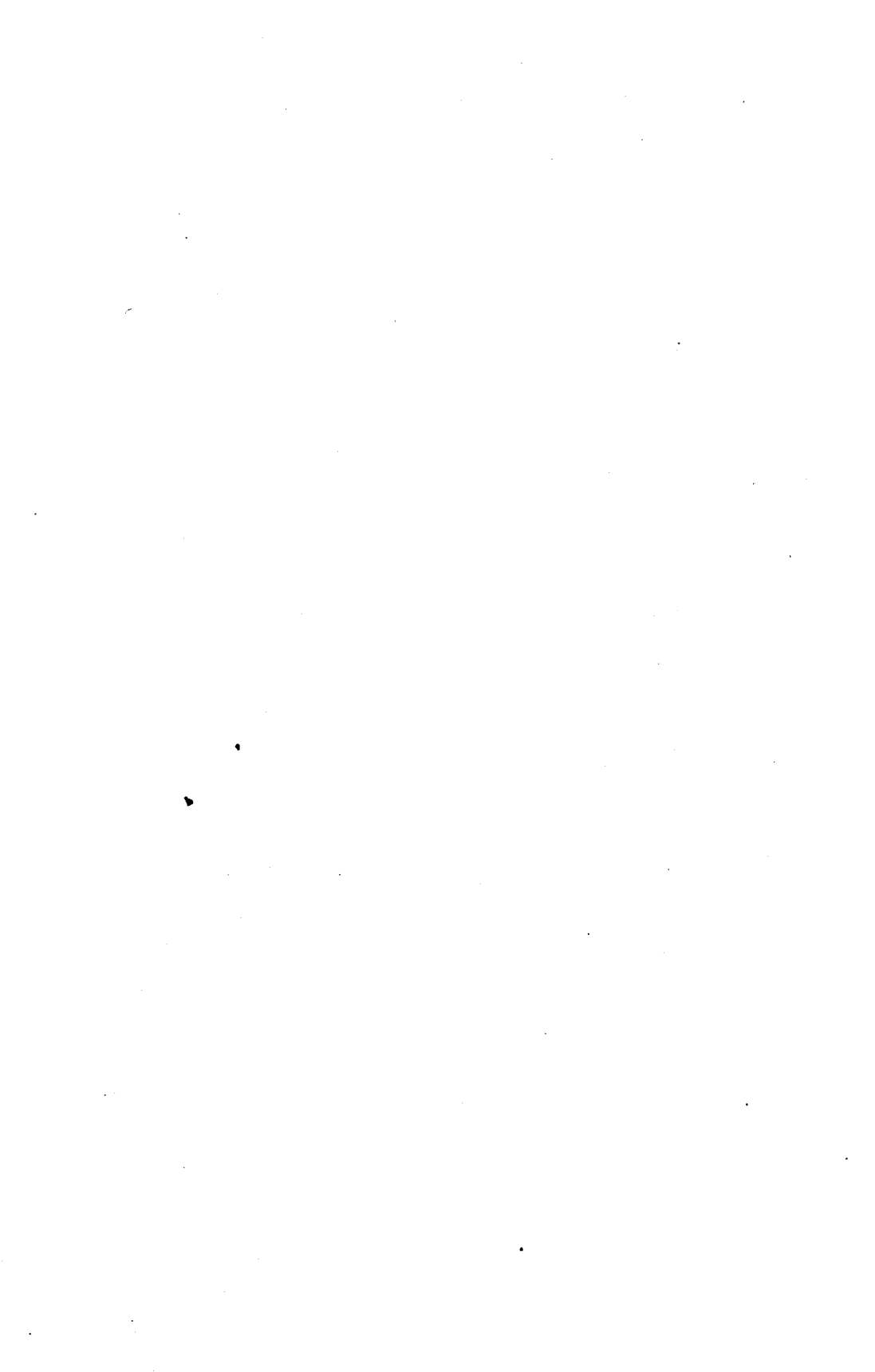
Resolved, That a committee of five be appointed by the President to visit Bethlehem and examine into the accommodations which can be given this Convention at that place, in the event of an adjournment from Philadelphia.

SEVERAL DELEGATES. Let us adjourn.

The PRESIDENT *pro tem.* The resolution will lie over.

Mr. J. N. PURVIANCE. I renew my motion that the Convention do now adjourn.

The motion was agreed to; and (at three o'clock and three minutes P. M.) the Convention adjourned until nine A. M. to-morrow.



ERRATA.

On page 61, first column, thirty-first line from top, for "Philadelphia" read "Pennsylvania."

On page 92, first column, twenty-third line from top, for "minority" read "majority."

On page 93, first column, fifth line from top, the words "one of" should be inserted between the words "that" and "his," so as to read, "that one of his Republican colleagues," &c.

On page 94, first column, fourteenth and fifteenth lines from top, for "premises" read "premiss."

On same page and column, eighteenth line from top, omit the letter "a" before the word "thing."

On same page and column, seventeenth line from bottom, for "constructedly" read "constructively."

On page 131, first column, sixteenth line from top, for "BUCKALEW" read "BIGLER."

On page 391, first column, thirteenth and fourteenth lines from top, for "two-thirds" read "one-third."



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